



Food Safety Regulation Policy Statement

May 2010

Impact of Food Safety Regulations on Farmers and Producers

Due to recent outbreaks of food-borne illness, there is an increased effort to develop state and national food safety regulations. New food safety regulations will affect everyone in agriculture, regardless of location, crop, or scale. Tilth Producers is concerned about the impact of new regulations on small to mid-sized family farmers, regulations that may require one size fits all electronic recordkeeping systems, additional fees for inspections, and mandated standardized farm practices designed to ensure food safety. These requirements could inadvertently harm local organic family farmers who are working to develop environmentally sustainable farming practices. Tilth Producers is committed to promoting food safety practices and regulations that are appropriate to the small and medium sized farms we represent. Some food safety problems that can be linked to large-scale industrial agriculture are often absent on our growers' farms because of their scale, design, and level of intensive management. Tilth Producers believes control over food safety rules should not be dominated by industrial agriculture interests because that could result in reducing the viability of small to mid-sized sustainable farms.

History

Recent national outbreaks of food-borne illness associated with fresh fruits and vegetables have led consumers and produce buyers alike to seek more assurances that the fresh produce they buy is handled properly and safe to eat. Currently, there are a variety of different food safety regulations and protocols for wholesale produce growers established by private industry or the government to ensure that measurable food safety standards are met from production to processing. The number of different programs is confusing, costly to growers, and allows private industry to drive regulation based on marketplace interests (minimizing liability at retail and pushing it down to the grower level) rather than measures proven effective at making food safer. As Congress considers major food safety legislation, even small to mid-sized growers could benefit from more consistent standards if the bills incorporate input from advocate groups such as the National Sustainable Agriculture Coalition (NSAC) to support biodiversity and conservation practices, encourage the development of local and regional food systems, and implement documentation and inspection systems that are adaptable to different scales of operation. Regardless of market and scale, fresh fruit and vegetable growers are facing greater public scrutiny of their food safety practices and likely greater government regulation meant to ensure a safer food system. A brief overview below summarizes the major existing food safety regulations and protocols that are influencing the development of a national standard.

Good Agricultural Practices

The most commonly used framework is the Good Agricultural Practices (GAPs) document, which was originally published in 1998 by the Federal Drug Administration (FDA) and the United States Department of Agriculture (USDA). GAPs offers practical, voluntary guidelines meant to minimize microbial food safety hazards for fresh fruits and vegetables. Current legislation proposes to update GAPs, but the basic guidelines do represent a common sense approach to food safety that starts on the farm, and farmer trainings offered through Cooperative

Extension agencies across the country provide a valuable starting point for farmers of all scales. In 1999, the GAPs guidelines were taken a step further to create a federal GAPs program, “Qualified through Verification”, through the USDA’s Agricultural Marketing Service (AMS) in order to establish voluntary, audit-based standards for federal purchasing. This audit-based program established a standardized set of criteria that wholesale growers must meet in order to sell through the USDA Fruit and Vegetable Program’s Commodity Procurement Branch and to many other large scale buyers. It also created an additional layer of facility requirements, record keeping, inspections, and inspector fees that are not currently integrated with annual applications and inspections for other certification processes, such as those required under the National Organic Program, and are not scaled to accommodate small to mid-sized growers. In the past 10 years, the GAPs guidelines have also been adopted and expanded upon by private industry to become “super metrics” that large scale produce purchasers require their growers to conform to. The details of many versions of these “super metrics” are considered confidential, proprietary information and may represent an “arm’s race” of protocols which aim to sterilize the farm environment rather than emphasize prevention, biodiversity, and effective safety measures based on scientific evidence.

