

# Rulemaking Advisory Committee

## OAR Division 141-090

Meeting #1  
Oregon Department of State Lands  
October 20, 2022  
10:00 a.m.



# Welcome and Introductions

Peter Ryan  
and  
Steve Faust



# Agenda

## Zoom Protocols

Steve Faust



# Agenda

- Welcome and Introductions
- Agenda Review and Zoom Protocols
- Rulemaking Process
- RAC Operating Procedures and Role
- Rulemaking Purpose and Scope
- Summary and Next Steps

# Zoom Protocols

- Raise your hand to provide a comment:
  - Click the Reactions icon near the bottom of your screen and click “raise hand”
  - Press “star-9” if you are on the phone.
- Members will be called in the order in which hands are raised.
- Keep your mic muted unless it is your turn to speak.
- Be respectful of each other and DSL representatives.

*For technical support, please message us in the chat.*



# Rulemaking Process

Danielle Boudreaux



# Rulemaking Process

- The need for rule revisions is established and proposed changes are drafted.
- The Department convenes a Rulemaking Advisory Committee.
  - The draft rules are 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 rules are presented to either the State Land Board or the Department's Executive Director for final approval.
- The approved rules are filed with the Secretary of State.



# RAC Operating Principles and Procedures

Danielle Boudreaux



# RAC Operating Principles: Purpose and Roles

## Duties and Responsibilities of RAC Members

- Advise the Department on rule amendments to OAR 141-090.
  - Group is an advisory board.
  - Role is to provide advice and frame policy choices.
- Attend and participate in meetings.
- Study available information and provide input.
- Consider a range of issues and options in order 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 RAC meetings.
- Working collaboratively with one another to explore issues and develop recommendations.
- Considering the perspectives and input of other stakeholders and the public and including those 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: Tentative Schedule of Meetings

## Meeting 1: October 20, 2022

- Purpose: Review the RAC role and purpose, the rulemaking process, any background information, and the project purpose and scope.

## Meeting 2: Early November 2022

- Purpose: Review and provide recommendations on the draft rules.

## Meeting 3: Mid November 2022

- Purpose: Review and provide recommendations on the draft fiscal impact statement, racial equity statement, and summary of rulemaking.

## Meeting 4 (if necessary): Early December 2022



# 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.
- The facilitator will provide coordination between meetings, serving as the primary communicator between RAC members and between the RAC and the Department.



# 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: Role of Interested Parties

- Individuals or organizations who want to stay informed about the rulemaking process.
- May include Department employees and external stakeholders who are providing technical feedback.
- Interested parties are nonvoting advisors and may provide written feedback after the meeting.

# 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 rulemaking.

# Rulemaking Purpose and Scope

Peter Ryan





# Reasons for Updating Delineation Rules

- Last updated in 2013.
- DSL's Aquatic Resource Coordinators asked for more information for permitting purposes.
- Rules need general cleanup and editing.

## Division 90 Rulemaking – Proposed Changes Include

- Remove all references to the independent review process per Oregon Laws 2012, c. 108, § 2, which sunsetted on January 2, 2022.
- Add new requirements for identifying, describing, and mapping Cowardin, HGM, ARSC types, CWM sites, and Wetlands Below OHW.
- Add new requirement for submitting GIS data for delineation mapping.
- Add 6 new definitions
- Edit and clean up language throughout rule

# Division 90 Rulemaking – Some Specific Examples

## New definitions:

- ARSCs
- Fill, and Removal
- GIS
- SWI
- Uplands

## Cleanups and Edits:

- Substitute “tax lot” for “parcel”
- Substitute SWI for other inventories
- Change “precision” to “accuracy”
- Add additional reason for rejection

# Summary Next Steps

Steve Faust



# Future Meeting Dates

## Meeting #2 Options:

- November 1<sup>st</sup>, afternoon
- November 2<sup>nd</sup>, afternoon
- November 3<sup>rd</sup>, morning

## Meeting #3 Options:

- November 15<sup>th</sup>, afternoon
- November 16<sup>th</sup>, afternoon
- November 17<sup>th</sup>, morning or afternoon

# Adjourn

