

SENATE MEMBERS

Robert Stivers
President, LRC Co-Chair
David Givens
President Pro Tempore
Max Wise
Majority Floor Leader
Gerald A. Neal
Minority Floor Leader
Robby Mills
Majority Caucus Chair
Reginald Thomas
Minority Caucus Chair
Mike Wilson
Majority Whip
Cassie Chambers Armstrong
Minority Whip



LEGISLATIVE RESEARCH COMMISSION

State Capitol 700 Capital Avenue Frankfort KY 40601

502-564-8100

Capitol Fax 502-564-2922

Annex Fax 502-564-6543

legislature.ky.gov

Katie Comstock

Director

HOUSE MEMBERS

David W. Osborne
Speaker, LRC Co-Chair
David Meade
Speaker Pro Tempore
Steven Rudy
Majority Floor Leader
Pamela Stevenson
Minority Floor Leader
Suzanne Miles
Majority Caucus Chair
Lindsey Burke
Minority Caucus Chair
Jason Nemes
Majority Whip
Joshua Watkins
Minority Whip

MEMORANDUM

TO: Marc E. Manley, Deputy General Counsel, Department of Agriculture

FROM: Ange Darnell, Regulations Compiler

RE: Proposed Amendment or New Regulation – 302 KAR 060:010.

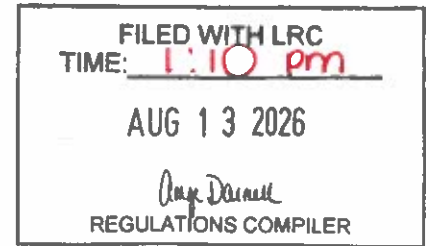
DATE: August 13, 2026

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **NOVEMBER 2026** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on November 13, 2026**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 DEPARTMENT OF AGRICULTURE

2 Office of Marketing

3 (Amendment)

4 302 KAR 60:010. Produce safety.

5 RELATES TO: KRS Chapter 260, 21 C.F.R. Part 112

6 STATUTORY AUTHORITY: KRS 260.020(3), 260.030(1)(d), 260.766, 260.769(1)

7 CERTIFICATION STATEMENT: This is to certify that this administrative regulation
8 amendment complies with the requirements of 2025 RS HB 6, Section 8.

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.769(1) authorizes the
10 Department of Agriculture to promulgate administrative regulations for the efficient administration
11 and enforcement of Kentucky's Produce Safety Rule for covered produce and covered farms. This
12 administrative regulation establishes a uniform code for the growing, harvesting, packing, and
13 holding of produce for human consumption.

14 Section 1. Definitions.

15 (1) "Adulterated" means covered produce in any growing, harvesting, packing, or holding
16 area that has been subject to conditions whereby it could have become contaminated with filth or
17 microorganisms of public health significance, or whereby it could have been rendered injurious to
18 health.

(2) "Certificate of compliance" means a certificate issued by the department for covered farms that have been inspected and determined to be compliant with 21 C.F.R. 112, KRS 260.765 to 260.772, and this administrative regulation ~~[are inventoried and subject to regulatory inspection]~~ by the department.

(3) "Non-covered farm ~~[Certificate of exemption]~~" means a farm which is not subject to the requirements of 21 C.F.R. 112, KRS 260.765 to 260.772, and this administrative regulation because the farm ~~[certificate of exempt status issued by the department pursuant to Section 5 of this administrative regulation for]~~.

(a) Grows ~~[Farms growing]~~ only produce that is rarely consumed raw.

(b) Grows ~~[Farms growing]~~ only produce for personal consumption or produced for consumption on the farm,

(c) Grows only produce ~~[Produce]~~ that receives commercial processing that adequately reduces the presence of microorganisms of public health significance, or

(d) Has an ~~[Farms where, during the previous three (3) year period, a farmers']~~ average of all produce sales of [was] \$25,000 or less (on a rolling basis), during the previous three (3) year period, adjusted for inflation using 2011 as the baseline year for calculating the adjustment.

(4) "Certificate of qualified exemption" means a certificate of qualified exempt status issued by the department pursuant to Section 4 of this administrative regulation.

(5) "Covered farm" is defined by KRS 260.765(2).

(6) "Covered produce" is defined by KRS 260.765(1).

(7) "Department" is defined by KRS 260.765(3).

(8) "Conditions of public health significance [~~Egregious condition~~]" means a practice, condition, or situation that is reasonably likely to lead to:

(a) Serious adverse health consequences or death from the consumption of or exposure to covered produce; or

(b) An imminent public health hazard if corrective action is not taken immediately.

(9) "Farm" is defined in 21 C.F.R. Part 112 and includes both a Primary Production Farm and a Secondary Activities Farm.

(10) "Farmer" is defined as the owner, operator, or agent in charge of a covered farm that is subject to some or all of the requirements in 21 C.F.R. Part 112, KRS 260.765 to 260.772, [Chapter 260] and this administrative regulation.

(11) "Inspection" means an official regulatory visit conducted by the department for the purpose of verifying compliance with 21 C.F.R. Part 112, KRS 260.765 to 260.772, [Chapter 260] and this administrative regulation.

(12) "Microorganisms" means microbial pathogens of public health significance.

(13) "No Action Indicated" or "NAI" means a farm inspection classification that indicates no objectionable conditions or practices were found during the inspection [the farm is in substantial compliance, with no violating conditions or only minor violations noted at the time of inspection].

