

# GUIDE TO PUBLIC PARTICIPATION IN AGENCY RULE-MAKING



## The Ohio Department of Commerce

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[www.com.state.oh.us](http://www.com.state.oh.us)

### I. The Ohio Department of Commerce mission and vision statements:

- The Department of Commerce's **mission** is to fulfill our legal obligations to safeguard the public, while striving to regulate commerce in a reasonable, fair, and efficient manner.
- The Department of Commerce's **vision** is to enhance Ohio's future by providing fair, consistent regulation that balances maximum benefit for the public with minimal intrusion on business.

### II. How the agency is organized to achieve its regulatory mission:

The Ohio Revised Code (the statutes of the State of Ohio) is drafted by the legislature with input from the public, interested groups, and the agency having regulatory oversight. The administrative rules assist an agency in implementing the statutes that are primarily drafted for the agency. This handbook is to assist you in understanding

the administrative rules process with regard to the various divisions within the Department of Commerce. Please keep in mind that this material is an overview of the respective statutes, and that it cannot replace a more detailed review of the statutory provisions themselves.

**Division of Administration  
77 South High Street, 23<sup>rd</sup> Floor  
Columbus, Ohio 43215-6123**

This division is the service entity for Commerce. Housed in Administration are Communications, Computer Services, Fiscal, Human Resources, Records Management, Legislative, Legal, and Quality/Training. The contact for the Division of Administration regarding the rule making process is Ryan R. Augsburger, chief legislative liaison. Mr. Augsburger can be contacted by phone at (614) 644-8341 or by e-mail at [Ryan.Augsburger@com.state.oh.us](mailto:Ryan.Augsburger@com.state.oh.us).

**Division of Financial Institutions  
77 South High Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215-6120**

This division is responsible for the examination, supervision, and regulation of Ohio-chartered banks, savings and loans, savings banks, and credit unions. It is also responsible for licensing finance companies, pawnbrokers, mortgage brokers, credit service organizations, check cashing services, precious metals dealers, and premium finance companies. The contact for the Division of Financial Institutions is James F. Hunt, Jr., division legal counsel. Mr. Hunt can be contacted by phone at (614) 466-6434 or by e-mail at [jfhunt@com.state.oh.us](mailto:jfhunt@com.state.oh.us). The following citations refer to statutory provisions which grant rule-making authority to the Division of Financial Institutions: *R.C. 1121.03, R.C. 1733.41, R.C. 1761.04, R.C. 1163.24, R.C. 1155.20, R.C. 1359.09, R.C. 1315.27, R.C. 1315.43, R.C. 4712.14, R.C. 1321.77, R.C. 1322.12, R.C. 1321.54, R.C. 4727.13, R.C. 4728.10, R.C. 1321.10, R.C. 1121.05, R.C. 1733.412, R.C. 1155.18, and R.C. 1163.22.*

**Division of Industrial Compliance  
6606 Tussing Road  
P.O. Box 4009  
Reynoldsburg, Ohio 43068-9009**

This division houses four bureaus. The Bureau of Construction Compliance includes Industrialized Units, Plumbing, Pressure Piping, and the Structural and Electrical Permit and Plan Approval Sections. The Bureau of Operations and Maintenance houses the Backflow, Bedding and Upholstered Furniture, and the Boiler and Elevator Inspection Sections. The Bureau of Licensing and Certification includes the

Steam Engineers Section. The division also registers travel agents/tour promoters. In addition, the Division of State Fire Marshal's Bureau of Underground Storage Tank Regulations (BUSTR), the Board of Building Standards, the Board of Building Appeals, the Ohio Construction Industry Examining Board, and the Ski-Tramway Board are housed within this division. The contact for Industrial Compliance is William E. Leber, division legal counsel. Mr. Leber can be contacted at (614) 728-5974 or by e-mail at [bill.leber@com.state.oh.us](mailto:bill.leber@com.state.oh.us). The following citations refer to statutory provisions which grant rule-making authority to the Division of Industrial Compliance: *R.C. 3703.02, R.C. 3703.06, R.C. 3713.04, R.C. 4105.12, R.C. 4105.13, R.C. 4739/05, R.C. 4739.09, and R.C. 4739.12.*

**Division of Labor and Worker Safety**  
**50 West Broad Street, Suite 2800**  
**Columbus, OH 43215**

The Division of Labor and Worker Safety administers and enforces Ohio's prevailing wage, minimum wage, and minor labor laws. Additionally, it provides comprehensive consultation services to public and private entities in an effort to make Ohio workplaces free from safety hazards.

Ohio's prevailing wage law applies to construction projects undertaken by public authorities and requires them to pay the locally prevailing wages to workers on the project. The division's field staff conducts routine inspections of workplaces throughout the state, providing information and educating employers and employees on their rights and responsibilities, and pursues those employers who violate the law. They also ensure compliance with the labor laws, investigate complaints, and pursues those employers who violate the law.

