

OREGON



WATER RESOURCES
DEPARTMENT

Place Based Water Planning Rulemaking

Oregon Water Resources Department

Rules Advisory Committee Meeting

September 16, 2024

Virtual Meeting Protocols

RAC Members

- Stay on mute when you're not talking
- Use raise hand feature to speak
- Limit use of chat feature

Members of the Public

- Please stay on mute and off camera until public comment period
- Public comment period will start around 1:45pm – please indicate in chat if you would like to participate



Introductions

Meeting Agenda

Topic	Estimated Timing
Welcome and Introductions	12:00pm – 12:05pm
RAC #1 Summary and Grant Types/Eligibility Wrap-Up	12:05pm – 12:25pm
Grant Evaluation Criteria Discussion	12:25pm – 1:00pm
Break	1:00pm – 1:05pm
State Recognition Discussion	1:05pm – 1:45pm
Public Comment (note: if there is limited/no public comment, RAC will continue discussion until 2pm)	1:45pm – 2:00pm

The background features a stylized landscape. The top portion shows a range of mountains in shades of brown and tan, with white snow-capped peaks. A large, white, fluffy cloud is positioned in the upper right. Below the mountains is a solid blue horizontal band. At the bottom, there are rolling green hills with light tan outlines, suggesting a valley or a path.

RAC #1 Summary

Red-Line Edits based on 8/19 RAC Discussion

Application and Plan Review Teams:

- “...all state agencies identified in ORS 537.873(7) **and any other invited state agency with relevant knowledge or expertise** that have the capacity to participate in application/plan review.”
- **“State agency” means any officer, board, commission, department, division or institution in the executive or administrative branch of state government.**

Red-Line Edits based on 8/19 RAC Discussion

“**Convener**” means the persons, public bodies, Indian tribes, or nonprofit organizations that bring together a balanced representation of **instream and out-of-stream water** interests to undertake place-based water planning, **ensure an open, equitable, and transparent process, and impartially guide and support the planning and implementation processes.**

Red-Line Edits based on 8/19 RAC Discussion

“**Collaborative**” means **the balanced representation of instream and out-of-stream water interests from the community** that develop, implement, or update a place-based integrated water resources plan **consistent with their shared governance agreement.**”

Red-Line Edits based on 8/19 RAC Discussion

“Community” means the people impacted by the water resources of the planning area, entities with an interest or obligation relative to water and ecosystems in the planning area, and federal, state, local, and tribal governments.

Red-Line Edits based on 8/19 RAC Discussion

"Grant Agreement" means the legally binding contract between the Department and the funding recipient. It consists of the conditions specified in these rules, the notice of funding award, special conditions to the grant agreement, a certification to comply with applicable state and federal regulations, **the scope of work to be performed**, and the budget.

Red-Line Edits based on 8/19 RAC Discussion

“Planning area” means a shared hydrologic area that is within hydrologic and size limitations defined by the Department.

Feedback/Concerns?

- Application/Plan Review Teams
- State Agency
- Convener
- Collaborative
- Community
- Grant Agreement
- Planning Area

Caylin's Suggestions

“Community” means the people impacted by the water resources in or downstream of the planning area, entities with an interest or obligation relative to water resources or ~~and~~ ecosystems in or downstream of the planning area, and federal, state, local, and tribal governments.



Grant Types/Eligibility Wrap-Up

Red-Line Edits based on 8/19 RAC Discussion

- Section Title Change: ~~Grant Eligibility~~ “Eligible Grant Types”
- “The Place-Based Water Planning Fund may fund the costs of any action supporting place-based integrated water resources planning as outlined in ORS 537.873(2) through the administration of Pre-Planning Grants, Planning Grants, Implementation Coordination Grants, and Plan Update Grants.”

