



Food Standards Australia New Zealand (FSANZ)

P1052 – Primary Production and Processing requirements for Horticulture (Berries, Leafy Vegetables & Melons)

February 2022

About the Australian Fresh Produce Alliance

The Australian Fresh Produce Alliance (AFPA) is made up of Australia's key fresh produce growers and suppliers. The members include:

- Costa Group
- Perfection Fresh
- Montague
- One Harvest
- Pinata Farms
- Fresh Select
- Mackay's Banana Marketing
- Driscoll's
- LaManna Premier Group
- Rugby Farming
- Freshmax
- Fresh Produce Group.

These businesses represent:

- half the industry turnover of the Australian fresh produce (fruit and vegetables) sector - \$4.5 billion of the \$9.1 billion total
- a quarter of the volume of fresh produce grown in Australia - 1 million of the 3.9 million tonne total
- more than a third of fresh produce exports - \$410 million of the \$1.2 billion export total
- more than 1,000 growers through commercial arrangements, and
- more than 15,000 direct employees through peak harvest, and up to 25,000 employees in the grower network.

The key issues the AFPA is focusing on include:

- packaging and the role it plays in product shelf life and reducing food waste landfill,
- labour and the need for both a permanent and temporary supply of workers,
- market access to key export markets for Australian produce,
- product integrity both within and outside of the supply chain,
- pollination and research into alternative sources, and
- water security, including clear direction as to the allocation and trading of water rights.

The AFPA's aim therefore is to become the first-choice fresh produce group that retailers and government go to for discussion and outcomes on issues involving the growing and supply of fresh produce.

Products grown by AFPA Member companies include:

Apples	Blueberries	Cherries	Nectarines	Raspberries
Apricots	Broccoli	Fioretto	Onions	Salad leaf
Asparagus	Broccolini	Green Beans	Oranges	Spinach
Avocado	Brussel Sprouts	Herbs	Peaches	Strawberries
Baby Broccoli	Butternut	Lemons	Pears	Sweet Corn
Baby Corn	Pumpkin	Lettuce	Pineapples	Table grapes
Bananas	Cabbage	Mandarins	Plums	Tomatoes
Beetroot	Cauliflower	Mango	Potatoes	Water Cress
Blackberries	Celery	Mushrooms	Cucumber	Wombok



Executive Summary

FSANZ is reviewing food safety in the fresh berries, leafy vegetables and melons sectors and whether additional measures, such as standards, should be introduced to manage food safety. The Australian Fresh Produce Alliance (AFPA) provided a response in the first call for submissions which supported the status quo approach. The AFPA supported the status quo on the basis that the majority of berries, leafy vegetables and melons (by volume) are produced by growers that operate an existing, GFSI benchmarked Food Safety Scheme (FSS).

Currently, members of the AFPA and their 1,500 supplier growers, all operate a FSS. The operation of a FSS is important not only in a commercial context in that it is a requirement to supply produce to Australia's major retailers but also because these systems protect the integrity of Australia's fruit and vegetable products and consumer confidence.

The AFPA acknowledges that there may be a large number of small (by volume) producers of berries, leafy vegetables and melons that do not currently operate a FSS. These businesses are likely suppliers to wholesale markets and farmers markets and are unlikely to operate in a retail supply chain. It is unlikely that these businesses would be commercially driven to adopt a FSS and therefore regulatory measures would be appropriate to ensure the safe production of food and create a level playing field in industry ensuring all businesses are operating to a uniform standard.

The AFPA supports Option 3 – Introducing a combination of regulatory and non-regulatory methods - provided that a GFSI FSS can be used to demonstrate compliance with regulatory standards.

In supporting this Option, the AFPA acknowledges that there will be a cost associated to members and other growers. While FSANZ has made efforts to quantify this cost to businesses, it should be acknowledged that additional costs are typically difficult for horticulture producers to recover due to price pressure. The cost of regulation must not be measured as a portion of turnover, rather must be considered in relation to a business' profitability as typically, this type of regulatory cost is absorbed by the producer as it is an intangible benefit to consumers, particularly when producers are already operating an independent and accredited FSS.

Further, the CRIS and CBA prepared by FSANZ only estimates the costs to state and territory regulators and does not demonstrate specific implementation and compliance activities, understanding that the cost and level of these activities is variable by state and will depend on a jurisdiction's implementation plan. Without more specific implementation and compliance costs it is difficult for industry to take more than an in principle view on the cost or benefit of regulatory standards.

