

# First Round of FSMA Compliance Set for January 26, 2018 – Are You Ready?

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**T**he Food Safety Modernization Act (FSMA) was signed into law in January 2011, and requires those companies involved with the production, harvesting, packing and distribution of fresh produce sold in the U.S. to demonstrate compliance with certain policies and procedures. The purpose of FSMA is to ensure actions are taken that will help mitigate food safety risks. There are multiple rules under FSMA, but only the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (Produce Safety Rule) is applicable to California avocado growers. Farms that have \$500,001 or more in average annual produce sales during the previous three-year period must be compliant with the Produce Safety Rule on January 26, 2018. Farms classified as “very small” and “small” have additional time for implementation (see Produce Safety Rule Compliance Dates box).

The Produce Safety Rule focuses on the core areas associated with potential pathways for microbial contamination:

- People – worker hygiene and health
- Water – hand washing, drinking, irrigation, application mixes, run off
- Soil – soil amendments, prior uses, adjacent uses, contamination
- Animals – wild or domestic

Although the FSMA law was signed in 2011, the Food and

Drug Administration (FDA) spent the next five years finalizing the FSMA rules through two rounds of drafts and comment periods. FSMA was finalized in early 2016, with the first compliance deadline set for January 26, 2018.

In 2011 the California Avocado Commission (Commission), in cooperation with the handler community, developed a food safety manual for growers. During the last five years the Commission has conducted annual trainings for growers interested in becoming Food Safety certified. Multiple harvester trainings also have been conducted. The Commission’s Food Safety Manual is now in its third edition and supports a farm audit against the Global Food Safety Initiative (GFSI). Based on a side-by-side analysis it seems a grower who has successfully completed a GFSI audit, if inspected, will likely be in compliance with the Produce Safety Rule requirements, except for the water testing requirements. FDA recently issued a two-year delay on implementation of the water testing requirements based on concern from industry members. As such, those requirements are yet to be finalized.

## **WINDFALL FRUIT AND FRUIT THAT CONTACTS THE GROUND**

As the Commission has previously reported, Produce Safety Rule implementation will impact current California avocado industry practices in two key areas. First, under the Produce

Safety Rule, the harvesting of windfall fruit is no longer allowed. The Produce Safety Rule prohibits the distribution of produce that drops to the ground before harvesting. In late 2017, the California Department of Food and Agriculture (CDFA) removed the California Code of Regulations law that had allowed the testing of windfall fruit to ensure alignment with the Produce Safety Rule.

The second item under the Produce Safety Rule that impacts our industry is the disallowance of harvesting produce that comes in contact with the ground unless it grows naturally on or in the ground. Strawberries and carrots are examples of produce that grow on or in the ground. According to the Produce Safety Rule, avocados that contact the ground – such as those hanging from a low branch – will be illegal to harvest.

### **INSPECTION AND ENFORCEMENT**

CDFA has a cooperative agreement with FDA to provide on-farm enforcement of the Produce Safety Rule. FDA and CDFA have indicated that their activities for 2018 will focus on Produce Safety Rule education, and that inspection and enforcement activities will commence in 2019. It's important to realize, though, that all farms (except those classified as "very small" or "small") must be able to demonstrate, through record keeping, their Produce Safety Rule compliance beginning in 2018.

CDFA is planning to conduct On-Farm-Readiness-Reviews (Reviews) in 2018 as part of their Produce Safety Rule educational outreach activities. The purpose of these Reviews is to help growers determine their readiness for a Produce Safety Rule inspection. The Commission is working with CDFA to schedule a few Reviews of avocado groves that are currently Food Safety certified. Once completed, the Commission will have a better understanding of how well the Commission's Food Safety certification process positions a Food Safety certified farm against a Produce Safety Rule inspection.

With more than 50,000 farms in California, the sheer task of conducting Produce Safety Rule audits is daunting. However, CDFA does intend to begin inspections beginning in 2019 and it's imperative that you, as a grower, take the necessary steps to ensure your operation is compliant with the Produce Safety Rule.

The FSMA Produce Safety Rule, as outlined in §112.22(c), requires that, "At least one supervisor or responsible party for your farm must have successfully completed food safety training at least equivalent to that received under standardized curriculum recognized as adequate by the Food and Drug Administration." These are typically full day trainings, and the Commission will continue to provide information on training opportunities as they become available.

If you would like to contact the Commission to request a

Food Safety Manual or get additional help, please send an email to [cac.ia@avocado.org](mailto:cac.ia@avocado.org) or call 949-341-1955. In addition, the Commission's Food Safety Manual and related information can be accessed here: [Californiaavocadogrowers.com/growing/food-safety](http://Californiaavocadogrowers.com/growing/food-safety). 🍌

## **Produce Safety Rule COMPLIANCE DATES**

- Very small farms: More than \$25,000 but no more than \$250,000 in average annual produce sales during the previous three-year period – January 26, 2020
- Small farms: More than \$250,000 but no more than \$500,000 in average annual produce sales during the previous three-year period – January 26, 2019
- All other farms: January 26, 2018

## **Produce Safety Rule EXEMPTIONS**

The Rule does not apply to:

- Farms that have an average annual value of produce sold during the previous three-year period of \$25,000 or less
- Or a qualified exemption based on two requirements:
  - The farm must have food sales averaging less than \$500,000 per year during the previous three years; and
  - The farm's sales to qualified end-users must exceed sales to all others combined during the previous three years. A qualified end-user is either (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.