ORS 537.873(2)

(2) The Water Resources Director may award grants with moneys from the Place-Based Water Planning Fund established in section 15 of this 2023 Act to fund the costs of actions supporting place-based integrated water resources planning, including costs of:

- (a) Filling gaps in state, tribal and local capacity, knowledge and skill sets.
- (b) Developing data and associated analyses tailored to the area of a place-based integrated water resources plan.
- (c) Assessing critical issues within the planning area.

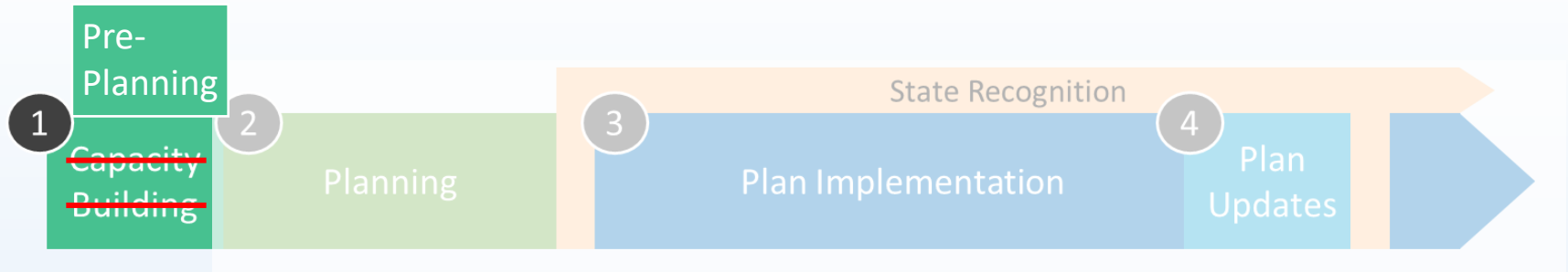
ORS 537.873(2)

- (d) Building knowledge and relationships among state agencies, organizations with ties to or an interest in the planning area and people who live in, work in or are interested in the planning area.
- (e) Assisting groups with preparing and assessing readiness to engage in relevant planning.
- (f) Assisting with building the capacity of a community to engage in relevant planning.
- (g) Facilitating and managing a collaborative process to support relevant planning.

ORS 537.873(2)

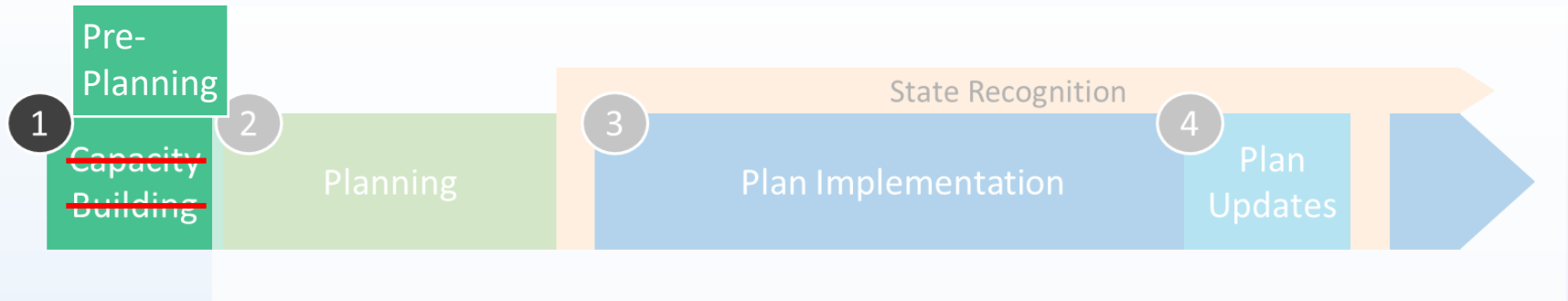
- (h) Developing, or supporting development of, a place-based integrated water resources plan.
- (i) Facilitating associated public participation, including participation by members of environmental justice communities, through education, outreach, financial support and other activities.
- (j) Updating a state-recognized place-based integrated water resources plan.
- (k) Eligible implementation coordination costs.

