

# REGULATIONS FOR SPECIFIC PRODUCTS

## SELLING FRESH FRUITS AND VEGETABLES



Fresh fruits and vegetables are the most common direct marketed products, whether sold at farmers markets, through CSAs, or direct to restaurants and local grocery stores. Expectations for high quality and increasing attention on the food safety of fresh produce mean there are regulations for produce farmers to be aware of. The Food Safety Modernization Act establishes new regulations for produce growers. Quality inspection requirements apply to certain Washington State fruit and vegetables.

### This fact sheet includes information on:

- The Food Safety Modernization Act (FSMA) Produce Safety Rule.
- Inspection requirements and exemptions for certain fruits and vegetables.
- Standards for grades and packs.
- Other licenses for selling produce.
- Sampling requirements.
- Voluntary certifications for produce.

### The Food Safety Modernization Act (FSMA) Produce Safety Rule

The FSMA Produce Safety Rule establishes, for the first time, regulatory requirements for on-farm food safety practices for produce farms. FSMA updated federal food safety laws for the first time in nearly 73 years. FSMA contains multiple rules that apply to different sectors of the food system, including the Produce Safety Rule. The rule intends to reduce food safety risks in fresh produce resulting from contamination by pathogens. It focuses on hygiene, water quality, soil amendments, animals, and limiting cross-contamination through surfaces on the farm.

Farms with annual produce sales over \$25,000 that grow, harvest, pack, or hold produce are covered by the rule.

There are some exemptions to significant parts of the rule for farms that primarily direct market their products, and fall below specific thresholds for both sales of produce and overall farm sales revenue. For farms that do not qualify for those exemptions, inspections from the WSDA Produce Safety Program

will be required. For fuller details on the Produce Safety Rule requirements and exemptions, please see the "FAQ on the Food Safety Modernization Act (FSMA)" fact sheet.

**Under the Produce Safety Rule, farms growing produce must prominently display the farm name and address at the point of sale or on packaging labels, for example on a sign at a farm stand or on an invoice.**



**To demonstrate that they qualify for any exemptions, all produce farms must keep sales records, and make them available upon request.**

In Washington, the WSDA Produce Safety Program is responsible for implementing the FSMA Produce Safety Rule, including conducting inspections and helping farms understand, prepare for, and comply with the Produce Safety Rule, including through voluntary On Farm Readiness Reviews (OFRR). Contact them directly at [producesafety@agr.wa.gov](mailto:producesafety@agr.wa.gov), 360-902-1848, or on the Produce Safety webpages at [agr.wa.gov](http://agr.wa.gov).

### Inspection Requirements and Exemptions for Certain Fruits and Vegetables

To assure standard quality, certain "signature" Washington State fresh fruits and crops that are sold in high volumes require inspection from the WSDA Fruit and Vegetable Inspection Program (Chapter 16-461 WAC). Traditionally, the crops requiring inspection by WSDA prior to sale include fresh apples, apricots, asparagus, hazelnuts, Italian prunes, peaches, pears, potatoes, or sweet and tart cherries, potatoes, and Walla Walla onions.

The particular crops included in this requirement can change year-to-year, depending on federal marketing orders and state requirements issued by various fruit and vegetable commissions. Inspection is available for other fruit and vegetable crops to assure quality, but it is not required.

## REGULATIONS FOR SPECIFIC PRODUCTS

For details and the current list of crops with required inspections in any given year, contact the WSDA Fruit and Vegetable Inspection Program offices in Wenatchee, 509-662-6161, or Yakima, 509-24.6900, or visit [agr.wa.gov](http://agr.wa.gov).

There are exemptions to inspection requirements for direct marketing farmers making smaller volume sales.

### Selling direct to the end consumer

Inspection of fresh apples, apricots, asparagus, Italian prunes, peaches, pears, and potatoes is not required if **both** of the following are true:

1. *The Total Pounds Sold per Crop is Below the Daily Limit of 2,000 pounds per day maximum of each type of fresh fruit or vegetable, OR less than 6,000 pounds per day total of any combination of fresh apricots, asparagus, Italian prunes, peaches, apples, pears, potatoes.*
2. *The Sales Are Made at a Farmers Market anywhere in Washington State by a grower selling their own fresh fruits and vegetables, or sales are made at a fruit and vegetable stand (roadside stand, trucks, and temporary, non-fixed retail, open-air stands) within the same "zone of production."*

Washington State is divided into two zones of production.

<b>Zone 1</b>	All counties west of the Cascade Mountains
<b>Zone 2</b>	All counties east of the Cascade Mountains plus Skamania County, Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima

For example, an orchardist in Grant County can sell their apples at a fruit stand anywhere in Eastern Washington and at a farmers market anywhere in the state without inspection.



**Sweet cherries have different rules. Cherries that are not inspected may only be sold to the customer for home use (not resale) and in a total daily quantity under 100 pounds. Containers must be marked "not for resale" in letters that are at least one-half-inch tall. Fresh cherries that are infested with live Western cherry fruit fly larvae may not be shipped or sold.**

Containers of apricots, Italian prunes and sweet cherries sold to consumers must be marked "not for resale." Sales of fresh fruits and vegetables that are exempted from inspections are still required to meet grade standards.

### Selling for resale

Growers selling fresh apricots, asparagus, Italian prunes, peaches, apples, pears, or potatoes for resale (e.g., to grocery stores, co-ops, distributors) must have their product inspected, regardless of the volume sold. There are no exemptions if you are selling product wholesale for resale.

### Selling direct to restaurants and food service

Growers selling these same products directly to restaurants and institutional food buyers need to check with the buyers for inspection requirements. They may or may not require inspection.

