



Qualified Exemption Annual Review Guide:

To be eligible for a qualified exemption your farm must meet two requirements:

- 1) farm must have food sales averaging less than \$500,000 per year, adjusted for inflation, during the previous three years; and
- 2) the farm sales to qualified end users must exceed sales to all others combined during the previous three years.

Qualified Exemption Requirements: FDA Produce Safety Qualified Exemption: <https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs>

Part 1: 3-Year Rolling Average Total Sales of Food

To determine the three-year rolling average of total food sales, you must first determine how many food sales were made in each of the previous three years of business. Examples of food products that count towards your total food sales each year include fruits, vegetables, fish, dairy products, eggs, raw agricultural commodities for use as food or as components of food, hay, animal feed (including pet food), food and feed ingredients, food and feed additives, dietary supplements and dietary ingredients, infant formula, beverages (including alcoholic beverages and bottled water), live food animals, bakery goods, snack foods, candy, and canned foods. If you are a new business and not have three years of previous food sales, then you will only count the previous one or two years that you have been in business.

You must have the documentation to support your sales values in order to complete the annual review and/ or apply for a qualified exemption. To meet the first requirement for being eligible for Qualified Exemption, the average of the business's previous three year's food sales must be less than \$500,000 adjusted for inflation, using 2011 as the baseline year. You can find the inflation adjusted number for Produce Safety by going to FDA's [FSMA inflation adjusted cut offs](#).

Part 2: Qualified End-User Sales Requirement

To meet the second requirement for being eligible for Qualified Exemption, a majority (greater than 50%) of all farm food sales from each of the previous three years must be to a qualified end user. Sales to qualified end users includes (a) the consumer of the food or (b) 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. *Sales to a food aggregator or food hub are not considered qualified end user sales.*

You must have the documentation to support your sales values in order to complete this requirement. Once each year's percentage of qualified end-user sales is found, you can find the average of the three years. If the 3-year average of sales to qualified end-users is over 50%, then you are eligible to apply for a Qualified Exemption under the Produce Safety Rule and must follow modified requirements below.

Modified Requirements:

A farm who is eligible and applied for a qualified exemption MUST still meet the following two modified requirements:

1. On food packaging labels and/or at the point of sale, you must disclose the name and the complete business address of the farm where the produce was grown.
2. You must maintain records to prove that you meet this qualified exemption, which must be retained as long as necessary to support the farm's status during the applicable calendar year