



**FPS Project Review Rule Advisory Committee**  
**June 3, 2024**  
**1:00 PM – 4:00 PM via Zoom**

<b>RAC MEMBER ATTENDEES</b>	
Aaron McGarry	GMA Architects
Barbara Hansen	Oregon Palliative Care & Hospice Association
Barbara Tauscher	Pacific Medical Practice Consultants, Inc.
Chris King	Fresenius Medical Care
Chris Skagen	Oregon Ambulatory Surgery Center
Cindy Wagner	Salem Health
Danielle Meyer	Hospital Association of Oregon
Elaine La Rochelle	Grande Ronde Hospital
Jeff Taylor	Providence Health & Services
Jeremy Stremme	Legacy Health
Jon Mehlschau	SRG Partnership Inc
Solvei Neiger (for Kelly Chanopas)	ZGF Architects
Kristin Videto	Davita
Marcy Pierce	Asante
Matt Ottinger	JRJ Architects
Matt Stormont	PeaceHealth
Naomi Mathaba	OHSU
Sarah Kershner	PKA Architects
Scott Carroll	Good Samaritan Corvallis
Tim Clem	Oregon Society for Healthcare Engineering

<b>Oregon Health Authority (OHA)/Department of Human Services (ODHS)</b>	
Jerimiah Adams	ODHS – Nursing Facility Licensing
Barbara Atkins	OHA-PHD-Facility Planning and Safety Program
Lisa Humphries	OHA-PHD-Facility Planning and Safety Program
Matt Gilman	OHA-PHD-Facility Planning and Safety Program
Mellony Bernal	OHA-PHD-Health Care Regulation & Quality Improvement
Patrick Young	OHA-PHD-Facility Planning and Safety Program
Shane Jenkins	OHA-PHD-Facility Planning and Safety Program

## Welcome and Housekeeping

Mellony Bernal introduced self and welcomed attendees to this second rule advisory committee meeting and reviewed housekeeping items.

- Given consideration of time, rather than roll call and introductions, attendees were asked to enter their name, title and organization into the Chat. Participants not considered a RAC member were asked to identify themselves in the Chat as a public participant.
- Attendees were asked to keep devices muted until called upon.
- RAC members were asked to type the word "Comment" to indicate they wanted to speak to a particular issue or ask questions.
- RAC members who did not want to talk but who wanted to share information were asked to type into the Chat "For the Record" and include the information they wished to share.
- It was noted that pursuant to the OHA policy, members of the public may attend but may not participate or offer public comment during the meeting. Members of the public who wished to provide comments or information were asked to email those comments to [mellony.c.bernal@oha.oregon.gov](mailto:mellony.c.bernal@oha.oregon.gov) or [barbara.s.atkins@oha.oregon.gov](mailto:barbara.s.atkins@oha.oregon.gov) at the conclusion of the meeting.
- It was noted that the RAC meeting would be recorded, and the recording and information shared in the Chat is public record and therefore subject to disclosure.
- Meeting notes will be drafted and shared with the RAC and posted on HCRQI's rulemaking activity webpage: <http://www.healthoregon.org/hcrqirules>.

Barbara Atkins noted that at the May 22, 2024 meeting, rule text changes due to passage of legislative measures were reviewed, and amendments to OAR chapter 333, division 675, including proposed renumbering. The RAC concluded discussion at OAR 333-675-0120. B. Atkins reminded RAC members that OAR chapter 333, division 675 rules apply to both health care facilities (hospitals, ASCs, birthing centers, special inpatient care facilities, and outpatient renal dialysis) and long term care facilities (residential care facilities, skilled nursing facilities), whereas future discussions specific to Facilities Guidelines Institute (FGI), design and construction of hospitals, and design and construction of outpatient facilities, will be specific only to acute care facilities since the FGI was not adopted for long term care facilities.

Matt Gilman noted that if RAC members have additional thoughts or comments after the May 22, 2024 meeting, that they wish to share, they may do so.

## Administrative Rule Review

### **OAR 333-675-0130 – Major Project Changes**

B. Atkins noted the following rules changes to this rule that clarifies what projects are required to be submitted for review and approval by the OHA when changes significantly affect a number of criteria.

