



Ohio Department of Agriculture

The Rule-Making Process



September 15, 1999

**A GUIDE TO THE RULE-MAKING PROCESS
OF THE
OHIO DEPARTMENT OF AGRICULTURE**

REGULATORY MISSION

Ohio's Department of Agriculture has regulatory responsibility in four broad areas:

1. Ensuring the safety and wholesomeness of food and food products from production through processing and distribution to the consumer;
2. Ensuring that the goods and services purchased by farmers meet the standards established by law;
3. Ensuring the safe storage, handling and application of agricultural chemicals that can adversely affect the environment; and,
4. Control and eradicate plant and animal diseases that pose a threat to human health and the economic viability of agriculture.

In addition to the foregoing, the Department of Agriculture is responsible for regulating the sealing of weighing and measuring devices used in Ohio, inspection of amusement rides and carnival games, and overseeing the establishment and operation of agricultural commodity marketing and promotion programs.

DEPARTMENT ORGANIZATION

The Department has seven divisions which are directly responsible for the development and enforcement of administrative rules applicable to their areas of responsibility. These divisions and their primary areas of responsibility are:

1. **Division of Animal Industry.**

This division is responsible for the enforcement of rules governing the importation and intra-state movement of animals, and the eradication and control of animal diseases. The division also oversees the licensing and regulation of livestock dealers and renderers.

2. **Dairy Division.**

The processing of raw milk into Grade A milk and milk products such as cheese and ice cream is regulated by this division.

3. **Division of Food Safety.**

The inspection of food products, other than meat, poultry, and milk products, from processing through retail sale is carried out by this division. Inspection helps ensure that food products sold in Ohio are safe and wholesome and comply with labeling laws.

4. **Division of Meat Inspection.**

The processing of meat and poultry for food and food products is regulated by this division.

5. **Division of Plant Industry.**

This division is divided into five sections; Apiary, Pesticides, Plant Pest Control, Feed and Fertilizer and Grain Warehouse.

Collectively the first four sections are responsible for the accurate labeling of feeds, fertilizers, pesticides, and nursery stock being offered for sale. They are also responsible for the safe application, storage and handling of pesticides and fertilizers and the control and prevention of pests and diseases affecting both bees and plants. The division's Grain Warehouse section licenses and audits agricultural commodity dealers for financial integrity.

6. **Division of Ride Safety.**

Amusement rides and carnival games are licensed and inspected by this division.

7. **Division of Weights and Measures.**

All weighing and measuring devices used in commercial transactions in Ohio are inspected and tested for compliance with accuracy standards established by rule.

8. **Division of Markets.**

This division oversees the implementation and operation of agricultural commodity marketing programs adopted by farmers. It also manages the Ohio Proud marketing program.

RULE-MAKING AUTHORITY

As a state agency the Department of Agriculture does not have inherent authority to adopt rules. Authorization to do so must be expressly granted by the General Assembly and is found in the statutes that create the policies and programs the General Assembly intends the Department to carry out.

It is through rules, which have the force and effect of law, that the substantive details necessary to implement legislation are enacted.

STEPS IN THE RULE MAKING PROCESS AND PUBLIC PARTICIPATION

ORIGIN OF RULES

Rules are adopted by the Department either because they are required by newly enacted legislation or because existing rules, due to fundamental changes in a regulated subject area, no longer effectively implement the intent of the underlying legislation. In the latter case a proposal for rule changes may originate in a division or may come from an interested group outside the Department.

RULE DRAFTING

Initially rules are drafted by the division responsible for their enforcement. At this stage the Department has input from a number of different committees, created either by statute or ad hoc, trade associations and public interest groups that are representative of the different interest of people most directly affected by the rules.

REVIEW AND FILING

When completed, a draft of the rules is sent to the Department's legal section for review. If the rules are in accordance with law and formatted properly they are proposed for adoption and filed with the Joint Committee for Agency Rule Review, the Legislative Service

Commission, the Secretary of State and the Department of Development's Office of Small Business.

NOTICE AND AGENCY PUBLIC HEARING

At the time the rules are filed a public hearing is scheduled and notice is published in the Columbus Dispatch. Notice of the hearing and a copy of the rule is also sent to any organizations or persons the Department determines to be directly affected by the proposed rule. Copies of the rule are also sent to anyone who has notified the Department he or she wants to be notified and pays the cost of copying and mailing. In addition to the notices given by the Department, the Office of Small Business publishes a summary of the ruled filed with it and notice of the hearing in its newsletter.

At the Department's public hearing any person affected by the proposed rules may appear, testifying in person or through an attorney, or both, and may present his position either orally or in writing, offer and examine witnesses and present evidence in support of or in opposition to the proposed rule.

PUBLIC HEARING - JOINT COMMITTEE ON AGENCY RULE REVIEW

In addition to the Department's hearing, the Joint Committee on Agency Rule Review, a permanent legislative committee composed of members from both houses of the General Assembly, holds a public meeting in conjunction with its review of the proposed rules. The Committee's review is to ensure that:

- 1) the rules do not exceed the scope of the rule-making agency's statutory authority;
- 2) the rules do not conflict with a rule of that agency or another rule-making agency;
- 3) the rules do not conflict with the intent of the legislature in enacting the statute under which the rule is proposed; and,
- 4) the rule-making agency has prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission.

The open meetings serve a two-fold purpose. Committee members may question representatives from state agencies about any concerns they have regarding a rule and members of the public have an opportunity to bring any concerns they have to the Committee's attention.

The Committee's meeting dates and the rules on their agenda may be obtained from their website: www.jcarr.state.oh.us/ or by calling them at (614) 466-4086.

SUMMARY

While the Department has a legal duty to implement legislation through the adoption of rules, the Department needs and welcomes input from members of the public who are affected by the rules. Their expertise and perspective help assure the rules will have both a sound factual and legal basis.

Members of the public affected by Department rules may:

- Obtain copies of proposed rules and notice of public hearings by writing the Department and stating the type of proposed rules, by subject matter they wish to receive and paying the cost of copying and postage. Requests should be sent to:

Ohio Department of Agriculture
Legal Section / Rules
8995 East Main Street
Reynoldsburg, Ohio 43068

- Participation in the rulemaking process:

Indirectly - Through their representatives in various trade associations, boards and commissions and interest groups which help the Department formulate rules.

Directly - By testifying at the public meetings held by the Joint Committee on Agency Rule Review.

- By testifying at the public hearings held by the Department.