



Qualified Exemption Annual Financial Review

Delaware Department of Agriculture, Produce Safety Program

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All Qualified Exempt farms must keep adequate records and perform an annual review to determine and prove that your farm is eligible for a qualified exemption, per the Food Safety Modernization Act, Produce Safety Rule Title 21 CFR §112.7.

To complete this annual financial review, you will need to know who purchased food from your farm and the monetary value of that food. If you sell direct-to-consumer at a farmer's market or roadside stand, you do not need to know the name of each person; you just need a record of your total sales at that location for the year.

Failure to perform the annual financial review and submittal of a record will result in your farm not meeting the requirements of the Qualified Exemption. Your farm may be subject to a regulatory inspection for compliance with the Produce Safety Rule.

To be eligible for a qualified exemption, your farm must meet both of the following requirements:

1. During the previous 3-year period, the annual monetary value of FOOD sold directly to qualified end-users must exceed the average annual monetary value of food that the farm sold to all other buyers.
2. The average monetary value of all food the farm sold during the previous 3-year period was less than \$500,000 adjusted for inflation*: the baseline year for calculating the adjustment for inflation is 2011.

A farm with a qualified exemption MUST meet the following modified requirements:

1. Prominently and conspicuously display, at the point of purchase, the name and complete business address of the farm where the produce was grown on a food packaging label, poster, sign, placard, or documents delivered contemporaneously with the produce in the normal course of business, or, in the case of internet sales, in an electronic notice. (§112.6 b)
2. Establish and keep adequate records necessary to demonstrate that your farm satisfies the criteria for a qualified exemption that are described in §112.5, including a written record reflecting that you have performed an annual review and verification of your farm's continued eligibility for the qualified exemption. (§112.7 b).

Important Definitions

Qualified End User: The consumer of the food, a restaurant or retail food establishment located in Delaware, or a restaurant or retail Food Establishment that is located no more than 275 miles from the farm that produced the food.

Produce: Any fruit or vegetable (including mixes of intact fruits and vegetables) and includes mushrooms, sprouts (irrespective of seed source), peanuts, tree nuts, and herbs. A fruit is the edible reproductive body of a seed plant or tree nut (such as apple, orange, and almond) such that fruit means the harvestable or harvested part of a plant developed from a flower. A vegetable is the edible part of an herbaceous plant (such as cabbage or potato) or fleshy fruiting body of a fungus (such as white button or shiitake) grown for an edible part such that vegetable means the harvestable or harvested part of any plant or fungus whose fruit, fleshy fruiting bodies, seeds, roots, tubers, bulbs, stems, leaves, or flower parts are used as food and includes mushrooms, sprouts, and herbs (such as basil or cilantro). Produce does not include food grains

meaning the small, hard fruits or seeds of arable crops, or the crops bearing these fruits or seeds, that are primarily grown and processed for use as meal, flour, baked goods, cereals and oils rather than for direct consumption as small, hard fruits or seeds (including cereal grains, pseudo cereals, oilseeds and other plants used in the same fashion). Examples of food grains include 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)

Food: items that could be used for food or drink for man or other animals, chewing gum, and articles used for components of any such article. This will include grains, eggs, meats, livestock sold that will eventually become food, animal feeds (hay, grass, etc.), and further processed foods (canned goods, baked goods, etc.)

Instructions

1. For each of the following sheets (year 1, year 2, year 3) enter your sales data as directed below (each sheet represents one calendar year). *Review the example sheet if needed.*
2. Go to <https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs> to determine the current inflation adjustment to the \$500,000 cut-off for the year you are working on.
3. Enter a name for your customer or the location where you sold the food (i.e., X Farmers Market, X Roadside Stand, X Restaurant, X Grocery Store, X Food Distributor).
4. Define the sale type; this must be one of the following:
 - **Consumer** is a direct sale to the consumer. Examples can be direct to a person through a farmers market sale, CSA, roadside stand, internet sale, or other similar sale.
 - **Restaurant** is a direct sale to a restaurant, and not through a distributor.
 - **Retail store** is a sale directly to any kind of retail food establishment, and not through a distributor.
 - **Other** is any other sale, such as a distributor, auction, broker, grain elevator, or other type of non-qualified end user.
5. Answer (Yes or No) if this is a qualified End User or not (see definition).
6. Enter the State of the sale and the distance in miles from the farm.
7. Enter the total monetary value of produce sold to that customer/ location. Produce is any raw edible portion of a plant or mushroom, but not grains (See definition).
8. Enter the total sales of other foods, sold to that customer/ location (see definition).
9. Calculate produce and other food sales and enter the total for each customer/ location.
10. Calculate the total food sales for the year being reviewed, and enter it at the bottom of the sheet, then calculate the total qualified end-user sales. For eligibility, average annual food sales must be less than \$500,000 adjusted for inflation.
11. For eligibility, your qualified end user sales must be over 50% of total food sales. If this is the case, please sign off on the bottom of each sheet.
12. Submit this record with your annual exemption application. Eligibility will be confirmed, and you will be contacted if there are any questions about the information provided.