Government Regulation: Leafy Greens Marketing Act

Government efforts to regulate and enforce food safety measures may create a more transparent and effective system than leaving the regulation in the hands of private industry, however boundaries are easily blurred between food safety measures and market controls when agencies such as the USDA’s Agricultural Marketing Service are involved. In response to the 2006 outbreak of E. coli 0157:H7 in bagged spinach, large produce industry representatives and the California Department of Agriculture agreed to the Leafy Greens Marketing Act in 2007. As with other federal GAPs audit programs, farmers of any scale bear the same audit fees and implementation costs, and some requirements have led farmers to eliminate conservation practices for water quality and wildlife habitat. Building on the California model as an example, the AMS proposed the National Leafy Greens Marketing Act (NLGMA) in 2009, after being petitioned by the United Fresh Produce Association, Produce Marketing Association, Western Growers Association, and seven other industry groups to do so. The USDA held several public hearings on the proposal in late 2009 and will publish their recommended decision for public comment in early 2010. The actual metrics and standards required by the act will not be created until after the agreement is finalized, leaving the implementation open to great influence by large industry buyers. The position of advocacy groups such as the National Sustainable Agriculture Coalition is that the NLGMA represents an industry-driven marketing agreement and should be opposed, leaving food safety in production up to government regulation before it hits the competitive market place.

Government Regulation: Bills H.R. 2749 and S. 510

There are two major pieces of food safety legislation currently in consideration in Congress, H.R. 2749 and S. 510. The first and most widely debated over the past year is H.R. 2749, “Food Safety Enhancement Act”, which passed the House of Representatives in July 2009 and now moves to the Senate. Major concerns with H.R. 2749 are that proposed updates to GAPs guidelines may not focus on the riskiest aspects of food production and processing and they may discourage biodiversity and conservation practices; that the record keeping requirements will be onerous for small growers; and that any on farm processing that amounts to over 50.1% in

wholesale sales labels the operation a “food facility” subject to a flat \$500 annual fee. Currently moving through the Senate is S. 510, “Food Safety Modernization Act”, which is very similar to H.R. 2749 in its effort to create new oversight authority within the FDA for fresh produce production and processing. S. 510 does require operations with on-farm processing to register as a facility but does not currently include any fee. The recordkeeping for product traceability would apply to fresh produce only, not processed value-added products as in H.R. 2749, but S. 510 does not exempt direct-to-consumer (as opposed to wholesale) sales from stringent traceability requirements as the House bill does. Finally, neither bill coordinates with the National Organic Program, creating a second layer of sometimes contradictory regulations and costly inspections for certified organic farmers.

Effect on Farmers

Becoming familiar with and implementing the GAPs guidelines is one way that growers of all scales can assure customers that they are concerned with food safety on their farm, regardless of government or industry audit requirements. H.R. 2749 and S. 510, if passed and enacted, will affect growers who do on-farm processing by requiring specific record keeping and traceability and possibly imposing fees. Washington State University offers an affordable two-part training series plus ongoing assistance to help farmers understand the guidelines and to make necessary changes to their operations. The original GAPs document “Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables” published by FDA-USDA, 1998 is available online at:

<http://www.fda.gov/downloads/Food/guidancecomplianceregulatoryinformation/guidancedocuments/productsandproducts/UCM169112.pdf>

The guide outlines the major areas of concern as irrigation and processing water quality; handling and application of manure and municipal biosolids; worker health and hygiene; sanitary facilities; field sanitation; packing facility sanitation; transportation; and traceback. The eight main principles of GAPs are:

Principle 1: Prevention of microbial contamination of fresh produce is favored over reliance on corrective actions once contamination has occurred.

Principle 2: To minimize microbial food safety hazards in fresh produce, growers, packers, or shippers should use good agricultural and management practices in those areas over which they have some control.

Principle 3: Fresh produce can become microbiologically contaminated at any point along the farm-to-table food chain. The major source of microbial contamination with fresh produce is associated with human or animal feces.

Principle 4: Whenever water comes in contact with produce, its source and quality dictates the potential for contamination. Minimize the potential of microbial contamination from water used with fresh fruits and vegetables.

Principle 5: Practices using animal manure or municipal biosolid wastes should be managed closely to minimize the potential for microbial contamination of fresh produce.

