AGRICULTURE

Top 10 free market agriculture policy ideas

By Madi Clark Policy Analyst

SEPTEMBER 2023







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INTRODUCTION

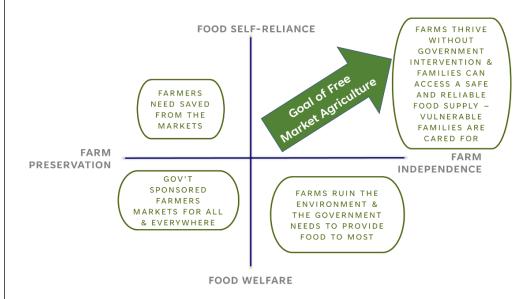
During harvest, farmers finetune combines to efficiently separate grain from the chaff. Air volume and sieve gap are adjusted to maximize the removal of the chaff and minimize the loss of valuable grain. The technical process requires many starts and stops to precisely tune the harvest equipment.

Like grain harvesting, agricultural policy needs to be finetuned to maximize the removal of externalities and to minimize the loss of family farms.

Complete abandonment of existing policies undeniably creates externalities that are challenging to mitigate and damaging for communities. However, excessive regulatory pressure removes resources from farmers and ranchers and adds undue strain on family operations. As a result, farms consolidate and the food supply becomes concentrated in fewer hands, leaving it vulnerable to supply shifts and price swings.

Farm policy ideology varies intensely across many divides. Protecting farms and providing access to affordable food are two values governing much of the agricultural policy discussion.

Farm protection discussions range from farm preservation to farm independence. Examples of farm preservation policies include subsidies, government funded loans, beginning farmer loans, land trust efforts, farmer's market funding and more. Farm independence is the belief that farms are adaptable and resilient, capable of minimizing costs and risks, maximizing resources for their needs, and pushing their own goods to their own markets.



Providing access to affordable food is another ideology swaying agricultural policy. The purpose of farming is to provide food to the market. Preferably, this

Protecting farms and providing access to affordable food are the two values governing much of the agricultural policy discussion.

Farm independence is the belief that farms are adaptable and resilient, capable of minimizing costs and risks, maximizing resources for their needs, and pushing their own goods to their own markets.

Free market agricultural policy seeks to move the legislative needle toward more farm independence and improved food selfreliance.

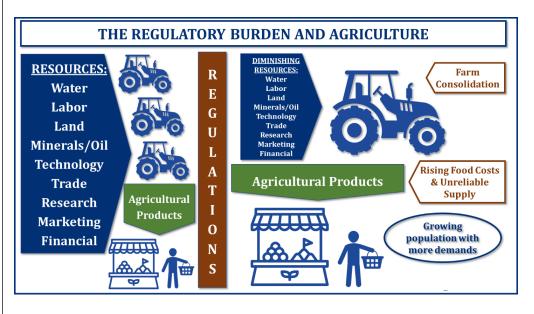
The limitations of resources exist naturally and yet manmade limitations, in the form of regulations, add to the difficulty of procuring a sufficient supply of inputs. food supply is safe, available, and affordable to all communities in which it is needed. Some policy positions advocate for ample food welfare with little need for work requirements for capable adults, and generous distribution of tax dollars to pay for food. The pendulum swings towards food self-reliance, which encourages capable adults to meet their own food needs and wants through their own means.

Free market agricultural policy seeks to move the legislative needle toward more farm independence and improved food self-reliance. As more farms thrive by relying on ingenuity and grit to move products to markets, individuals can more easily meet food needs with affordable and secure food.

RESOURCES

Agriculture relies on many limited resources, including water, land, minerals/oil, and labor. The limitations of these resources exist naturally and yet man-made limitations, in the form of regulations, add to the difficulty of procuring a sufficient supply of inputs.

Regulations tighten the supply of all inputs needed for agriculture, naturally limited resources or otherwise (i.e., technology, trade, research, marketing, transportation, and financial). Increasing regulatory burdens on agriculturalists will consolidate domestic farming operations and agricultural businesses, endangering an accessible and affordable food supply.



RESOURCE AVAILABILITY AND ACCESSIBILITY

Policies affecting agriculture at the federal, state, and local level should seek to remove restrictions on these resources. Agricultural regulations often affect the *availability* and *accessibility* of resources. For example, policy efforts to

Historically, government efforts have placed great emphasis on increasing the availability of resources to agriculture.