(14) "Official Action Indicated" or "OAI" means a farm inspection classification that indicates regulatory or administrative actions are recommended [~~one (1) or more egregious violations materially related to food safety have been cited, or that an uncorrected VAI condition on a previous inspection has been cited~~].

1 (15) "Qualified exempt farm" means a farm that has met the eligibility requirements of
2 KRS 260.768 [~~Chapter 260~~] for qualified exemption and may be [~~has been~~] issued a certificate of
3 qualified exemption from the department.

4 (16) "Stop Use Order" means an order issued by the department declaring the cessation of
5 a covered activity; use of a utensil, piece of equipment, or machinery; water distribution device;
6 or room or area used for the production, handling, or storage of covered produce.

7 (17) "Voluntary Action Indicated" or "VAI" means a farm inspection classification that
8 indicates objectionable conditions or practices were found, but the agency is not prepared to take
9 or recommend any administrative or regulatory action [~~a farm is generally in compliance, with~~
10 ~~only minor violations cited, which are not significant enough to pose an imminent health hazard~~].

11 Section 2. Right to Scheduled On-site Verification Visits. The department reserves the right
12 to schedule, at any reasonable time, an on-site visit to verify if a farm is non-covered [~~exempt~~],
13 covered, or eligible for a qualified exemption.

14 Section 3. Produce Farm Survey. All produce farmers in Kentucky, who market their
15 produce, [~~covered farms and farms eligible for exemption~~] shall be required to [~~annually~~] complete
16 a produce farm inventory survey [~~an Informational Survey~~].

17 Section 4. Qualified Exemption.

18 (1) A covered farm that meets the requirements for a qualified exemption may apply for
19 qualified exempt status with the department by submitting an Application for Qualified
20 Exemption.

(2) Upon the department's review of the Application for Qualified Exemption, a farm verified as having met the requirements for exemption status shall be issued a certificate of qualified exemption.

(3) A certificate of qualified exemption shall be non-transferrable.

(4) A certificate of qualified exemption shall only be issued:

(a) In the name of the applicant; and

(b) For the farm [FSA] location or locations identified in the application.

(5) Unless otherwise withdrawn, the certificate of qualified exemption shall be valid for up to five (5) [~~three (3)~~] years.

(6) Qualified exemption certificates [~~status~~] shall be valid for the balance of the calendar year of issuance regardless of date, and for the four (4) [~~two (2)~~] calendar years ending December 31 thereafter. Renewals for an additional five (5) [~~three (3)~~] year period shall be upon submission of an Application for Qualified Exemption [~~and accompanied by verification of the successful completion of an FDA-approved training course by the farmer~~].

(7) Failure to submit an updated Application for Qualified Exemption to the Department by the expiration date [~~noted~~] on the certificate of exemption shall result in forfeiture of the qualified exemption certificate. The Department may conduct a scheduled on-site verification visit to determine if the farm is non-covered, qualified exempt, or covered and [~~the presumption by the Department that the farm shall be~~] subject to all requirements of 21 C.F.R. Part 112, [the] KRS 260.765 to 260.772, and this administrative regulation [Chapter 260].

(8) All qualified exempt farms shall be required to complete a yearly self-evaluation [evaluation] of qualified exemption status. If ~~One~~ a farm's qualified exempt status changes to covered status, the farmer shall immediately notify the department.

(9) The department ~~epartment~~ shall only withdraw a qualified exemption as permitted [established] under 21C.F.R. Part 112, Subpart R or this administrative regulation by sending [- Withdrawal shall be by] written notice to the farm.

(10) If a farm's qualified exemption is withdrawn by the department, the farm shall be considered "covered" and shall be subject to all requirements of 21 C.F.R. Part 112, KRS 260.765 to 260.772, and ~~[Chapter 260 or]~~ this administrative regulation.

(11) Any applicant whose application for qualified exemption has been denied or withdrawn by the department may appeal the action as established in Section 11 of this administrative regulation.

(12) Any person whose qualified exemption has been withdrawn by the department may submit a written request for reinstatement of the qualified exemption to the department's Produce Safety Program Manager.

(13) Within ten (10) days following receipt of a written request for reinstatement, including a statement signed by the farmer that, in the farmer's opinion, the condition causing the withdrawal of qualified exemption has been corrected, the department shall make an inspection, and if the inspection reveals that the condition causing the withdrawal has been corrected, the qualified exemption shall be reinstated.

Section 5. Non-covered Farms~~[Certificate of Exemption]~~:

(1) To qualify as a non-covered farm, a produce farm shall: ~~[A farm that meets the requirements for an exemption, as established in KRS Chapter 260 may apply for a certificate of exempt status with the department by submitting an Application for Qualified Exemption.~~

~~(2) One (1) or more of the requirements established in paragraphs (a) through (d) of this subsection shall be met for a Certificate of Exemption.]~~

(a) Only ~~[The farm shall only]~~ grow produce that is rarely consumed raw, specifically including: asparagus, black beans, great Northern beans, kidney beans, lima beans, navy beans, pinto beans, beets, garden (roots and tops) beets, sugar beets, cashews, 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, mature southern field peas (such as black-eyed peas, cowpeas, crowder peas, purple hull peas, sea island peas, silver peas, and speckled peas), winter squash, sweet potatoes, and water chestnuts; ~~[as established in 21 C.F.R. Part 112.2.]~~