- Subsection (1)(a) regarding the arrangement or use of rooms was revised to clarify and capture ancillary spaces or clinical support space to align with FGI.
- Subsection (1)(b) relating to MEP (mechanical, electrical and plumbing) was revised to include reference to fire safety design. If a major change is made fire life safety (FLS) design, it is considered a major project change and subject to review.
- New section (2) was added clarifying that if a major change is made affecting one of the criteria in section (1), and initial construction document review is already completed, the project must be resubmitted as a new project, and the previous project would be closed. A plan review fee of 1/3 the required construction document review fee would need to be submitted.

#### Discussion:

- B. Atkins noted that for purposes of section (2), the additional fee is warranted because although a review fee was already paid, the major change being made requires MEP, FLS, and/or OHA staff to re-review. Example – Patient care space moved from one side of building the other which effects mechanical – what air handler unit is serving the space? B. Atkins further clarified that the major project change is when initial construction document review has been completed and has already received MEP, FLS and architectural comments.
- RAC members had no comments.

### **OAR 333-675-0140 – Time Period for Review**

B. Atkins shared that the proposed amendment under consideration includes adding schematic design review comments to be completed and sent to project sponsors within 15 days. The rule does allow for extenuating circumstances if timeline cannot be met. It was further noted that a proposal was received requesting that after a project team had submitted responses to the initial review from OHA, that those responses to the initial review be expedited and reviewed by OHA within five business days since project timelines typically have started.

#### Discussion:

- RAC member stated that owners are pushing to know when they will receive notice to proceed with the project and would assist with getting projects out of plans reviewers' queues. Example shared of project where it took more than four weeks to get a response back.
- RAC member asked for clarification on whether this time frame would apply to any kind of information exchange. It was noted that during construction there is very little time to turn things around which could become an issue, including

when a re-submission might be necessary based on an issue being discovered during construction.

- Staff reminded RAC members of the workload update and projected review dates and where a project is in the queue. If responses must be expedited within 5-days, this may result in projects being moved further down the queue. Staff suggested a counterproposal that instead of 5-days, 15-days be considered.
- Staff member expressed concern that the OHA has no control over the amount of time it takes for a project team to respond to an initial project review. Example – Review completed within 15 days and project team takes more than 8-months to respond. The expectation that the subsequent review be completed within 5-days from that is not appropriate. Staff also commented that depending on extent of responses, it could almost be considered an initial review again because so many items are being addressed and defined. Staff member further expressed that they don't disagree with the idea that responses should be quicker as issues are narrowed down and perhaps more communication is needed. It was further noted that perhaps this can be addressed via policy versus rule.
- Staff member asked about trying to reach a middle ground noting that if everything received is a priority, then nothing is a priority. More transparency is needed in term of communicating back and forth on projects and project teams need to be able to identify which of their own projects in the queue are a priority.
- RAC member commented that with respect to responses on a very large project such as a 14-story patient tower, it's likely that they are not necessarily planning on a full review within 15 days, and have accounted for additional time, which may not necessarily impact the overall project schedule. Whereas, with less significant projects in terms of overall value and impact for a hospital or the community, second or third sets of review comments begin to stress the project team on timing.
- RAC member noted that consistency across all reviewers is needed and that there needs to be a level of transparency and communication to the design team and owner. FPS reviewers should acknowledge that a response is received and estimate time for follow-up review so that the design team can communicate with contractors and owners.
- Other comments from RAC member via Chat included:
  - The proposed turn-around of five business days should be specific to CD review and text should be updated to reflect.
  - Support for proposal and need for faster turn-around on the follow-up reviews.
  - Prioritizing reviews that have "go-live" deadlines looming.
  - Completing an outstanding review is far more important than the initial review.
  - Having more clear status updates to share with owner would be helpful for scheduling and reduce need for multiple follow-up emails with OHA.

- Consistent communication by all FPS reviewers would be appreciated.
- Consider exceptions for late response from project team and when documentation is missing.

