

Understanding Food Safety Regulations for Farm-Direct Sales:

A Study of Connecticut, Massachusetts, New York and Vermont



The Northeast Ag Works! Project

October 2007

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Billie Best, *Northeast Sustainable Agriculture Working Group*
Marge Kilkelly, *Northeast States Association for Agricultural Stewardship*
Sandra Levine, *Conservation Law Foundation*
Kathryn Ruhf, *Northeast Sustainable Agriculture Working Group*

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I. Introduction

This report is based on the premise that there are significant advantages to regionally focused food systems. One way to strengthen our regional food system is to increase opportunities for — and mitigate barriers to — farm-direct sales. Neither political boundaries nor complex regulatory requirements should create obstacles for farmers or consumers. This report describes the regulatory framework that applies to farm-direct sales and the architecture of government agencies that have jurisdiction. It identifies challenges and recommends policies.

In order to direct-market their products, farmers need to know and work with the regulations that apply to the food products they sell, beginning with their home state. Complying with food safety regulations requires learning and understanding the applicable regulations, working with appropriate federal, state and local authorities, processing paperwork, and meeting standards for compliance. When farmers want to sell in another state, they are subject to another set of regulations.

In the past, “consumers” bought food from neighbor farms. They made educated choices on what they saw and what they wanted for their families. Gradually food became more removed from consumers; they could no longer check out the source of their food. Government needed to step in and create a base of safety. Regulations have kept pace with the increasing size and industrialization of the now-dominant food production system. More recently, there has been a resurgence of smaller-scale, direct, local and regional agriculture. To meet consumer demand, entrepreneurial producers are rising to the challenge. As our region seeks a balance between larger and smaller scale producers, and strives to rebuild relationships between producers and consumers, there is a need to examine how the direct-market food safety regulatory environment is working — for producers, consumers and regulators.

In this report, we explore the role of food processing and inspection regulations for farm-direct sales in a four contiguous states: Connecticut, Massachusetts, New York and Vermont. The report is directed at policymakers and regulators as well as farmers’ market managers, farm direct-sales association leaders and other farm organizations.

Our purpose is to facilitate both market opportunity and regulatory compliance in a constructive environment for farm-direct sales in our region. We explain in general terms, how food safety regulation of farm-direct food sales works at each level of government. We look more closely at regulations in the four neighboring states across a mix of foods typically sold at farmers’ markets, and we offer policy recommendations.

II. Background

Consumer demand for fresh, local food products along with the potential for increased farm income have led to a dramatic increase in direct marketing of farm products. In the United States, sales of agricultural products from the farmer directly to the consumer increased from approximately \$592 million in 1997 to \$812 million in 2002. The number of direct-market farms increased from 110,639 to 116,733 over the same period (NASS 2004). The number of farmers' markets, an important direct-market venue, also increased from 1,755 in 1994 to 3,706 in 2004 (USDA/AMS 2005).

The Northeast leads the country in farm-direct sales, with the number of Northeast direct sale farms over twice the national average. With our large population base, concentrated geography and citizen interest in fresh and local products, the Northeast region offers great opportunities for farmers to sell directly to consumers. In the target states of this report — Connecticut, Massachusetts, New York and Vermont — direct-to-consumer sales increased 40-53% between 1997 and 2002 (USDA Ag Census).

To capitalize on these opportunities, farmers need to be savvy marketers. This means finding appropriate direct-market outlets and complying with applicable regulations. Because the Northeast, particularly New England, is a compact region, many farms have a state line or two within a 100-mile radius of the farm. Crossing state lines to sell farm products can enhance the “trading area” for the many small farms in our region. At the same time, sales across state borders can bring both more and more diverse products to consumers. And, strengthening regional food systems can reduce energy use and improve food security.

To understand the particular challenges of farm-direct sales in Northeast states we focused on a pilot multi-state area. We looked at Connecticut, Massachusetts, New York and Vermont — four states that share long, mostly agrarian borders. We believe that our general findings apply across other states in the region, even though specific regulations vary from state to state.

There are many ways in which farms and farm-direct sales are regulated by government. In addition to food safety regulations, the most common regulations cover business registration, contracts, zoning, insurance, taxes, labor, licenses, and weights and measures. Most of these business regulations represent administrative requirements and a fixed cost to the farm business. Food safety regulations are of particular significance because they can define the scope of farm operations, they may require investment in equipment and infrastructure, and they may limit market access. The liability for failing to deliver safe food can be enormous. Thus food safety regulations can be a significant factor in building a profitable farm business enterprise.

At the same time, regulating food safety is an important way to assure the public about the safety of food, whether from a supermarket or direct from the farm. Consumers have reasonable demands about the safety of farm-sourced products. Regulators have responsibility for making sure that products meet applicable laws and standards. Often, it is the local health inspector who must understand, interpret and implement the regulation. In the best scenario, farmers and regulators are “working from the same page” so that the interests of all are met. We hope to foster this constructive environment.

III. Regulating Farm-Direct Food Sales

When food is sold directly to customers by farmers — on the farm, at a farmstand, at a farmers' market, or through a buying club — it is called a “farm-direct” food sale. Because there are no middlemen such as a distributor or processor, farmers earn a greater share of the income on farm-direct sales. As stated above, farm-direct sales are an important market sector for some smaller farms.

Federal, state *and* local governments all have a role in regulating farm-direct food sales. It is the farmer's responsibility to know and comply with the regulations applicable to the farm products. The easier it is for producers to work with the regulations — and the regulators — the easier it will be for them to succeed in direct marketing.

There are five areas where local, state and federal governments have instituted regulations to ensure food safety, quality control and consumer protection: 1) *processing*; 2) *facility*; 3) *storage*; 4) *labeling*; and 5) *distribution*. (See page 9 for an explanation of these terms.) The effect of regulations varies widely based on the type of food being considered and the scale of the operation. *Processing* as it is defined can range from cutting a watermelon in half to pasteurizing milk. A *facility* may be as simple as your home kitchen, or as complex as a slaughterhouse. *Storage* ranges from an open-air basket of baby greens to a humidity-controlled walk-in freezer. *Labeling* may be as simple as a handwritten address on a used egg carton, or as complex as the list of ingredients and nutrition information on a jar of spaghetti sauce. *Distribution* may be a self-service store in a farmer's barn or trucking food across the country.

Processing, facility, storage, labeling and distribution are regulated by federal, state and local government to varying degrees, with jurisdiction divided among a few different government agencies. In general, the hierarchy between federal, state and local government is that federal regulations supersede state regulations, and state regulations supersede local regulations. In some states “home rule” means that local rules supersede state rules.

The assignment of jurisdiction across agencies is not hierarchical, but more the result of how the food industry evolved, how legislation happened, and how laws have been interpreted. The United States Department of Agriculture (USDA) and the Food & Drug Administration (FDA) share federal jurisdiction over food *production* and sale, and regulate all food in “interstate commerce”. *Interstate commerce* refers to food produced in one state and sold in another state. ***All food produced in one state and sold in another state must meet the requirements of USDA and/or FDA regulations.*** Food produced in one state and sold in another state must come from “an approved source” which means the food — and the facility where it is produced, stored and sold — must be inspected by USDA, FDA or both, *unless it falls under an exemption*. An exemption is a situation specified in the regulations where named parties do not have to comply with all or part of the regulation. There are many significant federal exemptions in food safety regulations, although states may choose not to allow those exemptions.

