

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Animals in the Food System Conference
Kellogg Biological Station
Hickory Corners, Michigan
November 2-4, 2004

C.S. Mott Group for Sustainable Food Systems
Michigan State University
312 Natural Resources Building
East Lansing, MI 48824-1222

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Abstract

The answer to this question is “not very well.” For a variety of structural, institutional and political reasons, existing laws and regulations do not support but raise barriers to profitable small-scale operations. Experts have recommended how to address the situation regarding co-packing, co-location, state inspection, HAACP, and other facets of the issue. A focus on strategic decisions and actions could help to improve the fit between laws and local/regional needs.

Editors Note:

This document contains the PowerPoint slides used by the presenter. If you wish to make this document larger on your computer screen to better view the slide detail, you may change the magnification by selecting the View menu, and then Zoom To. Select or type in your desired magnification and then select OK.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

I am going to give a bird's eye overview with few details. I will not always be clear about distinguishing between red meat and poultry; I am not going to talk about dairy much at all; and I won't be able to go into the state differences in terms of regulations, etc. I have made the assumption that you know some of the background on the issue.

Converging Phenomena

- Food-borne illness (fast food)
- Bioterrorism
- Global trade

I couldn't get into this topic without thinking about some of the converging phenomena in the larger outside world that are driving a lot of the policy issues around processing meat products, especially small scale, and in some instances issues related to pasture-raised products. The number one phenomenon is food-borne illness.

There is an unfortunate set of problems in which pasture-raised finds itself with regard to laws and regulations on processing: even though there are

many benefits to producing and consuming products from animals raised on pasture. Food-borne illness has come mainly from animal products. The United States Department of Agriculture (USDA) defined it as an epidemic about 15 years ago. Consumer groups have been very strong in calling for more crackdowns on regulation of meat safety. Unfortunately, most consumer groups do not discriminate on scale. They put small processors in the same category as extremely large entities, such as Supreme Beef, when they are discussing the regulatory environment for food safety. The fast food restaurants have the most to lose in the market because of what has happened with food-borne illness and meat, especially *E. coli* H0157. So they are leading the charge for tighter regulations on processing that will yield mass amounts of safer meat.

The second phenomenon is that since September 11th, 2001, agricultural bio-terrorism has been a very high priority inside the United States Department of Agriculture, and the Food and Drug Administration. Experts say that terrorist acts can compromise food safety and/or introduce catastrophic disease. Despite the "common sense" concept that centralized processing will decrease food security, it is not likely that the received wisdom will be changed soon because the industry is so powerful. USDA will argue for more regulations and new technologies to improve meat safety.

Finally, people were saying to me as I prepared this presentation that Australia and New Zealand would be very happy to provide pasture-raised meat to the U.S. market, because their supply chain is already set up and ours isn't. The only thing I can think of is maybe the oil prices will get so high that shipping meat 10,000 miles will look a lot less efficient.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

The issue of small/mid-scale processing also exists within a set of converging elements. The New Zealand-style processing plants of 100-500 workers would be considered small plants under the USDA definition. There are a lot of challenges for small plants, and it may be that mid-size processing plants are much more likely to be successful. There is however, a lot of help in some places for small plants, including the USDA.

Converging Elements

- Small-scale/ Mid-scale
- Local/ Organic
- Food safety policy
- Rural development (jobs, infrastructure)

There are, of course, distinctions between local and organic. There is no definition of “local” for most purposes. There is a question about how many pasture-raised meat producers will opt to be certified organic, and how complicated and expensive that decision is.

Another element is food safety policy. There are many ideas to tighten food safety in play right now. I will talk about a few of them at the end of this presentation. Which ones will affect meat processing in ways that benefit grass-fed or small scale production is difficult to tell right now.

Finally, this is all occurring in the context of rural development. Most rural development resources are targeted to businesses that will generate a larger number of jobs. In some cases this will increase the difficulty of finding money to develop or refurbish small scale processing plants. But other criteria may improve the chances of finding money. For example, Native American projects are eligible. One interesting idea is to build processing plants in joint ventures with tribes because it provides a form of revenue for the tribes. It also may be easier to work out the regulations when the plants are on sovereign land. Some state departments of agriculture are very helpful in finding resources.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Major Issues

- Infrastructure
- Federal/ State inspection
- HACCP demands, costs
- By-products
- Inspectors
- Labels

The major policy issues for local and regional processing start with infrastructure. It's scant for small and very small processing. With regard to financing, as I talk to people I am hearing it is difficult to find investment capital for new plants or upgrades of old plants, because the capital costs of either retrofitting or starting a new processing plant are extremely high. I think a lot of farmers that form groups to develop processing capability are surprised at how high the costs are.

