

# New Food Safety Regulations Must Protect Interests of Small Sustainable Farms

NAIS program is source of deep concern to local food movement

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I took a month-old parsnip out to the compost pile yesterday, and I could tell it came from the supermarket because of the thick coating of wax that covered it. Without thinking about what I was doing, I started peeling the wax off. It was as if someone had decided, for some odd art project, to turn the parsnip into a candle, proceeded to put a few layers of wax on it, then changed their mind, and decided to sell it as a parsnip anyhow. My hands now covered with wax, I realized that I didn't even find this waxy parsnip suitable for putting in the compost, much less eating. "Here," I said to myself, "is another reason many people like to get their food fresh from local farms."

As people learn more about the food supply chain and where their food comes from, there is a growing enthusiasm for purchasing food that is locally grown on small sustainable farms that use natural methods. A wide variety of people are drawn to this movement because the reasons to support it are numerous: reduced impact on surrounding land and water due to pesticide use and fertilizer runoff, improved quality of life for farm animals, health benefits of grass-fed versus grain fed meat due to Omega-3 fat content, avoidance of genetically modified or transgenic food products, higher energy efficiency of the farming and transporting processes, the use of fewer chemicals, hormones, and antibiotics, more efficient use of water for irrigation (causing less depletion of aquifers), and higher nutrient content of naturally grown vegetables. Another benefit of sustainable farming methods is that they avoid many of the food safety pitfalls that currently need to be addressed.

Given the virtues of the alternative food movement, one would hope to see growth in this sector of the food economy. It is upsetting, then, that current and proposed government policies, including the criminalization of raw milk, the USDA's National Animal Identification System, grain subsidies, and House Resolution 875, are a huge impediment to small-scale producers and

sellers, threaten their economic viability, and provide a disincentive for entrepreneurs to start their own small farms. We may be in the process of stacking the deck against the farming and distribution methods that avoid many of the problems inherent in our large-scale system.

An issue that provides some background on the problem is the fight over the use of the term “organic.” Many small farms whose methods meet or exceed the USDA’s standards for organic certification choose not to have their farms certified as organic because of the paperwork and the cost required to do so. Turner Farm, in the Indian Hill suburb of Cincinnati, is one of the small farms that have chosen to become certified as organic. Melinda O’Bryant, who manages the vegetable operations there, says that it takes 40 hours of paperwork and \$650 of fees annually to obtain their certification. This can amount to a significant portion of the profits of small family farms, which also have very few employees to do the paperwork.

In *The End of Food*, Paul Roberts explains how the organic movement started in the 1940’s as a reaction against the increasing size of farms, with the aim of returning to small-scale non-industrial agriculture. It is ironic that now that the USDA controls the use of the term organic, the program is tailored to benefit large-scale producers who can afford the extra costs of certification, but whose practices, some would argue, are not as sustainable as smaller operations.

Organic certification is only a minor concern to growers, because they can usually interact with their customers and shareholders, at farmers markets or at the farm, where discerning customers can check out the farm and its operations for themselves, if they wish.

A much more significant issue that is raising deep concerns among farmers, especially those with animals, is the USDA’s nascent National Animal Identification System (NAIS). It would involve tagging (most likely with RFID tags) any animal that is free to move. The farmer would then have to report each animal’s movements and interactions with other animals to a database. The official motivation behind this program is to be able to quickly identify exposed animals in the event of a disease outbreak. In previous outbreaks, numerous officials spent several weeks in a frustrating effort to track the movements of affected livestock. The USDA strongly maintains

that it is essential, within 48 hours, to be able to trace the recent movements of sick animals, and then to quarantine or kill all other animals that may have been exposed to a disease source. This sounds like a perfectly reasonable idea, but problems with the NAIS program make it unfair and unreasonable for small farmers, if not intrinsically and completely flawed.

Everyone that I talked to who is involved in alternative agriculture believes that if the NAIS were made mandatory, it would no longer be economically viable for small operations to keep their animals. The effect would be to further consolidate meat and dairy production under a small number of large conglomerates, severely limiting consumer choices. According to [farmandranchfreedom.org](http://farmandranchfreedom.org), the cost of similar programs in other countries has amounted to between \$37 and \$69 per head, a cost that is certain to be higher for small operations than large, not just because of the economy of scale, but because large confinement operations are not actually required to tag all of their animals under the currently proposed rules. Instead of Animal Identification Numbers (AIN) for each animal, they will, in many instances, need only to have one lot number and one tag per 1000 animals.

That a disproportionately high amount of the crippling burdens of the NAIS program would fall on small farms is infuriating for several reasons.

