



Cottage Foods Stakeholder Meeting #3 - Meeting Notes

Date: 1/05/2016 **Time:** 9:00am - 1:45 pm **Location:** Colorado Department of Public Health and Environment
Room C1C/C1D

In Attendance:

CDPHE DEHS - Jeff Lawrence
CDPHE DEHS - Cary Ruble
CDPHE DEHS - Brianna Ratajczak
CDPHE DEHS - Erika Atherly
CDA - Wendy White
CF Producer - David Kaminer
CF Producer - Evelyn Evers
CF Producer - Marilyn Kretsinger
CF Producer - Monica Wiitanen
CF Producer - Steve Bass - CF Producer
CF Producer & Provider Group - Richard Gould
CSU Extension - Mary Snow
CSU Extension Service - Sheila Gains
Natural Grocers - Alan Lewis
Preserving Community - Luther Green
Western Colorado Congress - Rachel Zatterstrom

Teleconference Attendees:

Boulder County - Lane Drager
CF Producer - Andrea Pakieser
CF Producer - Cece Crimholt
CF Producer - Joanna Schlichenmayer
CF Producer - Michele Schiavone
CF Producer - Sandy Rusher
CO Senator - Kerry Donovan
CSU Extension Service - Anne Zander
CSU Extension Service (Durango) - Wendy Rice
Forrager.com - David Crabill
Garfield County PH - Joshua Williams
Nutritionist - Jessica Bartlett
Tri-County Health Dept. - Meredith Hatterman

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- 9:10 AM** **Commence Meeting.**
- 9:20 AM** **Recap revisions resulting from the November 20, 2015 stakeholder meeting (Sections 15.9.5 through 15.9.6) and reviewed the Summary of Changes document.**
- 9:25 AM** **Overview of the stakeholder process.**

CDPHE has a running list of stakeholders that are sent each email. Other stakeholders are sharing links through their website. Anybody interested in being added to the stakeholder list can contact CDPHE. Commentary on the regulation can be provided directly during the meeting when the section is discussed or at anytime via email. For those comments presented outside the meeting, the individual providing the comment should either be on the phone or present during the meeting or have someone able to represent their thoughts during the meeting.

Q: A stakeholder requested clarification on who the “department” is and how they interact with the Board of Health.

A: CDPHE is the department. Local public health agencies have a vested interest in this regulation, because these products are being sold within their

communities. For the purposes of this regulation, local agencies would notify CDPHE with any concerns regarding cottage foods.

Q: What does the board of health (BOH) do?

A: The BOH hears and is the entity that would adopt the regulations developed by CDPHE and the stakeholders. There are required documents in addition to the proposed regulations that are prepared and submitted by DEHS prior to the request and rulemaking hearings. These documents are available from the BOH website but will also be emailed to all stakeholders by DEHS prior to the hearings. Any interested party can request time to testify at the rulemaking hearing. DEHS is responsible for presenting the regulation and required information at rulemaking hearing.

Q: What action would the department take if someone wasn't following the law?

A: DEHS would develop a policy for handling these situations, similar to our already established regulatory programs. We always start with informing the individual of the concern and providing tools/resources to assist with gaining compliance. Policy would address escalation depending on the issue and longevity of non-compliance.

15.10.1 Enforcement

There was a discussion regarding the nature of the language used in the regulation and the authority in the stated statutes. Although sections from the Colorado Revised Statutes (C.R.S.) are listed, it is important to clarify the name of the law, both verbally in the meetings and written in the regulation. The regulation should be a useful document on its own (i.e., without the use of guidance documents), but guidance materials can also be created to provide the regulation in an easy-to-use format. The law states that the “state board of health shall promulgate rules, including enforcement provisions, necessary to provide for the production and sale of tier two foods,” but tier one cottage foods are not exempt from the Colorado Pure Food and Drug Law (25-4 C.R.S.), as this regulation covers all foods produced within the state. The process for filing complaints and investigating those complaints will not be addressed in the regulation.

The decision is to delete sections (B), (C), and (D), because they restate what is written in the *Colorado Pure Food and Drug Law*. The word “seizure” was added to the proposed language in section (A).

Discussion In order gauge the insight of those participating in the stakeholder meeting, two “Yes/No” statements were asked to the group to determine initial thoughts on registration for cottage food producers.

Below are the statements and the percentage of Yes/No responses from both the in-person attendees and those who participated via the phone:

1. I am in favor of registration of both Tier 1 and Tier 2 cottage food producers.
Yes - 66.66% No - 33.33%
2. I support voluntary registration of tier 1 foods.
Yes - 75% No - 25%

The group feels that registration for Tier 1 producers should be removed and made voluntary. It is stated that producers could use the Colorado Market Maker website to voluntarily register. This site is maintained by the Colorado Department of Agriculture, but they do not have the ability to edit the page. Cottage food producers can currently register on here, but they are not identified as cottage food producers. In lieu of a registration email list, the group suggests using other mechanisms to get information out to producers and that any information sent out should be vetted through stakeholders. A list of advantages to registration was developed by a group of stakeholders.

Registration for Tier 2 producers can't be voluntary. It is not possible to apply regulations to producers/businesses if the department does not know they exist. There is the concern that imposing excess requirements on producers could be a barrier for new producers wanting to enter the market and may outweigh other requirements, such as receiving food safety training.

15.10.2 Registration and Revenue

This section gives the department the authority to confiscate and destroy food if producers are not registered, but there is still a question of the authority to require registration. Groups suggest relating the entire section to Tier 2 producers only. "Tier 2" was added to the beginning of (A) and (B), and section (C) was deleted.

There was a question about CDPHE regulating farmer's market and requiring that they check food safety certificates for each cottage food producer. CDPHE does not regulate farmer's markets or special events. Local public health agencies are engaged with these types of operations. Any regulations are not of the event itself but of the "operations" at the event. Event coordinators may choose to ask for training certificates from the Cottage Food Producers, but it is not a requirement that they do.

12:55 pm Review draft registration form.

All references to tier 1 will be deleted. "Copy of product label(s)" will be changed to "A product label sample", so the department can verify that all required information is included.

There was a brief discussion on the burden of registration for the department and producers. CDPHE will validate any information submitted with a registration form, which can be processed fairly quickly provided that all information is included with the application. The group feels that collecting these documents doesn't increase the safety of cottage foods that it's more of an approval process for Tier 2 foods. CDPHE will not be approving cottage foods; the information will be reviewed to ensure that the products meet the requirements of the law.

CDPHE will consider making registration more like a checklist, where producers would be required to check that they have met all of the requirements. In the event of an investigation or complaint received on a product, the department would verify that the producer has all the information required by law. The requirement that the producer have this information available for review could be added to the section 15.9.6, Recordkeeping.

Stakeholders indicate home addresses are sensitive information. DEHS committed that any display of registered producers would not include the home address but that the home address was necessary for registration to allow for trace-back and/or complaint follow-up.

A concern was raised on the timeline for tier 2 producers to register. This issue will be discussed during another stakeholder process when a better understanding of the effective date of the regulation and therefore the allowance of Tier 2 foods is better understood.

1:45 p.m. Meeting adjourned.

The date of the next meeting stakeholder meeting has been changed to February 12, 2016 from 9:00 am to 12:30 pm at CDPHE.

Parking Lot Items

DEHS will make changes to the registration form and send it to Evelyn Evers, Rachel Zatterstrom, Steve, and Monica, who will review it and provide edits in preparation for the next meeting.