VDACS Produce Safety Program

VDACS Produce Safety Territory Map
Fall 2022

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General information
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Produce Safety Rule Authority

- Food Safety Modernization Act (FSMA)
  - Passed by Congress in 2010
  - Signed into law on January 4, 2011
  - Produce Safety Rule became effective January 26, 2016. (21 CFR Part 112)
  - Congress delegated authority to the U.S. Food and Drug Administration (FDA) to implement the Produce Safety Rule
  - VDACS works with FDA to implement the Produce Safety Rule.

Inspections of large covered farms began on May 1, 2019 in Virginia
Six Key Requirements of the Produce Safety Rule

- Agricultural water
- Biological soil amendments
- Sprouts
- Domesticated and wild animals
- Worker training and health/hygiene
- Equipment, tools and buildings

Our goal is educate farmers while we regulate to gain voluntary compliance with the Produce Safety Law.
Industry Education and Outreach

Presentations and marketing materials have been developed to ensure that farmers, farm workers and related organizations are familiar with the VDACS Produce Safety Program and the Produce Safety Rule:

- Website
- Trade show booth
- Post card handout and rack cards
- Radio and tv interview

Main goal is to help make small and very small farmers aware of the new law, what to expect from VDACS and how to comply with the Produce Safety Rule.
Education and Training

- Every covered farm that does not qualify for an exemption must have a supervisor (farm owner/operator) complete a standardized food safety training program.

21 CFR 112.22(c) 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.

- Produce Safety Alliance Grower Training Course
- Sprout Safety Alliance Grower Training Course
Education and Training

- Virginia Tech/VCE has partnered with VDACS to provide Produce Safety Alliance courses
- Currently, the course is offered through VCE for $25 per person.
- Courses without grant funding $150-200 per person
- Offer via Zoom or self-paced. No in-person at this time.

- NEXT COURSE OFFERING: March 28-29, 2023

- Contact: Dr. Laura Strawn, Virginia Tech at Lstrawn@vt.edu for more information
Will Every Produce Farm in VA Need to be Inspected?

► Produce inspections are mandatory for any covered farm/operation that grows, harvests and packs covered produce under the rule.

► Sprout inspections are conducted by FDA/VDACS.

► This is determined by a three-year gross sales average and the threshold increases with inflation. [https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs](https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-inflation-adjusted-cut-offs)

► (See FDA Decision Tree to determine coverage and exemptions).

► [https://www.fda.gov/media/94332/download](https://www.fda.gov/media/943232/download)
What's the difference between an inspection and a GAP audit?

- Inspections are mandatory for any covered farms, and GAP audits are voluntary.
- There are fees associated with a GAP audit and none with an inspection.
- State/FDA inspector conducts FSMA PSR Inspections and USDA conducts GAP Audits.
- A food safety plan is required for a GAP audit, both require record keeping.

Inspections

- Inspections of large covered farms began on May 1, 2019.
  - Main commodities observed: tomatoes, leafy greens, cucumbers, peppers, apples, cantaloupe and cabbage.
- Inspections of small covered farms began on June 5, 2020 (delayed because of COVID-19).
- Inspections of very small covered farms began on May 1, 2021.

- A total of 96 inspections were completed in FY22.
- To date, only 1 farm was observed with egregious conditions or serious violations.
  - That farm received a letter of warning and a follow-up inspection 30 days later determined that the issue had been corrected.

Top 3 observations (mostly technical demerits):
- Record keeping (not being done, not being reviewed by supervisor, not in proper format § 112.161)
- Pest control in buildings (not being done or not adequate § 112.128)
- Inadequate or lack of training (management, PSA, and employee training § 112.21, 112.22)
What To Expect Of A Produce Inspection?
Preparing For Inspection – Be Proactive!

- Consider contacting your local Virginia Extension Agent to ask about receiving a free On Farm Readiness Review (OFRR).
- An agent and yourself will conduct a mock run through of a produce inspection. This can help determine your readiness for inspection and help fix any potential violations.
- We do not inspect retail farm stands, only the growing, harvesting, and packing portion of the farm.
Any grower can take advantage of the OFRR program!

While aimed at those growers who are covered and qualified exempt, an OFRR is a great opportunity that Virginia growers can do to look at their current food safety practices!

Main goal is to help make small and very small farmers aware of the new law, what to expect from VDACS and how to comply with the Produce Safety Rule.
What To Expect Of A Produce Inspection?

