



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: April 12, 2024

RE: CSI Review – Farm Markets and Auctions (OAC 901:3-6-01 through 901:3-6-08)

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 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 March 15, 2024, and the public comment period was held open through April 5, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 15, 2024.

Ohio Administrative Code (OAC) Chapter 901:3-6 establishes requirements for farm markets and farm market auctions. The rules include amendments that remove requirements for farmers' markets to register with the Department to be exempt from licensure as a retail food establishment. Farmers' markets are now inspected by local health departments, pursuant to amendments made to ORC 3717.221. OAC 901:3-6-01 lists the authority of the Director of the Department and relevant definitions. The rule is amended to rename "maple syrup" as "tree syrup," include apple syrup and apple butter as items able to be sold by registered farm markets, refer to the ORC where appropriate, and remove farmers' market language. OAC 901:3-6-02 sets forth requirements and prohibitions regarding food, including standards for obtaining foods, discarding unsafe foods, and provisions related to handling and storage of specific food types. The rule is amended to update and streamline rule language. OAC 901:3-6-03 establishes requirements for market facilities, including refrigeration

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units and toilet facilities. The rule is amended to remove requirements that are specific to farmers' markets. OAC 901:3-6-04 requires farm markets and farm product auctions to wash, rinse, and sanitize utensils and food contact surfaces and is amended to allow the use of additional sanitizers approved for food contact surfaces. OAC 901:3-6-05 concerns hand washing by personnel and is amended to remove alcohol towelettes as an alternative method for hand washing and to clarify that hand washing should prevent the contamination of food contact surfaces and packaging material. OAC 901:3-6-06 concerns hand washing water supplies and is proposed without amendments. OAC 901:3-6-07 concerns inspections and is amended to remove references to farmers' markets. OAC 901:3-6-08 states that farm markets, farm product auctions, or farmers' markets that sell food products that are outside of the scope of OAC 901:3-6-01 will be referred to the local board of health. The rule is amended to remove references to farmers' markets.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including agricultural industry associations, retail food associations, 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 farm markets and farm product auctions. The adverse impacts created by the rules include registration with the Department to obtain an exemption from retail food establishment licensure. Registration of a market or auction requires compliance with sanitation standards, which include maintaining refrigeration units and toilet facilities, discarding unsafe foods, washing and sanitizing utensils and food contact surfaces, and hand washing by personnel. The Department states that the rule revisions reduce the regulatory burden on businesses by removing requirements for farmers' markets to register for exemption. The Department states that the adverse impacts created by the rules are necessary to prevent the spread of food borne illness and to 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.