



## **RULEMAKING ADVISORY COMMITTEE OPERATING PRINCIPLES**

**OAR 141-082**

### **Waterway Leases, Licenses, and Registrations**

#### **I. PURPOSE AND ROLES**

The Oregon Department of State Lands (DSL) has convened a Rulemaking Advisory Committee (RAC) to advise the Department on rules relating to leases, licenses, and registration for the use of State-owned waterways.

##### **A. Duties and Responsibilities**

RAC members agree to fulfill their responsibilities through attending and participating in meetings, studying available information, and providing input to DSL. Members agree to participate in good faith and to act in the best interest of the group and its charge.

Members are expected to consider a range of issues and options to address them, discuss the pros and cons of the issues/options presented, and seek to develop recommendations reflecting the “sense of the group.”

Members acknowledge that the group is an advisory body to DSL and that its role is to provide advice and frame policy choices. Rulemaking authority rests with the Department and the State Land Board.

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 them in recommendations as appropriate.

##### **B. 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.

The RAC will convene beginning November 6 and is expected to meet at least 6 times. Unless requested by DSL and agreed to by the RAC, the RAC's responsibilities will conclude at that time. The following is a schedule of the RAC meetings along with the primary focus of that meeting:

- Meeting 1: November 13, 2024  
Purpose: Overview: Introduction to rulemaking, RAC roles and responsibilities, Division 82 background. Set groundwork for RAC/facilitator interviews to follow.
- Meeting 2: December 11, 2024  
Purpose: Discuss changes to:
  - annual lease payment calculation (0305),
  - application and other fees (0306), and
  - changes to financial assurance requirements (0270(12), 0285(8), & 0330(2))
- Meeting 3: January 22, 2025  
Purpose: Discuss changes to:
  - general provisions and lease conditions (0260, 0285)
  - and application review process for new & renewal applications (0280, 0281 & 0290)
- Meeting 4: February 19, 2025  
Purpose: Informed by previous meetings; potential discussion includes:
  - Overflow of meeting 2 and 3
  - Overview of administrative, formatting, and grammatical changes (e.g. adding ORS/OAR reference, copyediting)
  - Suggested changes from RAC members
  - Remaining Parking Lot issues
- Meeting 5: March 19, 2025  
Purpose: Present:
  - updated fees, formulas, & methodologies sheet
  - new application forms
  - new WUA template(s) (if substantial changes needed)
  - and customer communication plan for changes
- Meeting 6: April 16, 2025  
Purpose: Discuss fiscal & equity impact statements, review public review process and hearings, go over next steps / timeline and any other requirements for RAC members.

## **II. DSL Role**

DSL will provide technical and administrative support, information, institutional knowledge and expertise, and advice to the RAC. The Department is responsible for distributing meeting materials, scheduling meetings, preparing and distributing meeting summaries, and maintaining a public record of the RAC process.

## **III. Facilitator Role**

Typically, RAC meetings are facilitated by a DSL staff member. However, in some cases, the Department will contract with an independent, neutral third-party facilitator.

Whether the facilitator is a DSL staff member or an independent party, they 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. Emails or messages meant for the group will be distributed by the facilitator. 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.

Additionally, 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.
- Prepare meeting summaries that outline the topics discussed, the areas where there is agreement, and any remaining issues on which agreement was not reached.

Members will not interfere with the facilitator's conduct of meetings. Concerns regarding how meetings are facilitated should be brought to the attention of the facilitator and/or the Department without disrupting meeting activities (i.e. during meeting breaks or between meetings).

#### **IV. OPERATING PROCEDURES**

##### **A. Protocols**

All members agree to act in good faith through all aspects of the RAC process. This includes acting with honest intentions and refraining from undermining the process both inside and outside of RAC meetings. Members agree to:

- Attend all meetings. If a meeting is missed, the member is encouraged to contact the facilitator. Members who miss a meeting may not seek to revisit issues that were noticed and discussed at that meeting, at a future RAC meeting.
- Direct any requests for information made outside of meetings to the facilitator. Responses to such requests may be limited to items that can be provided within a reasonable amount of time.
- Be respectful of other members, interested parties, staff, and members of the public. Members should listen to and seek to understand different perspectives, even when there is disagreement. Members should refrain from personal attacks or publicly criticizing or misstating the positions taken by other participants during the process.
- Make every effort to address their concerns with the group.
- 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. Written communications may include emails, blogs, and social media posts or comments.

- 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.

The Department also encourages RAC members to share questions asked or information provided outside the RAC meetings with the full committee, to ensure fully informed RAC discussions and to avoid the perception that information is being withheld.

## **B. 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.

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.

## **C. Public Meetings and Records**

RAC meetings are considered public meetings and are open to the public. However, public testimony is generally not accepted at RAC meetings. If opportunity for public testimony is available, there will be dedicated time on the agenda. Members of the public should be made aware of the opportunity to provide comment during the public comment period, which occurs prior to the completion of the rulemaking process and typically includes informational meetings and/or public hearings.

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.