Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

The table of contents on page one contains links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the Arizona Administrative Register.

This Chapter contains rules that were filed to be codified in the Arizona Administrative Code between the dates of July 1, 2021 through September 30, 2021

R3-10-101. Citrus Fruit Dealer or Shipper Licensing Fee  .... 4

R3-10-102. Fruit and Vegetable Dealer or Shipper Licensing Fee 4

Questions about these rules? Contact:
Department: Arizona Department of Agriculture
Address: 1688 W. Adams
Phoenix, AZ 85007
Website: https://agriculture.az.gov/
Name: Ed Foster, Associate Director
Telephone: (602) 542-0947
Fax: (602) 542-0898
E-mail: efoster@azda.gov

The release of this Chapter in Supp. 21-3 replaces Supp. 20-3, 1-22 pages
Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

i
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES
The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE
The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2021 is cited as Supp. 21-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

AUTHENTICATION OF PDF CODE CHAPTERS
The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE
Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES
The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES
Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA
It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR
At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing Chapters using these paper colors.

PERSONAL USE/COMMERCIAL USE
This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.
ARTICLE 1. LICENSING FEES

Article 1, consisting of new Sections R3-10-101 and R3-10-102 made by final exempt rulemaking at 24 A.A.R. 2227, effective July 1, 2018 (Supp. 18-3).

Section
R3-10-101. Citrus Fruit Dealer or Shipper Licensing Fee....... 4
R3-10-102. Fruit and Vegetable Dealer or Shipper Licensing Fee .................................................. 4

ARTICLE 2. PRODUCE SAFETY

Article 2, consisting of new Section R3-10-201, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-201. Definitions ............................................................ 4

ARTICLE 3. PRODUCE SAFETY GENERAL PROVISIONS

Article 3, consisting of new Sections R3-10-301 through R3-10-305, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-301. Definitions .............................................................. 6
R3-10-302. Applicability .............................................................. 6
R3-10-303. Food Safety; Covered Produce ........................................ 6
R3-10-304. Food Safety; Covered Produce; Exclusions .................. 7
R3-10-305. Designated Representative; Notice Requirements to the Department .............................. 7

ARTICLE 4. PRODUCE SAFETY COVERED FARM AND QUALIFIED EXEMPTION

Article 4, consisting of new Sections R3-10-401 through R3-10-407, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-401. Definitions ................................................................. 8
R3-10-402. Inventory of Farms; Form; Electronic Submission .................. 8
R3-10-403. Covered Farm; Exclusion .............................................. 8
R3-10-404. Covered Farm; Qualified Exemption; Modifications .......... 8
R3-10-405. Qualified Exemption; Eligibility; Modification Requirements .............................................. 8
R3-10-406. Qualified Exemption; Maintenance of Records .............................. 9
R3-10-407. Compliance Dates; Covered Farms; Agricultural Water ..................................................... 9

ARTICLE 5. PRODUCE SAFETY PERSONNEL QUALIFICATIONS AND TRAINING

Article 5, consisting of new Sections R3-10-501 through R3-10-504, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-501. Qualifications and Training for Personnel ................. 9
R3-10-502. Training; Covered Activity; Minimum Requirements ................................................. 9
R3-10-503. Supervision; Identified Personnel ............................. 10
R3-10-504. Required Training; Recordkeeping .......................... 10

ARTICLE 6. PRODUCE SAFETY HEALTH AND HYGIENE

Article 6, consisting of new Sections R3-10-601 through R3-10-603, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-601. Prevention Measures; Ill or Infected Persons .... 10
R3-10-602. Covered Personnel; Hygienic Practices ..................... 10
R3-10-603. Contamination Prevention; Visitors .......................... 10

ARTICLE 7. PRODUCE SAFETY AGRICULTURAL WATER

Article 7, consisting of new Section R3-10-701, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-701. Agricultural Water; Incorporation of Federal Regulations ................................................. 10

ARTICLE 8. PRODUCE SAFETY BIOLOGICAL SOIL AMENDMENTS OF ANIMAL ORIGIN AND HUMAN WASTE

Article 8, consisting of new Sections R3-10-801 through R3-10-807, and Tables 1 and 2, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section
R3-10-801. Definitions ................................................................ 11
R3-10-802. Status of Biological Soil Amendments of Animal Origin; Requirements ............................................. 12
R3-10-803. Handling, Conveying and Storing Biological Soil Amendments of Animal Origin ................................. 12
R3-10-804. Prohibition of Application of Human Waste ......... 12
R3-10-805. Biological Soil Amendment of Animal Origin; Acceptable Treatment Processes; Microbial Standards ............................................................................................................. 12
Table 1. ...................................................................................... 13
R3-10-806. Application Requirements; Minimum Application Intervals ......................................................... 13
Table 2. ...................................................................................... 13
R3-10-807. Biological Soil Amendment; Recordkeeping ........ 13

ARTICLE 9. PRODUCE SAFETY DOMESTICATED AND WILD ANIMALS

Article 9, consisting of new Sections R3-10-901 through R3-10-903, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).
Chapter 10. Department of Agriculture - Citrus Fruit and Vegetable Division

Section R3-10-901. Domesticated and Wild Animals; Inclusion; Exclusion ................................................. 14
Section R3-10-902. Grazing and Working Animals; Animal Intrusion; Requirements ............................................. 14
Section R3-10-903. Covered Farms; Taking of Threatened or Endangered Species; Managing Outdoor Growing Areas ........................................................................................................... 14

ARTICLE 10. PRODUCE SAFETY GROWING, HARVESTING, PACKING AND HOLDING ACTIVITIES

Article 10, consisting of new Sections R3-10-1001 through R3-10-1115, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1001. Growing, Harvesting and Packing of Covered and Excluded Produce .............................................. 14
Section R3-10-1002. Required Measures Prior to Harvest .......................................................... 14
Section R3-10-1003. Handling Covered Produce During Covered Activities .......................................................... 14
Section R3-10-1004. Dropped Covered Produce; Requirements .............................................. 14
Section R3-10-1005. Food Packing and Packaging; Requirements ................................................................................ 14

ARTICLE 11. PRODUCE SAFETY EQUIPMENT, TOOLS, BUILDINGS AND SANITATION

Article 11, consisting of new Sections R3-10-1101 through R3-10-1115, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1101. Equipment and Tools; Inclusion; Requirements ........................................................................... 15
Section R3-10-1102. Buildings; Specific Inclusions .......................................................................................... 15
Section R3-10-1103. Equipment and Tools; Cleaning and Maintenance ...................................................................................................... 15
Section R3-10-1104. Maintenance of Instruments and Controls .................................................................................. 15
Section R3-10-1105. Maintenance of Equipment Used for Transport of Covered Produce .................................................................................. 15
Section R3-10-1106. Buildings; Suitability; Drainage .......................................................................................... 15
Section R3-10-1107. Buildings; Domesticated Animals .......................................................................................... 16
Section R3-10-1108. Buildings; Pest Control; Routine Monitoring; Hand-Washing Facilities; Appropriate Disposal of Waste ........................................................................................................... 16
Section R3-10-1111. Sewage; Control and Disposal; Significant Events ........................................................................... 16
Section R3-10-1112. Trash, Litter and Waste; Conveyance, Storage and Disposal ........................................................................................................... 17
Section R3-10-1113. Plumbing; Adequacy of Size and Design ................................................................................. 17
Section R3-10-1114. Control of Animal Excreta from Domesticated Animals .................................................................................................................. 17
Section R3-10-1115. Equipment, Tools, Buildings and Sanitation; Recordkeeping .................................................................................. 17

ARTICLE 12. PRODUCE SAFETY SPROUTS

Article 12, consisting of new Section R3-10-1201, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1201. Sprouts; Incorporation of Federal Regulations .......................................................... 17

ARTICLE 13. PRODUCE SAFETY ANALYTICAL METHODS

Article 13, consisting of new Section R3-10-1301, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1301. Analytical Methods; Incorporation of Federal Regulations ........................................................................... 17

ARTICLE 14. PRODUCE SAFETY RECORDS

Article 14, consisting of new Sections R3-10-1401 through R3-10-1408, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1401. Definition ................................................................................................. 17
Section R3-10-1402. Recordkeeping; Signature by Responsible Party ................................................................................. 18
Section R3-10-1403. Records; Off-Site Storage and Electronic Records ................................................................................. 18
Section R3-10-1404. Existing Records; Duplication; Supplementation ................................................................................. 18
Section R3-10-1405. Period for Maintenance of Records ................................................................................. 18
Section R3-10-1406. Records; Acceptable Formats .................................................................................. 18
Section R3-10-1407. Availability and Accessibility of Records to Department ................................................................................. 18
Section R3-10-1408. Disclosure of Records to Outside Parties .................................................................................. 18

ARTICLE 15. PRODUCE SAFETY VARIANCES

Article 15, consisting of new Section R3-10-1501, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1501. Request for Variance; Method of Request; Required Information ................................................................................. 19

ARTICLE 16. PRODUCE SAFETY INSPECTIONS, VIOLATIONS AND ENFORCEMENT

Article 16, consisting of new Sections R3-10-1601 through R3-10-1615, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1601. Definitions ................................................................................................. 19
Section R3-10-1602. Inspection; Procedure; Conduct ................................................................................. 20
Section R3-10-1603. Initial Inspection .................................................................................. 20
Section R3-10-1604. Routine Inspection, Reinspection, or for Cause Inspection ................................................................................. 20
Section R3-10-1605. Egregious Violation .................................................................................. 21
Section R3-10-1606. Imminent Public Health Hazard Violation ................................................................................. 21
Section R3-10-1607. Significant Violation .................................................................................. 21
Section R3-10-1608. Major Violation .................................................................................. 21
Section R3-10-1609. Minor Violation .................................................................................. 22
Section R3-10-1610. Unlisted Violation; Classification ................................................................................. 22
Section R3-10-1611. Violation; Reclassification; Factors ................................................................................. 22
Section R3-10-1612. Aggravating and Mitigating Circumstances; Factors ................................................................................. 22
Section R3-10-1613. Repeat Violations; Penalty ................................................................................. 22
Section R3-10-1614. Civil Penalties .................................................................................. 22
Section R3-10-1615. Violation; Appeal .................................................................................. 22

ARTICLE 17. PRODUCE SAFETY WITHDRAWAL OF QUALIFIED EXEMPTION

Article 17, consisting of new Sections R3-10-1701 through R3-10-1707, made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019 (Supp. 20-1).