While federal regulations uniformly govern every state in the nation, state regulations focus on sales within the state. Often they incorporate federal standards and regulations, but sometimes they are different to reflect different states' needs. When states do incorporate federal

regulations, they often do so “by reference,” meaning a state law says that the state officially adopts a specific federal law, without incorporating the actual text of the federal law in the state law. This means that to fully understand some states’ food safety regulations it is necessary to locate and understand the federal regulations they have adopted by reference. It also means that when the adopted federal law changes, the regulations enforced by the state change, too.

In general, state food safety regulations are more customized to each state’s individual economy, agriculture, markets, style of government and administrative infrastructure. Every state has a department of public health and a department of agriculture (or the equivalent) that share state-level jurisdiction over food production and sale, and regulate all food sold within the state. A state’s department of agriculture is closely aligned in mission, form and function with the USDA, as is the state’s department of public health with the work of the FDA. A state’s regulations must be at least *as protective* of health and safety as USDA and FDA regulations, and in some cases they may be more protective of health and safety.

In some states, local boards of health enforce federal, state and local laws at the local level. These local authorities are also empowered to create local regulations appropriate to their community’s specific circumstances. The local interpretation of food safety regulations is important for farmers to know. Local boards of health have many responsibilities in addition to food safety regulation. In small rural communities, the position of health inspector may be a part-time job, although the inspector may have a high degree of familiarity with farms and farm-direct food sales. In large urban communities, health inspectors may have more expertise in food safety for restaurants and grocery stores, but less exposure to farms and farm-direct food sales.

A farmer who wishes to sell food directly to customers, on the farm or elsewhere, must understand the implications of the processing, facility, storage and labeling requirements for the type of food being sold, and then learn to navigate the regulatory environment. This may include three levels of government, and as many as four or five different inspectors working for four or five different agency offices: USDA, FDA, state department of agriculture, state department of public health, and local board of health. Should the farmer contemplate selling at a farmers’ market in a neighboring state, the number of regulations and regulators may increase exponentially.

Crossing state lines to sell food requires compliance with not only a second state’s regulations, but also federal regulations for interstate commerce, and possibly the additional local regulations specific to that locale and that farmers’ market.

IV. Understanding Federal, State and Local Jurisdiction

USDA and FDA are the primary federal agencies that have jurisdiction over the production, quality, safety, sales and marketing of food. USDA and FDA regulations govern all food shipped into “*interstate commerce*” — that is, commerce where food is produced in one state and sold in another. Federal regulations set a national standard for “*approved sources*” of food. An approved source of food meets federal criteria and has been federally inspected, or has a specific exemption from federal inspection. Many states — including the four states that are the focus of this report — simply adopt federal food regulations as state law to ensure consistent standards and compliance across all food-based businesses.

USDA

<http://www.usda.gov/wps/portal/usdahome>

The main role of USDA is to develop and manage products and markets for U.S. agriculture, which includes production of food, fiber, forest and horticulture products. USDA exercises its regulatory authority over farm-direct sales mainly through these agencies:

Agricultural Marketing Service (AMS)

<http://www.ams.usda.gov/>

AMS facilitates the strategic marketing of agricultural products in domestic and international markets while ensuring fair trading practices. AMS is responsible for developing quality grade standards for agricultural commodities, administering marketing regulatory programs (including organic), marketing agreements and orders, and making food purchases for USDA food assistance programs. AMS programs include:

- Dairy: This program manages the Federal Milk Marketing Orders.
- Poultry: This program includes shell eggs, processed egg products, and rabbit, in addition to poultry.
- Fruit and Vegetable: This program is responsible for (along with the FDA) the "Good Agricultural Practices and Good Handling Practices Audit Program" and the "Plant Systems Audit" program to improve upon food safety for fruits and vegetables.
- Livestock and Seed: This program is responsible for meat grading and certification services, and seed regulatory and testing activities.
- National Organic Program: This program sets national policy and regulations for organic and includes the National Organic Standards Board.

Animal and Plant Health Inspection Service (APHIS)

<http://www.aphis.usda.gov/>

APHIS is a multi-faceted agency with a broad mission area that includes animal and plant health, invasive species, National Animal Identification System, genetically engineered organisms, the Animal Welfare Act, import/export of plants and animals, and wildlife damage management activities. APHIS impacts farm-direct sales by establishing regulations and standards for how animals and plants are grown, where they come from, how their illnesses are treated, and how plants and animals are identified, tagged or labeled.

Food Safety and Inspection Service (FSIS)

<http://www.fsis.usda.gov/>

FSIS ensures the nation's meat, poultry and eggs are safe, wholesome, and safely packaged. FSIS oversees domestic and imported meat and poultry, and related products, such as meat- or poultry-containing stews, pizzas and frozen foods. Processed egg products (generally liquid, frozen and dried pasteurized egg products) are managed by the Food and Drug Administration (FDA). FSIS enforces food safety laws governing domestic and imported meat and poultry products by:

- Inspecting food animals for diseases before and after slaughter.
- Inspecting meat and poultry slaughter and processing plants.
- With USDA's Agricultural Marketing Service, monitoring and inspecting processed egg products.
- Collecting and analyzing samples of food products for microbial and chemical contaminants and infectious and toxic agents.
- Establishing production standards for use of food additives and other ingredients in preparing and packaging meat and poultry products, plant sanitation, thermal processing, and other processes.
- Making sure all foreign meat and poultry processing plants exporting to the United States meet U.S. standards.
- Seeking voluntary recalls by meat and poultry processors of unsafe products.
- Sponsoring research on meat and poultry safety.
- Educating industry and consumers on safe food-handling practices.

FSIS and State Meat and Poultry Inspection Programs

FSIS provides approximately \$43 million dollars annually to support the 28 state Meat and Poultry Inspection (MPI) Programs currently operating. State Meat and Poultry Inspection Programs are an integral part of the nation's food safety system. FSIS provides up to 50% of the state's MPI operating funds, as well as training and other assistance. About 2,100 meat and poultry establishments are inspected under state MPI programs. All of these establishments are small or very small. State MPI programs are characterized as providing more personalized guidance to establishments in developing their food safety operations.

State MPI programs operate under a cooperative agreement with FSIS. Under the agreement, a state's program must enforce requirements "at least equal to" those imposed

under the Federal Meat Inspection Act and the Poultry Products Inspection Act. Establishments have the option to apply for federal or state inspection. **However, product produced under a state inspection program is limited to “intrastate” commerce.** This means that these products may be sold only in the state they were produced and inspected. (*Of the four states being considered here, only Vermont has a state MPI program.*) If a state fails to develop or is not enforcing requirements for meat processing at least equal to those of the federal government, the Secretary of Agriculture is empowered to designate those states as having to comply with the provisions of mandatory federal inspection. Those states are known as "designated states." (*Connecticut, Massachusetts and New York are designated states.*)

Food & Drug Administration

The FDA is an agency within the United State’s Department of Health and Human Services. The FDA’s mission is to “protect the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation’s food supply, cosmetics, and products that emit radiation.” *The FDA oversees all domestic and imported food sold in interstate commerce, including shell eggs, bottled water and wine beverages with less than 7 percent alcohol, but not meat and poultry.* With regard to farm-direct sales, the FDA has jurisdiction to regulate food, animal feed, veterinary drugs and pesticides. FDA food programs include: Acidified and Low Acid Canned Foods, Color Additives, Dietary Supplements, Food Ingredients and Packaging, Foodborne Illness, Food Labeling and Nutrition, Hazard Analysis and Critical Control Point (HACCP), Infant Formula, Pesticides and Chemical Contaminants, and Seafood.