With regard to the specific standards, the AFPA would recommend further consultation from FSANZ with commodity specific industry bodies, as well as growers and processors of berries, leafy vegetables and melons directly to determine if Standards 4.2.7, 4.2.8 and 4.2.9 and their associated compliance plans are appropriate.

In implementing Option 3, the AFPA supports a 2 year implementation timeline. This timeline would enable businesses that are not currently operating a FSS to make necessary changes and allow existing industry FSS to make updates to their programs that could encompass any additional regulatory requirements that may be included (e.g. the need to register your berry growing businesses with the relevant state authority).

All members of the AFPA operate across multiple sites and states and territories of Australia and the importance of consistency in standards cannot be understated. Consistency across the implementation of regulatory measures will not only benefit AFPA members in streamlining their compliance requirements but will better enable AFPA members to support supplier growers to implement any new requirements and provide support on food safety matters.

Understanding that it will be the role of State and Territory food regulators to be responsible for monitoring compliance against standards, in order to simplify requirements for regulators and producers, a certificate of a successfully completed GFSI FSS audit must be considered sufficient evidence of compliance. This will enable regulatory and non-regulatory resources to be better deployed in monitoring and compliance in areas where there is greater risk (i.e. businesses that are not operating a food safety system).



Introduction

FSANZ is reviewing food safety in the fresh berries, leafy vegetables and melons sectors and whether additional measures, such as standards, should be introduced to manage food safety. The AFPA provided a response in the first call for submissions which supported the status quo approach. The AFPA supported the status quo on the basis that the majority of berries, leafy vegetables and melons (by volume) are produced by growers that operate an existing, GFSI benchmarked Food Safety Scheme (FSS).

Following additional consultation and review of documents provided, the AFPA supports Option 3 – Introducing a combination of regulatory and non-regulatory methods - provided that a GFSI FSS can be used to demonstrate compliance with regulatory standards.

Though supporting Option 3, the AFPA encourages FSANZ and State and Territory governments to engage closely with industry and existing FSS to effectively implement the regulatory requirements by reducing duplication, compliance burden and cost for businesses already effectively managing food safety through a third-party audited system

Industry background and context for implementing regulation

Currently, members of the AFPA and their 1,500 supplier growers, all operate a FSS. The operation of a FSS is important not only in a commercial context in that it is a requirement to supply produce to Australia's major retailers, wholesalers and processors but also because these systems protect the integrity of Australia's fruit and vegetable products and consumer confidence.

FSANZ notes in section 4.9 of the CRIS *“The berry, leafy vegetable and melon sectors operate to varying degrees under industry Food Safety Schemes (FSS). These schemes are comprehensive but non-regulatory measures. While FSS are not mandatory, most large retailers require them. This has led to ‘non-voluntary’ FSS participation by many primary production and processing businesses. Businesses not supplying major retailers are unlikely to participate in a FSS, due in part to the additional costs and administration involved.”*

Sales, and volume of fresh produce produced is dominated by a small number of large producers (~1,500 nationally). Chart 1.0 highlights the large number of small producers, with the majority (by number) of businesses in the fresh produce industry having a revenue of less than \$2M annually. Chart 1.1 highlights employment in the fresh produce industry; the majority of fresh produce businesses are non-employing entities (i.e. are typically owner operated).

