



# Undersea Infrastructure Easements in Oregon’s Territorial Sea (Division 83) Rulemaking Advisory Committee Overall Summary and Outcomes

June 2026

## Overview

The Division 83 Rulemaking Advisory Committee (RAC) was convened by the Oregon Department of State Lands to advise the Department on rules governing undersea infrastructure easements.

The RAC met five times between February and June 2025. It had ten members and their alternates representing a variety of interests:

- Amazon Web Services
- Central Lincoln PUD
- City of Bandon
- Community of Tierra Del Mar (Tillamook County)
- Coos County Community Development
- Davis Wright Tremaine LLP
- Environmental Science Associates (ESA)
- Google
- League of Oregon Cities
- Pacific Ocean Energy Trust (POET)
- Oregon Fishermen's Cable Committee
- Oregon Peoples Utility Districts Association (OPUDA)

State agency technical advisors also served on the committee, representing the Department of Land Conservation and Development (DLCD), Oregon Parks and Recreation Department (OPRD), and Oregon Department of Fish and Wildlife (ODFW)

## Summary of Input

At the beginning of the RAC process, DSL provided members with a draft of Division 83 rules. Members were encouraged to discuss concerns and suggest specific alternatives and proposed language to meet multiple interests. Many comments resulted in changes to the proposed rules. Below is a summary of key comments and discussion points, and how DSL responded to comments. This summary is not exhaustive, and more detailed RAC member comments can be found in the RAC meeting summaries.

### Purpose, Applicability, and Definitions (0800 - 0820)

- A few members noted that it is important to clarify that the rules do not apply to any ocean renewable energy infrastructure or devices, including cables and transmission lines connected to such infrastructure. *DSL updated the rules in response.*
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### Easement Application Requirements (0830)

- Industry members wanted to avoid requiring disclosure of confidential and sensitive information in the application, as well as more clarity on what is required in an application. They noted that allowing DSL to request “any additional information” was too open-ended and could lead to onerous requirements and process delay. *DSL updated the rules by clarifying specifically what is needed in the Resource and Use Inventory and Effects Evaluation report by adding a new rule section 0831.*

### **JART Pre-Application Meeting (0835)**

- In response to state agencies’ concerns that JART for renewable energy facilities under Part Five of the Territorial Sea Plan should be convened together with Part Four, DSL added this language to this rule.

### **Application Review Process (0840)**

- Members requested that, if the department determines an application is incomplete, the applicant be given an allowance to provide information beyond the 120-day due date, if the applicant shows they are making a good faith effort to respond. *DSL responded by adding flexibility to extend the 120-day timeline.*
- Members had concerns about rules that allow the department to hold public information meetings prior to receiving an application, when the applicant may not be ready to go public with the proposed project. *DSL updated the rules in response.*
- Members had concerns about too much discretion by the department to require costly technical experts during application review. *DSL updated the rules to allow the department and applicant to mutually select third-party experts if an expert is deemed necessary to assist with the application review. Members supported this change.*
- Some members advocated for time limits for application completeness review and other parts of the review process, noting that uncertainty in the permitting process could keep cables from landing in Oregon. *DSL responded that the department’s proprietary processes do not contain timelines for reviewing applications. Many other state and federal agencies have a role in reviewing applications, and their review timelines are not something DSL has control.*
- Members had mixed opinions over whether DSL should have the authority to request additional information from the applicant after the public comment process. Some noted that requiring additional information at multiple steps adds uncertainty and delay to the process, while others pointed out that the public comment process could uncover something that needs further review.

### **Easement Terms and Conditions (0850)**

- Members requested an easement term of 25 years rather than 20 years to align with the average lifespan of a cable. *DSL modified the term to 25 years in response.*
- Members suggested removing references to numeric minimum cable separation distances, burial depths, using the shortest cable distance possible, and bundling requirements. Instead, they suggested the rules require the holder to operate according to industry standards, which include best practices for protecting the environment. Several also noted that a longer cable

distance may be required to avoid sensitive ecological resources, or to allow for more effective burial. *DSL updated the rules to remove several of the specific requirements.*

