

Regulations of Connecticut State Agencies

TITLE 22. Agriculture. Domestic Animals

Agency

Department of Agriculture

Subject

Description of Organization and Rules of Practice

Inclusive Sections

§§ 22-7-1—22-7-45

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Description of Organization and Rules of Practice

ARTICLE 1

DESCRIPTION OF ORGANIZATION

Part 1

Introduction

Sec. 22-7-1. Creation and authority

The department was established as a separate agency of the state government by section 22-1c of the 1971 noncumulative supplement to the general statutes of Connecticut. Section 22-6 of the 1971 noncumulative supplement to the general statutes of Connecticut describes the nature of the powers and duties of the commissioner. The department's powers are derived from the various statutes dealing generally with the grading and marketing of farm products, milk and poultry, as well as other activities related to agriculture and set forth primarily in title 22 of the Connecticut general statutes.

(Effective September 6, 1973)

Sec. 22-7-2. Location of principal office

The principal office of the department of agriculture is located at Hartford, Connecticut. All communications should be addressed to the Department of Agriculture, 765 Asylum Avenue, Hartford, Connecticut 06105, unless otherwise specifically directed.

(Effective September 6, 1973; Amended November 9, 1999)

Sec. 22-7-3. General duties and responsibilities

The department is charged with enforcing legislation intended to supervise and regulate the dairy industry, both in its production and marketing aspects, the regulation and licensing of livestock growers and dealers, including canines, the licensing of buyers of live poultry, and the licensing of the practice of veterinary medicine, surgery, and dentistry in the state and jurisdiction and control over all shellfisheries which are located in the state in accordance with Public Act 52 of the 1971 General Assembly.

(Effective September 6, 1973)

Part 2

Course and Method of Operation

Sec. 22-7-4. Commissioner of agriculture

The commissioner has the overall responsibility for the operation of the department. The deputy commissioner assists the commissioner and is the acting commissioner in his

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absence. In discharging his responsibilities, the commissioner may, by statute, delegate certain of his functions to a division of the department, to an individual division chief, or to an employee of the department.

(Effective September 6, 1973)

Sec. 22-7-5. Organizational structure and division of responsibilities

The department is composed of five divisions, the principal duties of which are as follows:

A. Livestock division—regulation and control of domestic animals.

Pursuant to sections 22-278 — 22-391 of the General Statutes of Connecticut, Rev. of 1958, as amended, the livestock division is responsible for the prevention, control, and eradication of transmissible diseases of domestic animals and poultry and the registration of pet shops.

B. Marketing — regulation and services in marketing products.

The marketing division supervises the registration and licensing of seed sellers, controlled atmosphere storages, and the buyers of live poultry. The division provides market news and statistical information to farmers, wholesalers, and consumers. Grading services and certificates of quality are provided for farms, wholesalers, and consumers. Users of this service pay a fee and licensing is under the auspices of the United States Department of Agriculture. Promotion of Connecticut farm products is another area of responsibility. Regulation work is done on seeds, egg products, sanitation on farm egg rooms, and surveillance of the distribution of eggs for consumer quality protection.

C. Dairy division — regulation and control of dairy farms and financial responsibility for licensing of stores and dealers.

The primary function of the dairy division is to inspect dairy farms and plants in the New England area for quality milk production and adherence to proper sanitation levels in its production. Samples are taken for bacteriological, chemical, and butterfat control analysis. The division is also charged with the administration of the Connecticut Milk Marketing Act and is responsible for licensing of milk dealers, auditing dealer producer payrolls, financial responsibility audits in determining bonding requirements of dealers when necessary, auditing Connecticut Milk for Health, Inc., and enforcement of the financial provisions of section 22-242b of the general statutes of Connecticut, Rev. of 1958, as amended, as pertains to dealers and stores licensed to sell milk and fluid milk products.

D. Aquaculture division — regulation and control of shellfish and related areas.

The aquaculture division has administrative responsibility for approximately 40,000 acres of leased, franchised, and natural shellfish areas in the waters of Long Island Sound. Responsibilities also include surveying state owned grounds, setting buoys, collecting water samples for pollution control, maintenance of signals to be used for location of the grounds and continuous inspection for production of shell fish, control of predators, and patrolling for law violators.