Initial Contact

- Initial contact is made by an inspector. They will help the farm figure out if they are under inspection or exempt from inspection. This is a federally funded program so there is no fee.
- If determined to be under inspection, a date and time will be scheduled with the operator. Usually the inspection is done while harvesting is being conducted.
- All initial inspections are educational unless an egregious condition is observed, where a visible source and route of contamination is seen. An egregious condition must be considered serious and likely to pose an imminent health risk.
- Effective March 18, 2023 - no more educational first inspections.
What To Expect Of A Produce Inspection?

Preparing For Inspection

► Ensure all necessary records are easily accessible:
  ► Employees training
  ► Cleaning and Sanitizing
  ► Biological Soil Amendment Treatment (if applicable)
  ► Ag Water Assessment (effective 2023)

► Existing records used for other audits are acceptable. Electronic and handwritten records are allowed.

► Most general records must be kept for 2 years, except sales and water records.

► Records must:
  ► Be signed or initialed by the person performing the task
  ► Include date, farm name, location, actual values, or observations
  ► Be reviewed and signed with date by supervisor or responsible party
What To Expect Of A Produce Inspection?

Day Of Inspection

► On pre-scheduled day, VDACS inspectors will ask to speak to the owner or person in charge, introduce themselves, and explain why they are there.

► They will ask what activities, such as growing, harvesting, packing, and/or holding are occurring for the day. This will help the inspector decide where to start.

► The inspector will need to observe farm operations, but may also ask about farming practices or operations they cannot observe during the inspection.

► You can anticipate questions about employee training, health and hygiene practices, animal management, tools and equipment, biological soil amendments of animal origin, and agricultural water. They will take notes and review farm records. Throughout the inspection, the inspector will explain what is being observed and why.
What To Expect Of A Produce Inspection?
Day Of Inspection - Part 2

- The inspector will review any observations and regulatory findings with you.
- Any corrections made to identified violations during the inspection will be documented on the report. If the violation cannot be corrected during the inspection, the inspector will work with you to determine a reasonable time frame for the corrective actions and the future preventive measures.
- The inspector will answer questions you may have, then issue an Inspection Report to document the visit.
4 RPCs, floating in the tank of water with no sanitiser, used chloro and quats test strips to confirm this.
PRODUCE FARM INSPECTION OBSERVATIONS

Inp Date: 07/27/2016  Business ID: Y400172
Inspection: Y4000312  Inspection: 11/26/2016
Inspector: J.S. Alex Goodman Route 21, Routine

NAME AND TITLE OF INDIVISUAL TO WHOM REPORT IS ISSUED

FARM MAILING ADDRESS (if different from previous)

GPS Lat: Long

☐ Check here if business does not engage in growing, harvesting, packing, and/or handling of produce.

Chips Observed During Inspection (see Observations Summary for details)

Covered Crop  Non-Covered Crop

This form lists factual observations made by VDACS representatives during the inspection of the farm's operation.

THIS IS NOT A FINAL DETERMINATION OF COMPLIANCE OR NON-COMPLIANCE WITH THE PRODUCE SAFETY RULE (21 CFR PART 112) OR ANY OTHER LEGAL REQUIREMENT.

Representatives of the regulatory agency should review their observations on this form as clearly and specifically as possible in order to determine any violations by significance within the farm's operation. In some cases, an observation may be made to a large area. Observations of the regulatory agency should note observations in the top area and below that, in the representative's judgment, is the area appropriate to the area of the farm. Observations of the regulatory agency are not significant to any aspect of the farm's operation during an inspection. A top area will not be interpreted to mean the farm is in compliance or, if not in compliance, with requirements to that top area.

Representatives of the regulatory agency should discuss all observations with the individual or the representatives of the farm's operation as they are observed. On a daily basis, to minimize errors, errors, and misunderstandings when the farm is sized. The farm should include those observations which may be written on the form and those that will only be discussed with management during the follow-up meeting. This form should be issued during the exit conference of all representatives, including when no observations have been recorded.

The form may use this opportunity to ask questions about the observations made or to provide clarification. If the farm has implemented or has plans to implement corrective actions in response to an observation, this may be discussed with the representatives of the regulatory agency during the inspection. Representatives of the regulatory agency should include the form as an applicable, or complete, or complete corrections discussed during the inspection. VDACS representatives are encouraged to verify the farm's compliance with corrective actions during the inspection as long as the farm's compliance with the corrective actions does not unreasonably extend the duration of the inspection. Imposition of additional or repetitive corrective actions does not signify any actions by the regulatory agency regarding the necessity of the actions.

