



National Organic Coalition

3540 Route 52, Pine Bush, New York 12566
Steveetka@gmail.com 703-519-7772

NOC MEMBERS

Beyond Pesticides

Center for Food Safety

Equal Exchange

Food & Water Watch

Maine Organic Farmers and Gardeners Association

Midwest Organic and Sustainable Education Services

National Cooperative Grocers Association

Northeast Organic Dairy Producers Alliance

Northeast Organic Farming Association - Interstate Council

Organic Seed Alliance

Organically Grown Company

Rural Advancement Foundation International -USA

Union of Concerned Scientists

July 28, 2011

Hearing Clerk,
United States Department of Agriculture,
Room 1031-S,
1400 Independence Ave., SW.,
Washington, DC 20250-9200, Fax

(submitted via email to Antoinette.Carter@ams.usda.gov,
Melissa.Schmaedick@ams.usda.gov)

RE: Doc: No. AO-FV-09-0138; AMS-FV-09-0029; FV09-970-1
Proposed National Marketing Agreement Regulating Leafy Green
Vegetables
Fed Reg, April 19, 2011, Page 24292

Thank you for this opportunity to submit comments on the Recommended Decision with regard to the Proposed National Marketing Agreement Regulating Leafy Green Vegetables ("proposed agreement"). I am submitting these comments on behalf of the National Organic Coalition (NOC).

During the fall of 2009, the member organizations of NOC spent a great deal of time and expense participating in the many field hearings held by the Agricultural Marketing Service regarding the proposed National Leafy Greens Marketing Agreement (NLGMA). During the hearing process, as well as the post-hearing briefing process, NOC expressed the unanimous opposition of our members to the proposed agreement for reasons cited below.

Organizations representing leafy greens producers, consumers, environmental organizations and cooperative food retailers turned out to these hearings to voice their concerns about this proposal. Opponents pointed out that the proposed agreement fails in many regards to meet the basic requirements of the Agricultural Marketing Agreement Act (AMAA), the statute that authorizes the establishment of marketing orders and agreements. In addition to this fundamental concern, opponents believe that addressing food safety standards through a marketing agreement is inappropriate. We believe that the proposed agreement is primarily focused on marketing an image of food safety, to restore consumer confidence in the aftermath of the 2006 *E. coli* outbreak in spinach and other subsequent outbreaks.

The recommended decision underscores this goal throughout the Federal Register notice. For example, the recommended decision states:

Furthermore, the proposed program would assist in stabilizing market conditions if a contamination event were to occur, and would increase consumer confidence in the quality of leafy green vegetables. (Fed Reg, April 29, 2011, page 24298)

Witnesses stressed the importance of having a Federally-regulated program through which the industry could stabilize any negative market impacts, and proactively address consumer confidence with regard to domestically handled leafy green vegetables, if such an event were to occur. (page 24299)

While we understand the interest of the industry to bolster public confidence in leafy green vegetables in light of past and future food safety concerns, from a public policy and food safety science standpoint, food safety must be viewed through a different lens than marketing.

While the recommended decision makes some minor adjustments to the governance structure and other aspects of the agreement, the decision largely fails to address the many macro concerns raised by our members and other opponents groups. Below is a summary and reiteration of those objections, including an explanation of how the recommended decision addresses or fails to address these issues.

Statutory Intent

The Agricultural Marketing Agreement Act of 1937 is designed to protect producers and consumers, not handlers. The Declared Policy of the Act is quite clearly to provide for an orderly flow of commerce “in the interests of producers and consumers.” Handlers and processors are not mentioned in the law because they are not the protected class. And yet they are the ones seeking the marketing agreement, which is opposed by many producers, especially smaller and more specialized producers, and consumers.

There is nothing in the language of the AMAA, the case law, or AMAA’s legislative history that supports the kind of marketing agreement proposed to the Secretary. The proposed NLGMA would not only fail to establish and maintain orderly marketing conditions, (the purpose of the AMAA), but would instead create confusion by establishing a system of standards for leafy greens that will compete with or duplicate guidances and regulations being developed by the Food and Drug Administration under the recently enacted Food Safety Modernization Act.