There are state and federal grant programs to offset costs. For example, you can get money in designated "distressed areas". State departments of agriculture have some funding. There are Worker Retraining grants that can help train processing employees. There are Industrial Development Corporation and Economic Development Authority resources. There are the Value-Added Producer Grants at USDA. There are USDA guaranteed loans. But I heard from people engaged in development on the ground that in many cases funding from all those sources is still not enough.

Infrastructure

- Scant
- Financing
- NIMBY
- Labor

There is another infrastructure issue of NIMBY (Not In My Back Yard). Processing plants are not wanted in many areas, especially plants that plan to include a rendering operation. If people want to bring meat processing back into an area, there is a lot of work to do to get the residents to recognize how useful this can be economically and socially. Groups also need to procure enough funds to purchase the technology that can reduce the amount of noise, smells, etc.

Finally, there is a labor question. Training is needed to develop a new pool of meat slaughterers and processors. Maybe this means new vocational agriculture programs, apprenticeship programs, etc., to offer this training.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Federal & State Inspection

- Division
- "Equal to" clause
- State → Federal
- Processor interest

The next policy issue category is quite an intensive one. There are state inspection programs right now in 26 states. These must be "equal to" the USDA Federal program in terms of what they can do and certify. But, as you all know, state inspected meat can be sold only inside the state. You have to be USDA inspected to sell products across state lines. The state inspection programs are a shared cost (50/50) program with the Feds.

There were national legislative attempts in both 1996 and 2000 to allow state inspected meat to be sold interstate. But each time the bill came up in Congress, the American Public Health Association, most of the food unions, and all the consumer groups lobbied strongly against it because they perceive, correctly or incorrectly, that state inspection is not as good as federal inspection. This means that it will be perceived that you are weakening food safety if you push for the ability to sell state-inspected meat across state lines. Also, there are a number of recent activities within USDA that would weaken the state authority, even though state inspectors get really high marks from a lot of people in doing a better job than USDA inspectors. Part of the explanation is that inspectors at the state level give a lot more time, are really interested in small plants, and give a lot of technical assistance which the USDA inspectors will not give. One can conclude there is a need for more state programs, but the fiscal deficit in the states is making it very hard for state departments of agriculture to propose this.

There is another issue. In a study done by the North Central Initiative at University of Nebraska, over 40% of mainly very small respondents (there was a very low return rate of surveys) said they had no interest in becoming USDA inspected because it was too much of a hassle.¹

¹ Food Processing Center, Institute of Agriculture and Natural Resources, University of Nebraska-Lincoln. "Meat Processor Survey Results: Developing Producer & Small Processor Owned Meat Marketing Enterprises." Prepared for the North Central Initiative for Small Farm Profitability. May 2004. Available online at <http://www.farmprofitability.org/research/process/process.htm>.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

The third major policy issue is the Hazard Analysis and Critical Control Point (HACCP) regulations. All meat slaughter and processing plants have been required to implement a HACCP program that was completed in the year 2000. An Economic Research Service (ERS) report this spring was very informative about the costs of implementing the HACCP system and the imbalance in costs between small and large processors.² The Food Safety Inspection Service (FSIS) at USDA grossly underestimated how much it would cost to implement HACCP. In 1996 they said the cost for the industry as a whole would be \$50 million a year. ERS estimated that it actually cost \$623 million per year to fully meet the HACCP requirements. Obviously, the largest amounts of those costs were and are borne by the largest plants, but the fact is that smaller plants had to pick up a disproportionate amount. Small plants reported that the most costly component was developing the plans. Easing the HACCP burden on very small and small processing plants is a clear recommendation. There is quite a bit of technical assistance given by Food Safety Inspection Service (FSIS) through direct and indirect means to small and very small firms, but that doesn't help on the money end.

HACCP (Hazard Analysis and Critical Control Points)

- Requirements
- Costs
- FSIS assistance

² Ollinger, M., Moore, D., and R. Chandran. "Meat and Poultry Plants' Food Safety Investments: Survey Findings." United States Department of Agriculture (USDA) Economic Research Service (ERS) Technical Bulletin Number 1911. May 2004. Available online at <http://www.ers.usda.gov/publications/tb1911/>.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

By-products

- Sales, markets
- BSE
- Waste disposal (FDA, USDA)

The next major policy issue around smaller scale processing is by-products . Small, usually state inspected plants have a very hard time competing in the hide and offal markets. That is where the positive or negative margin is, in getting rid of or selling the by-products. There is too small a volume generated in the smaller plants, and there is not a premium on organic, pasture-raised or anything else for hides or offal. If you can't render leavings to go into a different market, you have to pay people to remove it. That adds a cost to the operation.

