



Qualified Exemption under the Produce Safety Rule

Is your farm qualified exempt?

Your farm may be eligible for a Qualified Exemption if your average **produce sales are over \$25,000** and:

- Your average annual **food sales** (produce; all other crops; human and animal food products; and value-added products) over the previous 3 years are less than \$500,000. **AND**
- More than 50% of those food sales are to **qualified end users**. A qualified end user is defined as the consumer of the food or restaurants and retail food establishments located in the same state, Indian reservation or within a 275-mile radius.

What are the Special Rules for Qualified Exempt Farms?

If your farm meets the criteria for a Qualified Exemption, you do not have to comply with the Produce Safety Rule's regulations that govern growing, harvesting and packing produce. However, there are **modified requirements** related to record keeping, notice to customers, and withdrawal of Qualified Exempt status. In addition to these requirements, there is an expectation to apply "on farm food safety strategies" that help reduce the risk of produce contamination by microorganisms of public health significance.



RECORD KEEPING

To claim qualified exemption, you must keep records that prove:

- A rolling average of your total food sales for each of the previous three years; and
- Documentation that the majority of those food sales go to qualified end users.

*** The rolling average for total food sales is adjusted for inflation with a baseline year of 2011. In January 2020 \$500,000 was adjusted to \$586,031.*



LABELING REQUIREMENT

You must provide the name of your farm and farm business address at the point of sale. For example, on a sign at a farmer's market, on an invoice, on an electronic receipt for online sales, or on any label you affix to your product.



WITHDRAWAL OF QUALIFIED EXEMPTION

The FDA or State may withdraw your qualified exempt status if an active food outbreak is directly linked to your farm or if they think withdrawing it is necessary to prevent or control an outbreak. The withdrawal of a qualified exemption is treated like a "Last Resort."



RI DEM Division of Agriculture - Produce Safety Program

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Timeline for Qualified Exemption Status.

- The compliance date for retention of records supporting a Qualified Exemption was January 26, 2016.
- The compliance date for the Qualified Exemption Labeling Requirement was January 1, 2020.

Additional Information on Record Keeping

- Every year you must review your records to verify Qualified Exemption status and keep a written record of this annual review.
- Records that satisfy the criteria for a Qualified Exemption must be retained for as long as necessary to support the farms status during a given year.
 - * For example, documents that would support Qualified Exempt status in 2020 should be dated 2017 - 2019.
- These records do not have to be submitted to the FDA, but they must be retained and made available upon request.

Where should I go for more information?

Contact Ananda Fraser, Coordinator of the RI Produce Safety Program at (401) 222-2781 ext. 2411 with questions or to learn more about Qualified Exemptions under the Produce Safety Rule. You can also visit our website for more information on the Produce Safety Program www.dem.ri.gov/ProduceSafety

The resources listed below are great starting points for learning more about produce safety.

- **URI Cooperative Extension – Food Safety Education**
Sejal Lanterman, Produce Safety Educator
University of Rhode Island
sejal@uri.edu, (401) 874-445
<https://web.uri.edu/foodsafety/>
- **Produce Safety Alliance**
<https://producesafetyalliance.cornell.edu/>
- **FDA's Final Rule on Produce Safety**
<https://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm334114.htm>

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