

#### Comments Needed to Protect Farms

The Kansas Rural Center (KRC) is urging farmers, food processors and consumers across Kansas to respond to proposed Food and Drug Administration food safety rules that many fear could threaten small farm viability and local and sustainable food systems. KRC joins with other farm advocacy groups across the country urging the public to respond to the "Preventive Controls" and "Produce Safety" rules before the Friday, November 15 deadline.

KRC urges commenters to be very specific in terms of how they feel their farms will be affected. Lynn Byczynski, a national leader in market farming and editor and publisher of Growing for Market, based in Lawrence, KS, agrees. "Even more important," Byczynski says, "suggest ways the rules could change so they would not be damaging to farms." She adds, "Frankly, no farmer wants to be responsible for the illness or death of anyone. It's incumbent on all of us to be open to more education and working more thoughtfully and diligently to keep our food safe."

The Food Safety Modernization Act (FSMA) is a federal law, passed by Congress in 2011, that directs the FDA to draft and implement the most sweeping reform of U.S. food safety legislation in more than 70 years. FSMA aims to shift the focus of federal food safety laws from responding to food contamination to preventing it. It primarily addresses food safety risks from microbial pathogen contamination.

FSMA includes provisions requiring that the resulting "rules" be scale- appropriate, conservation-friendly, and accessible to certified organic and value-added food producers. But many who have studied the proposed rules fear these provisions will not be adequately met. Commenters are tasked with advising FDA to ensure the rules do comply with these provisions.

The FDA proposed rules, numbering over 1,600 pages, offer guidance on best practices that food businesses arguably ought to pursue even if they are not required - such as assessing potential food safety hazards on one's farm, undergoing preventative food safety training specific to one's field of work, and maintaining specific records that help ensure food traceability and safety.

However, among these proactive requirements designed to support and inform a safer food supply, groups like the National Sustainable Agriculture Coalition (NSAC) -- of which KRC is a member -- have identified a number of requirements that could seriously threaten the viability of farm and food operations. According to NSAC's "Top 10 Problems with the FDA's Proposed Food Safety Regulations" (available at <http://sustainableagriculture.net/>):

- 1) As written, the rules "could cost farmers over half of their profits" and keep beginners from entering into the field of agriculture and food production.
- 2) The rules grant FDA the authority to revoke small farmers' protections without science-based evidence of a public health threat. NSAC and others argue that the regulations treat small farms unfairly.
- 3) As they stand, the rules threaten to close many existing food hubs / local food distributors, and prevent the launch of new food businesses - resulting in reduced access to fresh, healthful foods.
- 4) The rules deny grain, dairy, and livestock farmers access to emerging local food markets, making it harder for farms to diversify.
- 5) The rules would consider farmers markets, roadside stands, food hubs, and community-supported agriculture programs "manufacturing facilities" subject to additional regulation.
- 6) The rules unnecessarily treat some low-risk processing items as dangerous substances.
- 7) The rules indirectly push farmers to use chemicals instead of natural fertilizers by advancing restrictions that "make it nearly impossible to use fertilizers like manure and compost."
- 8) Farmers using water from streams and lakes would be required to pay for weekly water tests regardless of risk or cost.
- 9) They do not protect ecological and conservation practices. NSAC voices concern that the rules as written would harm wildlife and degrade soil and water, giving inspectors "free reign to require farmers to tear (native plant buffers) out regardless of any proof of a problem."
- 10) NSAC praises the FDA for "taking an 'integrated', not a 'commodity-specific' approach" - meaning farmers would not face a litany of different rules for each item they produce.

The proposed rules do include a number of exemptions for different scales and types of production, but all farms and food producers should expect to be impacted to some degree. For example, there are requirements that no farm is exempt from - such as the requirement that all produce will now require labeling, including the name and complete business address of the farm(s) where the produce was grown. There are also many exemptions to the rules' exemptions.

"We're concerned that farmers are putting way too much emphasis on the idea that

these so-called exemptions will shield them," says Brian Snyder, Executive Director of the Pennsylvania Association for Sustainable Agriculture (PASA).

Having read through the hundreds of pages of the rules, Snyder believes that the FDA does not really want to exempt any farms, whatever their size or description. He argues that, if implemented the proposed rules would force some farmers to quit farming, prevent new farmers from getting started, and inhibit traditional farms from diversifying, all while doing little actually evidenced to increase food safety.

Not everyone shares this perspective though. Dr. Fadi Aramouni, a Professor and Extension Specialist with Kansas State University's Department of Animal Sciences and Industry and a member of the Food Science Institute, has watched the food safety debate ensue. Aramouni too is concerned about supporting small farms but explains, "I think there are easy ways to transition (to food safety rules) for small farms." The more important question, argues Aramouni, is what resources the government will provide to aid in that transition - such as grants to support compliance with the new regulations.

The Kansas Department of Agriculture (KDA), who would be tasked with helping farms and food businesses interpret and implement the FDA rules in Kansas, asserts that they do not wish to see these rules cause undue burden for any farm.

"It is important for people to know their businesses and the level of risk they may be taking on, because no one wants to make anyone sick," comments Adam Inman, KDA Food Safety and Lodging Inspection and Training Supervisor, "but we want these rules to be 'just enough', and not more than that."

The rules offer staggered compliance dates stretching across two to four years depending on scale of operation, to aid in the legal transition. However, several east coast farmers have already experienced surprise inspections from the FDA since FSMA was enacted. This behavior has made some producers nervous about what the future could hold, but Inman assures, "Except in emergency situations, farms should not fear someone showing up to close down their business."

Still, advocates like Snyder hope a critical mass of public comments will help the FDA understand that, "when it comes to food safety, local and sustainable food systems are part of the solution, not the problem."

Concludes NSAC Grassroots Director Sarah Hackney: **"Everyone who eats can and should comment on these rules."**

## **How to Comment:**

The FDA will accept comments in any of the following formats.

\*Via postal mail - typed or hand written, to the following address: Division of Dockets

Management (HFA-305); Food and Drug Administration; 5630 Fishers Lane, Room 1061; Rockville, MD 20852

\*Via the Internet - for the Produce Rule: <http://bit.ly/fsma-pr> ; for the Preventive Controls Rule:  
<http://bit.ly/fsma-pcr>

\*Via e-mail - through [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov),

\*Via fax - please send to the Office of Information and Regulatory Affairs, OMB;  
Attn: FDA Desk Officer; FAX: 202-395-7285.

All submissions received must include the following:

Your Name,

Your Farm or Organization (if any), and

The appropriate docket number (For the Preventive Controls Rule:  
FDA-2011-N-0920 and RIN 0910-AG36 ; For the Produce Rule: FDA-2011-N-0921,  
and RIN 0910-AG35)

To comment on both rules, you can e- mail/fax them together but must label them separately.

The Kansas Rural Center is a non-profit organization that since 1979 has worked to promote the long-term health of the land and its people through an economically viable, ecologically sound, and socially just farming and food system. For more information on regulations and best practices around food safety and food marketing in Kansas, please see KRC's Finding Your Niche, A Marketing Guide for Kansas Farms, available at [kansasruralcenter.org/marketingguide](http://kansasruralcenter.org/marketingguide) or by calling 785-873-3431.