Do the FDA’s rules under the Food Safety Modernization Act apply to me?

Flowcharts for farmers and food businesses

These flowcharts cover two of the main rules under FSMA: the Produce Safety Rule and the Facilities (HARPC) Rule for Human Food. We are in the process of creating a chart for the Facilities Rule for Animal Food.

FSMA includes other provisions that may impact your farm or food business.

**These flowcharts are not legal advice.** The actual legal requirements that apply to your farm or your food business will depend on the specifics of your operation. We encourage you to consult with an attorney on any questions you may have about your farm or food business.

Start with Part I of each flowchart. If Part I indicates that the rule may apply to you, then go to Part II to learn more.

If you are a farmer, please work through both flowcharts. Some farms may not be subject to either rule, some farms may be subject to just the Produce Safety Rule, and some farms may be subject to both the Produce Safety *and* the HARPC Rules because of how narrowly FDA defines “farms.”

These flow charts only address the applicability of the rule – i.e. whether or not a type of farm or food business is subject to the new regulatory provisions. The Farm and Ranch Freedom Alliance is working on guidance to help farmers and food businesses that are subject to the rules to understand what is required.
Is my farm regulated under the proposed FSMA Produce Safety Rule?  
Part I

Do you grow, harvest, pack, or hold produce (fruits, vegetables, mushrooms, nuts, or sprouts)?

No

You are not covered by the Produce Safety Rule.

Yes

NO, I sell at least some of it.

Is it for personal consumption?

Yes

NO, it is all produce that is rarely consumed raw (e.g. artichokes, eggplant, turnips, etc.). 
FDA has an exhaustive list of what produce is not covered in §112.2 of the final rule.

No

Proceed to part II of the flow chart.

Yes

Do you sell $25,000\(^1\) or less annually of produce?

Yes

You are exempt from the Produce Safety Rule.

No

NO, I sell more than $25,000\(^1\) annually.

\(^1\)Gross sales limits for exemptions are calculated on a rolling average of the preceding 3 years. Limits are adjusted for inflation, using 2011 as the baseline year.
Is my farm regulated under the proposed FSMA Produce Safety Rule?

**Part II:** You raise and sell more than $25,000 of produce annually, including types that are usually consumed raw (such as greens, tomatoes, fruit, etc.). What now?

**START**

Will the produce you grow be processed in a way that kills potential pathogens, such as through commercial canning?

- **NO**
  - Do you: (a) sell less than $500,000 annually of all food, AND (b) sell more than half your products directly to: (i) individual consumers, and/or (ii) restaurants or retailers located in the same state or the same Indian reservation as your farm or within 275 miles of your farm?
    - **YES**
      - You have a “qualified exemption” under the Tester-Hagan Amendment. You must label the food or have a sign at the point of sale with the name and full address of the farm. You are also subject to certain record keeping requirements, and may have your exemption revoked by FDA for causes on a case-by-case basis.
    - **NO**
      - Do you sell less than $250,000 annually of produce (based on 3 year average), but sell half or less of your products directly to consumers or local businesses?
        - **YES**
          - You are a “very small business” that is not subject to the rule. You have 4 years to come into compliance with most of the requirements and an additional 2 years for the water requirements.
        - **NO**
          - Do you sell less than $500,000 annually of produce (based on 3 year average), but sell half or less of your products directly to consumers or local businesses?
            - **YES**
              - You are a “small business” that is not subject to the rule. You have 3 years to come into compliance with most of the requirements and an additional 2 years to comply with the water requirements.
            - **NO**
              - Do you average more than $500,000 in sales of produce annually?
                - **YES**
                  - You are subject to the full requirements of the Produce Safety Rule. You have 2 years to come into compliance with most of the requirements and an additional 2 years for the water requirements.

\(^2\) Deadlines are calculated from the rule’s effective date of January 26, 2016. For farmers growing sprouts, the deadlines are shorter: 3 years for very small businesses, 2 years for small businesses, and 1 year for all others.

