

FOOD SAFETY MODERNIZATION ACT

PRODUCE SAFETY RULE

WHAT, WHO AND WHEN



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The FSMA Produce Safety Rule which establishes standards for the safe growing, harvesting, packing and holding of fruits and vegetables grown for human consumption became effective January 26, 2016. The rule specifies standards for the use of biological soil amendments; intrusion by wild and domesticated animals in fields and packing sheds; worker training and health and hygiene; equipment, tools and buildings; and irrigation, pesticide application and post harvest water quality. The rule also establishes who and what is covered and when they are required to be in compliance.

The Maryland Department of Agriculture has partnered with the University of Maryland Plant Sciences Department and University of Maryland Extension through a cooperative agreement with the U.S. Food and Drug Administration to develop a Maryland Produce Safety Program that provides outreach, technical assistance, and education to Maryland produce growers and inspection and enforcement to verify compliance.

What produce is required to be grown in compliance with the Rule?

Produce that is usually consumed raw such as tomatoes, cucumbers, cantaloupes, and watermelons

The growing, harvesting, packing and holding of the following produce crops are **exempt** from compliance with the Produce Safety Rule standards:

- Rarely Consumed Raw: Asparagus; black beans, great Northern beans, kidney beans, lima beans, navy beans and pinto beans; garden beets; sugar beets; cashews; sour cherries; chickpeas; cocoa beans; coffee beans; collards; sweet corn; cranberries, dates; dill; eggplants; figs; horseradish; hazelnuts; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; winter squash; sweet potatoes; and water chestnuts.
- Food grains such as barley, corn, sorghum, oats, rice, rye, wheat, amaranth, quinoa, buckwheat, oilseeds.
- Produce that receives commercial processing that adequately reduces the presence of human pathogens.

What Farms Must Comply?

Farms that grow produce; however there are exemptions.

Exempt: Farms that have an average annual value of produce sold during the previous three-year period of \$26,999* or less.

Qualified Exempt: Farms that grow produce and their **food** sales meet the following criteria:

- **Food (includes all human and animal food not just produce required to be in compliance with the Produce Rule)** sales averaging less than \$539,982* per year during the previous three year period; and
- Sales to the consumer of the food or a restaurant or retail food establishment that is located in the same state or the same Indian reservation as the farm or not more than 275 miles away must exceed sales to all others combined.

Qualified Exempt Farms are required to:

- Disclose the name and complete business address of the farm where the produce was grown either on the label or at the point of purchase
- Maintain records to support eligibility for a qualified exemption

Qualified Exemptions can be withdrawn by FDA

When will Farms have to Comply?

Very small businesses with \$26,999* to \$250,000 in average annual produce sales during the previous three year period must be in compliance by January 26, 2020.

Small businesses with more than \$250,000 and up to \$500,000 in average annual produce sales during the previous three year period must be in compliance by January 26, 2019.

Businesses with more than \$500,000 in produce sales must be in compliance by January 26, 2018.

Qualified Exemption Compliance Dates:

- Labeling requirements: January 1, 2020
- Retention of records supporting eligibility:
 - Over \$250,000 in produce sales: January 26, 2016
 - \$26,999* to \$250,000 in produce sales: January 26, 2017

Compliance with certain aspects of the water quality standards and related testing and recordkeeping provisions must begin by two years beyond the compliance dates for the rest of the final rule

**Exempt and qualified exempt monetary values adjusted for inflation and averaged for 2015, 2016, and 2017*