E. Marketing authority.

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The marketing authority provides facilities for the wholesale distribution of the state's agricultural products through operation of the regional market in Hartford and rental of merchandising space at this facility to distributors and producers of fruits, vegetables and other food products.

The Connecticut regional market strives to provide the consumer with the most efficient, economical and sanitary distribution of foodstuffs in Connecticut at no cost to the Connecticut taxpaying public.

(Effective September 6, 1973)

Part 3

Public Information

Sec. 22-7-6. Policy

The policy of the department is to make available for public inspection all files, records, documents and other materials within its possession, unless prohibited by law. A compilation of all regulations, policy statements, final orders, decisions, and official opinions is available for public inspection at the office of the commissioner.

(Effective September 6, 1973)

Sec. 22-7-7. Complaints and requests for information

(a) Complaints and requests for information should be addressed to the Department of Agriculture, 765 Asylum Avenue, Hartford, Connecticut 06105.

(b) Requests for information should be directed preferably to the appropriate division in possession of the information. Requests for information about the department generally should be addressed to the Department of Agriculture, 765 Asylum Avenue, Hartford, Connecticut 06105.

(Effective September 6, 1973; Amended November 9, 1999)

ARTICLE 2

RULES OF PRACTICE

Part 1

General Provisions

Sec. 22-7-8. Procedure governed

These rules govern practice and procedure before the department of agriculture under the applicable laws of the state of Connecticut and except where by statute otherwise provided.

(Effective September 6, 1973)

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Sec. 22-7-9. Definitions

- (a) “Commissioner” means the Commissioner of Agriculture.
- (b) “Department” means the Department of Agriculture.
- (c) “Division chief” means any departmental employee delegated by the commissioner as the head of a particular division of the department.
- (d) “License” includes the whole or part of any permit, approval, registration, or similar form of permission required by law to be issued by the department.
- (e) “Hearing” means that portion of the department’s procedure in the disposition of matters delegated to its jurisdiction by law wherein a presentation of evidence and argument occurs, which is preceded by due notice and which includes both an opportunity to present to the department such written and oral testimony and argument as the department deems appropriate and an opportunity to examine and cross-examine any witness giving testimony therein.
- (f) “Contested case” means a proceeding in the department’s disposition of matters delegated to its jurisdiction by law in which the legal rights, duties or privilege of a party are determined by the department after an opportunity for a hearing.
- (g) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
- (h) “Person” means any individual, corporation, political subdivision, governmental agency or authority, municipality, partnership, association, trust or estate, and any other entity, public or private, however organized.

(Effective September 6, 1973)

Sec. 22-7-10. Waiver of rules

Where good cause appears, the department may permit deviation from these rules, except where precluded by statute.

(Effective September 6, 1973)

Sec. 22-7-11. Procedure for the issuance, amendment or repeal of a regulation

- (a) Proceedings for the issuance, amendment, or repeal of regulation, including proceedings for the exemption of certain products or classes of products from statutory requirements, may be commenced by the department on its own initiative or pursuant to a petition submitted by an interested person.
- (b) Notice of the proposed issuance, amendment, or repeal of a regulation will appear in the Connecticut Law Journal at least twenty days prior to the proposed action. The notice will contain: (i) a statement of the purpose of the proposed action; (ii) a statement of the time, date and place of the public hearing or other opportunity for the presentation of views; (iii) reference to the statutory authority under which the department is acting; and (iv) a statement of the terms or substance of the intended action.
- (c) Adequate publicity will be provided by the department to assure that all interested parties have notice of the time, date and place of the public hearing or other opportunity for

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the presentation of views. The purpose is to afford an opportunity for all interested parties to participate in the proceedings through the submission of written or oral data, views, arguments, or suggestions.

(d) After any necessary revisions have been made, the proposed regulations will be forwarded to the Attorney General and to the Legislative Review Committee of the General Assembly for approval, as required under sections 4-169 and 4-170 of the General Statutes.

(e) The new regulation or the amendment or repeal of an existing regulation will become final following approval by the Attorney General and the Legislative Review Committee and certification thereof to the Secretary of State.

(f) When the department finds that an imminent peril to the public health, safety, or welfare so requires, it may adopt emergency regulations, as provided in section 4-168 (b) of the General Statutes.