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Am I subject to the HARPC Rule? Part I

Do you manufacture, process, pack, and/or hold any kind of food for human consumption?
- Packing/holding includes activities such as sorting, storing, and cooling.
- Manufacturing/processing includes chopping, cooking, canning, slicing, smoking, freezing, etc.

Yes

You are not a “facility.” You do not have to register under the Bioterrorism Act, and the HARPC Rule does not apply.

No

Are you a “retail food establishment”? You qualify if you sell more than half of your food products directly to individual consumers (not other businesses or entities). FDA specifically lists grocery stores, convenience stores, and vending machines as examples.
Under the Tester-Hagan amendment, farms and producers who sell direct to consumers at locations like farmers markets and CSAs should qualify as retail food establishments, FDA has not yet issued the final rule with the new definition.

Yes

No

Are you a farm? FDA has specific definitions in section 1.227 for both “primary production farms” and “secondary activities farms.” See notes following this flowchart.

You are a facility and have to register with FDA under the Bioterrorism Act. You might also have to comply with at least portions of the HARPC rule – proceed to Part II of the flow chart.

Do you (1) not do any processing or manufacturing AND (2) do you only pack and hold food on your farm (see definitions)? Processing includes any activity that changes the food’s form in any way.

Yes

No

Do you only:
(1) package and/or label food on-farm, and/or
(2) dry/dehydrate whole, unprocessed fruits and veggies (such as herbs and raisins)?

Yes

No, I also pack & hold at locations other than my farm.

NO, I also process food.

NO, I also do other kinds of processing.

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Am I subject to the HARPC Rule? Part II

START

Do you only store raw agricultural commodities other than fruits or vegetables intended for further processing. This includes places such as grain elevators, warehouses, cold storage facilities, and silos?

No

Do you only store packaged food that is not exposed to the environment and does not need refrigeration?

No

Do you only manufacture juice, seafood, supplements, alcohol, or low-acid canned foods?

No

Do you have less than $1 million\(^1\) annually in sales of human food, plus the market value of food manufactured, processed, packed, or held without sale (the latter is directed towards warehouse type facilities)?

No

Do you have more than $1 million in annual sales of human food, but fewer than 500 employees?

No

You are subject to the full requirements and have one year to come into compliance.

Yes, and I do some off-farm or higher risk.

You have a "qualified exemption" under the Tester-Hagan Amendment. In addition to registering with FDA, you must:
1) Submit documentation showing that you meet these requirements; 2) Either submit documents showing you comply with applicable state and/or local food safety regulations, or do a simplified HARPC plan; 3) AND label the food or have a sign at the point of sale with the name and full address of the farm. You are also subject to having your exemption revoked by FDA on a case-by-case basis.

Yes

You are exempt from the HARPC requirements under FSMA. You still must register under the 2002 Bioter-
rorism Act and comply with current Good Manufacturing Practices and other already-existing laws.

Yes

Yes, AND the only manufacturing, processing, or storing activities I do are on-farm and low-risk (see definition of low-risk)

Yes, AND the only manufacturing, processing, or storing activities I do are on-farm and low-risk (see definition of low-risk)

\(^1\) Gross sales limits for exemptions are calculated on a rolling average of the preceding 3 years; limits are adjusted for inflation, using 2011 as the baseline year.

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Additional information on Produce Safety Rule

From FDA: **What produce is covered by this rule, and what produce is not covered?**
All types of produce are covered by the rule except as provided by specific exemptions from the rule. Exemptions include produce that:

- is grown for personal or on-farm consumption
- is not a “raw agricultural commodity.” (A raw agricultural commodity is any food in its raw or natural state
- will receive commercial processing that adequately reduces microorganisms of public health concern (e.g.,
  through use of a “kill step”) is eligible for exemption under certain conditions (including keeping certain documentation).
- is on the “rarely consumed raw” list. The “rarely consumed raw” list is exhaustive and contains the following fruits and vegetables: asparagus; black beans, great Northern beans, kidney beans, lima beans, navy beans, and pinto beans; garden beets (roots and tops) and sugar beets; cashews; sour cherries; chickpeas; cocoa beans; coffee beans; collards; sweet corn; cranberries; dates; dill (seeds and weed); eggplants; figs; horseradish; hazelnuts; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; winter squash; sweet potatoes; and water chestnuts.