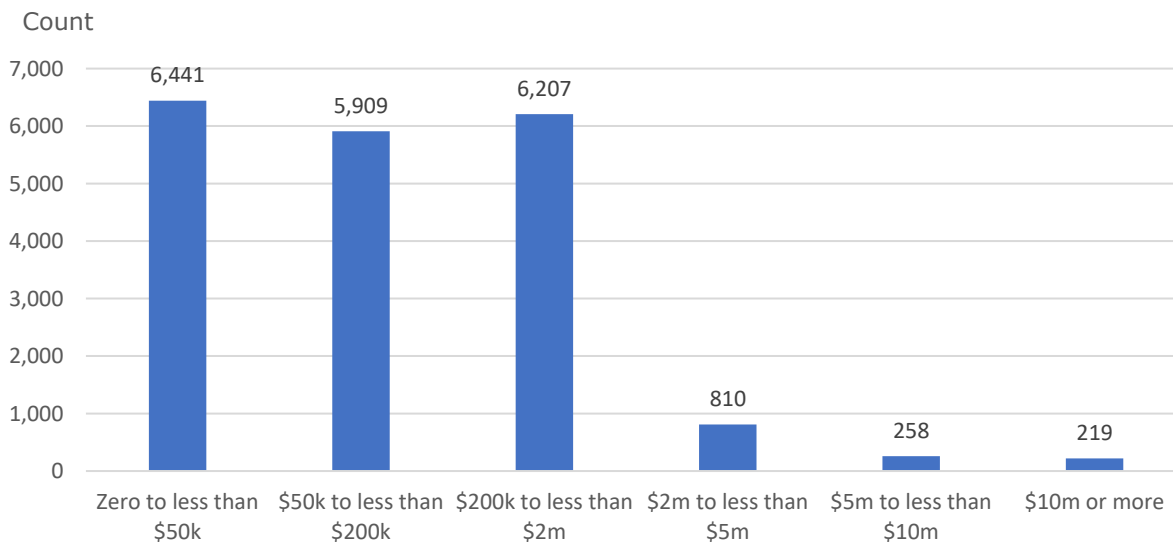
This context is important for FSANZ and state and territory food regulators to understand and consider. The majority (by volume) of fresh produce, including berries, leafy vegetables and melons, is produced under a FSS as these large businesses all supply Australia's major retailers. The businesses that are not operating a FSS, are typically small, owner operated businesses with limited revenue and production capacity.

While the composition of industry should not affect the content or level of the proposed standards and regulatory requirements, it is particularly important and a key driver of the need for non-regulatory measures proposed in Option 3. It is likely that these smaller businesses will require the most assistance from the non-regulatory resources proposed under Option 3 to achieve compliance with the Standards as outlined.

In terms of implementing regulatory requirements, it is these small businesses, with few or no staff and low revenue that represent the most significant requirement for regulation. As these businesses are typically non-employing, it is also incredibly unlikely that they have regular access to a food safety professional and are therefore likely to require more time and assistance from state and territory regulators to meet the prescribed standard.



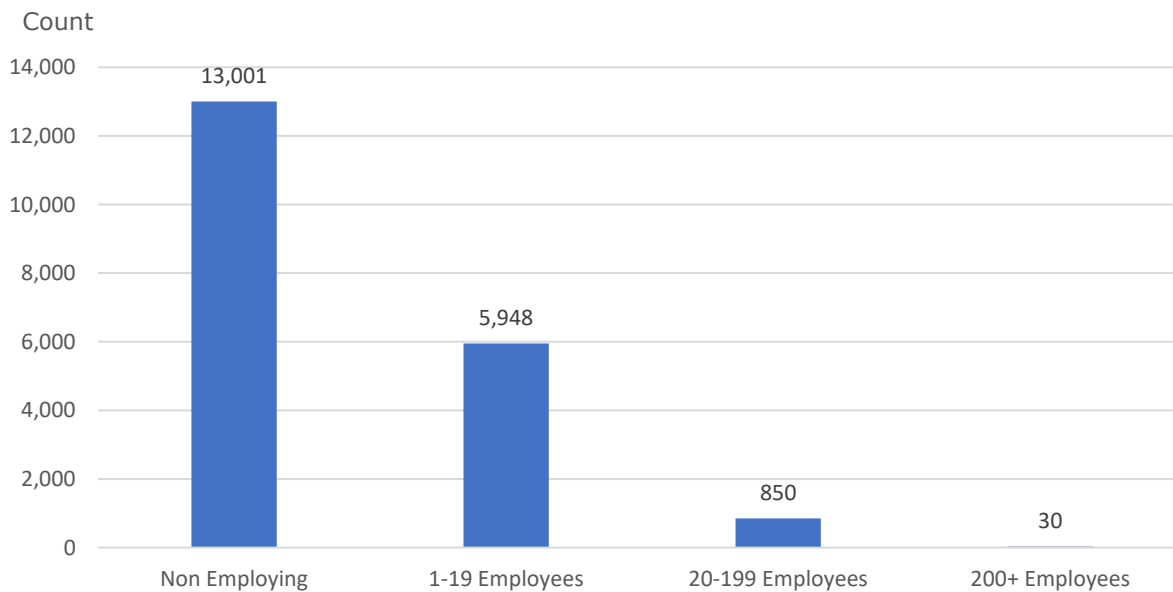
Chart 1.0: Number of fruit and vegetable growing business in Australia, by revenue, 2019



Source: ABS Counts of Australian Business, including Entries and Exits, Cat. No. 8165.0, June 2019

Note: Includes business operating at start of financial year in the following ANZSIC industries: Mushroom Growing, Vegetable Growing (Under Cover), Vegetable Growing (Outdoors), Grape Growing, Kiwifruit Growing, Berry Fruit Growing, Apple and Pear Growing, Stone Fruit Growing.

