IDAPA – 02 IDAHO DEPARTMENT OF AGRICULTURE

Administration Division

02.05.01 – Rules Governing Produce Safety

Who does this rule apply to?
Growers, handlers and packers of fruits and vegetables grown for human consumption.

What is the purpose of this rule?
The Food Safety Modernization Act (FSMA) gives the U.S. Food and Drug Administration (FDA) authority to regulate food from farm to fork, which enables the FDA to better protect the public by strengthening the food safety system. FSMA was signed into law on January 4, 2011, and represents the nation's largest overhaul of the federal food safety laws since 1938. The goal is to prevent foodborne outbreaks before they occur by taking proactive measures and shifting from a reactionary approach to a proactive approach. FSMA has created seven (7) new federal rules that address produce, human food, animal food, transportation, and imported food.

Under a grant provided by the FDA, the Idaho State Department of Agriculture, in conjunction with the University of Idaho Extension, will be providing educational opportunities for producers who may be covered by the FSMA Produce Safety Rule. The Produce Safety Rule establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. Compliance dates for the largest farms began in January 2018. The Produce Safety Rule includes six key requirements: (1) Agricultural Water; (2) Biological Soil Amendments; (3) Sprouts; (4) Domesticated and Wild Animals; (5) Worker Training and Health and Hygiene; and (6) Equipment, Tools and Buildings.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statute passed by the Idaho Legislature:

- 22-5404, Idaho Code – Idaho Produce Safety: Administration – Enforcement – Rules and Cooperation

Who do I contact for more information on this rule?

Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 7249
Boise, ID 83707
Phone: (208) 332-8500
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov
Webpage: https://agri.idaho.gov/main/

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000. LEGAL AUTHORITY.
Section 22-5404, Idaho Code. (7-1-25)

001. SCOPE.
The purpose of these rules is to establish standards for growing, harvesting, packing, and holding of safe and unadulterated produce for human consumption. (7-1-25)

002. INCORPORATION BY REFERENCE.

01. Code of Federal Regulations, Title 21, Part 112, July 5, 2024. Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption. This document can be viewed online at https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-final-rule-pre-harvest-agricultural-water. (7-1-25)

003. – 011. (RESERVED)

012. VARIANCE.

01. Submission of Variance. The petitioner must submit the petition and all attached documents to the Department via the Department's food safety email at fsma@isda.idaho.gov or mailed or hand delivered to the Department. (7-1-25)

a. Within thirty (30) days of receiving a petition, the Department will complete a review of a petition. If the Department determines the petition meets all relevant requirements, the Department will submit the petition to the FDA within ten (10) days of that determination. (7-1-25)

b. If the Department determines that the initial petition or any subsequent version is deficient, the Department will notify the petitioner and return the petition for correction. After correcting the deficiencies, the petitioner must resubmit the petition to the Department for evaluation pursuant to subsection 2 of this section. (7-1-25)

02. Support and Withdrawal of Petitions. (3-31-22)

a. When the Department submits a petition to the FDA, the petitioner who prepared the petition, or an individual, business, group, association, or entity that supports the petition, shall assist the Department in responding to inquiries or directions from the FDA regarding the petition. If neither the petitioner nor an individual, business, group, association, or entity that supports the petition provides this assistance to the Department within thirty (30) days, the Department may withdraw the petition. (3-31-22)

b. If the FDA takes action to modify or revoke a variance previously granted to the Department, the Department may waive the opportunity for a hearing unless a petitioner or an interested person adequately supports the Department in defending the variance in whole or in part from modification or revocation by FDA. (3-31-22)

013. – 999. (RESERVED)