  - The content of this list in the final rule is somewhat different from the proposed version. These changes were made in response to public comments and based on FDA’s analysis of available data. For example, Brussels sprouts and kale were removed from the proposed list, and pecans were added to the final list.

From FDA: **Are vegetables intended to be frozen prior to sale eligible for exemption?**
Not necessarily. Produce that receives commercial processing that adequately reduces the presence of pathogens of public health significance is eligible for exemption if other relevant requirements are met. Blanching and/or freezing processes may qualify if they are validated to ensure that the specific procedures followed adequately reduce pathogens in the food.

Definitions Applicable to the Facility HARPC Rule

*Farm* means:

1. Primary production farm. A primary production farm is an operation under one management in one general (but not necessarily contiguous) physical location devoted to the growing of crops, the harvesting of crops, the raising of animals (including seafood), or any combination of these activities. The term “farm” includes operations that, in addition to these activities:
   a) Pack or hold raw agricultural commodities;
   b) Pack or hold processed food, provided that all processed food used in such activities is either consumed on that farm or another farm under the same management, or is processed food identified in paragraph (1)(iii)(B)(1) of this definition; and
   c) Manufacture/processing food, provided that:
      i) All food used in such activities is consumed on that farm or another farm under the same management; or
      ii) Any manufacturing/processing of food that is not consumed on that farm or another farm under the same management consists only of:
         1) Drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), and packaging and labeling such commodities, without additional manufacturing/processing (an example of additional manufacturing/processing is slicing);
         2) Treatment to manipulate the ripening of raw agricultural commodities (such as by treating produce with ethylene gas), and packaging and labeling treated raw agricultural commodities, without additional manufacturing/processing; and
         3) Packaging and labeling raw agricultural commodities, when these activities do not involve additional manufacturing/processing (an example of additional manufacturing/processing is irradiation); or

2. Secondary activities farm. A secondary activities farm is an operation, not located on a primary production farm, devoted to harvesting (such as hulling or shelling), packing, and/or holding of raw agricultural commodities, provided that the primary production farm(s) that grows, harvests, and/or raises the majority of the raw agricultural commodities harvested, packed, and/or held by the secondary activities farm owns, or jointly owns, a majority interest in the secondary activities farm. A secondary activities farm may also conduct those additional activities allowed on a primary production farm as described in paragraphs (1)(ii) and (iii) of this definition.
Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (e.g., foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, removing stems and husks from, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

Holding means storage of food and also includes activities performed incidental to storage of a food (e.g., activities performed for the safe or effective storage of that food, such as fumigating food during storage, and drying/dehydrating raw agricultural commodities when the drying/dehydrating does not create a distinct commodity (such as drying/dehydrating hay or alfalfa)). Holding also includes activities performed as a practical necessity for the distribution of that food (such as blending of the same raw agricultural commodity and breaking down pallets), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Holding facilities could include warehouses, cold storage facilities, storage silos, grain elevators, and liquid storage tanks.

Manufacturing/processing means making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. Examples of manufacturing/processing activities include: Baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), evaporating, eviscerating, extracting juice, formulating, freezing, grinding, homogenizing, irradiating, labeling, milling, mixing, packaging (including modified atmosphere packaging), pasteurizing, peeling, rendering, treating to manipulate ripening, trimming, washing, or waxing. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding.

Mixed-type facility means an establishment that engages in both activities that are exempt from registration under section 415 of the Federal Food, Drug, and Cosmetic Act and activities that require the establishment to be registered. An example of such a facility is a “farm mixed-type facility,” which is an establishment that is a farm, but also conducts activities outside the farm definition that require the establishment to be registered.

Packaging (when used as a verb) means placing food into a container that directly contacts the food and that the consumer receives.