The division also maintains the Public Employment Risk Reduction Program (PERRP) and the On-Site Program. PERRP provides "no fee, no risk" on-site safety inspection, safety training and hazard recognition at an employer's request for all public employees except firefighters, peace officers, EMTs, paramedics and correctional officers in county and municipal facilities.

The contact person for Labor and Worker Safety is Gordon J. Gatien, Superintendent. Mr. Gatien can be contacted by telephone at (614) 995-5869 or by e-mail at [Gordon.gatien@wagehour.com.state.oh.us](mailto:Gordon.gatien@wagehour.com.state.oh.us). The following citations refer to statutory provisions which grant rule-making authority to the Division of Labor and Worker Safety: *R.C. 4111 and R.C. 4115.*

**Division of Liquor Control  
6606 Tussing Road  
P.O. Box 4005  
Reynoldsburg, Ohio 43068-9005**

This division is responsible for controlling the manufacture, distribution, and sale of all alcoholic beverages in the state. As the sole purchaser and distributor of spirituous liquor, which is sold through contracted private agencies, the division generates significant sales and tax revenues for the state. Regulatory functions include the issuance of permits to the state's 24,000 privately owned and operated manufacturers, distributors, and retailers of alcoholic beverages, as well as industry compliance with the laws relating to the manufacture, importation, and distribution of beer and low-proof mixed beverages. This division is also in charge of the approval of any labels that are placed on bottles of beer and wine. The contact person for Liquor Control is Peter D. Patitsas, division legal counsel. Mr. Patitsas can be contacted by phone at (614) 644-2483 or by e-mail at ppatitsa@com.state.oh.us. The following citations refer to statutory provisions which grant rule-making authority to the Division of Liquor Control: *R.C. 4301.101, R.C. 4301.102(B), R.C. 4301.14(A), and R.C. 4301.22.*

**Division of Real Estate & Professional Licensing  
77 South High Street, 20<sup>th</sup> Floor  
Columbus, Ohio 43215-6133**

This Division licenses and regulates real estate brokers and salespersons, certifies real estate appraisers and auctioneers, and registers foreign real estate brokers and salespersons, and certified appraisers. This division also registers active cemeteries and regulates private investigators and security guards. The contact person for Real Estate and Professional Licensing is Kristin E. Rosan, division legal counsel. Ms. Rosan can be contacted by phone at (614) 466-5803 or by e-mail at KERosan@com.state.oh.us. The following citations refer to statutory provisions which grant rule-making authority to the Division of Real Estate and Professional Licensing: *R.C. 4763.03, R.C. 4763.09, R.C. 4735.10, R.C. 5302.30, R.C. 4707.19, R.C. 4767.02, R.C. 4767.06, R.C. 4749.02, R.C. 4735.57, and R.C. 4735.73.*

**Division of Securities  
77 South High Street, 22<sup>nd</sup> Floor  
Columbus, Ohio 43215-6131**

This division's mission is to provide the investing public with protection from unfair and fraudulent practices in the securities industry while at the same time promoting capital formation in Ohio. In addition to licensing securities salespersons and investment advisers, the division offers a broad spectrum of investor education materials. The term "security", under Ohio law, is broadly defined and includes

stocks, bonds, debentures, options, commercial paper, and other types of debt and equity investments. The contact person for the division regarding the rule-making process is Debbie Dye Joyce, Commissioner of Securities. Commissioner Dye Joyce can be contacted by calling (614) 644-7435 or by sending an e-mail message to [debbie.dyejoyce@com.state.oh.us](mailto:debbie.dyejoyce@com.state.oh.us). Revised Code 1707.20 is the division's statutory authority for promulgating rules.

**State Fire Marshal  
8895 East Main Street  
Reynoldsburg, Ohio 43068**

This division houses the Ohio Fire Academy, the Investigations Bureau, the Fire Forensic Laboratory, the Fire Prevention Bureau, the Code Enforcement Bureau, and the Bureau of Underground Storage Tank Regulation (BUSTR). The State Fire Marshal's Office enforces the Ohio Fire Code, investigates the cause and origin of fires and explosions and conducts fire prevention programs. BUSTR regulates underground storage tanks. The contact person for the Fire Marshal's Office is Timothy C. Thompson, division legal counsel. Mr. Thompson can be contacted by phone at (614) 752-2073 or by e-mail at [tethomps@com.state.oh.us](mailto:tethomps@com.state.oh.us). The following list of citations refer to statutory provisions which grant rule-making authority to the Division of the State Fire Marshal: *R.C. 119.03, R.C. 3701.82, R.C. 3731.02, R.C. 3737.22(A)(1), R.C. 3737.82, R.C. 3737.83, R.C. 3737.84, R.C. 3737.842, R.C. 3737.85, R.C. 3737.86, R.C. 3741.14, R.C. 3743.05, R.C. 3743.18, R.C. 3750.12, R.C. 3737.88, R.C. 3737.881, R.C. 3737.882, R.C. 119.03.*