Section R3-10-1701. Withdrawal of Qualified Exemption; Incorporation of Federal Regulations ................................................................................. 23
Section R3-10-1702. Withdrawal of Qualified Exemption; FDA ................................................................................. 23
Section R3-10-1703. Withdrawal of Qualified Exemption; Department ................................................................................. 23
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>R3-10-1704</td>
<td>Change in Eligibility</td>
<td>23</td>
</tr>
<tr>
<td>R3-10-1705</td>
<td>Withdrawal of Qualified Exemption; Department; Orders</td>
<td>23</td>
</tr>
<tr>
<td>R3-10-1706</td>
<td>Administrative Hearing Procedures; Appeals</td>
<td>23</td>
</tr>
<tr>
<td>R3-10-1707</td>
<td>Qualified Exemption; Reinstatement</td>
<td>23</td>
</tr>
</tbody>
</table>
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

ARTICLE 1. LICENSING FEES

R3-10-101. Citrus Fruit Dealer or Shipper Licensing Fee
A person may not transact business as a citrus fruit dealer or shipper without first obtaining a license as provided in Arizona Revised Statutes, Title 3, Chapter 3, Article 2. For fiscal year 2022, license fee shall be determined according to the annual gross sales based on the dealer’s or shipper’s previous fiscal year as follows:

1. If the annual gross sales are $500,000 or more, the annual fee is $112.50.
2. If the annual gross sales are between $200,000 and $500,000, the annual fee is $75.
3. If the annual gross sales are $200,000 or less, the annual fee is $37.50.
4. If the person was not in business the previous fiscal year, the annual fee is $37.50.

Historical Note
New Section made by final exempt rulemaking at 24 A.A.R. 2227, effective July 1, 2018 (Supp. 18-3).

R3-10-102. Fruit and Vegetable Dealer or Shipper Licensing Fee
A person shall not act as a fruit or vegetable dealer or shipper without first obtaining a license as provided in Arizona Revised Statutes, Title 3, Chapter 3, Article 4. For fiscal year 2022, application for the license shall be filed with the supervisor and accompanied by a license fee determined according to the annual gross sales based on the dealer’s or shipper’s previous fiscal year as follows:

1. If the annual gross sales are $500,000 or more, the annual fee is $125.
2. If the annual gross sales are between $200,000 and $500,000, the annual fee is $87.50.
3. If the annual gross sales are $200,000 or less, the annual fee is $50.
4. If the person was not in business the previous fiscal year, the annual fee is $50.

Historical Note
New Section made by final exempt rulemaking at 24 A.A.R. 2227, effective July 1, 2018 (Supp. 18-3).

ARTICLE 2. PRODUCE SAFETY

R3-10-201. Definitions
In addition to the terms defined under A.R.S. §§ 3-481 and 3-525, these words and phrases are defined for use in Articles 2 through 17, unless the context otherwise requires:

1. “Adequate” means that which is needed to accomplish the intended purpose in keeping with good public health practice.
2. “Adequately reduce undesirable microorganisms of public health significance” means reduce the presence of such undesirable microorganisms to an extent sufficient to prevent illness.
3. “Agricultural water” means water used in either:
   a. Covered activities on covered produce where water is intended to, or is likely to, contact covered produce or food contact surfaces, including water used in all growing activities, such as irrigation water applied using direct water agricultural methods, water used for preparing crop sprays, and water used for growing sprouts; or
   b. Harvesting, packing and holding activities, such as water used for washing or cooling harvested produce and water used for preventing dehydration of covered produce.
4. “Animal excreta” means solid or liquid animal waste.
5. “Applicable health condition” includes but is not limited to:
   a. A communicable illness that presents a public health risk in the context of normal work duties,
   b. An infection,
   c. An open lesion,
   d. Vomiting, or
e. Diarrhea.
6. “Covered activity” means:
   a. Growing, harvesting, packing, or holding covered produce on a farm, including manufacturing or processing of covered produce on a farm, but only to the extent that these activities are performed on raw agricultural commodities and only to the extent that these activities are within the meaning of “farm” as defined in this Chapter, and providing, acting consistently with, and documenting actions taken in compliance with written assurances as described in R3-10-303; and
   b. Does not apply to activities of a facility that are subject to 21 CFR 11B(110) relating to preventive controls for human food and current good manufacturing practice in manufacturing, packing or holding human food.
7. “Covered produce” means:
   a. Produce that is subject to the requirements of Articles 3 through 17 in accordance with R3-10-303 and R3-10-304, and
   b. Refers to the harvestable or harvested part of the crop.
8. “Department” means the Arizona Department of Agriculture.
9. “Designated representative” means the individual who is responsible for the farm’s compliance with the requirements of Articles 3 through 17 that are applicable to the farm and who is selected by the owner, operator, lessee or agent. A designated representative may include an owner, operator, lessee, farm manager, produce safety expert, food safety professional, or agent of the farm.
10. “Direct water application method” means using agricultural water in a manner whereby the water is intended to, or is likely to, contact covered produce or food contact surfaces during use of the water.
11. “Farm” means:
   a. Primary Production Farm. A primary production farm is an operation under one management in one general, but not necessarily contiguous, physical location devoted to growing crops, harvesting crops, raising animals, including seafood, or any combination of these activities. The term “farm” includes operations that, in addition to the above activities, also includes:
      i. Packing or holding raw agricultural commodities;
      ii. Packing or holding 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 subsection (11)(a)(iii)(2)(a) of this definition; and

iii. Manufacturing or processing food, provided that either:
   (1) All food used in such activities is consumed on that farm or another farm under the same management;
   (2) Any manufacturing or processing of food that is not consumed on that farm or another farm under the same management consists only of:
      (a) Drying or dehydrating raw agricultural commodities to create a distinct commodity, such as drying or dehydrating grapes to produce raisins, and packaging and labeling such commodities, without additional manufacturing or processing;
      (b) 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 or processing; and
      (c) Packaging and labeling raw agricultural commodities, when these activities do not involve additional manufacturing or processing, such as irradiation; or
   b. 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, or holding of raw agricultural commodities, provided that the primary production farm that grows, harvests, or raises the majority of the raw agricultural commodities harvested, packed, 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 in subsections (11)(a)(i) and (ii) of this definition.


13. “Food contact surfaces” means:
   a. Those surfaces that contact human food and those surfaces from which drainage, or other transfer, onto the food or onto surfaces that contact the food ordinarily occurs during the normal course of operations; and
   b. Includes food contact surfaces of equipment and tools used during harvest, packing and holding.

14. “Food grains” means:
   a. The small hard fruits or seeds of arable crops, or the crops bearing these fruits or seeds;
   b. Are primarily grown and processed for use as meal, flour, baked goods, cereals and oils rather than for direct consumption as small, hard fruits or seeds; and
   c. Includes barley, dent- or flint-corn, sorghum, oats, rice, rye, wheat, amaranth, quinoa, buckwheat, and oilseeds, such as cottonseed, flax seed, rapeseed, soybean, and sunflower seed.

15. “Harvesting” means:
   a. Activities on farms and farm mixed type facilities 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;
   b. Is limited to activities performed on raw agricultural commodities, or on processed foods created by drying or dehydrating a raw agricultural commodity without additional manufacturing or processing, on a farm;
   c. 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; and
   d. Includes:
      i. 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, such as foliage, husks, roots or stems.
      ii. Cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming outer leaves, and washing raw agricultural commodities grown on a farm.

16. “Holding” means:
   a. Storage of food and activities performed incidental to storage of a food [Holding facilities could include warehouses, cold storage facilities, storage silos, grain elevators, and liquid storage tanks];
   b. Includes activities performed as a practical necessity for distribution of that food, such as blending of the raw commodity and breaking down pallets;
   c. Examples include activities performed for the safe or effective storage of that food, such as fumigating food during storage, and drying or dehydrating raw agricultural commodities, when drying or dehydrating does not create a distinct commodity, such as drying or dehydrating hay or alfalfa; and
   d. 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.

17. “Known or reasonably foreseeable hazard” means a biological agent that is known, is recognized, or has the potential to cause illness or injury in the absence of its control.

18. “Lot” means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

19. “Manufacturing or processing” means:
   a. Making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients;
   b. Examples include baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying or dehydrating raw agricultural commodities to create a distinct commodity, such as drying or dehydrating grapes to produce raisins, evaporating, eviscerating, extracting juice, formulating, freezing, grinding, homogenizing, labeling, milling, mixing, packaging, including modified atmosphere packaging, pasteurizing, peeling, rendering, treating to manipulate ripening, trimming, washing, or waxing; and
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

R3-10-301. Definitions

c. Does not include, for farms and mixed-type facilities, activities that are part of harvesting, packing, or holding.
20. “Manure” means animal excreta, alone or in combination with litter, such as straw and feathers used for animal bedding, for use as a soil amendment.
21. “Monitor” means to conduct a planned sequence of observations or measurements to assess whether a process, point or procedure is under control and, when required, to produce an accurate record of the observation or measurement.
22. “Packing” means:
a. Placing food into a container and also includes repacking and activities performed incidental to packing or re-packing a food;
b. Includes 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; and
c. 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.
23. “Pest” means any objectionable animals or insects, including birds, rodents, flies, and larvae.
24. “Produce” means:
a. Any fruit as defined in Article 3 or vegetable as defined in this Section;
b. Includes mixes of intact fruits and vegetables as well as mushrooms, sprouts, irrespective of seed source, peanuts, tree nuts and herbs; and
c. Does not include food grains as defined in this Section.
25. “Sanitize” means to adequately treat cleaned surfaces by a process that is effective in destroying vegetative cells of undesirable microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.
26. “Undesirable microorganisms” means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species having public health significance.
27. “Vegetable” means:
a. The edible part of an herbaceous plant, such as cabbage or potato, or fleshy fruiting body of a fungus, such as white button or shiitake, grown for an edible part;
b. Means the harvestable or harvested part of any plant or fungus whose fruit, fleshy fruiting bodies, seeds, roots, tubers, bulbs, stems, leaves, or flower parts are used as food; and
c. Includes mushrooms, sprouts, and herbs, such as basil or cilantro.
28. “Visitor” means any person, other than personnel, who enters a covered farm with permission.
29. “Water distribution system” means a system to carry water from its primary source to its point of use, including pipes, sprinklers, irrigation canals, pumps, valves, storage tanks, reservoirs, meters, and fittings.

