

Division 602 Place-Based Water Planning Rules Advisory Committee Meeting 1



August 19, 2024, 10am-12pm

This document is a summary of Division 602 Rules Advisory Committee (RAC) meeting number one held over Zoom on August 19, 2024, from 10 am to 12 pm. For more information, see the Meeting Presentation, Draft Rules, and other Meeting Materials, available on our [rulemaking website](#).

[Video Recording RAC 1](#)

Meeting Attendees

RAC Members in attendance were Caylin Barter, Lisa Brown, Debbi Bunch, Harmony Burrignt, Adam Denlinger, Danette Faucera, Kate Fitzpatrick, Peggy Lynch, Margaret Magruder, Chris Marks, Michael Martin, Steve Parrett, Lauren Poor, Rose Poton, Holly Stanitsas, and Kevin Young.

Oregon Water Resources Department (OWRD) staff in attendance were Lili Prahli, Kim Fritz-Ogren, Margo Mashkovskaya.

Welcome and Introductions

Oregon Water Resources Department staff and RAC Members introduced themselves.

Meeting Protocols & Agenda (Lili Prahli)

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:

- Place-based water planning (PBP) context and background
- Rulemaking and the role of the RAC
- Introduction to draft rule sections: purpose, definitions, and grant types/eligibility

Place-Based Water Planning: Context and Background (Lili Prahli)

Reviewed the evolution of regional water planning from its beginnings in the 1950s to its current form as place-based integrated water resources planning in 2024.

RAC Member (Caylin Barter): How were the four pilot groups selected and was the funding provided at various phases?

OWRD Response (Kim Fritz-Ogren): In 2015, the department solicited grant applications and received 16 submissions. After evaluating the applications based on criteria such as strengths and weaknesses of the proposals in the areas of leadership and readiness as well as, diversity in hydrology across the groups, four projects were selected. In 2016, two of these efforts were fully funded, and two were partially funded. More information is available in the [February 2016 staff report](#) to the Water Resources Commission. For the four groups to develop place-based plans, additional time and funding

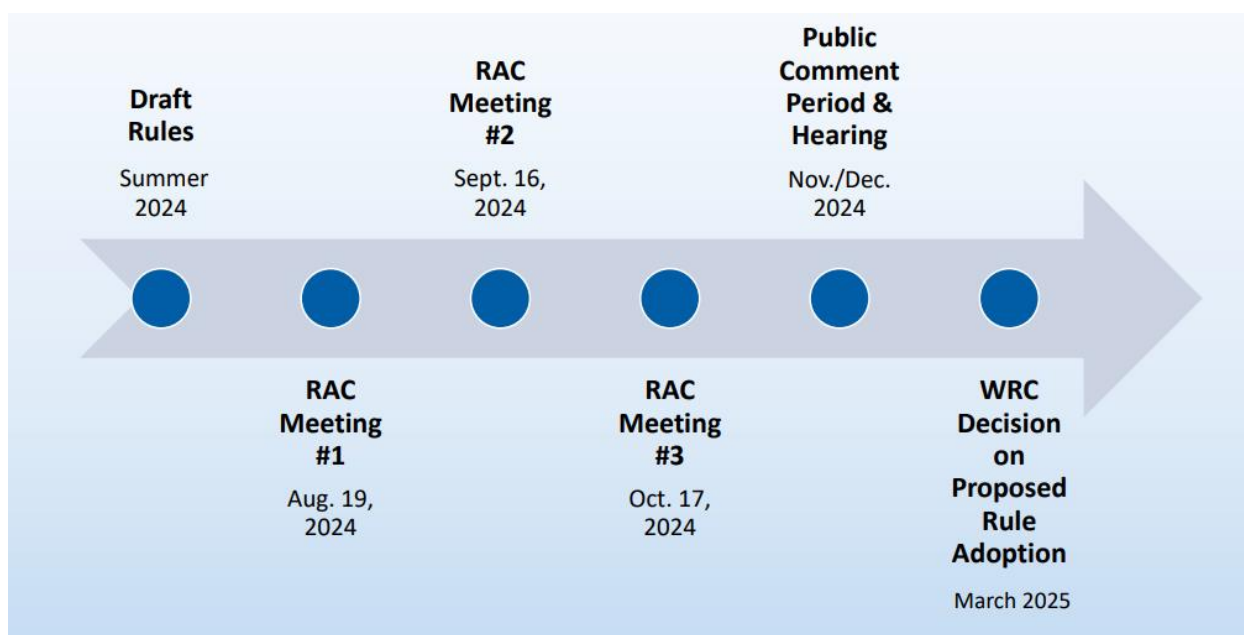
were required beyond the initial \$750,000 and 2019 legislative sunset. OWRD worked with the four collaboratives to extend the pilot legislation and secure additional funding. Collaboratives also secured matching funds to support the efforts.