In the past, Congress has debated statutory changes to give AMS the authority to promulgate and enforce food safety marketing agreements, but has ultimately declined to pass such legislation. The Congressional debate itself is evidence of the lack of clear statutory authority for AMS to promulgate food safety focused marketing agreements, and the ultimate decision by Congress not to enact such changes should be a clear message to the Agency against taking action on an NLGMA

The explanatory text to the recommended decision discusses five main “material issues” that were raised at the hearing, without addressing the paramount issue of whether or not the Agency has the statutory authority to promulgate a marketing agreement to establish food safety metrics for produce. In the preamble to the Recommended Decision, it is noted that among the concerns raised by NLGMA opponents was “the appropriateness and authority for USDA oversight of the proposed agreement.” [Fed Reg, page 24293] However, other than this minor mention of the opponents’ concern, there is no effort by the Agency to address the statutory authority question at all. In fact, the statute governing federal marketing agreements, the AMAA, is not mentioned once in the recommended decision or its explanatory preamble. Failure to address this central challenge to the NLGMA is a significant flaw in the Recommended Decision. Without a clear demonstration of statutory authority, the NLGMA has no validity.

Food Safety is Not a Marketing Issue

Marketing agreements are designed to manage the sale of products with measurable attributes and communicate differences between products in the marketplace by making claims about attributes such as size, variety, and appearance. Because food safety, which is described in the proposed agreement as process-based, is not a measurable “quality” trait, food safety does not fit into the framework of a marketing agreement.

Food safety should not differ between growers or brands on the basis of whether or not they participate in a program such as the NLGMA. Consumers regard food safety as something that is pre-competitive; that is, something that is a baseline requirement for all products, not something to be used to gain an advantage in the marketplace. Choosing the “wrong” brand should not result in an increased risk of illness.

We recognize and appreciate that the Section 970.69(b) of the proposed agreement now clarifies that the official NLGMA certification mark “may not be used on consumer packages,” and that this change was made in response to concerns raised by opponents. However, the change stops short of prohibiting the use of the mark in advertising and promotional materials for NLGMA signatories. If there is a final rule governing the NLGMA, this prohibition should be added.

The NLGMA is an Inappropriate Vehicle for Regulating Food Safety

Because of the marketing mission of USDA’s Agricultural Marketing Service, the agency’s staff is made up of economists and marketing specialists, not food safety scientists. In addition, various AMS administrators have testified to Congress that “AMS is not a food safety agency.” Therefore, we believe that the mission of AMS makes it impossible for the agency to fulfill a food safety role.

The proposed NLGMA does not follow the established conventions for creation of federal regulation. The lack of transparency and accountability to the public in the NLGMA process leaves citizens and the consuming public without the same level of

information and input that they would have in a traditional regulatory process. For example, the proposed LGMA will allow public comment only after the standards have been developed by the industry-dominated National Leafy Green Vegetable Board.

The NLGMA Would Result in Consolidating More Power into the Hands of a Few Already- Dominant Leafy Green Vegetable Handlers

Under the proposed NLGMA, the agency is merely serving as a venue for the leafy greens industry to develop its own standards. Standards that affect consumers and many small players in the industry should not be determined by the most powerful players in the industry. We recognize that the ultimate authority to approve the metrics proposed by the National Leafy Green Vegetable Board (“Board”) rests with the Secretary. However, from a practical standpoint, it is very unlikely that the Secretary would make changes to metrics developed by the Board, whose members are appointed by the Secretary. Therefore the structure of the Board itself is of paramount importance.

The governance structure for the proposed NLGMA is flawed, with too much power given to handlers, while producers and consumers are not adequately represented. The governing power under the proposed NLGMA is with the Board. Under the proposed Board structure, handlers dominate the membership and therefore the votes.

We recognize that the recommended decision expands Board membership from the industry recommendation of 23 members to 26 members, reflecting a call from witnesses for greater producer representation on the Board. However, since the industry slots account for 12 of the seats and producers represent 10 seats, the industry is still able to dominate the voting, except in the rare event that 3 of the 4 “at -large” Board members vote with the producer members. The first three at-large Board seats are reserved for a food service industry representative, an importer representative, and a retailer representative, all of which would generally be more aligned with the handling sector than with the producer sector. The fourth at-large seat is reserved for a “public member” representative. However, there is no direction or definition in the recommended decision about the nature of this “public” representative, so it is difficult to anticipate how this representative’s role on the Board would affect the power structure of voting.

In addition, even though a significant percent of leafy green vegetables are marketed as organic, there is no requirement that organic handlers or producers be represented on the Board. Instead, there is only a non-binding recommendation in section 970.40(c)(3) and (c)(4) that certified organic handlers and producers be represented, “to the extent practicable.”