The FDA enforces food safety laws governing domestic and imported food (except meat and poultry) by:

- Inspecting food production establishments and food warehouses, and collecting and analyzing samples for physical, chemical and microbial contamination.
- Reviewing safety of food and color additives before marketing.
- Reviewing animal drugs for safety to animals that receive them and humans who eat food produced from the animals.
- Monitoring safety of animal feeds used in food-producing animals.
- Developing model codes and ordinances, guidelines and interpretations, and working with states to implement them in regulating milk and shellfish, and retail food establishments, such as restaurants and grocery stores.
- Establishing good food manufacturing practices and other production standards, such as plant sanitation, packaging requirements, the "Good Agricultural Practices and Good Handling Practices Audit Program", and the Hazard Analysis and Critical Control Point program, aka HACCP.
- Working with foreign governments to ensure safety of certain imported food products.
- Requesting manufacturers to recall unsafe food products and monitoring those recalls.
- Taking appropriate enforcement actions.
- Conducting research on food safety.
- Educating industry and consumers on safe food handling practices.

According to the FDA, the role of state and local governments in food safety is to oversee all foods within their jurisdiction, including to:

- Work with FDA and other federal agencies to implement food safety standards for fish, seafood, milk, and other foods produced within state borders.
- Inspect restaurants, grocery stores, and other retail food establishments, as well as dairy farms and milk processing plants, grain mills, and food manufacturing plants within local jurisdictions.
- Embargo (stop the sale of) unsafe food products made or distributed within state borders.

USDA versus FDA regulatory oversight

USDA and the Food & Drug Administration (FDA) share jurisdiction over food quality, safety, sales and marketing. It can be confusing to discern whether USDA or FDA have jurisdiction over a particular food or process. In many situations, USDA and FDA regulations overlap. Generally speaking, while the product is living on the farm, as an animal or plant, USDA regulations apply. However, FDA regulates ingredients in animal feed, veterinary drugs and pesticides. Once a food product moves from being grown on the farm into the *food processing* phase, FDA public health regulations apply.

Both USDA and FDA regulate dairy farms and milk. USDA regulates meat and poultry from farm to table. As a rule-of-thumb, USDA regulates foods where meat is an ingredient, and FDA regulates foods without meat, or with very small amounts of meat. Because there are some differences in how this rule is applied, it is always best to consult both agencies when producing processed foods that contain meat.

State Agencies

Each state has its own unique approach to food safety and farm-direct sales as reflected in the different states' department names, administrative structure, programs, services, communications, regulations, policies and staffing.

In Connecticut, the Department of Consumer Protection, the Department of Public Health (DPH), and the Department of Agriculture share jurisdiction over food safety and farm-direct sales. The Department of Consumer Protection has a Division of Food and Standards, which manages food safety programs. Local Health Directors, who work under the auspices of the DPH, enforce food safety regulations at the local level. The Department of Agriculture has 14 programs and service categories, several of which apply to farm-direct sales and food safety, although none are specifically dedicated to that topic.

<http://www.ct.gov/>

<http://www.ct.gov/doag/site/default.asp>

<http://www.ct.gov/dcp/site/default.asp>

<http://www.ct.gov/dph/site/default.asp>

Massachusetts calls its agriculture department the Department of Agricultural Resources (DAR). The DAR is organized into eight different bureaus and six different programs many of which apply to farm-direct sales and food safety, although none are specifically dedicated to that topic. The Department of Public Health (DPH) has a Bureau of Environmental Health, within which is the Food Protection Program, which has jurisdiction over food safety. Board of Health inspectors enforce Food Protection Program regulations at the municipal level under the auspices of the DPH.

<http://www.mass.gov/>

<http://www.mass.gov/agr/>

<http://www.mass.gov/dph/>

In New York, the Department of Agriculture & Markets and the Department of Health (DOH) share jurisdiction over food safety. The Local Health Department, under the auspices of DOH, and the Department of Agriculture & Markets both enforce food safety regulations at the local level, depending upon the specific situation. The Department of Agriculture & Markets has 15 divisions and 18 programs, many of which apply to farm-direct sales and food safety, including a Division of Food Safety & Inspection.

<http://www.ny.gov/>

<http://www.agmkt.state.ny.us/>

<http://www.nyhealth.gov/>

Vermont's agriculture department is called the Vermont Agency of Agriculture, Food & Markets. The Vermont Department of Health administers food safety regulations regionally through inspectors at District Offices, rather than at the municipal level. The Agency of Agriculture, Food & Markets has four divisions, including the Food Safety & Consumer Protection Division, which has a Meat and Inspection Section that regulates any retail sales and inspections.

<http://www.vt.gov/portal/>

<http://healthvermont.gov/>

<http://www.vermontagriculture.com/fscp/index.html>

V. Explanation of Terms

Processing

According to www.foodprocessing-technology.com the definition of “food processing” is the treatment of a food substance in such a manner as to change its properties with the intention of preserving it, improving its quality, or making it functionally more useful. Food processing regulations are very specific for each type of food and production process.

For *food safety purposes*, a fruit or vegetable is considered “processed” as soon as the protective outer layer of the skin is broken, exposing the food to pathogens in the course of producing a food product. For example, a melon cut in half is considered “processed” for purposes of food safety regulations because the flesh of the melon is exposed to bacteria as soon as it is cut. Therefore, cutting a melon in half before it is sold must be done in an inspected food processing facility. Meat is considered “processed” once the animal is no longer alive. The killing and packaging of an animal as a food product is governed by food processing regulations.

- If fruits, vegetables, grains and legumes are raw and uncut, they are not considered processed.
- Processing regulations differ for perishable and non-perishable foods.
- Processing regulations differ for hazardous and non-hazardous foods.
- Hazardous or non-hazardous is determined by how perishable a food is, and how dangerous it may become once spoiled. Scientifically, it is determined by the pH balance of the food. Federal and state regulations define which foods are hazardous.
- pH Balance is a measurement used in chemistry to express the degree of acidity or alkalinity of a food. A pH of 7 is neutral. A higher pH expresses greater alkalinity, a lower pH expresses greater acidity.
- GAP stands for Good Agricultural Practices and is a program developed by USDA, FDA and CDC to set guidelines for safe handling and harvesting procedures for fruits and vegetables.
- HACCP (pronounced “hassip”) stands for Hazard Analysis and Critical Control Points. The three main elements of the system are food microbiology, quality control and risk assessment. It is a preventative program intended to improve food safety by identifying points in the processing and handling of food where food safety problems could occur. HACCP is a requirement for many types of food processing. Facility operators must develop their own HACCP plan for managing those critical control points and document implementation of their plan.
- Amenable meat (cattle, sheep, goats, swine, equines, ratites) is under jurisdiction of FSIS and is from species specifically mentioned in the Federal Meat Inspection Act.
- Non-amenable meat (reindeer, elk, deer, antelope, water buffalo, bison, squirrel, opossum, raccoon, rabbits, muskrat, non-aquatic reptiles) is typically game and is not under jurisdiction of FSIS as the species are not specifically mentioned in the Federal Meat Inspection Act—even if they are raised on a farm.
- Amenable poultry (chicken, turkey, ducks, geese, ratites, guineas, squabs) is under jurisdiction of FSIS and is from species specifically mentioned in the Federal Meat Inspection Act and the Poultry Inspection Act. In Vermont, quail, pheasant and partridge are “amenable poultry.”