Chart 1.1: Number of fruit and vegetable growing business in Australia, by employee count, 2019



Source: ABS Counts of Australian Business, including Entries and Exits, Cat. No. 8165.0, June 2019

Note: includes same categories as above. Totals may not add due to rounding and other discrepancies.



Cost of implementing regulatory standards

In supporting Option 3, the AFPA acknowledges that there will be a cost associated to members and other growers. Understanding that outlining the true cost of implementing the standards is challenging as the majority of the cost will be associated with activities that need to be undertaken by state and territory food regulators, which are yet to be determined, the AFPA has made observations based on the costs outlined in the CRIS and CBA.

Effective implementation of the Standards, for example, recognising a certificate from a GFSI FSS in place of an individual jurisdiction's audit, will be key in reducing costs and maximising jurisdictions resources.

An example of how implementation is likely to affect the cost of regulation can be seen in the berry industry. Under Option 3, it is proposed that berry growers must register their operation, at a cost of an employee's time. If this process is different across jurisdictions, or requires a registration for each individual site, where a berry producer has multiple farms across multiple states and territories this becomes a much more significant impost. If a large berry grower is required to register multiple sites, to multiple jurisdictions, using multiple different processes, the cost of this compliance process will be significantly greater than the \$30 indicated in the CRIS.

Notwithstanding the effect implementation will have on actual cost, the estimated costs to a business of implementing Option 3 are summarised in Table 5 and further detailed in Table 6 Supporting Documents 3; Cost Benefit Analysis. These tables outline that a MEDIUM cost to business could be expected to be \$1,526 for a berry grower, \$7,736 for a leafy vegetable grower and \$4,756 for a melon grower in the initial year of operation of the standards. This cost estimate varies wildly based on whether or not a businesses is operating a FSS (or similar measures).

FSANZ estimate that a leafy vegetable grower which is not operating a FSS, would likely incur the full costs of the Primary Production Standard (PPS). In this instance, this cost is \$1,400 initially with an additional \$10,993 in ongoing annual costs. If we assume that a leafy vegetable business, without a FSS, is in the smallest category of fresh produce grower by revenue (refer Chart 1.0: Zero to less than \$50k), this annual ongoing cost associated with the PPS is 22% of the business's total revenue. This is extremely significant for small producers and likely to render the business unprofitable.

FSANZ outline in the CRIS and associated documents that the lowest cost to business, will be where a business is already effectively operating a FSS (or equivalent measures). These business across the berry, leafy vegetable and melon categories are typically only accruing either a one off cost (berries – approximately \$30) or annual licensing and audits costs (leafy vegetables and melons – approximately \$1,540).

Members of the AFPA and supplier growers all currently operate FSS and are therefore likely to only incur these costs one off, or annual licensing costs depending on products grown. These costs could however be significantly reduced by enabling state and territory regulators to utilise proof of a completed third-party food safety audit as a demonstration of meeting regulatory requirements. This reduces burdens (financial and time) on businesses and the cost to state and territory regulators.

While FSANZ has made significant efforts to quantify costs, it should be acknowledged that additional costs are typically difficult for horticulture producers to recover due to price pressure. The cost of regulation must not be measured as a portion of turnover, rather must be considered in relation to a business' profitability as typically, this type of regulatory cost is absorbed by the producer as it is an intangible benefit to consumers (either retailers/wholesalers/processors or direct), particularly when producers are already operating an independent and accredited FSS.

Despite the cost associated with regulation, producing safe food is a priority for AFPA members. It is important to note however that businesses that are not currently operating a FSS will bear the most cost associated with the introduction of regulatory measures.



Feedback on Primary Processing Standards

Understanding that the proposed standards reflect the standards in GFSI FSS the AFPA is supportive of the standards as outlined.

