

Statement of
Nicholas Maravell, Maryland Organic Farmer
On the Food Safety Enhancement Act of 2009 (HR2749)
Before the U.S. House of Representatives
Committee on Agriculture

July 16, 2009

Mr. Peterson, Mr. Lucas, and Members of the Committee, I am Nick Maravell, an organic farmer for the past 30 years.

I appreciate the opportunity to provide testimony on HR 2749 regarding food safety to an Agriculture Committee.

I own and operate Nick's Organic Farm, located in Montgomery and Frederick Counties, Maryland. I have 170 acres in production.

I am a strong supporter of food safety, and in all my years of organic production and on-farm processing, I have never had a food safety issue or problem arise. I would like to offer a few observations and recommendations which I believe should shape the House member's thinking regarding changes to the food safety policy contained in HR 2749, especially with regard to organic, sustainable, and family sized operations and on farm value added processing.

We raise grass fed Angus beef, pastured chickens and turkeys, and free range eggs. We grow and sell various types of mixed hays, and we maintain different types of pastures. We produce field corn, soybeans, barley, rye grain, and hairy vetch. We grow fresh edible vegetable soybeans.

We operate a diversified and integrated farm, raising several types of crops and types of animals together. As an ecologically based operation, we rely on crop and animal diversity, and longer and more varied crop rotations, to build a farming system that stands up to the test in good times and bad, while maintaining or improving the quality of our soil and environment. We are not highly concentrated in one product, such as beef or dairy, or in two or three main cash crops. Our diversity allows us to design a system where the parts work well together and require little re-direction once the system is established.

Our marketing strategy must complement our production diversity. Given our small size and our varied product mix, we must add value on-farm to be

economically viable. We do this by making the products organic, by selling about 90% directly to the final user, either a consumer or another farm, and by on-farm processing. We process our own organic chickens and turkeys, pack our eggs and vegetable soybeans, condition organic seed, and grind our grains into poultry feed. Our beef is processed off the farm under USDA inspection. In most cases, we are only one step down from the final consumer. This direct personal marketing relationship allows us to develop trust with our customers through accountability and traceability. The customer has no doubt about where to find accurate information about our operation or products.

Observations on Food Safety Provisions in HR 2749

What concerns me most about this bill is that it could be perilously close to making our Nation's food safety more difficult to achieve in the long run. While the Food Safety Enhancement Act of 2009 will have some positive impacts on the safety of our Nation's food supply, it will also have some unintended consequences. In my opinion as a farmer, this legislation needs more refinement before going forward. I do not make this statement lightly or out of self-interest, but out of deep concern for the ultimate safety and security of our country's food supply.

Over the last 30 years, I have seen tremendous growth and vitality in small and diversified farms, in on-farm value added processing, and in decentralized direct to consumer marketing channels. Growth of farmers markets, community supported agriculture (CSAs), the Buy Local and Slow Food movements, and the expansion of organic and sustainable food and farming practices have given the consumer many choices. None of the growth areas, especially those direct-to-consumer areas, have been associated with major food safety issues. Part of the reason for this safety record has to do with the approaches they take to producing, processing, and marketing food. These approaches represent innovations and alternatives to the mainstream food chain because, at the core, they have already implemented transparency and connection between the producer and the final consumer. As long as they provide safe food, these approaches should be given incentives, not barriers, to continue their growth by adding new entrepreneurs and expanding existing operations.

To the extent that this bill does not recognize and encourage the diversity in our food system, to the extent this bill economically favors further industry consolidation and centralization because smaller more diverse operations can not efficiently meet the added regulatory costs and burdens, then our food supply becomes more susceptible to large shocks—whether from unintended contamination or from bioterrorism.

In my case, as a certified organic grower and on-farm processor, I already meet the major concerns raised in this bill. To have to meet them again through an additional program would be cost and time prohibitive. I have attached a detailed

analysis prepared by the Organic Trade Association which shows the food safety aspects of the USDA organic certification program that are already in place.