The disease risks that the program seeks to contain generally stem from the practices of large industrial operations, and are not the fault of small farms where animals are humanely treated. When animals are crammed into unsanitary warehouses disease can spread rapidly through the population. This problem is compounded because the immune systems of the animals are already weakened. Chickens are bred to develop gigantic muscles quickly, so more of their energy goes toward developing muscle mass than developing the immune system. Eating an unnatural diet further weakens the immune system. Chickens naturally tend to have a diet that includes bugs, larvae, and some greens, but get none of these foods when kept in cages in a warehouse. Michael Pollan explained in *The Omnivore's Dilemma* that a cow's body is designed to eat grass, but in large feedlots, cows are fed corn meal.

Lynn Seigfried keeps some chickens on her small farm in northwestern Ohio. About the risks of disease in poultry, she said,

“In the big warehouses, the chickens are kept in small cages, where they are weakened from lack of exercise, de-beaking, and the lack of anything green in their diet. They don’t get any sun. The big flocks are more vulnerable to bird flu.”

Ralph Schlatter, of Canal Junction Natural Farm in Defiance, Ohio, converted the farm from conventional to all natural methods at the end of the 1980’s. After the cows started feeding on grass, he noticed that they became sick less frequently.

“You have to watch their behavior. If a cow stops eating, that is an indication that it is sick. Fortunately, that hardly ever happens anymore.”

To keep the animals from getting sick in these conditions, they are given regular doses of antibiotics, even when they aren’t sick. Excessive use of antibiotics causes resistance to develop in the bacteria that they treat. Findings of a University of Minnesota study indicate that 25% to 39% of hogs now carry a strain of Methicillin resistant *Staphylococcus aureus* (MRSA). MRSA kills 18,000 Americans annually, and was found in 5 of 90 pork samples in Louisiana, according to a March 14 New York Times Article by Nicolas Kristof. Antibiotic resistant *E. coli* is common in cattle and is transmittable to humans. Instead of treating sick humans we are treating animals who may or may not be sick.

No advantage would be gained by applying the NAIS program to small farms or backyard flocks. The main reason that this is true is that animals on small farms usually stay on the same farm for their entire life span. There is no need to track an animal that isn’t moving. According to Roberts, cattle are shipped to different facilities, each of which specializes in ushering them through different phases of their growth in the most efficient way possible. The NAIS is designed to be able to find which groups of cattle a diseased individual came into contact with in a number of different pens in a number of different states. Bill Nutt, president-elect of the

Georgia Cattlemen's Association, described the travels of his cattle. They are raised in Georgia, shipped to Iowa for custom feeding, and then slaughtered in Omaha.

Green Acres farm in Cincinnati keeps their animals within approximately 120 acres of pasture for their entire lifespan. I should note that this is the only small farm I contacted where I spoke to someone who supported the NAIS. Susan Stiner said that she is in favor of the NAIS, but that it would not be necessary for Green Acres to participate in the program because their animals never leave the farm.

“We don't take our animals to shows, we just raise them for meat. They are born here and they stay here until they are slaughtered, which happens at a facility several miles away.”

Pete Kennedy, president of the Farm to Consumer Legal Defense Fund, described how easy it is to trace an animal from a small farm.

“You pick up a phone and call the farmer.”

A major motivation behind implementing the NAIS is to facilitate international trade, opening up new markets for U.S. beef exports. This benefit for agribusiness was used as a reason to support the NAIS by a number of its supporters at the March 11<sup>th</sup> hearing. As part of the NAIS program, animals would be tagged with a code number beginning with the number 840, indicating that the animal is from the United States. Needless to say, small farms, which are the focus of the local food movement, do not participate in international trade. It would be farcical and ludicrous to mandate this tagging and numbering system for small farms who sell exclusively to local markets, and whose animals are unlikely, over the course of being born to being eaten, to even leave their county of origin, much less the country.

If the NAIS becomes a mandatory program, the economic consequences to small farms will be drastic. The benefits will be negligible. Dr Max Thornsberry, President of R-CALF, USA, expressed an array of general concerns about the program at the March 11<sup>th</sup> hearing, including, for instance, that there has been no analysis done to estimate the effectiveness or the cost of the

program, and that it will supplant preexisting animal ID systems. The rationality of the whole program should be closely examined, and under no circumstances should it be applied to small farms. The USDA states on its website that it has no plans of making the program mandatory, but its recent actions would indicate otherwise.

