

# THE RULEMAKING PROCESS

## 1. What is rulemaking?

The process of developing or modifying regulations is called rulemaking. Rulemaking by state agencies is governed by the Administrative Procedures Act (ORS Chapter 183) and the Attorney General's administrative rules (OAR 137-001-0007 through OAR 137-001-0100.)

There are three major phases in the typical rulemaking process:

### Announcement Phase

During a monthly OLCC Commission meeting, Commission staff presents any proposed changes to the Oregon Administrative Rules. The OLCC Commissioners then vote to initiate rulemaking by directing staff to begin drafting, amending or repealing certain rules. This is called an "Initial Action" and a notice is sent via email to the rulemaking lists and posted upon the Commission's website after any Commission action.

### Proposal Phase

Upon approval by the Commissioners to engage in rulemaking, Commission staff convenes a group of subject matter experts, called a "Rules Advisory Committee" to advise Commission staff. The Committee, which consists of industry members and agency staff, reviews staff's proposed language and provides feedback on possible fiscal impacts related to the changes.

Commission staff then uses the input provided by the Committee to refine rule language and submit a notice of rulemaking to the Secretary of State. The notice includes the proposed amendments, a fiscal impact statement and a deadline for interested parties to submit comments. The notice may also contain a date and time for a public hearing, which provides the public an opportunity to inform staff how the proposed rules may affect them or their business. After the hearing, the public is given at least two weeks to comment on the proposed rules. This public notice is sent to the OLCC rulemaking notice list and an announcement of rulemaking is published in the monthly Oregon Bulletin. These notices can be found online on the Secretary of State's website. To be added to OLCC's rulemaking list, please visit OLCC's website.

Once all the comments are received, OLCC staff evaluates the need to adjust rule language based upon the comments received.



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OLCC's mission is to support businesses, public safety, and community livability through education and the enforcement of liquor and marijuana laws.

## **Adoption Phase**

The final draft of the rules is sent to the OLCC Commissioners for approval. At a monthly Commission meeting, Commissioners consider all the public comments received and decide whether to adopt or amend the rule or to send it back to staff for further work. If the Commissioners decide to approve the rules, they generally become effective the first day of the month following the meeting. They are also published online.

## **2. How do I submit a comment about a proposed rule?**

When draft language for a rule is announced, it is published both in the Oregon Bulletin and on the OLCC website. A draft of the proposed rules is also emailed to the OLCC rulemaking notice list. Important details about the proposed rule(s) will be included, such as:

- A brief description of the rulemaking
- The rule numbers associated
- A copy of the proposed rule text
- Agency contact information for the rulemaking
- The date, time, and location of the public hearing(s)
- The public comment deadline and the process to submit comments

## **3. Who can initiate rulemaking?**

### **• OLCC Staff**

Most often, Commission staff initiates rulemaking to amend existing rules to update rule language.

### **• The Legislature**

The legislature may create a law that directs the OLCC to write rules to implement the new law. Depending on the law, the legislature might instruct the OLCC to write rules concerning program implementation, fees, applications, violations, or other items.

### **• The Public**

Individuals or groups may initiate rulemaking through a process called, "petitioning." For the petition to be accepted for consideration it must contain certain legally required sections, such as:

- Facts and arguments supporting the proposed rule
- Comments on the complexity of the rule
- Technology and economic factors
- A draft of the proposed rule language

Without all the required parts of the petition, it cannot be accepted. Therefore, it is important to carefully review ORS 183.390 and OAR 137-001-0070 to be sure that a complete and accurate petition is submitted.

## **4. How long does the rulemaking process generally take?**

The rulemaking process can take 6 months to a year. There are specific wait-times set in statute at different stages in the process that all state agencies must follow. For example, a public hearing cannot be held until notice of that hearing has been published for 14 days. These wait-times are important safeguards so that those affected by the proposed rules have ample time to consider the rules and comment.