Packing means placing food into a container other than packaging the food and also includes re-packing and activities performed incidental to packing or re-packing a food (e.g., activities performed for the safe or effective packing or re-packing of that food (such as sorting, culling, grading, and weighing or conveying incidental to packing or re-packing), but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act, into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

Retail food establishment means an establishment that sells food products directly to consumers as its primary function. A retail food establishment may manufacture/process, pack, or hold food if the establishment's primary function is to sell from that establishment food, including food that it manufactures/processes, packs, or holds, directly to consumers. A retail food establishment's primary function is to sell food directly to consumers if the annual monetary value of sales of food products directly to consumers exceeds the annual monetary value of sales of food products to all other buyers. The term “consumers” does not include businesses. A “retail food establishment” includes grocery stores, convenience stores, and vending machine locations.
Low-risk Activities and the HARPC rule

Under the proposed rule, a “very small businesses” or “small business” that only does specific (listed) low-risk activities on the farm is exempt from the HARPC requirements. Below are the actual rule provisions governing this exemption.

(g)(1) The exemption in paragraph (g)(3) of this section applies to packing or holding of processed foods on a farm mixed-type facility, except for processed foods produced by drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins, and drying/dehydrating fresh herbs to produce dried herbs), and packaging and labeling such commodities, without additional manufacturing/processing (such as chopping and slicing), the packing and holding of which are within the “farm” definition in § 1.227 of this chapter. Activities that are within the “farm” definition, when conducted on a farm mixed-type facility, are not subject to the requirements of subparts C and G of this part and therefore do not need to be specified in the exemption.

(2) For the purposes of paragraphs (g)(3) and (h)(3) of this section, the following terms describe the foods associated with the activity/food combinations. Several foods that are fruits or vegetables are separately considered for the purposes of these activity/food combinations (i.e., coffee beans, cocoa beans, fresh herbs, peanuts, sugarcane, sugar beets, tree nuts, seeds for direct consumption) to appropriately address specific hazards associated with these foods and/or processing activities conducted on these foods.

(i) Dried/dehydrated fruit and vegetable products includes only those processed food products such as raisins and dried legumes made without additional manufacturing/processing beyond drying/dehydrating, packaging, and/or labeling.

(ii) Other fruit and vegetable products includes those processed food products that have undergone one or more of the following processes: acidification, boiling, canning, coating with things other than wax/oil/resin, cooking, cutting, chopping, grinding, peeling, shredding, slicing, or trimming. Examples include flours made from legumes (such as chickpea flour), pickles, and snack chips made from potatoes or plantains. Examples also include dried fruit and vegetable products made with additional manufacturing/processing (such as dried apple slices; pitted, dried plums, cherries, and apricots; and sulfited raisins). This category does not include dried/dehydrated fruit and vegetable products made without additional manufacturing/processing as described in paragraph (g)(2)(i) of this section. This category also does not include products that require time/temperature control for safety (such as fresh-cut fruits and vegetables).

(iii) Peanut and tree nut products includes processed food products such as roasted peanuts and tree nuts, seasoned peanuts and tree nuts, and peanut and tree nut flours.

(iv) Processed seeds for direct consumption include processed food products such as roasted pumpkin seeds, roasted sunflower seeds, and roasted flax seeds.

(v) Dried/dehydrated herb and spice products includes only processed food products such as dried intact herbs made without additional manufacturing/processing beyond drying/dehydrating, packaging, and/or labeling.

(vi) Other herb and spice products includes those processed food products such as chopped fresh herbs, chopped or ground dried herbs (including tea), herbal extracts (e.g., essential oils, extracts containing more than 20 percent ethanol, extracts containing more than 35 percent glycerin), dried herb- or spice-infused honey, and dried herb- or spice-infused oils and/or vinegars. This category does not include dried/dehydrated herb and spice products made without additional manufacturing/processing beyond drying/dehydrating, packaging, and/or labeling as described in paragraph (g)(2)(vi) of this section. This category also does not include products that require time/temperature control for safety, such as fresh herb-infused oils.

