



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## MEMORANDUM

**TO:** Renee Schmauch, Ohio Department of Agriculture

**FROM:** Caleb White, Business Advocate

**DATE:** December 20, 2023

**RE:** **CSI Review – Dairy Division: Ohio Manufacture Milk Rules (OAC 901:11-2-01 through 901:11-2-44)**

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 forty-four no-change rules proposed by the Ohio Department of Agriculture (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on November 17, 2023, and the public comment period was held open through December 11, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 17, 2023.

Ohio Administrative Code (OAC) Chapter 901:11-2 establishes regulations surrounding the production of manufacture-grade milk products in Ohio. The rules in this chapter set forth requirements surrounding storage, transportation, and labeling requirements, standards for the safety of raw milk (including acceptable sediment content, bacterial or somatic cell count, drug residue, and raw milk testing requirements). The rules also address herd health requirements, standards and requirements surrounding sanitization, sanitary operating procedures, and hygiene standards for personnel. The Department notes that these rules are modeled off the Food and Drug Association's minimum standards for manufacture-grade milk and that while they are not required to be adopted

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by states, most states have adopted these standards as the minimum standards.

During early stakeholder outreach, the Department emailed the proposed rules to the Ohio Milk Sanitation Board on September 19, 2023, and to stakeholders on September 20, 2023. Both groups were asked to submit their comments to the Department by October 4, 2023. The stakeholder group included representatives from Capitol Advocates, the Ohio Beef Council, Ohio Cattlemen's Association, Ohio Dairy Producers, Ohio Ecological and Farm Association, Ohio Farm Bureau, Ohio Farmers Union, Ohio Poultry Association, Ohio Restaurant Association and Ohio State University. No comments were received during this period or during the CSI public comment period.

The business community impacted by the rules includes all manufacturers or dairy operators who produce or use manufacture-grade milk to produce milk products. The adverse impacts created by the rules include the costs associated with maintaining a license such as an annual \$15 licensing fee as well as complying with inspection and testing requirements, and the potential suspension or revocation of a production license, and possible embargo of products for violations of the rules. The Department states that the adverse impact of these rules is difficult to quantify as it is difficult to separate standardized production practices from regulatory requirements. Additionally, while there are some equipment specifications dictated by the rules, equipment manufacturers already tailor their products to meet these specifications. The Department states that the adverse impacts to business are justified to protect public safety by establishing minimum sanitization and bacteriological standards for milk and milk 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.