

REQUIREMENTS FOR EXEMPT FARMS UNDER FSMA PRODUCE RULE

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Are you fully exempt or qualified exempt from the Food Safety Modernization Act (FSMA) Produce Rule? Do you know how to figure this out? If not, you are not alone! Did you know that even if you are exempt, you still have guidelines and requirements that need to be followed?

The Food and Drug Administration (FDA) has developed a [flow chart](#) to help growers determine whether they are fully exempt or qualified exempt from the FSMA Produce Rule. In the flow chart, they discuss "[rarely consumed raw](#)" produce, which is an exhaustive list developed by FDA. Basically, if your specialty crop is not on this list, then it is a covered produce under the FSMA Produce Rule.

Let's break this down and make it a little easier to understand:

1. Are you fully exempt?

If you are fully exempt, you are not required to attend the full-day Produce Safety Alliance grower training class, you are not required to maintain documentation or records for the farm, and you are not required to test your water source. However, FDA has determined that fully exempt farms will need to show their exemption status if/when a farm inspection is scheduled.

The records that they will be looking for will be your daily/weekly/monthly/yearly documentation of sales records to your customers. Since the definition of an exempt farm is having sales less than \$25,000 ([adjusted for inflation](#)) in produce sales over a three-year average (produce includes fruits, vegetables, peanuts, tree nuts, herbs, mushrooms, and the plants they come from), the farm will need to keep records going back at least three years. [Annual review and verification](#) of sales status for the farm should be completed.

The [North Central Region Center](#) for FSMA Training, Extension and Technical Assistance group has developed a [FSMA Exemption Worksheet](#) that can be used to help determine the three-year average for the farm. This form can also be incorporated as the yearly review documentation for the farm.

Keep in mind, if your farm diversifies or grows, and your three-year average goes above the \$25,000 (adjusted for inflation), the farm may fall under the FSMA Produce Rule, which will then require:

- At least one person from the farm to have completed the PSA grower training class
- Have documentation/[records required by the Produce Rule](#)
- Have results of the [water testing requirements](#)

2. Are you qualified exempt? The Food and Drug Administration (FDA) has developed a [flow chart](#) to help growers determine whether they are fully exempt or qualified exempt from the FSMA Produce Rule. To be qualified exempt you must:

- a. Have less than \$500,000 in food sales over a three-year period (food sales includes fruits, vegetables, peanuts, tree nuts, herbs, mushrooms, and the plants they come from as well as all other consumables such as candy, jams, ice cream, canned goods,

meats, value-added products, grains for meat/dairy production, produce purchased from neighboring farms to sell off your farm, etc)

- b. The farm must sell at least 51% of food sales to qualified end users. Qualified end users are the consumer of the food, or restaurants, or retail food establishments that are located in the same state or Indian reservation as the farm, or not more than 275 miles from the farm. These can be buyers at a farmers market, Community Supported Agriculture (CSA) shareholders, a restaurant, grocery store or school cafeteria.

If you are qualified exempt, you are not required to attend the full-day Produce Safety Alliance grower training class, you are not required to maintain documentation or records for the farm, and you are not required to test your water source. However, FDA has determined that qualified exempt farms will need to show their exemption status if/when a farm inspection is scheduled.

All qualified exempt farms need to perform and document an [annual review and verification](#) of their qualified exemption eligibility. Dated sales receipts must be kept demonstrating that the farm satisfies the criteria for a qualified exemption – which can include invoices that show to whom products were sold. Individual receipts do not need to be signed by the farmer, but the annual review document does need to be reviewed, dated, and signed by a supervisor or responsible party within a reasonable time after the records are made.

Keep in mind, a farm's qualified exemption may be withdrawn if there is an active investigation of an outbreak of foodborne illness that is directly linked to the farm, or if FDA determines it is necessary to protect the public health and prevent or mitigate an outbreak based on conduct or conditions associated with the farm or produce. If this happens, then the farm will no longer be exempt, and will need to meet the standards required under the Produce Rule. This will include:

- At least one person from the farm to have completed the PSA grower training class
- Have documentation/[records required by the Produce Rule](#)
- Have results of the [water testing requirements](#)

Whether the farm is fully exempt or qualified exempt, all produce growers must display the name and business address of the farm where the produce was grown - at the point of sale if a label is not attached to the produce, or on the label itself as required by the FDA. In the case of internet sales, the name and address of the farm where the produce was grown is required, and can be incorporated onto the electronic receipt.

So, after all this, what is the take-away message? First, make sure you know whether your farm is fully exempt, qualified exempt, or covered under the FSMA Produce Rule. If your farm does not fit into the designations above, there is a good chance that it will fall under the FSMA Produce Rule. Second, even if your farm is fully exempt or qualified exempt, it is important to learn more about the FSMA Produce Rule through a [Produce Safety Alliance Grower Training](#) course or the [Good Agricultural Practices Online Program](#) through Cornell University. You will be amazed at what you can learn!

If you have any questions or concerns, please contact Laurie George at University of Illinois Extension – (618) 242-0780 or by email at ljgeorge@illinois.edu.