### **OAR 333-675-0150 – Expiration of Projects**

Minor language changes have been made and a new subsection (1)(d) has been added to try and address phased projects, stating that a project will be considered closed if a 'project substantial completion notice' has not been submitted for a phased construction project within 550 calendar days of the last completed phased inspection date.

#### Discussion:

- RAC members had no comments on subsection (1)(d)
- RAC member inquired about section (3) and applicable fees if a project is closed, and the fee table has been amended prior to a request to reopen the project – which fee table would apply? RAC member via Chat asked could the new fee just be the delta between the two tables instead of a new full fee. An additional question was asked in terms of what building standards would apply if there was a change made to rule. Staff responded that the fee or standard applied would be the fee or standard in place at the time of the proposed action. Staff will seek further clarification.

### **OAR 333-675-0160 – Early Design Assistance Conference**

Previously OAR 333-675-0000(4)(c), a pre-design conference could only be submitted after schematic plans had been submitted. The rule has been modified to allow a conference to occur before submitting SD or CD documents based on staffing availability. Section (3) clarifies that if a project team would just like to email questions to OHA, it may do so by asking for assignment and response guidance will be returned based on staffing availability. (Note – the 15 days response time would not apply in this circumstance).

#### Discussion:

- RAC member suggested assumption that the rationale for original language was to not diffuse attention and effort to hypothetical projects that may not come to fruition.
- B. Atkins noted that the FPS Program contracts with a private engineering firm for MEP review and billing is based on PR number assignment. Questions and requests for assistance should be architectural in nature, as early assistance with MEP review or FLS will be difficult.
- RAC member suggested that language could be changed indicating a formal SD submittal is not required but a fee may be considered based on the review needed.

### **OAR 333-675-0170 – Schematic Design Plans**

Under OAR 333-675-0000(4), SD plans submission are required if certain criteria are met (e.g., renovations exceeding \$500,000 for hospitals). Language is also

embedded that allows project teams to request a waiver. The purpose of this change is to make schematic design review optional and not mandatory. Additional updates include removing reference to submitting one copy of material recognizing that submission will be electronic; clarifying that the review fee is "at least" one-third which allows payment in full should a project team choose; removes requirements that SD documents be stamped; adds reference that scale drawings must include reflected ceiling plans; and removes FLS plan.

Discussion:

- RAC member noted that reflected ceiling plans may not be ready in the schematic phase. Discussion ensued regarding the types of drawings or information that is often submitted. RAC member via Chat suggested replacing with the term "project document" since not every scope requires a reflected ceiling plan or whatever the case may be. Staff discussed possibility of adding to scale drawings, if appropriate or otherwise coordinated with the reviewer.
- Staff noted that not everyone will know what a set of documents needs to be or what reviewers are looking for as such having the list is a good outline of items that reviewers will be looking for.
- RAC member suggested changing (1)(c) to reflect "Project documents, including" and then revised (1)(c)(C) to Scale drawings showing he intended title or use of each room....
- RAC member asked what was OHA's reasoning for calling out reflected ceiling plan?
- RAC member asked why FLS was stricken from requirement. It was noted that when working on a new project, although FLS may not be reviewed during schematic design review, it's important for plans reviewers to understand the life safety strategy around the hospital or the expansion, make sure everybody's on the same page, because if that didn't happen until CDs, it could impact a lot more of the documents. Staff noted that the OHA does not have authority over NFPA 101, so although staff may look at FLS document to have a better understanding, the FPS architectural reviewers should not be commenting about FLS strategy. Staff further shared new section (4) that states, Schematic design plan review is typically only completed by Authority staff for early design coordination. *If a project places heavy emphasis on engineering design or fire life safety improvements, Authority contracted review teams may complete a schematic design plan review upon request by the project sponsor and submission of an additional review fee of at least one-third the amount required by OAR 333-675-0230, Table 1.*
- RAC member asked if the 1/3 fee applied to all requests that was MEP related or could a determination be made on smaller items without a fee assessment. Staff responded that there is currently no fee, as of now, for a few, minor questions that might fall under pre-design assistance. A full review of schematic design, such as electrical infrastructure projects, generator replacements, other items that require MEP involvement, that is an opportunity to actually submit the project for review.