(b) Only use produce ~~[Produce]~~ grown on the farm ~~[shall only be used]~~ for personal consumption or ~~[produced for]~~ consumption on the farm or another farm under the same management; ~~[as outlined in 21 C.F.R. Part 112.2.]~~

(c) Only grow produce that ~~[Produce grown]~~ is commercially processed in a manner ~~[shall receive commercial processing]~~ that adequately reduces the presence of microorganisms of public health significance as permitted by ~~[established in]~~ 21 C.F.R. Part 112.2(b); ~~[112.2.]~~

(d) Only grow produce that meets any of the requirements of subsections (a) to (c) of this subsection; or

(c) During the previous three (3) year period, sell produce with an average annual monetary value of [a farmer's average of all produce sales was] \$25,000 or less (on a rolling basis) adjusted for inflation using 2011 as the baseline year for calculating the adjustment ~~[as established in 24 C.F.R. Part 112.4].~~

~~(2)(3) Upon the department's review of the Application for Qualified Exemption, a farm verified as having met the requirements for exemption status shall be issued a Certificate of Exemption.~~

~~(4) A Certificate of Exemption shall be non-transferrable.~~

~~(5) A Certificate of Exemption shall only be issued: (a) In the name of the applicant; and~~

~~(b) For the FSA location or locations identified in the application.~~

~~(6) Unless otherwise withdrawn, the Certificate of Exemption shall be valid for as long as the farm remains in exempt status.~~

~~(7)~~ All non-covered ~~[exempt]~~ farms shall be required to complete a yearly self-evaluation ~~[evaluation]~~ of exemption status. If a farm's non-covered ~~[exempt]~~ status changes to covered status, the farmer shall immediately notify the department.

Section 6. Inspection Frequency and ~~[Notices.]~~ Records.

(1) Covered farms shall be inspected at least once every five (5) years. ~~[Risk prioritization. The department shall assign a risk prioritization level to each farm based on:~~

~~(a) Commodities handled.~~

~~(b) Farm acreage.~~

~~(c) Annual produce sales.~~

~~(d) Farmer attendance at a Produce Safety Alliance or FDA-approved grower training.~~

~~(e) Compliance history.~~

~~(f) Participation in an on-farm readiness review.~~

~~(g) Agricultural water source.~~

~~(h) Presence of a farm food safety plan.~~

~~(i) GAP certification or recent participation in other food safety programs.~~

~~(j) Adjacent land use.~~

~~(k) Likelihood of wildlife or animal intrusion.~~

~~(l) Geographical location of the farm.]~~

~~(2) The [Priority designation. Inspection frequencies shall be assigned as follows:~~

~~(a) Priority 1 farms shall receive a minimum of one (1) inspection per year.~~

~~(b) Priority 2 farms shall receive a minimum of one (1) inspection every two (2) years.~~

~~(c) Priority 3 farms shall receive a minimum of one (1) inspection every three (3) years.~~

~~(3) Regardless of a farm's priority designation, the] department shall make as many~~

~~additional inspections and re-inspections as are necessary for the enforcement of this
administrative regulation.~~

~~(3)[(4)]~~ Inspection records. The department representative inspecting a covered farm shall
record the findings on the Produce Farm Inspection Observations Report and shall provide a copy
of the inspection report to the farmer.

1 ~~[(5) Issuances of notices. If an inspection reveals a violation of this administrative~~
2 ~~regulation, the department shall notify the farmer. In the notification, the department shall~~
3 ~~establish:~~

4 ~~(a) The specific violations found; and~~

5 ~~(b) A specific and reasonable period of time for the correction based on the nature of the~~
6 ~~violations found pursuant to this paragraph. The report of inspection shall state:~~

7 ~~1. Failure to comply with a notice from the department, or with a time limit for correction~~
8 ~~of a violation, shall result in regulatory action up to and including civil penalties, as~~
9 ~~established in KRS Chapter 260, and~~

10 ~~2. An opportunity for appeal from an adverse notice or inspection finding shall be provided~~
11 ~~if a written request is filed with the department within ten (10) days following service of~~
12 ~~notice.~~

13 ~~(6) Service of notice. A notice provided for under this section shall be properly served if a~~
14 ~~copy of the Produce Farm Inspection Observations Report or other notice has been delivered~~
15 ~~personally to the farmer, or the notice has been sent by registered or certified mail, return receipt~~
16 ~~requested, to the last known address of farmer.]~~

17 Section 7. Violations, Notices and Corrective Actions [~~Action Plans~~].

18 (1) Upon completion of each inspection, a recommended classification of NAI, VAI, or
19 OAI and the timeframe for correcting any violation shall be specified on the Produce Farm
20 Inspection Observations Report.

(2) If a farm has committed a violation of 21 C.F.R. Part 112, KRS 260.765 to 260.772 [~~Chapter 260~~], or this administrative regulation, an opportunity to correct the violation shall be provided in accordance with the following classifications:

(a) NAI - No corrective actions are required and no changes in the inspection frequency shall be warranted under this classification:

(b) VAI - A follow-up inspection shall occur no later than [~~be warranted within a period of time not to exceed~~] the date of the next routine inspection to determine if the violation causing this classification has been corrected; or

(c) OAI - A follow-up inspection shall be conducted within [~~a period of time not to exceed~~] thirty (30) days to determine if the violation causing the classification has been corrected. A farm shall also be classified as OAI if it continually fails to correct a violation previously classified under a VAI designation or if a condition of public health significance [~~an egregious violation~~] is noted during an inspection.

