

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

Agency Name

Food Safety

Division

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901:3-5-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Criteria and definitions for processing acidified foods in
hermetically sealed containers.****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: **913.04**
5. Statute(s) the rule, as filed, amplifies or implements: **913.03, 913.04**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rules in this package are being reviewed in accordance with the Five Year Rule review process. These rules regulate the processing of acidified foods in hermetically sealed containers. Examples of hermetically sealed containers are cans, glass jars, or aseptic juice boxes. Canning food is a method of preserving foods for a period of time. Errors in the canning process can result in the growth of a highly dangerous bacterium known as Clostridium botulinum. This bacterium is extremely poisonous and often times results in the death of the infected individual.

Due to this high level of risk there is significant regulation to monitor the canning industry which is designed to prevent the growth of this bacterium. These rules mirror federal regulations in order to allow Ohio's manufacturing industry to be able to ship all across the country.

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:

Rule 901:3-5-01 outline the criteria and definitions as used in the chapter. The rule is being amended to correct a spelling error.

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: **4/2/2015**

(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:

The price for a license to produce acidified canned foods is \$200. 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. The new portions of this rule add time for employer compliance by requiring all manufacturers to develop and maintain procedures for handling product recalls. Many food manufacturers already have these plans in place so the adverse impact should be minimal.

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**

This provision does not explicitly require a license or permit to engage in this line of business. However, a canning license is required under section 912.03 of the Ohio Revised Code.

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**

No, however, violations may be prosecuted under 913.99 of the Revised Code.

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