

Item F: Proposed Rulemaking for Division 602 Place-Based Water Planning

Action item

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March 13, 2025



Presentation Overview

- Place-Based Water Planning: Context and Background
- Rulemaking Process
- Proposed Rules
- Comments and Responses
- Fiscal and Racial Equity Impacts
- Alternatives & Director's Recommendation

Place-Based Water Planning (PBP)

Place-Based Water Planning

2012 - 2015

- PBP is IWRS Recommended Action
- PBP Draft Guidelines developed

2016 - now

- PBP Draft Guidelines piloted across state

2022

- First Place-Based Water Plans recognized by Commission
- Independent Evaluation of PBP Pilot
- State-Supported Regional Water Planning and Management Workgroup (HB 5006)

Place-Based Water Planning

2023

Place-Based Water Planning legislation passed

ORS 537.872

- Establishes Place-Based Water Planning Fund

ORS 537.873

- Defines place-based integrated water resources plan/planning
- Provides granting, contracting, and rulemaking authority
- Describes requirements for interagency consultation, state recognition, and notification

Place-Based Water Planning

2024

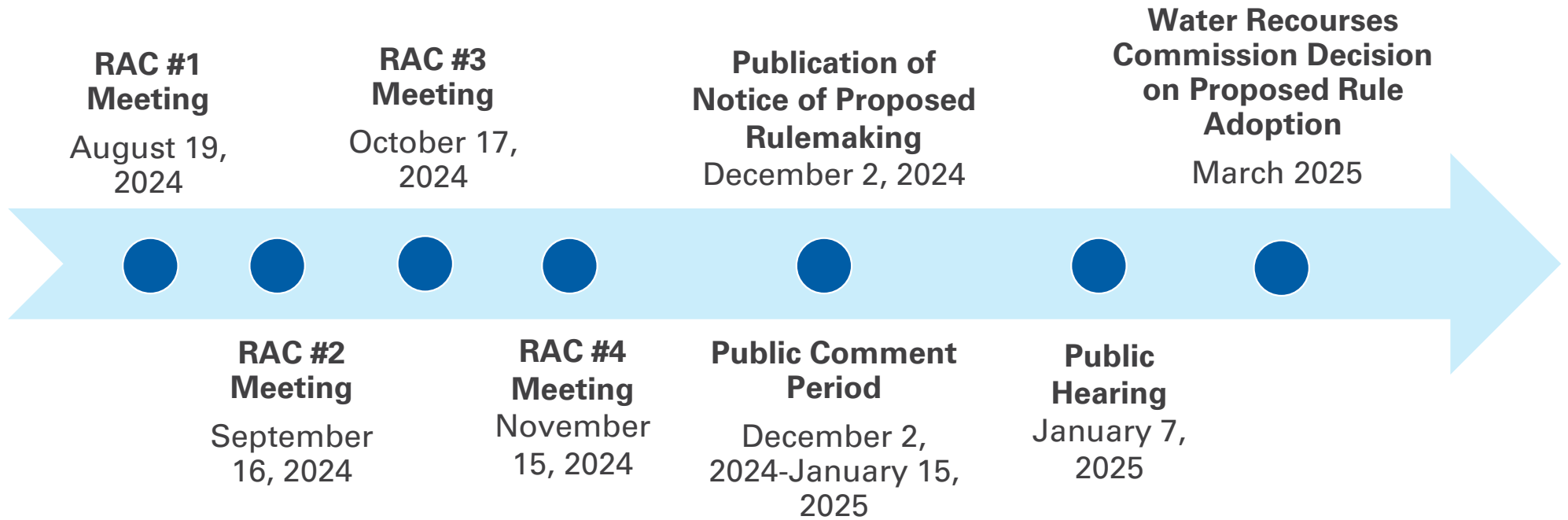
- Draft PBP rules developed
- Rules Advisory Committee convened
- Interagency staff team convened

2025

- Division 602 Rules proposed for adoption
- PBP guidelines released (*anticipated*)
- First PBP grant solicitation (*anticipated*)
- PBP Technical Assistance strategy and products released (*anticipated*)