In the hearing, Dr. John D. Clifford, Deputy Administrator of Veterinary Services for the USDA, explained that the NAIS is to be implemented in three steps. The first step is the registration of all premises where animals are present. 35% of premises are registered so far. The second step is giving out AIN numbers and tagging the animals. The third step is to trace the movements of the animals in a massive computer database. Clifford maintains that “70%-90% participation is required to ensure the benefits of the system.”

Kennedy believes that the USDA claim that NAIS will remain mandatory is false.

“People who refuse to have their farms registered will be forced to register them against their will.”

The Farm to Consumer Legal Defense Fund, headquartered in Falls Church Virginia, has filed an injunction to prevent the implementation of the NAIS. The mission of the FCLDF is to “Protect the nation’s family farms from harassment by federal, state, and local government interference,” and to protect the right of consumers to obtain food from these farms. Their recent press release indicates that the USDA is pushing to make the first part of the program mandatory. A USDA memorandum from September of last year makes premise registration a requirement for farms that are visited by veterinarians as part of federal disease prevention programs. According to the release, premise registration is required in the states of Wisconsin and Indiana, and is required in order to receive hay relief in North Carolina and Tennessee.

Kennedy says that in addition to the NAIS case, the organization is currently defending eight cases in court. Five of them are related to raw milk.

The sale of raw milk is illegal in many states, and it is illegal to transport raw milk across state lines, although Ron Paul has introduced legislation that would permit interstate transport. Many individuals who are involved in the local food movement also want to drink raw milk, so there is a demand for small farms to provide it to their customer base. Raw milk goes hand in hand with the local food movement. A motivated consumer must first buy a “share” of a cow, and then pay the farmer to take care of it in order to get raw milk.

Illnesses that come from raw dairy products almost always affect only the individuals who have consumed them, those who know the risks involved, and who have gone out of their way in order to obtain the milk. Some who would like to drink raw milk can't find anyone to sell it to them. The consequence of making it illegal for a farmer to sell raw milk is to essentially make it illegal for anyone else to buy it.

There is anecdotal evidence of health benefits obtained from raw milk, such as increased immune system strength, and there is scientific evidence that children who drink raw milk develop fewer allergies. The claim is commonly made that the pasteurization process kills beneficial bacteria and denatures enzymes, but the scientific community has yet to prove that pasteurized milk is less healthy due to these effects.

Heidi Pierron of Versailles, Ohio has stopped eating processed foods, and now gets her meat from local farms. Her new diet and an exercise program have allowed her to lose 80 pounds. Her diet is not as complete as she wants it be, however, because she doesn't have access to raw milk. She says that it is nearly impossible to find in her area, and she is upset about this government intervention in her life.

“If I want to ‘take the chance’ of drinking raw milk, that is my God given right.”

Authorities frequently bust raw dairy providers. In 2006, Kentuckian Gary Oakes of the Double O farm was dropping off milk in Cincinnati when several officers confiscated his milk. He had to pay a fine to the city of Cincinnati. His wife, Dawn Oakes, said that the

legal situation could have been worse for them had they not received support from the Governor of Kentucky.

A disturbing raid occurred at a food coop in Cleveland in December of last year in which there was no involvement of raw dairy. The Manna Coop was charged with running a retail food establishment without a license. The coop was established when the Stowers family started ordering food in bulk from local farmers. They allowed friends and neighbors to buy from them until the coop grew to the extent that farms would contact them, hoping to find an outlet to distribute their goods.

The Buckeye Institute for Public Policy Solutions is defending the Manna coop. In a court filing available on the Buckeye Institute website, it is stated that the Stowers sent a letter to the Lorain County General Health District in December, 2007 that asked “if, and if so, why, the Lorain County GHD believed the Stowers coop constituted a retail food establishment.” They received no reply, instead, they were raided by agents from the Ohio Department of Agriculture (ODA), the Lorain County Health Department , and police officers.

Upon entering, no one from the raiding party announced that they were police officers. The raid was led by an officer who wore black military fatigues and who had a gun drawn. They found the Jacqueline Stowers and her eight children in the middle of a home schooling lesson, and physically led them downstairs. Several officers held them in the living room for six hours while the “Stowers home was surrounded by officers who had guns drawn.” Also according to the court filing, “the police and ODA seized the Stowers personal family computers, cell phones, and food supply” The value of the goods seized, which included meat that was meant to feed the family during the winters, was estimated at \$10,000.

In the Cleveland Plain Dealer blog, assistant Lorain County prosecutor Scott Serazin is quoted as saying, in support of the raid,

“Protection of public health is one of the important roles of government. That’s what this is all about.”

Perhaps he does not understand that many members of the Manna coop get their food there specifically because they believe that it has health benefits. It is also inaccurate for him to claim that the raid is aimed at protecting the “public” health, because the coop is private. Members must pay a fee to join before they can buy food.