- RAC member asked for clarification – submission for schematic design review, without requesting FLS or MEP review, is a specific fee. Adding FLS or MEP review will result in an additional fee. Staff responded yes. The current fee table is a fee for the full plan review that pays for everything. If a project team wants a schematic design review, at least 1/3 of the fee is asked for as a deposit. However, seeking MEP or FLS to complete a schematic design review is not contemplated under the current structure and would be considered additional time and resources that are not budgeted in the fee table. As such, an additional fee to cover their time to complete a review would be necessary. RAC member requested that the rule be clearer that in essence, 1 and 1/3 is the resulting cost if MEP or FLS is involved with schematic design review.
- Staff noted that additional discussions regarding fee changes will need to take place to determine whether this fee would result in needing DAS and legislative approval.
- RAC member asked via Chat whether there is a difference between a review meeting with MEP versus asking them to do a full review? Staff responded yes, akin to what is done with a pre-design conference. It is not uncommon that project team have questions for MEP reviewers.
- RAC member shared via Chat that an additional fee line added to the PR1 form would be helpful for 'SD MEP/FLS.' RAC member agreed via Chat.

### **OAR 333-675-0180 – Construction Documents**

Rule text previously under OAR 333-675-0000(5), changes include minor grammatical changes and wording for clarity. Staff asked whether there were similar concerns with the title for this rule and documents referenced. It was also noted that language about FLS review was previously tied to schematic design. Since it has been removed from 0170 it is now added to this rule. ICRA has been removed as this is dictated by FGI, and long-term care facilities do not require. Rule clarifies if a schematic design review was completed a copy of the responses must be including in the construction document submission. The rule clarifies that construction document review will not begin until all of the required information is submitted. Files must be in PDF format unless otherwise approved and after completion of review, FPS staff will issue either a statement of deficiency or notice of construction document approval.

#### Discussion:

- RAC member indicated that reference to construction documents is fine and aligns with language typically used.
- RAC member questioned the intent of language under section (1), specifically that finalized construction drawings and specifications don't have to be sent prior to construction rather approval must be obtained before construction is finished. Staff responded that finalized construction drawings and specifications should be submitted prior to beginning construction as review comments and compliance requirements could result in costly modifications. It was requested that language be clear that is allow but project team does so at its own risk.

- RAC member concurred via Chat with suggested change.
- Staff noted that the OHA does not have the authority to stop a project once started, rather FPS review is tied to licensing. A license will not be issued without FPS approval.
- RAC member inquired about FLS drawings, and whether the intent is that an FLS drawing include the additional requirements versus being provided separately. Staff responded that the intent is to make sure that when construction documents are submitted that all of the additional information is also provided. A review will be placed on hold if the documents are not complete. RAC member clarified that the FLS plan is usually a cover sheet (code summary) and then the plans themselves, but the FLS plan does not have separate details that are packaged with them. Several RAC members via Chat agreed. Staff noted that the language will be updated to clarify that the CD package must include the additional details.

### **OAR 333-675-0200 – Required Notification and Inspections Prior to Taking Occupancy**

Amendments were made to clarify temporary accommodations that need to be inspected by FPS staff (trailer, room) and notification of occupancy may be made less than three weeks based on the availability of staff. It was noted that the process of temporary space review was not called out previously and the OHA will be issuing a policy memo about temporary space review. Temporary trailers used for purposes of Class I imaging (not Class II) such as when a piece of equipment is being upgraded or an imaging room is being remodeled will not be subject to review as long as the temporary trailer will be used 180 days or less. This policy will be in place until the rules are modified and in effect. It was also noted that documentation of approval specified under section (2) may be in a format other than a 'certificate of occupancy' and further clarifies that MEP closeout documentation and FLS system testing results or permit sign off are also necessary.

#### Discussion:

- RAC member asked whether there are other emergency situations (room or essential service goes down) where accommodations can be made such as the policy stated above. Staff responded that this may be something handled on a case-by-case basis or perhaps through interpretive guidance. Identifying what could be an emergency is subjective and difficult to change once in rule.
- Staff further clarified that for Class I imaging temporary trailers there will be no plan review, no review fee, no waiver, no inspection. Project team will still need to comply with regulatory requirements, but FPS will not be reviewing. RAC member inquired whether any kind of affidavit is expected stating the project team is attesting to meeting requirements. Staff responded no.
- Staff noted that other types of temporary trailers will need to be reviewed including kitchens, physical rehab, sterile processing, temporary lab, etc., and project teams will need to plan accordingly and request temporary approval.



