

Rulemaking Advisory Committee

OAR 141-088-0250

Oregon Department of State Lands
April 11, 2023



Meeting Participation Protocols

- Each person, both present in-person and on Zoom, who wishes to speak will be asked to raise their hand.
 - For Zoom Participants
 - To raise your hand, click the reactions near the bottom of your screen and click “raise hand” or by pressing star 9 if you are on the phone.
 - *For technical support, please message us in the chat.*
 - Please keep your mic muted unless it is your turn to speak.
- Members will be called in the order in which hands are raised.
- We ask that all participants be respectful of each other and DSL representatives.



Rulemaking Process

- The need for rulemaking is established and proposed rule language is drafted.
- The Department convenes a Rulemaking Advisory Committee.
 - The draft rule language is reviewed and approved.
 - The draft “Need for the Rules,” “Fiscal Impact Statement,” and “Racial Equity Statement” are reviewed and approved.
- A Notice of Proposed Rulemaking is published by the Secretary of State in the Oregon Bulletin.

Rulemaking Process

- A public comment period is open for 30 days following the publication of the Notice.
- A public rule hearing is held approximately 15 days after the Notice is published.
- The proposed rule language presented to either the State Land Board or the Department's Executive Director for final approval.
- The approved rule language is filed with the Secretary of State.



RAC Operating Principles: Purpose and Roles

- Duties and Responsibilities of RAC Members
 - Advise the Department on proposed rule language.
 - Group is an advisory board.
 - Role is to provide advice and frame policy choices.
 - Attending and participating in the meeting.
 - Studying available information and providing input.
 - Consider a range of issues and options to:
 - Address them,
 - Discuss the pros and cons,
 - Seek to develop recommendations.

RAC Operating Principles: Responsibilities

- Members are responsible for:
 - Reviewing background materials to understand the issues for discussion at the RAC meeting.
 - Working collaboratively with one another to explore issues and develop recommendations.
 - Considering the perspectives and input of other stakeholders and the public and including them in recommendations as appropriate.

RAC Operating Principles: Membership and Term of Service

- Group membership and term of service is at DSL's discretion.
- Membership is intended to represent a diversity of expertise, skillsets, and viewpoints.
- Members may be represented by alternates, and must provide notice to the rules coordinator, rules writer, or facilitator at least 24 hours before the meeting.

RAC Operating Principles: Department Role

- Provide technical and administrative support, information, institutional knowledge and expertise, and advice to the RAC.
- Responsible for scheduling meetings, preparing meeting summaries, and maintaining a public record of the RAC process.

RAC Operating Principles: Facilitator Role

- It is the responsibility of the facilitator to:
 - Ensure a safe, welcoming environment where all members can participate.
 - Conduct meetings to foster collaborative decision-making and consensus building.
 - Distribute meeting summaries that outline the topics discussed, the areas where there is agreement, and any remaining issues on which agreement was not reached.

RAC Operating Principles: Facilitator Role

- The facilitator will not act as an advocate on behalf of any issue, interest group, or member.
- While the facilitator may make recommendations regarding the process, they will not make any substantive decisions.

RAC Operating Principles: Facilitator Role

- Information disclosed in confidence will be kept confidential by the facilitator, though written communications may be subject to public records law.
- RAC members are encouraged to approach the facilitator if/when procedural issues arise.

RAC Operating Principles: Operating Procedure Protocols

- Members agree to:
 - Act in good faith through all aspects of the RAC process.
 - Attend all meetings.
 - Direct any requests for information made outside of meetings to the designated contacts.
 - Be respectful of other members, interested parties, staff, and members of the public.
 - Make every effort to address their concerns with the group.

RAC Operating Principles: Operating Procedure Protocols

- Members agree to:
 - Ensure any written communications regarding the RAC or rulemaking process are mindful of these procedural ground rules and are respectful, even if highlighting different perspectives.
 - Generally defer to DSL for all media communications related to the group's process and recommendations, and represent only their own perspective in interviews unless otherwise discussed with the group or DSL.
 - Raise all concerns, especially those being discussed for the first time, at RAC meetings and not in or through the media.

RAC Operating Principles: Operating Procedures

- A consensus model will be used to facilitate decision-making and ensure the RAC benefits from the individual views, experiences, background, training, and expertise of the members.
- Consensus is a participatory process where the RAC members strive for recommendations that they can accept, support, live with, or agree not to oppose.

RAC Operating Principles: Operating Procedures

- Expectations for the decision-making process include:
 - Members agree on the value of consensus; the group should strive to achieve it. As such, recommendations will be made by consensus of all present members.
 - Members agree to compromise and work together to find workable solutions in the commitment to achieving consensus.
 - Those with differing recommendations are responsible for proposing alternative solutions or approaches to resolve differences.
 - Meetings will be conducted in a way that fosters collaborative decision-making and consensus building.
 - Members will honor decisions made and avoid re-opening issues once resolved.
 - When consensus cannot be reached, the facilitator may invite documentation of differing opinions or viewpoints.

RAC Operating Principles: Public Meetings and Records

- RAC meetings are considered public meetings and are open to the public.
- RAC members should be advised that all rulemaking records, including formal documents, rule drafts, meeting summaries and exhibits, meeting recordings, and communications, are public records and may be released in response to a public records request.
 - “Communications” refers to all statements and votes made during meetings, memoranda, work projects, emails and correspondence, and documents or materials developed to fulfill the goals of the rulemaking.

RAC Operating Principles: Interested Parties

Interested parties are:

- Nonvoting meeting attendees.
- Invited to observe, but not permitted to participate during RAC member discussion.
- Able to provide a timed comment, as time allows, after RAC members have concluded business.

At a later date, after the RAC process has concluded, DSL will invite public comments on the proposed rules and will hold a public hearing, prior to consideration and adoption.



Rulemaking Purpose and Scope

Over the course of several years beginning in 2014, the Department of State Lands Director enacted emergency restrictions of public use of Crump Lake in southern Lake County. The Department has received numerous reports from local law enforcement, tribal members and local citizens of activities associated with damaging natural resources and removing cultural and archaeological resources. Activities of concern are driving vehicles across the lakebed, removing and defacement of cultural and archaeological resources. Most recently, in August of 2022, an emergency closure order was issued by DSL Director Vicki Walker. The restrictions are currently in effect until this permanent rule is established. Revisions to OAR 141-088 are needed to address illegal and nuisance activity on state-owned land. These activities include but are not limited to removal and damage to cultural and archaeological resources; driving vehicles across the lakebed; damage to riparian vegetation and wildlife habitat; interference with property; and damage to property.



Draft Rule Language

141-088-0250

Restrictions for State-Owned Property on Crump Lake in Lake County

All state-owned lands under the jurisdiction of the Oregon Department of State Lands that are located within and around Crump Lake, when water levels have receded to the point such that the lakebed soil surface is exposed immediately south of Tern Island, located at 42°17'2.84"N, 119°50'38.46"W are closed to:

- (1) All access by motorized vehicles or pedestrian traffic.
- (2) The collection, removal, defacement, or destruction of any archaeological site, objects or artifacts including arrowheads, as defined by ORS 358.905(1)(a).

Excepted from this restriction are government personnel on official business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining fences.

All public access routes will be posted when an official closure through this rule is enacted.



Crump Lake Closure Triggering Event

