

FSMA'S Produce Safety Rule

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1. Do you grow “covered”, “not covered” or Exempt Produce?

a. “Covered Produce”: Fruits and vegetables that are usually eaten raw.

Fruits and vegetables such as almonds, apples, apricots, apriums, Artichokes-globe-type, Asian pears, avocados, babacos, bananas, Belgian endive, blackberries, blueberries, boysenberries, brazil nuts, broad beans, broccoli, Brussels sprouts, burdock cabbages, Chinese cabbages (Bok Choy, mustard, and Napa), cantaloupes, carambolas, carrots, cauliflower, celeriac, celery, chayote fruit, sweet cherries, chestnuts, chicory (roots and tops), citrus (such as clementine, grapefruit, lemons, limes, mandarin, oranges, tangerines, tangors, and unqi fruit), cowpea beans, cress-garden, cucumbers, curly endive, currants, dandelion leaves, fennel-Florence, garlic, genip, gooseberries, grapes, green beans, guavas, herbs (such as basil, chives, cilantro, oregano, and parsley), honeydews, huckleberries, Jerusalem artichokes, kale, kiwifruit, kohlrabi, kumquats, leek, lettuce, lychees, macadamia nuts, mangos, other melons (such as Canary, Crenshaw and Persian), mulberries, mushrooms, mustard greens, nectarines, onions, papayas, parsnips, passion fruit, peaches, pears, peas, pigeon peas, peppers (such as bell and hot), pine nuts, pineapples, plantains, plums, plumcots, quince, radishes, raspberries, rhubarb, rutabagas, scallions, shallots, snow peas, soursop, spinach, sprouts (such as alfalfa and mung bean), strawberries, summer squash (such as patty pan, yellow and zucchini), sweetsop, Swiss chard, taro, tomatoes, turmeric, turnips (roots and tops), walnuts, watercress, watermelons, and yams. **These crops will be inspected under the PS Rule.**

b. “Not covered” produce: Fruits and vegetables that are usually not eaten raw.

Asparagus, beans (black, great Northern, kidney, lima, navy, pinto), garden beets (roots and tops), sugar beets, cashews, sour cherries, chickpeas, cocoa beans, coffee beans, collards, sweet corn, cranberries, dates, dill (seeds and weeds), eggplants, figs, ginger, hazelnuts, horseradish, lentils, okra, peanuts, pecans, peppermint, potatoes, pumpkins, winter squash, sweet potatoes, and water chestnuts. **If the commodity you grow is listed here, the PS Rule does not cover it, these crops will not be inspected**

c. Do you grow produce that is intended for commercial processing that adequately reduces pathogens (for example commercial processing with a “kill step”)?

If the answer is “Yes”, then the farm must annually obtain a written assurance from either the customer performing the commercial processing or from your customer that an entity in the distribution chain subsequent to customer will perform commercial processing. **Most of the requirements from the PS Rule do not apply to produce that is processed. Further guidance is expected.**

Processing includes: refining, distilling, manufacturing/processing produce into sugar, oil, spirits, wine, beer or similar products

2. Farms under the Produce Safety Rule can be classified as:

a) Not covered by the PS Rule:

- ✓ If the farm sells \$25,000 or less in **produce** annually over the last 3 years.
- ✓ If the produce grown is for personal consumption.
- ✓ If the produce is not a “raw agricultural commodity”.

b) Eligible for a qualified exemption and modified requirements (if both 1 and 2 apply to the farm):

- (1) Does the farm sell the majority of the produce to consumers, restaurants or retail establishments within NC or not more than 275 miles of the farm or via internet sales?
- (2) Are total **food** sales less than \$500,000 annually (use the average over the last 3 years)?

*Food is defined as articles used for food or drink for man or animals, or articles used to make components of it.

Qualified Exemptions require farms to keep financial records to prove food sales (Effective- 1/26/2016) and comply with labeling requirements (1/20/2020). Most of the requirements and standards in the PS Rule do not apply to these operations. Nonetheless, growers need to understand the importance of following food safety practices and the conditions under which a qualified exemption can be withdrawn.

c) A “covered farm”.

These farms did not meet the conditions set for a qualified exemption and have to comply with the Produce Safety Rule.

Farms must follow the standards set for worker health and hygiene, agricultural water, biological soil amendments, domesticated and wild animals, equipment, tools, sanitation and growing, harvesting, packing and holding activities and have at least one representative from the farm attend a **PSA Grower training**.

Compliance dates for “Covered Farms”.

Covering	All other businesses (Sales over \$500K)	Small businesses (\$250K-\$500K Produce sales)	Very small businesses (\$25K-\$250K Produce sales)
Most provisions in the Produce Safety Rule	1/26/2018	1/28/2019	1/27/2020
For water related regulations outlined in the PS Rule	1/27/2020	1/26/2021	1/26/2022
Sprouts	1/26/2017	1/26/2018	1/28/2019

For more information and dates on PSA Grower trainings please visit

<https://ncfreshproducesafety.ces.ncsu.edu/produce-safety-rule-growers-training/>

This document is not to be considered legal advice. This is a summary of the published guidelines by FDA for FSMA’s Produce Safety Rule (1/9/17).

Can a farm be regulated by the Produce Safety Rule and the Preventative Controls for Human Food Rule?

To determine this please take a close look at the definition of a “FARM” that was recently revised by FDA to determine if your farm is conducting other activities besides the ones listed.

A “Farm” is an operation that conducts the activities listed in numerals A or B:

A. Primary production farm is an operation that is:

- under one management in one general (but not necessarily contiguous) physical location
- devoted to the growing of crops, the harvesting of crops, the raising of animals (including seafood), or any combination of these activities;
- Packs or holds raw agricultural commodities;
- Packs or holds processed food, provided that all processed food used in such activities is either consumed on that farm or another farm under the same management, or is processed
- Manufactures/processes food, provided that:
 - (A) all food is consumed on that farm or another farm under the same management; or
 - (B) any manufacturing/processing of consists only of:
 - (1) drying/dehydrating to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), and packaging and labeling, without additional manufacturing/processing (an example of additional manufacturing/processing is slicing);
 - (2) treatment to manipulate the ripening of raw agricultural commodities (such as ethylene), and packaging and labeling, without additional manufacturing/processing; and
 - (3) packaging and labeling raw agricultural commodities, when these activities do not involve additional manufacturing/processing (an example of additional manufacturing/processing is irradiation); or

B. Secondary activities farm is an operation that is:

- not located on a primary production farm;
- devoted to harvesting (such as hulling or shelling), packing, and/or holding of raw agricultural commodities, and
- provided that the primary production farm(s) grows, harvests, and/or raises the majority of the raw agricultural commodities harvested, packed, and/or held by the secondary activities farm owns, or jointly owns, a majority interest in the secondary activities farm.
- may also conduct those additional activities allowed on a primary production farm.

C. Mixed-type facility means an operation that is:

- A farm that conducts activities beyond what is listed in the Farm definition (such as further processing produce or manufacturing). These farms may have to register with FDA and possibly comply with sections of FSMA’s PC Rule in addition to the PS Rule.**