



Department of Agriculture
STATE OF HAWAII

PRODUCE SAFETY RULE COMPLIANCE AND EXEMPTIONS FOR FARMS IN HAWAII

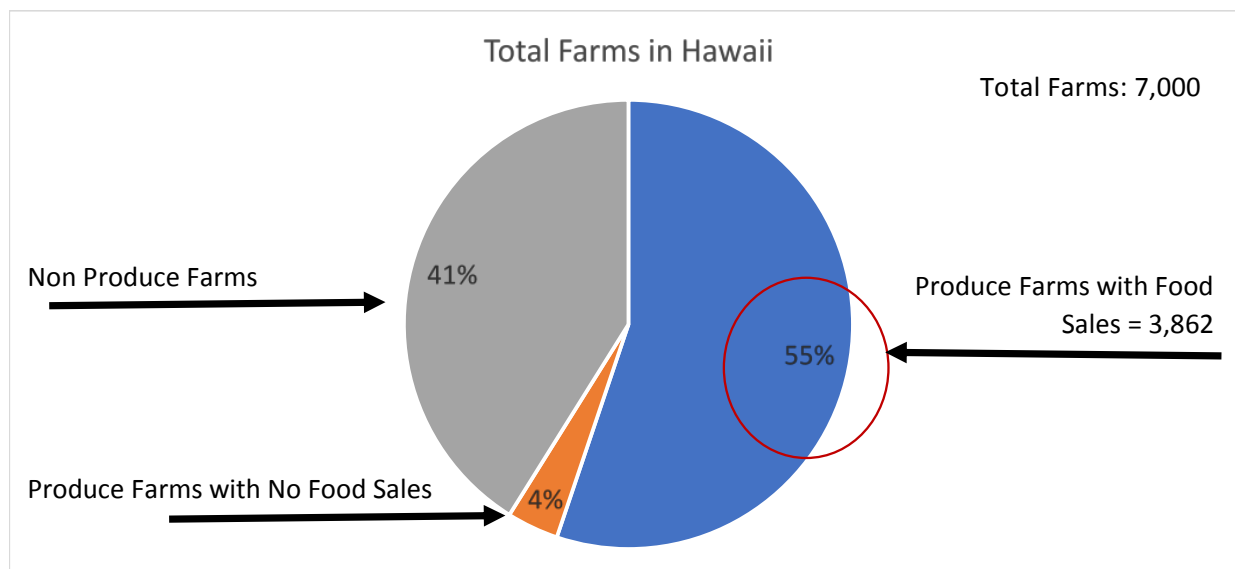
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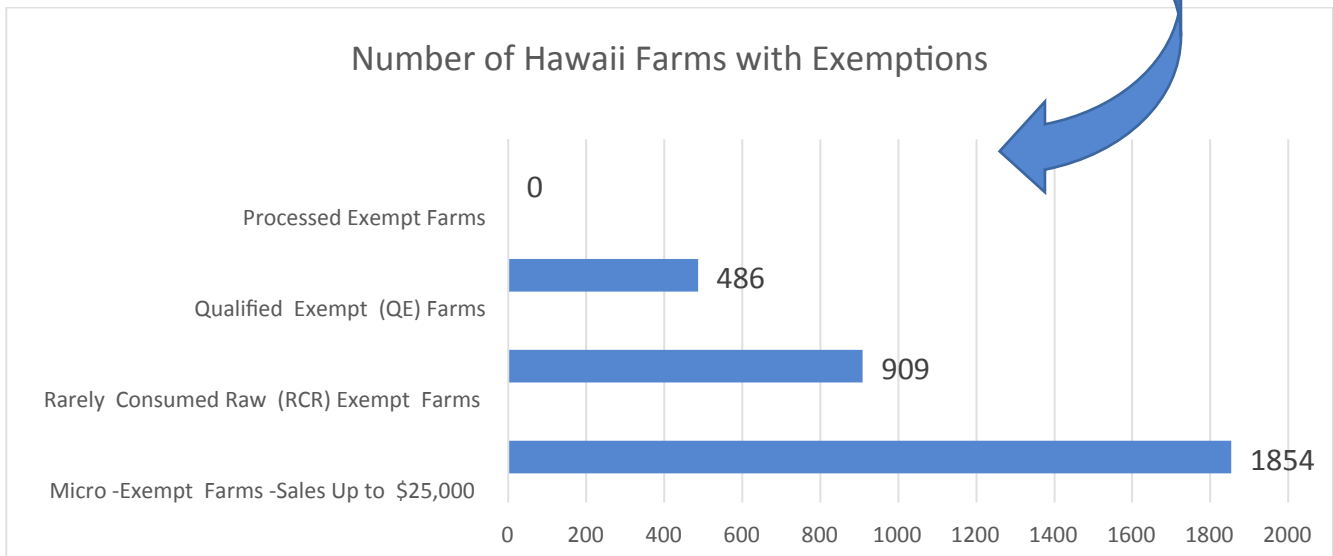
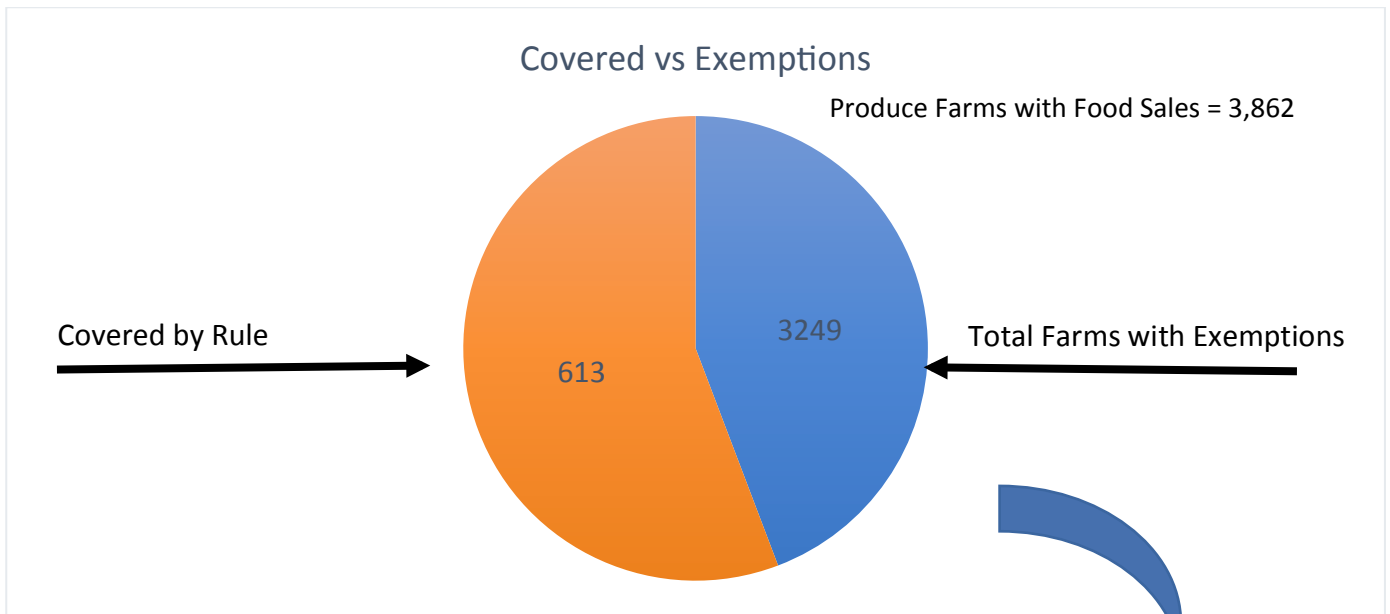
No farm is exempt from the responsibility to produce safe food, but different scales of production and types of supply chains pose varying levels of risk to public health. A farm that grows produce on a small scale to sell directly to a consumer at a farmers’ market poses a different level of risk to public health than a farm that grows produce on a large scale that is shipped across the country and served to thousands of people in an institutional cafeteria at a university. The scale of production and consumption, the complexity of the supply chain, and the time and distance between harvest and consumption are all risk factors that can influence the safety of a food product.

