



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

February 11, 2022

RE: Notice of Rulemaking and Request for Input

Last month, the Attorney General (“AG”) modified the Model Public Contracting Rules (“Model Rules”) that specify procedures for public contracting under the Public Contracting Code by filing temporary rules adopting OAR 137-049-0805 (pertaining to diesel engine requirements in certain public improvement contracts) and amending OAR 137-049-0120 (definitions used in public contracts for construction services). Copies of these Division 49 temporary rules are attached, including rule summaries and the amendments to OAR 137-049-0120.

The AG is now initiating permanent rulemaking to replace both temporary rules, which expire in July of this year. She is also considering establishing a Rules Advisory Committee (“RAC”) to assist with that process and is seeking your input regarding the membership of a potential RAC.

ORS 279A.065(1) requires the AG to consult with the Director of the Oregon Department of Administrative Services, the Director of Transportation, representatives of county and city governments, representatives of school boards, and other knowledgeable persons before permanently adopting or amending the Model Rules. In addition, the following two new rulemaking requirements imposed by House Bill 2993 (2021) (“HB 2993”) apply to rulemaking notices filed on or after January 1, 2022: (1) Members of an agency’s RACs and fiscal impact advisory committees must “represent the interests of persons and communities likely to be affected by the rule.” HB 2993, Section 1; and (2) Agencies must include a “statement identifying how adoption of the rule will affect racial equity in the state” on all rulemaking notices. HB 2993, Section 2.

We are requesting your assistance with identifying persons and communities, including people from Black, Indigenous, and People of Color communities, likely to be affected by this permanent rulemaking. We’re also asking that you point us to other knowledgeable persons who can provide information about how the proposed permanent adoption of OAR 137-049-0805 and amendments to OAR 137-049-0120 will affect racial equity in the State of Oregon. Please send your responses to these inquiries to [2022PCCCleanDieselRulemaking@odoj.onmicrosoft.com](mailto:2022PCCCleanDieselRulemaking@odoj.onmicrosoft.com) by February 17, 2022.

The information you provide will help the AG decide whether to establish a RAC or seek public input by other means. In either event, we’ll be reaching out to you in the coming weeks with additional information about this rulemaking process. We have dedicated a page on the AG’s

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website to this rulemaking process and encourage you use the following link to obtain further information: <https://www.doj.state.or.us/oregon-department-of-justice/client-resources/attorney-generals-model-public-contracting-rules-2022-revisions/>

Thank you very much for your help.

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