At state and local levels, the chance to influence free market agricultural policy with smaller, diverse targets presents a greater opportunity to move the needle, or to keep it from moving in the reverse direction. increase agricultural water supply makes more *available* for use. Other regulations can affect *accessibility* to existing water, such as clean water legislation and salmon protections.

Historically, government efforts have placed great emphasis on increasing the availability of resources to agriculture. Dam construction, land allotments, and research funding propelled American agriculture to its current standing. Free market policy encourages government funding or research and infrastructure and public/private partnerships in projects.

In recent years, agriculture's ability to develop resources and continue using existing resources has often been opposed by special interests and bureaucracy. Some positions even advocate for the removal of available resources, including the Snake River dams. Policies should allow for the advancement of free markets first, spurring development and use of these resources by private sources and/or private/public partnerships, in a fair balance with conservation and economic needs.

Recent efforts to change farm policies have tightened accessibility.

Environmental regulations, diverting land to national protection and limiting well and oil drilling are all examples of preventing access to resources. Regulatory positions need to carefully assess the benefit of resources to farmers and the food supply against the costs often alleged by special interest groups. Some protection of resources captures externalities and are worth the resource limitations because the benefit to the communities outweighs the costs to agriculture and food supply. However, many regulations move far beyond scientific criteria, preventing access to resources because of the interests of a few, at the cost of a food supply that feeds many.

STATE VS. FEDERAL POLICIES

Free market agricultural policy often targets federal policy. Federal positions on farm support payments, immigration policies, international trade, environmental protection, and technology approval are obvious, large targets of free market policy. National research and analysis have addressed these concerns for decades.

At state and local levels, the chance to influence free market agricultural policy with smaller, diverse targets presents a greater opportunity to move the needle, or to keep it from moving in the reverse direction. Mountain States Policy Center encourages policymakers to think outside the box and allow farmers to rely on ingenuity to grow a valuable product and access markets on their own volition. Independent farmers unencumbered by excessive regulations will deliver a safer, more reliable, and more affordable food supply to their communities than

Regulations favoring one individual's story over a community's experience are damaging to agricultural businesses, rural families, and towns.

The many voices of the special interest group easily outweighed the few farmers and foresters in the county. any other form of government intervention. The following recommendations will improve and protect a free agricultural market.

TOP RECOMMENDATIONS

1. State and local governments should minimize regulatory pressure on the agriculture industry.

Regulations interfering with the ability to farm must consider the actual cost and impact to farmers, farmworkers, and communities. Regulations favoring one individual's story over a community's experience are damaging to agricultural businesses, rural families, and towns.

Be it fear or promotion of personal values, state and local governments across the country create excessive regulations for agriculture to navigate. For example, Lincoln County, Oregon approved a ballot measure that would effectively ban the use of aerial pesticide application. In a heavily wooded region, aerial application is an essential tool for farmers, but a special interest group pushed the ballot successfully. The many voices of the special interest group easily outweighed the few farmers and foresters in the county. Fortunately, a judge overturned the decision, allowing the forests and agricultural land to still be managed effectively.¹ Author Baylen Linnekin proposes in his book, 'Biting the Hands that Feed Us', that fewer regulations create a more sustainable food supply and empowers agriculture to seek after the best practices.²

2. Bureaucratic agencies need to remove excessive rulemaking from agendas and workloads.

Bureaucratic agencies distribute precious tax dollars to the salaries and administration of unnecessary rules, often not codified in legislative actions but quietly administered by the personal interests of bureaucratic employees.

Circumnavigating the will of the voters, the Environmental Protective Agency has advanced water body protection and exceeded the

¹ Court Strikes Down Aerial Pesticide Spray Ban in Lincoln County, Oregon – Challenging Local Rights to Protect Communities, *Beyond Pesticides*, October 4, 2019, available at <u>https://beyondpesticides.org/dailynewsblog/2019/10/court-strikes-down-aerial-pesticide-spray-ban-in-lincoln-county-oregon-challenging-local-rights-to-protect-communities</u>

² Biting the Hands that Feed Us: How Fewer, Smarter Laws Would Make Our Food System More Sustainable, by Baylen Linnekin, *Island Press*, September 2016

For decades, the EPA has incrementally expanded its definition of WOTUS to include many non-navigable bodies of water in the agency's definition.

