

Overview of Our Rulemaking Process

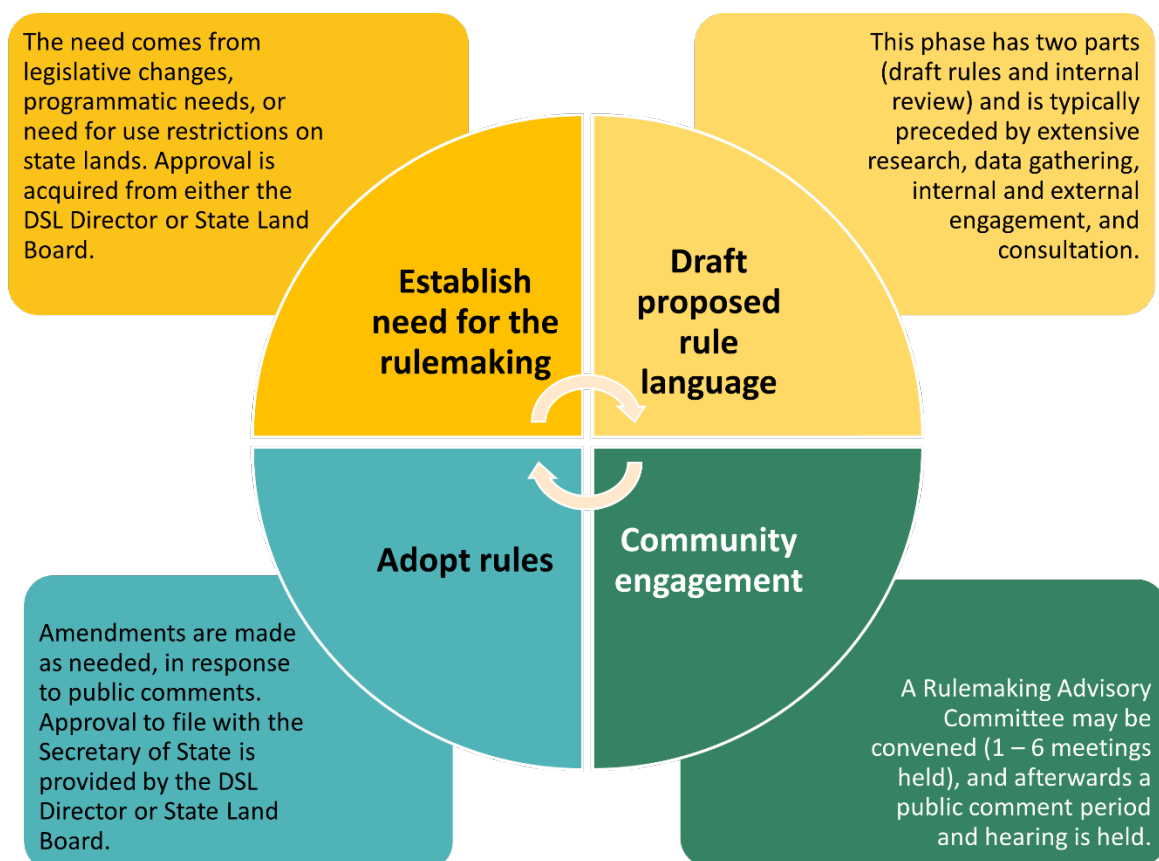
Oregon Department of State Lands

Oregon Administrative Rules determine how the Department of State Lands (DSL) and other state agencies operate, including how they interpret and implement state laws. Administrative rules can also describe agency practices and policies.

Rules may be adopted, amended, repealed, suspended, or renumbered through a process known as “rulemaking”. Our rulemaking process offers several opportunities for people and organizations to provide feedback, including:

- A Rulemaking Advisory Committee (RAC), representing those who may be impacted or have an interest, helps shape rule language.
- Tribal governments are invited to be involved with rulemaking that may affect Tribal members or resources of interest.
- Oregonians are invited to weigh in and may sign up to receive email updates, attend RAC meetings, provide written comments, or testify during a public hearing.

