

Sustainable and Organic Farming Proposed Revisions to Waxman Draft Bill – 6/4/09

A. SECTION 104 – Safety Standards for Fresh Produce and Certain Other Raw Agricultural Commodities

1. Page 29, line 12-15, modify as follows:

“(2) for which the Secretary has determined that such standards are necessary to minimize the risk of serious adverse health consequences or death to human or animals.”

2. On page 29, change the existing (a) Standards subsection into an “In General” subsection and then add a new subsection that includes the following concepts:

“(b) PRINCIPLES. -- In developing standards under (a), the Secretary shall –

(1) target critical points in the food system, including processing, that have been documented to be high risk problems, such as fresh cut, ready-to-eat products;

(2) coordinate with existing state and local government programs that help ensure food safety, including state and local government and transparent and accredited certification programs and processes;

(3) ensure that standards to the maximum extent possible are appropriate to the scale of enterprise;

(4) ensure that standards to the maximum extent possible do not discriminate against diversified farming operations;

(5) ensure that standards are consistent with conservation practice standards and policies established by federal natural resource conservation, wildlife conservation, and environmental agencies.

(6) minimize undue hindrance on the free flow of direct farmer-to-consumer commerce.”

3. On page 30, lines 11-14, modify as follows:

“(2) may include standards addressing pesticide use, raw manure use, water quality, employee hygiene, sanitation and animal control, animals of significant risk, and temperature controls, as the Secretary determines to be reasonably necessary.”

Also, add to the definition section of the Act as definition for “animals of significant risk” as follows: “The term “animals of significant risk” with respect to farms means cattle, sheep, goats, and domestic and feral pigs.”

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4. On page 30, line 21-22 and following, modify as follows:

“(6) may provide for coordination of education and ~~enforcement activities~~ training with other government agencies, universities, private entities, and others with experience working directly with farmers.”

“(7) following public notice and comment, may recognize and incorporate other transparent and equivalent food safety and verification protocols.

“(8) shall minimize undue impact on farms that market directly to the final consumer or that market in a manner that retains the identity of the specific farm all the way through the distribution system to the ultimate consumer.”

5. On page 30, after line 22, add the following new subsection:

“(c) CONCURRENCE. -- Standards and enforcement under this section for certified organic production shall be determined through concurrent agreement by the Secretary and the Secretary of Agriculture.”

Also add report language along these lines:

“The Committee wants to ensure that safety standards with respect to organic operations are consistent with organic rules under the National Organic Program of USDA and that enforcement, when required, will be undertaken through organic certification agents accredited by the National Organic Program. Accredited certifiers would thus be the enforcers of the regulations, once they are established, to avoid multiple inspectors visiting the same farm/processor.”

6. On the bottom of 30 and top of 31 – the paragraph on “Enforcement” should be subdivided into two provisions and rewritten along these lines:

~~“(c) Enforcement. — The Secretary may coordinate with the Secretary of Agriculture and may contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.”~~

“(c) Education and training. – The Secretary may coordinate with the Secretary of Agriculture on the establishment of these standards and to provide education and training related to the standards developed under this section.

“(d) Enforcement. – The Secretary may contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section, except that enforcement activities may not be through State marketing orders or marketing agreements.

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NOTE: If the potential role of USDA is not limited to education and training as we have proposed above, but would also potentially include enforcement, as anticipated by the bill, then we propose that the bill's existing (c) read as follows:

“(c) Enforcement. – The Secretary may coordinate with the Secretary of Agriculture and may contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section, except that enforcement activities may not be through federal or State marketing orders or marketing agreements.

7. On page 32 at the top, turn “(e) Update Existing Guidance” into an “In General” paragraph and then add a new subparagraph laying out key principles for new GAPs as follows:

“(e) UPDATING EXISTING GUIDANCE. –

“(1) IN GENERAL. – Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall update the guidance document entitle “Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards For Fresh Fruits and Vegetables” (issued on October 26, 1998) in accordance with this section ~~and~~, the amendments made by this section, and the principles in subparagraph (2).

“(2) PRINCIPLES. -- In updating the guidance document, the Secretary shall –

(1) target critical points in the food system, including processing, that have been documented to be high risk problems, such as fresh cut, ready-to-eat products;

(2) ensure that the guidance is to the maximum extent possible appropriate to the scale of enterprise;

(3) ensure that the guidance to the maximum extent possible does not discriminate against diversified farming operations;

(4) ensure that the guidance is consistent with conservation practice standards and policies established by federal natural resource conservation, wildlife conservation, and environmental agencies; and

(5) take into consideration certified organic production methods and requirements.

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B. SECTION 107 – Traceability of Food

8. On page 43, line 8, amend as follows:

“(ii) sold by the owner, operator, or agent in charge of such farm directly to a consumer, ~~or~~ restaurant, or other prepared-food venue.”

9. On page 43, after line 8, add a new (iii) as follows:

“(iii) sold by the owner, operator, or agent in charge of such farm through an independent farm identification and source verification system that preserves the identity of the specific farm all the way to the ultimate consumer”

10. On page 43, lines 15-23, re-letter (B) and (C) as (C) and (D), and add a new (B) as follows:

“(B) INDIRECT SALES BY FARMS. –

“(i) IN GENERAL. -- For farms not exempt under (A), the Secretary may not require such farms to maintain records beyond paper or electronic records that identify the immediate previous sources of food and the immediate subsequent recipients of such food.”

“(ii) EXCEPTION. – Subparagraph (i) shall not apply to farms that co-mingle products from multiple farms in excess of a *de minimis* amount as determined by the Secretary .”

C. SECTION 101 – Changes in Registration of Food Facilities

11. On page 10, after line 13, add a new paragraph as follows:

“(2) ON-FARM PROCESSING. – In the case of on-farm value-added processing, the registration fee under subsection (a) shall be –

(A) if the gross sales value of the processed foods produced on the farm is less than \$100,000, zero;

(B) if the gross sales value of the processed foods produced on the farm is greater than \$100,000 but less than \$500,000, \$250;

(C) if the gross sales value of the processed foods produced on the farm is greater than \$500,000 but less than \$1,000,000, \$500.

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(D) if the gross sales value of the processed foods produced on the farm is greater than \$1,000,000, \$1,000.

NOTE: A more continually graduated option would be to say: below \$100,000 zero; above \$1 million, \$1,000; and in between set at 1/10th of 1 percent of gross sales value of processed foods produced on the farm (e.g., if \$500,000 the fee would be \$500)

NOTE: Thought should also be given to creating sliding scale fee structure for small scale brokers, processors, and handlers, rather than the flat fee, one-size fits all approach in the draft bill.

D. SECTION 113 – Safe and Secure Food Importation Program

12. On page 71, after line 14, insert a new (E) -- and re-letter existing (E) as (F) – as follows:

“(E) Other certification and verification programs already used by the importer.”

E. SECTION 123 – Research

13. On page 77, line 21, strike “and” and after line 21, add the following:

“(11) analyze on an iterative basis the most critical points of risk in the food system for fresh produce and other raw agricultural commodities;

“(12) determine conservation and biodiversity standards and practices that positively address food safety concerns and develop education and decision support tools to assist landowners with those standards and practices;

“(13) investigate methods to reduce the impact of animals of significant risk on contamination of food;

“(14) identify low-cost, effective food safety practices for highly diversified farming operations and for farming operations described under section 101(b)(2)(A-C);

“(15) conduct an iterative evaluation of the impact of this Act and the amendments to this Act on farming, including socio-economic and environmental impacts; and