

OREGON DEPARTMENT OF FORESTRY (ODF)
SB 762 RULEMAKING ADVISORY COMMITTEE (RAC)
Charter and Collaboration Principles
Adopted 8-3-2021

For any collaborative process, the participants should establish procedures to govern the committee and its members. Such agreement increases success and decreases meeting time by assuring a good faith process that explores competing needs and leads to balanced recommendations to the sponsor.

I. Background

The Oregon Forestland-Urban Interface Fire Protection Act of 1997 was the first defensible space in Oregon. At that time, the “forestland-urban interface” (WUI) was defined as properties within an ODF forest protection district that lie within a county where a specific concentration of homes exists (10 acres or less, or 4 homes per legal 40 acres).

Senate Bill 762, passed in the 2021 legislative session and is anticipated to be signed by Gov. Kate Brown, revises Oregon Revised Statutes 477.015 to 477.064. The major changes follow.

Requirement	SB 360	SB 762
Mapping	Limited to within ODF protection districts	Statewide
Display	Paper maps	Oregon Explorer Wildfire Risk Portal
Wildfire risk classes	3 to 5 classes	5 classes
Defensible Space Administration	Oregon Department of Forestry	Oregon Office of the State Fire Marshal

The bill directs the Board of Forestry to establish a definition of Wildland-Urban Interface. These rules must also establish criteria to identify and classify the WUI. The Board of Forestry approved the convening of this RAC at its July 21, 2021 meeting. The WUI definition must be established by rule within 100 days of Governor’s signature of SB 762 on July 19, 2021.

II. Scope & Charge

This Rule Advisory Committee (RAC) is not a decision-making body. It is a recommendation-making group pursuant to ORS Chapter 183 and DOJ Model Rule 137-001-0007 (Public Input Prior to Rulemaking.) The RAC is charged with providing perspective, input, and assistance to ODF so ODF can develop administrative rules surrounding SB 762 sections 31 through 33 for its presentation to the Board of Forestry.

RAC 1: Recommend the OAR WUI definition as described in SB 762 sections 31 through 33, WILDLAND-URBAN INTERFACE FIRE PROTECTION.

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/Enrolled>

Considering national best practices, the two major deliverables for RAC 1 are:

- General WUI definition, and
- Criteria to identify and classify WUI.

Additionally, the RAC is charged with providing input for the ODF Statement of Need and Fiscal Impact.

ODF asks the RAC to consider the fiscal impact of its proposed rules (see generally, ORS Chapter 183 and OAR 137-001-0018) including:

- Whether the rules will have a significant adverse fiscal impact, and if so, what the extent of that impact will be; and
- Whether the rules will have a significant adverse fiscal impact on small businesses likely to be affected by the rules, and if so, how ODF can mitigate the cost of compliance.

RAC 1 is not charged with making recommendations on Fire Risk Mapping the Wildfire Risk Map as described in SB 762 section 7, STATEWIDE MAP OF WILDFIRE RISK.

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/Enrolled>. Those recommendations, among others, will be discussed in RAC 2.

ODF will consider the recommendations of both RAC 1 when drafting its rules. ODF will then follow the rulemaking procedures identified in ORS Chapter 183 and DOJ Model Rule 137-001-0011 through 137-001-0100. Ultimately, the Board of Forestry will decide on the rules, and subsequently, ODF will issue contract specifications consistent with those rules.

III. Guiding Principles

The RAC should consider the following guiding principles and/or policies, among others, in the development of administrative rules regarding SB 762.

- The use of objective, scientific, quantifiable data is the cornerstone of the recommendation and decision-making.
- Administrative rule development discussions will pertain exclusively to the requirements of Sections 31-33 of Senate Bill 762.
- Recognizing the Oregon Explorer as a viable tool and how it will be impacted by this WUI work is important.
- ORS 477.005 Policy provisions, which follow, are paramount:
 - The preservation of the forests and the conservation of the forest resources through the prevention and suppression of forest fires hereby are declared to be the public policy of the State of Oregon.
 - In order to accomplish the purposes of the policy stated in this section:
 - The need for a complete and coordinated forest protection system is acknowledged and the primary mission of the State Forestry Department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources; and
 - This chapter shall include all persons and activities designated in this chapter, irrespective as to whether or not such person or activity is concerned with the harvesting, cutting, removal or marketing of trees, timber or other forest products.
- WUI definition must consider national standards.
- Relevant policy considerations

IV. Membership

The following members will provide their diverse perspectives on policy proposals, including environmental justice, public health, and fiscal impacts of the program as Voting members.