Principle 6: Worker hygiene and sanitation practices during production, harvesting, sorting, packing, and transport play a critical role in minimizing the potential for microbial contamination of fresh produce.

Principle 7: Follow all applicable local, state, and Federal laws and regulations, or corresponding or similar laws, regulations, or standards for operators outside the US for agricultural practices.

Principle 8: Accountability at all levels of the agricultural environment (farm, packing facility, distribution center, and transport operation) is important to a successful food safety program. There must be qualified personnel and effective monitoring to ensure that all elements of the program function correctly and to help track produce back through the distribution channels to the producer.

Key Players

USDA Agricultural Marketing Service (AMS)

United Fresh Produce Association

Produce Marketing Association

Western Growers Association

National Sustainable Agriculture Coalition

National Organic Coalition

National Organic Action Plan

Community Alliance with Family Farmers

Pros of Current Food Safety Regulation Proposals

- Institutional policies for purchasing wholesale from local and regional growers will require adherence to national food safety standards
- Current GAPs are voluntary and flexible to adapt to a diversity of operations
- Federal GAPs and LGMA auditors receive standardized training through USDA
- Government oversight may take regulation and enforcement out of industry hands
- Everyone from grower to consumer wants a safe food supply
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Cons of Current Food Safety Regulation Proposals

- LGMA and federal GAPs discourage certain sustainable practices like wildlife habitat protection and water conservation
- Marketing agency charged with regulation disguises food safety as a quality issue
- There is little scientific data showing results of safer food with industry standards
- Industry “super metric” standards are generally not public information
- Multiple buyers require different and conflicting audit metrics and multiple fees
- Current bills focus on traceability, rather than prevention
- Audits not currently combined with organic certification inspections, causing duplication of fees, inspections, and paperwork for farmers
- Facility designation in HR 2749 is too broad, costly, and fee is not adjusted for different scales of operation
- If only large scale growers can afford to comply, the food system suffers by inherent weakness and vulnerability of a centralized system with long supply chain, as one isolated food-borne illness outbreak affects many consumers

Talking Points

- See NSAC’s “Food Safety on the Farm: Policy Brief and Recommendations” for specific policy recommendations
- Instruct FDA to coordinate with USDA’s National Organic Program to combine audits with inspections

- Focus on significant risk areas: compost teas, livestock and manure handling, water quality/washing, processing and transportation
- Recommend practices that are scientifically shown to improve food safety
- Recommend sliding scale fee and clear definition of “facility”
- Request federal resources for financial assistance and training for farmers: tracking and record keeping equipment purchase, hand and produce washing stations, water testing services, audit inspection fees

Resources

- Farm Walk and Mock GAPs Audit, hosted by Tilth Producers & WSU Small Farms Team: Monday, July 26, 2010, www.tilthproducers.org
- Karen Killinger, Washington State University, School of Food Science, offers GAPs trainings: 509-335-2970 or Karen_Killinger@wsu.edu.
- “Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables” FDA-USDA, 1998.
<http://www.fda.gov/downloads/Food/guidancecomplianceregulatoryinformation/guidancedocuments/productsandproducts/UCM169112.pdf>
- “Food Safety on the Farm: Policy Brief and Recommendations” National Sustainable Agriculture Coalition, October 2009, <http://sustainableagriculture.net/wp-content/uploads/2008/08/NSAC-Food-Safety-Policy-Brief-October-2009.pdf>
- Open Congress, www.opencongress.org
- USDA Agricultural Marketing Service, <http://www.ams.usda.gov/AMSV1.0/>
- Washington State University Extension, Food Safety, <http://foodsafety.wsu.edu>
- Midwest Organic & Sustainable Education Service, www.mosesorganic.org
- Northeast Organic Farming Association, www.nofa.org
- Maine Organic Farmers and Gardeners Association, www.mofga.org
- National Sustainable Agriculture Coalition, <http://sustainableagriculture.net>
- Community Alliance with Family Farmers, www.caff.org
- Food and Water Watch, www.foodandwaterwatch.org

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