

Division 602: Place-Based Water Planning Rules Advisory Committee

RAC Feedback Received – Version 10/3/2024

This document summarizes feedback received on the draft PBP rules (v. 9/3/2024) as of September 23, 2024 for OAR 690-602-0002 (Definitions), and OAR 690-602-0004 (Eligible Grant Types), OAR 690-602-0006 (Grant Evaluation Criteria), and OAR 690-602-007 (State Recognition of Plans). Proposed redline edits to the draft rules are available in accompanying document titled “DRAFT PBP Rules v. 10_3_2024”.

Topic (Draft Rules v. 9/3/3024)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
Definitions (690-602-0002)		
<p>(1) “Application Review Team” means 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 review. & (16) “Plan Review Team”</p>	<p>Recommendation to stick to the agencies listed in the statute that have expertise in instream and out-of-stream issues. Current language is unclear that OWRD would be inviting agencies to participate; Another RAC member expressed support for this, explaining that Plan Review is already a cumbersome process and adding additional state agencies to review those plans would add to the length, cost, and effort required to get to the end point. Another RAC member expressed support for the broadened definition to include other agencies.</p>	<p>OWRD recognizes that some entities outside of those listed in statute, (e.g., DSL, ODF, Business Oregon, Regional Solutions) may bring valuable expertise and local knowledge to the application and/or plan review teams. These agencies would be invited to be a part of a review team only if OWRD determined that their specific expertise would be a valuable addition to the review process and the agency had capacity to participate. Additional language was added to clarify the process of how an agency that is not listed in statute would be identified and invited to become involved in a review team (see draft rules v. 10/3/2024).</p>
<p>(2) “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</p>	<p>Suggestion to use of semicolons between phrases instead of commas to increase clarity.</p>	<p>Semicolons have been added (see draft rules v. 10/3/2024).</p>

Topic (<i>Draft Rules v. 9/3/2024</i>)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
and support the planning and implementation processes.	Recommendation to include " perceived as neutral " to the definition of a "convener". Some questioned what "neutral" meant in this context because one would assume that a convener has an interest in the process and might not be "neutral" and that perception is highly subjective. Other RAC Members who have managed/convended PBP Pilot groups pointed out that it is not necessary for the convener be neutral, just that they could bring together and work with different perspectives/viewpoints. They also pointed out the difference in roles between a convener and a facilitator and the importance of a facilitator to be "neutral". One RAC member recommended adding a definition for a neutral facilitator as per Recommendation U from the HB 5006 Workgroup Report. Another RAC member recommended flushing out the definitions of "convener" and "facilitator" in guidance, especially because some efforts may choose not to have a facilitator.	"Perceived as neutral" is a difficult thing to evaluate and enforce; "impartially guide and support" describes the same concept in clearer way that is more appropriate for rule, so this proposed change has not been added. The definition of "neutral facilitator" was not added to these rules because there are currently no draft rules that use that term. However, OWRD will define "neutral facilitator" in the PBP guidance and will provide more details around the expectations, roles, and responsibilities of both the convener and the facilitator.
(5) "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.	Recommendation to add the following language to the definition of "Community": "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." Several RAC members supported these edits; others questioned whether "in or downstream" was needed or if downstream communities were already included in the original definition. One RAC member encouraged simplicity in definitions for greater ease in administration; another RAC member pointed out a potential lack of clarity in what is included in "downstream" - does how far downstream would it include? Another RAC member wondered about how to include those impacted upstream from the planning area.	OWRD agrees that the first phrase "the people impacted by the water resources of the planning area" means all people impacted by the water resources of a planning area, whether those impacts are in the planning area, downstream, or upstream. Adding "downstream" to this phrase adds unnecessary uncertainty and is potentially more restrictive than the current language. In the second phrase, "entities with an interest or obligation relative to water and ecosystems of the planning area", OWRD added the suggested edits. For the same reasons as mentioned above, OWRD used "impacted" instead of "downstream" (see draft rules v. 10/3/2024).
(10) "Grant Agreement" means the legally binding contract between the Department and	When you say scope of work, is adding the application as an appendix as OWEB does what OWRD is envisioning?	To make sure grant agreements are legally sufficient, WRD generally uses a short paragraph to describe what will happen and then some very high-level tasks and a

