

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 2 ADOPTION OF FEDERAL CODE

- 2.1 The Department herein incorporates by reference 21 CFR § 112, “Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption”, Subpart A, B, C, D, F, I, K, L, N, O, Q, and R published November 27, 2015, and Subpart E published ~~March 18, 2019~~ May 6, 2024. Such incorporation excludes any later amendments or editions. Copies of 21 CFR § 112, and any other materials incorporated by reference, are available for public inspection and copy during regular business hours at the Department, 305 Interlocken Parkway, Broomfield Colorado 80021, or at the offices of the U.S. Food and Drug Administration, 10903 New Hampshire Avenue Silver Spring, MD 20993. This information may also be accessed online by visiting:
<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=112>

Part 10 AGRICULTURAL WATER

- 10.1 These Rules incorporate by reference all the Agricultural Water requirements found in Subpart E of 21 CFR § 112, “Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption,” published ~~March 18, 2019~~ May 6, 2024. Such incorporation excludes any later amendments or editions.

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.

27.6 Adopted November 19, 2024 – Effective January 14, 2025

Statutory Authority

These rules are pursuant to the Commissioner of Agriculture's authority under §35-77-105 C.R.S.

Purpose

The purpose of this rule change is to incorporate by reference revisions to 21 C.F.R Part 112 Subpart E, published May 6, 2024, which replaces the previous version, published on March 18, 2019.

Factual and Policy Basis

In 2024, the Food and Drug Administration (FDA) set out to revise Subpart E of 21 C.F.R. Part 112, "Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption." FDA's revisions replace annual water testing with a more current, water-systems-based assessment. The Department has incorporated this revised subpart to maintain its consistency with FDA's safety and testing requirements related to how produce for human consumption is grown, harvested, packed, and held in Colorado.