

901:3-6-01

**Authority of the Director of Agriculture; Definitions.**

(A) Pursuant to section 3717.221 of the Revised Code, the director shall administer the applicable provisions of Chapter 901:3-6 of the Administrative Code to farm markets, farmers' markets, and farm product auctions that have registered with the Ohio department of agriculture. A farm market, farmers' market, or farm product auction defined in paragraph (B) of this rule that is not registered with the Ohio department of agriculture shall be licensed and regulated pursuant to Chapter 3717 of the Revised Code as a retail food establishment.

**(B) Definitions:**

As used in Chapter 901:3-6 of the Administrative Code:

- (1) "Adulterated" has the meaning stated in section 3715.59 of the Revised Code.
- (2) "C.F.R." means code of federal regulations.
- (3) "Cottage food production operation" as defined in section 3715.01 of the Revised Code, means a person who, in the person's home, produces food items that are not potentially hazardous foods, including bakery products, jams, jellies, candy, fruit butter, and similar products specified in rules adopted pursuant to section 3715.025 of the Revised Code. A cottage food production operation shall not process acidified foods, low acid canned foods, or potentially hazardous foods.
- (4) "Director" means the director of the Ohio department of agriculture.
- (5) "Farm market" means a producer operated facility where only one or more of the following food items are offered for sale:
  - (a) Fresh unprocessed fruits or vegetables;
  - (b) Products of a cottage food production operation;
  - (c) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code;
  - (d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farm market;
  - (e) Cider and other juices manufactured on site at the farm market;
  - (f) Raw eggs, raw poultry, and raw non-amenable meat on the condition that those products were produced by the farm market operator, and further

conditioned that, with respect to the eggs offered, the farm market operator annually maintains five hundred or fewer birds, and with respect to the dressed poultry offered, the farm market operator annually raises and slaughters one thousand or fewer chickens, or two hundred fifty or fewer turkeys.

(6) "Farmers' market" means a location where producers congregate to offer one or more of the following food items for sale:

(a) Fresh unprocessed fruits or vegetables;

(b) Products of a cottage food production operation;

(c) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code;

(d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farmers' market.

(7) "Farm product auction" means a location where only one or more of the following products are offered for sale at auction:

(a) Raw eggs, raw poultry, or raw non-amenable meat species on the condition that, with respect to the eggs offered, the producer annually maintains five hundred or fewer birds, and with respect to the dressed poultry, the producer annually raises and slaughters one thousand or fewer chickens, or two hundred fifty or fewer turkeys.

(b) Fresh unprocessed fruits or vegetables;

(c) Products of a cottage food production operation;

(d) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code.

(8) "Home" as defined in section 3715.01 of the Revised Code, means the primary residence occupied by the residence's owner, on the condition that the residence contains only one stove or oven used for cooking, which may be a double oven, designed for common residence usage and not for commercial usage, and that the stove or oven be operated in an ordinary kitchen within the residence.

(9) "Misbranded" has the meaning stated in section 3715.60 of the Revised Code.

(10) "Non-amenable meat" means the meat of farm raised mammals such as bison, rabbit, and deer.

(11) "Potentially hazardous food" means a food that is natural or synthetic that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinium, or in the case of raw shell eggs, the growth of salmonella enteritidis.

Potentially hazardous food does not include a food that has:

(a) A pH level less than 4.6 when measured at seventy-five degrees Fahrenheit or twenty-four degrees Celsius.

(b) A water activity value less than 0.85.

(12) "Producer" means a person who raises agricultural products on land owned or leased by themselves.

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CERTIFIED ELECTRONICALLY

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Certification

03/15/2004

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Date

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