

# Ohio EPA Rules Development 101



## Ohio Water Environment Association

**Government Affairs Workshop  
March 10, 2011**



# Statutes – Ohio Revised Code



## Statutes – Ohio Revised Code

- Contain concepts of what can and cannot be done.
- Contain the broad baseline of what, in Ohio EPA's case, is needed to protect the environment.
- Grant the authority for the Director to adopt rules, based on specific processes also found in statute, to meet the goal of the statute involved.
- Establish the general concepts and goals of a program.

# Rules - Ohio Administrative Code



- Establish the details needed to meet the goals.
- Give Ohio EPA the tools to conduct permitting, inspection, and enforcement.
- Establish a level of clarity and consistency for people affected by the rules.

# Rules (continued)



- Establish the requirements for the protection of human health and the environment in Ohio.
- Give an agency the tools it needs to accomplish the goals set forth in statute.
- Measure whether the actions of an individual or company have violated the standards established to protect human health and the environment.

# Policies



- Are written clarifications or explanations of statute or rule.
- Do not have the force of law.
- Do not include:
  - Any educational guideline, suggestion, or case study regarding how to comply with statute or rule.
  - Any document or guideline regarding the internal organization or operation of the agency, including matters regarding administration, personnel, or accounting.

# Policies (continued)



- Shall comply with the statutes and rules that are in existence at the time the policy is established.
- Can not establish any new requirements.
- Must be established only at the central office of the Agency.
- Must be reviewed every five years.



# Rule-making Process

**The rule-making process may be lengthy and complex, but in general, there are standard steps involved in the adoption of rules at Ohio EPA.**

# Complexity of the process determined by:



- Number of impacted parties
- Level of public interest or controversy generated
- Type of changes being made



# Internal drafting and review



## Identifying the need for the rule change -

- Statutory requirements
  - Newly enacted laws
  - Amendments to current statutes
  - Compliance with current statutes
  - 5-year rule review requirement
- Changes to regulations at the federal level
- Judicial decisions
- Changes in environmental conditions

# Interested Party Review



- Once the draft rule is completed, it is posted on Ohio EPA's Web site. Interested parties are notified that the draft is available for review. A deadline for submitting comments is set by Ohio EPA.
- Designed to allow interested parties, stakeholders or citizens to make comments regarding the rule prior to adoption.
- Ohio EPA conducts the interested party review prior to filing the proposed rule with the Joint Committee on Agency Rule Review (JCARR).

# Consider Interested Party Comments



- Ohio EPA collects, reviews and considers each relevant comment, concern or question received during the draft review period.
- Based on the comments received, Ohio EPA may revise the draft rule as appropriate.
- The time needed to review and incorporate the comments received varies depending on the complexity of the comments.

# Propose Rules to JCARR



- Filed with Joint Committee on Agency Rule Review (JCARR), the Secretary of State, the Legislative Service Commission (LSC) and the Office of Entrepreneurship and Small Business.
- The filing starts the 65-day JCARR jurisdiction.
- Ohio EPA submits a Rule Summary and Fiscal Analysis (RSFA) with the proposed rule that provides a summary, states the legal basis, and includes estimates of the budgetary effect and the cost of compliance of the rule.

# Formal Comment Period and Hearing



- When the rule is proposed, Ohio EPA public notices the proposal and begins the formal comment period.
- The public comment period usually ends on the day of the public hearing.
- The hearing must be held between 31 and 40 days after rules are proposed filed.
- A public hearing is the public's opportunity to provide oral testimony or comments for the record.
- Those who choose not to provide oral testimony are encouraged to submit their comments in writing.

# JCARR Hearing



- Within the last 41 to 65 days of JCARR jurisdiction, JCARR holds a hearing to accept comments on the proposed rule.
- The hearing allows both the public and members of the committee to raise questions or testify for or against a proposed rule.
- Based on the comments received, JCARR may take action to stop the adoption of the rule for the duration of that general assembly.

