



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Renee Schmauch, Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Business Advocate

DATE: July 14, 2023

RE: **CSI Review – Food Safety Chapter 1 (OAC 901:3-1-11, 901:3-1-12, 901:3-1-14, 901:3-1-15)**

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules and two new rules proposed by the Ohio Department of Agriculture (Department). This rule package was submitted to the CSI Office on June 9, 2023, and the public comment period was held open through June 30, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 9, 2023.

Ohio Administrative Code (OAC) Chapter 901:3-1 establishes requirements related to food processing manufacturing practices, standards of identity, and labeling. OAC 901:3-1-11 lists requirements for food labeling, including referenced federal standards and the Director's seal of conformity and inspection for maple syrup, honey, or sorghum products. The rule is amended to provide instructions for cottage food processors and exempt processors in labeling products, remove language related to food products that are imported in the finished product stage or bulk form, and revise language to provide clarity. OAC 901:3-1-12 lists the federal standards of identity for food products and is amended to update the titles and dates of federal standards. OAC 901:3-1-14 is a new rule that establishes requirements for food nutritional labeling, including federal standards and penalties for violations of the rule requirements. The rule states that mobile and temporary food

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service operations are exempt. New rule OAC 901:3-1-15 sets forth the standards for nutrition labeling of restaurant foods.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including the Ohio Maple Producers Association, Ohio Association of Food Banks, Ohio Bakery Association, Ohio Beef Council, Ohio Cattlemen's Association, Ohio Council of Retail Merchants, Ohio Dairy Producers, Ohio Ecological Food and Farm Association, Ohio Farm Bureau, Ohio Farmers Union, Ohio Lawn Care Association, Ohio Manufacturer's Association, Ohio Pork Producer's Council, Ohio Poultry Association, Ohio Produce Growers Association, Snack Food Association, Wholesale Beer and Wine Association, Great Lakes Community Action Partnership, PACA Inc., and Wood county Committee on Aging. One comment was received from the Ohio Farm Bureau which prompted revisions to OAC 901:3-1-11 and 901:3-1-14 to restructure and clarify the rule language. No comments were received during the CSI public comment period.

The business community impacted by the rules includes all food processing establishments and chain restaurants with at least 20 locations. The adverse impacts created by the rules include requirements to maintain facility and equipment conditions, as well as proper recordkeeping. The Department notes that there are no fines associated with the rules, although violations of the rule requirements could lead to the embargo or destruction of food products.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.