Rulemaking and Role of the RAC (Lili Prah)

OWRD provided a high-level overview of the relationship between statutes, rules, and guidance, and shared a [PBP rule statute/rule relationship table](#).

Rulemaking timeline

OWRD provided an overview of the anticipated timeline for the rulemaking (see figure below for summary).



Role of RAC in Rulemaking Process

OWRD reviewed the role of the RAC and OWRD in the rulemaking process:

- **RAC:** Follow General Operating Principles, prepare for, attend, and participate in meetings, provide feedback on draft rules and potential fiscal impacts.
- **OWRD:** Facilitate meetings, provide technical support and subject matter expertise, and draft the final rules.

RAC Member (Caylin Barter): How will the 1998 Stewardship and Supply Initiative report note in the authorizing statute be integrated into the work going into this rulemaking?

OWRD Response (Kim Fitz-Ogren): OWRD will release a state of the water report by October 2024, including a rescope of the 1998 Stewardship and Supply Initiative, which proposed modernizing basin reports/assessments, creating inventories of above and below ground storage sites, and making data accessible online. The report will document work completed since 1998 and what OWRD recommends for next steps in 2024 and the resources required for that work. If resourced, basin assessments could be a source of information for place-based planning. OWRD is also exploring support options even if the rescoped Stewardship and Supply Initiative is not funded.

Draft rules (Lili Prael)

The focus of RAC number 1 was reviewing the purpose, definitions, and grant types/eligibility sections of the draft rules. The Department reviewed the language of the draft rules and had open discussion for each section covered. This document summarizes the discussion, including the feedback provided by the RAC and any response from OWRD in the meeting. OWRD is tracking and responding to all feedback in a separate document and has made that document available on the Division 602 rulemaking website.

Purpose Statement Discussion

RAC Member (Harmony Burrig): Current scope is missing provisions for department and interagency support, such as technical support and interagency coordination, for the PBP. Suggested that the guidelines should specify what will be incorporated, noting that the current scope does not seem to allow room for this discussion.

RAC Member (Peggy Lynch): Echoed Harmony's concerns. Emphasized the need for conversations within the rules about the type of support required. Peggy questioned whether the draft rules are too narrow, focusing solely on the fund, and suggested that other issues need to be addressed to ensure the success of the PBP. She stressed the importance of starting this conversation now before moving forward.

OWRD Response (Lili Prael): There is space to consider the interplay between guidance and rules, where should the line be drawn between what is best suited for rules versus statutes.

RAC Member (Harmony Burrig): One way to handle this is to use rules to say what the guidelines would specify. Encourage the RAC to have space to have space to discuss things outside of the scope of the current draft rules.

OWRD Response (Kim Fitz-Ogren): Yes, we can discuss items not identified in rules that the RAC feels should be included. If anyone identifies gaps in the rules, please identify them in RAC meetings or email the Department. This would the Department ensure that all necessary issues are prepared for and there is time to discuss.

