



NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“Rules Pertaining to the Administration and Enforcement of the Produce Safety Act”

8 CCR 1202-17, Parts 3.5 and 27.3

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: September 30, 2022
TIME: 10:00 am
LOCATION: This hearing will be held via [Zoom](#)
CALL INFORMATION: 1-719-359-4580
MEETING ID: 896 5456 2358
PASSCODE: 130221

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us
Pre-registration is not required to participate in the hearing.

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

The statutory authority for these rules is §35-77-106(1), C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9002. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

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 ~~2022~~2023 registration year of January 1, ~~2022~~2023 to December 31, ~~2022~~2023, a farm that sold an average monetary value of produce during ~~2018~~, 2019, ~~and~~ 2020 and 2021 with more than ~~\$28,561~~\$29,245 must register with the Department.

Part 27 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

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.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

Factual and Policy Basis

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