**Division of Unclaimed Funds  
77 South High Street, 20<sup>th</sup> Floor  
Columbus, Ohio 43215-6108**

This division is responsible for the collection, safekeeping, and return of monies designated as "unclaimed". Common sources of unclaimed funds include dormant bank accounts, unpaid insurance policies, unreturned utility and rent deposits, undelivered and uncashed dividends and shares of stock, uncashed checks, and forgotten layaway deposits. The contact person for Unclaimed Funds is Kimber L. Cole, division legal counsel. Ms. Cole can be contacted by phone at (614) 644-6226 or by e-mail at [KLCole@com.state.oh.us](mailto:KLCole@com.state.oh.us). The following statutory citation grants rule-making authority to the Division of Unclaimed Funds: *R.C. 169.09.*

**III. The Ohio Department of Commerce has both internal and external processes in the promulgation of administrative rules.**

- Internal Process – Each division of the department must follow a three step process in promulgating administrative rules:

- 1) Each division must receive approval from the Director for the proposed policy changes (Note: The Division of Financial Institutions is independent of the Director with regard to chartered financial institutions.).
  - 2) Each division drafts its own rules and completes a rule summary and fiscal analysis for each rule drafted.
  - 3) Once a draft is complete, the rule is forwarded to our division of Administration for approval by the Chief Legal Counsel, Chief of Policy, the Legislative Chief and ultimately by the Director. All rules must be approved by the administration one week before initial filing.
- External Process – Once a draft administrative rule has gone through the Department’s internal process, the division responsible for the rule does the following:
- 1) Seeks comment from interested parties; “See Endnote”
  - 2) Reviews and considers interested party comments;
  - 3) Schedules a public hearing on the rule within 31 to 40 days from the initial filing of the rule;
  - 4) Provides public notice that a hearing on the rule will occur with specific information on the content, time, place and manner;
  - 5) Files the rule, fiscal analysis and rule summary in accordance to the Legislative Service Commission and Electronic Rule Filing requirements;
  - 6) Holds a public hearing and considers comments received during public hearing;
  - 7) Attend the Joint Committee on Agency Rule Review (JCARR); and
  - 8) Files the final administrative rule in accordance with Legislative Service Commission electronic rule filing system.

#### **IV. Opportunities for public participation in the rulemaking process:**

The Ohio Department of Commerce cannot realize its regulatory mission without input from those sought to be regulated and from the public generally. Obtaining and integrating relevant input from the public is a critical element in producing effective rules.

- Opportunities for public participation may, depending on the particular departmental division and statutory process involved, include some or all of the following:
- 1) Interested party review and comment;
  - 2) Public information sessions;
  - 3) Publication and response on agency web pages;
  - 4) Discussion with agency advisory groups;
  - 5) Discussion with groups representing industries regulated.
- Interested party review/comment and public notice and hearing are formal processes that are required by law. They allow members of the public and of the regulated community a chance to make comments for the official administrative record.

- The public hearing testimony will be recorded by the agency. Persons affected by proposed rules may present their positions at the hearing orally or in writing, or both. Written presentations may also be made within a reasonable time before or after a public hearing. Those who submit written positions are not required to personally appear at the agency rules hearing.
- Notice of the agency rules hearing is published in the legal notice section of local newspapers and agency/division web pages. In addition, the agency mails public notice to any persons who specifically requests such notice as interested parties. If you wish to be placed on such a mailing list, please contact the particular division within Commerce that is involved.
- One office within Commerce, the Bureau of Underground Storage Tank Regulation, may also, as a result of the environmental component involved in its rules, be required to consult with organizations representing political subdivisions, environmental interests, business interests, and other persons affected, and to consider documentation relevant to the need for, environmental costs or benefits of, other benefits of, and/or technological feasibility of proposed rules.
- Thus, persons wishing to participate in the Commerce rule process may do so by sending in written comments, appearing and giving testimony at an agency rule hearing, attending a public information session or an agency advisory group meeting, submitting electronic messages via the internet, or through representative organizations.

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\* R.C. §3737.896(c) also requires our Division of State Fire Marshal to file the proposed rule with the Chairman of the State Fire Commission. The State Fire Marshal cannot formally adopt a rule until after comment has been received from the State Fire Commission or 60 days has elapsed, whichever first happens. Finally, the State Fire Marshal further provides public notice of rules activity in the division newsletter or in a “Fire Safety Alert”.

\* Pursuant to Am. Sub. H.B. 106 of the 121<sup>st</sup> General Assembly (R.C. §121.39), prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, the State Fire Marshal’s Bureau of Underground Storage Tank Regulation shall:

- 1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- 2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- 3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.