Similarly, there is also only a non-binding recommendation in Section 970.40(c)(2) that “to the extent practicable,” the Board should include “diversified farm producers.” This greatly minimizes the important role of diversified farms in leafy green production. In fact, one of the primary goals of the NLGMA effort appears to be to bring the production of such diversified farmers into the LGMA fold.

As stated in the explanatory preamble of the recommended decision, 90 percent of the U.S. production of leafy green vegetables are represented by California (75 percent) and Arizona (15 percent), and the production of those states is largely governed under the two existing state LGMA's. As described in the preamble on page 24296:

Evidence is that the remaining 10 percent of production is spread throughout the United States and tends to be sourced by handlers from small to mid-size farms. For such farms, leafy green vegetable production commonly only represents a portion of these diversified farms' total production. According to the hearing record, a "diversified farm" is a farming operation that produces a variety of crops or animals, or both, on one farm, as distinguished from a producer who specializes solely in the production of leafy green vegetables.

From this analysis, it appears that the main function and benefit (from industry's perspective) of moving from the regulatory regime of the California and Arizona Leafy Green Marketing Agreements, and toward a National LGMA is to capture the extra 10 percent of U.S. leafy green production that is sourced from the other 48 states. And further, the analysis suggests that the most of this 10 percent is sourced from small and medium sized, diversified farming operations. If this is the case, then surely those producers should have substantial and guaranteed representation on the Board, not merely a vague "to the extent practicable" urging to the Secretary to give these farmers a voice on the Board.

Lack of Evidence Proving that Small and Medium Diversified Operations Outside of California and Arizona Are a Significant Source of Food Safety Concern

If, as the Agency's analysis suggests, the net gain of moving from the existing State LGMA regime to a federal NLGMA would be to govern the food safety practices of the predominately small-and-medium scale, diversified farmers that produce 10 percent of the nation's leafy green vegetables, then there should be a clear demonstration by the Agency that such farms are a significant source of food safety concern. Yet there is no such demonstration in the recommended decision, its preamble, or the hearing record itself.

New USDA Data on Organic Production of Leafy Green Vegetables Should be Considered by AMS as part of its NLGMA Analysis

In February of 2010, following the completion of the NLGMA hearing and briefing process, USDA's National Agricultural Statistics Service (NASS) published an extensive Organic Production Survey (OPS) which includes detailed information about organic leafy green vegetable production in 2008, with acreage, income and farm-scale breakdowns on a state-by-state basis.

The recommended decision appears to rely heavily on the 2007 Census of Agriculture for overall leafy green production, without any discussion of the 2008 NASS data on organic leafy green production. Comparing these two NASS data sets can be quite helpful in

better understanding the importance of organic production in the leafy green industry, and how the proposed agreement might impact the organic sector.

For example, the recommended decision states that based on 2007 Census of Agriculture data, “in 2007, 1,121 farms in all 50 States harvested spinach for the fresh market from almost 30,000 acres.” In comparison, data from the NASS Organic Production Survey show that in 2008, organic spinach was produced on 639 farms and 7,699 acres nationally, with state-by-state breakdowns. This seems to suggest that the majority of the farms producing spinach are organic farms, which could speak to the need for greater organic representation on the Board.

It is unclear whether AMS was aware of this wealth of NASS data on organic leafy green production when it conducted its NLGMA analysis.

The Proposed NLGMA Duplicates and/or Conflicts with Other Food Safety Regulations

The Food Safety Modernization Act (FSMA) was enacted on January 4, 2011, after the completion of the NLGMA hearing process and post-hearing briefing deadlines. The Act requires FDA to write produce food safety regulations, which FDA is in the process of doing. Draft produce food safety guidances published by FDA to date have demonstrated a clear focus on leafy green vegetables as one of the priority foods to be addressed by the FDA regulations.

Even though the Act had not yet been enacted during the NLGMA hearing process, Congress was in the process of debating the legislation, and FDA had already begun work on produce food safety regulations. Therefore, the NLGMA hearing record includes a great deal of testimony from NLGMA opponents about the potential duplication and/or conflict caused by having both USDA and FDA writing food safety standards for leafy green vegetables. The fact that the FSMA is now law only heightens those concerns.

The FSMA requires FDA to consult with USDA in several areas to provide input into FDA’s rulemaking process. For example, FSMA requires FDA to consult with USDA’s National Organic Program to ensure that food safety standards do not conflict with or duplicate organic certification standards. However, nowhere in the FSMA is there any suggestion that USDA should be writing its own food safety regulations independent of the FDA process. Nor is there any recognition in the NLGMA recommended decision that the NLGMA Board should consult with the National Organic Program to avoid conflict or duplication with AMS organic standards, even though Congress has been very clear about the need for FDA to avoid such duplication or conflict.

