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Domestic Policy Subcommittee
Oversight and Government Reform Committee

Wednesday, July 29, 2009
2154 Rayburn House Office Building
2:00 p.m.

"Ready-to-Eat or Not: Examining the Impact of Leafy Green Marketing Agreements"

1.) The impact of ***CALGMA*** metrics on farming practices, including the economic, geographic, environmental and practical effects of ***CALGMA***

a.) Economic impacts for growers are significant. An estimate from leafy green growers in California indicates an average expenditure of $18,000/ year per farm for food safety efforts. Metrics require the expense of regular laboratory testing of irrigation water, soil amendments, fertilizers and sometimes seeds and transplants. Growers must have someone to regularly monitor fields for wildlife and domestic animal incursions and documentation of all their efforts and testing is required. Farms with more acreage generally spend more to comply with the metrics but can see some economies of scale due to larger field sizes and existing staff.. Smaller farms often have smaller field sizes and grow more diverse crop mixes with animals included. These farms don't usually have staff available to help them comply with metrics nor can they afford to hire extra help. They incur higher costs per acre due to their smaller field sizes and greater complexity. The requirement to have traceability of the produce grown also poses significant financial and record keeping challenges for many growers. Organic farmers are in a better position as far as being able to trace their produce since they have been required to do that for years. They are also more familiar with the definitions of compost and how it's tested, and used to restrictions on manure usage. Organic growers are already prohibited from using sewage sludge, spraying toxic chemicals or using radiation as a means to sterilize their harvested crops. However they face difficulties balancing organic requirements to enhance biodiversity with metrics seeking elimination of wildlife and non crop vegetation.

b.) Environmental impacts vary with different field inspector's interpretation of the LGMA metrics or their own metrics, sometimes called "super metrics". Wildlife, non crop vegetation, and water bodies are normally viewed as food safety risks. Many environmentally positive practices that growers have implemented like NRCS Environmental Quality Incentives Program (EQIP) and Resource Conservation District practices have been removed or abandoned by growers threatened with the rejection of their crops. Windbreaks, beneficial habitat, vegetated filter strips, tailwater reuse reservoirs, grassed roadways and vegetated ditches have been removed from fields to comply with food safety inspectors. Many fields for leafy greens now have wildlife fencing, in some cases to exclude deer or pigs, in other cases to attempt to stop frogs and mice from entering the field. Some fields of leafy greens use bait stations around their perimeter to poison rodents that might enter the field. Rodent predators like hawks and owls can be poisoned secondarily by eating the poisoned rodents.

c.) The practical effect has been a big step backwards for environmental protection on many farms and significantly more time and money spent to comply with a variety of unproven metrics that are interpreted in various ways by the field inspectors.

2.) Farmer Liability. The majority of food disease outbreaks related to leafy greens come from pre-cut or processed "ready-to-eat" products. The point of processing food is to make it safe and really ready-to-eat. Logically food disease outbreaks are a failure of processing. Salad processors continue to point to the fields as the problem and want to make farmers liable. How pathogens are vectored or when they develop in these processed salad products is unknown. Nonetheless food safety standards or metrics have been invented and marketed as the answer to the problem of pathogen contamination. Leafy greens farmers are now in the unenviable position of paying for and complying with a roster of unproven food safety metrics in an attempt to try to grow pathogen free crops in farm fields.These crops are grown outside in farm fields, subject to whatever is in the environment, whatever flies over it, drops or blows into it.

3. Food safety risks and ***CALGMA***. It's unclear if the ***CALGMA*** has made pre-cut salads safer. Pre-cut salads have inherently higher food safety risks due to the methods of harvest, processing, packaging and marketing.

Neither ***CALGMA*** nor the proposed National LGMA seems to be a good way to provide food safety. They use Marketing Acts for reasons that were never originally intended. Logically, pre-cut processed salads should be regulated as a processed food. Due to the methods employed growing, harvesting, processing and packaging crops destined for pre-cut salads there may need to be conditions imposed on where and how these crops are grown. Leafy greens or other vegetables grown for harvest as whole heads or to be bunched do not pose the same risks and should not be subject to unnecessary metrics.

In the pursuit of food safety, misdirected action is often worse than no action at all. The Organic Center's June 2007 report “Unfinished Business: Preventing E. coli O157 Outbreaks in Leafy Greens,” sets out the evidence showing, even back then, that wildlife was almost certainly not the cause of the outbreak. Instead, dust blowing from a nearby cattle ranch was the likely cause, for reasons set forth in the report. The clearing of riparian areas and removal of vegetation around spinach fields may increase the risk of dust carrying bacteria onto leafy green fields.

One of the most distressing aspects of the California LGMA was its attempt to legitimize “clean fields” metrics for farmers. Not only did these metrics spawn the buyers’ more extreme “super metrics,” but they also had a spillover effect in other crops, even those not eaten raw, such as potatoes, artichokes, and Brussels sprouts. And the LGMA legitimizes the use of third-party auditors, imposing significant costs on farmers.