Rulemaking Process

Rulemaking Process



Rulemaking Process

Tribal Engagement

- Sent Government-to-Government letters/emails inviting coordination and consultation on rules and solicitation for RAC membership
- Staff-to-Staff Cultural Resources Cluster and Natural Resources

Workgroup:

- Invited informal and formal engagement
- Provided updates

Proposed Rules

Proposed Rules: Division 602

Purpose (-0100)

- Establishes procedures for:
 - OWRD's administration of the Place-Based Water Planning Fund and program
 - The process and consideration of state-recognized place-based integrated water resources plans by the Department and in Oregon's Integrated Water Resources Strategy (IWRS)

Proposed Rules: Division 602

Definitions (-0200) *(selected examples below)*

Collaborative

- Balanced representation of instream and out-of-stream water interests from the community
- Develop, implement, or update a plan

Community

- People impacted by the water resources of the planning area
- Entities with an interest or obligation related to water resources or ecosystems in or impacted by the planning area
- Federal, state, local, and tribal governments

Proposed Rules: Division 602

Grant Application Process (-0300)

- Similar to other OWRD grants
- Timing of grant solicitation will depend on:
 - Availability of funds **and**
 - State agency capacity to support grantees and planning processes
- Department may use interagency application review team
- Director awards grants per statute

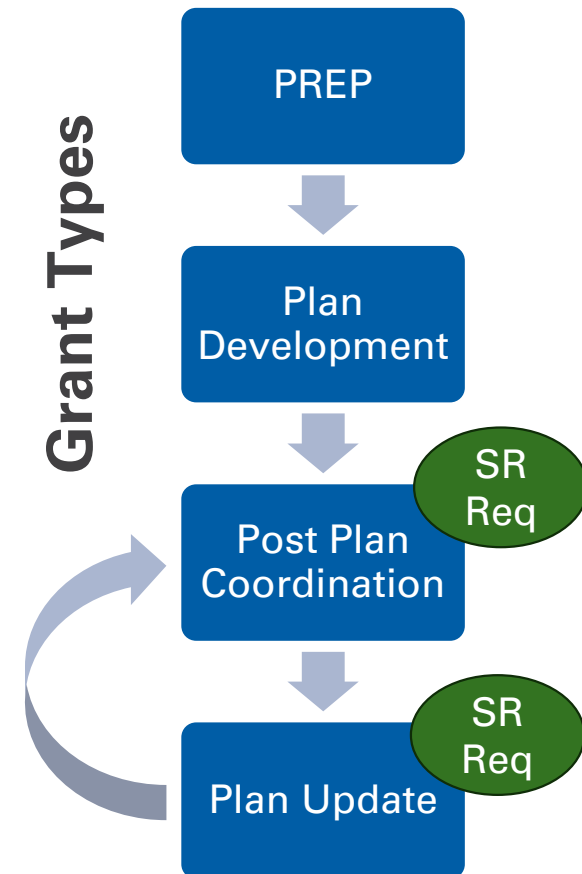
Proposed Rules: Division 602

Eligible Grant Types (-0400)

- Planning Readiness Evaluation and Preparation (PREP) Grants
- Plan Development Grants
- Post Plan Coordination Grants
- Plan Update Grants



