



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: March 7, 2024

RE: **CSI Review – Food Safety: Fish and Fishery Products (OAC 901:3-7-01 through 901:3-7-11)**

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This rule package consists of four new rules and eleven rescinded rules proposed by the Ohio Department of Agriculture (Department) as part of the statutory five-year review process.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 January 24, 2024, and the public comment period was held open through February 8, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 24, 2024.

Ohio Administrative Code (OAC) Chapter 901:3-7 establishes requirements for fish and fishery products. OAC 901:3-7-01 sets forth criteria and definitions used throughout the chapter. This rule is proposed for rescission and replacement with a new rule that adopts federal food safety regulations located in 21 CFR Chapter 1, Subchapter B, Part 123. OAC 901:3-7-02 is a new rule that lists definitions that are amended from those listed in the Code of Federal Regulations (CFR) sections referenced. New rule OAC 901:3-7-03 contains the sections of the CFR that are deleted from use by the Department. OAC 901:3-7-04 is a new rule that lists modifications to the referenced CFR sections. OAC 901:3-7-05 through 901:2-7-11 are proposed for rescission. These rules previously set forth requirements for recordkeeping, training, smoked and smoke-flavored fishery products, raw molluscan shellfish, shellfish tags, and product adulteration.

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During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including professional associations representing agricultural and food production industries and other interested parties. No comments were received during that time or during the CSI public comment period.

The business community impacted by the rules includes all producers of fish and fishery products within the state. The adverse impact created by the rules includes compliance with federal requirements for processing fish and fishery products, which include requirements for conducting hazard analysis planning, corrective actions, training, and sanitation. The Department states that the adverse impact is necessary to prevent the spread of food borne illness.

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.