If you have any questions, please contact the regulatory agency at the phone number and address above.

Representatives of the regulatory agency should record observations consistent with agency procedures.

Page 1 of 5

Page 2 of 5
VDACS Launches New Online Portal to Assist Virginia Produce Farmers and Agribusinesses

The Virginia Department of Agriculture and Consumer Services (VDACS) is launching the new Virginia Produce Safety Grower Portal, a free online portal to assist fruit and vegetable growers operating in the Commonwealth. The new online tool allows producers to submit applications, update business information, obtain technical assistance, market to a variety of audiences, and apply for annual exemptions, if eligible.

“The Virginia Produce Safety Grower Portal allows Virginia produce farmers to update farm registration information, obtain educational data, and print a certificate of registration that features the newly designed Virginia Grown logo. Farm information will be shared with the Virginia Grown program as a way to integrate both the regulatory and marketing/promotions function of the agency,” said Joseph Guthrie, VDACS Commissioner.

Virginia produce growers can create an account to complete the registration process at producesafety.vdacs.virginia.gov. Producers will need to sign in and verify farm information annually. Portal registration includes:

- Ability to print a registration certificate to market products locally.
- Automatic enrollment in Virginia Grown, a marketing program that promotes fresh, local products to consumers and industry buyers.
- Apply for an exemption (if eligible)
- Receive up-to-date produce safety information, educational and training resources, periodic newsletters and guidance.

All farms within Virginia that grow, harvest, pack or hold produce intended for human consumption and for sale will need to register their business with the VDACS Produce Safety Program. This registration process helps ensure farms will receive up-to-date information in order to conform with the Food Safety Modernization Act (FSMA): Produce Safety Rule (21 CFR 112).

The VDACS Produce Safety Program may issue exemption certifications based on eligibility as outlined in the Code of Federal Regulation Title 21. Since farm information may change from year to year, producers must update their information and reapply for an exemption annually (at least 30 days before the one-year expiration date). Exemption certificates expire one year following the issue date of the exemption.

Contact the VDACS Produce Safety Program with any questions or concerns at producesafety@vdacs.virginia.gov or (804) 786-1005.
Does Your Farm Grow Fruits and Vegetables?

Register Your Farm with the Produce Safety Program

Visit ProduceSafety.VDACS.Virginia.gov to Register!
Register your farm with the VDACS Produce Safety Program

All farms within Virginia that grow, harvest, pack or hold produce intended for human consumption and for sale will need to register their business with the Virginia Department of Agriculture and Consumer Services (VDACS) Produce Safety Program.

Register Here
ProduceSafety.VDACS.Virginia.gov

- Create a free, secure account and register your farm.
- Update data elements currently on file with VDACS by annually verifying your farm.
- Print out a registration certificate to use to help market your products locally.
- Get enrolled automatically in the new VA Grown marketing program.
- Apply for an exemption from inspection if eligible.
- Receive up-to-date information about the Food and Drug Administration (FDA) Produce Safety Rule, new water requirements, educational and training resources, periodic newsletters and guidance.

Learn more about the FDA Produce Safety Rule
www.VAProduceSafety.com

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102 Governor St., Richmond, VA 23219 | VDACS.Virginia.gov
Welcome
Welcome to the Virginia Department of Agriculture and Consumer Services’ (VDACS) Produce Safety Rule Online Portal!

This portal will serve as a way for produce farms and businesses operating in Virginia to submit their registration, update business and contact information, and apply for annual exemptions (if eligible). More information on registration and exemptions can be found below.

Registration Information
All farms within Virginia that grow, harvest, pack or hold produce intended for human consumption and for sale will need to register their business with the Virginia Department of Agriculture and Consumer Services (VDACS) Produce Safety Program.

This registration process is intended to verify who is and who is not covered under the Food Safety Modernization Act (FSMA), Produce Safety Rule (21 CFR 112). This process allows us to provide valuable education, technical assistance, and compliance information to regulated farms and businesses, exclude farms that are not required to comply with the rule, and prioritize inspections. Farms and businesses will need to register one time initially and then verify their information at least annually.