690-602-004: Eligible Grant Types



“(1) Eligible ~~capacity building~~ **pre-planning** grants must prepare for or assess **a community's** readiness to engage in Place-Based Integrated Water Resources Planning **for a proposed planning area.**”

690-602-004: Eligible Grant Types



(1) “Eligible ~~capacity building pre-planning~~ grants must prepare for or assess a community's readiness to engage in Place-Based Integrated Water Resources Planning for a proposed planning area.”

Discussion Question:

Does “Pre-Planning” accurately describe the work that would be done under this grant type? Is there a different term that would fit better?

690-602-004: Eligible Grant Types



“(2) Eligible **Planning Grants** must:

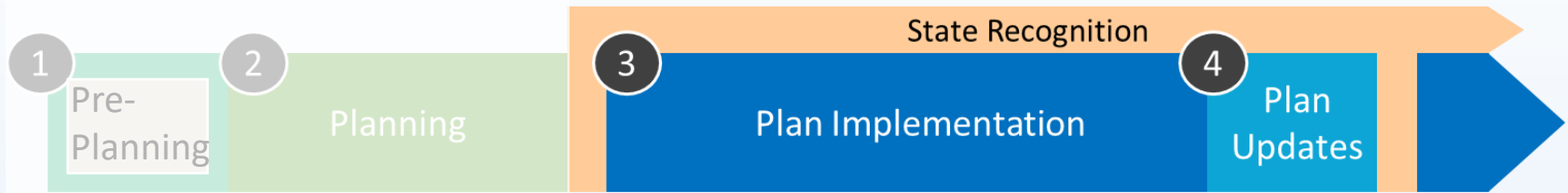
(a) Develop a shared governance agreement adopted by the collaborative;

(b) Develop a place-based integrated water resources plan for a planning area;

~~(b) Be within hydrologic and size boundaries defined by the Department; and~~

~~(c) Be open to any interested parties that live, work, or recreate within the planning area.”~~

690-602-004: Eligible Grant Types



“(3) Eligible **Implementation Coordination** Grants must support the implementation of a state-recognized place-based integrated water resources plan.”

“(4) Eligible **Plan Update** Grants must support updates to a state-recognized place-based integrated water resources plan.”

Discussion Questions:

1. Are these the appropriate grant types to offer to achieve the goals of PBP?
2. Are the eligibility criteria and grant outcomes clear for each grant type? Is there anything missing from the descriptions?

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Grant Evaluation Criteria

690-602-0006

Related Statute

ORS 537.873(11) “The commission may adopt rules to implement this section, including rules that:

(d) Prioritize the issuance of funding for purposes described in this section and establish a system for scoring and ranking projects that includes consideration of groups’ readiness for planning and projects’ alignment with strategic priorities determined by state water laws and relevant state agencies.”

Pre-Planning: Draft Rules

“(1) Pre-Planning ~~Capacity Building~~ Grants shall be evaluated on:

- (a) The expected ability of the grantee to effectively engage a balance of instream and out-of-stream water interests on place-based water resources issues;
- (b) The clear and immediate need for capacity to be built; and
- (c) Cost effectiveness.”

Planning: [HB 5006 Workgroup Recommendations](#)

Recommendation K: Place-Based Planning grant selection should be based on established criteria that consider planning group readiness and align with strategic priorities determined by the state.

(17 support, 3 neutral, 4 serious concerns)

Planning: Draft Rules

“(2) Planning Grants shall be evaluated on:

(a) A collaborative’s readiness to engage in planning, which includes but is not limited to:

(A) The convener and collaborative members ability to meaningfully engage and collaborate with a balanced representation of instream and out-of-stream water interests, the public, and state agencies.”

Planning: Draft Rules

(2)(a) (cont.)

“(B) The history of collaboration in the planning area and among collaborative members.