These words are defined for use in this Article, unless the context otherwise requires:
1. “Fruit” means:
a. The edible reproductive body of a seed plant or tree nut and the harvestable or harvested part of a plant developed from a flower; and
b. Includes apples, oranges and almonds.
2. “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.
3. “Raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-302. Applicability

A. Articles 2 through 17 apply to primary production farms and secondary activities and require appropriate measures to minimize the risk of serious adverse health consequences or death from the use of, or exposure to, covered produce, including those measures reasonably necessary to prevent the introduction of known or reasonably foreseeable hazards into covered produce, and to provide reasonable assurances that the produce is not adulterated under Section 402 of the Federal Food, Drug and Cosmetic Act on account of such hazards.

B. The goal of Articles 2 through 17 is to achieve compliance through education, training and alternative enforcement approaches in order to address present violations and prevent future violations.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-303. Food Safety; Covered Produce

A. Unless specifically excluded by R3-10-304, the following is subject to the requirements of Articles 2 through 17:
1. Food that is covered produce;
2. A produce raw agricultural commodity that is grown domestically; and
3. A produce raw agricultural commodity that will be imported or offered for import in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

B. Covered produce includes, but is not limited to, the following:
1. Fruits and vegetables such as almonds, apples, apricots, apricums, Artichokes-globe-type, Asian pears, avocados, babacos, bananas, Belgian endive, blackberries, blueberries, boysenberries, Brazil nuts, broad beans, broccoli, Brussels sprouts, burdock, cabbages, Chinese cabbages (Bok Choy, mustard, and Napa), cantaloupes, carambolas, carrots, cauliflower, cereals, celery, chayote fruit, cherries (sweet), chestnuts, chicory (roots and tops), citrus (such as clementine, grapefruit, lemons, limes, mandarin, oranges, tangerines, tangors, and uniq fruit), cowpea beans, cress-garden, cucumbers, curly endive, currants, dandelion leaves, fennel-Florence, garlic, genip, gooseberries, grapes, green beans, guavas, herbs (such as basil, chives, cilantro, oregano, and parsley), honeydew, huckleberries, Jerusalem artichokes, kale, kiwifruit, kohl-
rabi, kumquats, leek, lettuce, lychees, macadamia nuts, mangoes, other melons (such as Canary, Crenshaw and Persian), mulberries, mushrooms, mustard greens, nectarines, onions, papayas, parsnips, passion fruit, peaches, pears, peas, peas-pigeon, peppers (such as bell and hot), pine nuts, pineapples, plantains, plums, pluots, quince, radishes, raspberries, rhubarb, rutabagas, scallions, shallots, snow peas, soursop, spinach, sprouts (such as alfalfa and mung bean), strawberries, summer squash (such as patty pan, yellow and zucchini), sweetpots, Swiss chard, taro, tomatoes, turmeric, turnips (roots and tops), walnuts, watercress, watermelons, and yams; and

2. Mixes of intact fruits and vegetables, such as fruit baskets.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-304. Food Safety; Covered Produce; Exclusions

A. The following produce is not covered by Articles 2 through 17:

1. Produce that is rarely consumed raw, specifically: asparagus, beans (such as black, great Northern, kidney, lima, navy, pinto), sugar beets (including garden roots and tops), cashew, sour cherries, chickpeas, cocoa beans, coffee beans, collards, sweet corn, cranberries, dates, dill seeds and weed, eggplants, figs, ginger, hazelnuts, horseradish, lentils, okra, peanuts, pecans, peppermint, potatoes, pumpkins, winter squash, sweet potatoes, and water chestnuts;

2. Produce that is produced by an individual for personal consumption or produced for consumption on the farm or another farm under the same management; and

3. Produce that is not a raw agricultural commodity.

B. In addition to the exclusions provided in subsection (A), produce is eligible for exclusion if all of the following conditions are met:

1. The produce receives commercial processing that adequately reduces the presence of undesirable microorganisms of public health significance including those used for all of the following:
   a. Processing in accordance with the requirements of 21 CFR 113, 114, or 120;
   b. Treating with a validated process to eliminate spore-forming undesirable microorganisms, such as processing to produce tomato paste or shelf-stable tomatoes; and
   c. Processing such as refining, distilling, or otherwise manufacturing or processing produce into products such as sugar, oil, spirits, wine, beer or similar products.

2. The farm discloses in documents accompanying the produce, in accordance with the practice of the trade, that the food is “not processed to adequately reduce the presence of undesirable microorganisms of public health significance.”

3. The farm either:
   a. Annually obtains written assurance, subject to the requirements of this subsection, from the customer that performs the commercial processing that the customer has established and is following procedures identified in the written assurance that adequately reduce the presence of undesirable microorganisms of public health significance;
   b. Annually obtains written assurance, subject to the requirements of this subsection, from the customer that an entity in the distribution chain subsequent to the customer will perform that commercial processing and that the customer will both:
      i. Disclose in documents accompanying the food, in accordance with the practice of the trade, that the food is specifically “not processed to adequately reduce the presence of undesirable microorganisms of public health significance;” and
      ii. Only sell to another entity that agrees, in writing, it will either:
         1. Follow procedures identified, in a written assurance that adequately reduce the presence of undesirable microorganisms of public health significance;
         2. Obtain a similar written assurance from its customer that the above produce will receive commercial processing described in subsection (B)(3)(b)(i), and that there will be disclosure in documents accompanying the food, in accordance with the practice of the trade, that the food is specifically “not processed to adequately reduce the presence of undesirable microorganisms of public health significance.”

4. The farm shall establish and maintain documentation of compliance with applicable requirements in subsections (B)(2) and (3) in accordance with the requirements of Article 14, including both:
   a. Documents containing disclosures required under subsection (B)(2); and
   b. Annual written assurances obtained from customers required under subsection (B)(3).

5. The requirements of this Article and Article 4 apply to such produce; and

6. An entity that provides a written assurance under subsection (B)(3) shall act consistently with the assurance and document its actions taken to satisfy the written assurance.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-305. Designated Representative; Notice Requirements to the Department

A. The owner, operator, lessee or agent in charge of a farm shall notify the Department of the name, email address and telephone number of the farm’s designated representative.

B. The farm may notify the Department of an alternate designated representative if the designated representative is unavailable.

C. If the designated representative terminates employment or no longer functions as the designated representative of the farm, the owner, operator, lessee or agent in charge of the farm shall select another designated representative within 30 days and notify the Department of the replacement.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).
ARTICLE 4. PRODUCE SAFETY COVERED FARM AND QUALIFIED EXEMPTION

R3-10-401. Definitions

These words are defined for use in this Article, unless the context otherwise requires:

1. “Food sales” include sale of produce, processed food, hay, and commodities such as food grains, dairy and livestock; and
2. “Qualified end-user,” with respect to a food, means the consumer of the food, where the term “consumer” does not include a business; or a restaurant or retail food establishment, as those terms are defined in 21 CFR 1.227 that is located either:
   a. In the same state or the same Indian reservation as the farm that produced the food; or
   b. Not more than 275 miles from the farm that produced the food.
3. “Services” include activities related to covered produce such as harvesting, packing, holding or cooling.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-402. Inventory of Farms; Form; Electronic Submission

A. An owner, operator, lessee or designated representative of a farm subject to Articles 2 through 17 shall annually submit the following information on a form obtained from the Department:
   1. Farm or business name, physical address, mailing address, email address and telephone number;
   2. The name, email address and telephone number or numbers of the farm’s designated representative and alternate designated representative, if applicable;
   3. Type or types of business of the farm, such as grower, grower-shipper, harvester, packer, holder or cooler;
   4. Types of crops grown, harvested, packed, held or cooled, such as leafy greens, citrus, melons, tree fruit, or vegetables;
   5. Whether crops are grown, harvested, packed, held or cooled on a seasonal basis or year-round;
   6. The average annual produce sales or income derived from services rendered during the last three years, including whether the amount was less than $25,000, $25,000 to $250,000, $250,000 to $500,000, or greater than $500,000;
   7. Whether all produce sales are directly to consumers, restaurants, or retail food establishments that are within 275 miles of the farm or all sales are within the State of Arizona;
   8. Whether during the previous three-year period the average food sales from the farm, such as processed food, hay, dairy, livestock or food grains, were less than $500,000; and
   9. Whether the operation participates in any other food safety program, such as the Arizona Leafy Greens Marketing Agreement, Good Agricultural Practices and Good Handling Practices, Good Manufacturing Practices, Harmonized Good Agricultural Practices, Safe Quality Food certification or other recognized food safety programs.

B. The information required in subsection (A) shall be submitted annually to the Associate Director not later than October 1 of each year. If there is a material change to the information required in subsection (A), the owner, operator lessee or designated representative of the farm shall notify the Department within 60 days after the change.

C. The information required in subsection A may be submitted to the Department electronically.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-403. Covered Farm; Exclusion

A farm or mixed-type facility with an average annual monetary value of produce, as “produce” is defined in Section R3-10-201, sold during the previous three-year period, of more than $25,000 on a rolling basis, adjusted for inflation using 2011 as the baseline year for calculating the adjustment, is a “covered farm” subject to Articles 2 through 17. A covered farm subject to Articles 2 through 17 shall comply with all applicable requirements when conducting a covered activity on covered produce.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-404. Covered Farm; Qualified Exemption; Modifications

A. A farm is eligible for a qualified exemption and associated modified requirements in a calendar year if both of the following apply:
   1. During the three-year period preceding the applicable calendar year, the average annual monetary value of the food the farm sold directly to qualified end-users during such period exceeded the average annual monetary value of the food the farm sold to all other buyers during that period; and
   2. The average annual monetary value of all food that the farm sold during the three-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

B. For the purpose of determining whether the average annual monetary value of all food sold during the three-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation, the baseline year for calculating the adjustment for inflation is 2011.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-405. Qualified Exemption; Eligibility; Modification Requirements

A. If a farm is eligible for a qualified exemption in accordance with R3-10-404, the farm is subject to this Article and Articles 2, 3, 14, 16 and 17.

