

DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PRODUCE SAFETY ACT

8 CCR 1202-17

Pursuant to the provisions and requirements of the Produce Safety Act, Title 35, Article 77, C.R.S., the following rules are hereby promulgated to enforce under Colorado law the federal Standards for the Growing, Harvesting, Packing and Holding of Produce for Human Consumption, 21 CFR § 112.

Part 3 REGISTRATION REQUIREMENT

- 3.1 A farm or mixed type facility, that conducts Covered Activity of any Covered Produce at any primary production farm or secondary activities farm location, and which the average annual monetary value of produce sold during the previous three-year period is more than average monetary value determined in Part 3.5 of this Rule, must register and is subject to the General Provisions in Subpart A of 21 CFR § 112, "Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption," published November 27, 2015.
- 3.2 A farm that is eligible for a qualified exemption, as defined in Subpart A of 21 CFR § 112.5, must register with the Department and is only subject to sections of Subpart A of 21 CFR § 112, "Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption", stated in 21 CFR § 112.6 and 112.7
- 3.3 Registration and the General Provisions of Subpart A of 21 CFR § 112 do not apply to a farm or mixed-type facility that has an annual monetary value of produce sold during the previous three year period that is less than the monetary value determined in Part 3.5 of this Rule, even if that farm or mixed-type facility conducts Covered Activity.
- 3.4 Each farm, or mixed type facility, required to register shall do so annually during the registration period of November 1 to December 31. Such registration shall be completed by the submission of a form in the manner required by the Commissioner. All such information shall be complete and accurate.
- 3.5 For the ~~2025~~2024 registration year of January 1, 202~~5~~4 to December 31, 202~~5~~4, a farm that sold an average monetary value of produce during ~~2020, 2021, and 2022~~, and 2023 with more than ~~\$30,509~~\$31,925 must register with the Department.

Part 27 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

27.1 Adopted September 9, 2020. Effective Oct 30, 2020

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to §35-77-106(1), C.R.S.

Purpose

The Purpose of this rulemaking is to define the administration and enforcement of the Colorado Produce Safety Act, §§35-77-101 through 111, C.R.S. These rules incorporate 21 CFR 112, "Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption," define Colorado

registration requirements and timelines, and establish confidentiality protections for farm records and registrants.

Factual and Policy Basis

House Bill 19-1114, Colorado's Produce Safety Act, was passed by the General Assembly and signed into law by Governor Polis in 2019. The Act, codified in §§35-77-101 through 111, C.R.S., authorized the creation of a program within the Department, in lieu of the FDA, to regulate the safe production, handling, packing and storage of produce as defined in 21 CFR Part 112. This rulemaking provides definitions, references and rules to assist in the administration and enforcement of Colorado's Produce Safety Act.

27.2 Adopted September 8, 2021 - Effective October 30, 2021

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to §35-77-106(1), C.R.S.

Purpose

The purpose of this rule change is to increase the threshold limit for farms Exempt from the rule.

Factual and Policy Basis

Increased limits allowed for Exempt status are consistent with FDA's annual adjusted for inflation calculations.

27.3 Adopted October 12, 2022 – Effective December 15, 2022

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to §35-77-106(1), C.R.S.

Purpose

The purpose of this rule change is to increase the threshold limit for farms Exempt from the rule.

Factual and Policy Basis

Increased limits allowed for Exempt status are consistent with FDA's annual adjusted for inflation calculations.

27.4 Adopted July 12, 2023 – Effective October 30, 2023

Statutory Authority

Adoption authority for these rules pursuant to §35-77-106(1), C.R.S.

Purpose

The purpose of this rule change is to increase the threshold limit for farms Exempt from the rule.

Factual and Policy Basis

Increased limits allowed for Exempt status are consistent with FDA's annual adjusted for inflation calculations.

27.5 Adopted July 10, 2024 – Effective September 15, 2024

Statutory Authority

Adoption authority for these rules pursuant to §§ 35-77-104(2) and 106(1), C.R.S.

Purpose

The purpose of this rule change is to increase the threshold limit for farms Exempt from the rule.

Factual and Policy Basis

Increased limits allowed for Exempt status are consistent with FDA's annual adjusted for inflation calculations.