Therefore the edible meat has to bring a much higher price in the market, which makes the differential between conventional and pasture-raised or organic meat so much higher. A study of this problem suggested that the best market for the by-products was organic pet food.³ That was a surprise to me, but apparently it is a lucrative and growing market.

Finally, the Bovine Spongiform Encephalitis (BSE) scare should help pasture-raised and organic producers, but in some cases it may still increase costs to comply with the additional regulations that are coming down the road to deal with BSE. Trading partners, particularly in Japan and Europe, are putting tremendous pressure on the USDA to make sure that they are doing everything they can to keep "mad cows" out of the market.

The next policy issue is inspectors. There is a cost for increasing the number of inspectors, and state budgets will have a hard time bearing this cost. There are a lot of complaints about USDA inspectors hassling small plant owners. This problem may be unique to some areas of the country. There is a directive from FSIS that inspectors are not supposed to hassle people. It's probably not enforced all the time, but it is there. Making all plant owners pay user fees for inspection has been broached frequently. It's going to come up again because of the budget deficit.

Inspectors

- Availability (e.g. mobiles)
- Overtime
- User fees

³ Clause, R., Holz-Clause, M., Durhkopf, S., Johnson, A.S., Parker, R., Schultz, M., and C. Tordsen. "Co-location of industries with small livestock slaughter facilities in the Midwest." Iowa State University Extension Value-Added Agriculture Program. November 20, 2003. Available online at http://www.foodmap.unl.edu/report_files/colocation.pdf.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Labels

- Claims
- Costs
- Definitions

The final policy issue is labels. Most of the possible label claims that folks want to make about grass-fed or pasture-raised are not yet substantiated. With more research and testing, maybe that will change. If producers want to make claims they have to be USDA-inspected and USDA-approved for the claim. They must also apply a nutrition label if they are going to make a nutrition claim. The labels themselves cost a lot of money, which is another burden for a small packer.

You have to do your own testing for nutrient content, which is also very expensive. So I don't see nutrient claims for pasture-raised products coming down the pike very soon. People may want to use the grass-fed or pasture-raised label and let the literature and the news stories carry the claim. However, that's a little dangerous because many of those news stories are not accurate. There is apparently a grass-fed standard on the way from the USDA. Looking at some of the early discussion, I'm not sure it's going to cover a lot of the areas that people might hope would be covered.

How Well Do Current Laws Fit Local/Regional Processing Needs?

Kate Clancy, Ph. D.

Let me conclude with a set of policy and marketing suggestions. We need more work on anti-trust, but that's a given and probably not going very far over the next four years.

1. More state inspection programs would be very helpful, if funds for start-up and operation can be found.
2. Push the federal legislation to make state inspection equivalent to USDA inspection so that state inspected meat can be sold interstate. This will likely require considerable consumer education.
3. Lower HACCP costs in most cases. The ERS study shows that there has to be less paperwork, which is the major cost to small scale producers.
4. Lower the inspection costs, spreading inspectors over many more areas within a state as is done in some states right now.
5. Good standards for pasture-raised products.
6. More capital for new and retreading of small and mid-sized processing plants.
7. More research on cost and returns to producers with local and regional processing.
8. Use food safety as part of the product differentiation. This is being done a bit in the major fast food markets. If we are going to use food safety as a differentiating claim, then we need quite a bit more research on the safety of pasture-raised meat. We cannot just ask people to accept it as true, we have to do the testing to prove that it is true.
9. Stop the National Uniformity for Food Act. This is a really serious and problematic plan that came out of the U.S. House of Representatives. It would do something that a lot of the industry has wanted to do for decades, and that is preempt all state and local laws on food safety and make the U.S. standard the required standard. That would cause a lot of problems around many of the issues we are talking about.
10. Engage with the proposed legislation that Senator Durbin and Representative DeLauro put in the hopper at the close of the last Congressional session to develop a single food safety agency. That could cause serious problems for the things we are talking about here, because it is unclear whose standards would be used, the Food and Drug Administrations (FDA) or USDA's. They are very different on meat products. If FDA's standard is used in a single food safety agency, it would make it much more difficult for smaller scale processing to proceed.

Conclusions & Recommendations

- Push federal legislation on state inspection
- Communication among groups
- Communication with consumer advocates
- Division of markets
- Address everything else!