Government authorities are using valuable resources to protect small groups of special interest consumers from foods that they spend effort to specifically seek out. In both of the cases mentioned above, no health complaints had been made to warrant a raid, tainted food would have only effected a small number of people who knew the risks involved, and the source of any outbreak would have been easily traceable.

Our regulatory resources need to go instead toward s inspecting processing plants and imports. Disease risks are magnified when foods from many sources are mixed during processing. Bacteria from one animal can infect an entire batch of meat. The FDA, on its website, acknowledges the dangers of consolidating large quantities of food, especially ground beef and eggs. The entire spinach recall of 2006 was traced to bacteria from one farm that found its way into one processing plant during one production shift, according to a March 12<sup>th</sup> New York Times article.

Whereas a problem like this can render the industrial food supply chain completely unable to provide certain products for large regions, independent small farms are able to continue to sell those products.

Marion Nestle, author, food policy expert, and professor at NYU, said in a lecture at the University of Toledo last week that when all spinach was recalled from Whole Foods, she went across the street and bought some at a farmers market. Of the local food movement she said,

“It’s not that there won’t be (food safety) problems, but they won’t be massive and tie up the FDA and CDC for months.”

When considering food safety it might be important to consider the vulnerability of our food supply. Our current system is homogenous on many levels. There are a small number of crops, each of which there are a small number of varieties, being purchased by a small number of commodities companies, grown on a decreasing number of farms. If a pathogen or climate condition arises that affects the most common variety of a major crop, the losses will be tremendous, as there are few other varieties being grown. Diversity of traits in a population is essential to facilitating its survival when the environment or other organisms provides stress, and is a benefit bestowed naturally by sexual reproduction. Unfortunately, “United States agriculture is impressively uniform genetically, and impressively vulnerable.” This is the view of the U.S. National Academy of Sciences as quoted in *Food Inc.* by Peter Pringle. The Government Accountability Office has similar concerns, and claims, according to [farmandranchfreedom.org](http://farmandranchfreedom.org) “Concentration of our food supply in the hands of a few companies makes it vulnerable.” An expanded network of small farms would add diversity on all of these levels.

Another advantage of local farms is that their practices are more easily policed directly by consumers. A consumer, if he wishes, can check out the operations at a local farm for himself when he goes there to buy produce. Many farms that sell directly to consumers have a steady stream of customers coming in all day, whereas factory farms may only be inspected once a year.

Will the number of small farms continue to grow along with the local food movement? There certainly seems to be enough consumer demand to warrant an increase in supply. The local food movement is now mainstream, and would seem to be a major factor behind the spreading changes in the way our culture thinks about their food choices. A story about local food made the cover of Time magazine. There was a story in the March 13 issue of The Week magazine about how morality is now a prominent issue that determines our food choices.

“Today, society... condemns those who don’t eat locally grown organic veggies and free range chickens.”

Even Jon Stewart , on The Daily Show, recently poked fun at “hippie elitists” who will demand “free range fetuses.” (This was in reference to the stem cell debate.)

Consumers will purchase food from local natural farms. People will be willing to work on the farms, especially during a prolonged recession when there are limited employment opportunities. A job on a small organic farm typically pays minimum wage or less, but comes with room and board included, and is not outsourceable. Even back in 2005 and 2006, when there was very low unemployment, it was not difficult to find college aged workers who were interested in these positions. The main obstacle threatening to limit the increase in market share of direct to consumer farms is that it is becoming more difficult to own and operate one.

There is a disincentive to start a farm like this. The endeavor is financially risky, and the present political climate indicates that there may be more regulatory and economic burdens for farm owners and operators in the near future. Natural farmers don't want to spend their time filing out paperwork, updating databases, and hosting federal inspectors. It is important to consider the influence of just a small number of raids when news of them spreads around the sustainable farming community. Individuals who are involved in the sustainable farming community, those who might be considering starting their own sustainable farm or business, inevitably hear about the inconveniences, seizures, and traumatic treatment from officials (Gary Oaks was diagnosed with post traumatic stress syndrome after he was busted, and Jacqueline Stowers could not sleep for several nights after her house was raided), and start to think twice about getting involved in such a risky and difficult business. When profits are small and uncertain, the possibility of government agents confiscating goods, leveling fines, and imposing legal fees is very frightening.

Government interference and the fear that there will be more of it throws a wrench in the free market system of food supply and distribution. Its dissuasive influence threatens to slow, stop, or reverse the growth of local farming, instead of letting the movement expand at a rate that a truly free market would allow.