- RAC member asked if reference to three weeks is working days or calendar days. Staff responded that the rule will be updated to align with the SC notice in terms of calendar or business days.
- RAC member inquired about phased projects and the fact that the local jurisdiction is not able to a building permit sign-off until the entire project is complete. Additional alternatives may be beneficial in terms of types of communication from the local jurisdiction. Also noted that there is no certification of occupancy for a space that is being remodeled. Staff noted that it is possible to be from the local jurisdictions sign off on the portions that were inspected and approved. The intent is to have documentation that ensures the local jurisdiction has inspected and has approved. FLS also requires. It was acknowledged that all local authorities having jurisdiction have different processes for documenting approval.
- RAC member asked for clarification on circumstances where a permit may not be required, e.g., replacing in-kind finishes. Staff responded that typically, if a project is finishes only, documentation is not needed. Language could be amended to reflect "where permits were required." It was noted that there have been instances where the project team indicated a permit was not required but then later it was determined that they were required. RAC member via Chat concurred with adding language 'where permits are required.'
- RAC member asked for clarification on whether all documentation is required before an inspection will be scheduled. Staff responded that documentation must be available prior to or as part of a final project inspection.

### **OAR 333-675-0210 – When Plans are not Submitted as Required**

Minor changes to language have occurred. The intent of this rule is to clarify that if a project is implemented without FPS review and approval, OHA shall require that the plans, fee, inspection be completed, and that applicable licensure and certification may be suspended. Discovery of failure to seek review and approval have occurred, usually during the licensure process or a review FLS.

- RAC members had no comments.

### **OAR 333-675-0220 – Optional Reviews**

Minor changes to language have occurred.

- RAC members had no comments.

### **OAR 333-675-0230 – Construction Project Review Fees**

There are no proposed changes to the fee tables. Language has been revised under section (2) clarifying that when an existing structure, not presently a licensed health care facility or long-term care facility, is requesting licensure or a change in license category the review fee will be based on existing value of the structure, plus any renovation costs. (Example – A home is purchased, and person wants to

convert into a birthing center. It's never been licensed. Review fees need to cover that we are looking at the entire building, even if there is not any construction.)

- RAC members had no comments.

### **OAR 333-675-0240 – Waivers**

The proposed waiver language was based off of hospital rules including language about alternative concepts, methods, procedures, techniques, equipment, facilities, etc. Waivers would need to be submitted for "like-for-like", temporary structures, etc.

- RAC member inquired about whether a waiver needs to be submitted when there's precedent that previous waivers have been submitted and approved for same condition. How can these be memorialized? Staff responded that interpretive guidance can be considered, such as the contradiction between infection control and noise reduction in pharmacies which comes up frequently. Clearances in an imaging room when new equipment creates clearance issues.
- RAC member stated in the Chat, definitely want to eliminate the need for waivers for like-for-like (example: AHU replacement.)
- RAC member asked via Chat for a copy of the "frequent waiver requests" tracking document.
- RAC member asked if proposed changes may reduce the need to escalate signatures up the hierarchy.
- Staff noted that universal waivers do not exist in the rule language. While many projects seem similar, there are often nuances that must be addressed.
- Concerns were expressed by RAC member that there is a need for more urgent or emergency approvals, like temporary structures for like-for-like replacements that arise because a piece of equipment has failed and requires urgent attention. Rather than just submitting those projects for review, requiring the waiver may result in a several-month waiting period. A more streamlined, simplified process needs to be developed.
- Staff noted that there are essentially two types of waivers – 1) a onetime waiver, example noise reduction in a pharmacy. The waiver is in place for the duration of the space or waiver is approved until there is a change in use for the space; or 2) waiving a requirement altogether. Discussion ensued on different examples including like-for-like replacement with minimal upgrades; equipment replacement. Instead of thinking about it in terms of like-for-like, think about the patient safety impacts or infection control impacts.
- RAC member via Chat asked what qualifies as 'technologically advanced equipment?' Staff responded that the PR1 form references technologically advanced clinical equipment including but not limited to: X-Ray, CT, Linear Accelerator, or MRI. Staff noted that they will discuss adding dialysis water treatment equipment to the list.
- Staff asked RAC members to submit recommendations on equipment to add to the list and also examples of like-for-like projects.