Exemption Information
The VDACS Produce Safety Program is also issuing exemption certificates based on exemption eligibility as outlined in the Produce Safety Rule. Since farm information changes from year to year, farms must update their information and reapply for an exemption on an annual basis (at least 30 days before the one-year expiration date). Exemption certificates will expire exactly one year following the issue date of the exemption. We have provided a link to an exemption analysis tool within the portal, which will assist you in determining your exemption eligibility and requirements.

To use this portal, please sign in or create an account below by clicking Apply Online. If you would like to submit your registration and exemption forms by mail, please download the forms by clicking Apply by Mail.

If you have any questions or concerns, please reach out to Produce Safety Team at produce.safety@vdacs.virginia.gov or 804.786.4003.

Thank you
Virginia’s Produce Safety Team

*Funding for this web-based platform was made possible, in part, by the Food and Drug Administration through grant P000953. The views expressed in certain materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health & Human Services, nor does any mention of trade names, commercial practices, or organization imply endorsement by the United States Government*
Thank you for submitting your application.

The Department of Agriculture and Consumer Services will review your application. You will be notified by email if your application has been accepted or if additional information is required. Please retain this email with your confirmation number.

| Business ID: | zz000013 |
| Business Name: | Red Dirt Farm |
| Email Address: | erik.bungo@vdacs.virginia.gov |
| Number: | 1DB254SC |

If you have questions please contact Produce Safety Team at produce.safety@vdacs.virginia.gov or 804-786-4003.
Produce Safety Rule

CERTIFICATE OF REGISTRATION

[Farm Name]

Registered with the Virginia Department of Agriculture and Consumer Services (VDACS)

Issue Date: November 1, 2021

Erik Bungo
Produce Safety Program Supervisor

Virginia Grown

Virginia Department of Agriculture and Consumer Services

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Produce Safety Rule

CERTIFICATE OF EXEMPTION

[Farm Name]

Qualified Exempt
Issue Date: November 1, 2021
Expiration Date: November 1, 2023

Erik Bungo
 Produce Safety Program Supervisor

Virginia Department of Agriculture and Consumer Services
Subpart E – Ag Water
*NEW* FDA Proposes Compliance Date Extension for Pre-Harvest Agricultural Water Requirements

- Compliance dates for pre-harvest agricultural water requirements for covered produce other than sprouts
  - 9 months after the effective date of a final rule for all other businesses;
  - 1 year and 9 months after the effective date of a final rule for small businesses; and
  - 2 years and 9 months after the effective date of a final rule for very small businesses.

- Compliance dates for harvest and post-harvest agricultural water requirements
  - January 26, 2023, for all other businesses;
  - January 26, 2024, for small businesses; and
  - January 26, 2025, for very small businesses.
WHO IS COVERED?

- All covered farms, conducting covered activities on covered produce, using agricultural water during harvest and post-harvest activities.
What’s the Difference?

Pre-Harvest

- Overhead sprinkler
- Spray, microspray
- Surface and subsurface drip
- Furrow
- Flood
- Seepage/subirrigation
- Pesticide, herbicide, crop sprays and mixes
- Etc.

Post-Harvest

- Dump tanks
- Flumes
- Cooling water
- Wash water
- Etc.

Different irrigation methods may present different risks based on the extent to which the irrigation water is directly applied to the harvestable portion of the crop.
Requirements for Harvest and Post-harvest Agricultural Water

(Covered produce, Non-sprout)

• Safe and of Adequate Sanitary Quality for its intended use (112.41)
• Inspections and Maintenance (112.42)
• Microbial requirements of no detectable generic E. coli per 100 ml agricultural water (112.44(a/b))
• Measures (112.45(a))
• Treatment (112.46)
• Who May Test (112.47)
• Post-harvest water management requirements (112.44(d))
• Records (112.50)
• Test methods (112.151)
Safe and Adequate + Microbial Requirements + Untreated Ground Water

• Water must be safe and of adequate sanitary quality for its intended use
  – Growers are required to produce safe product
  – Includes ensuring that water is safe for its intended use
• No detectable generic *E. coli* per 100 ml of agricultural water
• Untreated ground water must be tested 4x per year initially, then 1x per year if meeting no detectable generic *E. coli* per 100 ml
Water System Inspections and Maintenance

- Farms are required to do inspections at least annually, on systems that are under their control
  - ID conditions that may introduce hazards
  - Maintain based on the findings of the inspection

All farms must do an annual risk assessment of water usage. See 112.43

Additionally, farm must do an annual inspection on water systems to include pipes, filters, spigots, etc. See 112.42 (a/b). Develop maintenance plans.
SUBPART E
DEFINITIONS Cont'd

- Water distribution system means a system to carry water from its primary source to its point of use, including pipes, sprinklers, irrigation canals, pumps, valves, storage tanks, reservoirs, meters, and fittings.

