

FOOD SAFETY AND LIABILITY INSURANCE

EMERGING ISSUES FOR FARMERS AND INSTITUTIONS



BY KRISTEN MARKLEY

WITH GUIDANCE FROM MARION KALB
AND EDITORIAL ASSISTANCE FROM LOREN GUSTAFSON

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- Community Alliance with Family Farmers (CAFF)
- Jubilee Project (JP)
- Maine Organic Farmers and Gardeners Association (MOFGA)
- New Entry Sustainable Farming Project (NESFP)

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ABOUT CFSC

WHAT IS CFSC?

Founded in 1994, the Community Food Security Coalition (CFSC) is a non-profit 501(c)(3) membership-based national coalition governed by a 15-member Board of Directors. The Coalition is at the hub of current efforts to re-think, re-organize, and renew the nation's food system. We are committed to creating equitable, healthful, sustainable, self-reliant and community-based food systems through policy advocacy, education, research and organizing.

WHAT IS CFSC'S MISSION?

The Community Food Security Coalition catalyzes food systems that are healthy, sustainable, just, and democratic by building community voice and capacity for change.

WHAT HAS THE COALITION BEEN DOING?

The Coalition has played a pioneering role in the farm to cafeteria arena, creating the first and only National Farm to School Network (in conjunction with the Urban and Environmental Policy Institute at Occidental College) and a National Farm to College Program. As part of this work,



PHOTO CREDIT: ALBA

the Coalition has organized five national farm to cafeteria conferences. It has also organized or participated in numerous training workshops, programs and conferences and developed many resources for farmers, agricultural professionals, food service operators and others regarding the nuts and bolts of building successful farm to cafeteria programs.

WHERE CAN I LEARN MORE?

Check out the following websites:

THE COMMUNITY FOOD SECURITY COALITION,
www.foodsecurity.org

CFSC'S NATIONAL FARM TO COLLEGE PROGRAM,
www.farmtocollege.org

THE NATIONAL FARM TO SCHOOL NETWORK,
www.farmtoschool.org, sponsored by the Urban and Environmental Policy Institute (UEPI) at Occidental College and CFSC

EXECUTIVE SUMMARY

Concerns about food safety and about liability insurance can affect institutions' willingness to purchase products from local, limited resource or small-scale farms. To address this limiting factor, CFSC began studying these issues in the fall of 2009.

With assistance from its project partners, CFSC conducted assessments with 25 farmers based in different regions around the country during January, February, and March 2010. More than half of them (60%) indicated that their customers currently have no food safety program requirements, and nearly half (48%) said that no one involved in their farm operation keeps records of their food safety practices. Most of them (72%) said that they did carry product liability insurance.

CFSC also found that the voluntary Good Agricultural Practices (GAP) guidelines issued by the FDA and USDA in 1998 are now required by some food service management companies. Others accept third party inspections or simply require GAP training (not certification). "Self-operated" institutions reported food safety requirements ranging from no requirements to GAP certification. Some companies and institutions require \$5 million of insurance coverage—far more than the \$1 million policies typically held by small producers.

Based on these findings, CFSC concludes that many small and limited resource producers seeking to increase their markets with institutional buyers will need assistance in finding adequate product liability insurance and in meeting requirements for food safety procedures. These producers may also need assistance in understanding and complying with new food safety requirements and regulations.

The recommendations in this report emphasize proactive and cooperative attention to food safety and liability insurance issues. For example, farmers should identify food safety risks and develop plans to address them. Food service operators should work with local extension educators and other agricultural professionals to make sure growers have the information and tools that they need to address food safety concerns. If needed, growers' organizations should help farmers take a group approach to food safety and product liability requirements. These actions can help to reduce food safety risks and allow small and limited resource producers to continue to grow.



A NOTE ABOUT THE FDA FOOD SAFETY MODERNIZATION ACT

This project was carried out before the United States Congress passed the FDA Food Safety Modernization Act (FSMA) at the end of 2010 during the 111th Congress. While it is too soon to know the full effects of this new law, it will certainly focus increased attention on food safety standards and practices. Analyzing the provisions and potential effects of this new law is beyond the scope of this report, but some understanding of the law as it affects small and mid-scale producers will be helpful in contextualizing this report and its recommendations.

For consumers, the growing trend towards healthy, fresh, locally sourced foods improves food safety by providing the opportunity to know their farmers and processors, to choose products based on these relationships, and to readily trace any problems should they occur. However, the industrial food system—characterized by supply chains and distribution systems that are long, complex, and difficult to trace—has long been plagued by food-borne pathogen outbreaks and widespread contamination. Recent food safety scares involving eggs, spinach, and tomatoes to name a few, have called attention to the dangers inherent to our modern industrialized food system.

As a result, food safety legislation that would expand mandatory food safety oversight—focusing mainly on expanding the Food and Drug Administration’s (FDA) role in regulating and overseeing agriculture production and processing—gained strong support in

Congress. Currently the FDA regulates 80 percent of the food Americans eat, including produce, nuts, spices, cheese, and fish. The US Department of Agriculture (USDA) regulates meat and poultry products; and the two agencies share responsibility for egg safety. The bill passed by Congress—S. 510, the FDA Food Safety Modernization Act—aims to prevent food contamination by requiring facilities to maintain food safety plans, by enabling FDA to inspect food facilities more frequently, by providing authority to FDA to order mandatory recalls in the event of contamination, and by requiring the FDA to improve the traceability of foods to help investigators link contaminated food to processors, farms, and other facilities.

The Community Food Security Coalition believes that improving the FDA’s capacity to conduct oversight in order to reduce the risk of food-borne illnesses is important. However, many of the provisions in the original bill did not take into account the diversity of agriculture or the different risks associated with various production and processing practices, and thus had the potential to be overly burdensome for small and medium-scale producers who have been instrumental in offering safer, more local alternatives to the current system.

As a result, advocates worked with Senators John Tester (D-MT) and Kay Hagan (D-NC) on an amendment to S.510 that would protect small and medium-scale producers and processing facilities that market their products directly to consumers from many hazard analysis and produce safety standard provisions in the bill. The Tester-Hagan



amendment does not create an exemption from the current law or regulations; rather, the amendment clarifies existing law and provides a size appropriate and less costly alternative to Hazard Analysis Critical Control Point (HACCP) for farmers who:

- direct market more than 50% of their products directly to consumers, stores, or restaurants;
- have gross sales (direct and non-direct combined) of less than \$500,000; and
- sell to consumers, stores, or restaurants¹ that are in-state or within 275 miles.

Farmers who meet these qualifications must provide documentation that the farm is in compliance with state regulations, and the farm/facility must also prominently display the name and address of the farm/facility on its label or, for foods without a label, on a poster, sign, or placard at the point of purchase.

Congress passed S. 510 in December 2010 with the Tester-Hagan amendment fully intact. In addition to the Tester-Hagan amendment, the bill as passed includes several other amendments that support small and medium-scale producers in specific ways, including:

- The creation of a food safety training program for farmers, small processors and wholesalers;
- FDA is instructed to provide flexibility for small processors to minimize the burden of compliance with regulations;

- FDA is given authority to exempt farms engaged in low or no risk processing from new regulatory requirements; and
- Small farmers are not required to meet extensive traceability and recordkeeping requirements if they sell food directly to consumers or to grocery stores. Passage of the FDA Food Safety Modernization Act is the first major change to the nation's food safety laws since 1938, bringing food safety into the 21st century with scale-appropriate standards.

Given the range of concerns about food safety requirements expressed by the farmers in the assessments for this project, CFSC expects that many small and mid-scale farmers will encounter challenges in implementing some provisions of the new law. The information in this report should prove helpful in identifying some of these challenges and in helping farmers, institutions, food service management companies, and others work together to address them.

¹According to Section 415 of existing Food Safety Regulations, "Restaurant" means a facility that prepares and sells food directly to consumers for immediate consumption, including entities in which food is provided to humans, such as cafeterias, lunchrooms, cafes, bistros, fast food establishments, food stands, saloons, taverns, bars, lounges, catering facilities, hospital kitchens, day care kitchens, and nursing home kitchens; and including entities in which food is provided to animals such as pet shelters, kennels, and veterinary facilities.



THE PROJECT

In its work with farm to institution programs over the past ten years, the CFSC has observed an on-going struggle around this question: How can small and limited resource farmers increase their institutional sales (and their profits) while meeting requirements for food safety practices and liability insurance? This question led to a project funded by the USDA Risk Management Agency (RMA) on "Food Safety and Liability Insurance Issues for Limited Resource Farmers Marketing to Institutions." CFSC directed this project from the fall of 2009 to the fall of 2010. The purpose was to increase limited resource producers' ability to market produce to local institutions by increasing their knowledge about the food safety and product liability insurance requirements of institutions and identifying practical solutions for these producers to address these requirements.

In this project, CFSC had the assistance of five partners:

- Agriculture and Land-Based Training Association (ALBA)
- Community Alliance with Family Farmers (CAFF)
- Jubilee Project (JP)
- Maine Organic Farmers and Gardeners Association (MOFGA)
- New Entry Sustainable Farming Project (NESFP).



PHOTO CREDIT: NESFP

Two of these organizations are based in California (ALBA and CAFF), one in Tennessee (JP), one in Maine (MOFGA), and one in Massachusetts (NESFP). (For more information about them, see the Food Safety Resources section of this report.) CFSC worked with these partners to gather information about these issues and to share that information with interested farmers, organizations, and institutions. In addition to this report, the Coalition produced a brochure (in English and Spanish) and an audio version (in Spanish) designed to help limited resource producers, agricultural professionals who work with them, and institutional food service operators understand these issues. CFSC and these partner organizations also organized a short course at their annual conference in October 2010 for those interested in learning more about this topic.