(C) The proposed data, technical information, and planning tools that would support planning in the area.

(D) The proposed engagement of environmental justice communities.”

Planning: Draft Rules

(2) (cont.):

“(b) Cost effectiveness;

(c) Strategic priorities determined by the Director; and

(d) The value of place-based integrated water resources planning in the planning area and the demonstration of a clear and immediate need for a Plan.”

Implementation: Draft Rules

“(3) Implementation Coordination Grants shall be evaluated on:

- (a) Time elapsed since state recognition of a Plan or Plan update, prioritizing collaboratives that have more recently received state recognition;
- (b) Demonstration of the pursuit of Plan strategies and actions that continue to represent a balance of instream and out-of-stream water interests and a commitment to collaboration and place-based planning principles;
- (c) Progress made towards Plan implementation; and
- (d) Cost effectiveness.”

Plan Updates: Draft Rules

“(4) Plan Update Grants shall be evaluated on:

- (a) Demonstration of the pursuit of Plan strategies and actions that continue to represent a balance of instream and out-of-stream water interests and a commitment to collaboration and place-based planning principles;
- (b) Demonstration of a need to update or develop new planning strategies and/or demonstration of significant changes in local conditions, data availability, or climate change information that would impact the Plan; and
- (c) Cost effectiveness.”

Additional Evaluation Criteria: Draft Rules

“(5) Additional evaluation criteria for Place-Based Water Planning grants may be added by the Commission to reflect lessons learned by the Department through the administration of the grant program. Fund solicitation and application materials must reflect any new evaluation criteria before the commencement of a grant application cycle.”

Discussion Questions

For:

- 1) Pre-Planning
- 2) Planning
- 3) Implementation
Coordination
- 4) Plan Updates
- 5) Additional Evaluation
Criteria

- Are these the appropriate criteria?
- Are there missing criteria?
- Are there criteria that are unnecessary?

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State Recognition
690-602-0007

Related Statute

ORS 537.873(1)(i) “State-recognized place-based integrated water resources plan” means a place-based integrated water resources plan that has been reviewed by the Water Resources Commission and recognized by a commission resolution stating that the completed place-based integrated water resources plan adheres to applicable requirements.

Two components in draft rules:

1. Process

- Achieving State Recognition
- Maintaining State Recognition

2. What does it mean?

- Agency Support for State-Recognized Plans
- Consideration of State-Recognized Plans in the IWRS

Process: Related Statute

ORS 537.873 (11) The commission may adopt rules to implement this section, including rules that:

(d) Establish criteria and a process for state recognition of a place-based integrated water resources plan.

ORS 537.873 (11) (cont.)

(f) Establish reporting and other requirements necessary to maintain the status of a state-recognized place-based integrated water resources plan, including requirements concerning:

(A) Progress on implementing a place-based integrated water resources plan.

(B) How strategies and actions outlined in a place-based integrated water resources plan must continue to represent a balance of in-stream and out-of-stream water interests.

(C) How the planning process continues to demonstrate a commitment to collaboration and adherence to principles of place-based integrated water resources planning and the integrated state water resources strategy described in ORS 536.220.

Process: [HB 5006 Workgroup Recommendation](#)

Recommendation F:

To maintain state recognition and access to associated resources, all planning groups should be required to complete biennial reports to the Water Resources Commission that demonstrate their progress on implementation, and that their pursuit of plan strategies and actions continue to represent a balance of instream and out-of-stream water interests and a commitment to collaboration and place-based planning principles.

(16 support, 8 neutral)

Process: PBP Independent Evaluation

State participants expressed concern that a balance of water interests be retained during implementation and identified the need for ensuring accountability toward achieving the desired outcomes in the Action Plans on the part of both local communities and the state during implementation. One suggestion was that the planning groups make annual progress reports to the Oregon Water Resources Commission. However, the participants indicated that such accountability mechanisms will need to be paired with resources so that there is greater likelihood that they will work.