Qualified Exemption Annual Review : EXAMPLE

Year:	2022					
Farm Name:	DDA Test Farm					
Address:	2320 South Dupont Highway					
City, State, Zip:	Dover, DE 19901					
Customer	Sale Type (Consumer, Restaurant, Retail store, or Other)	Qualified End User? (yes or no)	State & Distance (Miles)	Produce Sales	Other Food Sales (ie. Eggs, meats, grains)	Total Food Sales
Dover Farmers Market	Consumer	Yes	DE/ 4.5 miles	\$ 8,758.00	\$ 1,260.00	\$ 10,018.00
Wilmington Farmers Market	Consumer	Yes	DE/ 48 miles	\$ 11,785.00	\$ 2,609.00	\$ 14,394.00
Andrea's Grocery Store	Retail Store	Yes	DE/ 48 miles	\$ 16,930.00	\$ 637.00	\$ 17,567.00
Amanda's Produce Market	Retail Store	Yes	DE/ 18 miles	\$ 25,675.00	\$ -	\$ 25,675.00
Justin's Produce Stand	Retail Store	Yes	DE/ 13 miles	\$ 22,786.00	\$ 822.00	\$ 23,608.00
Dover's Fine Dining Restaurant	Restaurant	Yes	DE/ 7 miles	\$ 6,320.00	\$ 785.00	\$ 7,105.00
H Grain Elevator	Other	No	DE/ 25 miles	\$ -	\$ 9,728.00	\$ 9,728.00
302 Grocery Distribution Company	Other (Distributor)	No	MD/ 75 miles	\$ 68,750.00	\$ -	\$ 68,750.00
Produce Auction	Other (Auction)	No	DE/ 50 miles	\$ 3,460.00	\$ -	\$ 3,460.00
Total food sales must be under \$500,000 (adjusted for inflation) Inflation adjustment can be found at: https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs Total Food Sales: (including both qualified and non qualified end user sales) \$ 180,305.00						
Over 50% of your total food sales must be to a qualified end user to be eligible for a qualified exemption Total Qualified End User Sales: \$ 98,367.00						
Name of Person Performing this Review:		Title:				
Signature:		Date:				

Qualified Exemption Annual Review:

Year:						
Farm Name:						
Address:						
City, State, Zip:						
Customer	Sale Type (Consumer, Restaurant, Retail store, or Other)	Qualified End User? (yes or no)	State & Distance (Miles)	Produce Sales	Other Food Sales (ie. Eggs, meats, grains)	Total Food Sales
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
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				\$	\$	\$
Total food sales must be under \$500,000 (adjusted for inflation) Inflation adjustment can be found at: https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs		Total Food Sales: (including both qualified and non qualified end user sales)			\$	-
Over 50% of your total food sales must be to a qualified end user to be eligible for a qualified exemption		Total Qualified End User Sales:			\$	-
Name of Person Performing this Review:			Title:			
Signature:			Date:			

Qualified Exemption Annual Review:

Year:						
Farm Name:						
Address:						
City, State, Zip:						
Customer	Sale Type (Consumer, Restaurant, Retail store, or Other)	Qualified End User? (yes or no)	State & Distance (Miles)	Produce Sales	Other Food Sales (ie. Eggs, meats, grains)	Total Food Sales
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
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Total food sales must be under \$500,000 (adjusted for inflation) Inflation adjustment can be found at: https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs		Total Food Sales: (including both qualified and non qualified end user sales)			\$	-
Over 50% of your total food sales must be to a qualified end user to be eligible for a qualified exemption		Total Qualified End User Sales:			\$	-
Name of Person Performing this Review:			Title:			
Signature:			Date:			

Qualified Exemption Annual Review:

Year:						
Farm Name:						
Address:						
City, State, Zip:						
Customer	Sale Type (Consumer, Restaurant, Retail store, or Other)	Qualified End User? (yes or no)	State & Distance (Miles)	Produce Sales	Other Food Sales (ie. Eggs, meats, grains)	Total Food Sales
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
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				\$	\$	\$
Total food sales must be under \$500,000 (adjusted for inflation) Inflation adjustment can be found at: https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs		Total Food Sales: (including both qualified and non qualified end user sales)			\$	-
Over 50% of your total food sales must be to a qualified end user to be eligible for a qualified exemption		Total Qualified End User Sales:			\$	-
Name of Person Performing this Review:			Title:			
Signature:			Date:			