The goal of the project was to increase limited resource producers':

- knowledge about the food safety and liability insurance requirements of institutions;
- understanding of what the potential risks might be on individual farms and how to develop a food safety plan to address these risks;
- knowledge about available and potential options to address the food safety and insurance requirements of institutions;
- knowledge of available resources and programs to assist agricultural professionals and food service operators working on potential solutions to the obstacles for limited resource producers in marketing to local institutions; and
- understanding of the legislative and regulatory issues related to food safety.

To download this report, the brochure, and the audio version, visit www.foodsecurity.org. Look for Food Safety and Liability Insurance Resources on the Publications section of the website.

To view notes, slides, and handouts from the short course, visit <http://communityfoodconference.org/14/materials/#sc> and scroll down to Food Safety and Liability Insurance Issues for Marketing to Institutions under "Short Course Materials."

FOOD SAFETY STANDARDS: LEGISLATIVE ISSUES, REGULATORY DEVELOPMENTS, AND INDUSTRY INITIATIVES

Understanding food safety issues involves understanding legislative and regulatory actions as well as food industry practices? In 1997, President Bill Clinton declared safety of fresh produce a priority and created the “Food Safety Initiative.” One year later, the Food and Drug Administration (FDA) and the Department of Agriculture (USDA) issued a Good Agricultural Practices (GAP) guidance document (*Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables*). This guide serves as a common starting point for addressing food safety.³ These voluntary guidelines outline ways to minimize microbial contamination during growing, harvesting, and packing fresh fruits and vegetables. They also include instructions on farm worker health and hygiene, sanitary facilities, manure management, irrigation and wash water quality, in addition to other activities (National Sustainable Agriculture Coalition [NSAC], 2009).

Farmers can self-document their compliance with these federal GAP standards. The federal guidelines can also serve as the basis for a voluntary audit-based verification program—the Quality Through Verification Program—administered by the USDA’s Agricultural Marketing Service since 1999. Some wholesale buyers now require growers to be audited to ensure they are in compliance with GAP—turning the voluntary guidelines into de facto mandatory requirements. In addition, since 2007, all growers that sell fresh produce to federal food and nutrition programs through the USDA Fruit and Vegetable Program’s Commodity Procurement Branch are required to pass a federal GAP audit with a score of 80% or higher (NSAC, 2009).

GAP is flexible as a rubric for assessing pathogen risks on the farm, but GAP certification has been problematic for some small, mid-scale, and organic producers for whom the costs of physically adopting the GAP standards can be prohibitive. Larger growers can more easily absorb the costs and annual audit fees. A few states have created modest GAP



PHOTO CREDIT: ALBA

certification cost-share programs to address this issue, and a few other states have initiated technical assistance and outreach programs to help farmers implement them (NSAC, 2009).

Some private parties, including buyers and producer groups, have added requirements onto the federal GAP standards. These additional requirements are often referred to as supermetrics, and are generally audited by private firms. Some buyers use supermetrics to demonstrate their commitment to food safety, to exceeding the requirements of the GAP standards. These requirements often place producers at the nexus of conflicting mandates because

²The information in this section is excerpted and adapted from the Wallace Center National Good Food Network (NGFN) *Food Safety FAQ* (<http://ngfn.org/resources/food-safety/food-safety-faq#documentContent>) and the National Sustainable Agriculture Coalition’s (NSAC’s) *Food Safety on the Farm: Policy Brief and*

Recommendations, October 2009 (<http://sustainableagriculture.net/wp-content/uploads/2008/08/NSAC-Food-Safety-Policy-Brief-October-2009.pdf>).

³The FDA guide is available at: <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/ucm064574.htm>.

food safety supermetrics can conflict with conservation and habitat improvement goals that are increasingly important to farms and to the general public. In California, for example, some growers have discontinued wildlife conservation practices in response to new standards (NSAC). There is no scientific evidence that the additional requirements of buyer supermetrics increase food safety. Rather, supermetrics primarily serve a



PHOTO CREDIT: ALBA

marketing function by allowing buyers to claim that because of their stringent requirements, the food they sell is safer. As a result of these additional requirements and the many different scenarios in which supermetrics can be required by some buyers, producers are often faced with conflicting requirements and the need for multiple audits. This situation has led to “audit fatigue” among many produce growers (National Good Food Network).

These developments are responses to events within the industry. Several major outbreaks of food-borne illness in the last few years related to spinach, peanuts, and other fresh produce items have led to heightened concerns about food safety. The illness and suffering (and the media’s attention to these outbreaks and their costs) have reinforced institutions’

concerns. Institutional markets, and schools in particular, are held to a high standard in making sure that the foods they provide are safe. Institutions must supply safe food, but they also want to serve healthy food. Fresh fruits and vegetables are an essential part of the human diet, but most Americans, especially those with limited incomes, do not consume the amounts recommended by the federal government. In recent years, increasing consumer demand for fresh, high quality, locally grown produce, and the growing number and efficacy of community food endeavors that provide greater access to fresh local foods—such as Farm to School and Farm to College programs—have been hailed as part of the solution to today’s diet-related epidemics of obesity and diabetes. Any food safety standards that inhibit the growth or activities of these farms or that limit local access to fresh, affordable produce may, in fact, have negative health impacts. In addition, proposed food sterilization methods such as irradiation or high levels of chlorination may reduce the nutritional quality of fruits and vegetables by destroying phytochemicals and other healthy plant compounds, or creating new, unhealthful compounds. For these reasons, produce safety approaches should promote fresh produce production and processing management systems that prevent pathogen levels high enough to warrant sterilization methods. Overall, food safety standards must not decrease the healthfulness, variety, or availability of fresh produce in the food supply (NSAC, 2009).

Both food safety and product liability insurance requirements can create significant obstacles for small and limited resource producers trying to market their products to local institutions. Many of them cannot afford any liability insurance, or at most a \$1 million policy. Institutions’ high insurance coverage requirements (\$5 million in some cases) can impede producers’ ability to sell to food service management companies. Similarly, small producers may struggle to comply with food safety guidelines or

requirements designed for larger operations. In addition, institutions tend to assume that buying direct from the farmer is somehow more risky than buying from a broker—even though recent high profile outbreaks were connected to large-scale industrial operations. This assumption breaks down when the purchaser begins to interact with the farmers and begins to understand the farming operations. Establishing trust between producers and institutional buyers is the crucial step.

In response to the many challenges that small producers face, several organizations around the country are developing food safety protocols that are more appropriate to smaller-scale farms that grow a diversity of crops, practice sustainable agriculture methods, and have in place various conservation and habitat improvement programs. They are working with their member farmers and local restaurants, grocery stores or institutions to make sure the guidelines are doable for farmers and acceptable to their customers. These guidelines fit better with the needs and capacities of limited resource producers. Some groups that act as a distribution channel for small or limited resource producers are securing a group policy to cover product liability insurance requirements for their individual farmers. If small and limited resource producers are to gain a significant market share of the institutional food service market, many of them will need assistance in developing creative options for acquiring insurance and establishing credible food safety procedures.

APPROACHES AND CRITICAL ISSUES FOR PRODUCERS, AGRICULTURAL PROFESSIONALS, AND FOOD SERVICE OPERATORS

Food safety requirements and product liability insurance requirements have important implications for small producers. If they are unable to meet requirements, they may miss out on markets. If they are unable to meet requirements in cost effective

ways, they may not benefit from these markets. Understanding these issues requires, at minimum, some understanding of farmers' current practices, of state and federal regulations, and of institutions' and food service management companies' policies. The following section explores these various perspectives before looking at emerging models of group-based and proactive approaches to food safety and liability issues and offering several recommendations for addressing these issues.

PRODUCERS' CURRENT FOOD SAFETY PROCEDURES

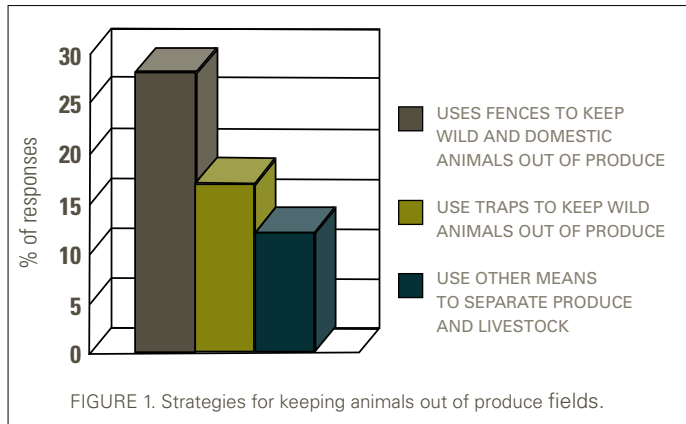
During January, February, and March of 2010, CFSC and its partner organizations conducted assessments with 25 different small or limited resource farmers (fruit and vegetable growers) around the country to learn about their current practices. The partner organizations (ALBA, CAFF, JP, MOFGA, and NESFP) each provided contact information for five producers who volunteered to participate in the assessments. The focus of the assessments was on food safety and product liability insurance issues. Twenty of the assessments were conducted by CFSC as individual phone interviews. Five were conducted by ALBA as part of a focus group.

For more details about the participants' backgrounds, their current food safety practices, and the concerns that they find hard to address, see the full summary of the assessments in the Appendix.

For the purposes of the assessments, we explained to the producers that we were defining food safety procedures as "methods for the production, handling, storage, and processing of food in ways that prevent food-borne illness."