- Members suggested aligning the timeline for submitting burial verification and documentation with the post-lay inspection, instead of with the construction timeline. Contractors can't always mobilize a ship for inspection soon after construction is complete. *DSL updated the rules in response.*
- Members had mixed opinions on the need for inspections of undersea infrastructure. Some noted that cables are unlikely to become unburied once laid, and that other states have relaxed inspection requirements because inspections rarely uncover problems with undersea infrastructure. Industry members noted that inspections are extremely expensive and carbon-intensive, and see little value in regular inspections or inspections at renewal. They supported inspections only after major seismic events or to meet a specific need. Other members supported requiring inspections at renewal and after seismic activity to account for any changes that may have occurred. There was also a suggestion to allow waiver of inspections if inspection is deemed unnecessary by DSL, or to allow holders to satisfy the inspection requirement through continuous electric monitoring data. *DSL responded by updating the rules to remove some inspection requirements and to limit some inspections to the unburied portion of the infrastructure, and specific trigger events.*

### **Renewal Application Review Process (0851)**

- Some members advocated for a simpler renewal process since there is normally very little change in infrastructure between original installation and the time of renewal. Industry members suggested that DSL be limited to "reasonably" amending terms and conditions in renewal or tying any amended terms or conditions to updated laws or conditions.
- Some members suggested mandated timelines for DSL's review of renewal applications to provide more certainty in the process, as well as allowing good-faith timeline extensions for applicants to submit information beyond the timelines indicated.

### **Decommission and Recovery (0852)**

- Many members noted that bore pipes and horizontal directional drilling are required and environmentally sound practices, and that bore pipes have value for reuse. They added that bore pipes are nearly impossible to remove, and removal is in the best interest of the State and the environment. They suggested exempting bore pipes from decommissioning requirements. *DSL responded by updating the rules to allow for the exclusion of bore pipes from decommissioning if the easement for the bore pipe is transferred to another holder for use by another cable.* Some members supported the revision, noting that if the bore pipe cannot be reused, then there should be a fee associated with leaving it in place. Others continued to advocate for total exclusion of bore pipes from the decommissioning requirement or enhanced flexibility, noting it is highly unlikely that another holder would be able to immediately take over the bore pipe upon the termination of an easement.

## Encroachment Easement Application Process (0853)

- A member sought clarity on the outcome if a decommissioning plan or encroachment easement application is denied. *DSL updated the rule to reflect it.*

## Compensation Rates (0855)

- There were concerns from many members about high compensation rates, and a desire to make Oregon a competitive place to land cables. Some noted that companies looking to land infrastructure in Oregon consider the entire potential cost, including application fees, compensation rates, and encroachment easement fees. Looking at the whole, the costs do not make Oregon an attractive place to land cables. They noted it is important to have a balance between fair compensation for staff and the needs of the state, while also not disincentivizing important infrastructure from coming to Oregon.
- Others noted that it is important to get a balance of fair cost and benefit and generate more revenue for the Common School Fund. They supported the proposed fees as the minimum that Oregon should charge.
- Many members advocated for a lower compensation fee for horizontal directional drilling (HDD) bore pipe by removing the diameter upcharge for the bore pipe, noting that bore pipes are required and better for the environment than beach trenching. *DSL responded by removing the diameter upcharge for bore pipes and setting the flat-per-lineal-foot fee to \$7, although some members still advocated for a lower fee.*
- Industry members expressed appreciation for the one-time fee structure rather than annual payments, which provides more predictability to the industry.
- Members had concerns about the application of the compensation rates, encroachment fees and other aspects of Division 83 rules to ocean outfalls. Coastal communities would be negatively impacted by a dramatic increase in fees. *DSL proposed moving the Division 123 formula for outfalls and other infrastructure into Division 83 under a new rule (0856) and treat them separately for public agencies..*

## Encroachment Easement Application Fee and Compensation (0857)

- Members had different points of view on the appropriate encroachment easement fee for bore pipes. Industry members noted that installing bore pipes is extremely expensive and cable companies are always looking to reuse them. They are also better for the environment, and should have a lower fee for being left in place. Others commented that, if material is left on the seabed, there should be a fee associated with it. The state has an obligation to manage the seafloor, and having companies pay to leave infrastructure is in the public interest.
- Industry members in general noted that the encroachment fees are too high and will encourage companies to either remove all infrastructure or decide not to land cables in Oregon. They suggested a lower encroachment easement fee, for example, by removing the diameter upcharge in the formula.