Topic (<i>Draft Rules v. 9/3/3024</i>)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
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.		category-based budget. WRD also attaches the application to the grant agreement but finds additional refinement is often needed between the application stage and the grant agreement stage. Language was added this definition to allow the Department some flexibility to adapt grant agreements to reflect specific needs (see draft rules v. 10/3/2024).
Eligible Grant Types (690-602-0004)		
(1) Eligible 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.	Some expressed support for the name "pre-planning". Other names for this type of planning grant proposed were: "Pre-planning assessment", "Readiness assessment", (if it was just the assessment piece); "eligibility planning grant"; "foundational planning"	This grant type was renamed to be Planning Readiness Evaluation and Preparation or "PREP" grants.
(3) Eligible Implementation Coordination Grants must support the implementation of a state-recognized place-based integrated water resources plan.	Recommendation to clarify what "support the implementation of" plans means and that actions supported by planning grants can also be supported by implementation coordination grants.	The name of this grant has been changed to "Post Plan Coordination" grants to reflect where it is offered in the process and reduce potential confusion around what "implementation coordination" means. Given the statutory definition of implementation coordination and the list of actions the fund can support, guidance will be used to more clearly explain what actions may be funded under this grant type. Putting this in guidance instead of rule will allow changes to be made more easily as lessons are learned through grant administration.

Topic (Draft Rules v. 9/3/3024)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
Grant Evaluation Criteria (690-602-0006)		
<p>(2) Planning Grants shall be evaluated on:</p> <p>(a) A collaborative’s readiness to engage in planning, which includes but is not limited to:</p> <p>(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.</p> <p>(B) The history of collaboration in the planning area and among collaborative members.</p> <p>(C) The proposed data, technical information, and planning tools that would support planning in the area.</p> <p>(D) The proposed engagement of environmental justice communities</p>	<p>Recommendation to add local elected officials, cities/counties to (2)(a)(A) because they are not currently included.</p> <p>Suggests flipping “(B) The history of collaboration in the planning area and among collaborative members” and “(C) The proposed data, technical information, and planning tools that would support planning in the area”, because unless you have the data it is less than a successful data.</p> <p>Recommendation to pull (C) “The proposed data, technical information, and planning tools that would support planning in the area” out of the readiness evaluation metric and have it be a standalone metric; Others pointed out that there is a balance between having perfect data and the work that a planning group can do to identify where data gaps exist.</p> <p>(2)(a)(B) It might be better for communities if we think about this planning fund as an opportunity to enhance collaboration in the area. Asking the question of how this grant will help enhance collaboration in the future and then people that are applying can talk about the history of collaboration and the opportunity to enhance collaboration in the future.</p> <p>Recommendation to add an evaluation metric related to a commitment to a neutral process.</p>	<p>Tribes and local governments were added to this list (see draft rules v. 10/3/2024).</p> <p>(B) has been removed (see comment below). All the examples in the draft rule to indicate “readiness” in (A), (C), and (D) have been pulled out to be standalone metrics. Since they are on the same numbering level, the order in which they are listed does not indicate relative importance.</p> <p>One of the jobs of the Application Review Team will be to evaluate if the proposed data, technical information, and planning tools are sufficient to support planning, recognizing that perfect data availability is unlikely to exist, but that there are situations where pre-planning work to develop those data/information/tools might be a better first step before starting plan development.</p> <p>History of collaboration could be a way to demonstrate “(A) a collaborative’s ability to meaningfully engage and collaborate...”, so “(B) The history of collaboration in the planning area and among collaborative members” is potentially redundant. Removing it allows communities to use other methods to demonstrate their ability to engage and collaborate even if they don’t have a long history of collaboration. (see draft rules v. 10/3/2024).</p> <p>Language about a neutral process has been added to (a). (see draft rules v. 10/3/2024).</p>
<p>(3) Implementation Coordination Grants shall be evaluated on:</p> <p>(a) Time elapsed since state recognition of a Plan or Plan update, prioritizing</p>	<p>Terminology around "implementation coordination" is confusing because many people conflate this with project implementation. Recommendation to clarify this in some way, including specifying what activities are included and what aren't. Another suggestion was to change the name to "post-recognition" grants.</p>	<p>The name of this grant has been changed to "Post Plan Coordination" to reflect where it is offered in the process and reduce potential confusion around what "implementation coordination" means. Given the statutory definition of implementation coordination and the list of actions the fund can support, guidance will be</p>

