

FDA Food Safety Modernization Act

In 2011, FDA Food Safety Modernization Act (FSMA) was signed into law and FSMA has given the Food and Drug Administration (FDA) new authorities to regulate the way foods are grown, harvested and processed. Farms with \$25,000 to \$250,000 in annual sales (averaged over the previous three-year period) will be required to comply beginning January 27, 2020. Thereafter, CDFA's Produce Safety Program began conducting on-farm inspections of farms that fall within this range to verify compliance with the Produce Safety Rule.

According to FDA FSMA, farms could be in one of the following three categories:

1. **Exempt Farm:** Your farm is considered exempt if:

- i. Produce that is not a raw agricultural commodity. (A raw agricultural commodity is any food in its raw or natural state)
- ii. If you produce commodities that FDA has identified as rarely consumed raw (asparagus; black beans, great Northern beans, kidney beans, lima beans, navy beans, and pinto beans; garden beets (roots and tops) and sugar beets; cashews; sour cherries; chickpeas; cocoa beans; coffee beans; collards; sweet corn; cranberries; dates; dill (seeds and weed); eggplants; figs; horseradish; hazelnuts; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; winter squash; sweet potatoes; and water chestnuts); or
- iii. Food grains, including barley, dent- or flint-corn, sorghum, oats, rice, rye, wheat, amaranth, quinoa, buckwheat, and oilseeds (e.g. cotton seed, flax seed, rapeseed, soybean, and sunflower seed)
- iv. The rule provides an exemption for produce that receives commercial processing that adequately reduces the presence of microorganisms of public health significance (e.g., via a "kill step") as long as certain disclosures are made and written assurances are received, with appropriate documentation.
- v. If you grow produce for personal/on-farm consumption.
- vi. In the previous 3 consecutive years your farm had \$25,000 or less in average annual produce sales.

2. **Qualified Exempt Farm:** Your farm is considered qualified exempt if

- i. The average annual value of all food the farm sold during the 3-year period preceding the applicable calendar year was less than \$500,000
- ii. During the previous 3-year period, more than half of the average annual monetary value of the produce the farm sold was directly to qualified end-users. A qualified end user is (a) the consumer of the food (consumer does not include a business); or (b) a restaurant or retail food establishment that is located in the same State or the same Indian reservation as the farm that produced the food; or not more than 275 miles from such farm.

If your farm is eligible for the qualified exemption, you must follow the modified requirements:

- a. When a food packaging label is required, you must prominently and conspicuously display **on the food packaging label** the name and the complete business address of the farm where the produce was grown; or
- b. When a food packaging label is not required on food you must prominently and conspicuously display, **at the point of purchase**, the name and complete business address of the farm where the produce was grown, on a label, poster, sign, placard (internet sales: e-notice)
- c. The complete business address must include the street address or post office box, city, state, and zip code for domestic farms, and comparable full address information for foreign farms.

- 3. Covered Farm:** If your farm does not qualify for full exemption or a qualified exemption from FSMA then your farm is completely covered by FSMA and is therefore subject to the full suite of FSMA Produce Safety Rule requirements listed below.

The FSMA Produce Safety Rule is made up of several sets of standards that prescribe certain actions that farmers must take to minimize the risks of microbial contamination on their farms. The major components relate to:

1. Employee qualifications and training;
2. Worker health and hygiene;
3. Water used during growing, harvesting, packing, and holding;
4. Biological soil amendments of animal origin (manure and compost);
5. Wild and domesticated animals;
6. Equipment and buildings; and
7. Post-harvest activities, like packing and holding.

Under the “Employee Qualifications and Training” sections one of the requirements is that at least one “supervisor or responsible party” for your farm must have successfully completed food safety training that is “at least equivalent” to that received under “standardized curriculum recognized as adequate by FDA.”

To learn more about FSMA and its requirements please refer to the following publication by National Sustainable Agriculture Coalition: <http://sustainableagriculture.net/wp-content/uploads/2008/08/FSMA-PRODUCE-RULE-FINAL.pdf>

If your farm is a "Qualified Exempt Farm" or a "Covered Farm" and you need one-on-one assistance from UC Small Farm Program for complying with FDA FSMA compliance requirements, please contact us:

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