Organization	RAC Member / (Alternate)	Voting
1000 Friends	Mary Kyle McCurdy	X
Associated Oregon Loggers	Amanda Astor / (Rex Storm)	X
Association of Oregon Counties	Lauren Smith	X
Association of Oregon County Planning Directors	Holly Kerns	X
Cow Creek Band of Umpqua Tribe of Indians	Jason Robison	X
Department of Land Use & Conservation	Jon Jinings / (Sadie Carney)	X
Hood River County Planning Commission	Leti Moretti	X
Jackson County Fire	Robert Horton	X
League of Oregon Cities	Jim McCauley	X
Office of the State Fire Marshal	Travis Medema / (Chad Hawkins)	X

Organization	RAC Member / (Alternate)	Voting
Oregon Farm Bureau	Mary Anne Cooper	X
Oregon Fire Chiefs Association	Nicole Hazelbaker	X
Oregon Fire Marshall's Association	Shawn Olson	X
Oregon Forest Industries Council	Kyle Williams	X
Oregon Home Builders	Mark Long	X
Oregon Property Owner's Association	Dave Hunnicut / (Samantha Bayer)	X
Oregon Small Woodlands Association	Roger Beyer	X
Oregon State University - Extension	Chris Dunn	X
Sisters Fire	Roger Johnson	X
Special Districts Association	Michele Bradley / (Jason Jantzi)	X
Sustainable Northwest	Dylan Kruse	X
The Nature Conservancy	Amelia Porterfield	X
Tualatin Valley Fire	Les Hallman	X
Western Environmental Law Center	Pam Hardy	X

Each member is allowed to assign an alternate by providing written notice to Tim Holschbach in advance of the meeting the primary member will miss. sb762.rulemaking@oregon.gov.

While not part of the RAC, Board of Forestry Members Kelly, Deuming, and Justice, may be present to listen. Additionally, ODF staff TIM Holschbach, Jenna Trentadue, and others will be present during the meetings as resources, but they are not part of the RAC. This includes Ian Rickert from the United States Forest Service and Richard Parrish from the Bureau of Land Management.

Government to government tribal consultants are ongoing.

V. Non-Committee Member Attendees

The public is welcome to attend all meetings. The facilitator will manage the meetings to accommodate both members and non-members who wish to provide input, but priority will be given to committee members. There will be time on the agenda dedicated to receiving input from the public with time limits for each person.

After RAC 1 concludes, a formal public comment period will open on the proposed rules.

VI. Subcommittees

ODF, with RAC input, will evaluate the need for subcommittees, factoring in resource considerations, but none are planned at this time.

VII. RAC Material and Support

All committee materials will be provided electronically as a sustainability measure.

Meeting notices, agendas, materials, summary, and recordings (<https://www.youtube.com/c/OregonDepartmentofForestry/featured>) will be posted on the following webpage: <https://www.oregon.gov/odf/board/Pages/rac.aspx>. The meeting recordings will be used as the formal meeting minutes, and they control, in the event of a conflict.

Technical input from agencies, organizations, or individuals with specialized expertise will be available to the RAC as issues arise.

VIII. Facilitator

ODF has contracted with an independent and neutral third-party facilitator, Oregon Consensus (<https://oregonconsensus.org/>) who has contracted with Triangle Associates (<https://www.triangleassociates.com/>) and ICMresolutions (<https://www.icmresolutions.com>), together, "Facilitator," whose role is to facilitate meetings, help the RAC develop recommendations, and produce RAC reports. The Facilitator's "client" is the RAC process, but neither RAC membership/sponsorship, nor process participation is a substitute for independent legal or other professional advice. That is the responsibility of the process participants. The Facilitator will also be available as a resource for conflict resolution and RAC process improvement suggestions.

The Facilitator's written contract with ODF is available for review. The Facilitator will not be influenced by payment source. To ensure impartiality, ODF will solicit RAC input on the Facilitator's performance before changing their status, but the ultimate decision is ODF's alone.

The Facilitator will not function as an advocate on any issue, interest group, or RAC member. However, to help move the process forward, the Facilitator may suggest concepts for RAC consideration, but will not make any decisions.

Specific Facilitator responsibilities include:

- a) Design and support meeting process to achieve the outcomes of the process using formal agenda and meeting recordings to track progress;
- b) Ensure culturally competent practices are used to foster inclusion and the equal voice of all participants;
- c) Ensure a welcoming meeting environment where all members can participate;
- d) Ensure a safe environment for alternative opinions to be expressed;
- e) Conduct meetings in a manner to foster collaborative decision-making and consensus building; and
- f) Prevent dialogue from becoming confrontational and apply mediation practices to resolve conflict.

The Facilitator may have non-confidential, informal communications and perform facilitation activities between and during meetings. The Facilitator will address situations where it appears a participant is not acting according to this document.

