



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Renee Schmauch, Ohio Department of Agriculture

FROM: Michael Bender, Business Advocate

DATE: January 19, 2024

RE: **CSI Review – Federal Food Safety Regulations (OAC 901:3-17-01, 901:3-17-02, 901:3-17-03, and 901:3-17-04)**

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 three amended rules and one no-change rule 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 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.

Ohio Administrative Code (OAC) 901:3-17-01 adopts the federal food safety guidelines in Title 21 of the Code of Federal Regulations (CFR) part 117 and requires all food processing establishments to comply with the rules of the chapter. The rule is amended to update the applicable version of the cited federal regulations. OAC 901:3-17-02 modifies the definitions of certain terms found in Title 21 of the CFR part 117. Originally submitted as a no-change rule, the rule is amended to make technical corrections. OAC 901:3-17-03 specifies which regulations of Title 21 of the CFR part 117 are not adopted as rules of the Department. OAC 901:3-17-04 modifies certain provisions of Title 21 of the CFR part 117. Originally submitted as a no-change rule, the rule is amended to make technical

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corrections.

During early stakeholder outreach, the Department contacted stakeholders via email on September 18, 2023, to solicit comments on the proposed rules through October 2, 2023. The Department received no feedback from stakeholders. During the CSI public comment period, the Department received one comment from Slate Run Vineyard expressing concern about the applicability of the rules to wine and intoxicating beverages, asserting that only the Ohio Department of Commerce, Division of Liquor Control has jurisdiction over wineries pursuant to the ORC. The Department replied that the cited statutory provisions merely concerned the sale and distribution of intoxicating beverages, while the inspection of production facilities for wineries, breweries, and distilleries fell under its own purview. The Department did not make any changes to the rules as a result of the comment but did make the aforementioned technical corrections.

The business community impacted by the rules includes all food manufacturers in the state of Ohio except for those specifically exempted in the rules. The adverse impacts created by the rules include the costs associated with establishing and implementing a food safety system. According to the Department, the amount of work required will depend on the product, the amount of product produced, and the size and layout of the facility where the product is produced. Although there are no fines associated with the rules, failure to comply with the requirements may result in the adulteration and eventual embargo or destruction of products. The Department states that the adverse impacts to business are justified to prevent food borne illnesses and protect consumers.

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.