B. In addition, the farm is subject to the following modified requirements:
   1. When a food packaging label is required on food that would otherwise be covered produce under the Federal Food, Drug, and Cosmetic Act or its implementing regulations, the farm shall include prominently and conspicuously on the food packaging label the name and the complete business address of the farm where the produce was grown;
   2. When a food packaging label is not required on food that would otherwise be covered produce under the Federal Food, Drug, and Cosmetic Act, the farm shall prominently and conspicuously display, at the point of pur-
B. Persons who conduct harvest activities for covered produce shall also receive training that includes all of the following:
1. Recognizing covered produce that shall not be harvested, including covered produce that may be contaminated with known or reasonably foreseeable hazards;
2. Inspecting harvest containers and equipment to ensure that they are functioning properly, clean, and maintained in a sanitary condition.

R3-10-502. Training; Covered Activity; Minimum Requirements
A. At a minimum, all personnel who handle or contact covered produce or food contact surfaces during covered activities or who supervise the conduct of the activities shall receive training that includes all of the following:
1. Principles of food hygiene and food safety;
2. The importance of health and personal hygiene for all personnel and visitors, including recognizing symptoms of a health condition that is reasonably likely to result in contamination of covered produce or food contact surfaces with undesirable microorganisms of public health significance; and
3. The standards established in this Article and Articles 6 through 14 that are applicable to the employee’s job responsibilities.

B. Persons who conduct harvest activities for covered produce shall also receive training that includes all of the following:
1. Recognizing covered produce that shall not be harvested, including covered produce that may be contaminated with known or reasonably foreseeable hazards;
2. Inspecting harvest containers and equipment to ensure that they are functioning properly, clean, and maintained so as not to become a source of contamination of covered produce with known or reasonably foreseeable hazards; and
3. Correcting problems with harvest containers or equipment, or reporting those problems to the supervisor, or other designated representative, as appropriate to the person’s job responsibilities.

C. At least one supervisor or designated representative for the farm shall have successfully completed food safety training at least equivalent to that received under standardized curriculum recognized as adequate by the FDA.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-503. Supervision; Identified Personnel
The farm shall assign or identify a person or persons to be responsible for its operations to ensure compliance with the requirements of Articles 2 through 17.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-504. Required Training; Recordkeeping
A. The farm shall establish and keep records required under this Article in accordance with the requirements of Article 14.
B. The farm shall establish and keep records of training that document the required training of personnel, including the date of training, topics covered, and the persons trained.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 6. PRODUCE SAFETY HEALTH AND HYGIENE

R3-10-601. Prevention Measures; Ill or Infected Persons
A. The farm shall take measures to prevent contamination of covered produce and food contact surfaces with undesirable microorganisms of public health significance from any person with an applicable health condition.
B. The farm shall take all of the following measures to satisfy the requirements of subsection (A):
1. Excluding any person from working in any operations that may result in contamination of covered produce or food contact surfaces with undesirable microorganisms of public health significance when the person, by medical examination, the person’s acknowledgement, or observation, is shown to have, or appears to have, an applicable health condition;
2. Instructing personnel to notify their supervisor or a responsible party if they have, or if there is a reasonable possibility that they have an applicable health condition; and
3. The person may return to work when the person’s health condition no longer presents a risk to public health.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-602. Covered Personnel; Hygienic Practices
A. Personnel who work in an operation in which covered produce or food contact surfaces are at risk of contamination with known or reasonably foreseeable hazards shall use hygienic practices while on duty to the extent necessary to protect against contamination.
B. The hygienic practices that personnel use to satisfy the requirements of subsection (A) when handling or contacting covered produce or food contact surfaces during a covered activity shall include all of the following:
   1. Maintaining adequate personal cleanliness to protect against contamination of covered produce and food contact surfaces;
   2. Avoiding contact with animals other than working animals, and taking appropriate steps to minimize the likelihood of contamination of covered produce when in direct contact with working animals;
   3. Washing hands thoroughly, including scrubbing with soap or other surfactant, as appropriate, and water that is either from a municipal water source or is running water that has no detectable generic Escherichia coli (E. coli) in 100 milliliters (mL) of agricultural water used to wash hands (the use of untreated surface water is prohibited), and drying hands thoroughly using single-service towels, sanitary towel service, electric hand dryers, or other adequate hand drying devices on all of the following occasions:
      a. Before starting work;
      b. Before putting on gloves;
      c. After using the toilet;
      d. Upon return to the work station after any break or other absence from the work station;
      e. As soon as practical after touching animals, including livestock and working animals, or any waste of animal origin; and
      f. At any other time when the hands may have become contaminated in a manner that is reasonably likely to lead to contamination of covered produce with known or reasonably foreseeable hazards;
   4. If gloves are used in handling covered produce or food contact surfaces, gloves shall be maintained in an intact and sanitary condition and shall be replaced when the gloves are no longer in an intact and sanitary condition;
   5. Removing or covering hand jewelry that cannot be adequately cleaned and sanitized during periods in which covered produce is manipulated by hand; and
   6. Not eating, chewing gum, or using tobacco products in an area used for a covered activity. Drinking beverages is permitted in designated areas as determined by the farm.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-603. Contamination Prevention; Visitors
A. The farm shall make visitors aware of policies and procedures to protect covered produce and food contact surfaces from contamination by people and take all steps reasonably necessary to ensure that visitors comply with the farm’s policies and procedures.
B. The farm shall make toilet and hand-washing facilities accessible to visitors.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 7. PRODUCE SAFETY AGRICULTURAL WATER

R3-10-701. Agricultural Water; Incorporation of Federal Regulations
A. The Department incorporates by reference 21 CFR 112, Subpart E, as adopted in 80 FR 74353 on November 27, 2015,
amended in 84 FR 9706 on March 18, 2019, and no later amendments or editions.

B. These sections establish standards for agricultural water quality used by farms and as amended, provide delayed compliance dates for farms based on their size. The incorporated material is on file with the Arizona Department of Agriculture at 1688 W. Adams Street, Phoenix, AZ 85007.


Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 8. PRODUCE SAFETY BIOLOGICAL SOIL AMENDMENTS OF ANIMAL ORIGIN AND HUMAN WASTE

R3-10-801. Definitions

These words are defined for use in this Article, unless the context otherwise requires:

1. “Agricultural tea” means:
   a. A water extract of biological materials, excluding any form of human waste, produced to transfer microbial biomass, fine particulate organic matter and soluble chemical components into an aqueous phase;
   b. Includes stabilized compost, manure, non-fecal animal byproducts, peat moss, pre-consumer vegetative waste, table waste, and yard trimmings;
   c. Is held for longer than one hour before application; and
   d. Is a soil amendment for purposes of this Article.

2. “Agricultural tea additive” means a nutrient source, such as molasses, yeast extract, or algal powder, added to agricultural tea to increase microbial biomass.

3. “Application interval” means the time interval between application of an agricultural input, such as a biological soil amendment of animal origin, to a growing area and harvest of covered produce from the growing area where the agricultural input was applied.

4. “Biological soil amendment” means any soil amendment containing biological materials such as stabilized compost, manure, non-fecal animal byproducts, peat moss, pre-consumer vegetative waste, sewage sludge biosolids, table waste, agricultural tea, or yard trimmings, alone or in combination.

5. “Biological soil amendment of animal origin” means a biological soil amendment which consists, in whole or in part, of materials of animal origin, such as manure or non-fecal animal byproducts including animal mortalities, or table waste, alone or in combination. The term “biological soil amendment of animal origin” does not include any form of human waste.

6. “Composting” means a process to produce stabilized compost in which organic material is decomposed by the actions of undesirable microorganisms under thermophilic conditions for a designated period of time at a designated temperature, followed by a curing stage under cooler conditions.

7. “Curing” means the final stage of composting, which is conducted after much of the readily metabolized biological material has been decomposed, at cooler temperatures than those in the thermophilic phase of composting, to further reduce pathogens, promote further decomposition of cellulose and lignin, and stabilize composition. Curing may or may not involve insulation, depending on environmental conditions.

8. “Growth media” means material that acts as a substrate during the growth of covered produce, such as mushrooms and some sprouts, that contains, may contain, or consists of components that may include any animal waste, such as stabilized compost, manure, non-fecal animal byproducts or table waste.

9. “Non-fecal animal byproduct” means solid waste, other than manure, that is animal in origin, such as meat, fat, dairy products, eggs, carcasses, blood meal, bone meal, fish meal, shellfish waste, such as crab, shrimp, and lobster waste, fish emulsions, and offal, and is generated by commercial, institutional, or agricultural operations.

10. “Pre-consumer vegetative waste” means:
   a. Solid waste that is purely vegetative in origin, not considered yard trash, and derived from commercial, institutional or agricultural operations without coming into contact with animal products, byproducts or manure or with a consumer end user;
   b. Includes material generated by farms, packing houses, canning operations, wholesale distribution centers and grocery stores, products that have been removed from their packaging, such as out-of-date juice, vegetables, condiments and breads, and associated packaging that is vegetative in origin, such as paper or corn-starch based products; and
   c. Does not include table waste, packaging that has come in contact with materials, such as meat, that are not vegetative in origin, or any waste generated by restaurants.

11. “Sewage sludge biosolids” means the solid or semi-solid residue generated during the treatment of domestic sewage in a treatment works within the meaning of the definition of “sewage sludge” in 40 CFR 503.9(w).

12. “Soil amendment” means:
   a. Any chemical, biological, or physical material, such as elemental fertilizers, stabilized compost, manure, non-fecal animal byproducts, peat moss, perlite, pre-consumer vegetative waste, sewage sludge biosolids, table waste, agricultural tea and yard trimmings, intentionally added to the soil to improve the chemical or physical condition of soil in relation to plant growth or to improve the capacity of the soil to hold water; and
   b. Includes growth media that serve as the entire substrate during the growth of covered produce, such as mushrooms and some sprouts.

13. “Stabilized compost” means a stabilized finished biological soil amendment produced through a controlled composting process.

