

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:11-3-06
Rule Type: Amendment
Rule Title/Tagline: Hazard analysis and critical control point plan.
Agency Name: Department of Agriculture
Division:
Address: 8995 East Main Street Reynoldsburg OH 43068
Contact: David E Miran
Email: david.miran@agri.ohio.gov **Phone:** 614-728-6390

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/3/2018
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 901:11-3-06 requires all frozen dessert manufacturers develop a written Hazard Analysis and Critical Control Point plan, otherwise known as a HACCP plan. This is required whenever the hazard analysis performed reveals one or more food hazards are likely to occur during production. This plan outlines critical control points where food hazards are likely to occur and critical limits which, when operating within these

limits, allows the processor to decrease the likelihood of product contamination. Additionally, the HACCP plan outlines how manufacturers will monitor these critical control points and requires the development and implementation of corrective action plans should a deviation from the critical limits occur. The rule has been amended to correct a code reference.

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.**

The rule is being refiled in order to correct the RFSA. Specifically, question 16A.

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?** Yes

This rule does 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. Further, all manufacturers must submit a HACCP plan for approval prior to conducting business.

- 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?** Yes

All frozen dessert manufacturer's are required to produce a hazard analysis outlining the critical control points in their production process.