There is a common notion in policy circles that consumers are falling ill from eating fresh-cut leafy greens because farmers are not following certain safe practices. The LGMA responded to this by inventing a series of on-farm practices to address potential risks from water, wildlife, and workers. These have simply been amplified by the various private metrics of buyers, the so-called “super metrics.”

In reality, we do not know how the produce becomes contaminated by pathogenic bacteria, and so we don’t know what the real risks are. The researchers told the industry that it would take years of research to figure it out, but the industry went ahead and invented metrics anyway to demonstrate that they were doing something.

The proof of this is in the continued rejection of loads of leafy greens that test positive for pathogens, even though they are coming from fields following all of the metrics. Though some of these test results are false positives, nevertheless it is undeniable that pathogenic bacteria are still making it on to leafy greens and to the door of the processing plant.

In the wake of the E. coli O157 outbreak in spinach in California in the fall of 2006, wildlife emerged as one of the leading explanations of how the bacteria got into the spinach field. The science supporting the wildlife theory was always shaky, and in fact, much evidence pointed toward other explanations.

Over the last two years, the California Department of Fish and Game has tested 866 animals including 311 deer, 184 feral pigs, 73 birds, 61 rabbits, 58 tule elk, and various other small mammals. The results – only four tested positive (a pig, coyote, and two elk). These findings have led experts to conclude that wildlife was probably not the source of the E. coli O157 in the 2006 outbreak, although some are waiting for more data to reach a final judgment. Notwithstanding, in the last two years farmers killed 33 deer on one farm, have poisoned ponds to kill frogs, ripped out trees and riparian habitats, and spent millions of dollars building chain link and other fences.

Differences between crops for processing and whole head/bunched Growing-

Crops for processed salads are grown in very high densities and fertility for effective machine harvest. Usually grown on wide beds at plant populations of a million or more plants per acre. Crops harvested for whole heads or to be bunched are usually grown at significantly lower densities between 13,000-45,000 plants per acre. High crop densities and fertility create more succulent plants and a moister microclimate on the bed this can create an environment more suitable for plant pathogen development and possibly enable human pathogens to develop. Less dense plantings have more exposure to sun and breezes a more difficult environment for pathogens to colonize.

Harvest-

The day before harvest, litter crews walk the fields of crops for processed salads picking up anything extraneous on the crop beds like trash or sticks because when the machines start harvesting in the night they can't see what they are cutting. Thousand of pounds of leaves are harvested per hour, everything that is on the bed is conveyed into harvest totes, on to the trailer and shipped to the processor where thousand of pounds of cut leaves are washed in a common water bath, dried and packaged into bags or clamshells then into boxes to be stored and shipped. Significant potential exists for spreading any contamination in the common water bath and the packaging provides an excellent incubation environment for pathogens if the cold chain is not maintained all the way to the customer.The volume of leaves processed in these plants precludes any visual inspection of the crop. Even with litter crews inspecting the fields prior to harvest, foreign object contamination of bagged salads remains a significant industry problem.

Crops harvested for whole heads to be bunched are selectively harvested by hand. People trained to harvest decide what is suitable for harvest leaving immature or damaged crops in the field and place the crop into boxes to be loaded on a truck or trailer and shipped to a precooling facility. The heads or bunches are usually precooled, stored and shipped in the box they were harvested into.

If regulations and metrics were focused only on crops grown to be processed for pre-cut salads, then the acreage of leafy greens (and other crops) grown for whole head or bunched harvest were not subject to unproven unnecessary regulations. Significant acreage would be removed from environmentally negative metrics and many smaller growers would avoid the extra expenses and time spent on inspections and documenting their growing practices.

Any regulations decided upon to provide safer salads should recognize these as a ***processed product***. FDA data shows that since a distinction was made between whole leafy greens and fresh-cut leafy greens in late 1999, all confirmed incidents of E. coli O157:H7 outbreaks in these products have been in product shipped in sealed plastic bags. The FDA itself recently was quoted as follows:

"We have a record of fourteen outbreaks from 2002 [to today] linked to fresh-cut leafy greens," says FDA press officer Stephanie Kisnek. "They were all in sealed bags."[1] Elly Hopper, "Of Mice and Men," Terrain, Spring 2009.

The processing industry has resisted this arrangement, since they do not want their processed salads singled out as more dangerous than whole leafy greens.

They also like the arrangement of having all leafy greens grown under similar food safety metrics, allowing them to buy or reject fields depending on market demand. The present requirement for metrics for all forms of leafy greens reduces the competition from the smaller and local growers unable to justify the time and money required to comply with the metrics.

The ***CALGMA*** is dominated by the salad processor industry. It has engaged peripherally with environmental groups giving the appearance of being interested in environmental issues and those of smaller growers but it's only real focus is to help market salads for it's members. This is not a good way to attempt to provide food safety for pre cut salads. Using this model on a Federal level would be unfortunate for consumers and most farmers.