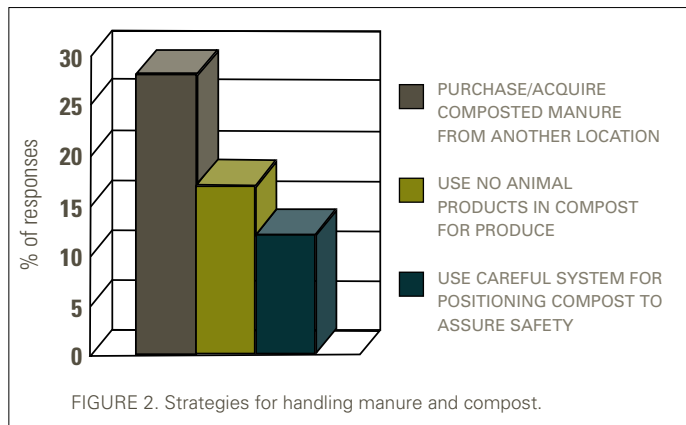
Sixty percent of the farmers indicated that their customers do not have any food safety requirements. One farmer explained that "Living in a small community, they know us, we know them, and they know they can visit us any time, they can track it down; they haven't gotten too concerned about

it right now.” However, 68 percent of the farmers indicated they have participated in a training session on food safety procedures and many cited specific procedures that they use. For example, many reported specific strategies for keeping animals out of produce fields such as using fences (28%) and traps (17%). See Figure 1.

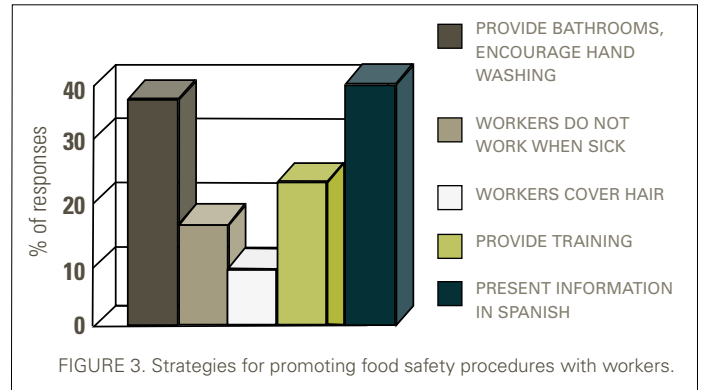


The “other means” for separating produce and livestock areas included using row covers, using tactics that scare away animals (such as tin plates), and keeping border areas clean and cleared.

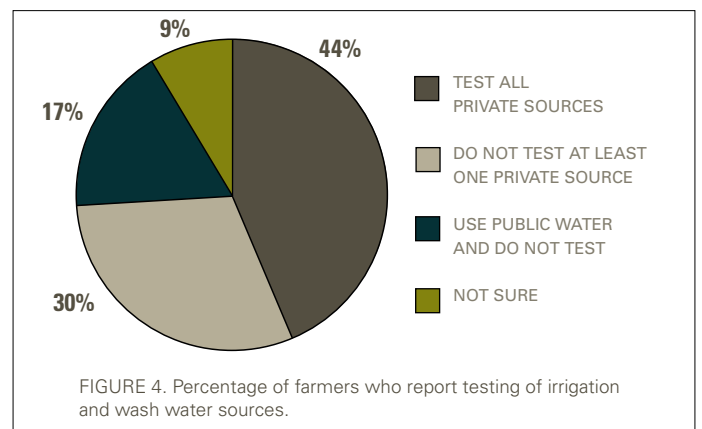
When asked how they manage manure or compost to prevent food safety concerns, some of the farmers reported that they use more than one measure. Nearly half of the responses (45%) indicated that they get their compost from another location and another quarter (27%) that they use no animal products in their compost. See Figure 2.



Nearly three quarters (72%) of the farmers have hired workers on their farms. While providing bathrooms and providing training were mentioned in the follow-up responses of these farmers (29% and 23%), the most cited strategy for promoting food safety was presenting information in Spanish (40%). See Figure 3.



Record keeping and testing of water sources were challenges for many of the farmers. Forty eight percent of the farmers indicated that no one involved in their farm operation keeps records of the food safety practices conducted on their farm. Although 44 percent of the farmers said that they use a spring or well water for wash or irrigation water (or both) and test these private sources, 30 percent said that they use spring or well water for one or both sources and do not test at least one of the private sources. Another 17 percent said that they use public water for both sources and therefore do not test the water. Nine percent were not sure if the wash water and irrigation water were tested. See Figure 4.



Of the 68 percent of farmers who participated in training about food safety procedures, the most common organizer of the trainings was a non-profit growers' organization.

Thirty seven percent of the farmers who responded said that they found certain food safety issues difficult to address. When asked about their familiarity and concern with meeting possible food safety guidelines, 58 percent communicated that they were familiar with the proposed guidelines and were concerned about being able to meet them. Some feared that the costs of proposed regulations might put them out of business: "If we have to [pay to] have [USDA] come out every year and inspect with the little bit of money we are making, we'll just quit." While these assessments reflect the input of only 25 different farmers, they are suggestive both of current practices and of concerns about how governmental action may affect future standards.

INSTITUTIONS' FOOD SAFETY REQUIREMENTS

In addition to conducting the farmer assessments, CFSC also discussed food safety and product liability insurance with federal and state agencies, food service management companies, and institutional food service directors in order to understand their perspectives.

STATE AND FEDERAL REGULATIONS

As of November 2010, there were no federal food safety requirements for farmers selling to institutions unless the grower was selling into the USDA Foods Program (formerly known as the Commodity Program). With the passage of the FDA Food Safety Modernization Act in December 2010, the FDA is expected to issue new guidelines after a regulatory review process.⁴ Under the Tester-Hagan amendment to that bill, qualifying small producers must show that they are in compliance with state regulations and label their products with the name and address of the farm/facility (or, if the product is unlabeled, provide that information on a sign at the point of sale) in order to be exempt from these new guidelines.

⁴For updates on food safety legislative issues, FDA and USDA regulatory developments, and industry food safety initiatives, go to the National Sustainable Agriculture Coalition's website (<http://sustainableagriculture.net/>) and to the Wallace Center's National Good Food Network website

At the state level, food safety requirements for growers selling direct to institutions vary. Most states do not have specific requirements. However, many state health codes do include requirements for general sanitation when selling fresh produce. Oklahoma has applied these general requirements to growers selling to schools. The Oklahoma Department of Health has stated that fresh fruits and vegetables may be sold and purchased by schools if the following criteria are met:

- 1) The produce is unprocessed
- 2) The produce is protected from contamination
- 3) The growers follow Good Manufacturing Practices (GMPs) when washing and cleaning produce.

A certificate from the Department of Health is required if the grower is selling produce that he or she did not grow or if processed products such as sliced apples, cider, or breads are involved.

FOOD SERVICE MANAGEMENT COMPANIES

Food service management companies may also implement food safety requirements. CFSC contacted some of these companies to learn more about their requirements and discovered that they have various approaches:

BON APPETIT MANAGEMENT COMPANY (<http://www.bamco.com/>) will accept an inspection from a third party, including the local health department. They try to be flexible because they want to encourage small farmers to participate in their Farm to Fork program (a company-wide initiative to buy locally).

PARKHURST DINING SERVICES (<http://www.parkhurstdining.com/>), in general, requires farmers to have GAP certification. However, this is currently not a stringent requirement and not always enforced. Most of the local produce is going through local distributors that may have their own sets of requirements.

(<http://ngfn.org/resources/food-safety>). The Food Safety Resources section also includes a list of national organizations that work on federal legislative issues (including food safety issues) that affect farmers.

SODEXO (<http://www.sodexousa.com/>)

All suppliers are required to provide proof they have a food safety program meeting Sodexo's requirements. A third party audit is required. Sodexo provides a list of auditors. The farmer then selects one to work with, and the auditor manages the entire process. GAP certification is not required but Sodexo will accept this as proof of an adequate food safety program. Due to the cost of a third party audit, they urge farmers to work through Sodexo-approved distributors.

CHARTWELLS-THOMPSON

(<http://www.chartwellsschools.com/>) There is a blanket requirement that food suppliers be GAP certified. They do not buy directly from farmers, but from wholesalers, who must show certification.

CFSC also spoke with individual food service directors and found that "self-operated" institutions vary quite a bit in their food safety requirements, ranging from no requirements to GAP certification.

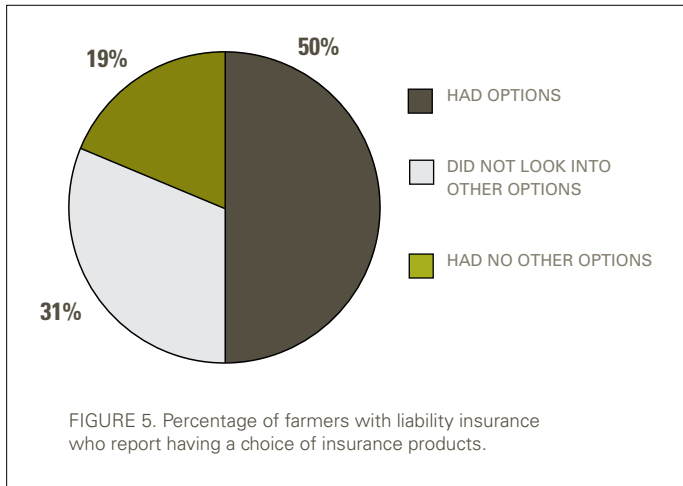
One implication of these responses is that food service management companies play a key role in establishing food safety requirements and in determining the terms under which producers have market access.

LIABILITY INSURANCE COVERAGE AND REQUIREMENTS

Like food safety requirements, product liability insurance needs and requirements can affect market access. In the farmer assessments, 72 percent of the farmers indicated that they had product liability insurance. Sixty four percent indicated that they have customers who require coverage. Customers that require product liability insurance included grocery stores, wholesale distributors, retailers, farmers markets, property owner, and certain CSA customers. Of the farmers who carried liability insurance, 50 percent indicated that they had choices of insurance products, 19 percent indicated that they had only one option, and 31 percent said that they did not explore insurance product options. See Figure 5 on the next page. Sixty seven percent of these farmers indicated that they did not have any difficulties in finding out information about liability insurance coverage or in securing this coverage.

There are no liability insurance requirements at the federal level for farmers selling to school meal programs or other institutional food service operations. In examining state requirements, Coalition staff contacted the appropriate state agencies in Washington, Massachusetts, and Oklahoma—three states with





Coalition connections in three different parts of the country. None of these states have insurance requirements. Instead, in general, liability insurance requirements tend to be at the distributor or institutional level.