(Effective September 6, 1973)

Sec. 22-7-12. Computation of time

Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the department is closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is five (5) days or less, the said Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

(Effective September 6, 1973)

Sec. 22-7-13. Extensions of time

At the discretion of the commissioner, for good cause shown, any time limit prescribed or allowed by these rules may be extended insofar as such extension is not precluded by statute. All requests for extension shall be made before the expiration of the period originally prescribed or as previously extended. The commissioner shall notify all parties of the department's action upon such motion.

(Effective September 6, 1973)

Sec. 22-7-14. Consolidation

Proceedings involving related questions of law or fact may be consolidated at the discretion of the commissioner.

(Effective September 6, 1973)

Sec. 22-7-15. Rejection for incompleteness

Any application or petition may be rejected by the department if it is incomplete or otherwise inadequate to permit processing or disposition thereof, unless prohibited by law.

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Any rejection under this section shall lapse any period of time prescribed by statute or by rule which begins to run when a person files a petition or application with the department. Any such period of time shall begin anew when a person resubmits a petition or application after prior rejection under this section. Any rejection under this section is without prejudice and is not a final decision by the department. Nothing in this section shall restrict the department from requiring additional information from an application or petitioner if his application or petition is accepted.

(Effective September 6, 1973)

Part 2

Formal Requirements

Sec. 22-7-16. Office

The principal offices of the department is 765 Asylum Avenue, Hartford, Connecticut 06105. The offices of the department are open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and legal holidays.

(Effective September 6, 1973; Amended November 9, 1999)

Sec. 22-7-17. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other documents governed by these rules, shall be deemed to have been filed or received on the date on which they are issued or received by the department at its principal offices.

(Effective September 6, 1973)

Sec. 22-7-18. Identification of communications

Communications should embrace only one matter, should contain the name and address of the communicator and the subject of the communication.

(Effective September 6, 1973)

Sec. 22-7-19. Signatures

Every application, notice, motion, petition, complaint, brief and memorandum shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective September 6, 1973)

Sec. 22-7-20. Formal requirement as to documents and other papers filed in proceedings

(a) **Copies.** Except as may be otherwise required by these rules or by any other rules or regulations of the department or ordered or expressly requested by the department, at the

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time motions, petitions, applications, documents or other papers are filed with the department, there shall be furnished to the department an original of such papers. In addition to the original there shall also be filed three (3) copies unless a greater or lesser number of copies is expressly requested by the department.

(b) **Form.** Except for such forms as may from time to time be provided by the department and used where appropriate, motions, petitions, applications, documents or other papers filed for the purpose of any proceeding before the department shall be printed or typewritten on paper cut or folded to either letter or legal size, 8 to 8½ inches wide. Width of margins shall be not less than one inch. The impression shall be on only one side of the papers, unless printed, and shall be double spaced except that quotations in excess of five (5) typewritten lines shall be single spaced and indented. Mimeographed, multigraphed, photo-duplicated or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.

(c) **Filing.** All papers relating to matters requiring action by the department shall be filed with the Commissioner, 765 Asylum Avenue, Hartford, Connecticut 06105.

(Effective September 6, 1973; Amended November 9, 1999)

ARTICLE 3

CONTESTED CASES

Part 1

Parties and Participation

Sec. 22-7-21. Designation of parties

In issuing a notice for a hearing, the commissioner will name as parties those persons entitled to be parties by law.

(Effective September 6, 1973)

Sec. 22-7-22. Application to be designated a party

(a) **Filing of petition.** Any other person who proposes to be named or admitted as a party to any proceeding shall file a written petition to be so designated not later than five (5) days before the date of the hearing of the proceeding as a contested case.

(b) **Contents of petition.** The petition shall state the name and address of the petitioner. It shall describe the manner in which the petitioner claims to be substantially and specifically affected by the proceeding. It shall state the contention of the petitioner concerning the issue of the proceeding, the relief sought by the petitioner, and the statutory or other authority therefor, and the nature of the evidence, if any, that the petitioner intends to present in the event that the petition is granted.

(c) **Designation as party.** The commissioner shall consider all such petitions and will name or admit as a party any person whose legal rights, duties or privileges will be

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determined by the decision of the department after a hearing, if the commissioner finds such person is entitled as of right to be a party to said contested case or that the participation of such person as a party is necessary to the proper disposition of said contested case.