(vii) Grains include barley, dent- or flint-corn, sorghum, oats, rice, rye, wheat, amaranth, quinoa, buckwheat and oilseeds for oil extraction (such as cotton seed, flax seed, rapeseed, soybeans, and sunflower seed).

(viii) Milled grain products include processed food products such as flour, bran, and corn meal.

(ix) Baked goods include processed food products such as breads, brownies, cakes, cookies, and crackers. This category does not include products that require time/temperature control for safety, such as cream-filled pastries.

(x) Other grain products include processed food products such as dried cereal, dried pasta, oat flakes, and popcorn. This category does not include milled grain products as described in paragraph (g)(2)(viii) of this section or baked goods as described in paragraph (g)(2)(ix) of this section.

(3) Subparts C and G of this part do not apply to on-farm packing or holding of food by a small or very small business, and § 117.201 does not apply to on-farm packing or holding of food by a very small business, if the only packing and holding activities subject to section 418 of the Federal Food, Drug, and Cosmetic Act that the business conducts are the following low-risk packing or holding activity/food combinations—i.e., packing (or re-packing) (including weighing or conveying incidental to packing or re-packing); sorting, culling, or grading incidental to packing or storing; and storing (ambient, cold and controlled atmosphere) of:
(i) Baked goods (e.g., bread and cookies);
(ii) Candy (e.g., hard candy, fudge, maple candy, maple cream, nut brittles, taffy, and toffee);
(iii) Cocoa beans (roasted);
(iv) Cocoa products;
(v) Coffee beans (roasted);
(vi) Game meat jerky;
(vii) Gums, latexes, and resins that are processed foods;
(viii) Honey (pasteurized);
(ix) Jams, jellies, and preserves;
(x) Milled grain products (e.g., flour, bran, and corn meal);
(xi) Molasses and treacle;
(xii) Oils (e.g., olive oil and sunflower seed oil);
(xiii) Other fruit and vegetable products (e.g., flours made from legumes; pitted, dried fruits; sliced, dried apples; snack chips);
(xiv) Other grain products (e.g., dried pasta, oat flakes, and popcorn);
(xv) Other herb and spice products (e.g., chopped or ground dried herbs, herbal extracts);
(xvi) Peanut and tree nut products (e.g., roasted peanuts and tree nut flours);
(xvii) Processed seeds for direct consumption (e.g., roasted pumpkin seeds);
(xviii) Soft drinks and carbonated water;
(xix) Sugar;
(xx) Syrups (e.g., maple syrup and agave syrup);
(xxi) Trail mix and granola;
(xxii) Vinegar; and
(xxiii) Any other processed food that does not require time/temperature control for safety (e.g., vitamins, minerals, and dietary ingredients (e.g., bone meal) in powdered, granular, or other solid form).

(h)(1) The exemption in paragraph (h)(3) of this section applies to manufacturing/processing of foods on a farm mixed-type facility, except for manufacturing/processing that is within the “farm” definition in § 1.227 of this chapter. Drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins, and drying/dehydrating fresh herbs to produce dried herbs), and packaging and labeling such commodities, without additional manufacturing/processing (such as chopping and slicing), are within the “farm” definition in § 1.227 of this chapter. In addition, treatment to manipulate ripening of raw agricultural commodities (such as by treating produce with ethylene gas), and packaging and labeling the treated raw agricultural commodities, without additional manufacturing/processing, is within the “farm” definition. In addition, coating intact fruits and vegetables with wax, oil, or resin used for the purpose of storage or transportation is within the “farm” definition. Activities that are within the “farm” definition, when conducted on a farm mixed-type facility, are not subject to the requirements of subparts C and G of this part and therefore do not need to be specified in the exemption.

(2) The terms in paragraph (g)(2) of this section describe certain foods associated with the activity/food combinations in paragraph (h)(3) of this section.