CFSC also asked the food service management companies about their product liability insurance requirements:

BON APPETIT requires \$5 million of product liability insurance for most vendors. Farmers in their Farm to Fork program (a company-wide initiative to buy locally) are required to carry \$1 million in product liability insurance.

PARKHURST DINING requires \$5 million of liability insurance for most vendors, as well as for farmers selling proteins (due to the higher liability exposure), and \$2 million for farmers selling produce.

SODEXO requires \$5 million of product liability from all vendors, including fruit and vegetable growers, as produce is considered high risk. In part because of this requirement, as well as their food safety requirements, they encourage growers to work through Sodexo-approved distributors.

CHARTWELLS-THOMPSON does not buy directly from farmers, so there are no specific insurance requirements. The school districts have

insurance requirements for the wholesalers/ distributors they work with, with a range from no insurance required to \$2.5 million of insurance required.

The farmers participating in the assessments who carried product liability insurance sometimes had this coverage as part of a larger liability insurance policy that covered their business and personal property and/or farm worker injuries. Although they were given the questions in advance of the calls, some of them were not sure how their policies broke down in terms of how much just the product liability insurance coverage cost. Some of them were not sure how much coverage they had or how much it cost. Estimates of coverage and cost varied:

- We have \$6 million coverage for \$5,000 per year. (Some of it is product liability and some is an umbrella.)
- I think we have \$5 million coverage for \$1,000 per year.
- We have \$2 million product liability coverage, overall package costs \$1,500 per year (includes commercial property, buildings, house, equipment, machinery), \$376 per year for just liability.
- \$1 million coverage for just under \$2,000 for our whole farm policy (includes buildings and equipment)
- \$1 million in coverage, costs \$1,400/year
- \$1 million catch all policy (if someone gets hurt on farm, sick from eating food, etc.) for \$400 per year
- \$1 million coverage for \$323 per year
- We have \$500,000 coverage liability (covers property damage, bodily damage, med expenses, fire, limited farm pollution, etc), \$222 for liability part.

These responses reveal that even farmers who carry liability insurance generally carry less coverage than food service management companies require. They also reveal that the cost of coverage varies considerably.

GROUP-BASED APPROACHES TO FOOD SAFETY AND LIABILITY INSURANCE

Recognizing the challenges facing small and limited resource producers, some organizations have devised group-based approaches to help meet them. For example, Appalachian Sustainable Development (ASD) (<http://www.asdevelop.org/>) in Virginia developed food safety guidelines that incorporate organic certification standards. Their buyers are encouraging all produce providers to seek a certification of some sort, and they appreciate the proactive food safety efforts ASD has made. ASD has a \$2 million general product liability insurance policy with a \$2 million umbrella policy for a \$4 million aggregate product liability which covers ASD only. That means, if ASD did something wrong in handling product that caused a problem, then they would be liable. If it is proven that the problem came from a farm, then the farmer would be liable and therefore should carry his or her own product liability insurance.

Grasshoppers Distribution (<http://www.grasshoppersdistribution.com/>) in Kentucky is currently in the process of developing food safety standards for their producers. They use a GAP training program (2-3 hour course) put on by the Kentucky Department of Agriculture. They find that GAP certification (USDA) is too cumbersome and expensive for their producers. Grasshoppers has a \$6 million aggregate policy that covers the product of the farmers that use this distribution channel. Most of their member farmers would not be able to afford this policy on their own, so through Grasshoppers' coverage, many market doors are being opened for these small-scale farmers.

Red Tomato (<http://www.redtomato.org/>) based in Massachusetts is supporting their farmers in becoming GAP/GMP (Good Manufacturing Practices) certified. Red Tomato is developing a voluntary food safety program for their growers whereby all can become GAP/GMP certified (the program also has elements above and beyond GAP protocols). To encourage grower participation and create savings through joint efforts, Red Tomato is underwriting the costs of the Grower Assessments, the Food Safety Program Protocols/Manual, as well as the Training and Implementation Plan. They recently completed the Grower Assessment phase. This consisted of one-on-one visits to each farm so their consultant could evaluate each grower's food safety knowledge and farm operations. From these assessments, they will create their Food Safety Program Protocols and make recommendations tailored to each farm and each grower's needs. Some growers may be on a fast track to certification by the end of 2010. Others may take a year or two longer depending on their capacity and the needs in the marketplace. Their goal is to get all growers on board and moving forward towards GAP/GMP certification.

Red Tomato has a liability policy that covers the products sold to their customers. The policy is for \$2 million for one occurrence and \$4 million total for the policy term. In addition, they have umbrella coverage for an additional \$1 million. Some of their customers require a specific amount of coverage. Growers that work with Red Tomato must have their own policy for covering products they sell through other channels.





PHOTO CREDIT: NESFP



PHOTO CREDIT: ALBA

GLOBALGAP, a private sector body that sets voluntary standards for the certification of agricultural products around the globe, offers another model of a group-based approach. It has established itself as a reference for GAP in the global marketplace by translating consumer requirements into agricultural production in a growing list of countries. GLOBALGAP recognizes that, for structural reasons, small-scale farmers often face more difficulties in fulfilling food safety requirements than large-scale farmers and may need more time to meet these challenges. As a result, small-scale farmers are at risk of missing out on market access. GLOBALGAP has developed three approaches to facilitate market access for small-scale farmers:

⁵For more information, see the GLOBALGAP website at http://www.globalgap.org/cms/front_content.php?idcat=70.

1) a group certification process, which develops local training and verification processes for one-on-one third party verification, thus building capacity locally and still meeting external verification requirements, with reduced long term costs

2) a smallholder manual, which provides templates for producer groups establishing internal control systems

3) feedback opportunities, which allow small producers to influence what the standards are⁵
 ALBA, one of the project partners, is working with NSF Davis Fresh⁶ for training, technical assistance, and food safety certification under GLOBALGAP. ALBA Organics, ALBA's licensed wholesale produce distributor, is in the process of obtaining food safety certification, along with its grower-vendors?

Producers looking for support can also check with distributors in their area to see if they may be interested in marketing their products, covering their product liability insurance coverage needs, and assisting with food safety guidelines. In order to supply the quantity and consistency of institutional food service operations, manage the high insurance coverage needs of these institutions, and address food safety requirements, farmers often work through distributors to access these large-scale markets.

PROACTIVE APPROACHES TO FOOD SAFETY AND LIABILITY INSURANCE

The farmers who participated in the CFSC assessments conducted in January, February, and March 2010 expressed concern about the potential impact of any new food safety requirements, but they also understood the bigger picture related to food safety and the need to take safety seriously. Many were concerned that the “astronomical” costs associated with some requirements might force them out of business. They commented that some ideas were “ridiculous” when extended from industrial operations down to small family operations. “Farmers are being regulated to death,” said one. At the same time, they also expressed an understanding of the seriousness of food safety. One participant put it pragmatically: “one outbreak at a farmers market and it’s going to affect everybody. We need to be proactive, because this country is reactionary. It’s important for everybody to have a food safety program.”

Though there have been several well-publicized outbreaks of food-borne illness in the last decade, those outbreaks have been linked to large-scale operations, not to farmers markets and small-scale producers.⁶ Processor/handler contaminations included repeated outbreaks due to Salmonella on Roma tomatoes from 1990 to 2004. Many outbreaks and

recalls have been associated with the large-scale fresh-cut industry, which sells fruits and vegetables that cleaned, washed, cut, packaged, and refrigerated. This list includes the September 2006 Dole Spinach outbreak and massive spinach recall, which was traced through retail bags; the November/December 2006 Taco John and Taco Bell outbreaks from food service lettuce; and the September 2007 Dole “Hearts Delight” recall of bagged lettuce. An analysis of FDA records conducted by the Community Alliance with Family Farmers found that since 1999, there were 12 outbreaks of E. coli O157:H7 traced to California leafy greens, resulting in 539 reported illnesses. Of those 12 outbreaks, 10 (80%) were on fresh-cut leafy greens and those 10 outbreaks involved 531 (98.5%) of the illnesses. The actual numbers may be closer to 100%, but the FDA is unable to definitively categorize some sources and does not appear to have been maintaining separate records for fresh-cut until 2002. The FDA released a guidance document directed at the fresh-cut industry in 2008.⁹



PHOTO CREDIT: JUBILEE

The risks associated with the large-scale fresh-cut industry are very different from the risks associated with growing and marketing whole produce in a more traditional, non-processed manner and to a local market. The FDA Food Safety Modernization Act passed in December 2010 acknowledges those differences. The Tester-Hagan amendment of this Act provides scale-appropriate options for producers whose gross sales are less than \$500,000 per year and who sell at least 50% of their products directly to consumers, stores, or restaurants locally (within 275 miles). Congress was apparently persuaded by the

⁶NSF Davis Fresh is part of NSF International. (Note: NSF is an abbreviation from National Sanitation Foundation, the company's original name. It is not to be confused with the National Science Foundation, which also uses the abbreviation NSF.) For more information on NSF Davis Fresh go to: http://www.nsf.org/business/nsf_davis_fresh/index.asp?program=DavisFre.

⁷To see a sample organizational chart for this kind of group-based GAP certification and to learn more about the process, go to <http://www.ngfn.org/resources/food-safety> and click on the Primer on GlobalGAP Group Certification (Option 2).

⁸The information in this section is based in part on Daniel Cohen's The History, Politics and Perils of the Current Food Safety Controversy: CAFF Guide to Proposed Food Safety Regulations. Community Alliance with Family Farmers, 2008. (<http://www.caff.org/CAFF.Policy.Guide.I.pdf>)

⁹Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Fresh-cut Fruits and Vegetables, February 2008. Available at: <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/ucm064458.htm#ch1>

argument that small producers have made regarding food safety: regulation that is ineffective at reducing food-safety risks but efficient at driving growers out of farming comes at too high a social cost.