(3) Issuances of notices. If an inspection reveals a violation of this administrative regulation, the department shall notify the farmer. The notice shall contain:

(a) The specific violations found;

(b) A specific and reasonable period of time for the correction based on the nature of the violations found;

(c) A statement that failure to comply with a notice from the department, or to a violation within the time established by the notice, shall result in regulatory action up to and including civil penalties, as established in KRS 260.772; and

1 (d) A statement that the farmer may appeal from an adverse notice or inspection finding by
2 submitting a written request to the department within ten (10) days following service of
3 notice.

4 (4) Service of notice. A notice provided for under this section shall be properly served if a
5 copy of the notice has been delivered personally to the farmer, or the notice has been sent by
6 registered or certified mail, return receipt requested, to the last known address of farmer.

7 ~~[(2) Upon completion of the inspection, a recommended classification of NAI, VAI, or OAI~~
8 ~~and the timeframe for correction of the violation shall be specified on the Produce Farm Inspection~~
9 ~~Observations Report.]~~

10 (5)[(3)] A farm that receives an inspection classification of [VAI or] OAI shall submit a
11 plan of corrective action to the department within ~~10~~ 15 ~~days~~

12 ~~(a) VAI: Within thirty (30) days following the inspection; and~~

13 ~~(b) OAI: Within] ten (10) days following the inspection.~~

14 (6)[(4)] Failure to submit a plan of corrective action to the department within ~~ten (10) days~~
15 ~~[the time frame established in subsection (3) of this section]~~ shall result in the initiation of
16 enforcement provisions pursuant to KRS 260.769 to 260.772 ~~[Chapter 260]~~ and Section 10 of this
17 administrative regulation.

18 (7)[(5)] If, during the follow-up [next] inspection, the violation noted on the previous
19 inspection has not been corrected ~~[within the timeframe established in subsection (3) of this~~
20 ~~section]~~, the department shall:

(a) Extend the timeframe for corrective action if the department determines that progress towards compliance has been made;

(b) Issue a warning letter;

(c) Initiate enforcement provisions pursuant to Sections 8, 9 and 10 of this administrative regulation; or

(d) Initiate enforcement provisions pursuant to KRS 260.769 to 260.772 [~~Chapter 260~~].

Section 8. Stop Use.

(1) If a duly authorized agent of the department finds, or has probable cause to believe, that a covered activity or the continued use of a utensil, piece of equipment or machinery, water distribution device, or room or area used for the production, handling or storage of covered produce could result in adulterated product, the department shall issue a Stop Use Order to the farmer.

(a) The reason for the Stop Use Order shall be documented on the Notice to Stop Use.

(b) The Notice to Stop Use shall notify all persons to discontinue a covered activity or use of a utensil, piece of equipment or machinery, water distribution device, or room or area used for the production, handling, or storage of covered produce until conditions causing the Stop Use Order have been corrected and permission for use is given by a duly authorized agent of the department.

(2) A person shall not, without department permission, utilize a piece of equipment, room, or area used for the production, handling, or storage of covered produce for which a Stop Use Order has been issued.

(3) If the department has evidence that a farmer has violated the provisions contained in this section, enforcement provisions shall be initiated pursuant to KRS 260.769 to 260.772 [~~Chapter 260~~] and Section 10 of this administrative regulation.

Section 9. [~~Egregious~~] Conditions of public health significance, Examination, and Detention of Foods.

(1) The department shall have the authority to examine and collect water, produce, and environmental samples as often as necessary for the enforcement of this administrative regulation.

(2) A farmer shall take immediate steps to correct any condition of public health significance [~~egregious condition~~].

(3) If a duly authorized agent of the department finds or has probable cause to believe that covered produce in any growing, harvesting, packing, or holding area has been subject to conditions that could contaminate [~~whereby~~] the covered produce [~~could have become contaminated~~] with filth or microorganisms of public health significance, or render [~~whereby~~] the covered produce [~~could have been rendered~~] injurious to health as established by KRS 260.765 to 260.772 [~~Chapter 260~~], the department shall issue a Stop Movement Order to the farmer.

(a) The reason for the order shall be documented in [~~on~~] the Stop Movement Order.

(b) The Stop Movement Order shall give notice that the covered produce is, or is suspected of, being contaminated or injurious to health and order [~~notifying~~] all persons not to remove or dispose of the produce by sale or otherwise until permission for removal, disposal, or diversion is given by an agent of the department or the court.

(4) The department shall issue a Notice of Voluntary Destruction to a farmer who elects to voluntarily destroy covered produce for which a Stop Movement Order has been issued.

(5) If covered produce for which a Stop Movement Order has been issued can be safely diverted by the farmer for alternative uses that do not pose a risk to human or animal health, the department, if requested, shall issue a Notice of Diversion/Change Order to the farmer.

(6) In all other instances, the department shall comply with KRS 260.765 to 260.772 [~~Chapter 260~~] regarding the disposition of produce for which a Stop Movement Order was issued.