14. “Static composting” means a process to produce stabilized compost in which air is introduced into biological or physical condition of soil in relation to plant growth into contact with animal products, byproducts or manure or with a consumer end user; and...
Amendments of Animal Origin
A. Any biological soil amendment of animal origin shall be handled, conveyed and stored in a manner and location so that it does not become a potential source of contamination to covered produce, food contact surfaces, areas used for a covered activity, water sources, water distribution systems, and other soil amendments. Agricultural teas that are biological soil amendments of animal origin may be used in water distribution systems provided that all other requirements of this rule are met.
B. Any treated biological soil amendment of animal origin shall be handled, conveyed and stored in a manner and location that minimizes the risk of it becoming contaminated by an untreated or in-process biological soil amendment of animal origin.
C. If a person knows or has reason to believe that any biological soil amendment of animal origin may have become contaminated, it shall be handled, conveyed and stored as if it was untreated.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-804. Prohibition of Application of Human Waste
The farm may not use human waste for growing covered produce, except sewage sludge biosolids used in accordance with the requirements of 40 CFR part 503(D), or equivalent regulatory requirements.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-805. Biological Soil Amendment of Animal Origin; Acceptable Treatment Processes; Microbial Standards
A. Each of the following treatment processes are acceptable for a biological soil amendment of animal origin that the farm applies in the growing of covered produce, provided that the resulting biological soil amendments are applied in accordance with the applicable requirements of Section R3-10-806:
1. A scientifically valid controlled physical process, chemical process, biological process, or a combination of scientifically valid controlled physical, chemical, or biological processes that has been validated to satisfy the microbial standard in subsection (B), for *Listeria monocytogenes* (*L. monocytogenes*), *Salmonella* species, and *E. coli* O157:H7; or
2. A scientifically valid controlled physical, chemical, or biological process, or a combination of scientifically valid controlled physical, chemical, or biological processes, that has been validated to satisfy the microbial standard in subsection (C), for *salmonella* species and fecal coliforms. Examples of scientifically valid controlled biological processes that meet the microbial standard in subsection (C), include both:
   a. Static composting that maintains aerobic conditions at a minimum of 131° F (55° C) for three consecutive days and is followed by adequate curing; and
   b. Turned composting that maintains aerobic conditions at a minimum of 131° F (55° C) for 15 days, which do not have to be consecutive, with a minimum of five turnings, and is followed by adequate curing.
B. The microbial standards for *L. monocytogenes*, *Salmonella* species, and *E. coli* O157:H7 in Table 1 apply to the treatment processes in subsection (A).

C. *Salmonella* species are not detected using a method that can detect three MPN *Salmonella* species per 4 grams (or milliliter, if liquid is being sampled) of total solids, and less than 1,000 MPN fecal coliforms per gram (or milliliter, if liquid is being sampled) of total solids.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

<table>
<thead>
<tr>
<th>Table 1. For the microorganism</th>
<th>The microbial standard is</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <em>L. monocytogenes</em></td>
<td>Not detected using a method that can detect one colony forming unit (CFU) per 5 grams (or milliliter, if liquid is being sampled) analytical portion.</td>
</tr>
<tr>
<td>2. <em>Salmonella</em> species</td>
<td>Not detected using a method that can detect three most probable numbers (MPN) per 4 grams (or milliliter, if liquid is being sampled) of total solids.</td>
</tr>
<tr>
<td>3. <em>E. coli</em> O157:H7</td>
<td>Not detected using a method that can detect 0.3 MPN per 1 gram (or milliliter, if liquid is being sampled) analytical portion.</td>
</tr>
</tbody>
</table>

**Historical Note**
New Table 1 made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

**R3-10-806. Application Requirements; Minimum Application Intervals**
The farm shall apply the biological soil amendments of animal origin specified in the first column of Table 2 in accordance with the application requirements specified in the second column of Table 2 and the minimum application intervals specified in the third column of Table 2.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

<table>
<thead>
<tr>
<th>Table 2. If the biological soil amendment of animal origin is</th>
<th>Then the biological soil amendment of animal origin must be applied</th>
<th>And then the minimum application interval is</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.a. Untreated</td>
<td>In a manner that does not contact covered produce during application and minimizes the potential for contact with covered produce after application</td>
<td>[Reserved].</td>
</tr>
<tr>
<td>1.b. Untreated</td>
<td>In a manner that does not contact covered produce during or after application</td>
<td>0 days.</td>
</tr>
<tr>
<td>2. Treated by a scientifically valid controlled physical, chemical, or biological process, or combination of scientifically valid controlled physical, chemical, or biological processes, in accordance with the requirements of Section R3-10-805(A)(2), to meet the microbial standard in Section R3-10-805(C).</td>
<td>In a manner that minimizes the potential for contact with covered produce during and after application</td>
<td>0 days.</td>
</tr>
<tr>
<td>3. Treated by a scientifically valid controlled physical, chemical, or biological process, or combination of scientifically valid controlled physical, chemical, or biological processes, in accordance with the requirements of R3-10-805(A)(1) to meet the microbial standard in R3-10-805(B).</td>
<td>In any manner with no restrictions</td>
<td>0 days.</td>
</tr>
</tbody>
</table>

**Historical Note**
New Table 2 made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

**R3-10-807. Biological Soil Amendment; Recordkeeping**

**A.** The farm shall establish and keep records required under this Article in accordance with the requirements of Article 14.

**B.** For any biological soil amendment of animal origin the farm uses, it shall establish and keep the following records:

1. For a treated biological soil amendment of animal origin the farm receives from a third party, documentation, such as a certificate of conformance, at the time of delivery that both:
   a. The process used to treat the biological soil amendment of animal origin is a scientifically valid process that has been carried out with appropriate process monitoring; and
   b. The biological soil amendment of animal origin has been handled, conveyed and stored in a manner and location to minimize the risk of contamination by an untreated or in process biological soil amendment of animal origin.

2. For a treated biological soil amendment of animal origin the farm produces for its own farm or farms, documentation that process controls, which may include time, temperature, and turning, were achieved.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).
ARTICLE 9. PRODUCE SAFETY DOMESTICATED AND WILD ANIMALS

R3-10-901. Domesticated and Wild Animals; Inclusion; Exclusion

A. The requirements of this Article apply when a covered activity takes place in an outdoor area or a partially-enclosed building and when, under the circumstances, there is a reasonable probability that animals will contaminate covered produce.

B. The requirements of this Article do not apply either:
   1. When a covered activity takes place in a fully-enclosed building; or
   2. To fish used in aquaculture operations.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-902. Grazing and Working Animals; Animal Intrusion; Requirements

A. The farm shall take the steps set forth in subsection (B) if, under the circumstances, there is a reasonable probability that grazing animals, working animals, or animal intrusion will contaminate covered produce.

B. The farm shall both:
   1. Assess the relevant areas used for a covered activity for evidence of potential contamination of covered produce as needed during the growing season, based on the covered produce, practices and conditions, and observations and experience; and
   2. If significant evidence of potential contamination is found, the designated representative shall evaluate whether the covered produce can be harvested in accordance with the requirements of R3-10-1002 and take measures reasonably necessary during growing to assist the farm later during harvest when it shall identify, and not harvest, covered produce that is reasonably likely to be contaminated with a known or reasonably foreseeable hazard.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-903. Covered Farms; Taking of Threatened or Endangered Species; Managing Outdoor Growing Areas

A. Nothing in this Chapter authorizes the “taking” of or attempting to take threatened or endangered species as that term is defined by the federal Endangered Species Act.

B. Articles 2 through 17 do not require covered farms to take measures to exclude animals from outdoor growing areas, or to destroy animal habitat or otherwise clear farm borders around outdoor growing areas or drainages.

C. For purposes of this Section, “taking” includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting threatened or endangered species.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 10. PRODUCE SAFETY GROWING, HARVESTING, PACKING AND HOLDING ACTIVITIES

R3-10-1001. Growing, Harvesting and Packing of Covered and Excluded Produce

If the farm grows, harvests, packs or holds produce that is not covered in Articles 2 through 17 and also conducts any of those activities on covered produce, and the excluded produce is not grown, harvested, packed or held in accordance with Articles 2 through 17, the farm shall take measures during these covered activities, as applicable, to both:

1. Keep covered produce separate from excluded produce, except when covered produce and excluded produce are placed in the same container for distribution; and
2. Adequately clean and sanitize, as necessary, any food contact surfaces that contact excluded produce before using those food contact surfaces for covered activities on covered produce.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1002. Required Measures Prior to Harvest

The farm shall take all measures reasonably necessary to identify, and not harvest, covered produce that is reasonably likely to be contaminated with a known or reasonably foreseeable hazard, including steps to identify and not harvest covered produce that is visibly contaminated with animal excreta. At a minimum, identifying and not harvesting covered produce that is reasonably likely to be contaminated with animal excreta or that is visibly contaminated with animal excreta requires a visual assessment of the growing area and all covered produce to be harvested, regardless of the harvest method used.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1003. Handling Covered Produce During Covered Activities

The farm shall handle harvested covered produce during covered activities in a manner that protects against contamination with known or reasonably foreseeable hazards, for example, by avoiding, to the degree practicable, contact of cut surfaces of harvested produce with soil.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1004. Dropped Covered Produce; Requirements

A. The farm shall not distribute dropped covered produce.

B. For purposes of this Section, “dropped covered produce” means covered produce that drops to the ground before harvest and does not include:
   1. Root crops that grow underground, such as carrots;
   2. Crops that grow on the ground, such as cantaloupe; or
   3. Produce that is intentionally dropped to the ground as part of harvesting, such as almonds.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1005. Food Packing and Packaging; Requirements

A. The farm shall use food-packing material that is adequate for its intended use, which includes being both:
   1. Cleanable or designed for single use.
   2. Unlikely to support growth or transfer of bacteria.
B. If the farm reuses food-packing material, it shall take adequate steps to ensure that food contact surfaces are clean, such as by cleaning food-packing containers or using a clean liner.

C. The farm shall package covered produce in a manner that prevents the formation of Clostridium botulinum toxin if that toxin is a known or reasonably foreseeable hazard, such as for mushrooms.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 11. PRODUCE SAFETY EQUIPMENT, TOOLS, BUILDINGS AND SANITATION

R3-10-1101. Equipment and Tools; Inclusion; Requirements

A. Equipment and tools subject to the requirements of this Article:

1. Are those that are intended to, or likely to, contact covered produce; and
2. Are those instruments or controls used to measure, regulate, or record conditions to control or prevent the growth of undesirable microorganisms of public health significance.

B. Examples include knives, implements, mechanical harvesters, waxing machinery, grading belts, sizing equipment, palletizing equipment, cooling equipment such as hydrocoolers, and equipment used to store or convey harvested covered produce, such as containers, bins, food-packing material, dump tanks, flumes, and vehicles or other equipment used for transport that are intended to, or likely to, contact covered produce.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1102. Buildings; Specific Inclusions

Buildings subject to the requirements of this Article include:

1. Any fully- or partially-enclosed building used for covered activities, including minimal structures that have a roof but do not have any walls; and
2. Storage sheds, buildings, or other structures used to store food contact surfaces, such as harvest containers and food-packing materials.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1103. Equipment and Tools; Cleaning and Maintenance

A. The farm shall use equipment and tools that are of adequate design, construction, and workmanship to enable them to be adequately cleaned and properly maintained.

