



OAR 141-089, General Authorizations

RAC Meeting #6 Summary

October 26, 2023; 1:00 – 3:00 p.m.

Overview

The OAR 141-089 Rulemaking Advisory Committee was convened by the Oregon Department of State Lands on October 26, 2023, via Zoom. The purpose of the RAC is to provide input on proposed amendments to the administrative rules governing Division 089, General Authorizations.

RAC Members and Attendance

Name	Affiliation	Present?
Members		
Scott Barrie	Oregon Home Builders Association	
Janelle Booth	Oregon League of Cities	
Tommy Cianciolo	Trout Unlimited	X
Brian Cook	Clean Water Services	X
Chris Gannon	Network of Oregon Watershed Councils	X
Dave Hunnicutt	Oregon Property Owners Association	
Andrea Klaas	Oregon Public Ports Association	X
KC Klosterman	CRH - River Bend Materials (Representing Oregon Business and Industry)	X
Drew Raby	(alternate)	
Brad Livingston	Oregon Department of Transportation	X
Kathy Majidi	Association of Clean Water Agencies	
Lauren Poor	Oregon Farm Bureau	
Timothy Sautter	Association of Oregon Counties	X
Nancy Taylor	Oregon Department of Fish and Wildlife	X
Joy Vaughn	(alternate)	
John van Staveren	Wetlands Conservancy	X
Staff / Advisors		
Danielle Boudreaux	Oregon Department of State Lands	X
Melinda Butterfield	Oregon Department of State Lands	X
Dana Hicks	Oregon Department of State Lands	
Kirk Jarvie	Oregon Department of State Lands	X
Steve Faust	3J Consulting; Facilitator	X

Interested Parties		
Kelly Albers	NRCS	
Rich Angstrom	Oregon Concrete and Aggregate Producers Association	
Bill Brignon	USFS	
Steve Brink	Idaho Power	X
Jeffrey Brittain	Oregon Department of Environmental Quality	
Jeff Burrington	Oregon Department of Land Conservation	
Megan Gerber	Wilbur Island Wetland Mitigation Bank	
Michael Lambert	Confederated Tribes of the Umatilla Indian Reservation (CTUIR)	
Rachele Lyon	Lyons Construction	
Michael Martin	Oregon League of Cities	
Ariel Nelson	Oregon League of Cities	
Shawn Priddle	Oregon State Marine Board	
Dirk Renner	USFWS	
April Snell	Oregon Water Resources Congress	
Ken Yates	Oregon Water Resources Congress	X
Jana McDonald		
Jason Yaich	City of Corvallis	
Lauren Zatkos		
Craig Herman	Coos & Curry Counties Farm Bureau	X
Kathy Majidi	City of Gresham	X
Janine Belleque	Oregon State Marine Board	X
Victoria Frankeny		X

Welcome and Introductions/Meeting Protocols

- Steve Faust introduced himself and the DSL staff members before briefly going over meeting protocols.

Meeting #5 Follow-Up

- Reviewed the proposed changes that came out of last month’s meeting covering Waterway Habitat Improvement GA. These proposed changes are listed in the “RAC Meeting 5 Comments Log”.
 - 141-089-0790 (1)(b). *Prior RAC Comment*: Unclear if term “capture mainstem flow” is intended to mean any flow. *DSL Proposal*: Proposed Language modified as follows: “...and the reconnection cannot result in *de-watering* mainstem flow; and,”
 - Most support this change. Melinda recommended clarifying if this is dewatering in totality or if can’t change waterway type such was perennial to intermittent or ephemeral.

- - **141-089-0790 (8)(a)**. Prior RAC Comment: Change the sizing requirement to a performance-based measure similar to large wood sizing change in the Streambank Stabilization GA. DSL Proposal: Language modified as follows: *“At a minimum, wood pieces, or their cumulative effect, must be of a size sufficient to withstand bankfull rates of flow.”*
 - Chris suggests a 25-year event. No objections to this proposed change.
- Reviewed the proposed changes that came out of last month’s meeting covering Wetland Ecosystem Improvement GA. These proposed changes are listed in the “RAC Meeting 5 Comments Log”.
 - **141-089-0805**. Prior RAC Comment: Add an eligibility requirement for ODFW habitat incentive agreements. DSL Proposa: Added as a new (8): *“Consistent with Habitat Incentive Agreements. If the project is under a Habitat Incentive Agreement with ODFW, the activities must be in conformance with that agreement.”*
 - Chris Gannon. Does this requirement need to be in the GA? Why is this important? Nancy at ODFW replied “These agreements are LONG term and there is not consistent oversight thru time... ensure that the activity conducted by the GA does not undo the benefits previously achieved.” This purpose is more of a reminder to comply with agreements already made. It’s not mean as another form over oversight.
 - Nancy at ODFW would like this added to the Waterway Habitat Improvement GA.

Rule Change Supporting Documents

- DSL is required by law to submit supporting documents and would like RACs input. 1) Need for the Rules 2) Fiscal and Economic Impact 3) Cost of Compliance 4) Racial Equity Statement.
- Need for the Rule. Reviewed the document “Div 89_Draft Need for the Rules_10262023”.
 1. Chris Gannon. Need to add “er” after “long”.
- Fiscal and Economic Impact. “Div 89_Draft Fiscal Impact Statement_10262023”.
 1. No comments provided.
- Cost of Compliance. Located within “Div 89_Draft Fiscal Impact Statement_10262023”.
 1. No comments provided.
- Racial Equity Statement. “Div 89_Draft Racial Equity Statement_10262023”.
 1. No comments provided.

Meeting Summary and Next Steps

- Next Steps
 1. DSL will have an internal review.

2. DOJ will review the rules.
 3. DSL will file for 30 day public comment period. This is expected to occur in January or February 2024. DSL will hold a public rule hearing either 1/16/2024 or 2/15/2024. Can't be held before the 15th of each month due to public hearing laws. The hearing will have a presentation followed by Q&A session.
 4. DSL will review public comments received.
 5. DSL will edit rules as appropriate.
 6. DSL management and/or Director will review and approve rules. The goal is to have this implemented in April 2024.
- **Chris Gannon.** Will RAC have a chance to review the Rule in its entirety? DSL's next step is to policy the rule with all proposed language. Then DSL will go out for public comments. DSL will notify all RAC members when public comment begins and where the proposed language can be found.

Interested Party Comments

- No comments.