

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

Agency Name

Food Safety

Division

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901:3-6-07

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Right of entry.**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: **3717.221**
5. Statute(s) the rule, as filed, amplifies or implements: **3717.221**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Chapter 901:3-6 of the Ohio Administrative Code regulates farm markets, farmers# markets, and farm product auctions which have registered with the Ohio Department of Agriculture. Pursuant to Ohio Revised Code 3717.22, these regulated areas are exempt from the general retail food establishment requirement so long as they register with the Department. This registration is voluntary however, only through registration is an entity exempt from the retail food establishment licensure. In order to meet this exemption, the regulated areas are only allowed to sell foods that are not potentially hazardous.

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 901:3-6-07 establishes that the Department has authorization to inspect the regulated areas. Only stylistic changes which do not impact the substance of the rule have been made.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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: **1/3/2017**

(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 cost of compliance associated with this rule. The regulated entity shall allow the Department to inspect the entity for the purposes of determining compliance with the rules.

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 rule does not require prior authorization but applies to voluntary registration of farmers markets, farm markets, and farm product auctions in Ohio.

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**

Refusing to allow the Department to inspect a regulated area creates a cause of action for which the Department may seek a search warrant or other legal means of gaining entry.

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