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<p>collaboratives that have more recently received state recognition;</p> <p>(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;</p> <p>(c) Progress made towards Plan implementation; and</p> <p>(d) Cost effectiveness.</p>		<p>used to more clearly explain what actions may be funded under this grant type. Putting this in guidance instead of rule will allow changes to be made more easily as lessons are learned through grant administration.</p> <p>(see draft rules v. 10/3/2024)</p>
	<p>Recommendation to include language in 3(c) to say that progress made towards plan implementation includes “instream and out of stream actions”; Another RAC member suggested progress should be measured according to the priorities identified in a group's state-recognized plan.</p>	<p>Language was added that reflect the language in State Recognition (4), that says the evaluation metric will be “Progress made towards Plan implementation, including how it aligns with the Plan’s implementation strategies and continues to represent a balance of in-stream and out-of-stream water interests”. (see draft rules v. 10/3/2024)</p>
	<p>Question about 3(a): what is the rationale for a preference for more recently recognized plans? RAC members pointed out that even 7 years after a plan is recognized, it is still going to be important to do those projects. Also, prioritizing collaboratives who have more recently received state recognition seems overly restrictive, especially for a new program.</p>	<p>Groups that have just been more recently recognized might need more support to get implementation off the ground and are unlikely to be ranked well when scored on the other evaluation metrics in this category as they may have no history of implementation.</p> <p>Language has been added to make this distinction clearer. (see draft rules v. 10/3/2024)</p>
	<p>What does a "commitment to collaboration" look like? Recommendation to add examples to guidelines.</p>	<p>OWRD will put examples of this in the PBP Guidance.</p>
	<p>Could OWRD elaborate on what you are looking at for “(d) cost effectiveness”? Are you looking at the grant award versus the outcome? In the final product it would be helpful to have some clarity on what OWRD is looking for here because grant writers are really attuned to cost effectiveness and the different inputs to it.</p> <p>Caution was also advised that this metric might encourage applicants to promise to do more than is possible with available funds.</p>	<p>Cost effectiveness has been used in other grant offerings and grant review teams have signaled that it would be nice to be able to consider how much work can be completed with the same number of grant dollars.</p> <p>OWRD has considered the RAC’s comments and concerns around this metric and has removed “cost effectiveness” as an evaluation metric for grant award. OWRD is open to suggestions about other ways a reasonable cost metric could be added as an evaluation metric.</p>

Topic (Draft Rules v. 9/3/3024)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
	Recommendation to include some language acknowledging existence of other grants, such as Feasibility Study Grants and Water Project Grants and Loans.	These grant types will be highlighted in the PBP Guidelines.
(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.	Suggestion was made in emailed comments to allow Department staff to identify and add additional evaluation criteria.	Language “by the Commission” has been removed, allowing the Department to add additional evaluation criteria without a Commission process (see draft rules v. 10/3/2024).
General	Additional evaluation criteria were suggested in an email from RAC member Harmony Burrigton on 10/1/2024.	<p>The following additions were made based on those suggestions:</p> <ul style="list-style-type: none"> • Plan Development Grants (2)(a): language around a “multi-year process” was added. • “The proposed approach to public participation” was added to the evaluation metrics for all of the grant types along with “proposed engagement of environmental justice communities”. • “strategic priorities determined by the director” was added to each of the grant types. • Removal of the word “immediate” in (2)(e) “The value of place-based...” • The addition of 2(f) “ State agency capacity to support the proposed planning process” <p>(see draft rules v. 10/3/2024)</p>
State Recognition of Plans (690-602-0007)		
General	Recommendation to specify how any language here would apply to already recognized plans because it is not	This has been identified for further discussion at RAC #3.