Judicial branches are responsible for interpreting the codified law with rulings that fit within the interpretation of existing legislation. legislative directives for Waters of the United States (WOTUS). For decades, the EPA has incrementally expanded its definition of WOTUS to include many non-navigable bodies of water in the agency's definition. A recent Supreme Court ruling in 2023, reigned in the agency's definition.³

3. Judicial branches must respect codified law and not legislate through rulings.

Judicial branches are responsible for interpreting the codified law with rulings that fit within the interpretation of existing legislation. Efforts by special interest groups to advance legislation through court cases that re-interpret the intent of the legislative branches hurts the functioning of government.

Legislating from the bench, the Washington Supreme Court reinterpreted the piece-rate pay laws and overcomplicated the ability for farms to pay workers based on performance. In 2018, the court decided that for agricultural workers, piece rate pay could no longer use the workweek averaging method to guarantee minimum wage. The court later ruled in 2019, that the workweek averaging method can be used for non-agricultural workers. The judicial system is not the place for special interest groups to advance preferential policies that are conflicting and unfair. Using the judicial system in this manner avoided the diverse perspectives and voice of the legislature, creating laws that are biased against agriculture.⁴

4. Existing agricultural water usage needs to be protected and the development of water storage/resources encouraged.

Clean water is essential, but unnecessary and unscientific restrictions on water use need to be removed. Farmers should have the ability to access water and help fund additional water expansion projects via usage fees. States need to respectfully balance water for agriculture use and reasonable fish recovery efforts.

 ³ Supreme Court cleans up the Clean Water Act, by Madilynne Clark, Mountain States Policy center, June 2, 2023, available at <u>https://www.mountainstatespolicy.org/supreme-court-cleans-up-the-clean-water-act</u>
 ⁴ Peace for Piece-Rate Employers in Washington, by Ellis, J and Paul Crowie, *Employment Labor Law Blog*, September 2019, available at <u>https://www.laboremploymentlawblog.com/2019/09/articles/class-actions/piece-rate-employers-washington</u>

Across the western states, the use it or lose it water laws discourage water conservation.

Undeveloped land should be made accessible for agricultural land developers and for housing and commercial development to decrease the pressure for farm ground conversion. Despite decades of effort the Odessa aquifer groundwater replacement project in Washington is still in planning stages, though Washington state just received \$33 million in funding to move forward. Federal and state governments need to prioritize and expedite water projects to allow water sources to be used from ecologically sustainable sources.⁵

Across the western states, the use it or lose it water laws discourage water conservation. States need to encourage water conservation, not unduly punish farmers for adopting efficient technologies and conserving water resources. Individual farmers and canal companies would benefit from legislation that encourages conservation, without losing their existing water rights.⁶

5. Land development must balance the necessity of property rights with the necessity of land for food production.

Property rights must be protected. However, tax exemptions on agricultural land should account for changes in use, encouraging farmers to slow the development of agricultural land for housing purposes. Local and state policies already influence the decision through property taxes. Using the existing exemptions to encourage farmers to protect agricultural land is a free market method of protecting farm ground.

Policies should balance the right of the farmers to lease their land for the best available use. Undeveloped land should be made accessible for agricultural land developers and for housing and commercial development to decrease the pressure for farm ground conversion.

The growing population of the western states has increased the conversion of farmland to subdivisions and commercial properties. Where once sprawled thousands of acres of farmland, housing developments are covering the landscape and decreasing farming in many regions. Most regions give property tax exemptions to agricultural land and local communities can use property tax incentives to discourage urban sprawl and encourage farmland preservation.⁷ A policy in this directive should carefully weigh strategies.

 ⁵ The Odessa aquifer groundwater project reaches an important milestone, by Dan Hanson, Fox 41, March 6, 2023, available at https://www.fox41yakima.com/the-odessa-aquifer-groundwater-project-reaches-an-important-milestone
 ⁶ Western water strategy shifting from 'use it or lose it,' to 'waste not, want not', by Sandra Postel and Lesli Allison, *The Hill*, June 2018, available at https://thehill.com/opinion/energy-environment/392341-western-water-strategy-shifting-from-use-it-or-lose-it-to-waste
 ⁷ Agricultural Lands, California State Board of Equalization, available at https://www.boe.ca.gov/proptaxes/agricultural_lands.htm

Oregon mandates an 80-acre minimum on agricultural lots (160 acres for rangeland) for homebuilding. These policies disrespect property rights, stagnate growth, and hurt rural communities.

