

# \*\*\*DRAFT - NOT FOR FILING\*\*\*

## 901:4-6-01 Definitions.

As used in rules 901:4-6-01 to 901:4-6-06 of the Administrative Code:

- (A) "Advertisement" means any written, printed, verbal or graphic representation, or combination thereof, of any product with the purpose of influencing consumer opinion as to the characteristics, qualities or image of the commodity, food, feed, or fiber except labeling information as required by any government;
- ~~(B) "Board" means the advisory committee appointed by the director to advise the Ohio department of agriculture, marketing division, in administering the Ohio proud program;~~
- ~~(C)~~ (B) "Department" means the Ohio department of agriculture.
- (C) "Director" means the director of the Ohio department of agriculture, or his designee~~;~~.
- (D) "Label" means any written, printed, or graphic design that is placed on, or in near proximity to, any product whether in the natural, processed state or any combination thereof~~;~~.
- (E) "License" means the written agreement through which the Ohio department of agriculture grants authorization to use the Ohio proud logo.
- (F) "Logotype" and "Ohio proud logo" mean the Ohio department of agriculture registered trade marks~~;~~.
- (G) "Market category" means a group of similar products designated by the director of agriculture as a distinct category~~;~~.
- (H) "Ohio proud program" and "program" mean the promotional certification program authorized by section ~~901:171~~901.171 of the Revised Code~~;~~.
- (I) "Person" means any natural person, corporation, partnership, association, or society~~;~~.
- (J) "Processed" means any significant change in the form or identity of a raw product through, by way of example but not limited to, breaking, milling, shredding, condensing, cutting or tanning.
- (K) "Product" means any agricultural commodity, processed food, feed, fiber, or combinations thereof~~;~~.
- (L) "Produced in Ohio" means:
  - (1) That for processed products fifty per cent or more of the product by weight, if sold by weight, by measure, if sold by measure, by number, if sold by count, were grown, raised or processed in Ohio.
  - (2) That for raw products one hundred per cent of the product by weight, if sold by weight, by measure, if sold by measure, by number, if sold by count, were grown or raised in Ohio provided that upon recommendation from the board and acceptance by the director a lesser per cent may be allowed for a product, but in no event less than fifty per cent.
- (M) "Promotion" means any enticements, bonuses, discounts, premiums, giveaways, or similar encouragements that influence consumers' opinions regarding a product.

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**901:4-6-03 Application, registration, licensure, and market categories.**

- (A) Persons wishing to participate in the Ohio proud program shall:
- (1) Apply to the director of agriculture for a license on the forms provided by the department, provide all of the information required on the forms and any additional information if requested;
  - (2) Submit to the department:
    - (a) A product registration application for each product they will market in conjunction with the logotype providing all of the information requested on the forms and any additional information requested by the director; and,
    - (b) A signed license agreement; and,
    - (c) The actual employment or a facsimile of the actual employment of the logotype in complete content; and,
    - (d) The product registration fee set by rule 901:4-6-05 of the Administrative Code; and,
    - (e) If requested, samples of products with which the logotype will be used.
- (B) Upon compliance with [paragraph \(A\)](#) ~~paragraphs (A)(1), and (A)(2)~~ (of this rule, and approval the actual employment of the logotype, and the product for marketing in conjunction with the logotype, a license to the applicant, register the product, and approve the employment of the logotype will be issued.
- (C) ~~Each~~ product registered under this rule shall expire on December 31<sup>st</sup> of each calendar year. To continue use of the logotype in conjunction with a product, registration must be renewed and the registration fee paid within thirty days immediately preceding the expiration date.
- (D) Products, whose registration is not renewed, may, if in the channel of distribution at expiration date, continue to be marketed in conjunction with the logotype until either sold or otherwise removed from the channel of distribution, or for one year, whichever occurs first. Products which have not been sold or otherwise removed from the channel of distribution at the end of the one year period must discontinue use of the logotype or withdrawn from distribution.
- (E) Upon expiration of a product registration or termination of a license agreement, except as provided in paragraph (D) of this rule, the licensee shall cease any and all use of the logotype in conjunction with those products for which the registration has expired or the license been terminated.
- (F) The director of agriculture shall designate market categories for products and publish a schedule of the market categories and products within each market category.

**901:4-6-04 Use of logotype, standards.**

- (A) The Ohio proud logo may only be used on labels and in advertising and promotion:
- (1) Of products which have been produced in Ohio and which; [and](#),
  - (2) Meet or exceed United States department of agriculture grade standards or Ohio grade standards,

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whichever is higher, for the intended end use of the product; and,

- (3) Are produced and processed in compliance with applicable state and federal laws and regulations enacted to ensure the safety and wholesomeness of agricultural products; and,
  - (4) Are registered with the Ohio department of agriculture in accordance with rule 901:4-6-03 of the Administrative Code; and,
  - (5) By persons who have entered into a licensing agreement with the Ohio department of agriculture to use the logo.
- (B) ~~If application has been made to use the logotype in conjunction with a product~~ Products for which there is no United States department of agriculture or Ohio grade standard, then a grade standard established by that product's industry may be used as the grade standard for that product.
- (C) The Ohio proud logo shall not be used on any products which are sub standard.
- (D) Upon request of the department, ~~Any any~~ person licensed to use the logotype shall, ~~upon request of the director of agriculture~~, submit a representative sample of the products from the market category registered ~~for use with the logotype~~, and copies of the materials utilizing the logotype.
- (E) License to use the Ohio proud logo may not be sold, franchised, or otherwise transferred to any other person.

## 901:4-6-05 Fees.

- (A) A fee of ~~twenty-five~~ fifty dollars shall accompany the first application for registration of a product within a market category as defined in rule 901:4-6-01 of the Administrative Code. Thereafter no fee shall be required for registration of additional products within a market category. If an application is rejected for any reason, the fee shall be returned.

~~All applications received after June first of any given calendar year, are subject to a pro-rated licensing fee. The pro-rated fee will only be granted to a company in their first year of participation in the Ohio proud program.~~

- (B) All applications received and approved after October first of any calendar year are valid until December thirti-first of the following calendar year with no additional application fee.

- ~~(B)~~ (C) All monies received from product registration fees and the sale of logotypes and promotional materials shall be credited to a dedicated rotary fund and used to finance the Ohio proud program.

## 901:4-6-06 Advisory board. **TO BE RESCINDED.**

- ~~(A) The director may, with the approval of the governor, establish and appoint a board to advise the marketing division regarding the administration of the Ohio proud program.~~
- ~~(B) The board shall be composed of persons who are actively associated with the agricultural industry and shall include by way of example but, not be limited to, producers, processors, wholesalers, retailers, distributors,~~

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~~and commodity and trade association directors.~~

~~(C) The director may, with just cause, remove any member of the advisory board and at the director's discretion, fill the vacancy with another representative of an appropriate industry.~~