

Notice on FDA Guidance for Farms Eligible for a Qualified Exemption from the Produce Safety Rule



The FDA recently released new guidance for produce farms that had to shift their market sales in 2020 due to COVID-19 disruptions. The Minnesota Department of Agriculture (MDA) Produce Safety Program is advising produce farms of the following points relating to the guidance.

- 1) The guidance pertains only to farms that are eligible for a Qualified Exemption from the Produce Safety Rule (PSR) in 2020.
 - 2) When determining if these farms will continue to be eligible for an exemption in 2021, the FDA is providing an exception to the requirement that the majority of these farms' food sales be to Qualified End-Users.
 - 3) If your farm:
 - A) Was eligible for a Qualified Exemption in 2020
AND
 - B) Your average total food sales from 2018–2020 are less than \$561,494,
- Then, **FOR 2021**, your farm will still be eligible for the Qualified Exemption regardless of whether the majority of your sales were to Qualified End-Users in 2020.
- For example, if your farm typically sells 90% of its produce to restaurants (Qualified End-Users) but this year restaurant closures forced you to sell 90% of your produce to a food hub (Non-Qualified End-Users), your eligibility will not be affected for a Qualified Exemption in 2021.
- 4) The MDA will send out more detailed guidance on this topic as it is available. We will also communicate specifics on how to report and calculate sales for 2021 as part of our annual Grower Questionnaire, which will be released in December 2020.
 - 5) In the meantime, it is highly suggested that you continue to keep clear records of all food sales, including which sales are to Qualified End-Users, and which are to Non-Qualified End-Users.

Qualified End-User: A Qualified End-User is either the consumer of the food, regardless of location, OR a restaurant or retail food establishment that is located in your state or on your Indian reservation, or not more than 275 miles away from your farm. Examples include CSA customers, farmers' market sales, local restaurants/grocery stores, U-pick customers, etc.

Non-Qualified End-User: A Non-Qualified End-User is any customer that is not the direct consumer of the farm's food. Examples include food hubs, wholesalers, distributors, etc.

The full FDA guidance document can be found at:

www.fda.gov/regulatory-information/search-fda-guidance-documents/temporary-policy-during-covid-19-public-health-emergency-regarding-qualified-exemption-standards

What is a Qualified Exemption?

Farms receiving a Qualified Exemption do not have to comply with most parts of the PSR, including undergoing routine inspections. Farms with this exemption are required to keep only certain sales records and provide specific labels/signage at the point of sale. For more info, please see the University of Minnesota Extension bulletin, "Labeling & Signage Rules For Qualified Exempt Farms," which can be found at extension.umn.edu/safety/growing-safe-food

How do I Know if I am Eligible for a Qualified Exemption?

If you completed the MDA Produce Safety Program's most recent annual Grower Questionnaire, you should have received an official status letter with your farm's 2020 status. If you did not fill out the questionnaire in 2020 or never received a status letter, please contact us at 651-539-3648 or email ProduceSafety.MDA@state.mn.us

This publication was made possible by U.S. FDA grant PAR-16-137. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the FDA.

In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.