B. Equipment and tools shall be:

1. Installed and maintained as to facilitate cleaning of the equipment and of all adjacent spaces;
2. Stored and maintained to protect covered produce from being contaminated with known or reasonably foreseeable hazards; and
3. Stored and maintained to prevent the equipment and tools from attracting and harboring pests.

C. Seams on food contact surfaces of equipment and tools shall be either smoothly bonded, or maintained to minimize accumulation of dirt, filth, food particles, and organic material and thus minimize the opportunity for harborage or growth of undesirable microorganisms.

D. The farm shall inspect, maintain, and clean and, when necessary and appropriate, sanitize all food contact surfaces of equipment and tools used in covered activities as frequently as reasonably necessary to protect against contamination of covered produce.

E. The farm shall maintain and clean all non-food-contact surfaces of equipment and tools subject to this Article used during harvesting, packing, and holding as frequently as reasonably necessary to protect against contamination of covered produce.

F. If the farm uses equipment such as pallets, forklifts, tractors, and vehicles in a manner that the equipment is intended to, or likely to, contact covered produce, it shall do so in a manner that minimizes the potential for contamination with known or reasonably foreseeable hazards of covered produce or food contact surfaces.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1104. Maintenance of Instruments and Controls

Instruments or controls the farm uses to measure, regulate, or record temperatures, hydrogen-ion concentration (pH), sanitizer efficacy or other conditions, in order to control or prevent the growth of undesirable microorganisms of public health significance, shall be:

1. Accurate and precise as necessary and appropriate in keeping with their purpose;
2. Adequately maintained; and
3. Adequate in number for their designated uses.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1105. Maintenance of Equipment Used for Transport of Covered Produce

Equipment that is subject to this Article that the farm uses to transport covered produce shall be both:

1. Adequately clean before use in transporting covered produce; and
2. Adequate for use in transporting covered produce.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1106. Buildings; Suitability; Drainage

A. Buildings shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for covered activities to reduce the potential for contamination with known or reasonably foreseeable hazards of covered produce or food contact surfaces. Buildings shall:

1. Provide sufficient space for placement of equipment and storage of materials;
2. Permit proper precautions to be taken to reduce the potential for contamination with known or reasonably foreseeable hazards of covered produce, food contact surfaces, or packing materials; and
3. Be designed to reduce the potential for contamination, including separating operations in which contamination is likely to occur by location, time, partition, enclosed systems or other methods.
B. The farm shall provide adequate drainage in all areas where normal operations release or discharge water or other liquid waste on the ground or floor of the building.

C. The farm shall implement measures to prevent contamination of its covered produce and food contact surfaces, as appropriate, in its buildings, considering the potential for contamination through both:
   1. Floors, walls, ceilings, fixtures, ducts, or pipes; and
   2. Drip or condensate.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1107. Buildings; Domesticated Animals
A. The farm shall take reasonable precautions to prevent contamination with known or reasonably foreseeable hazards of covered produce, food contact surfaces, and food-packing materials in fully-enclosed buildings from domesticated animals by either:
   1. Excluding domesticated animals from fully-enclosed buildings where covered produce, food contact surfaces, or food-packing material is exposed; or
   2. Separating domesticated animals in a fully enclosed building from an area where a covered activity is conducted on covered produce by location, time, or partition.

B. Guard or guide dogs may be allowed in some areas of a fully enclosed building if the presence of the dogs is unlikely to result in contamination of produce, food contact surfaces, or food-packing materials.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1108. Buildings; Pest Control; Routine Monitoring
A. The farm shall take those measures reasonably necessary to protect covered produce, food contact surfaces, and food-packing materials from contamination by pests in buildings, including routine monitoring for pests as necessary and appropriate.

B. For fully-enclosed buildings, the farm shall take measures to exclude pests from its buildings.

C. For partially-enclosed buildings, the farm shall take measures to prevent pests from becoming established in its buildings, such as by use of screens or by monitoring for the presence of pests and removing them when present.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1109. Toilet Facilities; Adequacy; Accessibility
A. The farm shall provide personnel with adequate, readily accessible toilet facilities, including toilet facilities readily accessible to growing areas during harvesting activities.

B. The farm’s toilet facilities shall be designed, located, and maintained to:
   1. Prevent contamination with human waste of covered produce, food contact surfaces, areas used for a covered activity, water sources, and water distribution systems;
   2. Be directly accessible for servicing, be serviced and cleaned at a frequency sufficient to ensure suitability of use, and be kept supplied with toilet paper; and
   3. Provide for the sanitary disposal of waste and toilet paper.

C. During growing activities that take place in a fully-enclosed building, and during covered harvesting, packing, or holding activities, the farm shall provide a hand-washing station that meets the requirements of R3-10-1110 and is in sufficiently close proximity to toilet facilities to make it practical for persons who use the toilet facility to wash their hands.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1110. Hand-Washing Facilities; Appropriate Disposal of Waste
A. The farm shall provide personnel with adequate, readily accessible hand-washing facilities during growing activities that take place in a fully-enclosed building, and during covered harvest, packing, or holding activities.

B. The farm’s hand-washing facilities shall be furnished with all of the following:
   1. Soap (or other surfactant, as appropriate);
   2. Running water:
      a. From a municipal water provider; or
      b. That has no detectable generic Escherichia coli (E. coli) in 100 milliliters (mL) of agricultural water used to wash hands. The use of untreated surface water is prohibited.
   3. Adequate drying devices, such as single service towels, sanitary towel service, or electric hand dryers.

C. The farm shall both:
   1. Provide for appropriate disposal of waste, such as waste water and used single-service towels, associated with a hand-washing facility; and
   2. Take appropriate measures to prevent waste water from a hand-washing facility from contaminating with known or reasonably foreseeable hazards, covered produce, food contact surfaces, areas used for a covered activity, agricultural water sources, and agricultural water distribution systems.

D. The farm shall not use antiseptic hand rubs as a substitute for soap, or other surfactant, as appropriate, and water.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1111. Sewage; Control and Disposal; Significant Events
A. The farm shall dispose of sewage into an adequate sewage or septic system or through other adequate means.

B. The farm shall maintain sewage and septic systems in a manner that prevents contamination by known or reasonably foreseeable hazards that would impact covered produce, food contact surfaces, areas used for a covered activity, agricultural water sources, and agricultural water distribution systems.

C. The farm shall manage and dispose of leakages or spills of human waste in a manner that:
   1. Prevents contamination of covered produce; and
   2. Prevents or minimizes contamination of any of the following:
      a. Food contact surfaces,
      b. Areas used for a covered activity,
      c. Agricultural water sources, or
      d. Agricultural water distribution systems.

D. After a significant event, such as flooding or an earthquake, that could negatively impact a sewage or septic system, the farm shall take appropriate steps to ensure that sewage and septic systems continue to operate in a manner that does not
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

3 A.A.C. 10

Arizona Administrative Code

Title 3

contaminate covered produce, food contact surfaces, areas used for a covered activity, agricultural water sources, or agricultural water distribution systems.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1112. Trash, Litter and Waste; Conveyance, Storage and Disposal
A. The farm shall convey, store, and dispose of trash, litter, and waste in order to both:
   1. Minimize the potential for trash, litter, or waste to attract or harbor pests; and
   2. Protect against contamination by known or reasonably foreseeable hazards that would impact covered produce, food contact surfaces, areas used for a covered activity, agricultural water sources, and agricultural water distribution systems.
B. The farm shall adequately operate systems for waste treatment and disposal so that they do not constitute a potential source of contamination in areas used for a covered activity.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1113. Plumbing; Adequacy of Size and Design
A farm’s plumbing shall be of an adequate size and design and be adequately installed and maintained to:
   1. Distribute water under pressure as needed, in sufficient quantities, in all areas where used for covered activities, for sanitary operations, or for hand-washing and toilet facilities;
   2. Properly convey sewage and liquid disposable waste;
   3. Avoid being a source of contamination to covered produce, food contact surfaces, areas used for a covered activity, or agricultural water sources; and
   4. Prevent backflow from, or cross connection between, piping systems that discharge waste water or sewage and piping systems that carry water used for a covered activity, for sanitary operations, or for use in hand-washing facilities.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1114. Control of Animal Excreta from Domesticated Animals
If the farm has domesticated animals, to prevent contamination with animal waste, of covered produce, food contact surfaces, areas used for a covered activity, agricultural water sources, or agricultural water distribution systems, the farm shall:
   1. Adequately control their excreta and litter, and
   2. Maintain a system for control of animal excreta and litter.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1115. Equipment, Tools, Buildings and Sanitation; Recordkeeping
A. The farm shall establish and keep records required under this Article in accordance with the requirements of Article 14.