The explanatory preamble to the NLGMA recommended decision discusses the relationship between FDA and USDA food safety standards. However, the discussion is not clear about how the NLGMA leafy green metrics would relate to the FDA leafy green food safety standards, or why two separate regulatory processes are necessary. The explanatory preamble states the following:

FDA is the agency at the U.S. Department of Health and Human Services charged with primary regulatory responsibility for food safety. The FDA guidelines referenced above, broadly referred to as "GAPs" and "GHPs," are intended to assist the produce industry in minimizing the risk of food-borne contamination throughout the industry's production and handling activities. According to the hearing record, GAPs and GHPs, would provide the scientific baseline or reference for all audit metrics relating to production and handling activities developed under the proposed agreement.

As witnesses explained, and as included in the proposed agreement, the Board should have authority to recommend, for approval by the Secretary, the adoption of any other documents or regulations, established for the purposes of minimizing microbial food safety hazards in the production and handling of leafy green vegetables. These documents and regulations would be used as the basis of audits conducted by the Inspection Service under the program.

Essentially, this suggests that under the proposed NLGMA, the Board would have the authority to recommend to the Secretary of Agriculture that FDA food safety regulations be used as the basis for audit metrics developed under the NLGMA. In reality, when FDA establishes food safety regulations, as is required by the FSMA, those regulations will be the law of the land. To suggest that compliance with those standards for the production and handling of leafy green vegetables will be at the discretion of the NLGMA Board and the Secretary of Agriculture is a gross misreading of the FSMA. In fact, the analysis of the NLGMA recommended decision makes no reference at all to the FSMA, its governing authority over produce food safety regulations, or its enactment subsequent to the closure of the NLGMA hearing record.

Therefore, with regard to the central question about the proposed relationship between the NLGMA and the FDA food safety regulatory process, the following questions remain unanswered:

- 1) If FDA is by law (the Food Safety Modernization Act) writing produce food safety regulations, why is USDA proposing to establish a separate process to do the same with regard to leafy green vegetables?
- 2) By law, NLGMA will not be allowed to establish audit metrics for leafy green vegetables that conflict with the produce food safety regulations issued by FDA. So what is the purpose of establishing a completely separate NLGMA audit metric development process?
- 3) If the intent is to have an industry Board to help with the implementation of food safety regulations promulgated by FDA, shouldn't that be stated somewhere in the proposed agreement and its explanatory preamble?
- 4) If the intent is to provide a process whereby the leafy green vegetable industry can adopt, via USDA, its own unique food safety standards that it believes to be more workable than whatever FDA prescribes, isn't that illegal?
- 5) Since the FSMA includes detailed provisions addressing the implementation of FDA

food safety regulations with regard to organic farms, and with regard to smaller farms that direct market their produce to local consumers, will those provisions be reflected in the NLGMA audit metrics?

None of these critical questions are answered by the recommended decision or its explanatory preamble.

No Evidence that the Proposed NLGMA will Supplant Burdensome Private Industry Supermetrics.

As referenced in the explanatory text of the recommended decision, there was a great deal of NLGMA testimony about the problem of burdensome private buyer food safety “supermetrics.” In the Federal Register notice on page 24299 it states:

Proponents stated that the proposed program would positively address the increasingly common practice among fresh produce buyers to develop their own food safety requirements for producers and handlers. According to the hearing record, these requirements often differ from buyer to buyer, resulting in a complex web of private standards that producers and handlers need to adhere to in order to sell their product.

Implementation of these varied requirements is costly to the producer and handler, and is often redundant. Moreover, many witnesses testified that some buyer requirements are not scientifically justified and, in turn, led to production and handling practices that challenge existing industry technology or are contra-indicated to findings of current scientific research.

What the recommended decision does not acknowledge is that many opponent witnesses also raised this same concern about industry supermetrics, but also challenged the proponents’ assertion that the proposed agreement would solve that problem. Just because the NLGMA process establishes audit metrics for leafy green vegetable production and handling does not mean that private produce buyers would not still require standards that exceed those metrics, in an attempt to gain a marketing advantage by claiming their produce “exceeds USDA standards.”

There is nothing in the proposed agreement to preclude such a marketing strategy on the part of private buyers, and no explanation given as to why the Agency believe the NLGMA would solve this problem.