Process: Draft Rules

“(1) A collaborative is eligible to apply for state-recognition of their Plan after it is adopted by the collaborative through consensus as defined in the collaborative’s governance agreement.

(2) The Plan Review team shall review the Plan according to the evaluation metrics provided by the Department and make a recommendation to the Director about state recognition of the Plan within 120 days of plan submission.

(3) A Plan may be recognized by the Commission if it meets the definition of a place-based integrated water resources plan in ORS 537.873(1)(e) and upon recommendation by the Director.”

Process: Draft Rules

“ (4) To maintain Plan state recognition, the collaborative must submit biennial reports on progress made towards Plan implementation on a form provided by the Department. Plans may lose state recognition if:

- (a) Reporting requirements are not met;
- (b) Reporting or other information received by the Department indicates that implementation does not represent a balance of in-stream and out-of-stream water interests; or
- (c) The Collaborative is no longer demonstrating a commitment to collaboration and adherence to principles of place-based integrated water resources planning and the state’s Integrated Water Resources Strategy.”

Process: Discussion

Are the rules clear?

Are there additional process points for achieving/maintaining state-recognition that should be included in rule?

Agency Support: Related Statute

ORS 537.873 (11) The commission may adopt rules to implement this section, including rules that:

(e) Describe how the implementation of actions outlined in a state-recognized place-based integrated water resources plan may be considered and supported.

Agency Support: [HB 5006 Workgroup Recommendation](#)

Recommendation D:

Having a state-recognized plan should provide planning groups:

- Agency support through coordination by the Water Core Team (or other appropriate groups) to examine potential actions, incentives, or strategies that would advance the implementation of plans within each agency's mission and priorities.
- Assistance for implementation coordination and plan updates.

(17 support, 7 neutral)

Agency Support: Draft Rules

“(5) The Department, in consultation with other relevant state agencies, shall support implementation of state-recognized Plans appropriate to their mission, authorities, and priorities, as capacity allows.”

IWRS: Related Statute

ORS 537.873 (10) The Water Resources Commission shall consider state-recognized place-based integrated water resources plans when updating the integrated state water resources strategy.

IWRS: HB 5006 Workgroup Recommendation

Recommendation G:

The state may use state-recognized plans to identify common themes across basins to help inform updates to the Integrated Water Resources Strategy

(21 support, 3 neutral)

IWRS: Draft Rules

“(6) Plans that achieve state recognition before the Department begins updating the state’s Integrated Water Resources Strategy shall be considered in the following ways:

(a) The Department may identify and incorporate common themes emerging from state-recognized Plans into updates; and

(b) Agencies may incorporate strategies from state-recognized Plans into the Integrated Water Resources Strategy and any associated workplans, appropriate to each agency’s mission, authorities, and priorities, and as capacity allows.”

Agency Support and IWRS: Discussion

Are the rules clear?

Is there anything missing?

Are there any concerns?



Next Steps

Next Steps

Email Lili Prah (lili.k.prahl@water.oregon.gov) any additional input regarding today's draft rules or potential scope expansion by **September 23, 2024**.

Current list of RAC-identified areas for potential scope expansion:

- Technical support
- Interagency coordination
- Contracting authority
- Program evaluation and improvement
- Other activities that may be undertaken or supported by the Department

