

# The Food Safety Modernization Act

By Ryan Parker

The Food Safety Modernization Act (FSMA), signed into law on January 4, 2011, is nearing completion of the rule making process and will soon be fully enacted. While the nation's food system does need a serious safety overhaul, the FSMA will fall drastically short in achieving this goal. This is not hyperbole from a critic but government projection.

Of the 48 million people the Centers for Disease Control (CDC) says are annually sickened by food, 128,000 are hospitalized and 3,000 die. According to Food and Drug Administration (FDA) estimates, implementation of FSMA will lead to only 1.75 million fewer people becoming infected by food pathogens. The FDA estimates the cost to achieve this 3.6 percent reduction at \$1.6 billion dollars.

More importantly, the agency also acknowledges that implementation of this law will shutter many small farms by preventing them from entering the marketplace, not because they are the problem, but because compliance will be too expensive for them. While shuttering so many small businesses will have profound economic repercussions in countless communities, the greatest cost will be,

ironically but predictably, loss of food safety.

The CDC's Food Outbreak Online Database shows that food borne illnesses do not come from the small farmers, but from the processors, packers and very large farms that can afford to implement the changes. On top of this, the World Health Organization reports in "Terrorist Threat to Food" that agribusiness' centralized control and production increases the likelihood of contamination affecting greater numbers of people.

The FDA also claims it will be using a "science based" approach to food safety. But the

## FDA Says

"There is no absolute right to consume or feed children any particular food."

"There is no 'deeply rooted' historical tradition of unfettered access to foods of all kinds."

"[The] assertion of a fundamental right to their own bodily and physical health...is unavailing because [consumers] do not have a fundamental right to obtain any food they wish."

agency's science previously determined that feeding ground up cow parts to cows was safe, but that practice led to Mad Cow Disease. And politics at the FDA often bury science, as with its approval of rBGH and GMOs.

Further, the language of the proposed rules on the safe handling of produce is filled with terminology that belies the agency's use of the word "science." FDA proposes that the safety of water be "adequate." Adequate is subjective, not scientific. What is "adequate" to one person may be inadequate to another. The 46.25 million people still annually sickened by food will probably judge whatever the agency decides is "adequate" to be otherwise.

The hopes of the FSMA are pinned to what has been voluntary Good Agricultural Practices (GAP). Now the FDA plans to make these practices mandatory rather than voluntary.

The problem with using the GAPs as the center of the FSMA was made glaringly obvious nearly two years after FSMA was signed into law. In late November 2012, Wegmans Food Markets Inc. recalled organic spinach and spring mix due to an outbreak of E. coli O157-H7. The CDC reported 33 people in five northeastern states were infected, nearly half of them hospitalized and two suffering kidney failure. The greens in question were sourced from State Garden Inc., which is required by Wegmans to meet GAP specifications. But obviously the GAP was not adequate.

Compliance with GAP is overseen by the Department of Agriculture's Specialty Crops Inspection (SCI) Division. According to the agency's website, in 2011 the SCI performed 3,000 audits across 46 states and Canada. It is extremely troubling that, with all these audits, there are still 48 million illnesses. Who decided what constitutes Good Agricultural Practices? The FDA in consultation with the food industry.

The FSMA will ensure that the science, politics and history of the FDA will replace the safe vegetables and fruit from your local farmer as an honored guest at your table.

*Ryan Parker is a former staff member of the United States House of Representatives. Currently, he writes in Central Maine where he and his family own and operate Parker Family Farm, a diversified, micro-scale endeavor.*

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graphic: Farmageddon