

Division 601 Best Practices in Community Engagement

September 16, 2024, 9am-11am



This is a summary document of the Division 601 Rules Advisory Committee (RAC) meeting held over Zoom on September 16, 2024, from 9am to 11am. For more information, see the Meeting Presentation, Draft Rules, and other Meeting Materials, available on the [rulemaking website](#).

Meeting Attendees

RAC Members in attendance: Peggy Lynch, Kimberley Priestley, Christopher Hall, Cheyenne Holiday, Donna Beverage.

Agency observers in attendance: Chris Marko (DEQ), Nicole Alafara (OHA), Alexa Schmidt (OWEB), Becky Anthony (ODFW).

Oregon Water Resources Department (OWRD) staff in attendance: Charlotte Regula-Whitefield, Kim Fritz-Ogren, Margo Mashkovskaya.

Welcome and Introductions

Oregon Water Resources Department staff, RAC Members, and agency observers introduced themselves.

Meeting Protocols and Agenda

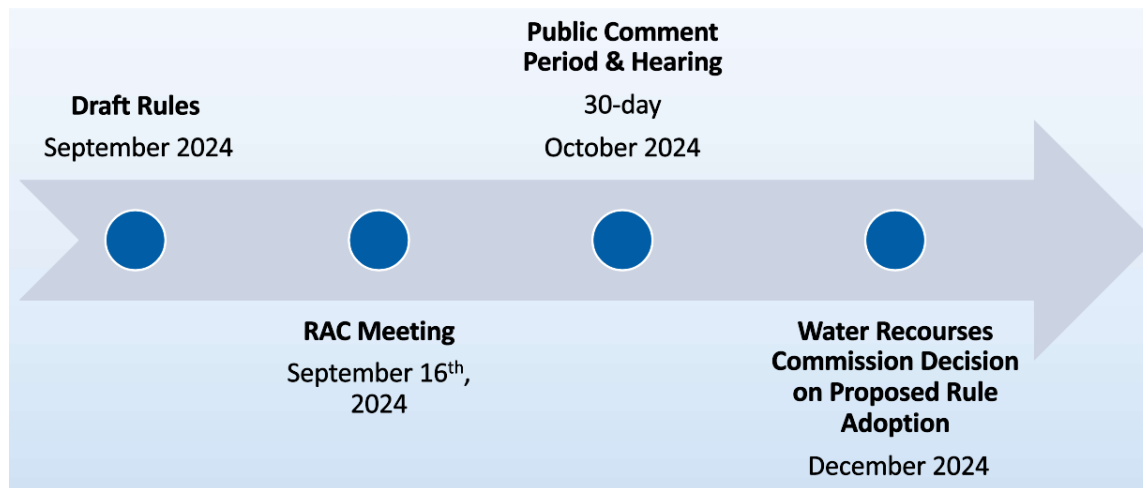
RAC members were reminded that they are invited to each RAC meeting to express their viewpoints, treat others respectfully, remain muted when not speaking if online, and to use the “raise hand” feature to request to speak.

This meeting covered the following topics:

- ORS 541.551 background and process
- Draft Proposed rules
 - Purpose
 - Definitions
 - Funding
 - Best practices
 - Application Requirements
 - Grant Agreements and Reporting

Rulemaking Timeline

The figure below displays a rulemaking timeline for the proposed rule. The addition of a second RAC meeting is being contemplated. An additional RAC would allow more discussion on the material already covered as well as the fiscal and racial impact statements. If the decision is made to host a second RAC the rulemaking timeline would be delayed till the March Commission meeting for adoption. This could have the possibility that the rules would not be adopted in time for the January 2025 funding cycle for the feasibility grants and loans program.



Discussion

Attributed comments are summarized for length and clarity. If a RAC member does not believe the summary is reflective of their comment, they are encouraged to reach out to OWRD staff.

Purpose Statement Discussion

RAC Member (Christopher Hall): Asked why Water projects are defined narrowly in the purpose statement to those that are funded by water projects grants and loans. Water projects are defined broader by the statute.

Definitions Discussion

RAC Member (Kimberley Priestley): Recommends adding “local organization” to the definitions and suggests incorporating the statutory definition into the rules for clarity.

RAC Member (Christopher Hall): Raised concern on definition of “meaningful involvement.”

RAC Member (Peggy Lynch): Suggested requiring findings report of when people make public comments to show where and how they were included in water project community engagement decision-making. Also suggests incorporating the factor of cost into the definition of “meaningful involvement.”

RAC Member (Christopher Hall): Raised concern about interpretation of statutory definition of 1(d) for “local organizations,” feels the rules may allow any organization that applies for a loan or grant for a water project to get extra funding for community engagement through this program which could enable them to conduct a public relations and marketing scheme using public funds.

WRD Response (Kim Frits-Ogren): Acknowledged concerns about certain text not being included in the rules and therefore potentially perceived as missing.

RAC Member (Christopher Hall): Concern that local organizations could not apply for community engagement funds independently because not funded through the authorized grant programs. Formally requesting that definition of “local organization” as defined in statute be included in the rules so they can receive funding.

RAC Member (Peggy Lynch): Raised concerns on independent funding of local organizations. There would not be need for public engagement unless there is a water project. How do you separate community involvement if there is no project at the beginning.

WRD Response (Charlotte Regula-Whitefield): Resolution of the issue raised may not be mutually exclusive since purpose is for the community and grantee to be working together and in coordination.

RAC Member (Kimberley Priestley): The statute is not clear and could be interpreted to mean that all could apply. A community may not want a community engagement plan but may want to participate in the engagement.