This proposed agreement would not simplify the regulatory landscape for growers – it would complicate it.

The Proposed NLGMA is Based on a Failed Model

It is difficult to see the NLGMA proposal as anything but the progeny of the CALGMA experience. Not only does NLGMA borrow the same name as its California counterpart,

but the list of proponents is very similar as well. In addition, the governance structure of the proposed NLGMA continues to place the power in the hands of conventional handlers of leafy green vegetables and nothing in the proposal for the NLGMA differs significantly from the California and Arizona programs. A serious concern for consumers is the fact that several recalls of leafy greens produced under the California and Arizona LGMAs took place after those agreements were in effect. And many witnesses explained at the Monterey portion of the hearing that the California agreement has failed to curb the use of private supermetrics. But perhaps the most notable impact of the state agreements has been the growing controversy over the environmental damage triggered by changes in production in the leafy greens industry to comply with food safety programs. The marketing agreement model established in California and Arizona has not achieved the goals set for these programs and should not be expanded to cover the entire nation by the proposed NLGMA.

Impact on Small Growers and Organic Producers

The consolidated nature of the leafy greens industry creates the potential for the proposed NLGMA to have unequal impact on different sectors of the industry. The leafy greens industry is highly consolidated, with the majority of the volume produced by a small number of large firms. But it is not homogenous – a large number of small-to-medium sized firms produce the rest of the volume and these firms are very different from the largest players in the industry in the way they grow, harvest, package and market their products. Proponents of the NLGMA repeatedly tried to deal with concerns about the potential impact of the proposed NLGMA on small and medium farms by assuring them that they would not have to participate in the agreement if they did not want to. But the proposed NLGMA is not really voluntary for growers if a large percentage of buyers and handlers sign on to the agreement under pressure from their competitors and the marketing efforts of the NLGMA. Further, if producers choose not to participate in the NLGMA because it is not workable for their operations, they could lose significant school and institutional markets for their produce, an important and growing marketing option for smaller farms.

Adding another layer of auditing and recordkeeping through the proposed NLGMA will have a more severe impact on small farmers. The burdens of complying with commodity-specific food safety metrics are much higher for a farmer growing 40 crops on 100 acres than for a grower producing 4 crops on 500 acres. This concern about impacts on small farms has been borne out by a survey of leafy green growers in California during 2008 and 2009. The survey found that the per-acre costs of implementing the CALGMA metrics were higher for small-and-medium-sized farms than for larger farms. This finding related to the significant economies of scale enjoyed by larger operations and their related ability to absorb costs over their large volumes, such as those of hiring designated food safety professionals for their operations.

In addition to the burdens put on small-to-medium scale, diversified producers, organic producers face specific burdens under the proposed NLGMA. Throughout the hearing process, witnesses raised concerns that the metrics established under the CALGMA, and

the interpretation of those metrics by auditors, have resulted in conflicts with national organic standards and imposed heavy and disproportionate burdens on organic producers. For example, in order to become and remain certified as organic, farms must have an organic systems plan that includes measures to promote biodiversity on their farms. Based on the experiences with the California agreement, organic producers, retailers and consumers expressed strong concerns that the metrics developed under the NLGMA would create strong incentives to remove wildlife habitat, in direct conflict with USDA organic standards.

In addition, organic producers are prohibited under USDA organic standards from using synthetic fertilizers on their farms, and rely on composted animal manure, compost and/or nitrogen-fixing crops to provide part of the nutrient balance needed by their crops. Many witnesses raised concerns that the CALGMA bias against the use of animal manure on farm fields would be replicated in the NLGMA metrics as well, ignoring the strict standards with which organic producers must already comply regarding use of animal manure and compost on their fields. Other sustainable practices employed on many small farms like biodiversity, crop rotation, and organic pest control may be threatened by the demands of the NLGMA.

Throughout the NLGMA hearing process, peer-reviewed research was referenced that demonstrates that organic farming systems, which rely on building microbial activity in the soil through the use of non-synthetic chemical farming systems, do in fact provide a significant defense against pathogens in the soil and uptake by the crops grown in that soil. These organic and sustainable systems rely heavily on wildlife habitat, buffer strips, animal manure, and compost as vital parts of a holistic pest and nutrient management systems. Despite the growing body of science in support of the use of these tools, CALGMA metrics and private supermetrics have targeted these tools as food safety culprits that must be eliminated or avoided.