(Effective September 6, 1973)

Sec. 22-7-23. Procedure concerning added parties

(a) **During hearing.** In addition to the designation of parties in the initial notice and in response to petition, the department may add parties at any time during the pendency of any hearing upon its finding that the legal rights, duties or privileges of any person will be determined by the decision of the department after the hearing or that the participation of such person as a party is necessary to the proper disposition of the contested case.

(b) **Notice of designation.** In the event that the commissioner shall name or admit any party after service of the initial notice of hearing in a contested case, the commissioner shall give written notice thereof to all parties theretofore named or admitted. The form of the notice shall be a copy of the order of the commissioner naming or admitting such added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(Effective September 6, 1973)

Part 2

Hearing, General Provisions

Sec. 22-7-24. Place of hearings

Hearings shall be held at times and locations specified by the commissioner pursuant to statute.

(Effective September 6, 1973)

Sec. 22-7-25. Notice of hearings

(a) **Persons notified.** The commissioner shall give written notice of a hearing in any pending matter to all parties, to all persons otherwise required by law to be notified, to such other persons as have filed with the commissioner their written request for notice of a hearing in a particular matter, and to such additional persons as the commissioner deems appropriate and advisable. The commissioner shall give such notice by newspaper publication as may be required by law.

(b) **Contents of notice.** Notice of a hearing shall include but shall not be limited to the following: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; (4) a short and plain statement of fact describing the nature of the hearing and the principal facts to be asserted

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therein.

(Effective September 6, 1973)

Sec. 22-7-26. Representation of parties

Each person making an appearance before the commissioner as an attorney, agent or representative of any person, firm, corporation or association subject to the department's regulatory jurisdiction in connection with any contested case shall promptly notify the commissioner in writing in order that the same may be made a part of the record of the contested case.

(Effective September 6, 1973)

Sec. 22-7-27. Informal conferences

(a) The commissioner, the deputy commissioner, or any one of the division chiefs, as required by law or otherwise, may call in a party for an informal conference concerning alleged violations of any statutes administered by the department.

(b) Notification of such an informal conference shall be by certified mail. The notice shall contain (i) a statement of the time, date, and place of the conference; (ii) a reference to the statutory sections allegedly violated; (iii) a short statement of the facts surrounding the alleged violation; and (iv) a statement that the respondent may be accompanied by counsel, if he so desires.

(c) Informal conferences need not be recorded and transcribed. Formal rules of procedure and evidence shall not be observed.

(d) Informal conferences will not be publicized and press coverage of such proceedings is prohibited. This is to preclude possible adverse inferences against a party innocent of any wrongdoing.

(e) Any agreement reached as a result of an informal conference shall not preclude the department from further proceedings against the alleged violator. If the latter party desires a formal ruling concerning the practice in question, he may submit to the commissioner a request for a declaratory ruling, pursuant to Section 22-7-10.

(Effective September 6, 1973)

Sec. 22-7-28. Attorney defined

As used in these rules, the word "attorney" shall mean an attorney at law, duly admitted to practice before the Superior Court of the State of Connecticut. Any other person who appears before the department in any contested case shall be deemed to have appeared as the agent or representative of a person, firm, corporation or association and, as such, shall file with the written notification of appearance the written authorization of the person, firm, corporation or association being represented and shall be fully bound to proceed in accordance with these rules in the contested case.

(Effective September 6, 1973)

Sec. 22-7-29. Rules of conduct

Where applicable, the canons of professional ethics and the canons of judicial ethics adopted and approved by the judges of the Superior Court govern the conduct of the department, state employees serving the department, and all attorneys, agents, representatives, and any other persons who shall appear in any proceeding or in any contested case before the department in behalf of any public or private person, firm, corporation or association.

(Effective September 6, 1973)

Part 3

Hearings, Procedure

Sec. 22-7-30. General provisions

(a) **Purpose of hearing.** The purpose of the hearing in a contested case shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the department.

(b) **Uncontested disposition of case.** Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default upon order of the commissioner. Upon such disposition a copy of the order of the commissioner shall be served on each party.