Agriculture labor needs will always be seasonal, and laws should favor workers that adapt and thrive in this seasonality. Policies must avoid the severe limitations of farmland development and disregard for property rights that are practiced in Washington and Oregon. Oregon mandates an 80-acre minimum on agricultural lots (160 acres for rangeland) for homebuilding. These policies disrespect property rights, stagnate growth, and hurt rural communities.

6. Agricultural labor needs to be accessible, and laws should respect the seasonal work dynamics of farming.

H-2A (temporary visa) workers are vital to farms. Excessive state restrictions on the H-2A program need to be stopped due to the damage to an already complex and frustrating system. Bureaucratic delays in paperwork, excessive housing and work environment requirements, unrealistic efforts to encourage the employment of domestic workers, prevent and postpone H-2A workers from working and receiving a good income to take back home.

The United States Department of Labor proposed another rule in 2020, that would further complicate agricultural H-2A wages by requiring certain activities to have a higher Adverse Effect Wage Rate (AEWR). This new rule would further complicate the administrative burden for farms employing H-2A workers, requiring them to track every activity of every employee. The DOL has also proposed intentionally misclassifying H-2A workers if they participate in any activity that could fit in these higher wage categories.⁸

Agriculture labor needs will always be seasonal, and laws should favor workers that adapt and thrive in this seasonality. Laws that complicate the ability to pay workers based on performance (i.e., piece-rate pay) or that prevent workers from earning a year's income in a 6-9 month season (i.e., agricultural overtime) hurt farmworkers and farmers.

Agriculture's long existing overtime exemption has been removed in California, Washington, Oregon, and other states.⁹ The implementation of this policy, is quickly eroding the ability of workers to earn a year's

⁸ DOL Plans to Make the H-2A Program Too Expensive for Many Farms to Use, by David Bier, CATO Institute, February 2022, available at <u>https://www.cato.org/blog/dol-plans-make-h-2a-program-too-expensive-many-farms-use</u>
⁹ Farm workers are missing out on income, by Madilynne Clark, Mountain States Policy Center, May 2023, available at <u>https://www.mountainstatespolicy.org/farm-workers-are-missing-out-on-income</u>

State and local laws should not unduly prevent federally approved technology from being used by farmers.

Some farmers can be their own best advocates. They can be responsible for developing their own trade development and contributing to research funding. income within the 6-9 month growing season and for farms to meet the seasonal labor demands of farming.¹⁰

7. Technology should be made available to farmers without excessive restrictions.

State and local laws should not unduly prevent federally approved technology from being used by farmers. State rules and regulations complicate an already fraught Food and Drug Administration (FDA) approval process, making more agriculture chemicals off-limits. States can push the federal government to help farmers access and use their technology.

Small regions across the country have banned genetically modified crops (GMOs), for many reasons. Jackson County and Jefferson County voted to ban GMOs in 2014, to favor seed growers, over other farmers that grew GMOs. However, a judge overturned the decision in 2016 for Jefferson County, and the Oregon legislature ensured after the fact that no other county could issue a similar ban, leaving Jackson County as the only Oregon county with an effective ban.¹¹,¹²

Other countries across the globe ban GMOs, ensuring food remains expensive and harder to produce.¹³ There is no evidence of GMOs causing environmental or human health harm, in fact GMO technology can improve both factors.

8. Farmers can take the lead in encouraging trade development and research.

Some farmers can be their own best advocates. They can be responsible for developing their own trade development and contributing to research funding. The government's role in trade should be in opening markets currently facing bans and restrictions. Funding trade promotion missions for specific agricultural products should primarily be the role of

¹⁰ Condemning Senators' unethical effort to manipulate their voices, farm workers continue asking Olympia to 'Let Us Work', *Save Family Farming*, available at <u>https://savefamilyfarming.org/condemning-senators-unethical-effort-to-manipulate-their-voices-farm-workers-continue-asking-olympia-to-let-us-work/</u>

¹¹ Oregon judge strikes down GMO ban, The National Ag Law Center, available at <u>https://nationalaglawcenter.org/oregon-judge-strikes-down-gmo-ban</u>

¹²Remembering The GMO Ban In Stories Of Southern Oregon, by the Jefferson Exchange Team, Jefferson Public Radio, September 2021, available at https://www.ijpr.org/show/the-jefferson-exchange/2021-09-13/tue-8-am-remembering-the-gmo-ban-in-stories-of-southern-oregon

¹³ Gains Foregone by Going GMO Free: Potential Impacts on Consumers, the Environment, and Agricultural Producers, by Brandon McFadden, et al., November 2021, available at <u>https://www.cast-science.org/wp-content/uploads/2021/11/QTA2021-2-GMO-Free-1.pdf</u>

Japan enjoys many frozen U.S. potatoes, but a ban exists on U.S. fresh potatoes entering the market.