B. The farm shall establish and keep documentation of the date and method of cleaning and sanitizing of equipment subject to this Article used in both:
   1. Growing operations for sprouts; and
   2. Covered harvesting, packing, or holding activities.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 12. PRODUCE SAFETY SPROUTS

R3-10-1201. Sprouts; Incorporation of Federal Regulations
A. The Department incorporates by reference 21 CFR 112, Subpart M, as published in 80 FR 74353 on November 27, 2015, and no later amendments or editions.
B. These sections apply to growing, harvesting, packing and holding of all sprouts, except soil- or substrate-grown sprouts harvested without their roots. The incorporated material is on file with the Arizona Department of Agriculture at 1688 W. Adams Street, Phoenix, AZ 85007.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 13. PRODUCE SAFETY ANALYTICAL METHODS

R3-10-1301. Analytical Methods; Incorporation of Federal Regulations
A. The Department incorporates by reference 21 CFR 112, Subpart N, as published in 80 FR 74353 on November 27, 2015, and no later amendments or editions.
B. These sections apply to methods to test agricultural water for specific microbial quality to ensure the water is consistently safe and of adequate sanitary quality for its intended use. The incorporated material is on file with the Arizona Department of Agriculture at 1688 W. Adams Street, Phoenix, AZ 85007.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 14. PRODUCE SAFETY RECORDS

R3-10-1401. Definition
Unless the context otherwise requires, “electronic record” means any combination of text, graphics, data, audio, pictorial, or other information representation in digital form that is created, modified,
maintained, archived, retrieved, or distributed by a computer system.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1402. Recordkeeping; Signature by Responsible Party
A. Except as otherwise specified, all records required under Articles 2 through 17 shall:
1. Include, as applicable, all of the following:
   a. The name and location of the farm;
   b. Actual values and observations obtained during monitoring;
   c. An adequate description, such as the commodity name, or the specific variety or brand name of a commodity, and, when available, any lot number or other identifier, of covered produce applicable to the record;
   d. The location of a growing area or other area, such as a specific packing shed, applicable to the record; and
   e. The date and time of the activity documented;
2. Be created at the time an activity is performed or observed;
3. Be accurate, legible, and indelible; and
4. Be dated and signed or initialed by the person who performed the activity documented.
B. Records required under Sections R3-10-406, R3-10-504, Article 7, R3-10-807 and R3-10-1115 shall be reviewed, dated, and signed, within a reasonable time after the records are made, by a supervisor or designated representative, unless the farm’s designated representative signed or initialed as the person performing the activity.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1403. Records; Off-Site Storage and Electronic Records
A. Offsite storage of records is permitted if the records can be retrieved and provided onsite within 24 hours of request for official review.
B. Electronic records are considered to be onsite at a farm if they are accessible from an onsite location at the farm.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1404. Existing Records; Duplication; Supplementation
A. Existing records that are kept to comply with other federal, state, or local laws, or for any other reason, do not need to be duplicated if they contain all of the required information and satisfy the requirements of Articles 2 through 17. Existing records may be supplemented as necessary to include all of the required information and satisfy the requirements of Articles 2 through 17.
B. The information required by Articles 2 through 17 does not need to be kept in one set of records. If existing records contain some of the required information, any new information required by Articles 2 through 17 may be kept either separately or combined with the existing records.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1405. Period for Maintenance of Records
A. A farm shall keep records required by this Article for at least two years past the date the record was created.
B. Farms that have a qualified exemption shall retain records that the farm relies on during the three-year period preceding the applicable calendar year to satisfy the criteria for a qualified exemption, in accordance with R3-10-403 and R3-10-405. Records supporting a qualified exemption shall be retained as long as necessary to support the farm’s status during the applicable calendar year.
C. Records that relate to the general adequacy of the equipment or processes or records that relate to analyses, sampling, or action plans being used by a farm, including the results of scientific studies, tests, and evaluations, shall be retained at the farm for at least two years after the use of that equipment or processes, or records related to analyses, sampling, or action plans, is discontinued.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1406. Records; Acceptable Formats
A farm shall keep records as either:
1. Original records;
2. True copies, such as photocopies, pictures, scanned copies or other accurate reproductions of the original records; or
3. Electronic records.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1407. Availability and Accessibility of Records to Department
A. A farm shall have all records required under this Article readily available and accessible during the retention period for inspection and copying by an authorized employee or agent of the Department upon oral or written request, except that the farm shall have 24 hours to obtain records it keeps offsite and make them available and accessible to an authorized employee or agent of the Department for inspection and copying.
B. If the farm uses electronic techniques to keep records, or to keep true copies of records, or if the farm uses reduction techniques to keep true copies of records, it shall provide the records to an authorized employee or agent of the Department in a format in which the records are accessible and legible.
C. If the farm is closed for a prolonged period, the records may be transferred to some other reasonably accessible location but shall be returned to the farm within 24 hours for official review upon request.

**Historical Note**
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1408. Disclosure of Records to Outside Parties
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

Records obtained by an authorized employee or agent of the Department are subject to disclosure pursuant to A.R.S. § 3-525.06.

A. Documents, data and records received by the department and employees and agents of the department from a farm under this Article are public records and are subject to disclosure as provided by law, except for:
   1. Trade secrets, the disclosure of which would give an unfair advantage to competitors or would otherwise cause substantial harm to the farm’s competitive position.
   2. Financial information.
   3. Documents, data and records derived from inspections and investigations under this Article.

B. Any documents, data and records may be disclosed on a confidential basis to agencies or instrumentalities of any of the following that have data sharing agreements or data sharing credentials with the department or the United States food and drug administration:
   1. The United States.
   2. This state.
   3. Indian tribal governments in this state.
   4. Any other state:
      a. From which produce was transported into this state.
      b. Into which produce is transported from this state.

C. Any documents, data and records may be disclosed pursuant to:
   1. The order of a court of competent jurisdiction.
   2. A signed and notarized release by a farm authorizing the disclosure of specific information to a specific person or persons for a specific reason or reasons.

D. Aggregate statistical data derived from confidential information may be disclosed if the data does not identify, or enable the identification of, and is not attributable to, any individual farm. Information may not be disclosed pursuant to this subsection if a farm demonstrates that disclosure would give an unfair advantage to competitors or otherwise cause substantial harm to the farm’s competitive position.

E. A person, including a former employee or agent of the department or a person previously having an administrative duty for the department, who receives confidential information while an employee or agent of the department or while performing an administrative or enforcement duty for the department may not disclose that information except as provided in this Article.

B. The application shall include all of the following:
   1. A statement that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under Section 402 of the Federal Food, Drug and Cosmetic Act and provide the same level of public health protection as the requirements of Articles 2 through 17;
   2. A description of the variance requested, including the farms to which the variance would apply and the provision(s) of Articles 2 through 17 to which the variance would apply; and
   3. Information demonstrating that the procedures, processes, and practices to be followed under the variance both:
      a. Are reasonably likely to ensure that the produce is not adulterated under Section 402 of the Federal Food, Drug, and Cosmetic Act; and
      b. Will provide the same level of public health protection as the requirements of Articles 2 through 17.

C. The Department shall review the application and, after review, may submit the application to FDA for consideration as prescribed by 21 CFR Part 112(P). The Department shall provide a response to the applicant indicating its decision on whether to submit the application to the FDA.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

ARTICLE 16. PRODUCE SAFETY INSPECTIONS, VIOLATIONS AND ENFORCEMENT

R3-10-1601. Definitions
These words are defined for use in this Article, unless the context otherwise requires:

1. “Egregious violation” means a practice, condition, or situation on a farm that is substantially likely to lead to serious adverse health consequences or death from the consumption of or exposure to covered produce.
2. “Grower-shipper” means a person who is engaged in this state in the business of packing, shipping, transporting or selling covered produce of which the person is a grower, producer or owner.
3. “Imminent public health hazard violation” means a practice, condition or situation on a farm or in a packing house that, if corrective action is not taken immediately, is substantially likely to lead to a potential source of contamination that may cause serious adverse health consequences or death from the consumption of or exposure to covered produce.
4. “Major violation” means a practice, condition or situation on a farm or in a packing house that, if corrective action is not taken, may increase the risk of contamination to covered produce.
5. “Minor violation” means a practice, condition or situation on a farm or in a packing house that will not increase the risk of contamination to covered produce.
6. “Regulated person” means a grower, grower-shipper, harvester, packer, cooler or holder that is a farm, as defined in R3-10-201 and is subject to any of the requirements of Articles 2 through 17.
7. “Significant violation” means a practice, condition or situation on a farm or in a packing house that, if corrective
action is not taken, is reasonably likely to increase the risk of contamination to covered produce.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1602. Inspection; Procedure; Conduct

A. The Department shall conduct inspections pursuant to the procedure outlined in A.R.S. § 41-1009.

B. The designated representative of the farm shall provide information at the time of the inspection regarding known entities associated with the farm that are subject to inspection.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1603. Initial Inspection

A. For an initial inspection, if the inspector observes a condition indicating the regulated person is not in compliance, and the condition is not egregious or an imminent health hazard, the inspector may provide outreach and education resources as appropriate for:

1. Training;
2. Guidance documents;
3. Technical assistance network; and
4. On-farm direct technical assistance.

B. During an initial inspection, if the inspector observes a condition that likely has caused an imminent public health hazard and the covered produce is still under the control of the regulated person, the inspector may take immediate action as follows:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine a timeline for corrective actions and preventative measures;
4. Evaluate the covered produce for embargo and disposal in conjunction with the Associate Director;
5. Schedule a reinspection within 3 to 10 days; and
6. Forward the findings to the Associate Director to determine if any other enforcement action is necessary. The Associate Director may also communicate findings to FDA, Arizona Department of Health Services, county departments of health or other agencies as appropriate.

C. During an initial inspection, if the inspector observes conditions indicating an egregious situation and the covered produce has left the control of the regulated person, the inspector may immediately take any of the following actions:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine if any further training, guidance documents or technical assistance is necessary.
4. On-farm direct technical assistance.

D. During a routine inspection, reinspection or for cause inspection, if the inspector observes conditions that will not cause produce contamination, but require corrective action, the inspector may take any of the following actions:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine if any covered produce has left the control of the regulated person;
4. Determine a timeline for corrective actions and preventative measures;
5. Schedule a reinspection within 3 to 10 days; or
6. Forward the findings to the Associate Director to determine if any other enforcement action is necessary. The Associate Director may also communicate findings to FDA, Arizona Department of Health Services, county departments of health or other agencies as appropriate.

E. During a routine inspection, reinspection or for cause inspection, if the inspector observes conditions that may cause produce contamination, the inspector may take any of the following actions:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine if any covered produce has left the control of the regulated person;
4. Determine a timeline for corrective actions and preventative measures;
5. Schedule a reinspection within 3 to 10 days; or
6. Forward the findings to the Associate Director to determine if any other enforcement action is necessary. The Associate Director may also communicate findings to FDA, Arizona Department of Health Services, county departments of health or other agencies as appropriate.

F. During a routine inspection, reinspection or for cause inspection, if the inspector observes conditions that indicate an imminent public health hazard and the covered produce is still under the control of the regulated person, the inspector may immediately take any of the following actions:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine a timeline for corrective actions and preventative measures;
4. Evaluate the covered produce for embargo and disposal in conjunction with the Associate Director;
5. Schedule a reinspection within 3 to 10 days; or
6. Forward the findings to the Associate Director to determine if any other enforcement action is necessary. The Associate Director may also communicate findings to FDA, Arizona Department of Health Services, county departments of health or other agencies as appropriate.