Topic (<i>Draft Rules v. 9/3/3024</i>)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
	consistent with understanding at time those other plans were recognized.	
<p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>If a group gets consensus on their plan and goes through the state agency review process and does not get approval, should we consider outlining in rule that there is an opportunity to improve the plan and resubmit it to the state agency review team? Not sure if this is best for rules or guidance.</p> <p>Recommendation to be very clear about process of state-recognition, including whether a presentation to the commission is required.</p>	<p>Language has been added to clarify this process. (see draft rules v. 10/3/2024)</p> <p>Any additional process requirements, such as presentations to the Commission will be clearly defined in guidance. There is benefit in setting the high-level benchmarks in rule, but allowing the process to adapt and be nimble depending on the specific circumstances and to evolve to address lessons learned.</p>

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<p>(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:</p> <p>(a) Reporting requirements are not met;</p> <p>(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</p> <p>(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.</p>	<p>Expectations around what it means to have a balance of instream and out of stream water interests would be helpful. For example, some instream projects can take 3-4 years of planning before they are actually implemented, so a balance of instream and out-of-stream might not be represented 1:1 on project implementation on a 2-year reporting cycle. Using plan priorities might be a better guide as to what actual implementation should look like.</p> <p>Clarification on 4(b), important to recognize it could be unbalanced for instream or out-of-stream components. For reporting purposes, the report should be specific to the plan components, indicating the support of the full collaborative, especially in cases of individual disagreement later.</p> <p>Can work on the language of the timing because these things to do have different timelines but want to assure that the package moving forward is balanced because that is the overarching structure of the plans. Suggests language “...steps being taken to implement”</p>	<p>Language has been added (see draft rules v. 10/3/2024).</p>

Topic (Draft Rules v. 9/3/3024)	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
<p>(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.</p>	<p>Opposition to the language of agencies "shall support". Strategies in PBP have different scales and different specificities, so requiring the Department to support them is not helpful in the long run. Clarification about what needs to be in these plans regarding the scale of strategies and what's allowed in the strategies could help. Other RAC members expressed support for some guarantee of a positive outcome from the state as a reason to do this type of work.</p>	<p>Some clarifying language was added to (5). It is important to note the full phrase here, that agencies "shall" support only when "appropriate to their mission, authorities, and priorities, as capacity allows". If, for example, a collaborative has building a new storage project in their list of implementation strategies, the collaborative would not receive any benefit in permitting/building that project from state agencies because it would not be appropriate to any agency's authorities for that to occur. An example of support that an agency could provide in that situation that might be appropriate to their mission, authorities, and priorities", "if capacity allows", would be a presentation to help better understand the permitting pathways available.</p>
<p>(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:</p> <p>(a) The Department may identify and incorporate common themes emerging from state-recognized Plans into updates; and</p> <p>(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.</p>	<p>Recommendation to add language clarifying that plans that are recognized before the next update to the IWRS would be considered.</p> <p>Concerns about the language "Agencies may incorporate strategies", because the plans are hydrologic area specific and are not necessarily importable to the statewide IWRS. Recommendation to stick with the statutory language here.</p>	<p>Language has been added (see draft rules v. 10/3/2024).</p> <p>Current statutory language for the IWRS says that "The integrated state water resources strategy shall describe: (b) Critical water issues at the state level and within water basins across this state" (ORS 536.220 (6)).</p> <p>This language is intentionally kept high level, and the word "may" is used because the IWRS is a somewhat dynamic document that may change form in the future.</p> <p>Changes have been made to this section to simplify and clarify (see draft rules v. 10/3/2024).</p>

Topic <i>(Draft Rules v. 9/3/3024)</i>	Feedback Received on Draft Rules v. 9/3/2024	Action or Explanation
Public Notice and Comment (690-602-0009)		
<p>Prior to the award of Place-Based Water Planning funding, the Department shall provide public notice of applications for funding and, if applicable, associated application review team recommendations. After public notice, the Department shall provide a minimum of 30 days for submission of written comments.</p>	<p>OWRD received feedback via email recommending adding the statutory requirement for notice of county and tribal governments into this section of the rules.</p>	<p>Draft language has been added (see draft rules v. 10/3/2024).</p>