

Rulemaking Review



Rules Advisory Committee

RULE TITLE

AGENCY RAC LEAD • Date of RAC

What is a rule?

1. A directive, standard, regulation or statement
2. Of general applicability
3. That implements, interprets or prescribes law or policy, or
4. That describes the procedure or practice requirements of any agency

ORS 183.310(9)

Where are rules found?

- **Oregon Administrative Rules (OAR)**-the official compilation of rules & regulations having the force of law in Oregon can be found at http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx
- The rules are compiled & issued annually by the **Secretary of State's Archives Division**
- Monthly updates, including notice of *intended* rule action, are available in the **Oregon Bulletin** <http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html>

When is a rule required?

- Statutory mandate
- To interpret broad statutory authority
- To amend, suspend, or repeal existing rule

Tip: Statute generally mandates what while a rule mandates how (implementation)

When is a rule NOT required?

- When the requirements of the legislation are clear enough to administer without rulemaking.
- When the agency merely interprets an existing rule

Rule Advisory Committee Purpose

- To involve the public in the development of public policy
- To represent the interests of persons likely to be affected by the rule
- To meet DHS and OHA requirements

*A RAC's role is **advisory** only.*

Permanent Rulemaking Process

- Agency notifies **rules coordinator** of rulemaking content and timeline
- Agency seeks public input prior to rulemaking
 - Appoints **Rules Advisory Committee** (RAC)
- Agency provides notices to legislators, “interested parties,” and public
- Agency attempts to limit fiscal impact on entities, including small businesses

Permanent Rulemaking Process

- Agency conducts public hearing and provides opportunity for oral testimony and comments on proposed rules (rulemaking record)
- Agency considers all input and finalizes rules
- Agency submits final rules to Secretary of State

Statement of Need & Fiscal Impact

- Justification narrative
- Estimates the financial impact on interested persons or entities, primarily agencies and small businesses

RAC Considerations

- Read and understand the enabling statute (ask questions!)
- Stay focused
- Stay in our “lane” – understand a RAC’s authority is limited by the statute
- Too much specificity can box us all in
- Too little specificity leads to confusion and inability to meet goals of legislation