

Division 602: Place-Based Water Planning Rules Advisory Committee

RAC Feedback Received – Version 9/3/2024

This document summarizes feedback received on the draft PBP rules (v. 8/6/2024) as of August 26, 2024 for OAR 690-602-0001(Purpose), OAR 690-602-0002 (Definitions), and OAR 690-602-0004 (Grant Eligibility). Proposed redline edits to the draft rules are available in accompanying document titled “DRAFT PBP Rules v. 9_3_2024”.

Topic (Draft Rules)	Feedback Received	Action or Explanation
Purpose (690-602-0001)		
	<p>The rules are currently scoped to address administration of the Fund and state recognition. Can we address other issues in the rules? Examples given were:</p> <ul style="list-style-type: none"> • Technical support • Interagency coordination • Contracting authority • Program evaluation and improvement • Other activities that may be undertaken or supported by the Department 	<p>OWRD has added time in the third RAC meeting agenda to discuss whether rules in these areas are necessary or whether statute is sufficient for PBP success.</p>
Definitions (690-602-0002)		
<p>(1) “Application Review Team” means all state agencies identified in ORS 537.873(7) that have the` capacity to participate in application review.</p>	<p>There is a need for transparency at the outset and through the planning process about which agencies can or cannot participate in different aspects of planning.</p>	<p>Statute requires OWRD to consult partner agencies to determine if they have the capacity to participate in and provide support for PBP, which includes their ability to participate on the Application Review Team. If partner agencies are unable to provide support, the Department would consider whether it is appropriate to provide funding at that time. No rule change proposed.</p>
	<p>Should the review team be limited to just those listed in statute?</p> <p>Recommendations from the RAC varied. Some RAC members saw value in bringing other entities, like Business Oregon or Regional Solutions to the table, to provide their knowledge or expertise. Others worried about opening it up too broadly and pointed out that anybody would have</p>	<p>OWRD recognizes that some entities outside of those listed in statute may bring valuable expertise and local knowledge to the application review team and sees value in limiting those to state entities. Redline edits have been made to the draft rules to allow OWRD to add state agencies to the Application Review Team (and Plan Review Team) where their expertise may be helpful. An additional definition of state agency was added to the rules to support this addition: “State agency means any</p>

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	the opportunity to provide that expertise during the public comment period.	officer, board, commission, department, division, institution, branch or agency in the executive or administrative branch of state government.” (see draft rules v. 9/3/2024).
(2) “Convener” means the persons, public bodies, Indian tribes, or nonprofit organizations that bring together a balanced representation of interests to undertake place-based water planning.	Recommendation to include “instream and out-of-stream interests” to clarify what “balanced representation of interests” are.	OWRD has added “instream and out-of-stream water” interests to the convener definition (see draft rules v. 9/3/2024).
	<p>Should the definition of “convener” be more robust and thorough in rule?</p> <p>There was a recognition that the convener role goes beyond bringing people together and this definition should reflect those additional roles if it is included in rule. Specifically, RAC members mentioned the role of the convener instructions in the 2015 Draft PBP Guidelines (p.19-20). Additions suggested were: ensuring an open and inclusive process, 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.</p> <p>There was also a suggestion that leaving definitions less constrained in rules and outlining them in guidelines might be more effective.</p>	OWRD has added redline edits in the definition of the convener that summarize the roles of the convener in the 2015 Draft PBP Guidelines and reflect the suggestions made during the RAC: “...ensure an open, equitable, and transparent process, and impartially guide and support the planning and implementation processes” (see draft rules v. 9/3/2024). OWRD will use PBP guidance to provide more detailed expectations of the convener role.
	Recommendation to include “impartial” or “neutral” into the definition of convener.	OWRD added conveners “impartially guide and support the planning and implementation processes” (see draft rules v. 9/3/2024).
(3) “Collaborative” means the group of interested parties developing, implementing, or updating a place-based integrated water resources plan.	<p>Should the definition of “collaborative” be more thorough in rule?</p> <p>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, but simple language might be constraining.</p> <p>Similar to the convener definition, there was also a suggestion that leaving this definition less constrained in</p>	<p>OWRD added that a collaborative works on a plan “consistent with their shared governance agreement” (see draft rules v. 9/3/2024).</p> <p>Under “Eligible Grant Types”, OWRD has also added that eligible planning grants must also “Develop a shared governance agreement adopted by the collaborative” (see draft rules v. 9/3/2024).</p>

