

OREGON



WATER RESOURCES
DEPARTMENT

Place Based Water Planning Rulemaking

Oregon Water Resources Department

Rules Advisory Committee Meeting

October 17, 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 2:45pm – please indicate in chat if you would like to participate

Meeting Agenda

Topic	Estimated Timing
Welcome and Introductions	12:00pm – 12:05pm
RAC #2 Summary and State Recognition Wrap-Up	12:05pm – 12:35pm
Match Requirements	12:35pm – 1:00pm
Grant Administration	1:00pm – 1:30pm
Break	1:30pm – 1:40pm
Expanded Scope Discussion	1:40pm – 2:15pm
Racial Equity Impacts, and Economic & Fiscal Impacts Discussion	2:15pm-2:45pm
Public Comment (note: if there is limited/no public comment, RAC will continue discussion until 2pm)	2:45pm – 3:00pm



RAC #2 Summary

New Definition (*Version 10/3*)

(18) “Shared Governance Agreement” means a written document adopted by a collaborative through consensus that governs the collaborative’s organizational structures, decision-making processes, roles, commitments, communications, and other provisions needed to support group governance or collaboration.

Grant Name Changes (*Version 10/3*)

- | | | |
|--|---|---|
| (1) Pre-Planning Grants | ➔ | (1) Planning Readiness Evaluation and Preparation (PREP) Grants |
| (2) Planning Grants | ➔ | (2) Plan Development Grants |
| (3) Implementation Coordination Grants | ➔ | (3) Post Plan Coordination Grants |
| (4) Plan Update Grants | | (4) Plan Update Grants |

Proposed New Changes (*not in version 10/3*)

(2) Eligible Plan Development Grants must:

(a) Develop a shared governance agreement adopted by the collaborative according to the process, content, and structure required by the Department and necessary to govern Place-Based Integrated Water Resources Planning as defined in ORS 537.873(1)(f); and

(b) Develop a place-based integrated water resources plan for a planning area according to the process, content, and structure required by the Department and necessary to meet the definition of a Place-Based Integrated Water Resources plan as defined in ORS 537.873(1)(e).

Major Changes to Evaluation Criteria *(Version 10/3)*

For every grant type:

- Added “The proposed approach to public participation and engagement of environmental justice communities”
- Added “Strategic Priorities determined by the Director”
- Removed “Cost Effectiveness”

Major Changes to Evaluation Criteria *(Version 10/3)*

(1) PREP grants shall be evaluated on:

(b) The **need for the community to assess its readiness or prepare for place-based water planning ; ~~clear and immediate need for capacity to be built~~**

Major Changes to Evaluation Criteria *(Version 10/3)*

(2) Plan Development 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 **potential** collaborative members ability to meaningfully engage and collaborate **in a neutral process over multiple years** with a balanced representation of instream and out-of-stream water interests, the public, **Tribes, local governments,** and state agencies.
- ~~(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.

Major Changes to Evaluation Criteria *(Version 10/3)*

(2) Plan Development Grants shall be evaluated on:

(e) 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; and

(f) State agency capacity to support the proposed planning process.

(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.

Proposed New Changes (*not in version 10/3*)

(2) Plan Development Grants shall be evaluated on:

- Add “(g) Commitment and ability to develop a plan that adheres to state guidelines and balances in-stream and out-of-stream interests.”

Proposed New Changes (*not in version 10/3*)

PREP Grants & Plan Development Grants

- Add to existing evaluation criteria that the grantee/convener/collaborative commit to using a “neutral facilitator”
- Proposed definition: “Facilitator” means a neutral party with subject matter expertise to facilitate meetings and ensure planning documents meet PBP guidelines and reflect work of the collaborative”



State Recognition Wrap-Up

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

1. 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 **shared** 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. **If the Plan Review Team requires changes to recommend the Plan for state recognition, the Collaborative will be given an opportunity to amend its plan before a final recommendation is made.**

1. Process: Draft Rules

(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.

1. 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 **progress made towards** implementation does not **align with the Plan's implementation strategies or** 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.”