With regard to the commodity specific standards, the AFPA would recommend further consultation from FSANZ with commodity specific industry bodies (Berries Australia, AUSVEG and Melons Australia) as well as growers and processors of berries, leafy vegetables and melons directly on Standards 4.2.7, 4.2.8 and 4.2.9 and their associated compliance plans. These groups will also be key in developing and disseminating non-regulatory material.

Based on the information in the CRIS about both the site visits conducted by FSANZ and the consultation feedback received during the first call for submissions, FSANZ may not have reached the large number of small businesses (particularly in the leafy vegetable category) that operate in the sector. It is these businesses that are likely to find the implementation of regulation the most challenging, have the highest cost impact and require the most time and resource from regulators to become compliant.

As these businesses typically sit outside standard supply chains (i.e. supply farmers markets) they are typically less likely to be engaged with industry associations, retailers and processors who would typically be able to provide guidance in meetings standards.

Implementation of Primary Processing Standards

The process, plan and method for implementing Standards 4.2.7, 4.2.8 and 4.2.9 will be critical to the intent of introducing standards – further reducing risk of food borne illness. Understanding that this process is undertaken by state and territory food regulators and is currently under development, the AFPA proposed the below set of principles to guide implementation:

- The implementation of the PPS (berries, leafy vegetables and melons) must be nationally consistent
- Utilise and leverage industry standard GFSI FSS as a method by which to demonstrate compliance with the Standards (where relevant)
- Apply efforts and resources to areas that will reduce the most risk and provide the most benefit to industry, community and government.

All members of the AFPA operate across multiple sites and states and territories of Australia and the importance of consistency in standards cannot be understated. Consistency across the implementation of regulatory measures will not only benefit AFPA members in streamlining their compliance requirements but will better enable AFPA members to support supplier growers to implement new requirements and provide advice and support on regulatory food safety matters. Most importantly, nationally consistent standards will improve food safety and effectively manage risk, while inconsistent standards may lead to a reduction in food safety and increase risk.

Understanding that it will be the role of State and Territory food regulators to be responsible for monitoring compliance against Standards, it is recommended that to simplify requirements for regulators and producers, a certificate of a successfully completed FSS and a Food Safety Management Statement be considered sufficient evidence of compliance. This will enable regulatory resources to be better deployed in monitoring and compliance in areas where there is greater risk (i.e. businesses that are not operating a food safety system).

In implementing Option 3, the AFPA supports a 2 year implementation timeline. This timeline would enable businesses that are not currently operating a FSS to make necessary changes and allow existing industry FSS to make updates to their programs that could encompass any additional regulatory requirements that may be included.



Importance of non-regulatory measures

The AFPA supports Option 3 over Option 2 because of the importance of the non-regulatory measures. These non-regulatory measures are vital in assisting businesses, particularly those who are not currently operating a FSS to effectively implement the relevant standard/s in their business and reduce the risk of food borne illness.

Understanding that for some businesses, many who are likely to be owner operated, the educative component of achieving the standard will be vital in lifting capability within a businesses and producing better food safety outcomes.

The AFPA is strongly supportive of these non-regulatory measures and supports and recommends FSANZ and state and territory food regulators work with industry via both industry representative bodies and commercial avenues to reach all relevant businesses.

Recommendations

The AFPA recommends that:

- FSANZ introduce a combination of regulatory and non-regulatory measures as outlined in Option 3 of the CRIS
- FSANZ consult further with specific businesses (growers) on the PPP Standards for each commodity group.
 - FSANZ should consider specially seeking out small businesses via farmers markets and other channels as these businesses typically are not represented via industry associations or engaged in typical supply chains and are likely to be the most adversely impacted
- State and Territory regulators develop a comprehensive implementation plan for the Standards following their review, which can then be appropriately costed, and these costs supplied to industry to better understand the cost impact of regulation. This should be completed and shared with industry before introducing and regulatory measures.
- Ensure that the standards are implemented and complied with according to a nationally consistent approach
- With regard to the implementation of the Standards (across berries, leafy vegetables and melons), FSANZ and state and territory food regulators;
 - Focus resources on businesses that do not currently operate a GFSI FSS scheme
 - Benchmark Standards and compliance to enable parity between a GFSI FSS and the Standard
 - This includes enabling a certificate of a successful third-party audit of a GFSI FSS to demonstrate compliance under the relevant Standard
- Extend the implementation timeline from 18 months to 2 years



Responses to questions for stakeholders

Responses to relevant questions included in the CRIS document are provided below.

