

# From Produce To Playtime: Modern Farms and Risk Management Considerations



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## We'll Discuss

- Farmers markets
- Roadside stands
- Direct sales to consumers
  
- WHAT? There's a problem with my product?
  
- Where can Risk Management help?



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# From The 2022 USDA Farm Census



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## USDA "Farm" Definition

- Any place from which \$1,000 or more of agricultural products (crops or livestock) were produced and sold, or normally would have been sold, during a given year



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## Farm Ownership

- Family farms comprise 95% of all US farms
- What's a "family farm"?
- Any farm where the majority of the business is owned by the producer and individuals related to the producer



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## Based On Two Criteria

- This definition and the new typology rely upon two basic criteria
- Who owns the operation
- GCFI –gross cash farm income
- GCFI includes the producer's sales of crops and livestock, fees for delivering commodities under production contracts, government payments, and farm related income



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## Why This Viewpoint

- “Classifying America’s 1.9 million farms to better reflect their variety is critical to evaluating and reporting on U.S. agriculture,” said NASS Administrator Joseph Parsons.
- “Typology allows us to more meaningfully explore the demographics of who is farming and ranching today as well as their impact on the economy and communities around the country.”



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## What We Know

- Farms with a GCFI of less than \$350,000 per year, account for 85% of all U.S. farms, 39% of total land in farms, and 14% of the value of all agricultural products sold.
- Large-scale family farms (GCFI of \$1 million or more) make up less than 4% of all U.S. farms but produce 51% of the value of all agricultural products.



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## Fewer Farms

- Number of family farms decreased by 8% (almost 159,000 farms) since 2017.
- Mid-size, large, and very large farms experienced increases of 2%, 40% and 65%, respectively.
- The number of small family farms fell 10% (low sales) and 7% (moderate sales)



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## Other Findings

- Specialization
- Direct sales
- Small family farm findings



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## Specialization

- Farm specialization varied between the farm size groups.
- The majority (56%) of small farms specialized in cattle (31%) or other crops such as hay and forage production (25%).
- Over 60,000 (55%) of mid-size farms specialized in grains and oilseeds, while large-scale farms were more varied in production specialization



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## Small Family Farms

- Small family farms account for 44% of all direct sales to consumers
- Compared to 18% for mid-size family farms
- 19% for large-scale family farms.



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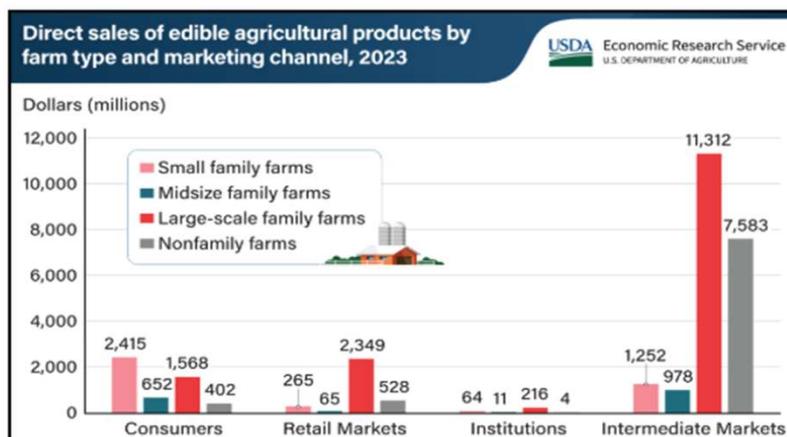
## Small Farm Ownership

- Compared to producers on mid-size and large-scale family farms, small family farm producers are more likely to be women, age 65 or older, and report living on the farm operation.
- They were also more likely to report having served in the military, to work off the farm, and to be a new/beginning farmer (farmed 10 years or less)



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## Over \$ 12.4b Worth Of Food Sold



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## More Data – Farm Sizes 2023

- Small family farms sold \$2.4 billion worth of food commodities directly to consumers through outlets such as farmers markets, farm stands, and community-supported agriculture (CSA)
- A small family farm is an operation with a gross cash farm income (GCFI) under \$350,000, where most assets are owned by the producer, their household, or relatives.