# JCARR



## JCARR reviews the rules to ensure the following:

- The rules do not exceed the scope of the rule-making agency's statutory authority;
- The rules do not conflict with another rule of that agency or another rule-making agency;
- The rules do not conflict with the intent of the legislature in enacting the statute under which the rule is proposed; and,
- The rule-making agency has prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment or rescission (ORC 127.18) and, if the agency has incorporated text or other material by reference, the agency has met the standards stated in ORC sections 121.72, 121.75 or 121.76.

# Finalizing the Rule



- Following the 65-day JCARR jurisdiction, the director of Ohio EPA adopts the rule and establishes the date the rule becomes effective.
- Once the rule is adopted, it is subject to appeal.
- The adoption of the final rule is public noticed in the Register of Ohio and in Ohio EPA's Weekly Review.

# Public Involvement



- Sign up for the interested party list to receive notification of rule-making activities.
- Sign up for the State of Ohio's Rules E-Notification System at [www.business.ohio.gov/reform/](http://www.business.ohio.gov/reform/). Once registered, you will be notified electronically about agency rule actions.
- Review and comment on draft rules.
- Review the rule proposal and public hearing notices.
- Attend Ohio EPA and JCARR public hearings.

# Ohio EPA Rules and Laws Web Page



[www.epa.ohio.gov/Rules\\_and\\_Laws.aspx](http://www.epa.ohio.gov/Rules_and_Laws.aspx)

Translate this Web Site

**Ohio.gov** | Environmental Protection Agency

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## Ohio Environmental Protection Agency Rules and Laws

### Agency Links

[Divisions and Offices](#)  
[Topic Index](#)  
[Regulatory Ombudsman](#)  
[Rules and Laws](#)  
[Pollution Prevention](#)  
[Funding Sources](#)  
[Publications](#)  
[Public Records](#)

### Rules and Laws

This site is designed to allow you to access current and pending rules within our program divisions. It also includes links to rule packages which are cross program in nature.

Links to outside sites which may be of use to individuals interested in rules or the rule-making process are also included. These sites include the Register of Ohio, which contains all state agency rule proposal packages and the Joint Committee on Agency Rule Review, which is the legislative committee responsible for the review and processing of all state agency rules.

If you would like a hard copy of any of Ohio EPA's rules and regulations, please see the Office of Compliance Assistance and Pollution Prevention's "Getting Copies of Ohio EPA's

**Mandi Payton**  
Ohio EPA's Rules  
Coordinator

As rules coordinator, Mandi provides oversight of Agency rule review and processing and acts as the primary Agency contact with the Joint Committee on Agency Rule



Environmental Protection Agency

# Division Web Pages



Ohio EPA has seven major program divisions that implement environmental regulations.

- Air Pollution Control: [www.epa.ohio.gov/dapc/](http://www.epa.ohio.gov/dapc/)
- Drinking and Ground Waters: [www.epa.ohio.gov/ddagw/](http://www.epa.ohio.gov/ddagw/)
- Emergency and Remedial Response:  
[www.epa.ohio.gov/derr/](http://www.epa.ohio.gov/derr/)
- Environmental and Financial Assistance:  
[www.epa.ohio.gov/defa/](http://www.epa.ohio.gov/defa/)
- Hazardous Waste Management: [www.epa.ohio.gov/dhwm/](http://www.epa.ohio.gov/dhwm/)
- Solid and Infectious Waste Management:  
[www.epa.ohio.gov/dsiwm/](http://www.epa.ohio.gov/dsiwm/)
- Surface Water: [www.epa.ohio.gov/dsw/](http://www.epa.ohio.gov/dsw/)

# Other Resources



- Joint Committee on Agency Rule Review  
[www.jcarr.state.oh.us](http://www.jcarr.state.oh.us)
- E-Notification System  
[www.business.ohio.gov/reform](http://www.business.ohio.gov/reform)
- Register of Ohio  
[www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us)
- LAWriter  
<http://codes.ohio.gov/>

# For More Information



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Environmental  
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