(7) If the department has evidence that a farmer has failed to act to correct a condition of public health significance [~~an egregious condition~~], enforcement provisions shall be initiated pursuant to KRS 260.765 to 260.772 [~~Chapter 260~~] and Section 10 of this administrative regulation.

Section 10. Enforcement Provisions.

(1) If the department has substantial reason to believe that a covered farm has failed to act to correct a condition of public health significance [~~an egregious condition~~]; if a farm owner, operator, or agent in charge has interfered with the department in the performance of its duties after its agents have duly and officially identified themselves; or if a farm has failed to comply with an OAI inspection notice within the timeframe granted, the department may [~~shall~~]:

(a) Issue a stop use [~~work~~] order for that portion or portions of the covered farm affected by the condition of public health significance [~~egregious condition~~];

(b) Issue a stop movement order; or

(c) Seek civil or criminal penalties under KRS 260.765 to 260.772 [~~Chapter 260~~].

(2) In all other instances of violation of this administrative regulation, the department shall serve the ~~[registered]~~ farm with a written notice specifying the violation and afford the farm ~~[holder of the registration]~~ an opportunity to correct.

(3) Notices provided for under this administrative regulation shall be deemed to have been properly served if:

(a) A copy of the inspection report or other notice has been delivered personally to the farm owner ~~[registration holder]~~ or the farm person-in-charge, or

(b) The notice has been sent by registered or certified mail, return receipt.

(4) Failure to comply with any provision of ~~[this administrative regulation]~~ 21 C.F.R. Part 112, ~~[or]~~ KRS 260.765 to 260.772, or this administrative regulation [Chapter 260] shall subject the farmer to civil penalties pursuant to KRS 260.990.

Section 11. Appeals. All appeals of KDA determinations shall be in accordance with KRS Chapter 13B.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Produce Farm Inventory Survey ~~[Informational Survey]~~ ", 08/2026 ~~[06/2020]~~; and

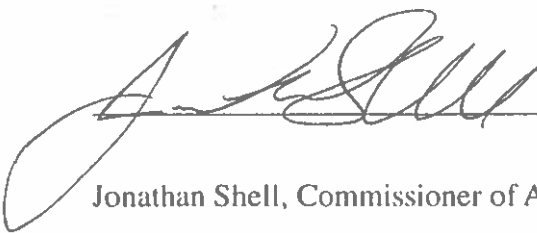
(b) "Application for Qualified Exemption", 08/2026, ~~[06/2020]~~;

~~[(c) "Produce Farm Inspection Observations", 06/2020];~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601,

- 1 Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also
- 2 available on the Department's website at <https://www.kyagr.com/marketing/produce-safety.html>.

APPROVED: August 13, 2026



Jonathan Shell, Commissioner of Agriculture

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on October 28, 2026, at 10:00 A.M., at 111 Corporate Drive, Frankfort, Kentucky, 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Marc E. Manley, Deputy General Counsel, Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky, 40601. (502) 782-9219. MarcE.Manley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

302 KAR 060:010

Contact Person: Marc Manley

Phone: (502) 782-9219

Email: MarcE.Manley@ky.gov

Subject Headings: Agriculture, Food and Food Safety, Inspections

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes a uniform code for the growing, harvesting, packing, and holding of produce for human consumption.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because under KRS 260.766, the General Assembly has designated the Department of Agriculture to implement the federal Produce Safety Rule, 21 C.F.R. pt. 112, which was promulgated by the United States Food and Drug Administration under the authority of the Food Safety Modernization Act, Pub. L. No. 111-353.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 260.766 directs the Department of Agriculture to implement the federal Produce Safety Rule. KRS 260.769 authorizes the Department to promulgate administrative regulations for the purpose of administering and enforcing KRS 260.765 to KRS 260.772.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

KRS 260.769 authorizes the Department to promulgate administrative regulations for the purpose of administering and enforcing KRS 260.765 to KRS 260.772. This administrative regulation requires certain entities growing produce for human consumption to meet safety and hygiene standards to protect the public.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment bring the administrative regulation more in line with federal requirements and eliminates obsolete requirements never required under federal law. The amendment also changes terminology to be consistent with federal definitions and terms.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to remove obsolete burdens on Kentucky produce producers and bring the program in-line with federal requirements.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 260.766 directs the Department of Agriculture to implement the federal Produce Safety Rule. KRS 260.769 authorizes the Department to promulgate administrative regulations for the purpose of administering and enforcing KRS 260.765 to KRS 260.772.

(d) How the amendment will assist in the effective administration of the statutes:

KRS 260.769 authorizes the Department to promulgate administrative regulations for the purpose of administering and enforcing KRS 260.765 to KRS 260.772. This administrative regulation requires certain entities growing produce for human consumption to meet safety and hygiene standards to protect the public.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?

No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This amendment will impact approximately 1,300 produce producers in the Commonwealth. This amendment will not impact any state or local governments.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

No additional action is necessary for those impacted in question (4). This amendment reduces the frequency of inspections conducted by the Department and eliminates the requirement that certain exempt producers submit paperwork to obtain a certificate of exemption.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There are no anticipated increases in costs associated with this amendment. Some producers will experience a slight decrease in costs associated with time to fill out paperwork that is no longer required.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Those individuals identified in question (4) who comply with this administrative regulation will be able to sell produce to retail establishments in compliance with federal safety and hygiene requirements.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0.00. There are no additional costs as a result on this amendment and in fact, agency costs will decrease as less time will be spent conducting inspections and processing paperwork that is being eliminated.

