

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, especially with regard to organic, sustainable, and family sized operations and on-farm value added processing

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

We raise grass fed Angus beef, pastured chickens and turkeys, and free range eggs. We sell various types of mixed hays. We produce field corn, soybeans, barley, rye grain, and hairy vetch. We grow fresh 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 our environment. We are not highly concentrated in one product. Our diversity allows us to design a system where the parts work well together.

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, 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. 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 based on full accountability and traceability. The customer has no doubt 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, it will also have unintended consequences. In my opinion as a farmer, this legislation needs more refinement before going forward.

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. None of these growth areas have been associated with major food safety issues. These innovations and alternatives to the mainstream food system have already implemented transparency and connection between the producer and the 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.

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 would be cost and time prohibitive. I have attached an analysis of the food safety aspects of the organic certification program.

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, restrictions, and burdens, then our food supply becomes more susceptible to large shocks—whether from unintended contamination or from bioterrorism.

Fees and Registration

Another concern with this bill is its “one size fits all” solution to food safety. The flat \$500 registration fee is an example. 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 true, then smaller operators are being asked to disproportionately pay for the monitoring of larger operations. This is fundamentally unfair. I repeat, fundamentally unfair.

I have specific recommendations in my written testimony on:

- i) a revised fee structure.

- ii) taking into account fees already paid and data already collected,
- iii) the need to make explicit all of the exemptions that would apply to farms,
- iv) the need to specify explicit coordination with the USDA Secretary in certain sections, such as quarantine, food traceability, and safety standards for produce and commodities, and
- v) additional language for safety standards to help ensure small scale, diversified and organic producers would be able to continue their practices in a safe, economical, and responsible manner.

I already pay modest fees and am registered state and Federal programs for my production and processing operations. 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

The bill provides for some exemptions, particularly for farms that meet certain conditions and for livestock programs administered by USDA. The exemptions rely on the definitions of “facility” located in various places, including the the Bioterrorism Act of 2002 and regulations at 21CFR1.226 and 227. I am not sure what aspects of my farm production and on-farm processing will be exempt. I recommend the language of this bill make all exemptions explicit so farmers and processors know exactly what 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:

Quarantine
Food Traceability
Safety Standards for Produce and 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 Sec. 419A(b)(7), (8) and (9) which permits flexibility, coordination, and could prevent duplicative efforts. 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.