Small producers are concerned that, as one put it, “Food safety may be being used to limit growth of small farms.” There are, however, many proactive steps that small local farms can take. Education and support regarding food safety metrics should be made available to farmers growing for the traditional whole fresh market—the market for produce that is not cut or processed. They need to respond to public concerns created by large-scale outbreaks, but with measures that are appropriate to their scale and their situation. Institutional food service management companies and individual food service operations can be important catalysts for finding creative and supportive solutions to the challenges faced by local farmers. Working together can allow the growth of small farms to continue.

RECOMMENDATIONS

To summarize, the following are some recommended strategies for agricultural professionals, food service management companies, and individual food service operations to consider in helping small or limited resource producers address food safety and product liability issue concerns:

- Learn more about the history of food-borne illnesses and outbreaks and the sources of these.
- Find out what the current state, federal, institutional and, if applicable, distributor requirements are and provide the support farmers need in addressing these.
- Get to know local farmers: find out about their operation, what the potential food safety risks are, what food safety methods are in place and what they need help with addressing. Work to provide the support they need to address these gaps.
- Research liability insurance options for farmers and provide an outline of the plans available.

- If needed, help individual farmers work together to have a group approach for addressing food safety and product liability insurance requirements.
- If possible, lower the amount of product liability insurance coverage required for a local farmer to sell to an institution in order to make it manageable for them.
- Stay up to date with pending legislation related to these issues and support legislation that is fair to small and limited resource producers.
- Given the success of state or regionally based non-profit growers’ organizations in working with this population of farmers, partner with these organizations in developing resources, programs and solutions.
- Institutional food service operations interested in purchasing product from local, small or limited resource farmers should ask farmers to develop food safety plans in which they identify potential risks and how they will address them.
- Food service operators should work with local extension educators and other agricultural professionals to make sure growers are being provided with educational materials and the tools they need to address food safety concerns on their farms.

Approaches to food safety will continue to evolve, both in response to new data and in response to new outbreaks and issues. With thoughtful planning and cooperation, farmers and food service operators should be able to address food safety and liability concerns proactively without disrupting or undoing the gains made in local food production in recent years through farm to institution programs and other efforts. They should also work to ensure that any new legislation and regulations do not ignore the needs and circumstances of small-scale producers in addressing food safety issues created by large-scale farming practices.

FOOD SAFETY RESOURCES

The following resources may be helpful for addressing food safety concerns and requirements and for networking with organizations and groups working on food safety issues. Many farmers who create food safety programs find that it is helpful to seek out the expertise of an organization with experience in this area or to work directly with a distributor who can provide guidance and advice.

OVERVIEW OF FOOD SAFETY ISSUES

FAQ on the National Good Food Network (NGFN) website:

<http://ngfn.org/resources/food-safety/food-safety-faq#documentContent>

- an overview of Good Agricultural Practices (GAP) and Hazard Analysis and Critical Control Points (HACCP)
- a list of organizations and resources promoting sustainable and organic agriculture interests in the food safety debate

FDA INFORMATION

FDA Food Safety website: <http://www.fda.gov/Food/FoodSafety/default.htm>

Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Fresh Fruits and Vegetables, October 1998. <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/ucm064574.htm>

- FDA established a single set of federally recognized GAPs and GHPs by issuing this guidance document in 1998. It continues to be a good starting point for learning about food safety principles.

Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Fresh-cut Fruits and Vegetables, February 2008. <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/ucm064458.htm#ch1>

- This document is not an update of the 1998 guidance about fresh fruits and vegetables but a separate document directed at the emerging “fresh-cut” industry.
- As the name implies, these FDA documents present guidance, not regulations. Unlike regulations, a guidance document is not mandatory. It is a set of recommendations to industry and/or regulators delineating practices which, if followed, ensure that those practices are in compliance with regulations.

Information from FDA on proposed safety standards for fresh produce at the farm and packinghouse:

<http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480aab8f1>

USDA INFORMATION

Fresh Produce Audit Verification Program: <http://www.ams.usda.gov/AMSv1.0/gapghp>

- This website describes the Agricultural Marketing Service’s (AMS’s) Fresh Produce Audit Verification Program and lists farms and companies that have gone through an audit.

STATE AND UNIVERSITY

RESOURCES AND ASSISTANCE

National GAPs collaborators by state: <http://www.gaps.cornell.edu/collaborators.html>

- a list organized by Cornell University’s Department of Food Science
- contains contact information for resource people who may be able to provide assistance regarding national GAP standards

Cornell University has resources listed on their website for GAP and GHP issues:

<http://www.gaps.cornell.edu/>

- national GAPs educational materials written in English, Spanish, Hmong, Lao, and Ilocano for farmers
- record keeping sheets for farmers
- links to other useful websites

Iowa State University - University Extension
<https://www.extension.iastate.edu/Store/ItemDetail.aspx?ProductID=6539>

- provides free downloads of food safety educational materials for farmers including information on Good Agricultural Practices, Food Handling and Cleaning, and Sanitizing.

New England Extension Food Safety Consortium
<http://www.hort.uconn.edu/ipm/foodsafety/index.htm>

- includes a series of fact sheets on Good Agricultural Practices and technical assistance services for farmers. Their goal is "to bring information to produce farmers so that they have the skills needed to reduce the risk that their fresh produce will be contaminated with microorganisms that can make people sick."

North Carolina Fresh Produce Safety Task Force
<http://www.ncsu.edu/fvsi/ncfreshproduce/taskforce.html>

The purpose of North Carolina Fresh Produce Safety Task Force is to minimize food safety risks and enhance the economic competitiveness of North Carolina's fresh produce industry. The task force is a partnership that brings together members involved in education, public policy, the fresh produce industry and research. The task force consists of five working groups: Education, Research, Industry and Policy Relationships, Regulations and Communications, and Executive Management Oversight. The website



PHOTO CREDIT: ALBA

includes resources for educators, growers, and the food processing industry.

The Oklahoma Department of Education and Department of Health worked together to develop a set of standards that growers must meet in order to sell to institutions. The Department of Health wrote a letter detailing what schools should expect from growers in terms of food safety. The requirements are for growers selling unprocessed products only. This link will take you to a copy of the letter from the Department of Health to Dee Baker, the State Department of Education's Child Nutrition Director: <http://www.okfarmtoschool.com/pdf/memorandum-6-26-06.pdf>

Penn State University's guidance on Good Agricultural Practices and on-farm food safety resources: <http://foodsafety.psu.edu/gaps/>. Includes

- a self audit to determine if your farm is ready for an inspection or if you need to make some changes
- a template for writing a food safety plan for your farm
- other helpful resources

University of California-Davis
Postharvest Technology Research and Information Center: <http://postharvest.ucdavis.edu>

- information on resources and trainings for California growers, shippers, marketers, carriers, distributors, retailers, processors, and consumers of fresh horticultural crops

UC Good Agricultural Practices website: <http://uc-gaps.ucdavis.edu/>

- a self-audit for growers and handlers: <http://ucce.ucdavis.edu/files/filelibrary/5453/4362.pdf>
- a self-audit quiz for growers and handlers: http://groups.ucanr.org/UC_GAPs/GAP_Self-Audits/

University of Massachusetts's GAPs Project team holds USDA GAPs online classes. This online program is offered in collaboration with UMass, the MA Department of Agricultural Resources, and the Cornell University National GAPs Program. To sign up, go to: <http://www.umassone.net/gaps/>. For further information contact dgn@nutrition.umass.edu or call (413) 545-0552.

University of Rhode Island, through support from the Rhode Island Division of Agriculture, developed program guidelines and a farm audit form based on Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables published by the FDA and USDA in October 1998. <http://www.uri.edu/ce/ceec/food/grow.html>

STATE/REGIONAL NON-PROFIT ORGANIZATIONS

These organizations work directly with farmers. This list is not meant to be comprehensive but to indicate the kinds of work that non-profit organizations are doing on food safety issues.

Agriculture & Land Based Training Association (ALBA): <http://www.albafarmers.org/>
ALBA provides bilingual Spanish-English training and technical assistance to beginning and established farmers in the tri-county area of Monterey, Santa Cruz and San Benito counties on the Central Coast of California. Marketing, production and post-harvest training and technical assistance cover some elements of food safety.

Community Alliance with Family Farmers (CAFF): <http://caff.org/>
CAFF is a statewide California organization that promotes sustainable agriculture. CAFF has been working with a variety of groups to develop scale-appropriate food safety outreach programs, most recently with Southeast Asian refugee farmers in the Sacramento Valley. CAFF developed a set of food safety GAPs with organic farmers and has made these available in a wide variety of contexts. These GAPs include an extensive discussion of

the risks associated with wildlife, developed in conjunction with the Wild Farm Alliance. CAFF is working on developing a series of local food distribution hubs and plans to conduct outreach on food safety with the farmers involved in these hubs.

Jubilee Project: <http://jubileeproject.holston.org>
The Jubilee Project in Sneedville, TN, works with the volunteer farmer organization CAFÉ (Clinch Appalachian Farmers Enterprise) to cooperatively market sustainably grown farm produce to restaurants, schools and individual customers in the Hawkins and Hancock county region of Eastern Tennessee. CAFÉ conducts informal food safety updates at a monthly meeting for participating farmers and also trains and inspects on the farms for safe growing and safe handling procedures. CAFÉ has written safe growing and handling policies for their farmer participants and in farm tours is careful to go over those policies. Its customers are tolerant of its small size and have worked with them in any situations requiring attention, so they have not yet had to institute formal GAP certification.

Maine Organic Farmers and Gardeners Association: <http://www.mofga.org/>
Food Safety is an integral component of the Maine Organic Farmers and Gardeners Association (MOFGA) organic marketing strategy. Over the past two years, about 60 farms have participated in MOFGA's Farm Food Safety workshops offered in four geographical regions of the state. These workshops presented a work-in-progress model of a Farm Food Safety Plan that was GAP based. To enhance market opportunities for certified organic farmers with institutions like hospitals, MOFGA and MOFGA certification services are collaborating in the development of a verification process that could be done in parallel to organic certification. Systems and protocols are being developed in collaboration with six farms and a central Maine healthcare facility. Information and resources, as available, are posted on MOFGA's online community website, <http://www.mofga.net>.