When someone dies without effective estate planning, the federal government will claim up to 40 percent of the value of the taxable estate. the business. The government can support farms through research funding that is applicable and valuable to agriculture and the taxpayer.

Japan enjoys many frozen U.S. potatoes, but a ban exists on U.S. fresh potatoes entering the market. Government is playing a needed role in encouraging the opening of the market. Legislators from Idaho and 31 other members of the US House and Senate recently sent a letter to the U.S. Department of Agriculture requesting them to push Japanese officials to buy fresh potatoes. The U.S. recently achieved a similar opening into the Mexican market in 2022.¹⁴

9. Taxes should not unfairly favor or punish farmers.

Farmers should be treated equally with other businesses. Taxes need to respect the often familial way in which agri-businesses are organized, and not unduly burden farming organizations.

The federal government's so-called 'Death Tax' can destroy farming operations. When someone dies without effective estate planning, the federal government will claim up to 40 percent of the value of the taxable estate. For farmers, who are land rich but cash poor, the liquid assets needed to cover the taxable value are insufficient. Farms are then sold to pay the debt. Legislators have increased the exemption amount in recent years and are working on making this fix more permanent.¹⁵

10. Farmers can be responsible for their own risk management and marketing.

Farmers are businesses and can be responsible for managing risk through cropping decisions, hedging prices on the market, locking in prices via contracts, changing agronomy practices, and more. Successful farms often market their own product and protect their margins better than farmers who rely on others for marketing.

 ¹⁴ Japan won't accept fresh Idaho potatoes, so U.S. lawmakers are pushing for change, by Mia Maldonado, Idaho Capital Sun, May 2023, https://idahocapitalsun.com/2023/05/30/japan-wont-accept-fresh-idaho-potatoes-so-u-s-lawmakers-are-pushing-for-change
 ¹⁵ One Family Farm Lost to the Death Tax is One Too Many, by Senator John Thune, South Dakota, March 2021, available at https://www.thune.senate.gov/public/index.cfm/2021/3/one-family-farm-lost-to-the-death-tax-is-one-too-many

Agricultural operations are more than capable of managing risk and marketing crops.

Today, 835 federally inspected slaughterhouses remain, with four companies owning 85 percent of the market. The five-year averages for crop insurance encourage farmers to continue planting crops that are not demanded by the market and predictably incomes continue to drop. The federal government steps in to make up the difference and the farmer is protected.¹⁶

Agricultural operations are more than capable of managing risk and marketing crops. The larger the organization the farmer relies on to manage these important business decisions, the less likely the farmer is to continue farming and rural communities suffer. For example, Westby, Wisconsin, has focused on local cooperatives that benefit the town. Westby Cooperative Creamery can hear and represent the needs of the ~220 local dairy families and make choices that benefit their community. A stark contrast to the powerful, national cooperatives that benefit absentee management and take less input from farm "owners."¹⁷

CASE STUDIES IN FREE MARKET AGRICULTURE

Does Free Market agriculture work? New Zealand would answer yes. It took the dive to remove all subsidies and solve its debt crisis. Agriculture grew, becoming more resilient and successful.¹⁸ For some farmers and ranchers in the United States, free market agriculture doesn't exist. Excessive regulatory burdens, unnecessary safety nets, farm consolidation, and corporate expansion have discouraged free market agriculture in America.

The beef industry's current weaknesses are caused by the diminishing presence of the free market. In the early 1900s, fueled by justifiable concerns around food safety, Congress passed much-needed food safety regulations that improved the health of the country. But these regulations have become excessive, with requirements for an USDA Inspector to be present at every slaughterhouse with meat destined for commercial sale. During the 1980s, economies of scale and labor organization concerns consolidated slaughterhouses. Today, 835 federally inspected slaughterhouses remain, with four companies owning 85 percent of the market. The remaining 15 percent is made up of small and medium-sized slaughterhouses that are more responsive to their regional dynamics but can only affect a small part of the market.