Congress required the Food and Drug Administration (FDA) to take a risk-based approach to the new FSMA regulations and to provide sufficient flexibility to be applicable to a wide range of farms, including small businesses and farms that sell directly to consumers. Instead of a “one-size-fits-all” approach to food safety, Congress required the FDA to consider the differences due to scale and supply chain when writing the new food safety regulations.

In Hawaii, we have a total of **3,862** farms with food sales, per the 2012 Census of Agriculture. Many of those farms are FSMA exempt or have modified requirements based on the risk-based, scale sensitive approach to their production. But even if you’re exempt from the produce rule you’ll still have to keep records to prove your exemption and identify yourself at points of sale. Below is a graph indicating the number of produce farms in the state that fall under each of the exemptions followed by an explanation of these exemptions.



Estimates based on 2012 U.S. Census of Agriculture data provided by the National Agricultural Statistics Service (NASS) for the National Association of State Departments of Agriculture (NASDA) in August 2015.



A farm meets the Processed Exemption if it grows produce that receives commercial processing that adequately reduces the presence of microorganisms of public health significance (e.g., via a “kill step”). Per the 2012 Census of Agriculture, data was not available on the type of processing and whether the processing step adequately reduced the presence of microorganisms of public health significance; consequently, for the purpose of their calculations, any processing was assumed to result in an exemption. Hawaii data indicated there were no Process Exempt Farms at the time data was collected.

