

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:11-3-02
Rule Type: No Change
Rule Title/Tagline: Standard of identity.
Agency Name: Department of Agriculture
Division: Dairy
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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 3/28/2018 and 03/28/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 917.02
5. **What statute(s) does the rule implement or amplify?** 917.02
6. **What are the reasons for proposing the rule?**

The rule is up for five year rule review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:11-3-02 states the term "frozen desserts" means the articles of food listed in Title 21 C.F.R. 135 Subpart B. The adoption of this standard of identity ensures that consumers are confident in purchasing frozen dessert products by ensuring that the label accurately reflects what the product is. There are no changes proposed to this rule.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**
Pursuant to section 121.76 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.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Milk haulers, dealers, producers, and processors all must meet the requirements of the rules and pay a \$15 annual licensing fee to the Department's Dairy Division. As outlined in 917.031, the inspection fees for the Dairy Division shall not exceed 63% of the estimated cost of administering and enforcing Chapter 917 of the Revised Code. Currently, this fee breaks down to \$146,000 monthly paid by industry. This figure is then broken down to a per-pound fee which is sent to manufacturers based on their usage of dairy products. The adverse impact of these regulations is difficult to quantify as it is hard to separate production practices from regulation. The regulations dictate some equipment specifications; however equipment manufacturers specifically tailor their machinery to meet the regulations. Additionally, there are record keeping requirements which require time for employer compliance however; for the most part the machinery used in this industry automatically records this information.

- 13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
- 14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

III. Common Sense Initiative (CSI) Questions

- 15. **Was this rule filed with the Common Sense Initiative Office?** Yes
- 16. **Does this rule have an adverse impact on business?** Yes

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

These rules do not specifically require a license however, all manufacturers of frozen desserts must obtain a milk processor license through the Department pursuant to ORC 917.09 and OAC 901:11-2.

- 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

Failure to comply with these rules may result in the embargo and destruction of food products.

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

This rule does not require the report of information.