

**MEMORANDUM**

**TO:** David Miran, Ohio Department of Agriculture

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** June 15, 2017

**RE:** **CSI Review – Food Safety – Maple Syrup, Sorghum and Honey (OAC 901:3-44-01, 901:3-45-01 through 901:3-45-05, and 901:3-46-01 through 901:3-46-09)**

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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 fifteen amended rules<sup>1</sup> proposed by the Ohio Department of Agriculture (ODA), as part of the five-year rule review requirement contained in Ohio statute. The rule package was submitted to the CSI Office on May 9, 2017 and the public comment period was held open through May 26, 2017. No public comments were received during this time.

These rules provide for the regulation of the production of maple syrup, sorghum and honey. According to ORC 3715.021, certain producers of maple syrup, sorghum and honey are not subject to the same licensure and inspection standards as most other food production industries in Ohio. However, Chapter 903 of the Ohio Administrative Code (OAC) serves to provide producers of maple syrup, sorghum and honey with mandatory tolerance levels to abide by, while offering access to voluntary quality assurance standards. This rule package establishes mandatory tolerance

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<sup>1</sup> OAC 901:3-45-01 is being amended to the extent that the Legislative Service Commission requires the Department to rescind the rule and replace it with a new rule of the same rule number.

levels for materials like lead and antibiotics, a new system of grading maple syrup that mirrors the classifications of the United States Department of Agriculture, the additional requirement of utilizing food grade materials as containers, and stylistic updates to the rule language.

ODA sent the proposed rules to industry stakeholders listed in the BIA. During its early outreach, ODA received input from two stakeholders. One comment provided recommendations for expanding the definition of prohibited antibiotics in processed honey, which were adopted into the rule package. Other comments were received that supported the amended changes, but also recommended further action, which ODA explained was unfeasible due to current statute.

The rules impact all individuals and businesses producing maple syrup, sorghum and honey in Ohio. Although the rules do not have fines, failure to meet these standards may result in the embargo of products and destruction of the adulterated product. As a result, there is impact in the time and resources needed for compliance to ensure products meet the standards of the rules. However, the potential threat to consumers that adulterated food products pose justifies the adverse impact of these regulations.

ODA states that these rules create a business-friendly environment for maple syrup, sorghum and honey processors in the state. Allowing for additional voluntary inspection while establishing safety guidelines offers individuals and businesses an option for assuring the quality of their product without the additional burden of a licensing process. 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.