



FOOD SAFETY MODERNIZATION ACT

Regulations intend to ensure safe food production practices; see if applies to you

By Melissa Bardsley

Food safety affects all of us. Whether producing or consuming, we are involved in food safety. Produce was not always on the radar when it came to food safety, but in the last 10-15 years we have become more aware of the need to follow good agricultural practices to help reduce the risk of a foodborne illness outbreak related to produce. Consumers can help by washing all produce before preparation.

The Food Safety Modernization Act was signed into law by President Obama in 2011 to decrease foodborne illness. The FMSA has not been finalized, and the date of implementation has not been set. This is the first time the FDA has a legislative mandate to require comprehensive, science-based, preventive controls across the food supply. New mandates and authorities that guide FDA's focus not only address the response to contamination of the food supply but also prevent food safety problems.

Do Regulations Apply to Me?

Possibly. Produce safety standards are being developed that will include growing, harvesting, packing, and holding produce on domestic and foreign farms. The rules apply to produce generally eaten raw, such as greens and fruit. The rules do not apply to produce not eaten raw such as potatoes and sweet corn. Refer to the decision tree (page 23) from the FDA to see to whom the rule applies.

If you have a very small business, defined as having an average annual value of food sold during the previous three years of no more than \$500,000, you would have four years after the effective date to comply and six years for some water requirements.

What if your business is smaller than that and made \$25,000 or less annually for the last three years? Technically, you would be considered exempt from the FSMA. But those who believe they will be exempt should start

discussions now with those customers who sell your produce.

Whether you sell at a farmers market or to a local grocer, grower's association, food co-op, a larger shipper or packer, etc., ask if they will have requirements for you to follow related to FSMA enactment. For example, even if you are exempt from the new FSMA, those you sell to may have specific guidelines you have to follow for them to continue purchasing your product, such as following Good Agriculture Practices (GAP) and Country of Origin Labeling (COOL).

Where can I get more information?

Food and Drug Administration:

- FSMA www.fda.gov/fsma
- U.S. Department of Agriculture, Agriculture Marketing Service
- GAP and COOL www.ams.usda.gov
- Wyoming Department of Agriculture <http://agriculture.wy.gov>

Use this decision tree to determine if the new standards may affect you. Proposed Standards for Produce Safety. Last updated 9-25-2013.

Does your farm grow, harvest, pack or hold produce? Sections 112.1 and 112.3(c) YES	NO	You are NOT covered by this rule.
Is your produce rarely consumed raw? Section 112.2(a)(1) NO	YES	This produce is NOT covered by this rule.
Is your produce for personal/on-farm consumption? Section 112.2(a)(2) NO	YES	This produce is NOT covered by this rule.
Does your farm manufacture/process, pack, or hold produce that is not a *Raw Agricultural Commodity (RAC)? Section 112.2(a)(3) NO	YES	Produce that is not a RAC is NOT covered by this rule.
Is your produce intended for commercial processing with a "kill step"? Section 112.2(b)(1) NO	YES	This produce is NOT covered by this rule, EXCEPT as per Sections 112.(b)(2) and (3)
Does your farm on average (in the previous 3 yrs) have < \$25k annual food sales? Section 112.4(a) NO	YES	You are NOT covered by this rule.
Does your farm on average (in the previous 3 yrs) as per Section 112.5: have < \$500k annual food sales, AND a majority of the food (by value) sold directly to "qualified end-users"? "Qualified End-User" Section 112.3(c) means: the consumer of the food ("consumer" is not a business) OR a restaurant or retail food establishment that is located— (i) in the same state as the farm that produced the food; OR (ii) not more than 275 miles from such farm. NO	YES	You are EXEMPT from this rule except as per Section 112.6
You are COVERED by this rule.		



Why was Food Safety Modernization Act proposed?

Centers for Disease Control data suggest approximately 48 million, or one in six Americans, become sick each year from eating contaminated food. Foodborne illness can result in more than a bout of diarrhea. Not only do some people require hospitalization (128,000), but an estimated 3,000 die of a foodborne illness each year. Those at greatest risk are children, pregnant women, the elderly, and those who are immune compromised. Approximately half of foodborne illness cases occur in children, with most in children under the age of 15.

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