



Food Safety Legal Considerations

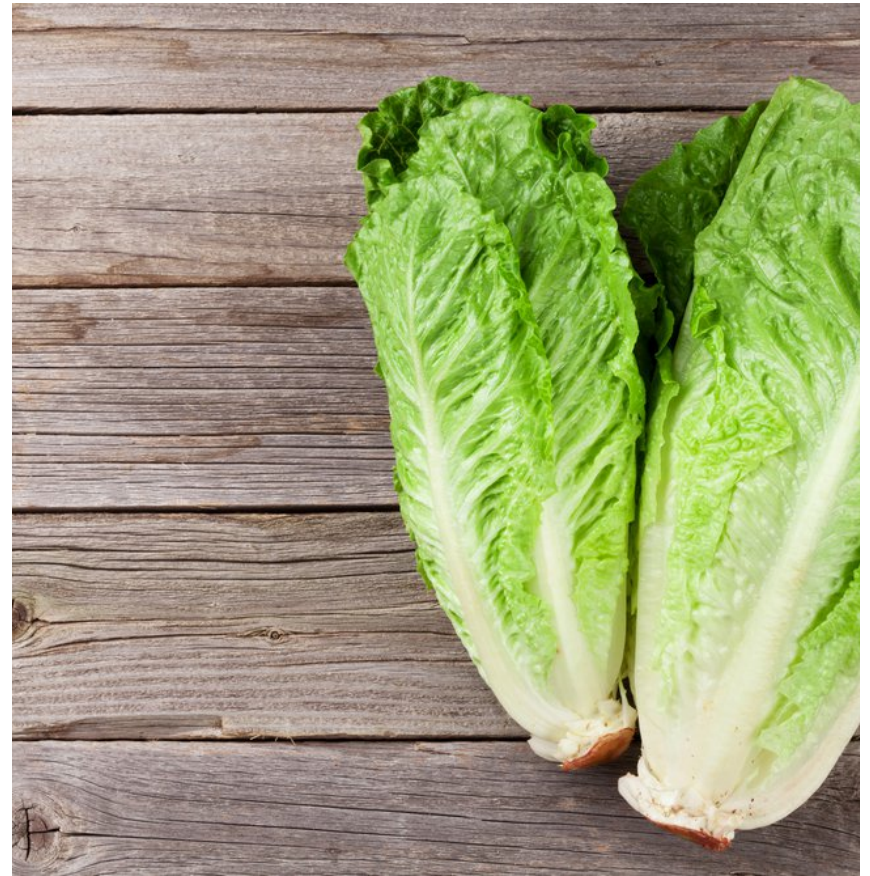
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A Brief Overview

- Food Safety Modernization Act (FSMA)
- California Retail Food Code
- AB 1990 and 234
- Community Food Producer
- California Small Farm Food Safety Guidelines

Food Safety Modernization Act (FSMA)

- Passed by Congress in 2011
- Establishes minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption.



Two Main Parts of FSMA

Preventive Controls Rule

- Food manufacturing
- Facilities that pack and hold produce
- Not farms



Produce Safety Rule

- Regulates growing, harvesting, and packing of produce
- *Produce* means any fruit or vegetable (including mixes of intact fruits and vegetables) and includes mushrooms, sprouts, peanuts, tree nuts, and herbs





Subparts of the Produce Safety Rule

- A – General Provisions
- B – General Requirements
- C – Personnel Qualifications and Training
- D – Health and Hygiene
- E – Agricultural Water
- F – Biological Soil Amendments of Animal Origin and Human Waste
- I – Domesticated and Wild Animals
- K – Growing, Harvesting, Packing, and Holding Activities
- L – Equipment, Buildings, Tools, and Sanitation
- M – Sprouts
- N – Analytical Methods
- O – Records
- P, Q, R – Variances, Compliance, and Withdrawal of Qualified Exemptions

Are Urban Farms Subject to FSMA?