Definitions Discussion

RAC Member (Peggy Lynch): Emphasized the importance of understanding the limited capacity of agencies to make sure we have an integrated system. She questioned what solutions exist if the legislature does not provide the necessary capacity to agencies. Peggy also agreed with the need for transparency about what agencies can or cannot participate in different aspects of place-based planning.

RAC Member (Harmony Burrig): Agreed with Peggy that there should be transparency about what agencies have or lack capacity to participate in different aspects of place-based planning.

OWRD Response (Kim Fitz-Orgen): If partner agencies are unable to provide support, the Department would consider whether it is appropriate to provide support for new places at that time.

RAC Member (Danette Faucera): Pilot without direct funding for agency staff resulted in a mixed bag

of support across the state; more funding and specific positions to assist the groups would result in better agency support of groups.

RAC Member (Caylin Barter): For the definition of “Convener”, what is the meaning of “balanced representation of interests,” specifically, does it refer to in-stream or out-stream interests. If it’s not defined as such elsewhere, it should be included here.

RAC Member (Holly Stanitsas): Holly agreed about the importance of addressing in-stream and out-stream interests in the “convener” definition. She highlighted that the convener’s role goes beyond bringing people together; it includes maintaining support, moving through all steps of the process, and ensuring the collaborative has the support needed to move forward and alleviate concerns and conflicts. (Thumbs up from RAC members, indicating agreement). Being a collaborative means the group needs to agree and abide by a working agreement, which might be too prescriptive in the rule and better suited for guidelines.

RAC Member (Harmony Burrig): Need for more robust definitions if “convener” and “collaborative” terms are included in the rule. She emphasized the role of the convener in ensuring an open and inclusive process and questioned whether certain information should be captured in the definition or somewhere else. Harmony also mentioned the importance of understanding what it means to be a collaborative and whether simple language might be constraining.

RAC Member (Debbi Bunch): Suggested that leaving definitions less constrained in the rules and outlining them in guidelines instead might be more effective.

RAC Member (Caylin Barter): How will suggested redlines be edited and shared back out?

OWRD Response (Lili Prah): The Department may edit the draft rules based on RAC feedback. Those edits, along with any additional explanation, will be sent back out to the RAC two weeks in advance of the next RAC meeting.

RAC Member (Harmony Burrig): There may be instances when the Department may want to involve different entities on the application review team that could provide relevant knowledge or expertise i.e. regional solutions.

RAC Member (Chris Marks): Suggestion to put a placeholder in to confirm that there is enough in the rules/guidance to allow the Department to consider whether there is enough agency capacity as part of the application review process.

RAC Member (Lisa Brown): Many entities have expertise, which is what the public comment period is for, but she thinks the actual review team should be properly limited to the agencies in statute.

RAC Member (Stuart Dyer): If referencing tribes in section (2), specifying “tribal rights-holders” in section (3) might be more appropriate than lumping everyone under “interested parties.”

BREAK (5min)

RAC Member (Caylin Barter): Asked Stuart which tribal rights (e.g., tribal water rights, treaty rights, reserved rights) are encompassed in his comment. Directed a question to Chris about the preference

for having tribes lumped in with “interested parties.” Caylin also noted that “collaborative” definition is not met if tribes are not engaged.

RAC Member (Stuart Dyer): Explained that the term “tribal rights” includes rights in title or treaty rights, would defer to Chris whether it needs to be specified or clarified here.

RAC Member (Chris Marks): Does not mind tribes being identified as “convenors”. Call out tribes in “collaborative”; the collaborative definition is not met if tribes are not engaged. Look to the eligibility piece and future versions of what “collaborative” is.

RAC Member (Kevin Young): Kevin asked if the funding period is constrained by the biennial budget or if it may extend beyond a biennium.

OWRD Response (Kim Fitz-Ogren): Funding account was created by statute so that fund dollars can roll over across biennia. OWRD received a one-time funding but does not expire.

RAC Member (Peggy Lynch): Without ongoing fund replacement, awards will need to be carefully assigned, or the groups will run out of money before state recognition.