Generating fear among small farmers is House Resolution 875, a bill that has been introduced and referred to committee in the U.S. House of Representatives. It would create the Food Safety Agency within the Department of Health and Human Services, giving the federal government

expanded regulatory control. The Organic Consumers Association is worried about the effect it will have if it is passed in its present state, and in a recent newsletter claimed,

“If the Bill’s regulations were applied in a one-size-fits-all manner to certified organic and farm to consumer operations, it could have a devastating impact on small farmers.”

Kennedy agrees and says that it would increase paperwork, inspections, and bureaucratic rigidity. He claims that it would make it mandatory for a federal inspector to be present on the farm whenever an animal is being slaughtered, and that there is currently a shortage of inspectors. It would also further criminalize raw milk by placing a federal ban on intrastate commerce.

A clear and prominent influence that is currently impeding the flow of the free market is the perpetually renewed farm bill. The subsidies that it provides go predominantly to large grain producers. In 2005, the U.S. paid out 200 billion dollars in grain subsidies, claims Roberts in *The End of Food*, who goes on to say that subsidies account for 22% of all US. Farm income. It is very rare to see a direct to consumer farm that grows a lot of cotton, corn, soy, rice, or wheat, the five crops for which the government assures a minimum price.

It is essential that legislators and officials make considerations for small and micro farms when formulating and enacting regulations, but it is questionable whether they have any motivation to do so. The government looks out for industry whenever possible, and it is in the interest of big business for small farms to fail.

The FDA and the USDA are malleable to the interests of industry. In *The Truth About the Drug Companies*, Marcia Angel claims that the FDA went from being the slowest approval agency in the developed world to the fastest, all in the course of a decade, as a result of pressure from the pharmaceutical industry. Robert indicts the USDA, suggesting that it may be more concerned about facilitating international trade than ensuring food safety.

“China used the promise of its massive grain markets to persuade U.S. officials to override safety concerns about imported food. In 2006, Chinese officials suggested that Beijing might allow the U.S. to export beef into the Chinese market if the American government allowed China to import cooked chicken into the United States. Despite reported objections by federal safety officials, the USDA began processing the request.”

This would certainly mesh with the FCLDF viewpoint that opening up international trade is the true primary objective behind the NAIS. Their website states

“This would bring the U.S. into compliance with the requirements of a little-known sub-agency of the WTO. Compliance with these requirements opens markets coveted by the members of the National Institute of Animal Agriculture.”

Industrial scale producers, processors and retailers would be more than happy to see diminutive operations fail. All along the industrial chain the modus operandi has been to expand in order to provide a cheaper product, which necessitates selling more of that product. Marion Nestle says that in order for a food company’s stock to be attractive, the company has to show growth every ninety days. For an industry that depends on selling more and more of its products, the potential of selling less as a result of losing market share to local producers is financially disturbing.

Many see industries benefiting as a result of regulatory programs. Melinda O’Bryant believes that the beneficiaries of the NAIS program would be the firms that produce the RFID that would be sold by the millions. Damian Bickett, a fifth year doctoral student in agricultural and resource economics at UC Berkeley points out that companies that sell pasteurization machines, which run around \$30,000, are given an advantage when pasteurization is mandated. He maintains that the FDA’s reluctance to approve UV light as an alternative to pasteurization for apple cider, and its subsequent delay in doing so, was influenced by these companies.

He believes that a motivation behind pasteurization regulations is to keep small farms down.

“I don’t see a need to keep the FDA involved in regulating raw milk. I don’t trust the FDA to do any of this correctly. They hurt small farmers who are trying to provide something people want.”

The government has proven that it will support the interests of big business. The influence of lobbyist and campaign contributions is a common complaint. In a worst-case scenario, we are facing a possible future where small producers are forced out of the marketplace by regulations. The only sources for organic products would be large farms, many of which appear quite conventional. If the NAIS were implemented, the definition of “organic” might stray further from its original meaning. Lynn Seigfried ponders,

“How could you call an egg organic when it comes from a chicken with a chip in it?”

We need to be careful that in regulating our food industry we don’t punish and suppress the agricultural styles that are themselves possible solutions to the problems we are trying to fix.

The natural food producers that sell at farmers markets don’t hire lobbyists. We need to let representatives know that they have to include provisions in any new legislation or regulations that will make it easy to continue to practice sustainable farming. Five acres farms cannot be held to the same rules as 2000 acre spreads.

If new regulations are not amenable to small-scale operations, the only farms that will be able to provide natural animal products at a reasonable price will be those that ignore the regulations, creating a sort of black market. We must be careful or we may see all local food go the way of raw milk.