All materials from the rulemaking process are posted to DSL’s website at <https://www.oregon.gov/dsl/Pages/rulemaking.aspx>. These materials include RAC meeting summaries and recordings, the Notice of Proposed Rulemaking, and public comments along with agency responses, and more. After proposed rules have been approved and filed with the Secretary of State, those rules become adopted. This is an overview of the typical process for the permanent rules we file:



Step 1: Establish the Need for Rulemaking

Estimated time: Varies

There are three primary reasons DSL may initiate rulemaking:

1. **Legislative changes:** When the Legislature passes a bill requiring DSL to implement a new program or modify existing ones.
2. **Programmatic changes:** Changes identified by DSL staff as they continuously work to enhance our programs, better serve our customers, minimize environmental impacts, and promote restoration and ecological enhancement.
3. **Emergency closures or use restrictions:** Public land access may need to be restricted to protect public safety and the health of lands managed by DSL.

Once staff identify a need for rulemaking, the management team sets priorities with Deputy Director and Director approval. The rulemaking coordinator then schedules rulemaking projects based on timelines, scope, and urgency. If State Land Board approval is required, then DSL seeks its approval before proceeding.

Step 2: Draft Proposed Rule Language

Estimated time: 4 – 6 months

This phase has two parts and is typically preceded by extensive research, data gathering, internal and external engagement, and consultation to inform the need and scope of the rules:

1. **Draft rules:** Once approval to begin rulemaking has been granted, program specialists work with program staff to draft proposed language.
2. **Internal review:** Draft language is presented to managers for review and approval before being sent to the Department of Justice for further review.

Step 3: Community Engagement

Estimated time: 3 – 12 months

Once draft rule language is ready for review, the community engagement phase typically occurs in three major steps:

1. **Community engagement preparation:** Prepare outreach materials, manage invitations to the committee, and if applicable, contract a facilitator (1 - 3 months)
2. **RAC meetings:** Host 1 – 6 RAC meetings, which occur monthly (1 – 6 months)
3. **Public comment period:** Open and notice a public comment period (2 – 3 months)

For most rulemakings, DSL convenes a Rulemaking Advisory Committee (RAC). The size of the RAC and the complexity of the draft rule language determines how long each step takes and how many RAC meetings are held. However, DSL may not convene a RAC if the rulemaking purpose is to conform DSL rules to rules adopted by other agencies or for rules that codify documents previously vetted through a public review process and approved by a governing body.

In convening the RAC, staff begin by identifying community and partner interests and where on the spectrum decisions might impact or interest them. This process supports targeted public noticing for the comment period and the outcome of decisions, as well as forming advisory committees. Concurrently, DSL considers the impacts to Tribal governments and offers formal consultation or staff-to-staff coordination to impacted Tribes.

Following the conclusion of the RAC, the public comment period begins when the Secretary of State publishes the Notice of Proposed Rulemaking in the Oregon Bulletin. DSL provides a minimum 30-day comment period and, for rulemakings with significant statewide impact, holds at least one public hearing. If the issue is local, such as with public use restrictions on state-owned land, that hearing is held in-person in the impacted area.

Step 4: Adopt Rules

Estimated time: 1 – 3 months (plus additional time if the effective date is later than the date of filing)

Once the public comment period closes, there are quite a few steps until the rules are adopted:

1. **Review & Revisions:** Program specialists review comments and adjust the proposed rules as needed.
2. **Internal Review:** The revised rules go to DSL managers, Deputy Directors, and the Director for review.
3. **Approval Authority:**
 - a. The State Land Board approves rules under its authority and provides a decision at a Land Board meeting.
 - b. The DSL Director approves all other rules.
4. **Final Filing:** Once approved, the Rulemaking Coordinator files the rules with the Secretary of State.

Most rules take effect upon filing, but DSL may set a later date—typically for major rule changes—to allow for public communication and planning. Upon adoption, program staff take any steps needed to implement the changes such as targeted customer communication and updating related program materials.