Environmental Impacts

Witnesses at every hearing location provided testimony on concerns about potential negative impacts of NLGMA metrics on conservation efforts on farms. These concerns are based in large part on the experiences of farmers required to comply with CALGMA metrics and “supermetrics” imposed by private buyers. Proponents have argued that CALGMA metrics did not explicitly require wildlife habitat and other conservation measures to be removed. Many witnesses, however, noted that the strong warnings of CALGMA metrics regarding the pathogen dangers of wildlife have been interpreted by auditors to require the removal of wildlife habitat and other conservation measures. Several environmental and conservation agencies appeared as witnesses at hearings on the proposed NLGMA and expressed concern that any new agreement would not be able to curtail the use of supermetrics and other practices that have negatively impacted environmental quality.

The Resource Conservation District of Monterey County began to quantify the environmental harm of the CALGMA with a grower survey that showed that 91 percent

of the farmers surveyed had previously adopted one or more conservation practices on their farms aimed at improving water quality or wildlife habitat. Of those, 32 percent said that they had removed non-crop vegetation in response to California LGMA or supermetric audits, 7 percent had removed water bodies, and 40 percent had removed wildlife habitats.

Misplaced Focus

Part of the analysis of food safety risk should also be recognition that scale and type of operation play an important role in creating risk. Testimony was presented throughout the NLGMA hearing process that farms that grow leafy greens to be co-mingled, washed, and processed with produce from other farms to be sold as fresh-cut or “ready-to-eat” product stored in sealed bags in multiple states pose much greater food safety risk than those producing whole-head or bunched product, or salad mixes that are not comingled and shipped long distances in sealed packages. The proposed NLGMA fails to distinguish between different risk pathways for different types of leafy green products.

Microbial pathogen contamination in produce is a valid concern, but it is not the only food safety concern for produce. Yet, the proposed NLGMA and the California and Arizona agreements upon which it is based, focus exclusively on food safety risks posed by pathogens, and ignore other threats to human health that can be posed by leafy greens production. This incomplete scope means that the NLGMA misses the opportunity to address legitimate threats to public health and incorrectly puts producers who minimize those non-pathogen threats at a disadvantage. Some of the food safety impacts that the NLGMA model fails to address include uses of agrochemicals, non-therapeutic antibiotics in livestock production, and water pollution from concentrated animal feeding operations (CAFOs). CAFOs generate massive amounts of animal waste and a high percentage of the animals in CAFOs harbor and shed *E. coli* O157:H7 and other pathogens. The proposed NLGMA does nothing to address the contamination emanating from these other pathways and focuses solely on practices on individual farms.

Impact on Local Food Systems

Signatory handlers to the proposed NLGMA would pledge to source product only from growers following the NLGMA prescribed farming practices. For the growers selling to these handlers, the metrics are not at all voluntary. While growers who want to avoid the NLGMA could turn to options such as direct marketing, it is certainly not appropriate to relegate organic, sustainable, and smaller-scale farms to direct marketing channels alone.

If the type of market control demonstrated through the CALGMA example is replicated on a national scale, the supply of “alternative” sources of product will be greatly reduced and efforts to create alternative supply chains and re-establish regional food systems greatly impeded. This would undermine the growing trends and complexity of alternative marketing chains, such as those being promoted by USDA itself through the “Know Your Farmer, Know Your Food” campaign.

Necessary Reviews Not Completed

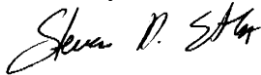
Because of the great potential for environmental harm of the proposed NLGMA, a full Environmental Impact Study (EIS) should be conducted. The National Environmental Policy Act (NEPA) requires an environmental impact statement on any “major Federal actions significantly affecting the quality of the human environment.” The NLGMA meets all parts of this requirement, and therefore the USDA must prepare an environmental impact statement before deciding on the proposed NLGMA.

Conclusion

The proposed National Leafy Greens Marketing Agreement is an inappropriate way to address produce safety. Not only does the proposal wrongly attempt to fit the square peg of public health into the round hole of marketing and promotion, it also attempts to establish a governance and scientific structure that assures a continuation of the large scale, monocultural model of agriculture that we believe greatly contributes to the very food safety concerns at hand.

The member organizations of the National Organic Coalition are acutely concerned about produce safety and are engaged in the ongoing practical and scientific debates about the sources of and solutions to the problem. But we unanimously and wholeheartedly agree that the NLGMA is the wrong vehicle to address this critical public health concern.

Sincerely,



Steven Etkin

cc: Antoinette.Carter@ams.usda.gov,
Melissa.Schmaedick@ams.usda.gov