(Effective September 6, 1973)

Sec. 22-7-31. Record in contested case

(a) The record in each contested case shall be maintained by the department in the custody of the commissioner and shall include the following: (1) any notices, petitions, applications, orders, decisions, motions, briefs, exhibits, and any other documents that have been filed with the department or issued by the department in written form; (2) all written evidence of any kind received and considered by the department; (3) a statement of any matters officially noticed by the commissioner including reference to prior decisions and orders of the commissioner; (4) any questions and offers of proof, together with any objections and rulings thereon during the course of the hearing; (5) any proposed finding of fact, proposed decisions, supporting memoranda, and exceptions that have been filed by any party; (6) any memoranda or data submitted by the department staff to the department in connection with the department's consideration of the case; (7) the transcript of the hearing. The department will not be required to set forth as a separate item any of the foregoing which may have been duplicated and incorporated in some other portion of the record.

(b) A copy of the record shall also be available at all reasonable times for examination by the public without cost.

(Effective September 6, 1973)

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Sec. 22-7-32. Filing of added exhibits

Upon order of the commissioner before, during or after the hearing of a case, any party shall prepare and file added exhibits and testimony. Notice of the filing of such additional material shall be given to all parties by the party submitting the said material.

(Effective September 6, 1973)

Sec. 22-7-33. Repealed

Repealed August 27, 1990.

Sec. 22-7-33a. Rules of evidence

The following rules of evidence shall be applied at hearings on contested cases within the Department of Agriculture:

(a) **General.** No formal rules of evidence shall govern proceedings in a contested case before the Department of Agriculture. It is within the discretion of the Commissioner or the hearing officer to receive any oral or documentary evidence, but the Commissioner or the hearing officer shall exclude any evidence deemed to be irrelevant, immaterial or unduly repetitious. Documentary evidence may be received in the form of copies of excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if the original is readily available, and such comparison will not unduly delay the hearing. All evidence shall be taken in the presence of the Commissioner or the hearing officer. The Commissioner or the hearing officer may request such additional information as is deemed necessary to render a decision. In order to enter a document or record into evidence at the hearing, the party must identify the document or record and must allow it to be marked. The party offering the exhibit shall provide one copy for the Commissioner or the hearing officer and one copy for each party. Other parties will be allowed to inspect the document or record and to state any objections to the proposed exhibit. If an objection is overruled, the Commissioner or the hearing officer shall receive the document or record into evidence. It is solely the function of the Commissioner or the hearing officer to assess the weight and credibility of the witnesses and evidence. All evidence admitted and the names and addresses of all witnesses shall be made a part of the record of the proceeding.

(b) **Cross Examination.** The Commissioner or the hearing officer may allow such cross-examination of witnesses as may be required for a full and true disclosure of the facts.

(c) **Facts Noticed.** The Commissioner or the hearing officer, on their own initiative or at the request of any party, may take notice of judicially cognizable facts, including prior decisions and orders of the Commissioner or the Department of Agriculture, or of generally recognized technical or scientific facts within the Department of Agriculture's or their own specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by appropriate reference in preliminary reports or otherwise, of the material noticed. The Commissioner or the hearing officer shall nevertheless employ the experience, technical competence, and specialized knowledge of the Department of Agriculture in evaluating the evidence presented at the

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hearing for the purpose of making findings of the facts and arriving at a decision in any contested case.

(Effective August 27, 1990)

Sec. 22-7-34. Order of procedure at hearings

The order of procedure at hearings shall be determined by the commissioner and furnished to the parties at the beginning of the hearing. In a case where the opening portion has already been submitted in written form as provided by these rules, the hearing may open with cross-examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross-examination at the time and place directed by the department, all of such written testimony may be discarded and removed from the record at the direction of the department.

(Effective September 6, 1973)

Sec. 22-7-35. Limiting number of witnesses

To avoid unnecessary cumulative evidence, the commissioner may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(Effective September 6, 1973)

Part 4

Hearings, Decision

Sec. 22-7-36. Filing of proposed findings of facts and briefs

At the conclusion of the presentation of evidence in any hearing the commissioner shall fix a time within which any party may file proposed findings of facts and briefs.

(Effective September 6, 1973)

Sec. 22-7-37. Final decision

(a) **Procedure and contests.** All decisions and orders of the commissioner concluding a contested case shall be in writing. The decision shall include all findings of fact and conclusions relied upon by the commissioner in arriving at his decision, the findings of fact and law to be separately stated. The finding of fact shall also set forth a concise and explicit statement of the underlying facts supporting the findings of fact, where appropriate. In any contested case where the commissioner has required any party to submit proposed findings of fact, the decision shall further include a ruling by the commissioner on each proposed finding. In the event, however, that such a proposed finding of fact has been submitted by any party without such requirement or order of the commissioner, then the commissioner's decision may omit a ruling on any findings so proposed.

