



OAR 141-090 RAC Meeting #4 Summary

Monday, January 9, 2023 – 1:00 p.m. to 3:00 p.m.

Overview

The OAR 141-090 Rulemaking Advisory Committee was convened by the Oregon Department of State Lands on January 9, 2023, via Zoom. The RAC was convened to provide input on proposed amendments to the administrative rules for wetland delineation report requirements and for jurisdictional determinations for the purpose of regulating fill and removal within waters of the state.

RAC Members and Attendance

Name	Affiliation	Present?
Members		
Allen Martin	Geo Resources	Y
Brad Livingston	Oregon Department of Transportation	Y
Jessica Dorsey	City of Hillsboro; League of Oregon Cities	Y
Jodi Forgione	Schott & Associates, Inc.	Y
John van Staveren	The Wetlands Conservancy; Pacific Habitat Services, Inc.	
Branden Pursinger	Association of Oregon Counties	
Lauren Poor	Oregon Farm Bureau	Y
Phil Scoles	Terra Science, Inc.	Y
Stacey Reed	AKS Engineering & Forestry	Y
Katie Ryan	The Wetlands Conservancy	
Samantha Bayer	The Oregon Home Builders Association	
Ed Strohmaier	Tetra Tech	
Staff/Advisors		
Bill Ryan	DSL, Deputy Director	
Danielle Boudreaux	DSL, Rules and Records Coordinator	Y
Pete Ryan	DSL, Project Manager	Y
Lynne McAllister	DSL, Jurisdiction Coordinator	Y
Dana Hicks	DSL, Planning & Policy Manager	
Steve Faust	3J Consulting, Inc., Facilitator	Y
Interested Parties		
Melanie O'Meara	US Army Corps of Engineers	
Chris Stevenson	DSL, Jurisdiction Coordinator	
Daniel Evans	DSL, Jurisdiction Coordinator	
Jess Salgado	DSL, Jurisdiction Coordinator	
Jevra Brown	DSL, Jurisdiction Coordinator	Y
Matt Uritis	DSL, Jurisdiction Coordinator	
Dan Antonson	DSL, GIS Specialist	Y

Name	Affiliation	Present?
Members		
Ariel Nelson	League of Oregon Cities	

Welcome and Introductions

Discussion of Draft Rules

Rule 141-090-0035

Steve Faust, Facilitator, welcomed everyone and Peter Ryan, DSL Project Manager, read through proposed rule changes in the track changes document revised since the last RAC meeting. The revisions discussed included:

1. 141-090-0035(5) – the new GIS requirement.
2. 141-090-0035(7)(b) & (12)(e)(c) & (14)(f)(D) – the new requirement to identify, describe, and map wetland classifications (Cowardin and HGM)
3. 141-090-0035(12)(c) – the addition of the Antecedent Precipitation Tool to the requirements for providing precipitation data.

Following RAC consensus that revisions discussed under items 2 and 3 were acceptable, the remainder of the discussion focused on revisions to the new GIS requirements. Members received a draft copy of the proposed GIS data description prior to the meeting, and the discussion started with RAC members asking why DSL needed some of GIS layers and attributes requested in that document. The draft data description document includes 17 GIS layers. Members cautioned DSL that providing this additional GIS information will increase the cost for preparing delineation reports. Members also asked DSL why it needs the new information. Peter explained that some of the information is needed to improve the Statewide Wetlands Inventory (SWI) map and the rest is help staff review reports.

RAC members asked DSL if it could revise the draft rule requirements so that only a subset of the GIS layers (Cowardin, HGM, Highest Measured Tide, Stream Centerline, Stream OHW Line, Study Area Polygon, Tax Lot Polygon, Water Polygon, and Wetland Polygon) would be required to start, and have that requirement take effect two years after the rule’s effective date. The RAC then asked if the requirement for the remainder of the GIS layers (Aquatic Resource of Special Concern, Contour Line, Photo Point, Project Mile Point, Sample Plot Point, Structure Polygon, Structure Point, and Structure Line) could wait to take effect until five years after the rule’s effective date.

Delineation GIS Template

Dan Antonson, DSL GIS Specialist, shared an example of the draft GIS template with RAC members.

Need for the Rules

Peter read the draft Need for the Rules document and asked for the RAC for comments. There were no additional comments.

Racial Equity Statement

Peter read the draft Racial Equity Statement document and asked the RAC for comments. There were no additional comments.

Fiscal Impact Statement

Peter read the draft Fiscal Impact Statement document and asked the RAC for comments. The RAC felt the initial statement minimized the fiscal impact that the new GIS requirements will have on all firms submitting delineation reports to the Department. The Department listened to these concerns and agreed to revise the fiscal impact statement to better acknowledge the costs that the new GIS rules will generate for firms preparing delineation reports.

Public Comment

No comments from the public were provided at the end of the RAC Meeting #4.

Next Steps

Danielle presented the RAC with the next steps in the rulemaking process, which is the publication of the Notice of Proposed Rulemaking (NOPR) and the public comment period. The Department anticipates that the NOPR will be published in the Oregon Bulletin on March 1, 2023. The public comment period (30 days) will begin the day the NOPR is published and the public rule hearing will be held in the middle of the same month.