- Non-amenable poultry (pheasant, quail, wild turkey, grouse, partridge) is typically game and does not fall under jurisdiction of FSIS as the species are not specifically mentioned in the Federal Meat Inspection Act and the Poultry Inspection Act—even if they are raised on a farm. In Vermont, quail, pheasant and partridge are “amenable poultry.”
- Pasteurization is a process for eliminating bacteria that contaminate food. In the past it usually meant heating liquids, like milk or juice, to a specified temperature for a specified length of time. Today it is often used, particularly on food labels, to refer to any technology (chemical bath, fumigant, irradiation, UV light treatment) that kills bacteria. Sometimes these other technologies are called dry pasteurization.
- Raw milk is milk that has not been pasteurized.
- Exemptions are often included in food processing regulations. For example, there may be exemptions to federal and state food processing regulations for small farms, home kitchens, small batch producers, and/or some religious groups.

Facility

Because our focus is farm-direct sales, we present separate explanations of facility and storage. Although food may be processed and stored in the same facility, in the case of farms, farm stands, farmers’ markets and food buying clubs, food is often stored in more than one place before it is finally purchased. Also note that in regulatory language, food processing facilities are often referred to as food processing plants. Here we distinguish between plants, farms and kitchens, all of which may be food processing facilities.

A *facility* is anywhere food for human consumption is processed or prepared, whether a farm, a factory, a slaughterhouse, a packing plant, a dairy, a shared-use kitchen or a home kitchen. Facilities are licensed or permitted to handle different types of food production and sales, such as direct-to-consumer, retail, or wholesale. The facility license correlates to the type of food processing it is designed for, the type of equipment and infrastructure required, and the processes specified in food safety regulations. For example, a facility such as a home kitchen may be licensed only for limited quantities of non-hazardous foods sold within the state. A shared-use kitchen may be licensed for processing and packing fruits and vegetables, but not meat products.

All of the information below regarding meat may be found in *A Resource Guide to Direct Marketing Livestock and Poultry* at <http://www.nyfarms.info/FAIDPaper.pdf>.

- *The facility license determines whether food from the facility may be sold across state lines or only intrastate, and whether it may be sold only direct-to-consumer, retail, or through a wholesaler.*
- Typically, local health inspectors license facilities for farm-direct and retail sales, while state inspectors license facilities that sell wholesale within the state. Federal inspection of facilities is required for food sold across state lines. In some cases, state employees may do federal inspection, and local employees may do state inspection.
- A USDA licensed slaughterhouse is a meat processing plant that has been granted a license for federal meat inspection, and must conform to Title 9 of the Code of Federal Regulations for Animals and Animal Products. Some states have stricter regulations for USDA slaughterhouses than those required by federal regulations.

- Federal meat inspection means that an FSIS inspector inspects live animals and carcasses for wholesomeness, and verifies that the facility, equipment and procedures conform to the operator's HACCP plan.
- Federally inspected meat processing plants are required by law to have easily cleanable equipment; washable, nonporous walls/ceilings; no condensation; appropriate rail heights from which carcasses hang; sufficient drains; sufficient lighting; separation of contaminated material and inspected meat; well running and appropriate equipment; pest control, potable water, employee locker room and bathroom, private office for inspector with access to a bathroom; and a way to stun animals prior to slaughter unless the plant has a religious exemption. Federal inspected facilities are licensed for interstate sales.
- Custom slaughterhouses operate under a provision of the federal code that allows the owner of an animal to process it without federal or state inspection as long as the meat is for the owner's household and is not sold. Carcasses are not inspected, but custom facilities are inspected by FSIS, or a subcontractor. FSIS may subcontract inspection of custom slaughterhouses to state inspectors. Local health departments must approve slaughterhouse septic systems and well water. Custom slaughterhouses have similar but fewer requirements for facility equipment and floor plans. Carcasses and meat packages from custom slaughterhouses must be stamped "not for resale".
- Talmadge-Aiken Meat Plants are federally inspected slaughterhouses where state employees following federal mandates do the inspections. In the Northeast, only Delaware (10) and Maryland (21) have Talmadge-Aiken Meat Plants. Inspected meat from these plants can be sold interstate. Vermont has a similar mechanism where state employees conduct the inspections.
- State licensed slaughterhouses have been granted a license for state inspection of carcasses. In the Northeast, only Delaware, Maine, Vermont and West Virginia operate state meat inspection programs. State regulations must be at least equal to federal regulations, and they may be stricter. State inspected facilities are licensed for intrastate sales only.
- Mobile processing unit (MPU) is a slaughterhouse on wheels that travels from farm to farm. USDA, state and local regulations differ on how, when and where MPUs may be used in meat and poultry processing.
- Milk Processing Plants are facilities licensed to sell milk based on specifications for the building materials, lighting, ventilation, sanitation, equipment, and water source.
- Shared-use kitchens are facilities licensed to process food based on specifications for the building materials, lighting, ventilation, sanitation, equipment, and water source. The license may limit the types of food that may be processed in the kitchen. "Shared-use" usually means the kitchen is rented to different people or businesses for food processing. A shared-use kitchen may be required to have a HACCP plan.
- Home kitchens are exempt from many of the regulations for food processing facilities because they are in private homes. Only non-hazardous foods may be produced for sale in a home kitchen. Each state defines non-hazardous. In some states, home kitchens are not allowed. Home kitchens may be restricted as to what they can produce, the quantity that may be produced, where the food can be sold, and may also have special labeling requirements.

- Exemptions are often included in food processing facility regulations. For example, there may be exemptions to federal and state facility specifications for small farms, home kitchens, small batch producers, and/or some religious groups.

Storage

Food safety regulations specify conditions under which food may be stored before it is sold. The way in which food is stored is critical to avoiding contamination and spoilage. Although food may be processed and stored in the same facility until it is sold, in the case of farms, farm stands, farmers' markets and food buying clubs, food is often stored in more than one place before it is finally purchased.

Regulations for food storage focus on food temperature, specifically how long a temperature is maintained, as well as packaging requirements, and the place where the food is stored, be it a freezer, refrigerator, truck, cooler, or pantry shelf. Time and temperature specifications may require the use of a refrigerator or freezer truck for moving certain foods to market. They may require a farmer to have a refrigerator at a farmers' market. Food packaging specifications may determine whether food is required to be packaged by machine, rather than by human hands, and the materials used in packaging. Packaging requirements may be influenced by storage conditions.