Fees and Registration

Another of my concerns with this bill is that it proposes to legislate a “one size fits all” solution to food safety. The flat \$500 registration fee structure is one good example of this approach. For larger corporate facilities, this fee may be insignificant. For modest family sized operations that may conduct only minimal and occasional processing, the cost and the ensuing paperwork are very burdensome. Estimates indicate the vast majority of fees to be generated under this bill would come from facilities with gross sales of under \$1 million, and yet the vast volume of food with potential safety weaknesses is concentrated in operations generating more than \$1 million in sales. If the Committee can determine that this situation is true, then smaller operators are being asked to disproportionately pay for the monitoring of larger operations. This is fundamentally unfair. I repeat, fundamentally unfair. My recommendation is to charge no registration fees for operations with sales less than \$500,000, to charge a \$250 fee for facilities with sales between \$500,000 and \$1million, and to charge appropriately scaled fees for facilities with sales of over 1\$ million.

In my case, I already pay modest fees and am already registered for most aspects of my food production and on-farm processing operations with the Maryland Agriculture and Maryland Health Departments and with the Federal level through my USDA organic certification program. Again, treating all operations as “one size fits all” ignores other state and Federal programs already in place and leads to potentially unnecessary costs and paperwork burden. I recommend the Secretary of HHS, with explicit coordination with the USDA Secretary, be directed to take into account fees already paid and data already collected to accomplish the purposes of registration and data collection wherever feasible.

Exemptions

In an attempt to make policy appropriate to the type and scale of food production and processing activity, the bill provides for some exemptions, particularly for farms that meet certain conditions and for livestock programs administered by USDA. I know the exemption provisions rely on the definitions of “facility” contained in the Bioterrorism Act of 2002 and regulations at 21CFR1.226 and 227. I also know that, in at least one instance, a Federal court has interpreted the definition of food to apply to livestock, creating a fuzzy line between USDA and FDA program jurisdiction. I am not sure what aspects of my farm production and on-farm processing will be exempt from Sec. 414-Maintenance and Inspection of Records (including Tracing System for Food); Sec. 415-Registration of Food Facilities; Sec. 418-Hazard Analysis and Risk-Based Preventative

Controls; Sec. 418A-Food Safety Plan (and associated compliance with Sec. 419-Performance Standards). I recommend that the language of this bill make all the exemptions explicit so that farmers and processors know what exactly to expect. I further recommend that this bill state explicitly that the definition of “food” in the Food, Drug, and Cosmetic Act (FDCA) does not apply to livestock. This latter recommendation is made notwithstanding the jurisdictional division already contained in the FDCA and this bill regarding USDA’s livestock inspection programs.

Explicit Coordination with USDA

As a farmer, I am concerned that the bill does not seem to utilize the expertise of other agencies, especially the USDA. Vast new authority is given to the Secretary of HHS regarding areas in which USDA has relevant expertise:

Sec. 403 (i)- Quarantine of Geographic Location
Sec. 414(c)-Tracing System for Food
Sec. 419A-Safety Standards for Produce and Certain other Raw Agricultural Commodities

I recommend that the bill specify that the Secretary of HHS explicitly coordinate policy in these areas with the Secretary of USDA.

Safety Standards

I strongly endorse the language in 419A(b)(7), (8) and (9) which permits flexibility, coordination, and could prevent duplicative efforts by i) recognizing the special impacts on small-scale and diversified farms, wildlife habitat, and organic production methods, ii) allowing coordination for education and training with other entities that have experience working directly with farmers, and iii) allowing the HHS Secretary to recognize other publicly available procedures and practices to implement safety standards. I would recommend adding the words “direct farmer to consumer distribution channels” to the impacts listed in paragraph (7). If combined with explicit coordination with the USDA Secretary, these provisions would help ensure small scale, diversified and organic producers would be able to continue their practices in a safe, economical, and responsible manner.