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## More Data – Farm Sizes 2023

- Midsize family farms, having a GCFI between \$350,000 and \$999,999, and nonfamily farms of any size reported far less in direct-to-consumer sales, at \$652 million and \$402 million, respectively.
- Instead, nonfamily farms sold the bulk of their edible products, valued at \$7.6 billion, through local or regional intermediate markets such as local distributors or wholesalers.
- Large-scale family farms, those with a GCFI of at least \$1 million, used retail markets (\$2.3 billion) and intermediate markets (\$11.3 billion) to sell locally or regionally branded foods



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## Sales Based On Size

- Small family farms
  - 44% of direct sales to consumers
- Midsize family farms
  - 18% direct to consumers
- Large family farms
  - 19% direct to consumers



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## Farm Growth Since 2017

- Small family farms decreased by 10%
- Mid sized increase by 2%
- Large farms increased by 40%
- Very large farms increased by 65%



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## Farm Size Definitions

- **Small** family farms – GCFI less than \$350,000
- **Midsize** family farms – GCFI between \$350,000 and \$999,999
- **Large** family farms – Farms with GCFI between \$1,000,000 and \$4,999,999
- **Very large** family farms – Farms with GCFI of \$5,000,000 or more



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## Nebraska Data – 2022 Census

- 44,479 farms
- 1-9 acres = 2,956
- 10 – 49 = 7,465
- 50 – 100 = 4,373
- 100 – 259 = 8,441
- 260 – 499 = 5,628
- 500 – 999 = 5,809
- 1000 – 1999 = 4,450
- 2000 + = 5,357



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## Top 5 Counties

- Cuming                      5.1 % of state receipts
- Custer                      3.6 %
- Lincoln                     3.4 %
- Dawson                    3.39 %
- Platte                      3.1 %



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## Top 5 Agricultural Exports (2023)

- Soybeans
- Beef & Veal
- Corn
- Feeds & other feed grains \*
- Soybean Meal



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## Cash Receipts Basis (2023)

- \$16 billion      Cattle & Calves      15.9% US
- \$8.5 billion      Corn      11.1% US
- \$3.6 billion      Soybeans      6.3% US
- \$941 million      Hogs      3.5% US
- \$360 million      Broilers      .8 % US



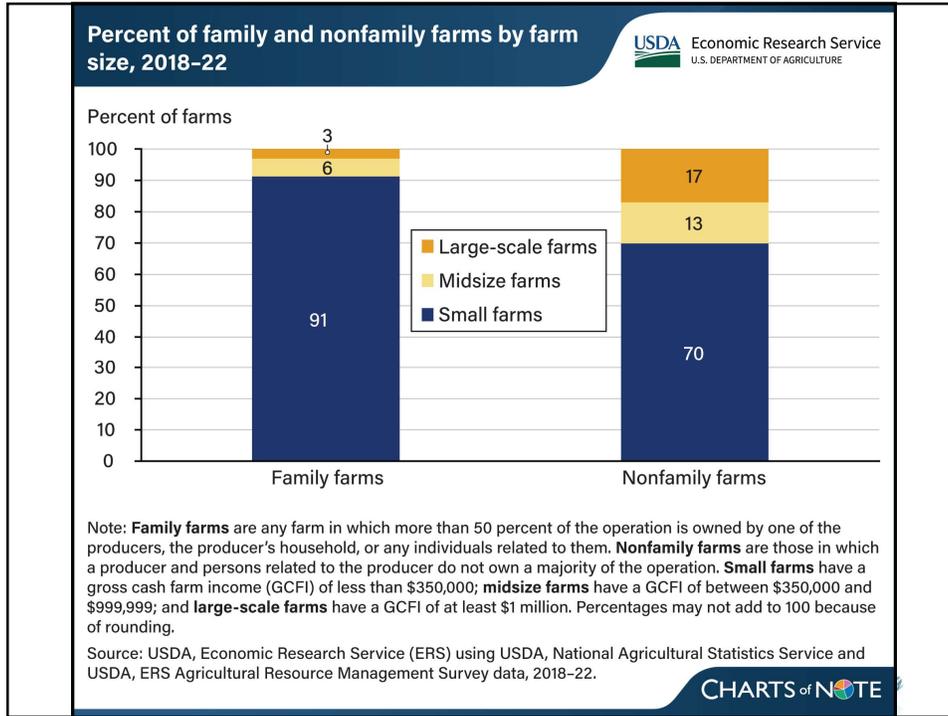
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## Farms By Typology

- Small      GCFI less than \$150k      24,490
- Small      GCFI \$150k – \$349,999      5,918
- Medium      GCFI \$350k - \$999,999      6,527
- Large      GCFI \$1mil - \$4,999,999      4,002
- Large      GCFI \$5 million plus      471
  
- Non-Family farms      3,069



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# Direct Sales

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## Three Primary Considerations

- Farmers markets
- Roadside stands
- Direct Sales to consumers - CSAs



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## Farmers Markets

- Located in town
- Essentially a small space rental
- Transportation of farm products to/from the location
- Proof of liability often required
- This is an uncontrolled premises exposure



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## Nebraska Dept. of Agriculture

- Two key items of which we should be aware
- Requirement: No person shall operate a food establishment without a valid permit which sets forth the types of operation occurring within the establishment.
- A 'food establishment' is an operation that stores, prepares, packages, serves, sells, vends, or otherwise provides food for human consumption.