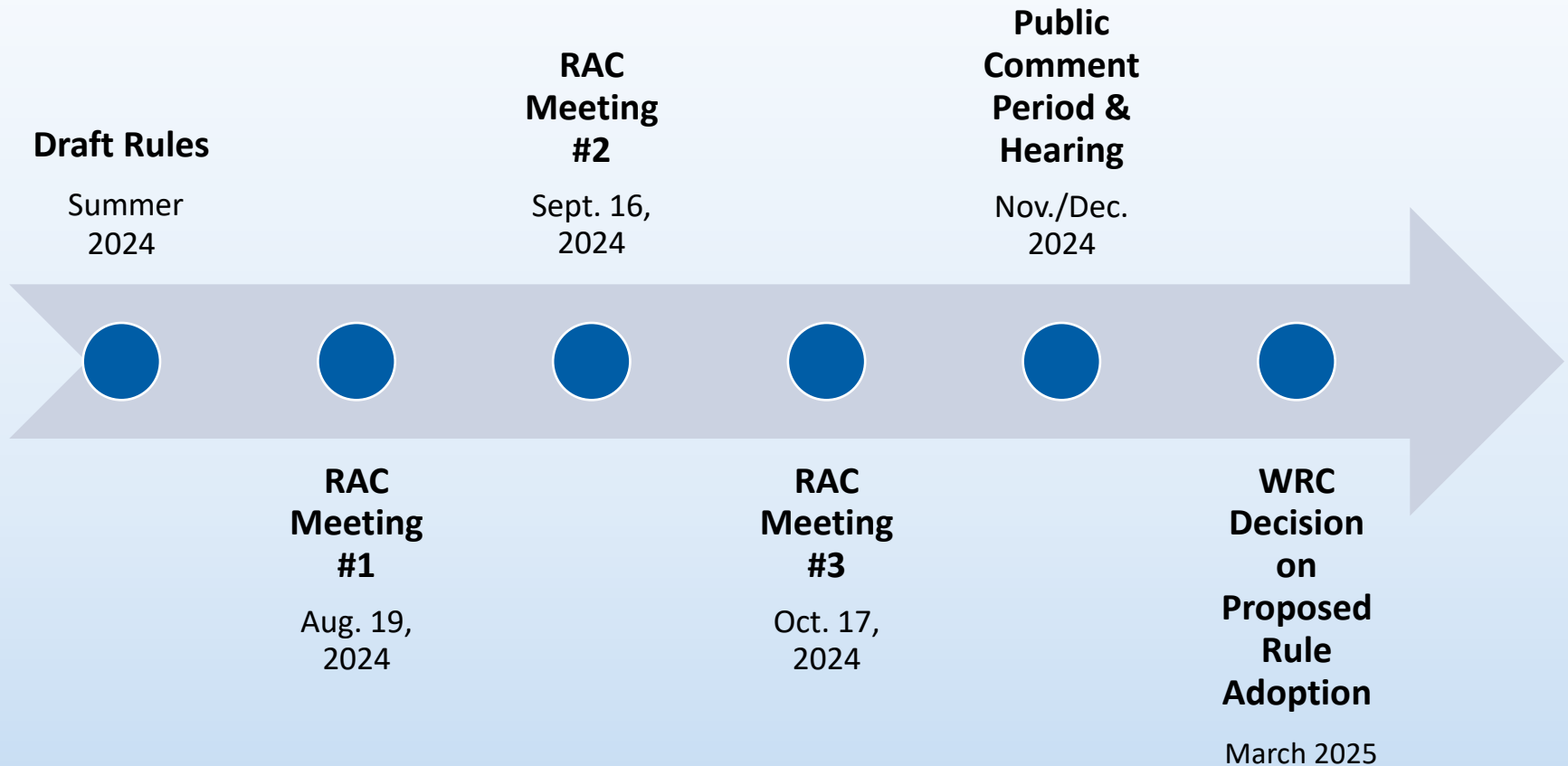
For questions regarding the rulemaking process, email Margo Mashkovskaya (Margo.A.MASHKOVSKAYA@water.oregon.gov)

