

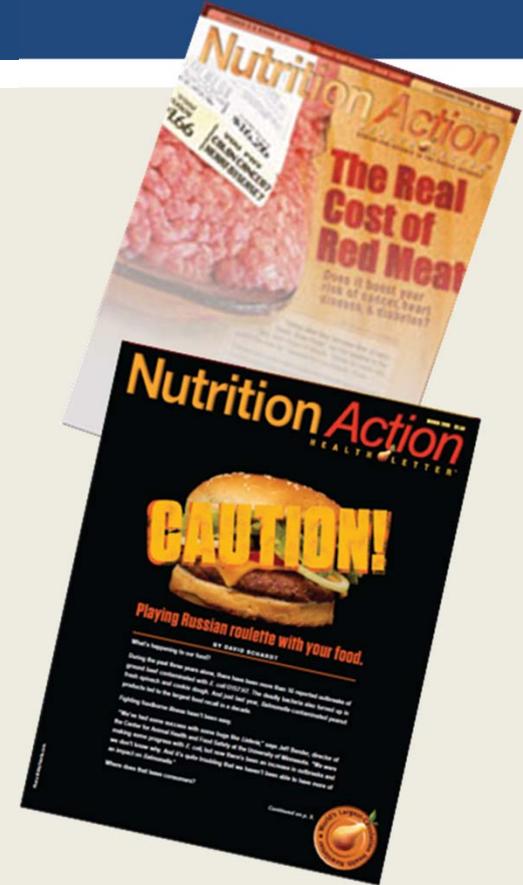
PRODUCE SAFETY & FSMA: UNPACKING THE PROPOSED RULE

**Sarah Klein
Senior Attorney
Food Safety
Program, CSPI**

**For USDA
Agricultural
Outlook Forum
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CENTER FOR SCIENCE IN THE PUBLIC INTEREST

- CSPI is a bi-national consumer advocacy organization founded in 1971 by Michael Jacobson, Ph.D.
- Focuses on nutrition, health, and food safety.
- Publishes the award-winning *Nutrition Action Healthletter*.
- Represents over 850,000 members in the United States and Canada.
- Accepts no government or industry funding.



THE BIG PICTURE

MEETING CONSUMER EXPECTATIONS FOR FRESH/WHOLE PRODUCE

- Outbreaks erode confidence, and over time reinforce concerns about safety.
- Consumers rarely differentiate between producers of similar produce items when responding to news of an outbreak.
- Safety during production is a responsibility of the produce industry, but government oversight is vital to create a level-playing field that protects the whole industry.

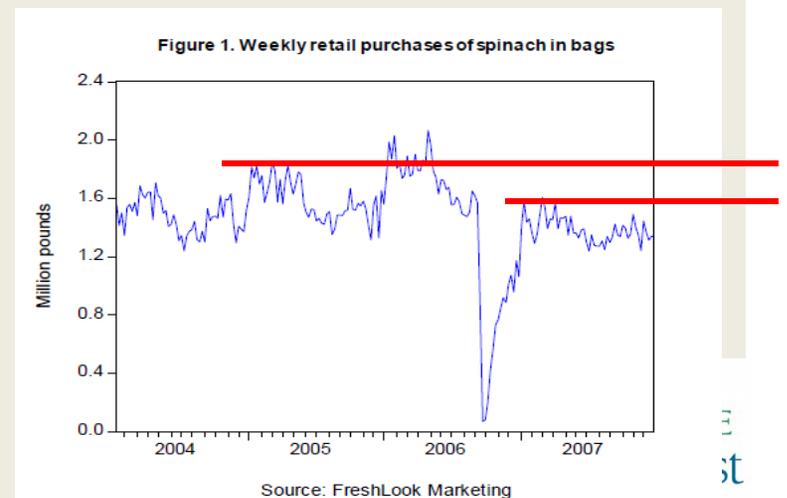
IMPACT OF OUTBREAKS ON MARKETS

- **Lessons from the tomato warning of 2008**
 - One-third of those who ate tomatoes before the warning stopped after hearing it
 - Almost half of respondents could not identify the affected tomatoes
 - 23% had not returned to eating tomatoes at the time of the interview