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## No Permit – No Problem

- Fresh whole, uncut fruits and vegetables
- Baked goods \*
- Traditional jams and jellies \*
- Eggs from local producers (45 degrees or lower)
- Canned pop & commercially packaged snack items
- Fresh or dried herbs
- \* Placard required stating the food was prepared in a kitchen not inspected or regulated by authorities



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## No Permit - PROBLEM

- Home canned products such as meat, fruits, vegetables (green beans, tomatoes), pickles (all low acid canned foods)
- Salsa
- Raw (unpasteurized) milk and/or cheese and yogurt made from unpasteurized milk
- Meat, poultry, game meat
- Cheese
- Cream pies and other dairy based filling pies



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## No Permit – PROBLEM (cont.)

- Butter type spreads (example: apple butter), jams and jellies that have jalapeno or other added ingredients; vegetable jellies such as rhubarb jelly made with pectin, not gelatin, is allowed to be sold without a permit
- Any food that due to the interaction of pH and aW (water activity) will not control the growth of vegetative cells and spores of pathogenic microorganisms



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## Roadside Stands

- Simple table next to road – manned or not
- Could be a building with a POS system
- Often it is more of a seasonal approach to sales
- Sells their products – and – products of others
- Another premises exposure, but controlled



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## Community Supported Ag (CSA) Two Primary Types

- 1. Buy a box of produce
  - Could be the farmer's own products or commingled with others
  - Could also be...come by & pick up your box
- 2. Production Involved Operations
  - Might be a you pick operation
  - Could include planting, weeding, harvesting



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# Risk Considerations and Treatments



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## The RM Process

- Includes many steps
- Identification
- Analyzing the Impact
- Prioritization – frequency & severity based
- Developing treatment plans
- Mitigation/Transfer/Acceptance
- Monitoring and Review



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## What Is Being Sold

- Processed items
- Raw items
- Meat, fish, poultry, vegetables, fruits, et al



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## Produced By Whom

- Is it solely produced by our farmer
- If not – what controls has the farmer exerted
- Is there other liability insurance available to our farmer
- What proof of coverage does our farmer have



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## What Are They Promising

- GMO Free
- Organic
- All locally grown
- Chemical free
- Other benefits
  - Health related
  - Lifestyle benefits
  - Other



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## Legal Considerations Are Multiple

- Nebraska's Cottage Food Regulations
- First passed in 2019 under LB304
- PURPOSE:
  - Expanded the scope of allowable cottage foods and simplified the regulatory framework. The legislation allowed for non-potentially hazardous foods, such as baked goods, jams, and jellies, to be prepared in non-state inspected kitchens and sold directly to consumers at farmers markets and other local venues.



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## Expanded In 2024

- Nebraska further updated its cottage food law in 2024 with the passage of LB 262, or the Nebraska Pure Food Act, which expanded the items cottage food producers can sell, including some that require time and temperature control for safety (TCS)
- A TCS food requires time and temperature control for safety—either refrigeration or heat. A non-TCS food is shelf stable



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## WHERE Can I Sell

- Public events, like fairs and festivals
- At the producer's home
- Online or mail order (within Nebraska, or to states where it is legal to mail cottage foods)
- Delivered in person by the producer
- Farmers markets and roadside stands



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## WHERE Can I Not Sell

- Restaurants
- Retail stores
- Catering events or venues
- Wholesale outlets



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## Five Criteria To Know

- Education of the provider
- Well testing – water from a private well source
- Registration – Nebraska Dept. of Agriculture
- Labeling & Notification Requirements
- Food Handling and Safety



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## Direct Farm Business Considerations

- Farm Liability and CGL policies are a must
- Many (if not most) FL forms limit liability to farm premise operations
- Product concerns also come into play
- FL excludes coverage for items that have been processed
- Advertising injury issues
- Truth in Labeling might be an issue as well



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## Other Liability Concerns

- Processing of foods
- Storage of foods
- Contaminated foods



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# Food Contamination and Recall An Overview



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## Current Market Conditions

- It is a relatively soft market at this time
- Minimum premiums could be as low as \$2000 up to \$5000
- Limits of \$1,000,000 are readily available



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## Current Players – In No Specific Order Include

- AWAC, AXON, Beazley, Berkley, CFC (London), Chubb/Westchester, Crum & Forster, CV Starr, Dual, Euclid, Great American, Tokio Marine/HCC, Howden (London), Kinsale, MRM, SwissRe, Upland, Talbot, Lexington, AIG



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## Coverage Considerations

- As is common – it is a Dec driven coverage
- Coverage triggers could include
  - Accidental product contamination
  - Malicious product tampering
  - Adverse publicity
  - Government recall