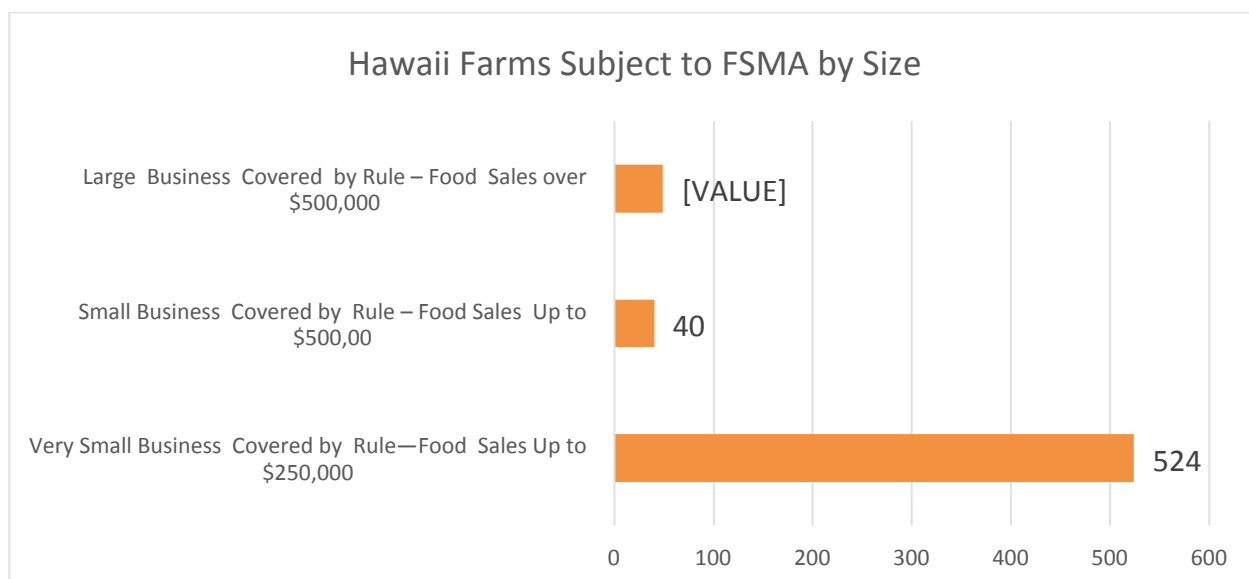
A produce farm is eligible for a Qualified Exemption (QE – also referred to as “Tester-Hagan exemption”) when it meets two requirements: 1) The farm must have food sales (all food, not just produce) averaging less than \$500,000 per year during the previous 3 years; and 2) the farm’s sales directly to qualified end-users must exceed sales to others. A qualified end user is defined as a consumer in any location, or to restaurants or retail within 275 miles or in the same state. Per the 2012 Census of Agriculture, Hawaii has **486** QE farms.

Estimates based on 2012 U.S. Census of Agriculture data provided by the National Agricultural Statistics Service (NASS) for the National Association of State Departments of Agriculture (NASDA) in August 2015.

Hawaii also has **909** produce farms that fall under the Rarely Consumed Raw (RCR) exemption, meaning these farms exclusively produce agricultural commodities that are identified in the final Produce Safety Rule as rarely consumed raw (e.g., asparagus, okra, eggplants, etc.).

The Micro Exemption (based on produce sales) for a farm is applicable if all produce sales are up to \$25,000 over a 3-year period and the farm is NOT also QE, RCR, or Processed Exempt. These farms grow produce that would otherwise be covered by the rule but are so small that they do not contribute significantly to the volume of produce on the market. Hawaii has **1,854** such farms.

Produce farms that are not subject to these exemptions are considered to be farms covered by the Produce Safety Rule growing “covered produce.” **There are 613 farms in Hawaii that must comply with the Produce Safety Rule according to the size of their business.** Below is a graph indicating the number of produce farms in the state that fall under each of the size categories followed by an explanation of these exemptions.



There are **40** farms in Hawaii that are considered Small Business operations. A farm is a small business if, on a rolling basis, the average annual monetary value of produce sold during the previous 3-year period is greater than \$250,000 but no more than \$500,000. Small Business operations have until January 28, 2019 to comply with the Produce Safety Rule. Forty-nine (49) farms in Hawaii are considered Large Business operations, meaning on a rolling basis, the average annual monetary value of produce sold during the previous 3-year period is greater than \$500,000. Large Business operations have until January 26, 2018 to be compliant. The largest group of farms covered under the Produce Safety Rule in the state make up Very Small Business, with a total of **524** farms in this category. A farm is a very small business if, on a rolling basis, the average annual monetary value of produce sold during the previous 3-year period is greater than \$25,000 but no more than \$250,000. Small Business operations have until January 27, 2020 to be compliant.

Before the compliance date, *every covered farm* that does not qualify for an exemption must have a supervisor (such as a farm owner/operator) complete a standardized food safety training program. The Produce Safety Alliance Grower Training Course is one way to satisfy this requirement. Cooperative Extension and the Hawaii Department of Agriculture have been conducting training workshops for produce growers (one-day training) across the state.

Estimates based on 2012 U.S. Census of Agriculture data provided by the National Agricultural Statistics Service (NASS) for the National Association of State Departments of Agriculture (NASDA) in August 2015.