

Scenes from the 2010 Virginia Biological Farming Conference  
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**Leafy Greens Working Group - Potential Food Safety Regulations for Produce Growers**

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- Reviewed by Mark Schonbeck

About 35 conference participants gathered to hear Steve Gilman give an update on legislative and regulatory developments in food safety, and discuss proactive strategies that could achieve food safety goals without seriously impacting the economic viability of family farms.

The Centers for Disease Control (CDC) estimates that some 76 million Americans (one quarter of the population) experience a microbial foodborne illness each year, with 350 thousand hospitalized, and about five thousand fatalities. In recent years, outbreaks traced to salad greens and peppers, as well as meat and peanut butter, have spurred a rising tide of public demand for more rigorous oversight and enforcement from farm to grocery shelf to improve food safety.

Although most of the virulent foodborne pathogens in the news today originate from livestock and poultry manure, they have turned up on fresh produce, most infamously in the 2006 E. coli outbreak in bagged spinach from California. Leafy greens and other fresh produce are now perceived as especially risky, as they are often eaten raw with no “kill step” such as cooking, canning, or pasteurization. Farmers, especially larger scale producers who market wholesale are especially worried, as each widely publicized outbreak severely impacts sales. For example, spinach sales plummeted after the 2006 outbreak, and tomato growers took a severe hit in 2008 when a salmonella outbreak was *incorrectly* attributed to tomatoes.

After the spinach outbreak, buyers and large scale growers in California and Arizona adopted a Leafy Greens Marketing Agreement (LGMA), in which farms adopt stringent measures to address all possible sources of risk: contamination of ground or surface water by nearby livestock operations, manure used as fertilizer, wildlife droppings, and lapses in farmworker or packing house sanitation.

The federal government has responded to food safety concerns at three levels. Food safety legislation granting the Food and Drug Administration (FDA) increased power to regulate “food facilities” including farms, has passed the House of Representatives (HR 2749), and is currently under consideration in the Senate (S 510). Food safety is essentially a non-partisan issue, and the legislation has widespread support from both Republicans and Democrats.

Meanwhile, the FDA itself has updated its Good Agricultural Practices (GAPs) guidelines for on-farm practices to minimize risk of microbial pathogens in leafy greens, melons, and tomatoes, and is working on revisions for fresh produce in general. FDA seems to be acting on the assumption that legislation will grant the FDA increased regulatory authority over farms in the near future.

Finally, the USDA Agricultural Marketing Service (AMS) is considering development of a National Leafy Greens Marketing Agreement (NLGMA) based on the California LGMA. Marketing agreements are technically “voluntary,” yet becomes effectively mandatory for farmers who sell to any buyer that has signed onto the agreement.

In 2007, the Northeast Organic Farming Association (NOFA) identified food safety in leafy greens as a major issue and potential threat to the viability of smaller scale, diversified farms that could be severely impacted by new regulations. NOFA established a Leafy Greens Working Group, with the goal of developing science-based, common-sense, and farm-friendly approaches to improving the safety of greens and other produce.

Steve noted that the Bioterrorism Act of 2002 has already empowered the FDA to inspect and regulate farms, and that the new legislation builds on this precedent. Although sustainable agriculture and family farm advocacy groups have already won some changes in legislative language to take into consideration farm scale, markets, and organic certification (which entails identity preservation, record keeping, and food safety measures such as safe manure management), a number of concerns remain. These include traceability and record keeping requirements, the definition of “food facilities” required to register with FDA and submit to inspection and regulation, and compatibility of required on-farm food safety practices with sustainable farming goals of soil and water conservation, wildlife habitat, and biodiversity. In addition, the House bill includes a flat \$500 annual fee for each food facility required to register with FDA. Farms that do any processing of farm products and market 50% or more of its volume wholesale, are considered food facilities. Originally, a more reasonable graduated fee structure had been suggested, but agribusiness pressured legislators to adopt the flat fee. The Senate bill does not mandate any fees at all.

One hopeful development in the Senate is the Growing Safe Food Act, S 2758, introduced by Senator Debbie Stabenow of Wisconsin, which would shift the emphasis for small and midsize farms away from regulation and enforcement toward education, training, and technical support in developing and implementing practices to minimize food safety hazards. Meanwhile, Senator Bernie Sanders of Vermont is promoting an amendment to clarify definitions of “food facility” so that small farms are not subject to undue regulatory burdens. The NOFA Leafy Greens Working Group, the National Sustainable Agriculture Coalition (NSAC), and other advocacy groups are working on Capitol Hill to get these amendments into S 510 before it reaches the Senate floor, and is seeking additional Senators to co-sponsor S 2758. During the discussion, information on contacting agricultural aides to Virginia’s two Senators was shared.

Regarding the push for a nationwide LGMA, Steve pointed out the difference in risk factors between commingled product from multiple farms by large wholesalers versus identity-preserved marketing, and between fresh-cut bagged greens and fresh greens sold as whole heads or bunches. Bagged greens are stamped with a “pull” date 17 days after bagging; this long period in a sealed bag allows pathogens to multiply, thereby magnifying risk. Attempts to compensate for this risk through on-farm practices led to a California LGMA that attempts to “sterilize” production through draconian measures such as 30-ft wide bare zones around produce fields, and destruction of wildlife habitat and conservation plantings. In response to demands by industry proponents for a national LGMA, the USDA AMS held a series of seven hearings last fall, and is currently evaluating a huge volume of testimony, including plenty of opposition from family farmers. The AMS is currently deliberating; if it decides to proceed, a proposed NLGMA will be posted this spring for public comment.

The Obama Administration is urging the FDA and USDA to coordinate efforts on food safety. The FDA recently completed a public comment period on proposed guidelines for greens, tomatoes, and melons, and is issuing a new request for comments on proposed guidelines on preventive controls for fresh produce. FDA hearings are scheduled for Maryland, Georgia, and several other locations this spring.

During the discussion, two recent wins were noted. First, the USDA has withdrawn its proposal for a National Animal Identification System (NAIS), giving us hope that NLGMA could meet a similar fate. However, I have since learned that USDA is still supporting states to implement their own animal ID systems. Second, the Virginia state legislature has passed a bill that allows high-acid canned goods to be sold at farmers markets without expensive inspection requirements that would exclude smaller entrepreneurs.

Steve cited the White House Organic Garden and the First Lady’s current focus on nutrition and preventing childhood obesity as positive steps that could promote a more balanced, size-appropriate, and family farm-friendly approach to the food safety challenge.

Groups currently working on food safety issues from the family farm and sustainable agriculture viewpoints include NSAC, the National Organic Coalition (NOC), the Farm to Consumer Legal Defense Fund, the Virginia Independent Consumers and Farmers Association (VICFA), the Farm and Ranch Freedom Alliance, and NOFA.