Exemptions from FSMA Produce Rule

- Produce grown for personal consumption
- Farms with \$25,000 or less in annual sales of produce (averaged over the past 3 years)



Exclusions: 'Rarely Consumed Raw'

- Produce that is rarely consumed raw, specifically the produce on this exhaustive list (34 items) are not covered.

asparagus	chickpeas	hazelnuts
black beans	cocoa beans	horseradish
Great Northern beans	coffee beans	lentils
kidney beans	collards	okra
lima beans	sweet corn	peanuts
navy beans	cranberries	pecans
pinto beans	dates	peppermint
garden beets	dill	potatoes
(roots and tops)	(seeds and weed)	pumpkins
sugar beets	eggplants	winter squash
cashews	figs	sweet potatoes
sour cherries	ginger	water chestnuts

Qualified Exemptions

- \$500,000 or less annual sales of produce with majority of sales to “qualified end users” such as consumers, restaurants, grocery stores, and other retail food establishments



What if I'm exempt or qualified exempt?

- Buyers may require a food safety plan or a 3rd party food safety audit
- Qualified Exemptions Requirements include:
 - Record keeping
 - Labeling
 - Signage



If you are exempt or partially exempt, you still need to consider food safety!

- California urban farmers are still required to comply with the CDFA Small Farm Food Safety Guidelines.





How long do you have to implement FSMA Produce Safety Rule?

- Published in the Federal Register on Nov. 27, 2015 and became effective on Jan. 26, 2016

Business Size	Years to Comply After Effective Date (1-26-16)*
All other businesses (>\$500K)	2
Small businesses (>\$250K-500K)	3
Very small businesses (>\$25K-250K)	4

**Compliance dates for certain aspects of the [agricultural water requirements](#) allow an [additional two years](#) beyond each of these compliance dates.*

Selling Fresh Fruits & Vegetables in California

- To ensure produce sold-or donated- to the public is safe to eat, the [California Retail Food Code](#) (“Cal Code”) requires retail food facilities to obtain food from “**approved sources.**”
- Food sold to the public should be “approved source.”
- There are a number of ways to become an approved source.

As an “Approved Source” ...

- You can sell
 - Directly to the public
 - To restaurants
 - To markets
- You can donate to
 - Food bank
 - Food kitchens



How Can Urban Farmers Become an “Approved Source?”

- New CA laws, AB 1990 and AB 234, regarding **Community Food Producers** make it easier.



What's a Community Food Producer?

- "Community food producer" means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions.
 - Your yard
 - A community garden
 - A school garden
 - A culinary garden
 - An urban farm
- Now an approved source, thanks to AB 1990 & AB234!

AB 1990 (Gordon)

Community Food Promotion and Safety Act

- Defines “**community food producers**” (CFPs) as an **approved source** that includes, but it not limited to, community gardens, personal gardens, school gardens, and culinary gardens.
- Authorizes permits CFP or gleaner to sell or provide **whole uncut** fruits or vegetables, or unrefrigerated shell eggs, directly to the public, to a permitted restaurant, or a cottage food operation if the CFP meets all of the following requirements, in addition to any requirements imposed by an ordinance adopted by a local jurisdiction.
- Pertains to anyone growing those food products on land that is not zoned as agricultural.
- **Requires these producers to follow safe food handling practices and labeling requirements.**

AB 234 (Gordon)

Community Food Production: Clarification

- AB 1990 allows local environmental health department to require Community Food Producers to register with the department in some situations.
- However, effective in 2016, under AB 234 there are numerous exemptions from the requirement to register with the Department of Environmental Health, so very few Community Food Producers will need to register.
- Remember, Community Food Producers are producing whole, uncut, unprocessed fruits and vegetables, and shell eggs.

AB 1990 (Gordon)

Community Food Promotion and Safety Act

- All Community Food Producers, whether exempt from registration or not, must follow the California Small Farm Food Safety Guidelines provided by the California Department of Food and Agriculture (CDFA).

California **SMALL FARM**

Food Safety Guidelines



CA Small Farm Food Safety Guidelines...Best Management Practices

- Record keeping
- Worker health & hygiene
- Keeping animals out of the field
- Proper use of manure
- Cleaning and sanitizing equipment
- Use disinfectants to wash produce



Thank you!

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