PHOTO CREDIT: JUBILEE

Michigan Food & Farming Systems (MIFFS):

<http://www.miffs.org/gapghp.asp>

MIFFS and partners presented a workshop series on Good Agricultural Practices (GAP) and Good Handling Practices (GHP) to reach out to growers trying to tackle the supply chain, focusing on the steps and strategies to safely get fresh local product to regional grocery stores and the wholesale distributors that service them. These workshops were to help farmers understand certification standards and practices that wholesale and retail buyers are requiring to ensure safe food for their customers. The presentations, handouts and resources for these workshops are available from the website.

New Entry Sustainable Farming Project:

<http://nesfp.nutrition.tufts.edu/>

Food Food Safety Training is a critical training component of the New Entry Sustainable Farming Project's seasonal field-based training curriculum. New Entry operates the World PEAS Cooperative, a multi-producer marketing cooperative that organizes a 300+ member Community Supported Agriculture (CSA) program, facilitates summer feeding program and low-income food distribution programs and coordinates sales to farmers' markets and wholesale accounts. Farmers in the program also sell direct to independent markets. New Entry hosts an annual "Post-Harvest Handling" workshop that trains new and beginning farmers about establishing food

safety practices, maintaining crop quality, and bringing quality produce to market. This hands-on training incorporates GAPs and references the Project's Plain Language Guides to Post-Harvest Handling, Selling at Farmers' Markets, and new Resource Guide to Farming in Massachusetts (which contains additional information on food safety and other related regulations). These resource guides are posted on <http://nesfp.nutrition.tufts.edu/resources/plainlanguage.html>.

Plain language guides developed by New Entry Sustainable Farming Project through Tufts University include:

- Plain Language Guide to Value-Added Food Production (some references to licensing, food certification courses, and getting insurance): http://nesfp.nutrition.tufts.edu/downloads/guides/PL_ValueAddedGuide.pdf
- Plain Language Guide to Post-Harvest Handling (not a lot about food safety in this version of the guide, but it is being revised to include more on GAPs): http://nesfp.nutrition.tufts.edu/downloads/guides/PL_HarvestGuide.pdf

COMMODITY SPECIFIC GUIDANCE

FDA Guidance Document. Includes 2009 updates for tomatoes, leafy greens, and melons: <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/default.htm>

Commodity Specific Food Safety Guidelines for various commodities, in addition to other Industry Produce Safety Initiatives, listed on United Fresh Produce Association website: http://www.united-fresh.org/newsviews/food_safety_resource_center/industry_produce_safety_initiatives

Commodity Specific Food Safety Guidelines for California and Arizona growers by Western Growers, 2008. <http://www.wga.com/default.php?id=117&pagename=FoodSafety>

Commodity Specific Information compiled by the North Carolina Fresh Produce Safety Task Force: <http://www.ncmarketready.org/ncfreshproducesafety/commodity.html>

Penn State Mushroom Food Safety Program. Commodity Specific Guidelines and Training Materials for Mushroom Growers, 2008. <http://foodsafety.psu.edu/mush/foodsafety.htm>

PUBLICATIONS

Community Alliance with Family Farmers, The History, Politics and Perils of the Current Food Safety Controversy: CAFF Guide to Proposed Food Safety Regulations, January 2008. <http://www.caff.org/CAFF.Policy.Guide.1.pdf>

This report outlines a history of food safety issues in the U.S. and approaches for protecting produce from pathogens that have been considered. This report makes a case that (mandatory) Marketing Act Orders and (voluntary) Agreements are not well suited for regulating on-farm produce safety. The report concludes with eight recommendations for an alternative approach to farm food safety.



PHOTO CREDIT: CAFF

Cornell University, Food Safety Begins on the Farm: A Grower's Guide, 2000.

This booklet provides an overview of GAP that can be implemented on farms and in packinghouses.

Also includes background information on food-borne illnesses related to produce consumption. Available in English or Spanish.

FamilyFarmed.org, Wholesale Success: A Farmer's Guide to Selling, Post Harvest Handling and Packing Produce, 2010. <http://www.familyfarmed.org/wholesale-success>

Publication contains comprehensive information on food safety issues and resources to help farmers develop their own food safety plan, as well as other information relevant to accessing wholesale markets.

Food and Agriculture of the United Nations (FAO), Improving the Safety and Quality of Fresh Fruits and Vegetables: A Training Manual for Trainers, Rome, 2004. <http://www.fao.org/docrep/007/y5488e/y5488e00.HTM>

The Food and Agriculture Organization (FAO) is the main United Nations agency specialized in all aspects related to food quality and safety, along the different stages of production, harvest, post-harvest handling, storage, transport, processing and distribution of food. This manual has been prepared as part of the activities undertaken by FAO's Food Quality and Standards Service, in an effort to strengthen the institutional capacities, both public and private, of Member Countries to develop and implement quality assurance and food safety programs for fresh fruits and vegetables that are environmentally sustainable and benefit all actors in the chain.

Food and Water Watch & IATP, Bridging the Gaps: Strategies to Improve Produce Safety, Preserve Farm Diversity and Strengthen Local Food Systems, September 2009.

<http://www.foodandwaterwatch.org/food/pubs/reports/bridging-the-gaps>

This report begins with an overview of existing on-farm food safety policies and programs. It then analyzes the ramifications of existing and proposed protocols, and offers recommendations for improving produce safety while preserving the diversity of farm sizes and production methods present in the U.S. food system.

National Sustainable Agriculture Coalition (NSAC), Food Safety on the Farm: Policy Brief and Recommendations, October 2009. <http://sustainableagriculture.net/wp-content/uploads/2008/08/NSAC-Food-Safety-Policy-Brief-October-2009.pdf>

This position paper addresses some of the legislative food safety proposals that have been introduced in the 111th Congress, as of October 2009, as well as administrative developments within the Obama Administration, the FDA, and the USDA. The paper focuses on fresh produce and microbial pathogens because they are at the center of current food safety debates.

Nature Conservancy, Safe and Sustainable: Co-Managing for Food Safety and Ecological Health in California's Central Coast Region, February 2010. <http://www.perishablepundit.com/PunditImages/producesafety.pdf>

This report was developed with support from more than 35 expert advisors representing many facets of the agricultural industry — from small- and mid-scale growers to shippers and buyers — as well as government agencies, environmental non-profits, the legal world and academia. This case study may be of interest to people who seek to conserve sensitive natural resources, reduce food-borne illness, or both. Although this case study focuses on a single category of produce (leafy greens) and a specific geographical area, the findings and underlying principles may apply across the nation. Stakeholders in the Central Coast region are currently working towards “co-management” strategies. While “co-management” can be used in different ways, here it is defined as an approach to minimize microbiological hazards associated with food production while simultaneously conserving soil, water, air, wildlife, and other natural resources.

Oklahoma Department of Agriculture, Food, and Forestry, Farm to School Program, Tips, Tools, & Guidelines for Food Distribution & Food Safety, <http://www.okfarmtoschool.com/resources/fts-distro-foodsafetymanual/index.htm>

This manual is intended to provide information, insight, and useful tools for farmers and school food service directors interested in FTS program participation. The manual includes a brief overview of the FTS program in the U.S. and Oklahoma, gives guidance for meeting food safety protocols, discusses results from surveys of Oklahoma schools and food service distributors regarding FTS participation and perceptions, and provides a summary of tips and suggestions from FTS program coordinators and participants. The manual also includes information on two new tools for use by farmers and school food service directors that are currently being used in Oklahoma: a distribution cost template and a produce calculator.

UC Cooperative Extension Specialist, Department of Vegetable Crops, UC Davis: Key Points of Control and Management of Microbial Food Safety: Information for Growers, Packers, and Handlers of Fresh-Consumed Horticultural Products, 2003. http://ucgaps.ucdavis.edu/documents/UC_ANR_GAP_Series3574.pdf

This publication provides a brief outline of the fundamental components of microbial food safety management plans for growers, specialty crop producers, harvest service operators, distribution and wholesale handlers, direct marketers and fresh cut processors. Given the diversity of environments, crop management practices and handling practices, growers can use the principles outlined to create their own food safety planning and management program. This quick reference guide focuses on these key guiding principles: prevention of contamination, reduction of survival, and prevention of cross-contamination for each step, up to consumer handling.

University of Minnesota, A Food Safety Plan (Template) for You, compiled by Michele Scherman, 2008. <http://safety.cfans.umn.edu/pdfs/FSP4U.pdf>
This guide shows how to create a food safety plan and provides template forms for record keeping and an overview of USDA GAP audit program requirements.

National Organizations Involved in Food Safety Legislation Related to Small Farms' Issues

These organizations do not work directly with farmers but work on federal legislative issues that affect farmers.

Farm-to-Consumer Legal Defense Fund :

<http://www.farmtoconsumer.org/>

Food and Water Watch:

<http://www.foodandwaterwatch.org/>

Institute for Agriculture and Trade Policy:

<http://iatp.org/>

National Organic Coalition:

<http://www.nationalorganiccoalition.org/index.html>

National Sustainable Agriculture Coalition:

<http://sustainableagriculture.net/>

Wild Farm Alliance: <http://www.wildfarmalliance.org/>

OTHER HELPFUL INFORMATION

The National Center for Appropriate Technology (NCAT) is developing an illustrated comic-style guide for growers that will describe how to implement GAP standards on individual farms. This easy-to-read guide outlines four basic approaches:

1. **CLEAN SOIL:** Minimize human pathogens in the soil.
2. **CLEAN WATER:** Monitor water quality. For example, water used for washing produce should be of drinkable quality.
3. **CLEAN HANDS:** Use good personal hygiene in the field and the packinghouse.
4. **CLEAN SURFACES:** Wash and properly sanitize work surfaces, packing bins, transportation vehicles, etc.

