

**MEMORANDUM**

TO: David Miran, Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: August 14, 2017

RE: **CSI Review – Food Safety: Preventive Controls (OAC 901:3-17-01 through 901:3-17-04)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package contains four new rules proposed by the Ohio Department of Agriculture (ODA). The rule package was submitted to the CSI Office on July 31, 2017 and the public comment period was held open through August 11, 2017.

The rules of this package establish preventive control processes as they relate to food processing establishments. Ohio Administrative Code (OAC) Chapter 901:3-17 sets forth that all food safety regulations found in 21 Code of Federal Regulations 117, with the exception of those modified or deleted, apply to Ohio food safety inspection standards. Pursuant to these regulations, food processing establishments must establish proper and safe practices, which include analyzing hazards and enacting preventive controls. These rules allow ODA to participate in the Federal Drug Administration's Manufactured Foods Regulatory Program Standards and be considered equivalent to the FDA's inspection program.

During early stakeholder outreach, ODA provided the proposed rules to stakeholders for feedback.

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One comment was received from the Ohio Farm Bureau during this time, which stated concern about adopting a qualified exemption process. ODA explained that it intends for the United States Food and Drug Administration to handle the withdrawal of the qualified exemption. The Ohio Farm Bureau accepted this explanation and requested that the process be included in the rule language. ODA clarified the process within the rule language. No comments were received during the CSI public comment period.

All food processing establishments, except for those specifically exempted in ORC 3715.021, are impacted by these rules. The adverse costs created by these rules include the time necessary to create a food safety system and the potential embargo or destruction of food that is found to be adulterated. ODA states that these rules ensure that food available to consumers is produced in facilities that mitigate potential hazards and maintain healthy and safe procedures. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendations

For the reasons described above, the CSI Office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Agriculture should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.