Contact the WSDA Fruit and Vegetable Field Inspection Office to locate field offices or for detailed information on inspection. Fees for inspection vary for each commodity. For more information call Wenatchee, 509-662-6161, or Yakima, 509-249-6900, or visit [agr.wa.gov](http://agr.wa.gov).

Fruit and vegetable commissions may also provide helpful information or other resources on their websites. WSDA maintains a list of Washington State commodity commissions on the website [agr.wa.gov](http://agr.wa.gov), or call 360-902-2043.

### Standards for Grades and Packs

If you are supplying a grocery store or restaurant, the buyer may desire standard packs, sizes, and quality. Growers may be able to negotiate the specific requirements directly with the buyer to establish standards that meet the buyer's needs and also work

for the farmer. For example, a negotiated purchase agreement may state that a case of green leaf lettuce has 24 heads, with heads no smaller than “x” and no larger than “x,” and will be priced or purchased at \$1.50 per head or \$36 per case.

Larger buyers such as chain grocery stores may require a third-party audit to standard quality grades and packs. Packing warehouses contract with WSDA’s Fruit and Vegetable Inspection Program as a third-party auditor to ensure product grade and packs at the warehouse meet the grade and pack size on the product label that the buyer requested. Fruits and vegetables in packing warehouses are inspected to assure uniformity and compliance for each type of commodity with standards for grades and packs that are set by the federal or state government. Grading standards include attention to maturity, soundness, shape, size, color, and freedom from pest or mechanical injury. Packaging standards include attention to size, dimension, and labeling of containers used.

The “Wholesale Success Manual” published by FamilyFarmed.org is a helpful resource for produce farmers who are learning about industry standards for grades, packs, and post-harvest handling techniques for quality and food safety.

Please see the “Selling to Grocery Stores and Food Cooperatives” fact sheet for more information.

## Other Licenses for Selling Produce

### Scale registration and Inspection

Farmers who use scales (or other weighing or measuring devices) to sell products—for example at a farmers market, farm stand, or U-Pick—must register their scales with the Department of Revenue Business Licensing Service as a part of your Washington State Business License. Registration costs vary by size. Small scales up to 400 pounds capacity are \$10.

Scale inspections are conducted by the WSDA Weights and Measures Program. Scales must be accurate and be legal for trade. Scales must be positioned so that customers can observe the weight display. Contact WSDA Weights and Measures Program for details at 360-902-2035, [wtsmeasures@agr.wa.gov](mailto:wtsmeasures@agr.wa.gov), or [agr.wa.gov](http://agr.wa.gov).

## Cash Buyer, Produce Dealer, and Commission Merchant Licenses

People or businesses buying and reselling or brokering sales of fresh fruits and vegetables may need one of these licenses. The Cash Buyer, Produce Dealer, or Commission Merchant License is generally required when dealing in agricultural products. There are some exemptions to the requirement. Please see the “Licensing” fact sheet for details or contact the WSDA.

## Sampling Requirements

Farms that offer samples of sliced fruits and vegetables to the public must follow the Retail Food Code as implemented by the local health jurisdiction (usually a county health department) where the sampling is being done. Sampling foods that are not TCS (“potentially hazardous”) may be exempt from permit requirements, with approval from the local health jurisdiction. Depending on the county, farms that want to sample may be required to:

- Have a food worker’s card for the person offering and/or slicing samples.
- Obtain a retail food establishment permit from the local health department.
- Have a handwashing station at your farm stand or farmers market booth.
- Fulfill additional requirements pertaining to containers, protecting samples from contamination, washing samples, and other preparation or refrigeration.

Find the local health jurisdiction office where you plan to sell by searching the Washington Department of Health website, [doh.wa.gov](http://doh.wa.gov).

## Voluntary Certifications for Produce

While not required by regulations, farmers selling fresh fruits and vegetables through certain market channels may find that their buyers expect certain voluntary certifications.

## Good Agricultural Practices (GAP)

Farms who sell their produce to local grocery stores, institutions and other “direct to wholesale” customers may find that their customers require them to be GAP audited. GAP is a voluntary, third-party audit that serves as an assurance to buyers that produce farmers are using standard best practices for on-farm food safety called Good Agricultural and Good Handling

## REGULATIONS FOR SPECIFIC PRODUCTS

Practices (GAP/GHP). While the best practices are similar, GAP is different from FSMA in that it is not a legal regulation. However, some farmers' buyers may require it.

There are different types of GAP/GHP audit programs and farms may choose which particular sections of the audit they want performed. It is very important to talk with your buyer to understand their expectations before investing in the audit. See the Good Agricultural Practices Fact Sheet for more detailed information.

WSDA's Regional Markets Program offers on-farm food safety guidance for small-scale and diversified farms, including the "Bridging the GAPs Farm Guide" which helps farms prepare for a GAP audit. Search for it by name at [agr.wa.gov](http://agr.wa.gov), or contact [smallfarms@agr.wa.gov](mailto:smallfarms@agr.wa.gov), 206-256-6157.

## Organic

Many customers purchase from local farms because they are motivated by environmental and health concerns. Some buyers, such as food co-ops and natural grocers, may require their produce vendors to be certified organic. Some farmers find they can add value to their products and earn premium prices for certified organic products—or other eco-label certifications. Whether you have third-party certifications or not, building trust with customers through transparency is critical. It is important to understand the rules governing the use of marketing terms like organic. The WSDA Organic Program can answer questions about organic certification and marketing, [agr.wa.gov/departments/organic](http://agr.wa.gov/departments/organic) or 360-902-1805.



- 5. Licensing
- 11. Direct Marketing in Washington State
- 12. Selling to Individuals: Buying clubs to U-Pick
- 15. Selling to Grocery Stores and Food Cooperatives
- 22. Good Agricultural Practices (GAP)
- 26. FAQ on the Food Safety Modernization Act (FSMA)