1. WHAT DO I NEED TO DO NOW FOR FSMA’S PRODUCE SAFETY RULE? THE QUICK VERSION

For most standards, farmers will have 2 to 4 years to come into compliance with the Produce Safety Rule, however, there is one thing that all farms need to do now, and that is to pull together records that will document whether your farm is covered by FSMA or not, and if it is covered, whether you are eligible for the modified exemption. Starting now:

- **Figure out your annual gross sales for all food** sold from your farm (averaged over a three year period, starting in 2011). **All food** includes: dairy, eggs, meat, processed foods and livestock feed as well as produce.
- **This figure will tell you** whether you are covered by the Produce Rule or not, and if you are covered, if you are eligible for the qualified exemption. Check out the FDA Produce Rule Flowchart [here](#) to determine where you fall.
- **If you are eligible for a Qualified Exemption, you must keep your financial records for three years (starting from 2011) to document your eligibility.** You can use tax returns, Quickbooks or other financial software to document your gross sales for all food.
- **If you are covered by FSMA, you have 2-4 years to come into compliance**, depending on your gross sales (see table in attached document). You have an additional two years to come into compliance on water quality.
- **FSMA does NOT require growers to have a food safety plan**
- **Want more information?**
  - If you are covered, watch Wes Kline’s Farm Credit East webinar on preparing for FSMA [here](#)
  - There is lots more information on the FDA’s Produce Rule Website [here](#)

Vermont’s Agency of Agriculture Food and Markets and Extension will be developing more educational materials in the months to come. I will share information as these resources become available.

I. **My average annual gross sales of all food are under $25,000**

Your farm is not covered by FSMA, and there is nothing special that you need to do to be in compliance with the law other than keeping records to document that your annual gross sales are under $25,000.

Remember: being covered by FSMA does not take the place of a third party audit if your buyer requires an audit. Even if you are not covered by the law, some buyers may want to know that you are following good produce safety practices.

- **Learn more about produce safety practices** through UVM Extension’s Center for Sustainable Agriculture’s Practical Produce Safety Program [here](#).
- **Convene a “Kitchen Table Worksession”** to write your Produce Safety Plan—join with one to four other farms in your area to work with Ginger Nickerson on writing Produce Safety Plans for your farms. For more information contact Ginger at [gnickers@uvm.edu](mailto:gnickers@uvm.edu) or 802-505-8189.
• **Get VT-CAPS certified:** The Vermont Vegetable and Berry Growers Association has a certification program: Vermont CAPS (Community Accredited Produce Safety) for farms that do not need to be GAPs certified. For more information contact Hans Estrin at hestrin@uvm.edu

II. **My average annual gross sales of all foods sold are between $25,000 and $500,000 **AND** over 50% of those sales (by value) are to “Qualified End Users”.

**Qualified end users are customers who are going to consume the food, and/or restaurants or retail food establishments that are located in the same state as your farm or not more than 275 miles from your farm.**

• **You are eligible for a Qualified Exemption from FSMA.**
  - Start now to pull together records since 2011 that will document that your average gross annual sales for the last three years are under $500,000 to demonstrate eligibility for the Qualified Exemption
  - Going forward from January 2016, you will need to document that over 50% of the value of your gross sales are to Qualified End Users. You can do this through invoices/receipts, Quickbooks or other financial software that tracks sales by customer type.
  - If you are eligible for a Qualified Exemption, you must keep your financial records for three years (starting from 2011) to document your eligibility. You can use tax returns, Quickbooks or other financial software to document your gross sales for all food.
  - By January 2020, you must start labelling shipping cartons with your farm name and business address. When labels are not required, you must prominently display farm name and complete business address at point of purchase (ex: farmstand, farmer’s market, CSA pickup location)
  - Learn more about Qualified Exemptions at the FDA’s FSMA Produce Rule webpage

III. **My average annual gross sales of all foods are between $25,000 and $500,000 **AND** over 50% of those sales (by value) are NOT to Qualified End Users (i.e. they are to distributors or other middlemen)**

  OR

**My average annual gross sales of all foods are over $500,000**

• **You are covered by FSMA.** You will have to follow certain standards
  - See the table below to see how much time you have to come into compliance
  - Learn more about the rules at the FDA’s FSMA Produce Rule webpage
  - Watch the Wes Kline Farm Credit East Webinar on How to Prepare Your Farm for FSMA [here](#)

Consider doing this year:

• If you irrigate using surface water, you may want to begin to sample your surface water sources to understand how the quality of your water fluctuates under different circumstances and if/when you need to take corrective actions
• Determine if you will need to make any infrastructure improvements and start to plan for them
• Each farm must have at least one person who has successfully completed a food safety training that is recognized as equivalent to FDA training. UVM Extension is offering a FDA certified course April 5, 2016. This training is limited to 30 farmers. For more information or to register, contact Ginger Nickerson at gnickers@uvm.edu
IV. \textbf{I grow sprouts}

Because sprouts require warm, moist and nutrient-rich conditions favored by microbes, they have been frequently associated with food borne illness outbreaks. Depending on the size of the operation, farms that grow sprouts will have only one to three years to comply with subpart M of the rule, with no additional time to meet the water requirements. Farms that do less than or equal to $250,000 in annual gross sales of produce will have 3 years to comply with the sprout standards; farms that do less than or equal to $500,000 in annual gross sales of produce will have 2 years to comply; and farms that do over $500,000 in gross sales of produce will have 1 year to comply. The sprout rule does not apply to sprouts grown in soil and harvested without their roots.

V. \textbf{I only sell produce that is rarely consumed raw and/or produce that is going to be commercially processed and go through a “kill” step}

If you only sell produce that is usually cooked, such as sweet corn, potatoes, pumpkins or winter squash, your farm may still be covered, but those crops are not covered by FSMA. This means that you should still keep records to demonstrate what your gross sales are, but you will not need to follow the rules if you are not growing crops covered by the law. See below for a complete list of crops that are not covered by FSMA.

\textbf{Foods that are Rarely Consumed Raw}

- Produce that is rarely consumed raw: asparagus; black beans, great Northern beans, kidney beans, lima beans, navy beans, and pinto beans; garden beets (roots and tops) and sugar beets; cashews; sour cherries; chickpeas; cocoa beans; coffee beans; collards; sweet corn; cranberries; dates; dill (seeds and weed); eggplants; figs; horseradish; hazelnuts; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; winter squash; sweet potatoes; and water chestnuts
- Food grains, including barley, dent- or flint-corn, sorghum, oats, rice, rye, wheat, amaranth, quinoa, buckwheat, and oilseeds (e.g. cotton seed, flax seed, rapeseed, soybean, and sunflower seed)
- Processed products
### TIMELINE FOR COMPLIANCE

<table>
<thead>
<tr>
<th>Size</th>
<th>Definition</th>
<th>Compliance date for activities involving covered produce (except sprouts)</th>
<th>Compliance date for water quality standards, testing and recordkeeping</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Very small farm</strong></td>
<td>Average annual value of produce sold is greater than $25,000, but not more than $250,000</td>
<td>January, 2020</td>
<td>2022</td>
</tr>
<tr>
<td><strong>Small farm</strong></td>
<td>Average annual value of produce sold is greater than $250,000, but not more than $500,000</td>
<td>January, 2019</td>
<td>2021</td>
</tr>
<tr>
<td><strong>Other covered farms</strong></td>
<td>Average annual value of produce sold $500,000</td>
<td>January, 2018</td>
<td>2020</td>
</tr>
</tbody>
</table>

### REVIEW OF WHO IS COVERED

<table>
<thead>
<tr>
<th>Average annual gross sales of <em>all food</em> for your farm is:</th>
<th>Covered by FSMA?</th>
<th>What you must do</th>
</tr>
</thead>
<tbody>
<tr>
<td>under $25,000</td>
<td><em>Not covered</em> by FSMA</td>
<td>Keep financial records to document you fall in this category</td>
</tr>
</tbody>
</table>
| Between $25,000 and $500,000 AND over half the value of your sales is to Qualified End Users (direct consumers or retail establishments within 275 miles of farm) | *Covered by FSMA, eligible for Qualified Exemption* | Keep financial records to document you fall in this category.  
*By January 2020: Use labels and signage*  
Must have name of farm and complete business address on labels (ex: shipping cartons)  
When labels not required, must prominently display name and... |
<table>
<thead>
<tr>
<th>Complete Business Address at Point of Purchase (ex: Farmstands, Farmer’s Markets, CSA Pick-Up Location)</th>
<th>Between $25,000 and $500,000 but over half the value of sales is NOT to Qualified End Users (e.g. over half of value of your sales is to distributors or to customers over 275 miles from the farm)</th>
<th>Covered by FSMA</th>
<th>Follow the various standards that apply to your farm. Keep records to document you are following the standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $500,000</td>
<td>Covered by FSMA</td>
<td>Follow the various standards that apply to your farm. Keep records to document you are following the standards</td>
<td></td>
</tr>
</tbody>
</table>

Want more information?

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- **Questions?** Call or email Ginger Nickerson at: 802-505-8189, or [gnickers@uvm.edu](mailto:gnickers@uvm.edu)