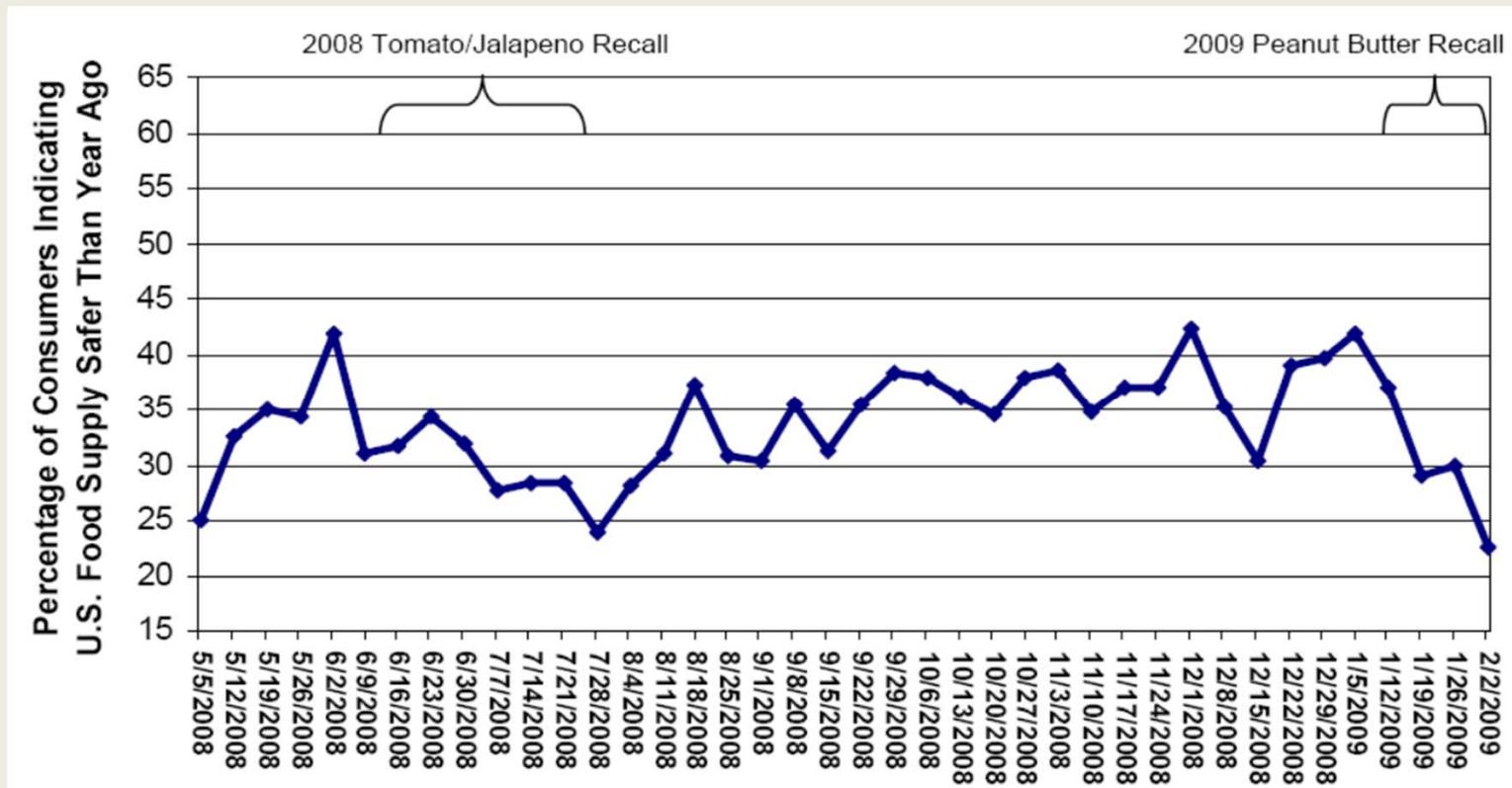
Source: Rutgers Food Policy Institute 2009

- **Spinach recall of 2006**
 - 71% stopped buying spinach and 16% stopped buying lettuce

Source: Food Marketing Institute 2007



OUTBREAKS DRIVE DECLINING CONFIDENCE NUMBERS



WHO CONSUMERS HOLD RESPONSIBLE FOR SAFETY

- **Ranking responsibility for ensuring safety**
 - 41%: companies that wash and package produce
 - 41%: government food safety agencies
 - 36%: food growers/farmers

