

# Food Safety Modernization Act

## How it Impacts California Avocado Growers

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The long anticipated draft of the Food Safety Modernization Act (FSMA) Produce Rule outlining new standards for the production, harvesting and handling of produce sold in the United States was released in January by the Food and Drug Administration (FDA). The rule, once finalized, will require growers, harvesters and handlers to demonstrate compliance with specific standards designed to minimize the risk of adverse health consequences and death related to the consumption of fresh produce.

With quite a few high profile food safety incidences over the last few years, there has been increasing concern over food safety in the United States. As a result, in January of 2011, Congress passed the FSMA directing FDA to develop a system to mitigate the potential for microbial contamination on fresh produce through the implementation of policies and procedures that will maintain science-based standards. The Produce Rule covers the production and harvesting of raw commodities (including avocados) for all produce sold in the United States, including imports.

Under the rule, farmers and harvesters will have to verify that they have implemented policies and procedures that their workers are following that focus on identified routes for microbial contamination of produce. Key areas include worker health and hygiene along with water quality. The rule is expected to be finalized in August, 2013, and growers will have up to two years after the effective date to fully comply. Under the draft rule, farms that have an average annual value of food sold during the previous three-year period of \$25,000 or less are exempt. Although some small growers may qualify for this exemption, retailers have not indicated they will provide this same exemption. It will likely become more difficult to find a market for fruit that has not been produced under FSMA compliance.

As most of you are aware, CAC launched a Good Agricultural Practices (GAP) Program in late 2011 to assist growers in becoming GAP certified. Throughout the many GAP workshops I have conducted, many growers have communicated their belief that the avocado industry should be exempt from the FSMA requirements based on the thick skin of an avocado. I agree that avocados should be considered a low-risk fruit based on this and other factors such as the fact that irrigation water doesn't typically come in direct contact with the fruit. But, I would also argue that avocados are not completely immune from susceptibility to micro-

bial contamination, and therefore, as an industry we should take appropriate precautions (at every step) to protect the Hand Grown brand of the California avocado.

In reality, although protected by a thick skin, it is from that thick skin that bacteria, if present, could be introduced into the flesh of the fruit. In order to eat the avocado one must cut through the skin to get to the flesh, and if microbial contaminants are present on the skin they could then be transferred into the flesh as the knife enters.

While the likelihood of this scenario can be debated, the reality is avocados are covered under FSMA and that is not going to change. The good news is that overall the CAC-GAP program, when followed, meets the requirements in most of the critical areas. Under the current CAC-GAP program, though, there is one major exception that does need to be addressed. Under the FSMA, dropped fruit is not allowed to be harvested. This means that neither windfall fruit nor fruit that comes in contact with the ground during harvesting is allowed to be distributed. CAC staff is in the process of reviewing the draft Produce Rule and will provide comment, if warranted, by the May 16, 2013, deadline. In terms of the proposal though, there does not appear to be much room for negotiation. The following is the key part of the text under the Dropped Fruit section:

"Proposed §112.114 would prohibit you from distributing produce that drops to the ground before harvest (dropped produce) unless it is exempt under §112.2(b) (i.e. if it receives commercial processing to adequately reduce the presence of microorganisms of public health significance). Dropped produce does not include root crops (such as carrots) that grow underground or crops (such as cantaloupe) that grow on the ground. However, produce that grows off the ground, such as tomatoes and apples, and that drop to the ground before harvest would be considered dropped produce."

As an industry this will necessitate some changes in our current windfall and harvesting practices that will likely prove to be challenging, but inescapable. The commission will continue to assist growers who would like to become GAP certified by providing materials, trainings and a CAC-GAP Rebate worth up to \$300 to growers for actual audit costs. Information on the CAC-GAP program and Rebate may be found at <http://www.californiaavocadogrowers.com/gap/>. 