RAC Member (Lisa Brown): Suggested including the definition of “community” from the HB 5006 Workgroup Report (p. 18) and asked why it was not included.

OWRD Response (Lili Prah): “community” is not used in the rules and therefore was not defined but will double-check.

RAC Member (Harmony Burrigh/Steve Parrett): Suggested that maybe “scope of work and tasks” could be included. Are the grant agreement definitions consistent with other funding programs or are there are tweaks from those funding programs based on lessons learned?

OWRD Response (Kim Fritz-Ogren): The definition is consistent and broad enough that it doesn’t get into some of the challenges that we have experienced in some of other funding opportunities. Including “scope of work” is something that can be added to the rules.

RAC Member (Lisa Brown): Make sure that the language below uses these terms, to make sure these rules are used for these specific types of plans.

RAC Member (Adam Denlinger): Asked if (match) includes in-kind match.

OWRD Response (Lili Prah): Confirmed that it is included in the rules and referenced the specific section.

RAC Member (Holly Stanitsas): Raised concerns about the broad definition of the state-recognized place-based water resources plan, questioning the group’s understanding of it. She wondered if there was more to the definition what state recognition means for the group. Does it mean anything further than being recognized by the Commission?

OWRD Response (Lili Prah): Suggested that the section in the rules discussing state recognition and process is the appropriate place to address this, which is a discussion planned for RAC meeting #2. She mentioned that this definition is from statute.

RAC Member (Harmony Burrigh): Agreed with Holly and expressed hope for further discussion on the topic.

RAC Member (Caylin Barter): Noted that the HB 5006 workgroup report contained a similar convenor definition, but the one in the rule did not include requirements about neutrality or impartiality.

RAC Member (Harmony Burrigh): Agreed with Caylin, mentioning a useful one-pager in the guidelines that described the role of the convener, which she deemed critical to overall success.

RAC Member (Steve Parrett): Mentioned a resolution from the commission on state-recognized plans, stating that the plans adhered to applicable requirements and should be implemented. He suggested tagging something similar in the rule to signal the importance of implementation.

Grant types & Eligibility Discussion (What qualifies for funding?)

This section of the draft rules covered the 4 types of grants and how their funds can be used. The 4 types of grants are (1) capacity building, (2) planning, (4) plan implementation, and (4) plan update grants. Grants (3) and (4) require state recognition prior to eligibility.

RAC Member (Holly Stanitsas) Would the Pilot groups that are still working able to apply for implementation coordination grants or plan update grants or is this fund specific to new groups?

OWRD Response (Lili Prah): The funds would be available to pilot groups as well.

RAC Member (Harmony Burrigh): Highlighted that this section is more about types of grants rather than eligibility. She pointed out the administrative challenges of managing four different grants and suggested considering if they could be combined, for example combining planning grants and plan update grants. She also mentioned that the language for capacity-building grants might be restrictive. Some of the statutory language is difficult to see in these four grant types. For section 2(b), she proposed that the definition for hydrologic boundaries should be a joint effort between the department and the community, with applicants suggesting boundaries and the department approving them. For section 2(c), she questioned the meaning of “be open to,” suggesting it might be vague.

OWRD Response (Kim Fritz-Ogren): Discussed the hydrologic and size boundaries, suggesting that while guidelines could set upper and lower bounds, groups should choose their specific areas within those limits. She noted that the current language might not reflect this intent.

RAC Member (Lisa Brown): Referred to independent PBP evaluation report, emphasizing the need for the WRD to assess where in the state these processes should occur and whether this should be integrated into the current process. She agreed with Harmony that these are grant categories and stressed that capacity-building grants should ensure all interests are represented to create a level playing field. For section 2(C), she suggested using the community definition from the HB5006 report or a similar definition that includes those who live, work, recreate, or have an interest or passion for the resource in the area.

OWRD note: The RAC ran out of time to complete this topic during this meeting. The topic will be revisited during the September 16 RAC meeting.

Public Comment Period

No spoken or written comments were made.