

**Rule Summary and Fiscal Analysis (Part A)****Department of Agriculture**

Agency Name

**Dairy**

Division

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**901:11-2-03**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Bacterial count.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**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: **917.02**5. Statute(s) the rule, as filed, amplifies or implements: **917.05, 917.22**

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

This rule sets forth the requirements for bacterial count samples of raw milk.

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 was stylistically amended to reformat paragraphs. For example, large

paragraphs were separated into smaller paragraphs. However, the rule remains substantively the same.

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:

Pursuant to sections 121.76 and or 121.75 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code

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:

Not Applicable.

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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

This rule is being revised in order to correct the RSFA.

12. Five Year Review (FYR) Date: **9/17/2017**

(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.

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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:

The proposed rules are not expected to have any financial impact on the industry in terms of changes in procedure or equipment. Milk haulers, dealers, producers, and processors must meet the requirements of the rules and pay a \$15 annual licensing fee to the Department's Dairy Division. The regulations dictate some equipment specifications; however, equipment manufacturers specifically tailor their machinery to meet the regulations. Additionally, there are some record keeping requirements which require time for employer 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? **Yes**

Pursuant to O.R.C. Section 917.09, producers, processors, milk dealers, weighers, and milk haulers are licensed by the Director of the Ohio Department of Agriculture.

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? **Yes**

O.R.C. Section 917.99 sets forth the penalty for non-compliance. Specifically, O.R.C. 917.99( C) establishes the penalty for anyone who violates an administrative rule adopted by the Director of the Ohio Department of Agriculture. Furthermore, this rule establishes the suspension of a producer's license or registration upon notice of an excessive bacterial count.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

Not Applicable.