Photo courtesy of USDA/NRCS

§112.3
INSPECTIONS AND MAINTENANCE

• Inspection of water system under farm’s control must be conducted at beginning of growing season, as appropriate, and at least once annually.

• Includes water sources, distribution systems, facilities, and equipment

§112.42(a)
Corrective Measures

- Required when water does not meet safe and adequate requirements or numerical requirements
- Immediately discontinue use upon findings
- In order to resume use, you must:
  - Reinspect the system as it is under your control and make repairs OR
  - Treat the water to ensure it meets the numerical requirements under treatment provisions

See 112.45(a)
See 112.46
Treatment

- Treatment must be effective to make the water safe and of adequate sanitary quality for its intended use and/or meet numerical requirements
- Treatment must be delivered in a manner....
- Treatment must be monitored...

See 112.46 to make the water safe and of adequate sanitary quality for its intended use.
Who May Collect Samples and How

- You or an entity on your behalf
- Third-party
- Samples must be collected aseptically and representative of use

See 112.47 and 112.151
Records

- Inspections and maintenance conducted
- Documentation of analytical testing
- Certificates of compliance from public water systems
- Documentation of corrections taken under 112.45(a)
- Scientific support to justify treatment parameters
- Documentation of treatment monitoring
- Analytical methods used in lieu of what is outlined in codified

See 112.50
PSA – Agricultural Water Harvest & Post-harvest

- Existing curriculum in Module 5 covers harvest/post-harvest agricultural water
  - Provide growers & regulators PSR information for compliance
  - If attended PSA training, no need to go through any updates prior to compliance dates beginning on January 26, 2023

- PSA Training Curriculum remains the same until final rule

PSA training curriculum will need to be updated once water rule is finalized and published.
FDA Factsheet Coming!

- Directed at farms and the PSR covered produce industry.
- Focused on requirements for harvest and postharvest ag water as contained in the final PSR.
- Information about compliance dates, measures to take if not meeting “no detectable generic E. coli/100 ml.”, are a few of the items included.
First year grace period (for each tier of covered farms) to help educate farmers and help them come into compliance.

**INSPECTION APPROACH Cont'd**

- Harvest and Post-Harvest Ag Water:
  - Educate Before and While We Regulate
  - During the first year on large farms after enforcement discretion ends (2023-2024)
    - Prepare growers for implementing these provisions prior to routine inspections verifying compliance.
    - States may elect to provide OFRRs, on-farm visits, and technical assistance to farms of all sizes during this time
- [FDA Ag water fact sheet](https://www.fda.gov/media/154334/download)
- [Harvest and Post Harvest water fact sheet (new Jan 2023)](https://www.fda.gov/media/164540/download)
- [FDA Ag water assessment builder (online)](https://agwaterassessment.fda.gov/)
- [FDA Ag water assessment builder (paper, 33 pages) (also available in Spanish)](https://agwater-prod-external-interface.s3.amazonaws.com/docs/AgWaterBuilder-Paperbased-July2022.pdf)
In Summary…(for harvest and post-harvest water)

- Start thinking or actually conduct a water assessment
  - FDA online tool or paper-based tool
- Water assessment will determine hazards and risks
- In addition to the assessment, your farm must do an annual water systems inspection, keep records, etc.
- If using municipal water, copy of record needed
- If using untreated ground water, 4x samples initially, then once annually
- Untreated surface water must not be used (because of high microbial profile)(separate requirements when used in pre-harvest)
What can industry do?

- Get your boots on the ground! **TEAM**

- Hazard assessments are going to be different for every individual, every operation, and will likely vary seasonally or even time of day.

- Reassess multiple times and potentially with multiple people to capture variability.

- Try risk ranking (helps identify where to invest time and $$)

- Communication is key! Talk to your neighbors.
Webpage

- [www.VaProduceSafety.com](http://www.VaProduceSafety.com)
- Provides links to various resources as well as federal and state law
  - Organized into categories
- Provides contact info for the new program