

Testimony of Kate Woods,
Northwest Horticultural Council
“Focusing on the Farm Economy: Factors Impacting Cost of Production”
House Committee on Agriculture
Subcommittee on Biotechnology, Horticulture, and Research
April 27, 2016

Thank you Chairman Davis and Ranking Member DelBene for the opportunity to testify before the Subcommittee today on factors impacting the cost of farm production. I work for the Northwest Horticultural Council, which represents apple, pear, and cherry growers, packers, and shippers in Idaho, Oregon, and Washington, on federal and international policy and regulatory issues.

Our family-owned orchards provide approximately 66 percent of the apples, 75 percent of the pears, and 80 percent of the sweet cherries grown in the United States. Export markets are critical to our growers, with approximately one-third of the crop exported each year.

There is no question that government policies and regulations have had an increasingly significant impact on our growers and packers in recent years. On the positive side, USDA’s Market Access Program has played an invaluable role in leveraging grower dollars to increase access to foreign markets for all three of the crops we represent. The Agricultural Research Service and grants provided through the Specialty Crop Research Initiative and Specialty Crop Block Grant program are key to addressing production challenges ranging from pest and disease management to enhancing food safety.

On the negative side, it is becoming more and more difficult to find the workers necessary to grow, harvest, and pack the crop. The continued delays in processing H-2A visa applications by the U.S. Department of Labor are disastrous for perishable tree fruit, where every day can mean a significant drop in fruit quality. This burdensome program is not meeting the needs of our growers and packers – we need a guestworker program that is affordable, reliable, and reasonable, and that provides a pathway to legal status for the current workforce so that this expertise is not lost.

The continued decline in access to crop protection tools needed for pest and disease control is also having a significant adverse impact on our growers, which I’m sure will also be discussed by the other witnesses testifying before you today.

I would like to focus my testimony on a new set of challenges that is facing our industry: the implementation of the Food Safety Modernization Act (FSMA). Under this law, FDA will regulate on-farm practices for the first time, and the number of prescriptive federal mandates on produce packinghouses will be increased to an unprecedented level.

Six of the seven regulations implementing FSMA have been released in final form. Today, I would like to address the two rules that will most greatly impact the tree-fruit industry – the “Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human

Consumption,” (Produce Safety Rule), and the more processor-oriented “Current Good Manufacturing Practices and Hazard Analysis and Risk-Based Preventive Controls for Human Food” (Preventive Controls for Human Food rule).

Let me begin by saying that providing a safe, high-quality, and healthful product to consumers is the highest priority for our members. Not only does their business depend on it, but our growers themselves and their families eat the harvested fruit of their orchards. However, these rules – coming in at 801 pages and 930 pages respectively – are daunting and confusing.

For example, while orchards clearly fall under the Produce Safety rule, packinghouses and storage facilities must either follow the Produce Safety rule or the very different Preventive Controls for Human Food rule written for processing facilities. This is dependent on a vague farm definition based on ownership structure and location – not risk. FDA has acknowledged industry’s concern with requiring facilities that perform the same operations to follow one of two different rules, and has indicated that it intends to enforce the Preventive Controls for Human Food rule on these facilities in a way that is as consistent as possible with what will be required under the Produce Safety rule.

However, with less than five months before the Preventive Controls for Human Food rule is implemented in September, the guidance promised by FDA on what packinghouses will actually be required to do has yet to be released. Curriculum developed to comply with training requirements in the rule does not address the realities of packinghouse operations, and individuals with decades of food safety experience within the industry – and therefore who would be most likely to be able to explain how the rule should be implemented in produce packing operations – are being turned away as trainers because they do not have a degree in education or science. Questions submitted to FDA’s “Technical Assistance Network” on issues as basic as which rule a facility falls under are being answered months later with the non-answer of “your question will be addressed in guidance.”

If you think this sounds confusing, imagine how packinghouse operators are currently feeling.

Confusion also abounds regarding the Produce Safety rule. For example, the rule requires growers to conduct a certain number of tests for each water source, but fails to define what “each water source” means, or where within the water system growers are expected to collect the sample.

While this rule will not begin taking effect until 2018, guidance and training is needed as soon as possible for several reasons: first of all, the rule requires that growers establish a Microbial Water Quality Profile prior to the rule’s enforcement date by conducting 20 tests at or near harvest over a period of two-to-four years. Should growers wish to take advantage of spreading these costly tests over the full four years, they would need to start testing in 2016. In the case of cherries, these tests would need to begin only a few weeks from now.

Second, many private food safety audit schemes our growers and packers must comply with (as required by retailers) are already beginning to incorporate the Produce Safety rule

requirements into their programs. Essentially, this rule is now considered by the private marketplace to be the baseline food safety standard for produce, and growers and packers will be required by their customers to comply long before the dates outlined in the rule.

Third, the rule is long and complex, and growers and packers will need time to understand its requirements and make the necessary changes to their operations.

The bottom line is that our growers and packers need guidance, education, and answers as soon as possible, in order to have any chance of complying with these costly and confusing regulations – which are now the law of the land – in the timeline provided.

Once again, thank you for the opportunity to come before you today. I am happy to answer any questions the subcommittee may have.

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Kate Woods

Kate Woods joined the Northwest Horticultural Council (NHC) as its vice president in January 2015. She works on a range of federal and international policy and regulatory issues, as well as crisis communications. Ms. Woods serves on the North American Trade Committee of the Canadian Produce Marketing Association, the Advisory Board for the Washington Council on International Trade, the U.S. Apple Association's Technical Food Safety Task Force, the United Fresh Produce Association's Food Safety and Technology Council, the U.S. Apple Association's Education Committee (focusing on crisis communications), and is the lead staff for the NHC's Food Safety Committee.

Prior to joining the NHC, Ms. Woods served in Washington, D.C., as legislative director for U.S. Representative Doc Hastings of Washington state. She graduated in 2005 with Bachelor of Arts degrees in political science and print journalism from American University in Washington, D.C. She grew up on a wheat and cattle ranch near Centerville, Washington.