Ranchers, with cow-calf pairs, face an uphill battle to market meat to the local market because butchers with inspectors no longer cater to small shipments,

¹⁶ What Harm Is Done by the Federal Crop Insurance Program Today, by Vincent Smith and Barry K Goodwin, the American Enterprise Institute, April 2023, available at <u>https://www.aei.org/research-products/report/what-harm-is-done-by-the-federal-crop-insurance-program-today</u>

¹⁷ How Rural America Got Milked, by Leah Douglas, Washington Monthly, January 2018, available at https://washingtonmonthly.com/2018/01/07/how-rural-america-got-milked

¹⁸ The Agriculture Bill's Bountiful Harvest – A Free Market for New Zealand Farmers, by Carl Brooks, Winter 2003, Federal Reserve Bank of Richmond, available at https://www.richmondfed.org/publications/research/econ_focus/2003/winter/feature3_sidebar3

Not only are ranchers prevented from accessing consumers by excessive regulations around meat processing facilities, but they are also not being paid more despite increasing meat prices.

Policy makers need to take a hard look at the requirement for federal inspectors at every meat processor.

cutting ranchers off from marketing their own product. Instead, to market their cattle, ranchers rely heavily on large contract feedlots to feed, grow out, and sell their calves. The feedlots then sell into an ever-consolidating beef packer industry. Temple Grandin, an expert on the slaughterhouse industry said, "Bigger is not bad. Badly managed is bad. When big breaks, you've got a real mess."19

For example, when Covid-19 appeared in slaughterhouses in 2020, the majority of the industry shut down to deal with the spread. Beef supply across the country decreased and prices of hamburger soared over \$5 per pound. Despite the rise in prices, ranchers did not see an increase in profits because the profits were going to the packers and feedlots. Not only are ranchers prevented from accessing consumers by excessive regulations around meat processing facilities, but they are also not being paid more despite increasing meat prices.

Now, the government is trying to undo the mess created by excessive regulations. Legislative fixes have been proposed with little traction and the Biden Administration has made proposals to throw money at the problem, attempting to deconsolidate monopolized meat processors and encourage processing growth in rural America. But this is an uphill battle that wouldn't need to be fought had the government only realized how excessive regulations discourage a free market.

What is the beef industry's best step forward? Policy makers need to take a hard look at the requirement for federal inspectors at every meat processor.

The PRIME Act, would allow smaller processors to sell into the market if they are not involved in interstate commerce, promoting the states' role in food safety and allowing local level oversight. Other alternatives could change federal oversight to a "process verify" system that would still protect food safety through regular processing inspections, while removing the requirement for federal inspectors to be present *during* slaughter, ending the man-power shortage at the USDA and allowing smaller processors to afford entering the commercial market.²⁰

CONCLUSION

Ranchers are finally experiencing a strong market this year, but that is after 2021 and 2022 when many family operations sold breeding stock because of low calf prices and high feed costs. It is only a matter of time before breeding stock increases again and the calf prices drop and ranchers once again feel the pinch of an overregulated system.

¹⁹ Consolidation has made the meat industry vulnerable to crises like COVID-19, by Chloe Sorvino, Marketplace, December 2022, available at https://www.marketplace.org/2022/12/06/consolidation-meat-industry-supply-chain ²⁰ Interview with Dr. Darren Hudson, Professor and Agricultural Competitiveness Chair, Texas Tech University, July 2023

Farms thrive when markets are accessible, achievable through free market agriculture which encourages local oversight and an environment friendly to self-reliance.

Nothing in this publication shall be construed as an attempt to aid or hinder the passage of any legislation. Free market agriculture doesn't argue for an unregulated system, but for fewer, smarter regulations. Farms thrive when markets are accessible, achievable through free market agriculture which encourages local oversight and an environment friendly to self-reliance. Resilient farmers and ranchers are achieved with a free market, and it is time policymakers make an economy friendly to these policies.

ABOUT THE AUTHOR

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Madi holds a master's degree in Agricultural and Resource Economics from Colorado State University as well as a B.S. in Environmental Economics, Policy, and Management from Oregon State University.

She is the former Director for the Initiative on Agriculture at Washington Policy Center, one of the first free market think tanks in the nation to launch a focus on Agriculture.



Before joining WPC, she worked for Ag Association Management in Tri-Cities, Washington, working with growers and industry across Washington, Oregon, and Idaho. She also spent two years as an associate of The Context Network. Her time involved working as a business analyst on various agriculture projects in production, wholesale, retail, and policy Ag sectors. She was also a wildland firefighter for four summers.

Madi's work has been published in *The Capital Press, Tri-City Herald*, and the *Spokesman-Review* and she has spoken to agricultural and policy groups across the Pacific Northwest.



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