



c cT **[T T] c c]** **caag**
R **Tdh** **RTa i c]** **c a Rd T** **Tdh d[T**

Center for Agriculture and Food Systems at Vermont Law School
Sedona Chavez, Advanced Student Clinician



VT] R

1. Research Process
2. National Trends
3. Northeast State Implementation
4. Common Variations in State Law



TbT a a Tbb

- Searching for statutes and regulations in state-enforced, non-credentialed states
- Direct outreach to state departments of agriculture
- Continuous research



c] [aT] Rb

-



ac T bc [T T] c c]

No NE states are FDA enforced

Credentialed States:

- Maine (statute affirming credential status, 7 M.R.S.A. § 286 (2017))
- Massachusetts (statute affirming credential status, M.G.L.A 128 § 124 (2018)) (?)
- New Jersey
- Pennsylvania

Statutes/Regulations: Connecticut, Delaware (?), Maryland, New Hampshire, New York, Rhode Island, Vermont

Enforcing Agencies: Department/Division of Agriculture, or equivalent



ITC dc

C.G.S.A. § 22-39g. Food Safety Modernization Act. Requirements for produce farms. Enforcement. Inspections. Inspection certificate. Voluntary submission to inspection. Orders. Emergency orders. Recordkeeping. Regulations. (2017)

- Department may enforce the federal standards, as amended
- Produce farm inspections: comply with federal requirements; reasonable hour; may issue inspection certificate
- May inspect a farm not required to comply with the federal act, upon request of the owner/operator
- Recordkeeping required by any farm subject to the federal act OR any owner/operator who requests an inspection
- Department may issue enforcement orders (not exhaustive): embargo, destruction, quarantine, and release of produce



Tl f at

3 Del. C. § 101. Powers (2018). Department of Agriculture may ... (1) abate, suppress, eradicate, and prevent...infectious and injuriously dangerous diseases of [food]; (3) make and adopt rules; (6) collect samples

3 Del. Admin. Code 302.

- Establishes procedures for:

- **Registration.** Required for all produce farms within Delaware.
- **Inspections.** Any produce farm or facility; any time; **Inspectional Report form** will be given
- **Enforcement Actions.** Dep't may seize, take possession of, condemn, destroy, or require destruction of covered produce in violation of Federal Rule; objectionable conditions must be reported to FDA.
- **Violations and Hearing Procedures**
- **Appeals**
- **Civil penalties.** \$1000-\$5000 for each count.



Authority

Md. Agric. § 16-101-111. Maryland Produce Safety Program (2019).

- **Records:** Fully covered and QE farms. **Records are confidential with exceptions.**
- **Inspections:** fully covered, QE, and exempt farms; reasonable time; may issue a written or printed stop-sale order to a farm in violation
- May adopt **regulations**
- **Action for an injunction to enforce or prevent a violation**
- May detain covered produce found in violation
- **Petition for condemnation may be filed by the Secretary**
- **Subpoenas and administrative search warrants**
- **Penalties and fines**



Tf

b aT] a a cTR Ph aT TaT] T

N.H. Rev. Stat. 426-A:1-A:6. Produce Safety (2018).

- **FSMA PSR incorporated by reference** and any subsequent amendments
- **Inspections:** any produce farm; **reasonable hours; determine compliance with federal standards & state rules;** may issue certificate
- **Maintain records required by the federal rule and state rules**
- **Commissioner shall adopt rules (below)**

Chapter Agr 3900. Produce Safety Farm Inspections

- **Owner/operator of a farm shall comply with the federal rule**
- **Inspections:** routine inspections **shall be conducted (every 3 yrs); farms conducting covered activity**
- **Record keeping: adhere to federal rule**



Tf a R dbc T TRTa [adIT Tg T c] b

1 CRR-NY 273.1. Standards (2017).

- Adopts the federal rule
- Except: the Commissioner will not determine the eligibility of a farm or a QE and does not adopt parts E (agricultural water), P (variances), Q (compliance and enforcement), and R (withdrawal of qualified exemption)

Agriculture and Markets Law,



RT b[] R R db c T TRTa [adIT

RI ST § 2-1-10(b). Inspection Powers (2017). **The director shall enforce the FSMA as it pertains to commercial growers of fruits and vegetables**

250-RICR-40-00-2. Produce Safety Rule (2019). **Adopt minimum standards established by the federal rule by reference**, not including further editions or amendments **to the extent the provisions are not inconsistent with state regulations.**





l a c l b l c c T f

1. Inspections:

- Department may or shall enter and inspect just farms conducting a covered activity or ANY produce farms? Can non-covered farms request an inspection?
- Enter at a reasonable time or any time?
- Inspection reports: required or voluntary?
- Regular inspections specified?

2. Penalties and fines: Monetary amounts may vary. No NE states mentioned criminal liability in their statutes, only civil penalties.

3. Records: In CT non-covered farms are required to keep records if the owner/operator requests an inspection.

3. Commissioner/Secretary/State shall or may adopt rules?

4. Subsequent amendments to or editions of the Federal Rule also adopted?