SR Req = State Recognition Required



Proposed Rules: Division 602

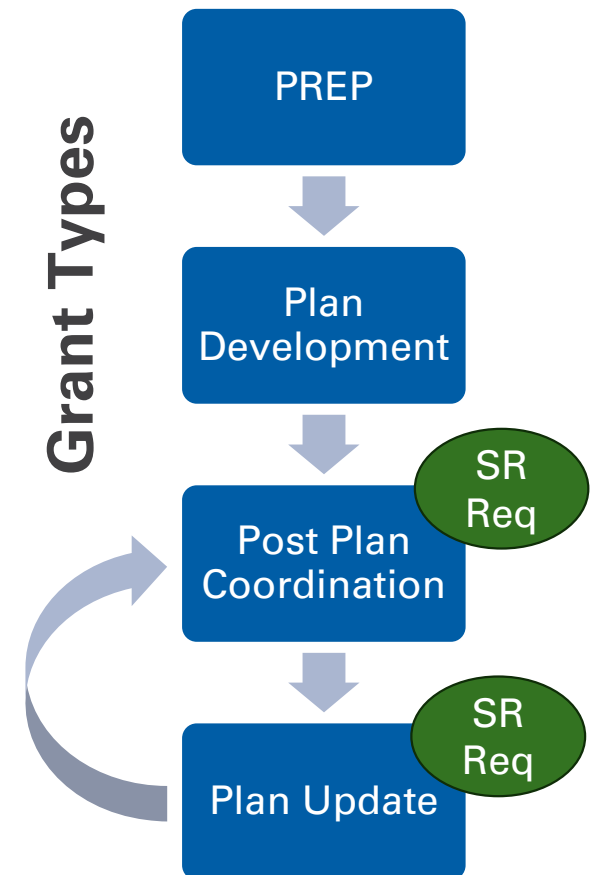
Match Requirements (-0500)

- Similar to other OWRD match requirements
- Match requirements included in announcement of grant funding cycles (not to exceed 50%)
- Match must be secured within 18 months from date of award
- In-kind labor considered match (includes volunteer time)

Proposed Rules: Division 602

Grant Evaluation Criteria (-0600)

- Ability to add evaluation criteria based on lessons learned
- **All grant types** shall be evaluated on:
 - Approach to public participation and engagement of EJ communities
 - Strategic priorities identified grant solicitation materials

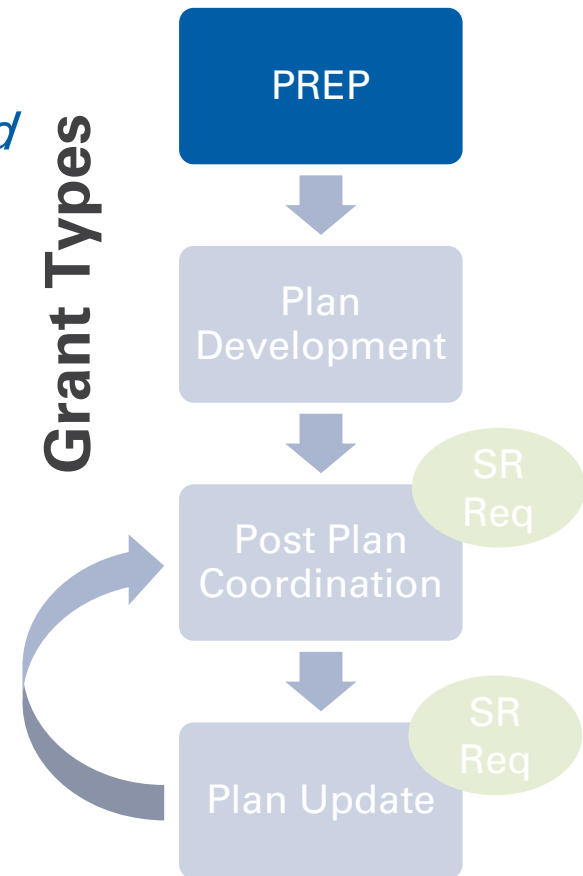


Proposed Rules: Division 602

Grant Evaluation Criteria (-0600) *cont'd*

PREP Grants

- Commitment/ability to engage a balance of instream and out-of-stream water interests
- Need to assess readiness/prepare for PBP