- Via Chat, "like-for-like would NOT be replacing an air-cooled CT scanner with a water-cooled CT scanner since it required infrastructure changes and room will be down for significant period of time."
- Imaging equipment like-for-like is exempt from review, provided the costs are under the now \$50,000 threshold, so no waiver required for that work.
- Staff will look at this rule further and consider possible changes.

Two requests from OSHE were submitted for review including 1) what submission process should be in place for projects that need a determination regarding a Request for Waiver before design can begin/submission to FPS can happen? and 2) Timeline for waivers similar to FPS reviews. Propose 15 business days per person. Reviewer, Matt Gilman, Dana Selover, Andre Ourso = 12 weeks maximum turnaround.

#### Discussion:

- Is there a process to seek clarification on submitting a waiver request before a PR1 # is assigned. It was noted that there needs to be a project number to assign a waiver to. Question was asked if there is any reason why a PR1# cannot be issued for a project so there is a way to track the waiver request and process? Staff will consider further.
- RAC member indicated that the intent is to obtain feedback from OHA before a project team spends time and resources to ensure the project is going in the right direction and that a waiver wouldn't end up being denied. Example shared of equipment room for a cath lab cannot be through the procedure room. Can a determination be made ahead a time whether it can be waived without spending resources.
- Staff noted that there is no control on persons schedules. RAC member gave example of waiver that took over a year to get approved and stated there should be some form of deadline for decisions despite who may need to approve. Additional RAC members via Chat concurred that some language to clarify anticipated deadline is needed.

#### **OAR 333-675-0110 – Project Plan Submission and Review**

Staff shared information on an additional recommendation that was inadvertently missed during the May 22, 2024 meeting. Staff were considering adding additional language that states, "When project costs are below the listed threshold and rules apply, applicant may apply for self-attestation that applicable rules have been met and facility shall be inspected, and deficiencies cited at inspection shall be corrected prior to occupancy. Self-attestation projects will require a review fee of 50 percent of the fee indicated in Table 1." The intent of this proposal means FPS staff would not review it prior to completion, rather will inspect after.

- RAC member asked what is an example of where rules do not apply? Staff responded a residential care facility that wants to replace a roof. There are no rules related to long term care that address roof replacement.
- RAC member stated that it appears with the proposed language that everything would be captured and so FPS staff would end up reviewing everything with some rare exceptions. Staff remarked that the intent was to consider a way to

speed up review for projects that may not have a lot of issues or concerns. If a project is above the threshold but there doesn't appear to be any issues, a project team could attest to following all of the required standards, and then FPS staff would inspect after completion. Project teams take on more risk through self-attestation if standards are not followed.

- RAC member shared via Chat, if there are no prescriptive standards/requirements for roofs in general, why must they be reviewed at all regardless of cost? Another RAC member remarked that roofs should fall into a no review required like-for-like.
- RAC member commented on the Chat, perhaps more cosmetic upgrades? Flooring, painting, ceilings, casework, etc. RAC member concurred.
- RAC member inquired whether there were cases already happening where patient safety was at risk.
- Staff noted more consideration is needed for this self-attestation idea and that a separate RAC after 2025 would need to be considered.

### **Next Meeting**

The following dates meeting dates have been identified based on responses received to the meeting poll:

- July 17, 2024 – 9 a.m. until Noon
- August 28, 2024 – 9 a.m. until Noon

The RAC will begin reviewing the proposed changes to FGI standards.

M. Bernal will send out an email sharing details of the meeting dates and Zoom login information.

M. Gilman thanked RAC members for their participation and engagement in the process.

Meeting adjourned at 3:57 p.m.