(3) Subparts C and G of this part do not apply to on-farm manufacturing/processing activities conducted by a small or very small business for distribution into commerce, and § 117.201 does not apply to on-farm manufacturing/processing activities conducted by a very small business for distribution into commerce, if the only manufacturing/processing activities subject to section 418 of the Federal Food, Drug, and Cosmetic Act that the business conducts are the following low-risk manufacturing/processing activity/food combinations:

(i) Boiling gums, latexes, and resins;
(ii) Chopping, coring, cutting, peeling, pitting, shredding, and slicing acid fruits and vegetables that have a pH less than 4.2 (e.g., cutting lemons and limes), baked goods (e.g., slicing bread), dried/dehydrated fruit and vegetable products (e.g., pitting dried plums), dried herbs and other spices (e.g., chopping intact, dried basil), game meat jerky, gums/latexes/resins, other grain products (e.g., shredding dried cereal), peanuts and tree nuts, and peanut and tree nut products (e.g., chopping roasted peanuts);
(iii) Coating dried/dehydrated fruit and vegetable products (e.g., coating raisins with chocolate), other fruit and vegetable products except for non-dried, non-intact fruits and vegetables (e.g., coating dried plum pieces, dried pitted cherries, and dried pitted apricots with chocolate are low-risk activity/food combinations but coating apples on a stick with caramel is not a low-risk activity/food combination), other grain products (e.g., adding caramel to popcorn or adding seasonings to popcorn provided that the seasonings have been treated to significantly minimize pathogens, peanuts and tree nuts (e.g., adding seasonings provided that the seasonings have been treated to
significantly minimize pathogens), and peanut and tree nut products (e.g., adding seasonings provided that the seasonings have been treated to significantly minimize pathogens);

(iv) Drying/dehydrating (that includes additional manufacturing or is performed on processed foods) other fruit and vegetable products with pH less than 4.2 (e.g., drying cut fruit and vegetables with pH less than 4.2), and other herb and spice products (e.g., drying chopped fresh herbs, including tea);

(v) Extracting (including by pressing, by distilling, and by solvent extraction) from dried/dehydrated herb and spice products (e.g., dried mint), fresh herbs (e.g., fresh mint), fruits and vegetables (e.g., olives, avocados), grains (e.g., oilseeds), and other herb and spice products (e.g., chopped fresh mint, chopped dried mint);

(vi) Freezing acid fruits and vegetables with pH less than 4.2 and other fruit and vegetable products with pH less than 4.2 (e.g., cut fruits and vegetables);

(vii) Grinding/cracking/crushing/milling baked goods (e.g., crackers), cocoa beans (roasted), coffee beans (roasted), dried/dehydrated fruit and vegetable products (e.g., raisins and dried legumes), dried/dehydrated herb and spice products (e.g., intact dried basil), grains (e.g., oats, rice, rye, wheat), other fruit and vegetable products (e.g., dried, pitted dates), other grain products (e.g., dried cereal), other herb and spice products (e.g., chopped dried herbs), peanuts and tree nuts, and peanut and tree nut products (e.g., roasted peanuts);

(viii) Labeling baked goods that do not contain food allergens, candy that does not contain food allergens, cocoa beans (roasted), cocoa products that do not contain food allergens, coffee beans (roasted), game meat jerky, gums/latexes/resins that are processed foods, honey (pasteurized), jams/jellies/preserves, milled grain products that do not contain food allergens (e.g., corn meal) or that are single-ingredient foods (e.g., wheat flour, wheat bran), molasses and treacle, oils, other fruit and vegetable products that do not contain food allergens (e.g., snack chips made from potatoes or plantains), other grain products that do not contain food allergens (e.g., popcorn), other herb and spice products (e.g., chopped or ground dried herbs), peanut or tree nut products, (provided that they are single-ingredient, or are in forms in which the consumer can reasonably be expected to recognize the food allergen(s) without label declaration, or both (e.g., roasted or seasoned whole nuts, single-ingredient peanut or tree nut flours)), processed seeds for direct consumption, soft drinks and carbonated water, sugar, syrups, trail mix and granola (other than those containing milk chocolate and provided that peanuts and/or tree nuts are in forms in which the consumer can reasonably be expected to recognize the food allergen(s) without label declaration), vinegar, and any other processed food that does not require time/temperature control for safety and that does not contain food allergens (e.g., vitamins, minerals, and dietary ingredients (e.g., bone meal) in powdered, granular, or other solid form);

