

# Tree fruit farmers question FDA rules

By Brady Dennis, Washington Post

Blueberries and bananas are in, but black-eyed peas are out. Papaya is in, but plantains and pumpkins are out. Spinach and summer squash, in. Sweet potatoes and winter squash, out. Artichokes? Out. Apples? In.

And many apple farmers, as it turns out, aren't too thrilled about that.

The Food and Drug Administration, wrestling to put in place a massive overhaul of the nation's food safety system, drew a line this year when proposing which fruits and vegetables would be subject to strict new standards: Those usually consumed raw would be included, while those usually cooked or processed would be exempt.



Apples are big business in parts of El Dorado County. Photo/LTN file

Since then, few groups have expressed more frustration than tree fruit farmers, who grow apples, pears and a variety of other produce. They complain that the FDA's approach, in some ways, defies common sense.

Those gripes offer a case study in the challenges of implementing the landmark 2010 Food Safety Modernization Act, which directed the FDA to prevent food-borne illnesses rather than simply react to outbreaks. It's an easy idea to embrace. But when it gets down to apples and oranges, figuring out who should abide by which rules has proven anything but simple.

Growers subject to the new produce rules could face a variety of new responsibilities, including regular testing of irrigation water, sanitizing canvas fruit-picking bags and keeping animals away from crops. Many tree fruit farmers worry about the cost of such measures and say they would offer few safety benefits.

They argue that the FDA should focus more on foods that have caused deadly outbreaks, such as spinach and cantaloupes, and less on fruits that have a virtually flawless safety record, grow above the ground and, in some cases, have protective skins or rinds.

"Our product is quite safe," said Phil Glaize, a third-generation farmer and owner of Glaize Apples in Winchester, Va. "We're perfectly willing to look at ways to make it safer. However, what's being proposed is very onerous and expensive. ... [The costs] would end up getting passed on to the consumer, if we didn't go out of business first."

FDA officials say that the proposals offer a starting point and that they are open to making changes to create a science-based system that is adaptable to different growing conditions, different regions and different crops.

"It's complicated. It's a big, transformational thing that we're doing. ... We're creating a whole new food-safety system here, so we accept that it will take some time to get the rules right," Michael R. Taylor, the FDA's top food-safety official, said in a recent interview. "The point is, we want to target our standards where they will make a practical

difference.”

Despite such assurances, wariness persists on orchards from the Shenandoah Valley to the Yakima Valley.

“I’ve had a couple guys call and say, ‘I’m 55 years old. If this goes into effect, I just want to get out,’” said Chris Schlect, president of the Northwest Horticultural Council, which represents growers of apples and other tree fruits in Idaho, Oregon and Washington. “It’s hard enough to get by all that nature throws at you and to make some money at the end of the day.”

Leslie Judd, who with her husband and son oversees 350 acres of apples, cherries and pears in Washington’s Yakima Valley, says her family abides by state standards, industry best practices and detailed demands from major retailers such as Wal-Mart and Costco. She said the proposed federal rules are unnecessary and would further strain the resources of her family farm and many others like it.

“Somebody in an office in Washington, D.C., who’s never stepped foot off concrete has decided we need this rule and that rule. We’re starting to get to the point where it’s like, ‘Give me a break,’” Judd said. “We have a darn good product and a darn good industry. ... The market has already taken care of this problem, if it’s a problem. Which it isn’t.”

Success of initiative will require finding noninvasive ways to record the firing of individual neurons.

The FDA is planning a slew of new rules that eventually will govern everything from U.S. farms to foreign imports to processing plants. But many domestic farmers doubt that their foreign competitors will face the kind of scrutiny that they will.

“The stuff that’s coming in from China is not subject to the kind of regulation that American food is,” said Diane Kearns,

a fifth-generation farmer and president of Fruit Hill Orchards, one of Virginia's largest apple growers with nearly 3,000 acres. "People are being priced out of the business. You can't make money at it anymore."

Tom Stenzel, president of the United Fresh Produce Association, which represents the produce industry, said he supports modernizing the food-safety system and doesn't envy the FDA's task of drawing up complex new regulations. But he said he hopes the agency will take a more nuanced approach in deciding which crops deserve tighter scrutiny – and which don't.

"Part of our problem is that each commodity is different. We agree on what the big risk factors are – water, soil amendments, animal intrusion, worker hygiene. But there's a question of whether the regulation ought to apply the same standards to every single commodity," Stenzel said. "If you're in the tree fruit industry – if you're an apple guy or a citrus grower – you look at it and say, 'What's the public benefit of me doing water testing of irrigation water once a week? There's never been a problem.'"

He also pointed out a dilemma facing many farmers. Some of those who grow crops that would be exempted, such as kale, already follow many of the proposed standards. They might end up asking the FDA to include them under the rules, in part because the regulations might be viewed as a safety stamp of approval.

FDA officials note that the new regulations would exempt farms with average annual sales of \$25,000 or less and offer exemptions to certain other farms that bring in less than \$500,000 a year and sell primarily to consumers within a 275-mile radius. Smaller farms also would have years longer to comply with the new rules.

Plenty of jockeying has taken place to shape the proposals.

Comment letters have poured in, and the FDA has extended the public comment period through May. Think tanks and lawyers have parsed hundreds of pages of proposed regulations, and some groups have held seminars to explain the implications to their constituents.

Farmers, activists and industry representatives – including the Grocery Manufacturers Association and the Fresh Produce Association of the Americas – have lined up to make their voices heard during a nationwide listening tour by Taylor and other FDA officials that included small towns and cities such as Washington, Chicago and Portland.

At the recent meeting in Portland, several growers questioned the FDA's estimate of the economic impact of the new requirements – the agency has said that the regulations would cost domestic farms a total of about \$460 million annually, or \$5,000 to \$30,000 per farm, depending on size.

According to the agriculture trade publication Capital Press, one local farmer told officials that the new rules seemed like “overkill” for tree fruits, which, unlike some other crops, haven't been linked to major outbreaks.

“If it ain't broke, don't fix it,” said Charles Lyall, a farmer from Mattawa, Wash.

“Rest assured, what you're saying is being heard,” Taylor replied.

Judd, the Yakima Valley farmer, hopes that's true. She said she knows other growers, wary of mounting regulations and weary of shrinking profits, who have either sold out to larger operations or simply stopped farming.

“All of these little things just keep piling up,” she said. “It's just getting harder and harder. At some point, you just say, ‘To heck with it.’”