- Temperature is specified in food safety regulations. For example, it is common to require refrigerators to be kept at 38F, freezers at below zero degrees, and dry storage at between 50F and 70F. It is common for regulations to specify that some foods be kept at a constant temperature of 40-45F, regardless of whether they are in a kitchen refrigerator, on the shelf at a store, or at a farmers' market. Humidity may be specified as well.
- Aging is the process of storing raw meat in a cool place for an extended period of time as a way of tenderizing the meat and improving its flavor. Dry aging is when raw meat is hung in a temperature and humidity controlled cooler for a period of two to four weeks. Wet aging is when meat and its juices are vacuum packed in plastic.
- Mechanical vs. non-mechanical refrigeration may be a specified regulation at the state or local level, determining, for example, whether a cooler or ice (vs. a refrigerator or freezer) may be used to maintain the temperature of food for sale at a farmers' market.
- Vermin (rats, mice, etc.) are specifically mentioned in some regulations for food storage. Storage systems (rooms, packaging, containers, etc.) must protect food from contact with all types of insects and animals.
- Exemptions may be included in food storage regulations. For example, there may be exemptions to storage and packaging requirements for small farms, home kitchens, small batch producers, and farmers' markets.

Labeling

Food labeling is required for most prepared foods, such as breads, cereals, canned and frozen foods, snacks, desserts, drinks, etc. USDA, FDA, state departments of agriculture and state departments of health have specific labeling requirements for each type of food. Food labels generally provide the information to trace a food back to its source, identify ingredients, warn of

potential health hazards, recommend storage conditions, and verify weight or volume, quality or grade, calories and nutrition. Regulations for labeling a food product may specify any or all of this information appear on a food label.

- Food labeling requirements may be linked to how food is processed, where food is processed, how food is stored, and how food is distributed.
- States may implement labeling requirements to protect markets for food products important to a state's economy. For example, Vermont has very specific requirements for grading and labeling of Vermont maple syrup.
- Exemptions from any food safety regulation may include specific labeling requirements. For example, a food that has not been inspected may be required to carry a label stating so, or in the case of meat, may be required to carry a label that says "Not for Sale".
- Exemptions may be included in food labeling regulations. For example, there may be exemptions to labeling requirements for small farms, home kitchens, small batch producers, or food sold on the farm or at a farmers' market.

Distribution

Regulation of food distribution — moving food from wherever it is produced to the place where it will be sold — begins with the licensing of food processing facilities. A USDA or FDA licensed facility may distribute food anywhere in the United States. A state licensed facility may distribute food only within that state. A facility licensed by a local board of health inspector may distribute food only via retail sales (in other words, the licensee may not wholesale) within the state. In some cases, states may provide federal inspections, and local inspectors may provide state inspections. Regardless, the right to distribute food is controlled by the licensing process.

- Farm-direct sale is when a farm sells directly to the consumer, chef/restaurant or food business. A farm-direct sale is also a retail sale.
- Retail is the sale of goods, in comparatively small quantities, directly to the consumer/user. Some states have different categories for retail, e.g., direct-to-consumer retail or farm-direct marketing vs. supermarket retail.
- Wholesale is the sale of goods, in comparatively large quantities, for resale by a retailer.
- Interstate sales are across state lines.
- Intrastate sales are within the state.
- Exemptions from licensing may or may not confer the right to distribute food across state lines.

VI. Comparing Regulations in Four Neighboring States

For purposes of comparison we selected 12 categories of food that could be found at a typical farmers' market and researched the regulations governing their production and sale in four neighboring states: Connecticut, Massachusetts, New York and Vermont. We confined our research to information that is commonly available: the Internet, publications provided by state agencies and farmers' markets, and the occasional phone call to state agencies to answer questions.

Food safety regulations are published in different media, hardcopy and online; in different formats, brochures, booklets and info sheets; and in different "language" — legalese, scientific or administrative. Ways of referring to regulations vary widely from state to state, even when the regulations are very similar or identical. To illustrate this reality, we did not standardize the format, language or nomenclature for each state's regulations in the presentation of our findings. We wanted to show the diversity that exists in each state's approach and presentation, and demonstrate how it could be challenging to decipher.

- The main documents sourced for Connecticut information were government websites and a printed hardcopy called, "Connecticut Grown Farmers' Market Reference Guide: The Local Flavor" received by request in the mail from the Department of Agriculture Bureau of Marketing.
- The main documents sourced for Massachusetts information were the websites of the Department of Public Health Food Protection Program, and the Department of Agriculture Resources.
- The main documents sourced for New York information were government websites and the Farmers' Market Federation of New York *Market Managers Checklist of Permits, Licenses & Certificates Required for Farmers Markets* downloaded from their website.
- The main document sourced for Vermont information was the website of the Agency of Agriculture, Food & Markets and phone calls (their preferred method of communication).

The information on the following charts reflects the scope of all of the information we found at the above sources, edited for space. Much of it is verbatim. As a result, explanations for what some things mean are missing because the documents we found presumed prior knowledge of the system. In many cases, the most comprehensive information available online was in the actual legislation that specifies the law. In those cases, we cited the chapter and section of the law. Again, we tried to take the approach that a farmer or entrepreneur would take in seeking out regulations applicable to their business. We were trying to be practical, not scholarly.

For purposes of reading the following charts, please note these abbreviations.

Connecticut agencies with jurisdiction:

Department of Agriculture (DA)

Department of Consumer Protection (DCP)

Department of Public Health (DPH)

Local Health Director (LHD)

Massachusetts agencies with jurisdiction:

- Department of Agriculture Resources (DAR)
- Department of Public Health (DPH)
- Local Board of Health (LBH)

New York agencies with jurisdiction:

- Department of Agriculture & Markets (DAM)
- Department of Health (DOH)
- Local Health Department (LHD)

Vermont agencies with jurisdiction:

- Agency of Agriculture, Food & Markets (AAFM)
- Department of Health (DOH)
- DOH District Office (DOH-DO)

1.) Fresh fruits and vegetables

Generally speaking, no license is required for small farmers to sell fresh, whole, raw fruits and vegetables. However, licensing requirements may differ based on the size and scope of the operation, and increasingly farmers are required by institutional, retail and wholesale buyers of fresh produce to be GAP certified.

FDA and USDA set grade and pack standards and regulations for fruits and vegetables. Some states have special regulations for a food that is particularly important to the state's economy, for example, Vermont maple syrup. Regulations for fresh fruits and vegetables may vary from state to state in these areas: license required or not depending on specific food or size of operation, grading and packing requirements, guidelines and permits for samples/sampling, and small farm exemptions.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
No permits, licenses or certificates required if raw, uncut, unprocessed	No permits, licenses or certificates required if raw, uncut, unprocessed	No permits, licenses or certificates required if raw, uncut, unprocessed	No permits, licenses or certificates required if raw, uncut, unprocessed

Deciding which regulations apply can be confusing. Take salad greens, for example.