Sources: July 2008 Pew Food Safety Survey

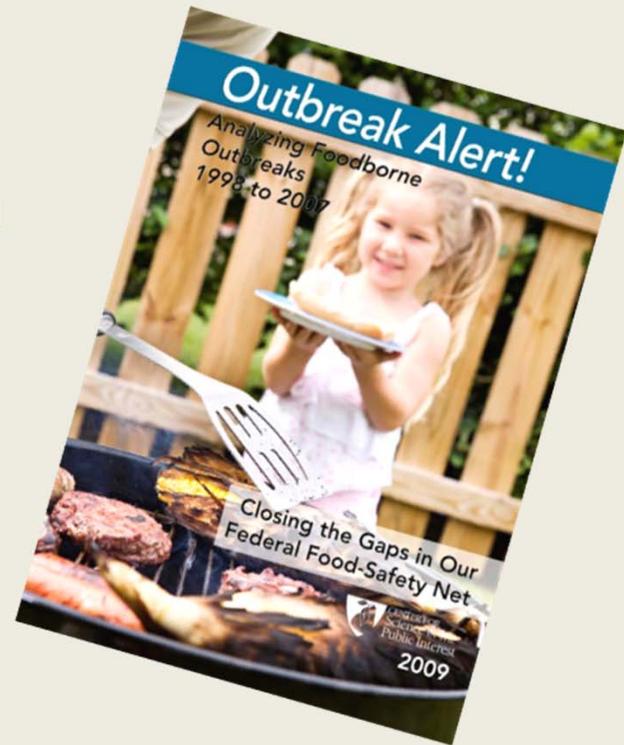
- **Government oversight strongly backed**
 - 89% support more government authority to require safety measures
 - 90% support federal standards for produce growers

Sources: July 2009 Hart Research

CSPI'S FOOD SAFETY ATTRIBUTION DATA

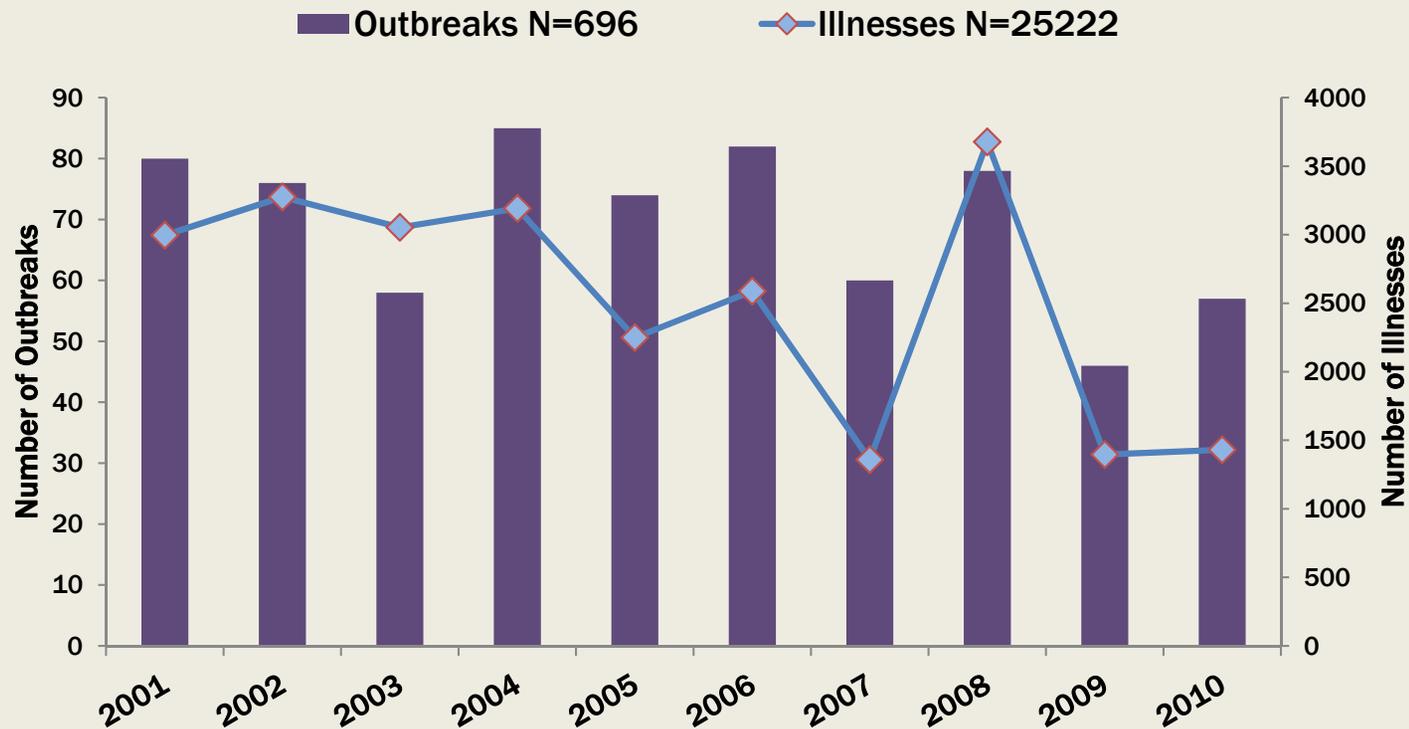
CSPI maintains an outbreak database and publishes the annual report, *Outbreak Alert!*, a source of useful information for:

- Food safety risk rankings
- Government risk assessments and regulatory proceedings
- Industry hazard analysis



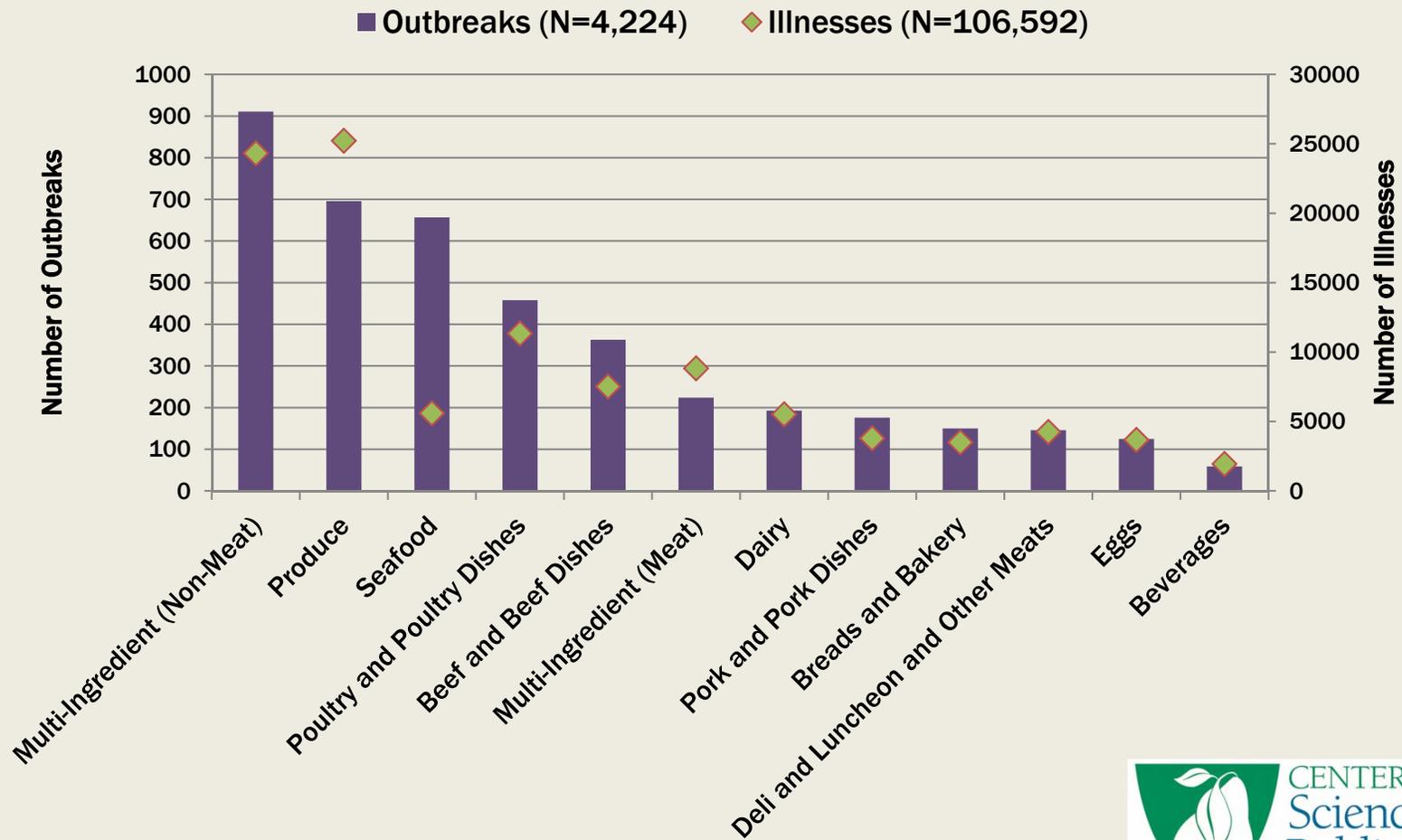
PRODUCE-RELATED OUTBREAKS & ILLNESSES

Produce Outbreaks

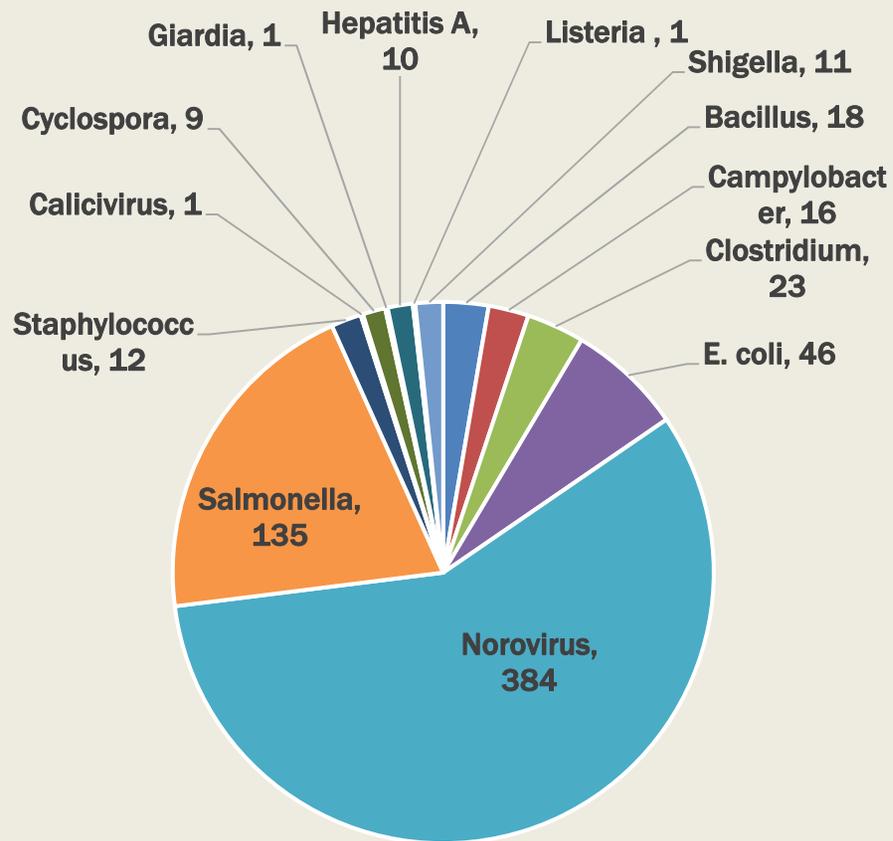


PRODUCE V. OTHER FOODS

AVERAGE ILLNESSES PER OUTBREAK 2001-2010



TOP HAZARDS IN PRODUCE



**Pathogens in Produce,
2001-2010,
Outbreaks=667**

Source: CSPI Outbreak Alert! Database

HOW TO TARGET TESTING

Riskiest Produce 2001-2010

	Outbreaks	Illnesses	Pathogen #1	Pathogen #2
Greens-based salad	221	5,373	Norovirus	<i>E. coli</i>
Lettuce	117	3,455	Norovirus	<i>E. coli</i>
Fruit salad and mixed fruits	51	1,911	Norovirus	<i>E. Coli</i>
Tomatoes	41	4,859	<i>Salmonella</i>	Norovirus
Salsa	41	1,539	Norovirus	<i>Salmonella</i>
Melon	29	1,593	<i>Salmonella</i>	Norovirus
Sprouts	29	872	<i>Salmonella</i>	<i>E. coli</i>
Chili Peppers	7	1,662	<i>Salmonella</i>	<i>Clostridium</i>

