

West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner
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PRODUCE SAFETY PROGRAM

2020 Qualified Exemption Worksheet

Note: For farm use only; retain this for your records.
File the summary affidavit form with the West Virginia Department of Agriculture.

The new U.S. FDA Produce Safety Requires inspection and regulation of farms/facilities that grow or handle produce.

HOWEVER, *most* West Virginia operations will be exempt from the rules.

REGARDLESS of your farm/facility size, you must register for the exemption using the enclosed affidavit form unless you qualify for the ***Basic Exemption***.

Use THIS worksheet to verify that your farm/facility qualifies for a qualified exemption. KEEP this worksheet for your records. You don't have to reveal your specific sales information for this program.

Step 1.

To qualify for exemption from inspection and regulations under the U.S. FDA Produce Safety Rule, ALL of the following requirements must be met:

- A. Over the previous three years, annual **FOOD** sales must be less than \$500,000 (inflation adjusted). Food is defined as (1) articles used as food or drink by people or animals, (2) chewing gum, (3) articles used as components of any such article.
- B. Over the previous three years, sales to qualified end-users must exceed the value of sales to all other buyers.
- C. More than 50 percent of your annual food sales are to qualified end users. Qualified end-users are restaurants and retail outlets within 275 miles of your farm/facility, or anywhere within West Virginia, as well as direct-to-consumer sales via a farmers' market, farm stand or the internet.

For more information, contact the WVDA at 304-558-2227 or produce@wvda.us

- **To File Affidavit:** Email to produce@wvda.us OR print and mail to: WVDA/Produce Exemption, 1900 Kanawha Blvd, E., Charleston, WV 25305.

Step 2.

	2017 (\$549,863)*	2018 (\$562,119)*	2019 (\$572,499)*	Average of the 3 years (\$561,494)*	I have documentation?
Total Gross FOOD Sales				(1)	
Restaurant and retail sales within 275 miles of your production area (farm)					
Other direct to consumer sales in any location, including farmers market, farm stand and internet					
TOTAL DOLLAR AMOUNT OF QUALIFIED END USER SALES					
Total dollar amount of sales to venues not considered Qualified End Users				(2)	

TOTAL AVERAGE ADJUSTED ***FOOD*** SALES SUBJECT TO THE PRODUCE SAFETY RULE: \$ _____
Box (1) minus Box (2)

*These numbers are total sales-inflation adjusted.

- If claiming a processing exemption for some or all of your produce under 112.2(b)(1), certain disclosures (112.2(b)(2)) are required for that produce. All covered produce that is not sold for processing is still subject to PSR.
- If average adjusted sales (Box 1 less Box 2) over a three-year period exceeds \$561,494 then you are subject to the full provisions of the Produce Safety Rule including inspection.

Step 3. Retain this form for your records.

Step 4. File the Qualified Exemption Affidavit and submit to the West Virginia Department of Agriculture.

REMEMBER—

If you have a “qualified exemption,” you must still meet certain modified requirements.

- You must disclose the name and complete business address of the farm where the produce was grown either on the label of the produce (when a food packaging label is general required) or with a “prominent and conspicuous” display at the point of purchase (i.e. farmers market). Can be met by a statement on an invoice or other delivery documentation as long as the business address is complete.
- Submit this affidavit to the West Virginia Department of Agriculture (WVDA) on a yearly basis and complete an annual review to maintain Qualified Exemption status. Worksheets and supporting documentation should not be filed with WVDA; keep all sales and other verification documents on file at the farm.
- The exemptions do **not** limit what a **private business** can choose to require. If you sell to grocers, schools, or other large buyers, some of them may have concerns about buying produce that is not raised under the new standards.

Affidavit filings must be completed annually.
Do not return this worksheet with your Affidavit.