Washington State tries to clarify its state inspection requirements like this:

1. No inspection required if:
 - a. Product is labeled “wash before eating”
 - b. Product is whole leaf or plant product
 - c. Seeds are mixed at planting (rather than leaves mixed after harvest)
2. Requires inspection if:
 - a. Leaves are mixed after harvest

- b. Product is cut up or chopped
- c. Product is labeled “ready to eat”

2.) Grains and legumes

Grains and legumes were mentioned specifically only in the New York farmers’ market guidelines. No other state mentions them in the food safety or farm-direct sales information we found.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
		No permits, licenses or certificates required	

3.) Baked goods

FDA and USDA food safety regulations apply to baked goods. Baked goods may be considered *hazardous* or *non-hazardous* depending upon specific ingredients. Therefore licenses may restrict recipes, or conversely, specific recipes may require specific licenses. Regulations for baked goods may vary from state to state in these areas: whether a food is considered hazardous or not; facility license determines where food can be sold and to whom; label content requirements; home kitchen allowed or not; and small farm exemption or not.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DCP licenses bakeries, see Sec. 21a-13 thru 21a-90; vendor must check with LHD for specific requirements	Vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; residential kitchens for retail sale see Reg 105 CMR 590; residential kitchens for wholesale see Reg 105 CMR 500; out of state bakeries need a DPH license to sell in Mass, see Mass Law Ch 94, Section 305E	All cooking facilities require DOH license; hazardous baked goods require 20-C food processing license from DAM (which requires a separate commercial kitchen); A 20-C exemption if home-baked, non-hazardous baked goods	Vendors baking more than 20 hrs per week for purpose of selling product must be licensed by DOH, VT Law Title 18 Ch 85; also VT Law Title 18 Ch 85 Section 4449 appears to give local health authorities power to create additional regulations for bakeries

4.) *Honey and maple syrup*

Honey and maple syrup may be treated the same or differently depending upon the state. FDA and USDA food safety regulations apply to honey and maple syrup. Regulations for honey and maple syrup may vary from state to state in these areas: beekeepers may need a license; retail vs. wholesale requirements; label content requirements; grade standards; and small farm exemptions.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
Maple syrup prepared on a "residential farm" is exempt from licensing; label must say "Not prepared in a government inspected kitchen."; See Sec. 21a-24b; all other must be produced in a facility licensed by DCP; vendor must check with LHD for specific requirements	No license required if unprocessed	No permits, licenses or certificates required if single ingredient; 20-C food processing license from DAM if added ingredients	Maple syrup grading, processing & labeling strictly specified, VT Law Title 6, Ch 32; vendors who are dealer/processors selling more than amounts specified by law must be licensed by AAFM, VT Law Title 6, Ch 32

5.) *Milk*

The FDA regulates milk. The USDA regulates dairy farms. Milk producers, milk haulers, and milk processors are licensed separately, although they may be the same business. Regulations for milk may vary from state to state in these areas: facility requirements, license determines where milk can be sold and to whom, mandatory pasteurization vs. raw milk sales allowed, animal vaccinations required or not, packaging requirements, label content requirements, and small producer exemptions.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DA licenses dairies, see Sec. 22-127 thru 22-203z; milk must be kept at a temp below 40F; vendor must check with LHD for specific requirements	Vendor must be licensed as retail food operation by LBH, see Reg 105 CMR 590; pasteurizing facility must have permit from DAR, see Mass General Law Ch 94, Sections 13, 16K, 16L, & Reg 330 CMR 28 & Reg 105 CMR 541; raw milk sold retail, see Reg 330 CMR 27	All producers need a DAM Div of Milk Control Part 2 Permit; if amount handled is more than 3000 pounds per month, producer & distributor must have a Milk Dealers License from Div of Milk Control; milk must be pasteurized if sold off-farm; raw milk may be sold retail on licensed farm	Vendor must meet labeling & other requirements, be licensed by AAFM

6.) Cheese, yogurt, butter

The FDA regulates dairy products. The USDA regulates dairy farms. Value-added dairy products like cheese, yogurt and butter come under jurisdiction of both agencies. Regulations for cheese, yogurt and butter may vary from state to state in these areas: facility requirements, license determines where each product can be sold and to whom, mandatory pasteurization vs. raw milk products allowed, aging requirements for cheeses, packaging requirements, label content requirements, storage requirements, and small farm exemptions.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DA licenses dairies, see Sec. 22-127 thru 22-203z; soft cheese must be kept at a temp below 40F; vendor must check with LHD for specific requirements	Vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590	Producers need a DAM Div of Milk Control Part 2 Permit; if producers cut & wrap cheese they need a Part 2 Permit unless they are part of a food biz with a 20-C food processing license	Vendor must meet labeling & other requirements, be licensed by AAFM

7.) Eggs

Eggs in any form other than raw shell eggs are considered processed food. The FDA and the USDA regulate eggs and egg products. Regulations for eggs may vary from state to state in these areas: license required or not, used carton allowed or not, temperature requirements, grading requirement, label content requirements, and small farm exemptions.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
Exempt from Sec. 22.40-22.49 if eggs are maintained at temp below 40F; under jurisdiction of DA	No license required if cleaned shell eggs and temp maintained at 45F or less	No license required if cleaned shell eggs and temp maintained at 45F or less	Used packaging is allowed providing vendor meets labeling & grade requirements, there is no state specified temperature requirement although refrigeration is recommended

8.) Beef, pork, lamb or goat

The USDA regulates meat and products where meat is an added ingredient. There are no exemptions for meat for initial inspection. There are limited exemptions for marketing at the retail level. Twenty-eight states have state meat inspection services as an alternative to USDA inspection services, but meat inspected by state programs may not be sold outside that state. Regulations for meat may vary from state to state in these areas: slaughter facility license

determines where meat can be sold and to whom, label content requirements, and mechanical vs. non-mechanical refrigeration requirements at farmers' markets.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DCP slaughter facility license required, see Sec. 42-115, 21a-100 & 21a-101; all meat must be slaughtered & processed in a USDA inspected facility; labeling must meet USDA & CT regs; vendor must check with LHD for specific requirements	Meat vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; all meat must be slaughtered & processed in a USDA inspected facility; all meat processing facilities must have a DPH license, see Reg 105 CMR 530 & 531	All required to be USDA slaughtered with package stamped; no retailer license required if USDA slaughtered and sold frozen; Article 28 food retailer license from DAM required if sold fresh & temp maintained at 40F	Meat vendor must meet labeling & other requirements, be licensed & inspected by AAFM; VT Law Title 6 Ch 204 for slaughterhouses and meat inspection

9.) Poultry

The USDA regulates poultry and products where poultry is an added ingredient. According to USDA regulations, the type of birds, number of birds processed per year, and where the birds are sold, determine the licensing and inspection requirements for poultry processing (or visa versa). There are significant federal exemptions for poultry, which a state may or may not adopt, that allow small farms meeting certain requirements to process birds on the farm.