(b) **Service.** A copy of the decision or order of the commissioner shall be served by mail

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to each party and to his attorney of record.

(Effective September 6, 1973)

Sec. 22-7-38. Original records

Any person shall, upon direction of the commissioner, furnish and make available for the use of the commissioner the original books, papers and documents on which he has relied. If so directed, or permitted, certified or verified copies shall be furnished in lieu of such original records.

(Effective September 6, 1973)

ARTICLE 4

MISCELLANEOUS PROCEEDINGS

Part 1

Petitions Concerning Adoption of Regulations

Sec. 22-7-39. General rule

These rules set forth the procedure to be followed by the commissioner in the disposition of petitions concerning the promulgation, amendment, or repeal of a regulation.

(Effective September 6, 1973)

Sec. 22-7-40. Form of petitions

Any interested person may at any time petition the commissioner to promulgate, amend, or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments either in the petition or in a brief annexed thereto. The petition shall be addressed to the commissioner and sent to him by mail or delivered in person during normal business hours. The petition shall be signed by the petitioner and shall furnish the address of the petitioner and the name and address of petitioner's attorney, if applicable.

(Effective September 6, 1973)

Sec. 22-7-41. Procedure after petition filed

(a) **Decision on petition.** Upon receipt of the petition the commissioner shall within thirty (30) days determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

(b) **Procedure on denial.** If the commissioner denies the petition, he shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts, and arguments submitted with the petition by the petitioner and upon such additional data, facts,

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and arguments as the commissioner shall deem appropriate.

(Effective September 6, 1973)

Part 2

Requests for Advisory Rulings

Sec. 22-7-42. General rule

These rules set forth the procedure to be followed by the department in the disposition of requests for declaratory rulings as to the applicability of any statutory provision or of any regulation or order of the department. In its discretion the department may hold an informal conference for fact finding purposes relating to such requests. Such a ruling of the department disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the department in a contested case.

(Effective September 6, 1973)

Sec. 22-7-43. Form of petition for advisory ruling

Any interested person may at any time request an advisory ruling of the department with respect to the applicability to such person of any statute, regulation or order enforced, administered, or promulgated by the department. Such request shall be addressed to the department and sent to the commissioner by mail or delivered in person during normal business hours. The request shall be signed by the person in whose behalf the inquiry is made. It shall give the address of the person inquiring and the name and address of such person's attorney, if applicable. The request shall state clearly and concisely the substance and nature of the request; it shall identify the statute, regulation or order concerning which the inquiry is made and shall identify the particular aspect thereof to which the inquiry is directed. The request for an advisory ruling shall be accompanied by a statement of any supporting data, facts, and arguments that support the position of the person making the inquiry.

(Effective September 6, 1973)

Sec. 22-7-44. Procedure after petition filed

(a) **Notice to other persons.** The commissioner may give notice to any person that such an advisory ruling has been requested and may receive and consider data, facts, arguments, and opinions from persons other than the person requesting the ruling.

(b) **Provision for hearing.** If the commissioner deems a hearing necessary or helpful in determining any issue concerning the request for advisory ruling, the commissioner shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of article 3 govern the practice and procedure of the department in any hearing concerning an advisory ruling.

(c) **Decision on petition, ruling denied.** If the commissioner determines that an advisory ruling will not be rendered, the commissioner shall within ten (10) days thereafter notify

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the person so inquiring that the request has been denied and furnish a statement of the reasons on which the commissioner relied in so deciding.

(d) **Decision on petition, ruling granted.** If the commissioner renders an advisory ruling, a copy of the ruling shall be sent to the person requesting it and to that person's attorney, if applicable, and to any other person who has filed a written request for a copy with the commissioner.

(Effective September 6, 1973)

Part 3

Miscellaneous Provisions

Sec. 22-7-45. Intervention under the Environmental Protection Act of 1971

Any person or other legal entity authorized by and qualifying under the provisions of Public Act 96 of the 1971 General Assembly to intervene in any proceeding before the department shall do so in accordance with the provisions of these rules and regulations as they may be applicable and as they may hereafter be amended.

(Effective September 6, 1973)