To learn more about NCAT's illustrated guide, visit <http://attra.ncat.org> or call 1-800-411-3222.

The FamilyFarmed.org On-Farm Food Safety Project is a national program that plans to offer farmers, food safety professionals and agricultural extension specialists technical assistance to develop risk-based food safety programs. This will be achieved through the development of an educational website and a free, easy to use on-line tool, constructed based on a comprehensive GAP control points framework, which will generate customized on-farm food safety plans based on user input. The tool will be designed for use by small- to mid-scale growers and will provide them with a full set of record keeping tools to document their food safety program and to provide training to their employees.

The program software will be based on a number of decision trees, which will assess and address food safety risks for each farm area. An easy to use web interface will be constructed and will allow the user to identify and understand food safety risk areas applicable to their operation based on their answers to a series of yes/no questions. The program will automatically generate all associated documents required to help address those risks. This on-line tool will reside on the website www.farmfoodsafetyplan.org. See www.familyfarmed.org for information about when the website will be available.

National Good Food Network (NGFN) food safety mailing list:

<http://www.ngfn.org/resources/food-safety>

National Sustainable Agriculture Coalition's blog (on food safety and other legislative issues):

<http://sustainableagriculture.net/blog/>



PHOTO CREDIT: MOFGA

Food Safety News (<http://www.foodsafetynews.com/>) presented by Marler Clark LLP, PS.

A personal injury lawyer and national expert in food-borne illness litigation, William Marler has been a major force in food safety policy in the United States and abroad. He and his partners at Marler Clark have represented thousands of individuals in claims against food companies whose contaminated products have caused serious injury and death. His advocacy for better food regulation has led to invitations to address local, national and international gatherings on food safety, including recent testimony to the U.S. House Committee on Energy and Commerce. Food Safety News includes articles on various aspects of food safety issues, including those affecting small farmers and organic farmers.

Primus Labs:

<http://intranet.primuslabs.com/igap/default.asp>
Some distributors use this private auditor to help them work with small farmers. Their website allows you to create a personalized food safety manual for your farm, but you need to become a member and log in. The Produce Safety Project at Georgetown University seeks the establishment by the Food and Drug Administration of mandatory and enforceable safety standards for domestic and imported fresh produce. The website includes reports, articles and other resources related to food safety issues: <http://www.producesafetyproject.org/>

The Produce Safety Project website provides a chart comparing GAPs for fresh produce. In the absence of mandatory federal regulations, a number of organizations and one state have stepped into the regulatory void and adopted their own standards for the growing and harvesting of fresh produce (fruits and vegetables intended to be consumed raw) aimed at minimizing microbial contamination. <http://www.producesafety-project.org/gaps>

Testimony at USDA Agricultural Marketing Service (AMS) hearings on proposed marketing agreement for leafy green vegetables: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateA&navID=ProposedMarketingAgreementforLeafyGreens&rightNav1=ProposedMarketingAgreementforLeafyGreens&topNav=&leftNav=CommodityAreas&page=LeafyGreensProposal&resultType=&acct=fvmktord>

United Fresh Produce Association (<http://www.unitedfresh.org/0>) is a "trade association committed to driving the growth and success of produce companies and their partners. United Fresh represents the interests of member companies throughout the global, fresh produce supply chain, including family-owned, private and publicly traded businesses as well as regional, national and international companies." United Fresh aims to provide support for its members on various issues, including on-farm food safety issues and pending food safety legislation issues and efforts.

Gap Harmonization Initiative

The technical working group (TWG) of the GAP Harmonization Initiative is a voluntary group representing many different buyers, produce commodity associations, farms, audit agencies and GAP standard owners. The TWG examined 13 different existing GAP-like standards to develop the harmonized standards. The hope is that the harmonized GAP standards will be appropriate for farmers of all scales, commodities and mixes of crops, locations (regions within North America), and production practices. A key intended outcome is to eliminate audit supermetrics, audit fatigue and redundancy, and to assure market access for farmers of all scales wishing to enter the produce supply chain, while maintaining and improving the safety of the fresh fruits and vegetables throughout that chain. The GAP Harmonization Initiative provides an opportunity to shape these standards into something that is manageable for farms of all sizes. To learn more about the GAP Harmonization Initiative and how to submit comments, go to: <http://www.ngfn.org/resources/food-safety>

Canadian Horticultural Council:

<http://www.canadagap.ca>

- The website includes a comprehensive food safety manual based on HACCP analysis of farming operations.
- The website also includes a variety of record templates. Users need to obtain membership with CHC to gain access to manuals.

LIABILITY INSURANCE RESOURCES

Arizona Cooperative Extension Service, Examining Insurance Needs Is Essential to Marketing, 1995. <http://ag.arizona.edu/arec/pubs/dmkt/Examininginsurance.pdf>

“Farmers’ markets, roadside stands, U-Pick vegetable and fruit operations, and Christmas tree farms are on the upswing. Insurance is as necessary as quality products, good help and a good location in operating a direct marketing business.”

Hamilton, Neil, The Legal Guide for Direct Farm Marketing, 1999. \$24. <http://www.growingformarket.com/store/products/95>

Neil Hamilton is director of the Agricultural Law Center at Drake University Law School. Some of the topics covered:

- Farmers markets
- Business forms, licenses, taxation
- Contracts, food stamps, getting paid
- Advertising, organic certification and other claims
- Land use and property law, including pesticide drift
- Inspection, licensing and food safety
- Marketing meat, poultry and dairy



PHOTO CREDIT: NESFP

The Networking Association for Farm Direct Marketing and Agritourism (NAFDMA) compiled a list of insurance companies that cover farm direct marketing enterprises: <http://www.nafdma.com/Resources/Insurance>

Farmers Market Coalition

In March 2010, the Farmers Market Coalition partnered with Campbell Risk Management to make an affordable liability insurance program available to farmers market vendors at a national level: <http://farmersmarketcoalition.org/fmc-explores-insurance-options>



PHOTO CREDIT: NESFP

APPENDIX: HIGHLIGHTS OF FARMER ASSESSMENTS

This summary details the highlights from assessments conducted by CFSC and partner organizations with 25 different small or limited resource farmers (fruit and vegetable growers) around the country. The focus of the assessments was on food safety and product liability insurance issues. Twenty of the assessments were conducted by CFSC as individual phone interviews. Five were conducted by ALBA as part of a focus group. The assessments were conducted January through March 2010.

In the text below, “Non-profit growers’ organization” refers to ALBA, CAFF, JP, MOFGA, or NESFP (the names of these organizations were removed in order to maintain confidentiality). These organizations each provided contact information for five producers who volunteered to participate in the assessments.

Background information on farmers who participated in the assessments:

The background questions conducted at the beginning of the assessments provide important contextual information about the farmers. The questions and responses are outlined below. The number next to the response indicates how many farmers indicated this response. The percentage represents the percentage of farmers who indicated this response, unless noted otherwise.

1) How many years have you been farming in the US?

1 – 5 years: 10, 40%

6 – 10 years: 2, 8%

11 – 15 years: 2, 8%

More than 15 years: 11, 44%

2) Age

26 – 35: 4, 16%

36 – 45: 5, 20%

46 – 55: 11, 44%

Over 55 years old: 5, 20%

3) Ethnicity

Caucasian: 16, 64%

Hispanic: 6, 24%

African: 2, 8%

Asian: 1, 4%

4) Gender

Male: 15, 60%

Female: 10, 40%

5) How would you describe your operation in terms of your production practices?

Sustainable: 9, 36%

Certified organic: 7, 28%

Organic: 6, 24%

Conventional: 2, 8%

IPM: 1, 4%

6) Do you raise any animals (if so, what)?

Yes: 11, 44%

No: 14, 56%

Types: beef cattle, dairy cattle, cow/ calf operation, pigs, goats, sheep, broilers, egg layers, turkeys

7) How many acres are in fruit, berry, or vegetable production?

Less than 2 acres: 6, 24%

2 – 5 acres: 7, 28%

6 – 10: 2, 8 %

11 – 20: 4, 16%

21 – 50: 2, 8%

100 – 200: 2, 8%

380 – 478: 2, 8%

8) Where do you market your products?

Note: Most farmers had multiple responses for this question so the percentage represents the percentage of responses, not the percentage of farmers.

Farmers’ markets: 15, 25%

Grocery stores, natural food stores: 9, 15%

CSA: 8, 13%

Grower cooperative (which sells to restaurants, school, supermarkets, and individuals): 6, 10%

Restaurants: (also see ‘other’ below) 5, 8%

Wholesale distributors: 5, 8%

Individuals: 3, 5%

Other (wide variety of outlets): 10, 16%

FOOD SAFETY:

For the purposes of the assessments, we explained to the producers that we are defining food safety procedures as “methods for the production, handling, storage, and processing of food in ways that prevent food-borne illness.” Sixty percent of the farmers indicated that their customers do not have any food safety requirements. One farmer explained that “Living in a small community, they know us, we know them, and they know they can visit us any time, they can track it down, they haven’t gotten too concerned about it right now.”

However, 68% of the farmers indicated they have participated in a training on food safety procedures and many of them detailed several food safety practices they conduct on their farm. For instance, when asked what they do to keep animals out of produce areas, most indicated several measures that they take to address this. Twenty eight percent of the responses indicated using fencing to keep animals (wild and domestic) out of the fruit and vegetable fields, 12% of the responses included using other means for keeping produce and livestock areas segregated, and 17% of the responses specify using traps for keeping wild animals out of produce areas. Other responses included using row covers, using tactics that scare away animals (such as tin plates), and keeping border areas clean and cleared.

When asked how they manage manure or compost to prevent food safety concerns, some of the farmers use more than one measure for this. Forty five percent of the responses conveyed purchasing or securing composted manure from another location, 27% conveyed not using any animal products in compost that is used in produce fields, and 21% conveyed having a careful system and positioning for the compost.

