

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

Agency Name

Division

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3717-1-03.4

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Food: limitation of growth of organisms of public health concern.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **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:

O.A.C. 3701-1-03.4 is proposed to fulfill five-year review requirements. Also, Section 3717.05 of the Ohio Revised Code requires the Director of Agriculture and the Director of Health to adopt, amend, or rescind provisions in the Ohio Uniform Food Safety Code to ensure that it continues to conform to the U.S. Food and Drug Administration's Model Food Code. Changes are proposed to reflect 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:

The purpose of this rule is to provide the license holder of food service operations and retail food establishments the requirements to limit the growth of organisms in the food that they serve. Changes include: new language on handling ROP fish; clarification on date marking and the exemption of raw, live in-shell molluscan shellfish from the date marking; amended language to clarify that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing; amended language to make clear that only TCS foods prepared under ROP methods that do not control for growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* require a variance; removed the requirement for a variance when harvesting seed or bean sprouts; exempted certain facilities from having to have a HACCP plan; added new language that provides information needed in a HACCP plan; increased the shelf life for ROP food; clarified no bare hand contact of ready to eat food; added new language to specify that a HACCP plan shall be provided to the regulatory authority prior to implementation; extended the time in which foods packaged using a cook-chill or sous vide process may be held; and added new language that identifies the contents of a HACCP plan.

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 the Ohio Revised and Administrative Codes, and the Code of Federal Regulations. The O.R.C., O.A.C., and C.F.R. are 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:

The cited rules and regulations are exempted from inclusion in this filing pursuant to R.C. 121.75 and 121.76.

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. Five Year Review (FYR) Date: **3/10/2016**

(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

Not applicable

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:

Costs associated with this rule would be the time for compliance by the person in

charge and food employees.

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? **No**