Outbreaks N= 536

Illnesses N= 21,264

Source: CSPI Outbreak Alert! Database



AWAITING REFORM, OTHER SCHEMES FOR PRODUCE

- As requirements under FSMA languish, other entities have developed guidelines and standards. For example:
 - Codex 2003 Code for Fresh Fruits and Vegetables
 - Western Growers Guidelines for Lettuce and Leafy Greens
 - AFDO Model Code for Produce Safety
- Consumer-facing certification programs may follow, and may focus on more than only food safety: such as environmental sustainability and labor...

PRODUCE UNDER FSMA

- Food Safety Modernization Act will require **SCIENCE-BASED MINIMUM STANDARDS**, for:
 - Soil amendments
 - Hygiene
 - Packaging
 - Temperature controls
 - Animals
 - Water
- After 2 long years of waiting...they're here!

THE “WHAT”

- What is covered?
 - Commodity specific based on outbreak data
 - Commodity specific based on commodity characteristics
 - Market channel approach
 - **Integrated approach: likelihood of contamination posed by agricultural practices applied to the crop, while exempting the lowest-risk produce**
- **Integrated approach is most likely the best option... but we do have some concerns**
 - List is “exhaustive” and etched in regulatory stone
 - List contains some items that we believe are inappropriate:
 - For example, kale, beets, and potatoes

THE “WHO”

■ Qualified Exemptions

- FDA should make clear that inspectors will check records to ensure that you are a qualified farm; a failure to have records creates a presumption that you are not qualified for an exemption.
- State law still applies: although some question as to which state law applies across state laws within the mileage range
- Strong incentive to compliance, since causing problems = loss of exemption.

■ Labeling of Produce from Exempt Farms

- Recognizing that the statute requires a single label with name and business address of farm...
 - There may be an argument that there is a deficiency in the statute that FDA should correct, by requiring additional language on that single label to clarify for consumers that the produce was grown on a farm “Not Subject to Federal Food Safety Regulations”

PLANS, RECORDS

- **Written plan not required**
 - **CSPI believes at the very least, farms should have a written hazard analysis**
 - Shows that farms are considering hazards that directly confront their operation, whether those are unique within the farming community or common to all;
 - Provides a farm-specific roadmap for inspectors to follow when assessing what each farm is doing to comply

- **Alternatives (aka Exceptions that Could Swallow the Rule)**
 - **FDA proposing to allow farms to create alternative compliance methods for certain things: for example, testing water, composting, application intervals.**
 - **While farms must theoretically have a scientific basis for the alternative... we'd like more than that:**
 - Formal notice of intent
 - Periodic notice from agency of alternatives, success, etc.
 - Trigger for withdrawal of acceptability

TESTING & COMPLIANCE

- Looking closely at requirements for testing
 - Environmental testing: just for Listeria, or for other pathogens of concern?
- “Standards Directed to Sprouts and Other High-Risk Products”
 - Are sprouts the only commodity?
- Monitoring for Compliance
 - Without enforcement, these standards are meaningless.
 - FDA needs to develop a robust program similar to the one proposed for manufactured food... may include working with state ag departments and others to ensure compliance.

FARM WORKERS

- CSPI's position on farm worker issues writ large:
 - Both a human rights and a food safety issue
 - Intend to take the requirements for farm worker health and hygiene very seriously, including, for example:
 - Definition of "readily accessible" toilet facilities
 - Decision to exempt toilet provisions for employees working in-field for 3 hours or less
 - Additional issues that impact whether farm workers can be reasonably expected to carry out food safety oversight tasks during harvest.
 - Timelines for implementation of farm worker-related provisions...

OVERALL

- The rule looks good!



THANK YOU!

Sarah Klein
Center for Science in
the Public Interest
1220 L St., NW Suite 300
Washington, DC 20005
Phone: (202) 777-8339
Fax: (202) 265-4954

E-mail: sklein@cspinet.org
On the internet: www.cspinet.org
and
www.safefoodinternational.org