IX. Work Plan/Schedule

The committee will meet according to its draft work plan outlined below, which is subject to change.

a) Meetings and Draft Workplan for First Four Meetings

There will be weekly two-hour Zoom meetings of RAC ! for four weeks as noted above, and then RAC 1 will meet every other week through February to establish criteria for WUI.

Meeting 1: July 27, 2021
<ul style="list-style-type: none">● Introductions● Background and Public Contracting at ODF● Review of Charter and Process Overview● Member Comments● Next Steps and Homework● Meeting Evaluation

Meeting 2: August 3, 2021
<ul style="list-style-type: none">● Introduce ODF proposed language and begin RAC discussion● Next Steps and Homework● Meeting Evaluation

Meeting 3: August 10, 2021
<ul style="list-style-type: none">● Create 75% draft of ODF OAR WUI Language Recommendations and Draft Report● Next Steps and Homework● Meeting Evaluation

Meeting 4: August 17, 2021
<ul style="list-style-type: none">● Finalize ODF OAR WUI Language Recommendations and Report● Next Steps● Meeting Evaluation

- b) Additional RAC 1 meetings will be scheduled after the WUI definition work is completed.
- c) **Final RAC Recommendations Report:** WUI general definition - 8/17/21, WUI criteria 2/15/2022
- d) **Secretary of State filing:** WUI definition draft filing August 28, 2021, WUI criteria draft March 20, 2022
- e) **Earliest Public Hearing date:** WUI definition: September 15, 2021, Criteria: April 15, 2022
- f) **Board of Forestry Meeting:** WUI definition: special meetings as needed, Criteria: June 2022 Board approval

X. Collaboration Protocols for RAC Recommendations

The RAC will follow these protocols.

- a) **Quorum:** 51% of RAC Organizations listed above.
- b) **Meetings:** Meetings of the RAC and its subcommittees, if any, are open to the public and will include an opportunity for public comment. Notice of RAC meetings will be posted in advance of meetings on the ODF project website.
- c) **Meeting Agendas and Meeting Materials:** The Facilitator will develop Working Agendas for each meeting. Meeting agendas and meeting materials will be sent electronically to RAC members in advance of the meetings and will be posted on the project website.
- d) **RAC Commitments:** The RAC members, staff, and participants will participate in good faith, which means:
 - 1) Prepare for and set aside time for the meetings and the entire process,
 - 2) Participate fully, honestly, and fairly, commenting constructively and specifically,
 - 3) Speak respectfully, briefly, and non-repetitively; not speaking again on a subject until all other members desiring to speak have had the opportunity to speak,
 - 4) Allow people to say what is true for them without fear of reprisal,
 - 5) Avoid side conversations during meetings,
 - 6) Provide information as much in advance as possible of the meeting in which such information is to be used and share all relevant information to the maximum extent possible,
 - 7) Generate and explore all options on the merits with an open mind, listening to different points of view with a goal of understanding the underlying interests of other RAC members,
 - 8) Consult regularly with their appointing/nominating bodies and provide their input in a clear and concise manner,
 - 9) Each member agrees to work toward fair, practical, and durable recommendations that reflect the diverse interests of the entire RAC and the public,
 - 10) When communicating with others, accurately summarize the RAC process, discussion, and meetings, presenting a full, fair, and balanced view of the issues and arguments out of respect for the process and other members,
 - 11) Not attempt to affect a different outcome outside of the RAC process once the RAC has reached a “consensus” recommendation,
 - 12) Strive vigorously for consensus and closure on issues, and
 - 13) Self-regulate and help other members abide by these commitments.

XI. Public Comment

There will be public comment opportunities during the RAC 1 process. Comments from the public will be limited in time to allow sufficient opportunity to conduct the other portions of the meeting. Typically, comments will be limited to a maximum of three minutes per person. Participants are encouraged to submit written comments via email addressed to sb762.rulemaking@oregon.gov or ODF, Tim Holschbach, 2600 State Street, Building D, Salem, OR 97310 in advance of the meeting so they can be circulated to the entire RAC for their consideration.

XII. Process for RAC Recommendations

The Facilitator will assist the RAC and its members in identifying objectives, addressing the diversity of perspectives, and developing substantive, practical recommendations. Each voting RAC member will have one vote. A vote represents that the member will strongly recommend to their government, organization, or group that they should support or oppose the voted-upon proposal consistent with the member's vote.