Regulations for poultry may vary from state to state in these areas: slaughter facility license determines where poultry can be sold and to whom, label content requirements, mechanical vs. non-mechanical refrigeration requirements at farmers' markets, small farm exemptions or not.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
There are no facilities for processing chicken in CT and there are no exemptions	Poultry vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; all poultry must be slaughtered & processed in a USDA inspected facility or have a DPH exemption certificate; all poultry processing facilities must have a DPH license, see Reg 105 CMR 532	No license required if Article 5A exempt; no license required if USDA slaughtered & frozen; Article 28 retailer license from DAM required if sold fresh & temp maintained at 41F; Article 5A license if both a slaughterhouse & a retailer	Exemption for farm-direct sale of poultry raised on farm; applies to farmers' market sales and sales to restaurants with specific labeling requirements; otherwise vendor must be licensed & inspected by AAFM; VT Law Title 6 Ch 204 for slaughterhouses and meat inspection

10.) Processed meats

FDA and USDA food safety regulations apply to processed meats. There are no exemptions for processed meat. Processed meats include sausage, hotdogs, cold cuts, jerky, cured and smoked meat, dried meat, etc. Regulations for processed meat may vary from state to state in these areas: facility license determines where processed meat can be sold and to whom, and label content requirements.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DCP food processing facility license required, see Sec. 42-115, 21a-100 & 21a-101; all meat must be slaughtered, processed & packaged in a USDA inspected facility; labeling must meet USDA & CT regs; vendor must check with LHD for specific requirements	Vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; all food must be labeled according to Reg 105 CMR 520	20-C food processing license from DAM required	Vendor must meet labeling & other requirements, be licensed & inspected by AAFM; VT Law Title 6 Ch 204 for slaughterhouses and meat inspection; Food processing requirements, packaged products must comply with VT State Packaging & Labeling Law, Title 18 Ch 82.

11.) Processed foods

FDA and USDA food safety regulations apply to processed foods. Processed foods include minimally processed fruits and vegetables (e.g., cut melon, peeled squash, husked corn) jams, salsa, sauces, cheese, dried fruits, dried herbs, teas, pastries, pies, cider, blended salad greens, condiments and spreads, canned or frozen food, etc. Regulations for processed foods may vary from state to state in these areas: whether a food is considered “processed” or not for purposes of regulations, facility license determines where food can be sold and to whom, label content requirements, home kitchen allowed or not, and small farm exemptions or not.

[SEE CHART NEXT PAGE]

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
Jam, jelly and preserves prepared on a "residential farm" from fruit grown on same farm are exempt from license/inspection; label must say "Not prepared in a government inspected kitchen." See Sec. 21a-24a; all other must be produced in a facility licensed by DCP; vendor must check with LHD for specific requirements	Vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; residential kitchens for retail sale see Reg 105 CMR 590; residential kitchens for wholesale see Reg 105 CMR 500	A 20-C food processing license exemption from DAM for non-hazardous foods; 20-C license from DAM for all other foods; on-site processing (e.g. slicing cheese, melon) or cooking-&-selling requires County Board of Health Permit; home processing of canned veg & fruit not allowed; 20-C required for dehydrating herbs & spices & blending spices for resale	Food processing requirements, VT Law Title 18 Ch 85; vendors preparing food onsite for sale require a Fair Stand License or Commercial Caterer's License from DOH

12.) Cider and fruit juice

FDA and USDA food safety regulations apply to cider and fruit juice. Regulations for cider and fruit juice may vary from state to state in these areas: whether or not pasteurization is required, facility license determines where cider/juice can be sold and to whom, label content requirements, and exemptions or not.

CONNECTICUT	MASSACHUSETTS	NEW YORK	VERMONT
DCP license required, see Sec. 21a-13 thru 21a-90; unpasteurized cider must display specified warning label; vendor must check with LHD for specific requirements	Vendor must be licensed as a retail food operation by LBH, see Reg 105 CMR 590; cider/fruit juice production must conform to 21 CFR 120, 105 CMR 500, Good Manufacturing Practices, DPH Guidelines	20-C food processing license from DAM required for manufacturer-bottler	Pasteurization exemption for farm-direct sales includes label/sign requirements

VII. Navigating Farm-Direct Sales Regulations

Given this complex regulatory landscape, it's not surprising that regulations can be confusing for producers and subject to interpretation by regulators. However, with adequate information and communication, producers can address regulatory requirements and derive all the benefits of direct sales. And regulators will have an easier job of education and enforcement.

When considering food safety regulations for a particular food product, it is important to know these five things:

1. Which federal, state and/or local authorities have jurisdiction for setting standards, giving approvals and issuing licenses or permits.
2. What the specific requirements are for becoming an approved source of a specific food.
3. The name of the law, regulation, permit, license or certification that applies, and how to locate a description or the actual text.
4. What is the specific process involved to obtain the proper permits, licenses and/or certification.
5. Contact information for the authorities that have jurisdiction.

In our search to learn this information we discovered that one of the significant challenges facing anyone who wishes to engage in farm-direct sales in their home state or in a neighboring state is locating simple, comprehensive educational materials that explain federal, state and local regulations. We discovered how difficult it is to obtain clear information. We were hampered by the absence of shared vocabulary, use of alpha- numerics and acronyms (instead of natural language), technical language (legalese), use of language more applicable to large-scale industrial operations, and in some cases, the complete absence of information.

Finding applicable regulations and understanding them are prerequisites for compliance. In today's information economy, one might assume a farmer could simply "Google" his or her way through government regulations to find those that apply to farm-direct sales. A Google search on "farmers' markets" brings up 19,500,000 links. Clearly farmers' markets are an area of significant public interest and activity. Yet a Google search on regulations for "farm-direct sales" or "farm-direct marketing" brings up only a few thousand links, the vast majority of which do not provide useful guidance regarding regulatory requirements.

Against this paucity of information we found a few good examples of informative materials, models of good teaching tools and time savers:

- *A Resource Guide to Direct Marketing Livestock and Poultry*, by Martha Goodsell of Fallow Hollow Deer Farm, Tatiana Stanton of Cornell University and Jim McLaughlin of Cornerstone Farm Ventures. Funded by New York's Department of Agriculture & Markets, 2007 <http://www.nyfarms.info/FAIDPaper.pdf>
- The Alberta, Canada, Provincial government produced a publication called *Farm Direct Sales: Know the Regulations* "to help producers and processors understand ... some of the basic regulations of farm direct marketing agricultural products and

services. ... This publication focuses on the regulations and requirements that you must follow if you want to sell agriculture and food products directly to consumers.”
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/agdex3485](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/agdex3485)

- The Washington State Department of Agriculture offers, *The Green Book: The Handbook of Regulations for Direct Farm Marketing*, which is both comprehensive and user-friendly. <http://agr.wa.gov/Marketing/SmallFarm/056-Greenbook-web.pdf>

Almost ten years ago, Neil Hamilton, in his seminal *The Legal Guide for Direct Farm Marketing* (Drake University, 1999), remarked on the lack of available information, saying “In researching this project, an effort was made to locate any educational materials which had been prepared by states on the legal issues relating to direct farm marketing. ... [only] Three states, Delaware, Oregon, and Washington, have issued state publications covering the ‘Regulations Applying to Direct Farm Marketing’.”

Based on our findings about the challenges in navigating farm-direct marketing regulations in our target states, we:

- Produced this report that includes background and explanations about the regulatory environment;
- Researched the regulations and prepared descriptions and a comparison chart;
- Created a set of educational materials for use by market managers, farm-direct marketing association leaders, other farm groups, regulators and policymakers;
- Developed a set of general “guiding principles” for producers; and
- Propose several policy recommendations.