RAC Member (Cheyenne Holliday): Asked if OWRD ranking or prioritizing applicants? Best practices discussion in the applicant should be reviewed through the lens of rewarding those that have robust plans to utilize the practices.

WRD Response (Kim Fritz-Ogren): Each grant program has different prioritization and ways of scoring, referencing efficiency, which may be where the best practices analysis would be considered.

RAC Member (Peggy Lynch): Need to understand the criteria and process of how funding is received, eligibility, what qualifies, etc. These analyses are meant to be the avenues for considering feasibility. It is important to have community conversations, as the commission will have already decided on a valid water project.

Funding Discussion

RAC Member (Peggy Lynch): Asked why these funding mechanisms are narrowed. Referencing authorized funding programs.

WRD Response (Charlotte Regula-Whitefield): The authorized grant programs will act as a test for the community engagement program and provide a funding stream. The rules also require review every 5 years. As the statute is written, OWRD may provide water project support, and if OWRD does, these rules would apply.

RAC Member (Peggy Lynch): These grants and loans are what offer the funding to do this work, but there is no funding stream from other programs.

RAC Member (Christopher Hall): Water projects funded or not should be subject to these rules. Asked Why not include projects that the agency oversees that are not grant-funded. For example, if an entity is applying for a water project permit, why not fund community engagement for those? Why only grant-funded projects? Rule as written narrows the programs that could be applied to.

WRD Response (Kim Fritz-Ogren): Statute gives authority when OWRD is providing technical, financial, or other support contemplated by the statute and those permits would not be supporting water project but part of regulatory authority.

RAC Member (Kimberley Priestley): Agrees with the department's interpretation of the statute. Noted another thing to remember is that projects the state is funding require public benefits analysis at the outset. Agrees it is great to have community engagement for all projects. Community engagement best practices need some teeth, not just require inviting but identifying.

RAC Member (Peggy Lynch): Unless OWRD is given broader funding for general engagement, they do not have to apply this set of practices.

RAC Member (Christopher Hall): Knows of water projects of great concern to the public that do not require engagement but would benefit from it, e.g., pump storage facilities.

RAC Member (Peggy Lynch): It will depend on each of the support agencies if they actually have a funding stream for the support and involvement contemplated by the statute.

RAC Member (Christopher Hall): Will the other support also limit community engagement plan requirement to projects they fund or provide loans for?

WRD Response (Charlotte Regula-Whitefield): Will provide a document on what other agencies have identified as a starting place.

Best Practices Discussion

RAC Member (Kimberley Priestley): Concerns about best practices that they do not have teeth to ensure bringing in disproportionately impacted communities, and if you look at the statute, one thing that is missing from the rules is section 3(b) talking about inviting and supporting disproportionately impacted communities. Missing key words, want to make sure not manufacturing consent. Also, nothing says they need to consider the contributions from the communities; could follow all the steps but would not have to listen to the community. If the state is going to be funding these processes, it should matter, not just check boxing. See section 0004(1) A compared to B; the difference is invited/identified language. Reporting back is not the same as having to do something.

WRD Response (Charlotte Regula-Whitefield): OWRD welcomes comments on Best Practices. Noted that OWRD hears the need for accountability mechanism beyond reporting requirements.

Application Requirements Discussion

No comments made.

Grant Agreements and Reporting Discussion

RAC Member (Kimberley Priestley): Does not see anything that outlines the department's decision-making process as part of the grant evaluation. It seems like there should be criteria for approval or denial. Also, some sections of the statute don't appear to be captured in the rules, specifically sections 3 A and B in HB3293.

WRD Response (Charlotte Regula-Whitefield): OWRD anticipates additional requirements as part of the funding reporting and application guidance documents.

WRD Response (Kim Fritz-Ogren): The proposed rules are written this way so community engagement plan grantees know they must comply with all reporting requirements and are not exempt as part of the community engagement.

RAC Member (Christopher Hall): Is it anticipated that a water project grantee is a community grantee? Or can they apply independently?

WRD Response (Kim Fritz-Ogren): Yes, depending on the funding opportunity. See division 600 funding opportunities. They need to be paired together because community engagement alone may not meet the public benefit requirement as part of funding. We have had co-applicants in the past.

RAC Member (Christopher Hall): Reading the statute, it didn't occur that a third party couldn't be a grantee of the community engagement. For example, funding the disproportionately impacted communities in participating. It's a slippery slope to manufacturing community consent.

WRD Response (Kim Fritz-Ogren): The desire is to have meaningful engagement, not to manufacture consent. Third-party consideration funding a water project and third-party lobbying aspect need to ensure public dollars are being spent to fund engagement.

Discussion on scheduling an additional RAC

RAC Member (Christopher Hall): This RAC process hurried, these rules are short but have a lot of importance. Do not understand the need to hurry for this; encourage a more deliberate process.

RAC Member (Peggy Lynch): The hurry is to get these rules available by 2025. The implications of having a second RAC will delay rule adoption until March 2025, so it would not be a part of the January funding cycle for water projects grants and loans. Hears Chris's concern but worked hard to get this part of the statute and move along.

WRD Response (Charlotte Regula-Whitefield): The addition of a second RAC meeting is being actively considered considering today's RAC. An additional RAC would allow more discussion on the material already covered as well as the fiscal and racial impact statements. The Department is dedicated to the public process and will reach out to RAC members within the week to provide clear directions on next steps.

Public Comment

No written or verbal comments were made.