



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: January 19, 2024

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

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 seven amended rules and eight no-change rules proposed by the Ohio Department of Agriculture (Department) as part of the statutorily required five-year review process. This rule package was submitted to the CSI Office on November 27, 2023, and the public comment period was held open through December 15, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 27, 2023.

The rules included in this package set forth requirements related to maple syrup, honey, and sorghum processors. Ohio Administrative Code (OAC) 901:3-44-01 establishes the standards for mandatory food sampling tolerance levels, including the thresholds for lead, antibiotics, and the insecticide coumaphos. The rule is amended to replace the term "maple syrup" with "tree syrup" to comply with statutory changes. OAC Chapter 901:3-45-01 through 901:3-45-05 set forth requirements specific to maple syrup, including grade and color classifications, optional ingredients, labels, packaging, and bulk containers. The rules in OAC Chapter 901:3-45 are proposed without amendments. OAC 901:3-46 concerns requirements for exempt beekeepers as well as producers of maple syrup and sorghum. OAC 901:3-46-01 lists definitions used throughout the chapter. OAC 901:3-46-02 allows exempt

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

producers to voluntarily request inspections. OAC 901:3-46-03 requires producers that request inspection to register with the Department annually. OAC 901:3-46-04 permits exempt producers that undergo voluntary inspections to display the Department seal of conformity. OAC 901:3-46-05 establishes cleaning requirements for collection equipment, which includes buckets, transport tubing, bags, extractors, bottling tanks, another other equipment. OAC 901:3-46-06 concerns the packaging and filling of containers and is proposed without changes. OAC 901:3-46-07 sets forth requirements for bulk containers used to store syrup, honey, or sorghum, including specifications for the construction and cleanliness of containers. OAC 901:3-46-08 establishes requirements for production and processing areas, including standards for structures, safety, and food-contact surfaces, and is proposed without amendments. OAC 901:3-46-09 concerns water supplies used during production and contains standards for sampling and alternative water supplies. The rule is proposed without amendments. OAC 901:3-46-01, 901:3-46-02, 901:3-46-03, 901:3-46-04, 901:3-46-05, and 901:3-46-07 are proposed with amendments that replace the term “maple syrup” with “tree syrup.”

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including producers and processors, agricultural organizations, and food service associations. No comments were received during that time or during the CSI public comment period.

The business community impacted by these rules includes all tree syrup, honey, and sorghum production businesses within the state. The adverse impact created by the rules includes the potential embargo of products that are found to be adulterated or misbranded. Under ORC 3715.021, certain tree syrup producers, sorghum producers, and beekeepers are exempt from food production operation licensure requirements, the rules in this package also allow these businesses to voluntarily request inspections. In exchange for these voluntary inspections, the Department allows these businesses to display the Department’s seal of conformity for their food products. The Departments states that the adverse impacts created by the rules are necessary to allow small businesses to sell tree syrup, sorghum, and honey products without the need for unnecessary regulatory burdens, while offering businesses the option to participate in the voluntary inspection process.

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.