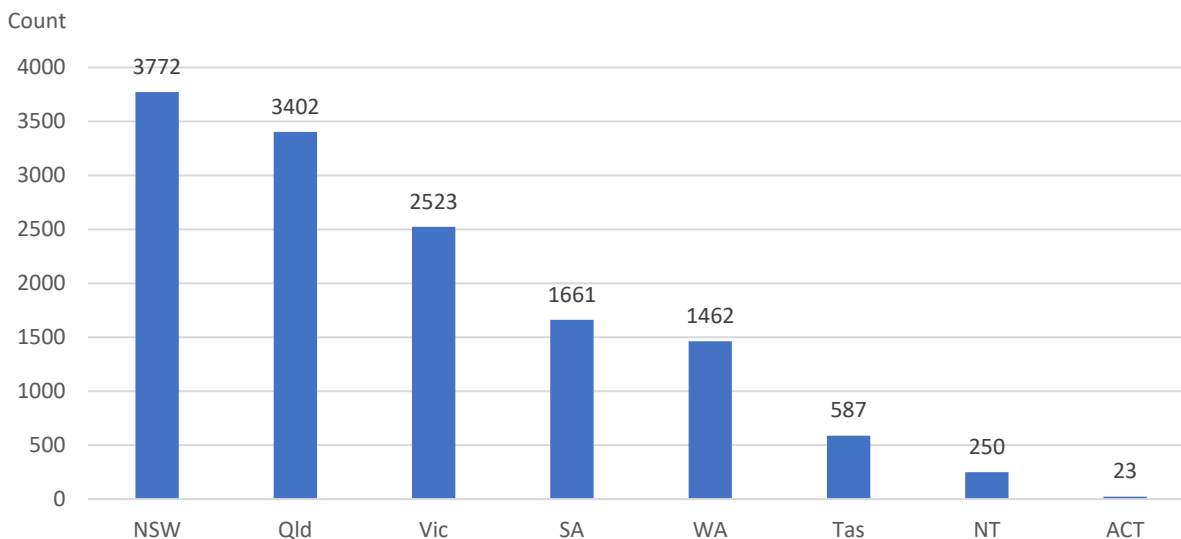
1. We estimate the following number of businesses in each sector. Is there alternative information you would like us to consider?

The estimated number of primary production and primary processing businesses in Australia are:

- 750 for berries,
- 1,500 for leafy vegetables
- 225 for melons.

The AFPA would defer to commodity specific industry bodies to make an assessment on the number of growers in each sector. In the fresh produce sector there is nearly 14,000 fruit or vegetable growing companies in Australia. New South Wales (27.6%) and Queensland (24.9%) have the highest concentration of business numbers, with the Territories the lowest.

Number of fruit and vegetable growing business, by state, 2019



Source: ABS Counts of Australian Business, including Entries and Exits, Cat. No. 8165.0, June 2019

Note: Includes business operating at start of financial year in the following ANZSIC industries: Mushroom Growing, Vegetable Growing (Under Cover), Vegetable Growing (Outdoors), Grape Growing, Kiwifruit Growing, Berry Fruit Growing, Apple and Pear Growing, Stone Fruit Growing.

2. We estimate that the following percentages of businesses are currently participating in a FSS. Is there alternative information you would like us to consider?

The estimated proportions are:

- 75% for berries
- 25% for leafy vegetables
- 95% for melons.

The majority of growers in Australia (by number) operate who operate a FSS, utilise Freshcare as a FSS. It would be possible to gain a more accurate understanding of the proportion of these businesses operating a FSS by understanding from Freshcare the number of businesses across these commodities currently certified.



3. We have assumed that, on average, businesses not on a FSS are already 50% compliant with the measures proposed by option 3 (regulation and non-regulation). Is there alternative information you would like us to consider?

It is likely that growers that are not operating a FSS will not have access to technical food safety expertise. This means that even though production standards may not be poor, the compliance components associated with the standard will be challenging for these businesses to document or implement. It is therefore likely that many businesses without a FSS are less than 50% compliant with proposed standards. This is predominately because food safety is driven commercially, and there is limited (or often no) commercial incentive for these businesses to participate in a FSS.

4. We have estimated the average length of the harvest and packing seasons. Is there alternative information you would like us to consider?

