

**Rule Summary and Fiscal Analysis (Part A)****Ohio Uniform Food Safety Code**

Agency Name

Division

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**3717-1-03.2**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Food: protection from contamination after receiving.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3717.04, 3717.05**

5. Statute(s) the rule, as filed, amplifies or implements: **3717.04, 3717.05**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Sections 3717.04 and 3717.05 of the Ohio Revised Code require the director of agriculture and public health council to adopt, amend, or rescind provisions in the Ohio Uniform Food Safety Code to ensure that it continues to conform to the Federal Food and Drug Administration's Model Food Code. The changes proposed are from the most current changes to the Federal Code.

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets food handling procedures that food employees shall follow to prevent contamination after receipt. More significant amendments 1) allow ready to eat food to be handled with bare hands when added as an ingredient to a food that is to be cooked to required temperature; 2) allows frozen, commercially processed and packaged raw animal foods to be stored or displayed with frozen, commercially processed and packaged ready-to eat food; and 3) disallow storing and displaying comminuted or otherwise non-intact meats above whole-muscle intact cuts of meat unless they are packaged in a manner that precludes cross-contamination.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references sections of the Ohio Administrative Code. The O.A.C. is generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This rule has been reviewed pursuant to R.C. 119.032 requirements and is being proposed with no changes.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date: 5/25/2012

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

There is no budgetary impact.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There is no new cost of compliance.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Facilities may obtain approval for food employees not serving highly susceptible populations to handle ready-to eat food with bare hands provided 1) it obtains prior approval; and 2) written procedures are maintained in the food service operation or retail food establishment and made available to the licensor upon request. Also, licensees must prepare a written employee health policy that details how the food service operation or retail food establishment complies with O.A.C. rule 3717-1-02.1; Food services and retail food establishments must document that food employees acknowledge that they have received training in: 1) risks of contacting the specific ready-to-eat foods with bare hands; 2) proper handwashing, including when and where to wash hands; 3) proper fingernail maintenance; 4) prohibition of jewelry; and 5) good hygienic practices. Food services and retail food establishments must also document 1) that employees wash their hands before food preparation, and as necessary, to prevent cross contamination during all hours of operation when the specific ready-to-eat foods are prepared; 2) that food employees contacting ready-to-eat food with bare hands use two or more additional safeguards listed in this rule; and finally 3) that the licensee document corrective action that is taken when requirements of this rule are not followed.