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## Sample Dec Page

### 1.5 Limits of Liability:

|  |           |
|--|-----------|
| Recall and Contamination Expenses (including<br>Customer Recall and Contamination Expenses):   | \$        |
| Unsubstantiated Retailer Costs per 5.26(n):  |           |
| Pre-Recall and Pre-Contamination Expenses:   |           |
| Value of Contaminated Products:  | \$        |
| Lost Gross Profit:   | \$        |
| Rehabilitation Expenses:   | \$        |
| Increased Cost of Working:   | \$        |
| Extortion Costs:   | \$        |
| <b>Self-Insured Retention:</b>   | <b>\$</b> |
| <small>(Self-Insured Retention Does Not Apply to Extortion Costs, Pre-Recall and Pre-Contamination Expenses or Crisis Consultant Expenses)</small> |           |
| Aggregate Per Insured Event:   | \$        |
| Policy Period Aggregate:   | \$        |



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## Insuring Agreement

- In consideration of the payment of the premium and in reliance upon all statements made and information contained in the **Application**, which is made a part of this Policy, and subject to all the terms, limitations and conditions of this Policy and any Endorsements attached hereto, the **Insurer** hereby agrees to reimburse the **Insured** for **Insured Losses** in excess of the Self-Insured Retention and subject to the applicable Limits of Liability set forth in Section 1.5 and Section 1.7 (if applicable) incurred directly and solely as a result of an **Insured Event**, provided that:



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## Insuring Agreement (cont.)

- **(a)** the **Insured Event** was first discovered by the **Insured** during the Policy Period; **(b)** the **Insured Event** was reported to the **Insurer** in accordance with Section 7.19 during the Policy Period or within thirty (30) days after expiration, nonrenewal or cancellation of this Policy; and **(c)** as of the inception date of this Policy the **Insured** had no knowledge of any circumstance that may lead to any **Insured Losses**.



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## Insured Events Means...

- 3.1 Accidental Product Contamination; or
- 3.2 Malicious Product Tampering (including Product Extortion); or
- 3.3 Intentionally Impaired Ingredients; or
- 3.4 Adverse Publicity; or
- 3.5 Government Recall.



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## Accidental Product Contamination

- Means any actual accidental or unintentional contamination, impairment or mislabeling of **Products** (including mislabeling of instructions for use) during their manufacture, blending, mixing, compounding, packaging, labeling, preparation, production, processing, distribution, storage on the **Insured's** premises or storage at a site contracted by the **Insured**, provided that consumption or use of said **Products**, within 365 days of such consumption or use, either has resulted or would result in:
  - **(a)** Clear and identifiable symptoms of **Bodily Injury**, to any person(s) or animal(s); or
  - **(b)** Physical damage to or destruction of tangible property other than to **Products** of the **Insured**.



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## Malicious Product Tampering

- Means any actual, alleged or threatened intentional, malicious and illegal contamination of **Products**, including **Product Extortion**, so as to render such **Products** unfit or dangerous for the use intended by the **Insured**.



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## Intentionally Impaired Ingredients

- Means any actual, intentional and wrongful, but not malicious, alteration or contamination of **Products**, by anyone including an employee of the **Insured**, which renders such **Products** unfit and dangerous for the use intended by the **Insured**.



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## Adverse Publicity

- Means the reporting of an alleged **Accidental Product Contamination** or **Malicious Product Tampering** in any local, regional or national media, including, but not limited to, radio, television, newspapers, magazines, the Internet or any governmental publication, during the Policy Period, and provided that the publication specifically names:
  - (a) Both the **Insured** and its **Products**; or
  - (b) In the event the **Insured** makes or distributes a finished product for a **Customer**, both the **Customer** and the **Customer's** products made or distributed by the Insured.



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## Government Recall

- Means a recall of **Products** (including a recall of **Products** in conjunction with or resulting from an order of suspension of registration of any of the **Insured's** facilities or operations or an order of detention of **Products**) pursuant to a determination by a responsible government authority that there is a reasonable probability that the consumption or use of a specifically identified **Product** of the **Insured** either has resulted, or would result, in clear and identifiable symptoms of **Bodily Injury** to any person(s) and/or animal(s).



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## Some Coverage Considerations

- A Self Insured Retention (SIR) will apply
- Many carriers also include a coinsurance participation
- An aggregate limit per insured event will apply
- A policy aggregate will apply



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## Potential Endorsements

- Third Party Expense
- Publicity Coverage
- Government Determination
- Comprehensive Product Refusal
- Customer Loss of Gross Profit



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## Product Benefits

- 1. Crisis consultant's expenses
- 2. Trained Recall Specialist
- 3. 24/7 access to such
- 4. Consider – the expense of each of these experts would probably exceed the annual amount of your insured's premium



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## Want To Chat More About This ?



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