G. During a routine inspection, reinspection or for cause inspection, if the inspector observes conditions indicating an egregious situation and the covered produce has left the control of the regulated person, the inspector may immediately take any of the following actions:

1. Discuss observed conditions with the designated representative;
2. Document findings on the inspection form;
3. Determine a timeline for corrective actions and preventative measures;
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

4. Initiate a recall, embargo or stop sale in conjunction with the Associate Director;
5. Schedule a reinspection within 3 to 10 days; or
6. Forward the findings to the Associate Director to determine if any other enforcement action is necessary. The Associate Director may also communicate findings to FDA, Arizona Department of Health Services, county departments of health or other agencies as appropriate.

E. In order to address any condition described in subsection (C) and (D), the regulated person or anyone controlling the covered produce may take immediate corrective action and stop the harvest or institute a voluntary withdrawal of the affected covered produce as appropriate.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1605. Egregious Violation
The following is a nonexclusive list of practices, conditions or situations on a farm that is substantially likely to lead to serious adverse health consequences or death from the consumption of or exposure to covered produce. A regulated person shall not:
1. Allow the harvest, packing or distribution of covered produce that is visibly contaminated with animal or human excreta;
2. Allow the harvest, packing or distribution of covered produce that is visibly contaminated with sewage, or the contents of a septic system or toilet facilities; or
3. Allow the harvest, packing or distribution of covered produce that has had raw manure in direct contact with the edible portion of the plant.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1606. Imminent Public Health Hazard Violation
The following is a nonexclusive list of practices, conditions or situations on a farm that, if corrective action is not taken immediately, are substantially likely to lead to a potential source of contamination that may cause serious adverse health consequences or death from the consumption of or exposure to covered produce. A regulated person shall not:
1. Allow the harvest, packing or distribution of covered produce that is substantially likely to be contaminated with animal or human excreta;
2. Allow the harvest, packing or distribution of covered produce that is reasonably likely to be contaminated with sewage, or the contents of a septic system or toilet facilities; or
3. Allow the harvest, packing or distribution of covered produce that has had raw manure in direct contact with the edible portion of the plant.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1607. Significant Violation
The following is a nonexclusive list of practices, conditions or situations on a farm that, if corrective action is not taken, are reasonably likely to increase the risk of contamination to covered produce. A regulated person shall not:
1. Use measures that fail to prevent contamination of covered produce and food contact surfaces with undesirable microorganisms of public health significance from a person with an applicable health condition;
2. Allow the use of improper hygienic practices by personnel who handle or contact covered produce or food contact surfaces;
3. Use untreated, improperly treated or contaminated biological soil amendments of animal origin;
4. Allow the harvest of covered produce that is reasonably likely to be contaminated with known or reasonably foreseeable hazards as the result of an animal intrusion;
5. Clean equipment and tools in a manner that fails to protect covered produce from being contaminated with known or reasonably foreseeable hazards;
6. Dispose of waste from toilet facilities, in a manner that fails to protect covered produce, food contact surfaces, agricultural water sources, or agricultural water distribution systems from being contaminated with known or reasonably foreseeable hazards;
7. Improperly manage grazing animals, working animals and domestic animals on areas where covered activities occur; or
8. Improperly dispose of sewage or improperly control sewage in a manner that fails to protect covered produce, food contact surfaces, agricultural water sources, or agricultural water distribution systems from being contaminated with known or reasonably foreseeable hazards.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).
11. Improperly maintain and service toilet facilities to ensure suitability of use;
12. Improperly maintain and service hand washing facilities to ensure suitability of use;
13. Improperly control pests in buildings in a manner that fails to protect covered produce from being contaminated by known or reasonably foreseeable hazards; or
14. Complete records prior to the documented activity being performed.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1609. Minor Violation
The following is a nonexclusive list of practices, conditions or situations on a farm that will not increase the risk of contamination to covered produce. A regulated person shall:

1. Store and maintain complete records for the proper time period as required by Articles 4 through 14; and
2. Control and properly dispose of litter in areas not used for covered activities but in areas that are part of the farm.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1610. Unlisted Violation; Classification
The Department shall classify a violation of Articles 4 through 14 or of A.R.S. Title 41, Chapter 6, Article 10.1 not specifically listed as egregious, imminent health hazard, significant, major or minor violation, according to the nature and urgency of the violation and the risk to public health and safety.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1611. Violation; Reclassification; Factors
A significant, major or minor violation may be classified as a higher or lower violation based on the nature and urgency of the violation and the risk to public health and safety.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1612. Aggravating and Mitigating Circumstances; Factors
A. Depending on any aggravating circumstances surrounding a significant, major or minor violation, such as intentional conduct or inaction that results in failure to maintain standards, the violation may be classified as a higher violation.
B. A violation may be classified as a lower violation, or in the case of a minor violation, be classified as no violation, depending on any mitigating circumstances surrounding a significant, major or minor violation. Mitigating circumstances may include: correcting a violation at the time of inspection; immediately addressing or providing a remedy for the violation; conducting immediate onsite retraining; or implementing additional measures or practices.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1613. Repeat Violations; Penalty
A. During a routine inspection, reinspection or for cause inspection, if the inspector observes conditions indicating the regulated person has been previously notified of the same or similar violation, the inspector may take any of the following actions:
   1. Discuss observed conditions with the regulated person;
   2. Document findings on the inspection form;
   3. Determine a timeline for corrective actions and preventative measures; or
   4. Forward the findings to the Associate Director to determine if any other enforcement action is necessary.

B. The Department may assess a penalty for a repeat significant or major violation within three years from the date the first same or similar violation occurred. The amount of the penalty shall be progressively graduated and shall be based on the nature and urgency of the violation and the risk to public health and safety as follows:
   1. For a first repeat significant violation, up to $100;
   2. For a second repeat significant violation, up to $200;
   3. For a subsequent repeat significant violation, up to $400;
   4. For a second repeat major violation, up to $50; and
   5. For a subsequent repeat major violation, up to $100.

C. The Department may assess a penalty for a third or subsequent repeat minor violation of the same or similar type within three years from the date the first same or similar violation occurred as follows:
   1. For a third repeat minor violation, up to $25; and
   2. For a subsequent repeat minor violation, up to $50.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1614. Civil Penalties
A. The Director may assess a civil penalty of up to:
   1. $1,000 for each egregious violation; and
   2. $750 for each imminent public health hazard violation.

B. The amount of the civil penalty shall be progressively graduated according to the nature and urgency of the violation and the risk to public health and safety.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1615. Violation; Appeal
A person who violates Articles 2 through 17 of this Article or rules adopted pursuant to Articles 2 through 17 of this Article may request a hearing before an administrative law judge pursuant to A.R.S. Title 41, Chapter 6, Article 10. The decision of the administrative law judge is subject to review by the Director as provided by A.R.S. Title 41, Chapter 6, Article 10.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).
CHAPTER 10. DEPARTMENT OF AGRICULTURE - CITRUS FRUIT AND VEGETABLE DIVISION

ARTICLE 17. PRODUCE SAFETY WITHDRAWAL OF QUALIFIED EXEMPTION

R3-10-1701. Withdrawal of Qualified Exemption; Incorporation of Federal Regulations
A. The Department incorporates by reference 21 CFR 112(R), as published in 80 FR 74353 on November 27, 2015, and no later amendments or editions.
B. These sections apply to the process for the FDA to withdraw a qualified exemption. A qualified exemption may be granted to a farm based on average annual monetary value of all food sold and direct farm marketing. A qualified exemption may be withdrawn based on specific circumstances outlined in 21 CFR 112, Subpart R. The incorporated material is on file with the Arizona Department of Agriculture at 1688 W. Adams Street, Phoenix, AZ 85007.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1702. Withdrawal of Qualified Exemption; FDA
A. The FDA may withdraw a farm’s qualified exemption pursuant to 21 CFR 112(R). For example, an exemption may be withdrawn by FDA:
1. In the event of an active investigation of a foodborne illness outbreak that is directly linked to the farm.
2. If FDA determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with the qualified farm that are material to the safety of the food that would otherwise be covered produce grown, harvested, packed or held at the farm.
B. Requirements regarding notice, appeals, hearings, timeframes, decisions, revocation and reinstatement for an exemption withdrawn by FDA are governed by 21 CFR 112(R).

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1703. Withdrawal of Qualified Exemption; Department
The Department may withdraw a farm’s qualified exemption for noncompliance as follows:
1. Failure to satisfy the requirements, terms and conditions prescribed by R3-10-403;
2. Failure to satisfy the requirements regarding food packaging labels as required by R3-10-404;
3. Failure to maintain adequate records necessary to demonstrate that the farm satisfies the criteria for a qualified exemption as prescribed by R3-10-405;
4. Failure to apply for the exemption on a form issued by the Associate Director;
5. Failure to receive approval for the exemption; or
6. Failure to maintain and demonstrate compliance with the requirements pursuant to A.R.S. § 3-525.03 and administrative rules adopted pursuant to A.R.S. § 3-525.08.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1704. Change in Eligibility
If a farm’s eligibility for a qualified exemption changes, or if its qualified exemption is withdrawn by either the Department, pursuant to A.R.S. § 3-525.03 or by the FDA as outlined in 21 CFR 112(R), the farm will be considered “covered” and will be subject to all requirements of 21 CFR 112 and Articles 2 through 17.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1705. Withdrawal of Qualified Exemption; Department; Orders
The Director shall issue an order to withdraw the exemption to the owner, operator, or agent in charge of the farm. The order shall:
1. Be in writing, signed and dated by the Director;
2. Include specific information related to the reason for the withdrawal;
3. Outline requirements regarding compliance with the order; and
4. Outline opportunities for appeal.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1706. Administrative Hearing Procedures; Appeals
The owner, operator, or agent in charge of a farm that receives an order to withdraw a qualified exemption applicable to that farm shall either comply with the requirements of the order or appeal the order pursuant to Arizona administrative hearing procedures outlined in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).

R3-10-1707. Qualified Exemption; Reinstatement
If the Director determines that a farm has adequately resolved any problems or conditions that resulted in withdrawal of the exemption, and that continued withdrawal of the exemption is not necessary to protect the public health or prevent or mitigate a foodborne illness or outbreak, the Director may, on the Director’s own initiative or at the request of the farm, reinstate the qualified exemption.

Historical Note
New Section made by exempt rulemaking at 26 A.A.R. 681, effective August 19, 2019; filed in the Office March 27, 2020 (Supp. 20-1).