The estimated seasons:

- 60 working days for berries
- 60 working days for melons
- 310 working days for leafy vegetables.

AFPA members typically invest in year round production of crops, across multiple sites. The harvest season for these crops will be dependent on each individual location and crop grouping.

12. Do you agree with the following benefits of implementing option 3 (or can provide additional information about these benefits)?

- Health related benefits
- Improved capacity to effectively and efficiently manage a food safety incident, reducing costs
- Improved inventory and business management
- Potential additional export sales
- Government's improved capacity to effectively and efficiently manage a food safety incident
- A reduction in illness costs

There are very few benefits to regulation for businesses that are already operating a third party audited, GFSI system. The regulatory approach provides no commercial incentives, no access to export or domestic markets and will not enable an increased sale price for produce. A regulatory approach is unlikely to assist in category challenges following a food safety incident, as all producers in a category are impacted by an incident, not just the cause of an outbreak – regardless of trace back ability.

A regulatory approach directed at businesses that do not operate a FSS offers the most benefit to industry, government and community. It is for this reason the AFPA support Option 3; however, FSANZ and regulators must ensure that efforts are concentrated in compliance in areas where risk is greatest (i.e. those not already operating a FSS).

13. How might implementing option 3 affect business viability?

14. How might implementing option 3 specifically affect small businesses?

Assuming that FSANZ and state and territory regulators make every effort to reduce duplication, streamline compliance and approach enforcement and implementation of standards nationally; it is likely that for those already operating a FSS the impact of regulation will be minimal. If audit, licensing and general compliance is not aligned to existing FSS and not nationally consistent the standards will become a significant impost, with limited benefit.

The standards, particularly those for melons and leafy vegetables are likely to have a significant impact on businesses not currently operating a FSS. It is likely that these businesses will be smaller operators, typically



with a revenue of less than \$2M annually, potentially less than \$50K annually. The projected cost of implementing the melon and leafy vegetable standards for these producers will be significant.

15. Do you think that implementing option 3 will have any flow-on impacts for business in the supply chain e.g. transport

This effect will again be limited to those not currently operating a FSS.

16. Do you think certain locations might be effected more than others from implementing option 3? For instance, might businesses in remote areas experience notably different effects than businesses nearer cities; might businesses based in certain climatic regions experience more difficulties?

A key challenge in the fresh produce sector is the often remote and regional location of production. The location of a business will have a significant impact on their ability to implement Option 3, even when they are already operating a FSS (pending how jurisdiction's implement compliance)

Option 3 indicates that there is likely to be a physical audit requirement of premises' producing leafy vegetables and melons. Typically, under existing FSS arrangements, businesses are responsible for the travel costs (flights, accommodation, time etc.) of auditors. Pending the implementation arrangements for state and territory regulators, businesses with larger operating premises and more regional locations are likely to have significantly higher auditing costs. This is a key component of compliance and why the AFPA strongly recommends state and territory regulators consider ways in which a businesses can utilise existing GFSI accreditation to demonstrate compliance with new standards.

Further, regional locations typically limit access to qualified food safety professionals to either employ on an ongoing basis or engage as a contractor. This is true of all skilled roles in horticulture – regional locations make these roles challenging to fill. The rural location of many businesses, particularly if they are smaller operations with limited ongoing employment opportunities may make it challenging to obtain food safety expertise that could be necessary to implement and meet the standards as outlined.

17. How might implementing option 3 affect the price of each commodity or quantities bought or sold?

It is likely that implementing Option 3 will affect the profitability across all effected businesses.

In the case of businesses already operating a FSS, the costs associated with Option 3, while potentially minimal will be unlikely to be passed on the retailers, wholesalers and processors. These costs will be absorbed by the business and will likely be absorbed directly from a business's margin or profit. This is because the regulatory approach offers limited commercial benefit to producers (i.e. is not a competitive advantage) as these businesses are already operating a FSS recognised by their customers.

For those that are not operating a FSS, the regulatory approach again offers limited commercial benefit and is a cost likely to be absorbed by a business. These businesses would see greater benefit applying a recognised industry FSS as this would enable them to access new customers (retailers, processors and wholesalers) who require these systems for supply. Meeting the standards will not enable these businesses to either pass on costs or achieve a premium as they will now become a minimum standard of operating. Implementing these standards is likely to have significant cost impacts on smaller producers.