Third RAC Meeting

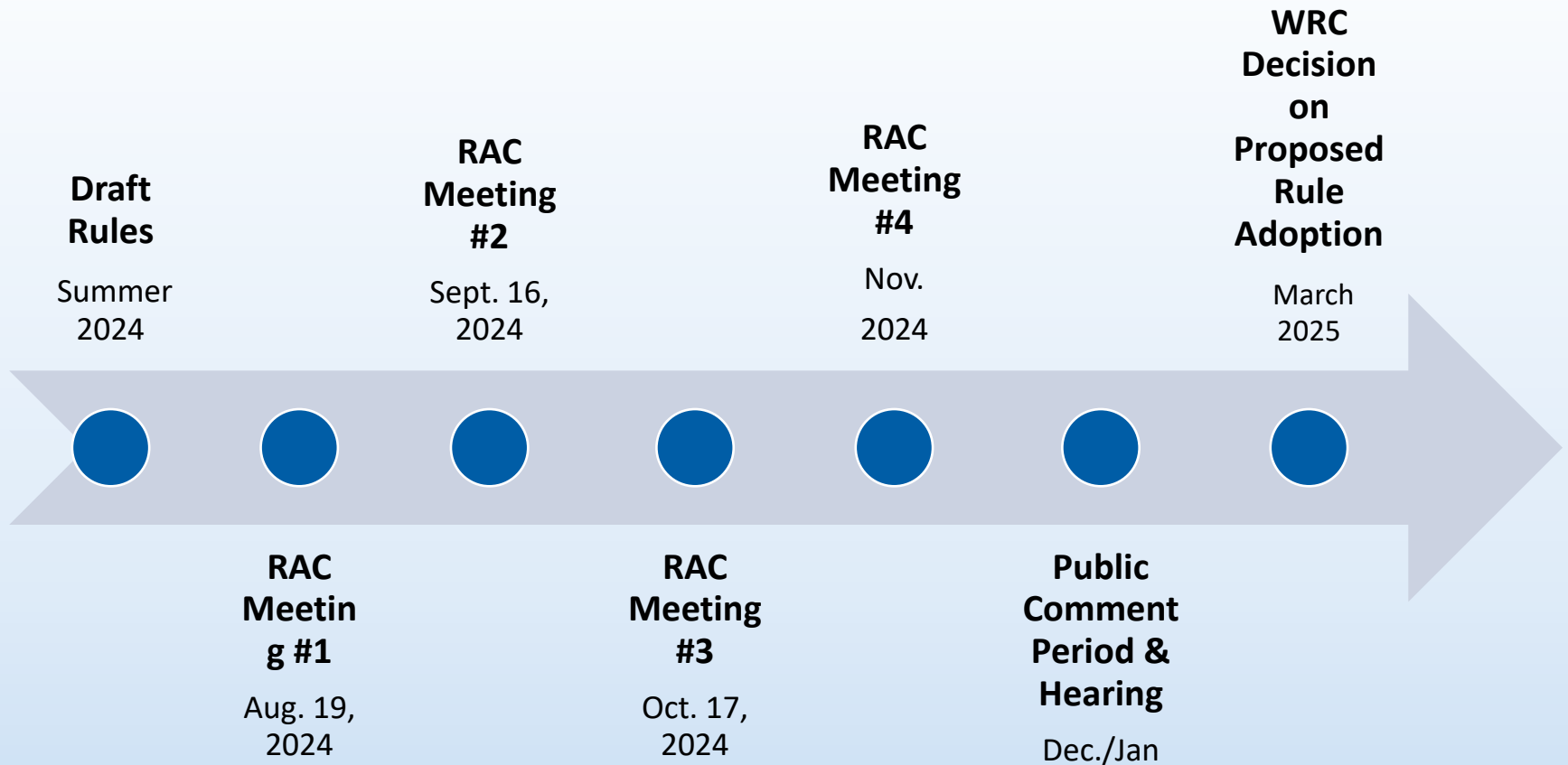
- **When:** Thursday, October 17, 12pm - 3pm
- **Where:** Virtual
- **What:** Rules Scope, Grant Application Process, Grant Application Requirements, Grant Agreement and Conditions, Public Notice and Comment, Distribution of Funds

Do we need a fourth (November) RAC Meeting?

Rulemaking Timeline



Potential New Rulemaking Timeline



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Public Comment

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