(b) On a continuing basis: \$0.00. There are no additional costs as a result on this amendment and in fact, agency costs will decrease as less time will be spent conducting inspections and processing paperwork that is being eliminated.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Because this amendment is not anticipated to increase agency costs, the Department of Agriculture will use the same source of funding it has used to administer the Produce Safety Rule program since its inception.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding is necessary as a result of this amendment.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees directly or indirectly.

(10) TIERING: Is tiering applied? No tiering is being applied because this administrative regulation treats all impacted individuals the same.

FISCAL IMPACT STATEMENT

302 KAR 060.010

Contact Person: Marc Manley

Phone: (502) 782-9219

Email: MarcE.Manley@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 260.765, KRS 260.766, KRS 260.767, KRS 260.768, KRS 260.769, KRS 260.770, KRS 260.771, KRS 260.772, 21 C.F.R. pt. 112

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

2020 Ky. Acts ch. 68, sec. 5, effective July 15, 2020

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The promulgating agency is the Department of Agriculture. The Department of Agriculture is the only state unit impacted by this administrative regulation. No other state units, parts, or divisions are affected by this administrative regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: \$575,769, based on new cost savings from this amendment

For subsequent years: \$575,769, based on new cost savings from this amendment

2. Revenues:

For the first year: \$0.00

For subsequent years: \$0.00

3. Cost Savings:

For the first year: \$60,136, as compared to current expenditures

For subsequent years: \$60,136, as compared to current expenditures

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

No other state or local entity is impacted by this administrative regulation.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: N/A

For subsequent years: N/A

2. Revenues:

For the first year: N/A

For subsequent years: N/A

3. Cost Savings:

For the first year: N/A

For subsequent years: N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

This administrative regulation impacts produce farmers, but the regulation does not impose additional burdens beyond those required under the federal Produce Safety Rule. Among other things that do not impact regulated entities, this amendment eliminates some paperwork that the Department previously requested from regulated entities that is not required under federal law.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: \$0.00

For subsequent years: \$0.00

2. Revenues:

For the first year: \$0.00

For subsequent years: \$0.00

3. Cost Savings:

For the first year: \$0.00

For subsequent years: \$0.00

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: The Department reviewed its annual budget allocation for this program and estimated the cost savings that would be obtained by reducing the number of on farm inspections, increasing the duration certification lasts without requiring renewal, and the elimination of some paperwork for farmers not required by federal law. The Department estimates this amendment does not result in new direct or indirect costs to regulated entities because this administrative regulation, as amended, identically aligns the Department's requirements with federal law. Because regulated entities are already required to meet the requirements of this administrative regulation pursuant to federal law, the Department does not believe this administrative regulation increases costs for regulated entities.

(b) Methodology and resources used to reach this conclusion: The cost savings identified in (3)(b) are based on reducing employee time spent executing this program and spending that time performing additional services for the USDA to perform GAP audits for farmers. GAP is a voluntary certification farmers may elect that opens their crops to new markets. GAP is unrelated to this administrative regulation and this program.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): While the overall cost to implement this administrative regulation exceeds \$500,000 each biennium, that cost existed prior to the enactment of HB 6 in 2025. This amendment will result in cost savings to the Commonwealth by freeing up Department employees' time so that

it may be used to perform services on behalf of USDA in certifying GAP farms in exchange for new revenue.

(b) The methodology and resources used to reach this conclusion: GAP certification is a voluntary certification farmers may obtain that will open new markets. Many high-volume food aggregators/distributors require GAP certification. The USDA conducts GAP audits for farmers in exchange for a fee paid by the farmer to obtain the certification. Department staff time that is saved because of this amendment will be used to conduct those GAP audits. In other words, the cost savings identified in this fiscal impact statement are an indirect effect of this amendment to this administrative regulation.

Summary of Amendments to Material Incorporated by Reference

Produce Farm Inventory Survey 08/2026

This is a voluntary survey produce farmers are asked to complete. The title of this document has changed from "Informational Survey" to "Produce Farm Inventory Survey." The document is a double-sided and foldable form that is the size of a postage card when folded. This amendment changes the picture and text on the front of the card. It also adds a QR code to the top right corner of the inside front of the card and shifts the questions regarding farmer contact information from the inside back to the inside front. The inside back asks one new question and provides additional options for answers to previously asked questions. The outside back is unchanged.

Qualified Exemption Application 08/2026

This application exempts farmers who would otherwise be covered by the Produce Safety Rule from the provisions of both the federal and state rules if the applicant meets certain requirements. The first page of this application has been amended to ask three new questions that will inform KDA of the type of produce the applicant grows, where it is sold, and whether the applicant has completed produce safety training. The text instructions at the beginning of the first page essentially swaps instructions 1 and 2, while adding additional references to the federal produce safety rule. The amendment to the first page also deletes a "for official use only" box and moves the attestation paragraph below the signature line.

Both pages of the applications include the new edition date and the KDA's logo.

