

ZYDECO MOON FARM & CABINS

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Good morning/afternoon. My name is Joseph R. Martin. My wife, Sally, and I own and operate Zydeco Moon Farm. Our farm is certified under the National Organic Program. Zydeco Moon markets directly to consumers at two farmers' markets, to restaurants and to Eastern Carolina Organics. We are members and officers of New River Organic Growers, Inc. NROG currently has 18 members, and they are either certified organic or in transition. NROG markets directly to consumers through a CSA, directly to restaurants and wholesales to Eastern Carolina Organics in Pittsboro. I am also the President of the Watauga County Farmers' Market, Inc., which has been in existence for 35 years.

I am testifying today in opposition to the proposed Nation Leafy Green Marketing Agreement (NLGMA) on behalf of Zydeco Moon Farm and on behalf of New River Organic Growers. All of my comments are predicated on the assumption any NLGMA would be based in whole or part on the California Leafy Greens Marketing Agreement.

USDA Does Not Have Authority to Issue a Marketing Agreement That Sets Food Safety Standards

First, the Food and Drug Administration is the federal agency charged with establishing food safety standards for fruits and vegetables. The U.S. House of Representatives on July 30, 2009 passed the Food Safety Enhancement Act of 2009 (HR 2749) and the Senate is considering companion legislation. This legislation would allow the FDA to establish farm level food safety regulations. HR 875, the Food Safety Modernization Act of 2009, is pending in committee and would establish an entirely new federal agency responsible for food safety regulations. The existing array and potential array of food safety regulations is daunting to a monoculture grower of leafy greens, and it is devastating to small to medium sized diversified farms. The USDA should decline the petition to establish a NLGMA because the authority to regulate food safety for fruits and vegetables is vested in the FDA and legislation is pending to enhance the authority of that agency.

Second, under the Agricultural Marketing Act of 1937, an Agricultural Marketing Agreement or Order is designed to stabilize marketing conditions for certain agricultural commodities, and must be designed to accomplish one of these goals:

limit and/or allot the amount of any commodity, or any grade, size, or quality of that commodity that is marketed;

provide for control and disposition of surplus commodities and establish reserve pools;

require inspection of the commodity covered by the marketing order;

provide "a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts"; and

establish research and development projects to "assist, improve, or promote the marketing, distribution, and consumption or efficient production" of commodities covered by a particular marketing order.

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The proponents of the NLGMA are all drafters, signatories or proponents of the California Leafy Green Marketing Agreement (CALGMA). Thus, the proposed NLGMA will most certainly be based on the CALGMA. The CALGMA establishes audit metrics for biohazards in fresh and fresh cut leafy greens and there is no reason to think that a NLGMA prepared by the same proponents would do otherwise. Establishing audit metrics for biohazards is not among the permissible goals of a marketing agreement under the AMAA of 1937.

The Proposed NLGMA Does Not Address the Primary Source of and the Primary Means of Transmission of Food Borne Pathogens

Concentrated Animal Feeding Operations (CAFO) generate mountains and lagoons of manure and urine. A high percentage of the animals in CAFO's harbor and shed E. coli 0157:H7, which winds up in those mountains and lagoons. The proposed NLGMA does nothing to address the contamination emanating from CAFO's.

The vast majority of food borne illnesses traced to produce come from pre-packaged, ready to eat leafy greens. Modified Atmosphere Packaging is now being used in packaging some ready to eat leafy greens to prolong shelf life. Pre-packaged ready to eat leafy greens provide a near ideal environment for certain food borne pathogens, and the use of MAP just means that the pathogens will have a longer time to multiply. The proposed NLGMA treats the fresh spinach from my farm sold at the farmer's market the same as a MAP bagged, two week old, that has traveled over a 1,000 miles to a grocery store shelf.

The Proposed NLGMA Will Impose Heavy and Disproportionate Burdens on Small Growers

The proposed NLGMA is clearly geared towards the large, monoculture grower who sells to the wholesale market. On our farm, we typically grow about 15 different crops and have 5 or more successive planting of some of them. Particularly, we grow several varieties of lettuce, chard, kale and arugula, and have successive plantings of all of those. This year, we have built a high tunnel hoop house to extend our growing season. The high tunnel will be used to grow primarily leafy greens.

My review of the CALGMA indicates that we could be required to have as many as 30 inspections----one at each planting and at each harvest, to be certified. Using the federal rate of \$92 per hour, plus expenses, those inspections could easily exceed \$2,000.00 for a growing season. Additionally, we must pay for our organic certification, which runs about \$800 per year. Thus, our small farm would be looking at about \$2,800.00 just in inspections.

That figure does not include the water tests, traceability software/hardware or record keeping that would be required to comply.

Miscellaneous Objections

Section 970.40 establishes what I count to be a 23 member Leafy Green Administrative Committee, with only 2 members required to be small growers, and no requirement that organic growers be represented. The committee make up is heavily skewed in favor of handlers and western growers, and the

FDA data shows that the 14 confirmed cases of E. coli 0157:H7 outbreaks in produce came from products shipped in sealed bags and the source of the contamination was non-farm. The proposed NLGMA ignores this evidence and shifts the costs of protecting against pathogens to the farm.

The animal exclusion provisions of the proposed NLGMA harkin back to Mao Tse Tung's disastrous edict to drive the sparrows from all of the fields of China. The peasants did so, and the following season the insect population exploded, starting a famine that resulted in the deaths of 30 to 40 million Chinese. The "super metrics" that are out there now go even further and aim for a "sterile" farm environment.

The CALGMA has not achieved its goal. At least two signatories to the CALGMA have had recalls of leafy greens since its implementation.

Conclusion

In the words of country singer Toby Keith, "there ain't no right way to do the wrong thing." The proposed NLGMA ignores the main problem areas, inappropriately shifts the costs to small farmers and does not work.

There are food safety practices that are common sense, like hand washing and toilet facilities for workers, that are intuitive and effective. The FDA certainly needs the authority to recall tainted food. Executives of food processors that knowingly place tainted food in to the stream of commerce should go to jail.

I speak not against food safety, but against an ill conceived, one size fits all, marketing agreement that will not work.

I support and incorporate herein the opposition of the Carolina Farm Stewardship Association.

Thank you,
Joseph R. Martin

