

4-5-17 Authority to make and enforce rules.

- (1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
- (2) Hearings authorized or required by this chapter shall be conducted by the department or by an officer, agent, or employee designated by the department.
- (3)
 - (a) Except as provided by Subsection (3)(b), all pesticide chemical regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.
 - (b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations promulgated under the federal act.
- (4)
 - (a) Except as provided by Subsection (4)(b), all food additive regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.
 - (b) The department may adopt a rule that prescribes conditions under which a food additive may be used in this state whether or not in accordance with regulations promulgated under the federal act.
- (5) All color additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.
- (6)
 - (a) Except as provided by Subsection (6)(b), all special dietary use regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the special dietary use rules in this state.
 - (b) The department may, if it finds it necessary to inform purchasers of the value of a food for special dietary use, prescribe special dietary use rules whether or not in accordance with regulations promulgated under the federal act.
- (7)
 - (a) Except as provided by Subsection (7)(b), all regulations adopted under the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.
 - (b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary in the interest of consumers, prescribe package and labeling rules for consumer commodities, whether or not in accordance with regulations promulgated under the federal act.
 - (c) The department may not adopt rules that are contrary to the labeling requirements for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).
- (8)
 - (a) A federal regulation automatically adopted according to this chapter takes effect in this state on the date it becomes effective as a federal regulation.
 - (b) The department shall publish all other proposed rules in publications prescribed by the department.
 - (c)
 - (i) A person who may be adversely affected by a rule may, within 30 days after a federal regulation is automatically adopted, or within 30 days after publication of any other rule, file with the department, in writing, objections and a request for a hearing.
 - (ii) The timely filing of substantial objections to a federal regulation automatically adopted stays the effect of the rule.
 - (d)

- (i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.
 - (ii) The effective date shall be at least 60 days after the time for filing objections has expired.
- (e)
- (i) If timely substantial objections are made to a federal regulation within 30 days after it is automatically adopted or to a proposed rule within 30 days after it is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.
 - (ii) Any interested person or his representative may be heard.
- (f)
- (i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.
 - (ii) The order shall be based on substantial evidence in the record of the hearing.
- (g)
- (i) If the order concerns a proposed rule, it may withdraw it or set an effective date for the rule as published or as modified by the order.
 - (ii) The effective date shall be at least 60 days after publication of the order.
- (9) Whenever a regulation is promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

Amended by Chapter 179, 2007 General Session