



Food safety regulation and small processing: A case study of interactions between processors and inspectors



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ABSTRACT

As interest in small-scale food processing increases, so does interest in assuring that food safety regulations accommodate rather than hinder small processors. Some practitioners and advocates charge that regulations are unfairly slanted against smaller producers and favor large food manufacturers. Studies of regulatory implementation have suggested that inspection practices offer possible policy accommodations to small food businesses. Yet there has been little research on food safety inspections of small processors. This article describes a study of food safety inspections of small processors in the US state of Michigan. Interactions between inspectors and processors were explored using a qualitative ethnographic approach. Results indicate that these interactions have the potential to achieve accommodative regulatory outcomes. Inspectors took a collaborative, assistive approach which appeared to benefit processor operations as well as improve compliance. These results have implications for policymaking for small processors, and they lay the groundwork for further research on food safety regulatory implementation.

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Introduction

Small-scale¹ food processing enjoys rising popularity in the US and other industrialized countries. To scholars and practitioners critical of mainstream food production, products hand-crafted at a small scale for local markets embody tradition and offer authenticity in an increasingly global food system (Gralton and Vanclay, 2009; Paxson, 2012; Terrio, 2000).² To economic developers, small food business ventures represent income and employment opportunities (Bianchi, 2001; Blay-Palmer and Donald, 2006; Knudson et al., 2004; Tregear, 2005). Small processing attracts diverse practitioners; it is touted as a means of adding value to farm produce, and professionals from many backgrounds forge second careers as food entrepreneurs (Alonso and O'Neill, 2011; Ecker et al., 2010; Padilla-Zakour, 2004; Paxson, 2012).

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¹ The US Small Business Administration defines a *small* business as employing fewer than 500 people. In the EU, *medium* businesses employ 50–249 people and *small* businesses employ 10–49. This paper reports on research involving food processing businesses with fewer than 100 employees and uses the term *small*.

² Growth in small processing broadly accompanies the rise of “alternative” food systems that emphasize small-scale, local, artisan, and/or specialty production. While there are distinctions among each of these concepts, they overlap and are used virtually interchangeably in some studies, e.g., van Stel et al. (2007).

Some advocates of this trend charge that food safety regulations discourage small processors, alleging that regulations are both unnecessary and unduly burdensome for them (DeLind and Howard, 2008; Sage, 2007; Worosz et al., 2008). There is evidence that regulations pose barriers to entry that favor large food manufacturers (Antle, 1996; Klapper et al., 2006). Small business owners may find regulations difficult to understand, lacking both the time to interpret requirements and the resources to hire outside expertise (Clayton et al., 2002; Walker et al., 2003; Yapp and Fairman, 2006). Some advocates of regionalized food production dismiss regulatory requirements as superfluous, arguing that smaller operations pose fewer risks than do larger-scale food manufacturing facilities and that oversight is less necessary when processors and consumers are familiar with each other, such as in direct markets or other short supply chains (Holloway and Kneafsey, 2000; Paxson, 2008; Sage, 2003).

Understanding how small processors experience the regulatory process and its outcomes requires understanding the implementation of food safety regulations during facility inspections. Facility inspections by public agency personnel represent a primary means of evaluating compliance with food safety requirements in industrialized countries (Fortin, 2009; Hammoudi et al., 2009; Hobbs et al., 2001; Yapp and Fairman, 2006). This is true particularly for many small processors, whose primary (and often sole) food safety oversight is through governmental inspections, even as self-regulatory and private food safety regimes proliferate in food

manufacturing (Havinga, 2006; Henson and Reardon, 2005; Mensah and Julien, 2011).

Inspection practice may accommodate small processors. Investigation of regulatory implementation foregrounds outcomes and interpersonal dynamics that may not be apparent in written requirements. The discretion and interpretive flexibility that inspectors exercise, interactions between inspectors and regulated parties, and the experiences that each brings to inspection situations substantively shape regulatory outcomes (Hutter, 1989; May, 2005; Pautz, 2009b; Yapp and Fairman, 2006). However, criticisms of regulation have focused largely on technical requirements promulgated in written rules. There has been little research on food safety inspections among small processors in industrialized countries,³ and virtually none in the US (Law, 2006). Investigation has been directed toward the barriers that business owners report rather than toward empirical observation (Edwards et al., 2004). Inspectors' experiences regulating small food businesses have not been researched. In short, a better understanding of interactions between inspectors and small processors is needed to address concerns about the food safety regulation of small processors.