Deleted material incorporated by reference

This amendment deletes "Produce Farm Inspection Observations" because that document is for internal use by Department inspectors. Regulated entities are not required or asked to complete the form. Moreover, the form is drafted by the United States Food and Drug Administration and is amended from time to time. It would be unduly burdensome to amend this administrative regulation each time the federal agency changes its form, especially when regulated entities are not required to complete the form and it is only for internal use.

Also, in material incorporated by reference filed in June 2020 there was a document titled "Application for Produce Safety Rule Exemption." However, that document was not listed in the final section of the administrative regulation. Regardless, the amendment to this administrative regulation deletes the requirement for this application to be submitted and the material incorporated by reference should similarly be deleted.



Kentucky Dept. of Agriculture
Produce Safety Program
107 Corporate Dr.
Frankfort, KY 40601

Place
Stamp
Here



WHY COMPLETE THIS SURVEY?

The Kentucky Department of Agriculture wants to help you reduce your risks. It's our responsibility to help all Kentucky produce farms prevent foodborne illness through implementation of the federally required Produce Safety Rule. (State law requires every produce farm to complete the Produce Farm Inventory Survey to make sure everyone is included).



1. Complete the short survey on this card or online using the QR code.
2. If using the card, tape it closed and mail it to the KY Dept. of Agriculture.

Farm Name:		
Contact Name:		
What is your role on the farm?		
☐ Owner	☐ Manager	☐ Employee ☐ Food Safety Manager ☐ Other _____
Mailing Address:		
City:	State:	ZIP:
Email:	Phone: ()	

KENTUCKY PRODUCE FARM SURVEY

1. Do you grow, pack, harvest or hold produce? (Check all that apply.)		
☐ Grow	☐ Pack	☐ Harvest ☐ Hold (e.g. cooler, warehouse)
2. List crops grown, packed, harvested or held on your farm. (Check all that apply.)		
☐ Leafy Greens	☐ Tomatoes	☐ Onions ☐ Berries: _____
☐ Cucumbers	☐ Peppers	☐ Melons ☐ Other: _____
3. What are your average annual produce sales? (Average previous 3 years.)		
☐ less than \$25K/year	☐ \$250K-\$500K/year	
☐ \$25K-\$250K/year	☐ More than \$500K/year	
4. What is your produce harvest season?		
☐ Seasonal ☐ Year Round		
5. Where do you sell your produce? (Check all that apply.)		
☐ Farmers' Market/Roadside Stand	☐ Broker/Wholesaler	☐ Directly to a Restaurant
☐ U-Pick/On-Farm Store	☐ Retail Distribution Center	☐ Directly to a Grocery Store
☐ Produce Auction	☐ Commercial Processor	☐ Other: _____
6. Which practices are utilized on your farm? (Check all that apply.)		
☐ Greenhouse/High Tunnel	☐ Irrigate from Lake/Pond	☐ Overhead Irrigation
☐ Drip Irrigation	☐ Compost/Manure	☐ Third Party Audits (e.g. GAP)
7. Has someone on your farm completed the 8-hour Produce Safety Alliance (PSA) Grower Training?		
☐ Yes ☐ No If Yes, When? _____		
8. What type of produce safety assistance would you be interested in from KDA?		
☐ Free Signage	☐ Phone Call	☐ Email ☐ Educational Visit from KDA



KENTUCKY
DEPARTMENT OF
AGRICULTURE
 PRODUCE SAFETY

QUALIFIED EXEMPTION WORKSHEET

Please complete this worksheet and send it in with the Qualified Exemption application.
To be Eligible for a Qualified Exemption: 'A' is less than 'B' AND 'C' is more than 'D'

Total food sales (in addition to produce, these sales include all other food for humans, feed for animals, and sales of live food animals)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average total food sales \$ _____ **A**
 Inflation adjusted¹ threshold for (range) \$ _____ **B**

Sales to qualified end users (QEUs) (e.g. consumers anywhere, or grocery stores and restaurants within 275 miles or within the same state)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average food sales to QEUs \$ _____ **C**

Sales to non-qualified end users (QEUs) (e.g. wholesale buyers, distributors, auctions)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average food sales to non-QEUs \$ _____ **D**

Sales receipts must also be retained to support this record.

¹FDA updates the inflation adjusted value (B) yearly:

<https://www.fda.gov/food/guidanceregulation/fsma/ucm554484.htm>

Send application to:
 Kentucky Department of Agriculture
 Produce Safety Program
 107 Corporate Drive
 Frankfort, KY 40601

For Official Use Only

- ☐ Paperwork reviewed & exemption denied
☐ Paperwork reviewed & exemption approved

Denial reason: _____

WW Farm Number _____

Date _____

Reviewers Initials _____



Kentucky Dept. of Agriculture
Produce Safety Program
107 Corporate Dr.
Frankfort, KY 40601

Place
Stamp
Here



New

New

New options

WHY COMPLETE THIS SURVEY?

The Kentucky Department of Agriculture wants to be proactive in your risk. It's our responsibility to help all Kentucky produce farmers prevent foodborne illness through the implementation of the Kentucky Produce Safety Rule. (State law requires every produce farm to complete the Produce Safety Survey by January 1st of every year or face a fine.)



1. Complete the short survey and have it on hand using the QR code.
2. If using the card, it is placed on the table in front of the farmer.