Slide 17

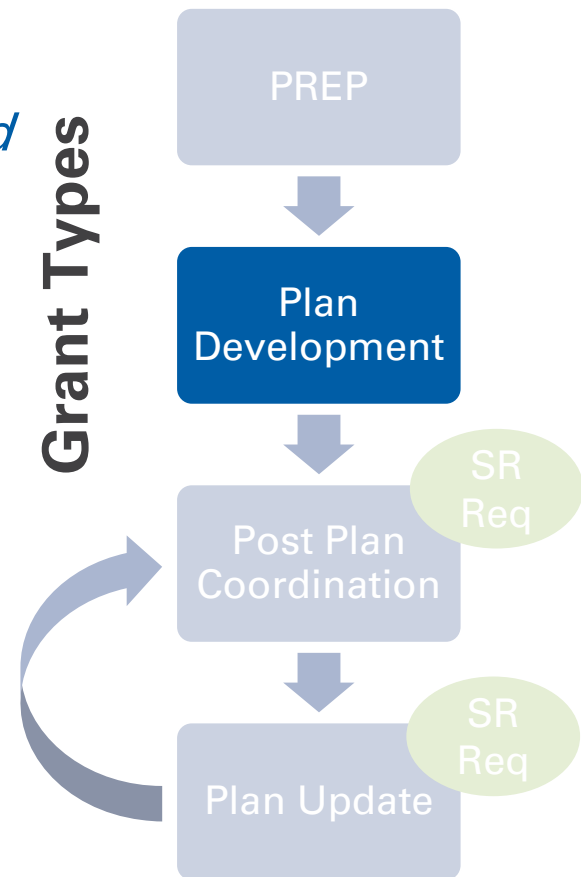
- GW0** too many words
GONZALEZ Danielle L * WRD, 2025-03-06T22:10:23.229
- GW1** check-out of stream in presentation mode
GONZALEZ Danielle L * WRD, 2025-03-06T22:11:53.074

Proposed Rules: Division 602

Grant Evaluation Criteria (-0600) *cont'd*

Plan Development Grants

- Ability to meaningfully engage and collaborate in a neutral process over multiple years
- Proposed data, technical information, and planning tools
- Value of and need for PBP
- Agency Capacity to support plan development

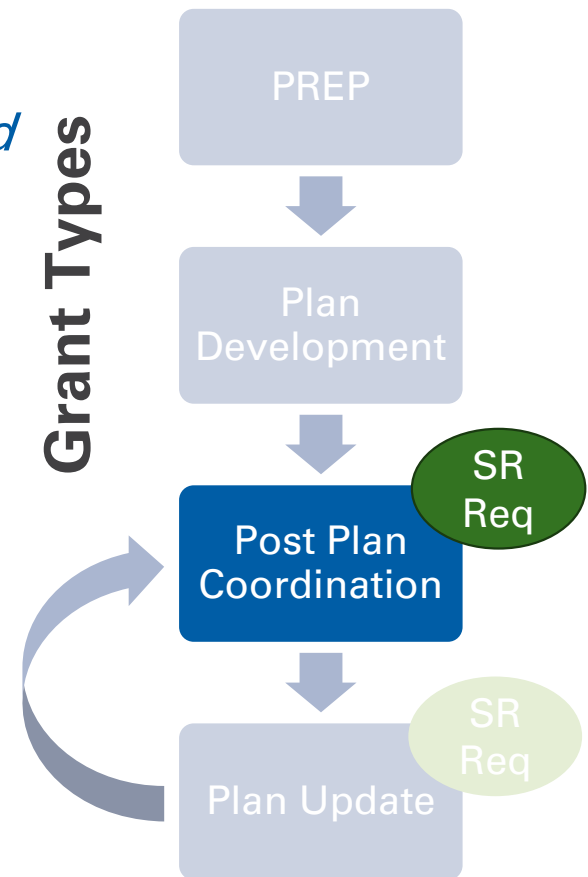


Proposed Rules: Division 602

Grant Evaluation Criteria (-0600) *cont'd*

Post Plan Coordination Grants

- Pursuit of implementation represents:
 - Balance of instream and out-of-stream water interests
 - Commitment to collaboration and PBP principles
- Progress made towards Plan implementation

