

Update on the Food Safety Modernization Act (FSMA)

by Cheryl Wixson

The FDA has extended the public comment period to September 30, 2013, for the Food Safety Modernization Act (FSMA) that was signed into law on January 4, 2011. The proposed rule, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, has the broadest potential to affect farmers and growers here in Maine. This rule applies to most fruits and vegetables while they are in their raw or natural (unprocessed) state. Known as RAC (raw agricultural commodities), examples would include cucumbers, lettuce, tomatoes and radishes. It does not apply to raw agricultural products that are rarely consumed raw, like potatoes.

This produce safety rule is aimed at helping the FDA prevent food safety problems by providing science-based minimum standards for safer production of fruits and vegetables that address worker training, health and hygiene, agricultural water, biological soil amendments of animal origin (manure), domesticated and wild animals, equipment, tools and buildings, and sprouts.

As it stands currently, the Tester-Hagan amendment does provide for some qualified exemptions from the rule. Farms with less than \$25,000 of yearly sales are exempt. Farms with less than \$500,000 in annual gross sales and more than 50% of the product sold directly to "qualified end users" (consumers or restaurants in-state or within a 275-mile radius of the farm) would be exempt from these regulations but still would be subject to modified rules. Details remain to be explained, such as which records need to be kept by farms that qualify for an exemption and how

a farm regains its exemption after the FDA has retracted it. For more information and frequently asked questions:

<http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm247559>.

Since February, Dave Colson and I have been participating in weekly National Sustainable Agriculture Coalition conference call meetings with other organic and sustainable agricultural groups to identify areas of concerns for diversified family farms in complying with the rules and to help develop strategies for the public comment period.

The components of the educational program that MOFGA developed in anticipation of FSMA for farm food safety and the sample Farm Food Safety Plan line up in most cases with the FDA's proposed rule. The areas of concern that we are monitoring and preparing for public comment include agricultural water, biological soil amendments of animal origin, and some questions surrounding the food sales and exemptions.

Agricultural water has been identified as a major source of potential contaminants entering into the food stream. The current rule as proposed requires that water used to wash produce be tested at the start of the harvest season and every quarter thereafter. For most farms in Maine, this could be 3 water tests per year. In addition, the rule would also apply to water used for irrigation from surface water sources, such as ponds or streams. The FDA has proposed testing these surface irrigation sources as often as weekly.

The waiting period for the use of biological soil amendments, or manure, does not line up with the

National Organic Program standards, as the FDA has longer waiting periods and more stringent production applications. Harmonizing these regulations would help to avoid confusion for on-farm manure and compost use.

MOFGA will be preparing guidance information for farmers, growers and consumers wishing to provide public comment to the FDA on the rule, in particular in the area of exemptions for small farms and farms that sell directly to the consumer, and areas of concern for certified organic farmers.

The proposed FDA rule does not require a "verified" food safety plan, only that one exists. This allows an opportunity for discussion with markets that currently require GAP certification and the potential for certified organic growers to gain access to these markets.

MOFGA supports a safe and secure food supply for the consumers. A science-based approach to farm food safety is in everyone's best interest, and education is the key. Currently, we are working with the Maine Department of Agriculture, Forestry and Conservation to develop a food safety strategy for Maine that could provide all Maine farms with a set of standards and protocols that would satisfy the FDA and be administered by the state.

Cheryl Wixson is MOFGA's agricultural engineer and food safety specialist. For more information and a copy of MOFGA's sample Farm Food Safety Plan, please contact her at Cheryl@mofga.org or 207-852-0899.

Dave Colson is Director of Agricultural Services. Contact Dave at 568-4142 or DColson@mofga.org.

See Page 6 for additional resources on the FSMA.