2. What does it mean: 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.

2. What does it mean: 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)

2. What does it mean: Agency Support

Draft Rules (version 10/3)

“(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. **The Department shall document and communicate to collaboratives which Plan strategies may be supported by the Department according to the Department’s mission, authorities, priorities, and capacity.”**

2. What does it mean: 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.

Draft Rules (version 10/3)

“(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. **The Department shall document and communicate to collaboratives which Plan strategies may be supported by the Department according to the Department’s mission, authorities, priorities, and capacity.”**

2. What does it mean: 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.

2. What does it mean: 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)

2. What does it mean: IWRS

Draft Rules (version 10/3)

“(6) Plans that achieve state recognition before the Department begins updating the state’s **next** Integrated Water Resources Strategy shall be considered in the update. The Department **shall** identify and **may** incorporate common themes or strategies emerging from state-recognized Plans into updates and any associated workplans, **as** appropriate to **the Department’s** mission, authorities, and priorities, and as capacity allows.”

2. What does it mean: 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.

Draft Rules (version 10/3)

“(6) Plans that achieve state recognition before the Department begins updating the state’s **next** Integrated Water Resources Strategy shall be considered in the update. The Department **shall** identify and **may** incorporate common themes or strategies emerging from state-recognized Plans into updates and any associated workplans, **as** appropriate to **the Department’s** mission, authorities, and priorities, and as capacity allows.”

The background features a stylized landscape. The top half shows a blue sky with white, fluffy clouds and brown mountains with white snow-capped peaks. The bottom half shows rolling green hills with a light beige path or road curving across them. The central text is set against a solid blue background.

Match Requirements

690-602-0005

690-602-0003 (2)

Related Statute

ORS 537.873 (3) “In awarding grants, the department may require cost matching by applicants.”

HB 5006 Workgroup Recommendation

Recommendation O: PBP grants should require applicants to cost share either through in-kind or cash matching.

(19 support, 4 neutral, 1 serious concerns)

Sources of Match in the PBP Pilot

- In-kind match, meeting time
- Private foundations
- Other grants
- Planning group members
 - cash match
 - meal/meeting sponsor

Draft Rules

690-602-0003 Grant Application Process

(2) Match requirements shall be included in the announcement for each grant offering. Match requirements shall not exceed 50% of the application request.

690-602-0005 Grant Application Requirements

(1) All applicants must demonstrate the required matching contribution has been secured or is being sought at the time of application. Department funding may not be released prior to secured commitment of the other funds. Pending commitments of funding must be secured within 12 months from the date of the award.

Draft Rules

690-602-0005 Grant Application Requirements

(2) Match contributions may include:

- (a) Associated and documented expenditures that were incurred prior to an award and approved by the Department for match purposes;
- (b) Cash on hand;
- (c) Secured funding commitments from other sources;
- (d) Pending commitments of funding from other sources; or
- (e) The value of in-kind labor, equipment rental and materials essential to the planning process, based on local market rates.

Discussion

- Are the rules clear?
- Is there anything missing?
- Are there any concerns?



Grant Administration
690-602-0003; -0008; -0009; 0010

Related Statute

ORS 537.873(2) “The Water Resources Director may award grants with moneys from the Place-Based Water Planning Fund established in ORS 537.872 to fund the costs of actions supporting place-based integrated water resources planning, including costs of...”

Draft Rules

690-602-0003 Grant Application Process

(1) The Department shall periodically announce deadlines for submitting applications for grant funding, dependent upon the availability of Place-Based Water Planning funds and state agency capacity to support grantees and planning processes.

(3) Applications shall be submitted on the most current form provided by the Department.

(4) The Department may use an application review team to review applications based on the evaluation criteria in 690-602-0006.

Draft Rules

690-602-0003 Grant Application Process

(5) The Department shall provide an opportunity for public comment on funding recommendations prior to the Directors funding decision.

(6) The Director may make grant funding decisions based on the recommendations of the application review team, availability of fund resources, Department capacity to support grantees, and received public comments.