As this paper will argue, inspector–processor interactions have the potential to shape regulatory outcomes to accommodate small food processors. Outcomes of food safety inspection extend beyond matters of regulatory compliance as many inspectors take an assistive approach. Inspectors take into account a business's broader context when determining and reporting violations. Positive interaction between inspectors and processors appears to improve both compliance and processing operations. These results have implications for policymaking to accommodate small processors, and they raise questions about the licensing exemptions promulgated as policy solutions in the US. The results may also contribute to regulatory assessment and to a reappraisal of inspector roles.

This case study examines interactions between food safety inspectors and small processors in the US state of Michigan.⁴ It draws on two areas of study that are explored in the following sections: research on small business experiences of food safety and other public health regulation, and implementation studies. The study's qualitative ethnographic approach and methods are then presented. The results of the research follow and are organized around the development of processor–inspector relationships, the advisory role that inspectors assume, and the consequent flexibility and mutual accommodation that characterize many of their interactions with small processors. The article concludes with observations on the research method and implications for policy and further research.

Small businesses and public health regulation

Three issues are critical to investigating small food processors' experience of regulation. First, interpreting and implementing regulations require expertise, time, and financial resources that many small business owners lack (Fielding et al., 2005; Walker et al., 2003; Worosz et al., 2008). Those who do have resources to employ specialists may nevertheless be reluctant to delegate these responsibilities (North et al., 2001). Without expertise in interpreting regulations, small business owners may not understand the relevance of requirements to their operations. Yapp and Fairman (2006), for example, found that small food business owners did not understand the connection between structural maintenance

requirements and food safety. Similarly, in research by Clayton and colleagues, small food business staff underestimated the risk levels of their products and only partially implemented sanitation requirements (Clayton and Griffith, 2004; Clayton et al., 2002). Consequently, small firm compliance tends to be reactive as owners respond to inspector directives, in contrast to the more proactive compliance practices of larger firms (Henson and Heasman, 1998; Yapp and Fairman, 2006).

Second, these practical constraints are compounded by a perception of unfairness, a sense that regulations are formulated in scientific and political processes that are each stacked against small businesses. There is evidence that requirements raise entry costs and make it more difficult for small businesses to start up and to grow (Antle, 1996; Klapper et al., 2006). Small business owners see regulations as impacting their operations disproportionately compared to large business and compared to the risks that they feel their operations actually pose (Petts, 2000). Regulatory standards are seen to reinforce the technologies and practices of larger-scale production. For example, specialty meat producers who do not use the veterinary drugs common in large-scale production are nevertheless required to monitor for these residues (Worosz et al., 2008). The influence of larger, more politically powerful interests on regulation is well documented (Nestle, 2010; Sage, 2007; Stigler, 1971).

Third, however, studies also suggest a more sanguine view of small business experience of public health regulations. Regulations may prompt business owners to internalize improved practices. Williamson et al. (2006) found that regulations helped drive small businesses to adopt resource-saving practices (cf Petts et al., 1999). Inspectors may play a critical role in helping businesses achieve these benefits by interpreting requirements and providing information and assistance (Elgood et al., 2004; Worosz et al., 2008; Yapp and Fairman, 2006). The next section further explores this dynamic by reviewing research on the implementation of food safety and other public health regulations.

Regulatory implementation

Inspection practices have the potential to accommodate small businesses, as studies have shown in the US (May and Wood, 2003; Scholz and Gray, 1997), UK (Fairman and Yapp, 2005a; Griffith, 2005; Hutter and Amodu, 2008), and Australia (Braithwaite et al., 1987; Nielsen and Parker, 2012). Facility inspections provide a primary food safety compliance mechanism⁵; regulations are operationalized, and technical requirements are translated into concrete outcomes, in interactions between inspectors and the clients they inspect. Although food safety requirements are specified in laws and regulations, many requirements are broadly stated and require inspector interpretation within the context of specific facilities. The US FDA regulation on good manufacturing practice, for example, states that cleaning compounds and sanitizing agents “shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use” (21 CFR § 110.35(b)(1)). EU regulations state that “adequate facilities are to be provided, where necessary, for the cleaning, disinfecting and storage of working utensils and equipment” (Regulation (EC) No 852/2004). Law is “made” as inspectors interpret and implement these requirements, just as it is made in more formal policymaking processes (Commons, 1924; Lipsky, 2010 [1980]).

Regulatory outcomes are shaped by inspector approaches to implementation. Approaches vary, and different approaches may generate different regulatory outcomes in otherwise similar

³ For exceptions, see work in the UK by Fairman and Yapp (2005a,b), Yapp and Fairman (2006) and Henson and Heasman (1998).

⁴ Food processors are regulated at a minimum by state-level agencies in the US. State food laws are based on federal regulations. Michigan food law is similar to that of other states.

⁵ Including in the US (Fortin, 2009), EU (Goodburn, 2001), UK (Griffith, 2005; Hutter and Amodu, 2008), and Australia (Braithwaite et al., 1987).

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