

# FDA Proposes Compliance Date Extension for Pre-Harvest Agricultural Water Requirements

On July 18, 2022 the U.S. Food and Drug Administration (FDA) issued a supplemental notice of proposed rulemaking to extend the compliance dates for the pre-harvest agricultural water provisions as outlined in the recent 2021 [agricultural water proposed rule](#).

The 2021 agricultural water proposed rule, if finalized, will require farms to conduct annual systems-based agricultural water assessments to determine and guide appropriate measures to minimize potential risks associated with pre-harvest agricultural water. The FDA is now proposing extended compliance dates for those proposed pre-harvest requirements and is also providing clarifying information about the enforcement discretion policy for the harvest and post-harvest agricultural water requirements.

The supplemental rulemaking proposes to establish the following compliance dates for the pre-harvest agricultural water requirements for covered produce other than sprouts:

- 2 years and 9 months after the effective date of a final rule for very small businesses;
- 1 year and 9 months after the effective date of a final rule for small businesses; and
- 9 months after the effective date of a final rule for all other businesses.
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**Note: These compliance dates only go into effect when the rule is finalized which we have no information when that will occur!**

## Compliance Dates for Harvest and Post-Harvest Agricultural Water Requirements

The 2021 pre-harvest agricultural water proposed rule did not propose substantive changes to the harvest and post-harvest agricultural water requirements in the Produce Safety Rule; however, the FDA recognizes that prior to the proposal, stakeholders did not have clarity on whether FDA might propose to change the harvest and post-harvest agricultural water requirements. In addition, the FDA recognizes that adequate training and technical assistance are needed to fully recognize the benefits of the harvest and post-harvest requirements. Therefore, **we intend to continue enforcement discretion for the harvest and post-harvest agricultural water requirements of the Produce Safety regulation until the following dates:**

- **January 26, 2025, for very small businesses;**
- **January 26, 2024, for small businesses; and**
- **January 26, 2023, for all other businesses.**

We are reopening the comment period only with respect to the proposed compliance dates for the pre-harvest agricultural water provisions until September 19, 2022. Comments should be submitted to docket FDA-2021-N-0471 on Regulations.gov.

As has been done with other FSMA rules, the FDA plans to take an “educate before and while we regulate” posture as we begin implementing the harvest and post-harvest requirements. For the

first year of compliance, the FDA intends to work closely with state, other regulatory, and industry partners to advance training, technical assistance, educational visits and on-farm readiness reviews to prepare both growers and state regulators for implementing these provisions prior to initiating routine inspections verifying compliance. The FDA will provide further communications as additional resources become available.

**Additional Information**

- [FSMA Proposed Rule on Agricultural Water](#)
- [La FDA propone ampliar la fecha de cumplimiento de los requisitos de agua de uso agrícola utilizada antes de la cosecha](#)