Seventy two percent of the farmers have hired workers on their farms. They have various food

safety guidelines in place for their workers. Twenty-nine percent of these comments pointed to providing bathrooms and encouraging hand washing, 17% pointed to workers not working when they are sick, and 11% pointed to workers covering their hair. Twenty three percent of the responses related to employees undergoing some sort of food safety training and 40% related to information being presented in Spanish.

In terms of some of the challenging on-farm food safety practices, testing private water sources and record keeping seemed to be areas of difficulty. In terms of testing wash water and irrigation water, 44% of the farmers use a spring or well water for one or both sources and test these private sources, 30% use spring or well water for one or both sources and don’t test at least one of the private sources, and 17% use public water for both sources so do not test the water. Nine percent were not sure if the wash water and irrigation water was tested. Forty eight percent of the farmers indicated that no one involved in their farm operation keeps records of the food safety practices conducted on their farm.

When asked if there is anything else they do to protect food safety concerns on their farm, responses included:

- Try not to do anything wouldn’t want to eat yourself, common sense
- Formulated a way of keeping track of sprays: what the name of the pesticide is, what date it was applied, how long supposed to wait before picking the vegetable
- My biggest advantage here is that there is a lot of stuff here that I can keep covered so less danger of contamination, less danger of animal/air-born/ splash contamination cause either in hoop house or covered with row cover or cages and use compost side dress

- My spouse thinks I am overly picky about it
 - Make sure towels we lay lettuce on has been bleached and didn't have any softeners
 - Use clean bags, don't recycle them
 - All of our materials are kept upstairs in a room where neither animals or food goes into so not contaminated
 - Wash our hands regularly: before go out to pick
 - This is the food we eat, so make a point of keeping things clean
 - Counters and fridge kept clean
 - Change wash water regularly, try to make sure everything is harvested and washed very quickly out of the fields: don't want things to sit around too long.
 - Change the water, good storage, good containers to store, good boxes, good cleaning. Pesticides just organic. Every year they (non-profit growers' organization) visit my farm, Have passed all the non-profits' visits/ certifications (regarding food safety issues)
 - Harvest everything and ice it and take it to market, little bit of a fudge factor, probably not at the temperature required all of the time, we are making some big capital improvements this year, building a walk-in cooler with air conditioner.
 - Wash our harvest bins: both ones we take to the fields and the ones when we are packing. This year, we are planning on washing the containers when we get back from market and let them dry; We are going to build a washing station: flooring off the ground, so that the water can drain through (wooden flooring), out of any mud or wash water; wash hands
 - The thrust of our marketing is fresh market, harvested either the evening before or the day of the market, don't have a walk-in cooler or refrigeration system, very little time to cool down or handle otherwise, washing and cooling with water, just common sense hygiene. General common sense hygiene. Don't have any written policy yet but working on this since at tending non-profit growers organization workshop
 - I do the following to protect food safety:
 - a. Cleanliness around field borders
 - b. Clean bathrooms adequately outfitted for workers
 - c. Wash harvesting knives with soap and water
 - d. Use bat and owl boxes
 - e. Generally keep area clean
 - Right now I am building an area for my workers so they can be comfortable – a place where they can eat, rest and sit down, etc. and to keep tools.
 - In terms of sources that farmers used for finding information on food safety or GAP issues, most have used more than one source but 42.5% of the responses included growers' organization in the state/ region. Another 10% of the responses cited magazines as their source for information, including Mother Earth News, and USDA articles. University Extension and state departments of agriculture each came in at 7.5%, as did finding this information from previous employers.
- Of the 68% of farmers who participated in a training on food safety procedures, the most common response in terms of who organized the trainings was non-profit growers' organization in the state or region.
- Thirty seven percent of the farmers found certain food safety issues difficult to address. The following comments were amongst those listed:
- Just the fact that my husband passed away, its all on my shoulders, farmers are being regulated to death: thinking about not doing it anymore because of liability involved
 - Record-keeping, I should write more stuff down: More accurate harvest dates and more accurate quantities of what picked
 - What concerns us as small farmers is that so many of the guidelines are set up for a large production farm with a lot of workers; at one of the trainings: we were told we can't go to grandma's house and go to the bathroom and wash our hands if not certified to do this.
 - Most of us don't have washing facilities; we go into our houses to use bathroom and wash hands.
 - It is the recording thing that gets me; asking us to pay for the inspector to come out: government should pay for this; doesn't seem ethical.

- I lease my land so I am not able to put in systems that I feel would be the best, Would like to have a gravel floor, stainless steel wash system with better cleaners. I use town water, everything is very low key.
- To do this the way inspectors want it to be done requires a lot of supervision time. Most small farmers don't have the ability to do this, very difficult, high cost, need someone to watch people that are using port a potties to make sure they are washing their hands,. This is not that realistic, it's very time consuming and expensive. It's also resource intensive for small and medium size farmers because they have to hire some one to focus on food safety. You need a significant amount of time to do this.
- All of them were difficult to address because they were new to the farm workers. The transition of the mindset was difficult, as they have been doing the same thing the same way for a long time. Takes a lot of review, have to be on top of it; I don't believe it is difficult to have a HACCP program on a farm.
- We have difficulties with the GAP system, we don't sell to anyone who wants GAP cause we don't think we can do it (lose points if deer walk across your fields, inspection costs astronomical).
- It is difficult to help workers understand the importance of participating in trainings. I used to require them to sign a form to prove that they had been trained. Now I only give verbal trainings since my workers are permanent.

When asked if they are familiar with some of the possible food safety guidelines that are being proposed and, if so, do they have any concerns about meeting the proposed guidelines, 58% communicated that they were familiar with the proposed guidelines and were concerned about being able to meet them.

THEIR COMMENTS INCLUDED:

- Afraid we might not be able to field pack, might have to have a packing house, a facility on farm for washing and re-packing; might have to stop growing some things like strawberries if we have to start washing them, shelf life goes down about 50%. Washing will make them more perishable; may eliminate the small farmer, make corporate farms bigger.
- My big concern is the animals, because when I'm running this small of an acreage in terms of the barrier space between animals and produce fields. I won't have the space. I either ditch the animals or don't grow or only grow for the animals; it will be a hard choice to make. I'm just hoping that we can be proactive enough to make some sort of a scaled legislative requirement when it comes through. If they go forward with the GAP thing, it's going to be next to impossible. I hope they don't implement the GAP standard.
- There needs to be something different of what is expected of small farmers vs. large farmers who have a whole lot of workers. If we have to pay for USDA to come out and inspect our farms, it's cost prohibitive, we are not making a lot of money. The farmers are being put out of business. If we have to have them come out every year and inspect with the little bit of money we are making, we'll just quit. Can understand why needs to be placed on large farms, with workers coming in. When it is just a family operation, seems ridiculous - to go to trainings, be inspected, pay for liability insurance.
- Went to a university website: looked at what they called GAP. I think that most of these food born illnesses are due to large scale production. I used to work with migrant workers in FL: they don't have time to wash their hands, rushed through procedures, have such a high production quota, can't keep up and don't have time to follow basic sanitary procedures. Our growers cooperative met with local representative on these issues. It would be a cost to us, based on how little we make. With agri-business cutting down the price of everything, now want to take the little bit of money we make. Kinda horrendous. Seems like they don't want you to do it with all the hoops you have to jump through.
- Definitely concerned. The idea to keep all wild animals out of the field is virtually impossible, to not have hedgerows, we want to have hedgerows.

- Most difficult for a diversified farm is the sheer #s we are dealing with, so many different vegetables, enormous amount of record keeping if we need to document more and more pieces of growing and harvesting.
- How painful it is, is yet to be seen. I think overall the food safety piece we need to take in a more formal and structured way so we can demonstrate that we take it in a serious way. Food safety may be being used as a tool to limit growth of small farms. Distressed to see some thing like GAP, which seems so philosophically wrong

LIABILITY INSURANCE:

Seventy two percent of the farmers indicated that they had product liability insurance. Sixty four percent indicated that they have customers who require this kind of coverage. Customers that require product liability insurance included grocery stores, wholesale distributors, retailers, farmers markets, property owner, and certain CSA customers. Of the farmers who carried product liability insurance, 50% indicated that they had options, 19% indicated that they didn't have options, and 31% said that they did not look into options other than the one they signed up for. Sixty seven percent of these farmers indicated that they did not have any difficulties in finding out information about product liability insurance coverage or in securing this coverage.

ADDITIONAL COMMENTS FROM FARMERS:

1. Food outside country no regulation, need to provide more jobs in country, packaged food from Vietnam, China (at Asian stores), waste the money for our nation, support our community/ nation/ country
2. What I keep telling everybody here is one outbreak at a farmers market and it's going to affect everybody. We need to be proactive, because this country is reactionary. It's important for everybody to have a food safety program. There are efforts out there that I want to pay attention to, want to massage these efforts so [they are] friendly to small farmers; [I'm] concerned that urban food security efforts are going to get hit hard with this.

3. Excited that groups like CFSC, state departments of agriculture, and other non-profit growers organizations are interested in addressing these issues.
4. Contamination is not only in the field but also in the packing process and at stores because customers handle the products.

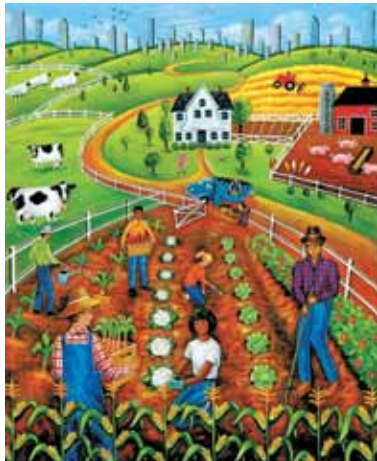


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COMMUNITY FOOD SECURITY COALITION

3830 SE DIVISION, PORTLAND, OREGON 97202

503 954 2970 WWW.FOODSECURITY.ORG



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