Guiding Principles for Farmers Working with Farm-Direct Sales Regulation

1. Know the federal, state and local food safety regulations for the food you sell.
2. Establish relationships with food safety agencies and inspectors.
3. Stay abreast of food safety news and changes in food safety policy.
4. Learn who has jurisdiction over food safety in each and every market where you sell food.
5. Be proactive in complying with food safety regulations.
6. Develop food safety regimes for your farm and food processing.
7. Teach food safety practices to your family, employees and customers.
8. Promote food safety at the markets where you sell food.
9. Keep good records of your food safety licenses, permits and certifications.
10. Be prepared for a food safety inspection at any time.

VIII. Policy Recommendations

Government has the obligation to protect the health and safety of its citizens. It is also government's role to foster economic opportunity for all sectors, including agriculture. It is the obligation of the farming community to comply with laws and regulations. Both have an interest in reasonable processes that enable informed compliance. The public has to have confidence that there are reasonable and enforced standards that protect their food. Everyone pays if the public receives food that might not be safe because a producer could not figure out how to comply.

It should not be as hard as it is now for producers — and regulators — to find out about, work with, and interpret these regulations. An unintended consequence of the current challenges is a developing “gray market” for food that circumvents the food safety system. Instead, policymakers and farm groups should be encouraging these new ways of safely selling and buying food. The farm-direct market sector is thriving in our region and is a promising wave of the future — away from the anonymous, industrial commodity model of production and toward relationship- and locale-based, entrepreneurial markets. Regulations are necessary and appropriate; the more understandable, accessible, consistent and appropriate they are, the easier for regulators, farmers and the public to meet their shared goals.

- ***To encourage farm-direct sales, it should not be more difficult to sell in one state than another.*** Where appropriate, states should consider harmonizing license and permit requirements and/or license and permit reciprocity.
- ***At minimum, regulations should be clear and understandable, consistent and appropriate.***
- ***Federal regulations should provide reasonable, scale-appropriate standards and exemptions.*** This does not mean more lax regulations or any compromise to public health. It does mean suitably applying public health and food safety standards to smaller scale operations. Explanations of laws and regulations should be as user-friendly as possible.
- ***While states and locales rightfully emphasize “local” products (however defined), they should consider the advantages of thinking regionally.*** This means appropriately expanding the “trading area” to welcome producers from across state lines — and conversely fostering opportunities for their producers to find markets in other states. Regulators should strive for ways to enable direct-market farmers and regulators to work across state lines.
- ***States should provide better, more accessible and understandable information about farm-direct marketing regulations.*** Ideally, there should be consistency among states in presenting information. States should include a policy goal to make it as easy as possible for producers to learn about and comply with regulations, and to work with farming groups to inform and educate producers about regulatory compliance.

IX. Resources

The Legal Guide for Direct Farm Marketing

Neil D. Hamilton, Drake University Agricultural Law Center, 1999

A Resource Guide to Direct Marketing Livestock and Poultry

Martha Goodsell, Fallow Hollow Deer Farm; Tatiana Stanton, Cornell University; Jim McLaughlin, Cornerstone Farm Ventures; Funded by NY Dept of Ag & Markets, 2007

<http://www.nyfarms.info/FAIDPaper.pdf>

The Handbook of Regulations for Direct Farm Marketing: The Green Book

2006 Edition, Fifth Printing, Washington State Department of Agriculture, Small Farm & Direct Marketing Program <http://agr.wa.gov/Marketing/SmallFarm/greenbook.htm>

United States Department of Agriculture

<http://www.usda.gov>

Federal Meat Inspection Act

http://www.fsis.usda.gov/regulations_&_policies/Federal_Meat_Inspection_Act/index.asp

Poultry Products Inspection Act

http://www.fsis.usda.gov/regulations_&_policies/Poultry_Products_Inspection_Act/index.asp

Food & Drug Administration

<http://www.fda.gov/default.htm>

<http://www.foodsafety.gov/>

Hazard Analysis and Critical Control Point (HACCP)

<http://www.cfsan.fda.gov/~lrd/haccp.html>

Good Agricultural Practices (GAP)

<http://vm.cfsan.fda.gov/%7Edms/prodguid.html>

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

Food Safety: A Team Approach

<http://www.cfsan.fda.gov/~lrd/foodteam.html>

New England Extension Food Safety Consortium

<http://www.umass.edu/nefe/>

Farmers' Markets: Rules, Regulations and Opportunities

Neil D. Hamilton, National Agricultural Law Center, June 2002

Meat Quality and Safety

Purdue University Animal Sciences

http://ag.ansc.purdue.edu/meat_quality/aging_meat.html

CONNECTICUT

State government

<http://www.ct.gov/>

Department of Agriculture

<http://www.ct.gov/doag/site/default.asp>

<http://www.ctgrown.gov>

Department of Public Health

<http://www.dph.state.ct.us/>

Connecticut Licensing Info Center

<http://www.ct-clic.com/>

Connecticut Farm Fresh Cooperative

<http://www.ctfarmfresh.com>

Connecticut Grown Farmers' Market Reference Guide: The Local Flavor

Rick Macsuga

Connecticut Department of Agriculture – Bureau of Marketing

(860) 566-4845

ctdeptag@po.state.ct.us

MASSACHUSETTS

State government

www.mass.gov

Department of Agricultural Resources

www.mass.gov/agr

Department of Public Health

<http://www.mass.gov/dph/>

<http://www.mass.gov/dph/fpp/dairy>

<http://www.mass.gov/dph/fpp/foodprocessing>

<http://www.mass.gov/dph/fpp/foodborneillness>

<http://www.mass.gov/dph/fpp/retail>

Bonita Oehlke

Massachusetts Department of Agricultural Resources

617-626-1753

Bonita.Oehlke@state.ma.us

<http://www.mass.gov/massgrown>

Diane Bernazzani, REHS/RS, CFSP

Food Safety Specialist
MA Department of Public Health - Food Protection Program
617-983-6765
diane.bernazzani@state.ma.us

NEW YORK

State government
<http://www.ny.gov>

Department of Agriculture and Markets
www.agmkt.state.ny.us

Department of Health
<http://www.nyhealth.gov/>

Farmers' Market Federation of NY
<http://www.nyfarmersmarket.com/>
Market Managers Checklist of Permits, Licenses & Certificates Required for Farmers Markets
<http://www.nyfarmersmarket.com/publications.htm>

VERMONT

State government
<http://www.vt.gov>

Agency of Agriculture, Food & Markets
<http://www.vermontagriculture.com/>

Appropriate staff can be found in the directory. <http://www.vermontagriculture.com/contacts.htm>
A phone call to the Agency of Agriculture is the best way to find the specific information needed.

Department of Health
<http://healthvermont.gov/>

Vermont Apple Marketing Board
<http://www.vermontapples.org/news.html>

Northeast Ag Works! was a region-wide project to propose, promote and support regional strategies for farm and food policy innovation by focusing on policy solutions at the state, interstate and federal levels. The project covered 12 states — Maine to West Virginia. One area of attention was food processing and inspection. Northeast Ag Works! was funded by the W. K. Kellogg Foundation. Project partners were Northeast Sustainable Agriculture Working Group, American Farmland Trust, Conservation Law Foundation, Northeast Midwest Institute and Northeast States Association for Agricultural Stewardship. Project fiscal sponsor was New England Small Farm Institute. For more information, contact Kathryn Ruhf, project director, at kzruhf@verizon.net or 413-323-9878 or visit www.nesawg.org.