Farm Name:		
Contact Name:		
What is your role on the farm?		
☐ Owner	☐ Manager	☐ Employee
☐ Food Safety Manager	☐ Other	
Mailing Address:		
City:	State:	ZIP:
Email:	Phone: ()	

Moved from other side of card

KENTUCKY PRODUCE FARM SURVEY

1. Do you grow, pack, harvest or hold produce? (Check all that apply.)			
☐ Grow	☐ Pack	☐ Harvest	☐ Hold (e.g., cooler, warehouse)
2. What crops grown, packed, harvested or held on your farm? (Check all that apply.)			
☐ Leafy Greens	☐ Tomatoes	☐ Onions	☐ Berries
☐ Cucumbers	☐ Peppers	☐ Melons	☐ Other:
3. What are your average annual produce sales? (Average previous 3 years.)			
☐ Less than \$25K/year	☐ \$250K-\$500K/year		
☐ \$25K-\$250K/year	☐ More than \$500K/year		
4. What is your produce harvest season?			
☐ Seasonal	☐ Year Round		
5. Where do you sell your produce? (Check all that apply.)			
☐ Farmers' Market/Roadside Stand	☐ Broker/Wholesaler	☐ Directly to a Restaurant	
☐ U-Pick/On-Farm Store	☐ Retail Distribution Center	☐ Directly to a Grocery Store	
☐ Produce Auction	☐ Commercial Processor	☐ Other:	
6. Which practices are utilized on your farm? (Check all that apply.)			
☐ Greenhouse/High Tunnel	☐ Irrigate from Lake/Pond	☐ Overhead Irrigation	
☐ Drip Irrigation	☐ Compost/Manure	☐ Third Party Audits (e.g. GAP)	
7. Has someone on your farm completed the 8-hour Produce Safety Alliance (PSA) Grower Training?			
☐ Yes	☐ No	☒ Yes, When	
8. What type of produce safety assistance would you be interested in from KDA?			
☐ Free Sprays	☐ Phone Call	☐ Email	☐ Educational Visit from KDA

New question

New question



APPLICATION FOR PRODUCE SAFETY RULE QUALIFIED EXEMPTION

Requirements for Qualified Exemption as defined in 302 KAR 60:010 Section 4 and 21
CFR 112.5: *New citation*

Both of the following requirements must be met. Please complete both pages.

- A. During the previous 3-year period preceding the applicable calendar year, the average annual monetary value of food* (as defined in Sec 112.3) the farm sold directly to qualified end-users* (as defined in Sec 112.3) during such period exceeded the average annual monetary value of the food the farm sold to all other buyers during that period:

*The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

*Qualified end-users, 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 are terms are defined in § 1.227) that is located:

- 1) In the same state or the same Indian reservation as the farm that produced the food; or
- 2) Not more than 275 miles from such farm

AND

- B. The average monetary value of all food (as defined in Sec.112.3) the farm sold during the 3-year period preceding the applicable calendar year was less than \$500,000, adjusted for inflation

Name of Applicant: _____ Phone: _____

Mailing Address: _____
Street City State Zip Code

Name of Farm: _____ Email: _____

Farm Address: _____
Street City State Zip Code

Please indicate which crops are grown, packed, harvested, or held on your farm?

☐ Kale, head lettuce, leafy greens
☐ Cucumbers
☐ Tomatoes

☐ Peppers
☐ Cantaloupes
☐ Honey Dew Melons

☐ Onions
☐ Other _____

Where do you sell your produce? _____

Have you completed Produce Safety Alliance Grower Training? Yes ☐ No ☐ Date _____

Applicant Signature: _____ Title: _____ Date: _____

By signing this form, I attest that this information is accurate for my operation and I meet all qualifications for Qualified Exemption. I will notify the Kentucky Department of Agriculture if my farm is no longer eligible for a Qualified Exemption, so that any requirements can be reassessed to ensure continued compliance with the Produce Safety Rule.

*Hand below Signature line
same text*

Substance of Paragraph
Swapped

New language

New New

August 2026

New
edition

New 1690



QUALIFIED EXEMPTION WORKSHEET

Please complete this worksheet and send it in with the Qualified Exemption application.
To be Eligible for a Qualified Exemption: 'A' is less than 'B' AND 'C' is more than 'D'

Total food sales (in addition to produce, these sales include all other food for humans, feed for animals, and sales of live food animals)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average total food sales \$ _____ **A**

Inflation adjusted¹ threshold for (range) \$ _____ **B**

Sales to qualified end users (QEU's) (e.g. consumers anywhere, or grocery stores and restaurants within 275 miles or within the same state)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average food sales to QEU's \$ _____ **C**

Sales to non-qualified end users (QEU's) (e.g. wholesale buyers, distributors, auctions)

Year 1 (Sales year: _____) \$ _____

Year 2 (Sales year: _____) \$ _____

Year 3 (Sales year: _____) \$ _____

Average food sales to non-QEU's \$ _____ **D**

Sales receipts must also be retained to support this record.

¹FDA updates the inflation adjusted value (B) yearly:

<https://www.fda.gov/food/guidanceregulation/fsma/ucm554484.htm>

Send application to:
Kentucky Department of Agriculture
Produce Safety Program
107 Corporate Drive
Frankfort, KY 40601

For Official Use Only

☐ Paperwork reviewed & exemption denied
☐ Paperwork reviewed & exemption approved

Denial reason: _____

WW Farm Number _____
Date _____
Reviewers Initials _____