

Not Covered Activity Examples

- If a farm only raises animals, then the farm is not covered, because no covered activities are performed on this farm.
- If a farm is only growing grain, then the farm is not covered, because grain is not considered “produce”.
- If a farm is only growing produce found on FDA’s list of “rarely consumed raw”, then the rule does not apply because that is not “covered” produce.
- However, if a farm growing grains and covered produce, or both covered and not-covered produce, then these requirements would apply to the covered produce that is grown **AND** if the farmer wants to keep the covered and not covered produce under the same scheme, then the farmer needs to apply the rule to both covered and not covered produce or otherwise keep them separate.
- If a farm grows, harvest, packs or holds produce that is consumed raw but is not destined for commercial processing or personal consumption, and exceed the \$25,000 produce sales threshold, then it is covered by the rule.
- A farm is not eligible for a qualified exemption if the total sales of **food** are above \$500,000.00.
- A qualified exempt farm is one with the combined sales of all farm food products (including animal feed, dairy, grains, produce, etc.) that gross less than \$500,000 annually (averaged across 3 yrs. and adjusted for inflation) **AND** the majority of the food (by value) is sold to qualified end-users (a consumer through a CSA, farmers market or other direct marketing platform, a restaurant, a grocery store, or other retail food establishment within the same state or within 275 miles).

Examples of eligibility criteria:

- A farm sells \$240,000 in grains to a mill for processing, and has a CSA that grosses \$250,000 produce sales to members in the same state. The farm would be eligible for a qualified exemption; because its total food sales (\$490,000) are less than \$500,000 and a majority of its sales (\$250,000 or 51%) are to qualified end-users.
- If the farm sells \$250,000 in grains and \$240,000 in produce to distributors, then the farm would not be eligible for a qualified exemption, because the distributors are not qualified end-users.
- If a farm sells \$475,000 in covered produce: \$200,000 distributors, \$200,000 to a local restaurant, and \$75,000 to a local grocery store, the farm is covered by the rule and eligible for a qualified exemption because the sales to qualified end users (the restaurant and the grocery store) exceed the sales to other buyers (\$275,000 or 58%), and the sales are below \$500,000.
- However, if the grocery store (from the example above) was in the next state over, and 300 miles away from the farm, the farm would not be eligible for a qualified exemption because the grocery store would not be considered a qualified end-user, and the sales to qualified end-users are less than 50%.
- If a farm sells: \$240,000 in beets, \$200,000 in carrots, and \$50,000 in barley, all to qualified end-users, the farm is eligible for a qualified exemption because the total value of food sold is less than \$500,000 to qualified end-users.
- If a farm sells \$200,000 in beets, \$100,000 in carrots, and \$50,000 in barley, and the carrots are the

only sales to a qualified end-user, the farm is not eligible for a qualified exemption because the sales of the carrots are not the majority of the total value of food sales (\$100,000 or 40%).

- If a farm sells \$300,000 in beets, \$100,000 in carrots, and \$150,000 in barley, all sales to qualified end-users, the farm is not eligible for a qualified exemption because the total value of food is above \$500,000.
- If a farm is sells \$290,000 of beef and \$250,000 of onions, the farm is covered (more than 25K of covered produce) and not eligible for a qualified exemption (more than 500K on food sales).

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