Draft Rules

690-602-0008 Grant Agreement and Conditions

- (1) The Director or designee shall establish conditions for each grant agreement.
- (2) The Department shall only enter into new agreements or amendments to existing agreements with prior grantees of the Place-Based Water Planning Fund if all reporting obligations and conditions under existing or earlier grant agreements from this Fund have been met.
- (3) No geographic area may be served by more than one grant from the Fund at a time.

Draft Rules

690-602-0008 Grant Agreement and Conditions

(4) The Grantee must:

- (a) Submit a report every 6 months to the Department on a form provided by the Department that provides information regarding the expenditure of program and match funds, progress toward completion, compliance with special conditions and requirements in the grant agreement and any other information required by the Department.
- (b) Comply with all federal, state, and local laws and ordinances applicable to the work to be done under the grant agreement.
- (c) Account for funds distributed by the Department, using expense forms provided by the Department.
- (d) Pursue state-recognition of any Plan or Plan update resulting from the collaborative's work.

Draft Rules

690-602-0008 Grant Agreement and Conditions

(5) Upon notice by the Department to the Grantee in writing, the Director may terminate funding for collaboratives not complying with the grant agreement conditions. The money allocated to the collaborative but not used may be available for reallocation by the Department.

Draft Rules

690-602-0010 Distribution of Funds

- (1) The Director may withhold payments to a Grantee if the Grantee is not in compliance with grant agreement requirements and conditions.
- (2) Prior to disbursement of Department funds, the Grantee must provide the Department satisfactory proof that the required match, based on the total award, has been secured.

Related Statute

ORS 537.873(8) “Before issuing funding under subsection (2) of this section, the Water Resources Director shall notify county and tribal governments within the proposed planning boundary of an application.”

Draft Rules

690-602-0009 Public Notice and Comment

(1) Prior to the award of Place-Based Water Planning funding, the Department shall provide notice as follows:

- (a) Public notice with a minimum 30-day public comment period.
- (b) Written notice to county and tribal governments within the proposed planning boundary of an application.

(2) Prior to state recognition of a plan, the Department shall provide public notice with a minimum 30-day public comment period.

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 center. 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.

Expanded Scope Discussion

New Rules for Consideration

Rules to clarify the Department's authority to contract directly for services.

Related Statute

ORS 537.873 (6) “In addition to disbursing moneys in the fund as described in subsection (2) of this section, the Water Resources Director may use moneys in the fund to further place-based integrated water resources planning by entering into agreements or contracting for the following...”

- (a) Efforts related to interagency coordination.
- (b) Situation assessments.
- (d) Technical assistance.
- (i) Evaluations to identify lessons learned and areas for improvement.

New Rules for Consideration

Rules to clarify the Department's authority to contract directly for services.

Proposed Rules from RAC Member

"At the request of the Water Resources Commission, a Commission or Board of another agency, a tribe, or local government, the Department may perform or contract for a situation assessment within a planning area without entering into a grant agreement. Prior to a situation assessment being performed, the Department will notify potentially affected tribal and local governments."

Discussion:

Is there a benefit to limiting the sources that could prompt a situation assessment?



Next Steps

Next Steps

- **Oct. 25:** Last day to submit any additional feedback on *Draft Rules version 10/3/2024*; Expanded Scope Expansion; or Fiscal/Racial Impacts
- **Nov. 1:** OWRD will send out Draft Rules version 11/1 and draft fiscal/racial equity impact statement
- **Nov. 15:** *(No RAC feedback after this date can be considered in the Notice of Proposed Rulemaking)*
 - Option 1: Fourth RAC Meeting
 - Option 2: No Meeting; Deadline for written feedback on draft rules version 11/1/2024; draft fiscal/racial impact statement
- **Dec. 2:** Notice of Proposed Rulemaking Published; Public Comment Period Begins
- **Jan. 15:** End of Public Comment Period

Fourth RAC Meeting

- **When:** Friday, November 15, 9am-11am
- **Where:** Virtual
- [Registration Link](#)

Next Steps

Email Lili Prahli (lili.k.prahl@water.oregon.gov) any additional input regarding today's discussion by **Friday, October 25, 2024.**

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



Public Comment

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