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	rules and providing more detail in guidelines might be more effective.	
	Suggestion that Tribes should be recognized in addition to and separate from “interested parties”.	OWRD removed the term “interested parties” and replaced it with “balanced representation of instream and out-of-stream water interests” (see draft rules v. 9/3/2024).
(9) "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, and the budget.	Suggestion to include “scope of work and tasks”.	OWRD has added “scope of work” to the definition (see draft rules v. 9/3/2024). Tasks are one way of representing a scope of work and calling them out here might add unhelpful constraints to the way a grant agreement is structured.
Definition for “Place-Based Integrated Water Resources Plan” and “State-Recognized Place-Based Integrated Water Resources Plan”	Recommendations to add more to these definitions and include language from the WRC Resolution for state-recognized plans, emphasizing the importance of implementation.	OWRD recommends sticking to how the terms are defined in statute here and discussing this further in subsequent RAC meetings under the topic of state recognition.
Grant Eligibility (690-602-0004)		
General/Structure	RAC members found this section confusing as it is more about grant types than eligibility.	OWRD has renamed the section to “Eligible Grant Types” (see draft rules v. 9/3/2024).
	Recommendation to consider combining grant types to reduce the administrative burden of managing 4 different grant types.	<p>The advantage to having four grant types is that each grant type can have its own specific evaluation metrics. As the RAC discussion unfolds around evaluation metrics, OWRD is open to revisiting these grant types.</p> <p>The administrative burden would be taken into account when setting up the grants. OWRD anticipates combining solicitations for the four grant types to the extent</p>

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		possible. Additionally, the activities of each of the four grant types are similar enough that OWRD anticipates that the grant rules and administration would be the same throughout the four grant types.
	Recommendation to have WRD assess where in the state these processes should occur and integrate this into the grant eligibility process.	OWRD anticipates that part of assessing where these processes should occur will be the outcomes of the capacity building/pre-planning grants. Draft Grant Evaluation Metrics for Planning Grants currently include “Strategic priorities determined by the Director”.
	Should we specify how funding will be prioritized between different uses? Prioritize funding for plan development or implementation coordination where a process is already underway?	As funding availability and needs will vary year-to-year or biennia-to-biennia, adding priorities in rule would be difficult and potentially have a negative impact on potential grant recipients. OWRD anticipates that funding will be prioritized based on a number of factors including, state agency capacity to support the different planning phases (e.g., implementation coordination grants would require less agency support than new planning grants) and through the application review process. Initially, there will also be consideration for which grant types are most needed. For example, OWRD does not anticipate that there will be a need for Plan Update Grants until 2032, so that grant type is unlikely to be prioritized for funding until that time.
	Could there be a way for the state to officially “recognize” a process even before a plan is complete so that places can say that they are “part of the program”?	Those collaboratives that receive a grant and/or following the statute, rules, and guidelines governing PBP will be part of the program.
(1) Eligible Capacity Building Grants must prepare for or assess readiness to engage in Place-Based Integrated Water Resources Planning.	A RAC member highlighted that the language for capacity-building grants might be too restrictive.	OWRD recognizes that “capacity building grants” is a confusing name for a grant type, because it is an eligible action in statute that could be associated with any of the grant types. The goal of this grant type is to prepare for and/or assess a community’s readiness to engage in PBP, and OWRD is open to suggestions from the RAC about a new name that would make this clearer.

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	Capacity-building grants should ensure all interests are represented to create a level playing field.	<p>Additionally, OWRD has added language to this section that the 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” the four grant types. (see draft rules v. 9/3/2024).</p> <p>The word “community” was added to this grant type and a definition for “community” was added to the definitions that reflects the definition in the HB 5006 Workgroup report: “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 region, and federal, state, local, and tribal governments.” (see draft rules v. 9/3/2024).</p> <p>Additionally, one of the evaluation metrics currently in draft rule for this grant type is “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”.</p>
(2) Eligible Planning Grants must: (a) Develop a place-based integrated water resources plan;	None received to date.	Not applicable.
(b) Be within hydrologic and size boundaries defined by the Department; and	Recommendation 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.	The intention with this rule was that the Department could set upper and lower bounds (e.g., smaller than an administrative basin) and groups could choose their specific areas within those limits, but OWRD agrees that this language might not reflect that intent. OWRD has removed this language from the rule and added a definition for “planning area” to mean “a shared hydrologic area that is within hydrologic and size limitations defined by the Department.” (see draft rules v. 9/3/2024).

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<p>(c) Be open to any interested parties that live, work, or recreate within the planning area.</p>	<p>Suggestion that the wording “be open to,” might be too vague.</p>	<p>OWRD has removed (c) from this section and has addressed it elsewhere in the rules (see comment directly below).</p>
	<p>Suggestion to use the community definition from the HB5006 report or a similar definition that includes those who live, work, recreate, or have a passion for the resource in the area.</p>	<p>OWRD has added a definition for “community” that reflects the HB 5006 report definition and has added to the definition of “collaborative” to include “the balanced representation of instream and out-of-stream water interests from the community” (see draft rules v. 9/3/2024).</p>