The RAC will strive for and use a "consensus" recommendation-making approach to determine their level of agreement on proposals. This allows RAC members to distinguish underlying values, interests, and concerns with a goal of developing widely accepted solutions. Consensus does not mean 100% agreement on each part of every issue, but rather support for a decision, "*taken as a whole.*" This means that a member may vote to support a consensus proposal even though they would prefer to have it modified in some manner to give it their full support. Consensus is a process of "*give and take,*" of finding common ground and developing creative solutions in a way that everyone can support. Consensus is reached if all voting members support an idea or can say, "*I can live with that.*"

When developing recommendations, the RAC will address each rule component individually, and in various combinations. The RAC will decide on whether it wants to make a package recommendation for the entire rule at the end of the process.

- 1) **"1-2-3" Consensus Polling:** The Facilitator will assist the RAC in articulating points of agreement, as well as articulating concerns that require further exploration. The RAC will use a "Consensus Polling" procedure for assessing the group's opinion and adjusting proposals. In "Consensus Polling," the Facilitator will articulate the proposal. Each RAC voting member will then offer "one," "two," or "three," reflecting the following:
 - "One" indicates full support for the proposal as stated.
 - "Two" indicates that the participant agrees with the proposal as stated but would prefer to have it modified in some manner to give it full support. Nevertheless, the member will support the consensus even if his/her suggested modifications are not supported by the rest of the group because the proposal is worthy of general support, as written.
 - "Three" indicates refusal to support the proposal as stated.

The Facilitator will repeat the consensus voting process as reasonably practical and as time allows to assist the group in achieving consensus regarding a particular recommendation, so that all members are voting “one” or “two.” Either way, the result will be noted in the ODF Staff Report and/or the RAC Report.

- 2) **No Consensus – Majority and Minority Recommendations:** If a consensus on an issue is not likely, as determined by the Facilitator, the votes of those present at the meeting will be taken and recorded as a Majority – Minority recommendation in the meeting summary, which will include the specific majority recommendation, the specific minority recommendation, along with the names supporting each recommendation. Majority is defined as at least 51% of the RAC Organizations (members or alternates) noted above.
- 3) **Summary of RAC Recommendations:** The meeting summaries will serve as the record of RAC recommendations as supplemented by the addition of RAC member statements who elect to submit additional information by the deadline to be established at the last RAC meeting. ODF will package all this information in its staff report to the Board.

XIII. Additional Provisions

The following provisions apply to the RAC process.

- a) **Regular Communication with Affiliated Group:** There is an expectation of regular, two-way communication between RAC members and their appointing jurisdictions / organizations. This is intended to ensure meaningful representation of those interests. Time will be set aside on the RAC agenda for reports from this outreach.
- b) **Transparency and Media:** Members agree that transparency is essential to all deliberations. In that regard:
 - 1) RAC members agree to notify Tim Holschbach at sb762.rulemaking@oregon.gov of: of written communications with the media.
 - 2) Members agree to direct public testimony about RAC work to Tim Holschbach at sb762.rulemaking@oregon.gov. These communications will be included in the public record and copied to all RAC members.
 - 3) Individual members should not speak on behalf of the entire RAC.
 - 4) Whenever reasonable, RAC members and staff will refer press, citizen, and other inquiries to Tim Holschbach at sb762.rulemaking@oregon.gov.

c) Disclosure of Public Official Conflicts of Interest:

- 1) Some RAC members may be “public officials.” A public official is required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon.
- 2) The announcement needs to be made on each occasion when the public official is met with the conflict of interest, and the public official must disclose the nature of the conflict of interest.
- 3) For example, the public official would have to make the public announcement one time when met with the conflict of interest, but only one time in each meeting of the RAC. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting.
- 4) For guidance, please see <https://www.oregon.gov/ogec/Documents/2021%20PO%20Guide%20Final%20Adopted.pdf>

d) Open Meetings and Records: Meetings of the RAC and subcommittee meetings are open to the public. Notice to the public regarding the dates, times, and locations of all meetings will be provided in advance of a meeting.

RAC members can participate through telephonic conference calls. All records of the Body, including formal documents, discussion drafts, meeting recordings, and exhibits, etc. are public records.

"Communications" refers to all statements and votes made during meetings, memoranda, work products, records, documents, text messages, pictures, or materials developed to fulfill the charge, including electronic mail correspondence. The personal notes of individual members taken at public meetings might be public record to the extent they relate to the conduct of the public's business.

e) Amendment and Interpretation: The Facilitator shall lead a RAC discussion designed to reach a consensus on any proposed Scope & Charge, Guiding Principles, Collaborative Protocols, and Process for RAC Recommendations amendment(s) to this document. Any remaining amendments can be made informally. The terms of this document, except those required by law, are process guidelines – not binding mandates. Ultimately, ODF will make the final decision on the proposed amendments and interpretation issues.

f) RAC Member Agreement: Participation in this process is agreement to abide by the terms of this document.