

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

Agency Name

Food Safety

Division

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901:3-44-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Mandatory food sampling tolerance level standards and action
steps for maple syrup, sorghum, and honey.****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: **3715.022**
5. Statute(s) the rule, as filed, amplifies or implements: **3715.022, 3715.59**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is up for five year rule review.
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:

OAC 901:3-44-01 outlines the mandatory food sampling tolerance levels for maple syrup, sorghum, and honey. As stated above, maple syrup, sorghum, and honey producers are not regulated in the same manner as other food production operations. However, ORC 3715.022 states that all food products, including maple syrup, sorghum, and honey, shall be sampled and tested to determine if the food product is misbranded and/or adulterated. The rules establish lead tolerance levels in maple syrup and sorghum. Maple syrup and sorghum products which are found to contain lead in greater than 500 parts per billion are considered adulterated. Further, the rule is being amended to state that all honey products sampled which detect antibiotics are adulterated. Beekeepers who apply antibiotics to their hives must withhold from drawing honey until the withdrawal period of the antibiotics has lapsed.

Pursuant to ORC 3715.24, the Department shall adopt rules which establish voluntary grades, authorized optional ingredients, standards for fill of containers, and standards of weight for the sale of maple products in this state and that specify the analytical tests to be used for determining compliance with those voluntary grade requirements. The rules in Division 901:3-45 of the Administrative Code fulfill this requirement.

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 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.

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:

Not Applicable.

12. Five Year Review (FYR) Date: **6/16/2017**

(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.

\$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:

There is no quantifiable adverse impact from this regulation. Maple syrup, sorghum, and honey production operations which produce foods that are misbranded or adulterated would be subject to embargo and destruction of their products. The quantified loss for this cannot be calculated do to the variables of the food product

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? **Yes**

Maple syrup, sorghum, and honey production operations which produce foods that are misbranded or adulterated would be subject to embargo and destruction of their products

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