(ix) Making baked goods from milled grain products (e.g., breads and cookies);

(x) Making candy from peanuts and tree nuts (e.g., nut brittles), sugar/syrups (e.g., taffy, toffee), and saps (e.g., maple candy, maple cream);

(xi) Making cocoa products from roasted cocoa beans;

(xii) Making dried pasta from grains;

(xiii) Making jams, jellies, and preserves from acid fruits and vegetables with a pH of 4.6 or below;

(xiv) Making molasses and treacle from sugar beets and sugarcane;

(xv) Making oat flakes from grains;

(xvi) Making popcorn from grains;

(xvii) Making snack chips from fruits and vegetables (e.g., making plantain and potato chips);

(xviii) Making soft drinks and carbonated water from sugar, syrups, and water;

(xix) Making sugars and syrups from fruits and vegetables (e.g., dates), grains (e.g., rice, sorghum), other grain products (e.g., malted grains such as barley), saps (e.g., agave, birch, maple, palm), sugar beets, and sugarcane;

(xx) Making trail mix and granola from cocoa products (e.g., chocolate), dried/dehydrated fruit and vegetable products (e.g., raisins), other fruit and vegetable products (e.g., chopped dried fruits), other grain products (e.g., oat flakes), peanut and tree nut products, and processed seeds for direct consumption, provided that peanuts, tree nuts, and processed seeds are treated to significantly minimize pathogens;

(XXI) Making vinegar from fruits and vegetables, other fruit and vegetable products (e.g., fruit wines, apple cider), and other grain products (e.g., malt);

(xxii) Mixing baked goods (e.g., types of cookies), candy (e.g., varieties of taffy), cocoa beans (roasted), coffee beans (roasted), dried/dehydrated fruit and vegetable products (e.g., dried blueberries, dried currants, and raisins), dried/dehydrated herb and spice products (e.g., dried, intact basil and dried, intact oregano), honey (pasteurized), milled grain products (e.g., flour, bran, and corn meal), other fruit and vegetable products (e.g., dried, sliced apples and dried, sliced peaches), other grain products (e.g., different types of dried pasta), other herb and spice products (e.g., chopped or ground dried herbs, dried herb- or spice-infused honey, and dried herb- or spice-infused oils and/or vinegars), peanut and tree nut products, sugar, syrups, vinegar, and any other processed food that does not require time/temperature control for safety (e.g., vitamins, minerals, and dietary ingredients (e.g., bone meal) in powdered, granular, or other solid form);
(xxiii) Packaging baked goods (e.g., bread and cookies), candy, cocoa beans (roasted), cocoa products, coffee beans (roasted), game meat jerky, gums/latexes/resins that are processed foods, honey (pasteurized), jams/jellies/preserves, milled grain products (e.g., flour, bran, corn meal), molasses and treacle, oils, other fruit and vegetable products (e.g., pitted, dried fruits; sliced, dried apples; snack chips), other grain products (e.g., popcorn), other herb and spice products (e.g., chopped or ground dried herbs), peanut and tree nut products, processed seeds for direct consumption, soft drinks and carbonated water, sugar, syrups, trail mix and granola, vinegar, and any other processed food that does not require time/temperature control for safety (e.g., vitamins, minerals, and dietary ingredients (e.g., bone meal) in powdered, granular, or other solid form);

(xxiv) Pasteurizing honey;

(xxv) Roasting and toasting baked goods (e.g., toasting bread for croutons);

(xxvi) Salting other grain products (e.g., soy nuts), peanut and tree nut products, and processed seeds for direct consumption; and

(xxvii) Sifting milled grain products (e.g., flour, bran, corn meal), other fruit and vegetable products (e.g., chickpea flour), and peanut and tree nut products (e.g., peanut flour, almond flour).