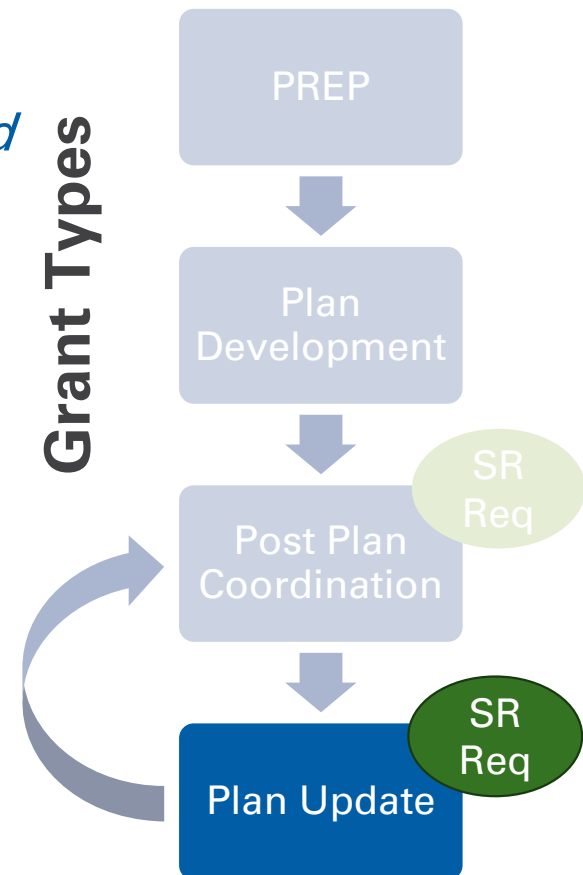


Proposed Rules: Division 602

Grant Evaluation Criteria (-0600) *cont'd*

Plan Update Grants

- Pursuit of implementation represents:
 - Balance of instream and out-of-stream water interests
 - Commitment to collaboration and PBP principles
- Need for an update



Proposed Rules: Division 602

Grant Agreement and Conditions (-0700)

- Similar to other OWRD grants
- Grantee must also:
 - Ensure a collaborative process
 - Adhere to principles of PBP and IWRS
 - Follow the process, content, and structure provided by Department
 - Pursue state-recognition

Distribution of Grant Funds (-0800)

- Similar to other OWRD grants



Proposed Rules: Division 602

State Recognition of Plans (-0900)

Process to obtain state-recognition

- Adopted by collaborative through consensus
- Reviewed by interagency Plan Review Team
- Recognized by Commission

Process to maintain state-recognition

- Biennial progress reports

Slide 22

GW0 From Doug: Be sure talking points are ready for state recognition

GONZALEZ Danielle L * WRD, 2025-03-06T22:14:04.732

GW0 0 from Kim: Or verbally share what it means

GONZALEZ Danielle L * WRD, 2025-03-06T22:14:43.748

Proposed Rules: Division 602

State Recognition of Plans (-0900)

Agency support of state-recognized plans:

Agencies identify, document, and communicate to collaboratives which plan strategies may be supported by those agencies

Relationship to the IWRS:

Agencies identify and may incorporate common themes, critical issues, or individual strategies into updates and any associated workplans

Slide 23

AMO [@PRAHL Lili K * WRD] is it ok to split this slide into two and increase font size to 24?
MUTH Adair * WRD, 2025-03-07T23:20:28.366

LPO 0 I took out the qualifying language for both "Consistent with agency's mission, authorities, and priorities; Support dependent on agency resources and capacity". I can verbalize those points, but I'm not sure that it is important to put on the slide?
PRAHL Lili K * WRD, 2025-03-07T23:37:42.332

Proposed Rules: Division 602

Public Notice and Comment (-1000)

For **grant awards** and **state recognition decisions**:

- Public notice with minimum 45-day public comment period
- Written notice to county and Tribal governments within a planning boundary

Slide 24

GW0 From Mindy: slide 19 consistency with periods at end of bullets?
GONZALEZ Danielle L * WRD, 2025-03-06T22:12:57.012

Proposed Rules: Division 602

Agreements or Contracts (-1100)

- Requires an interagency report every four years that:
 - Identifies purposes for agreements/contracts
 - Documents spending on agreements/contracts
- Reiterates authority to use funds for purposes consistent with statute

Proposed Rules: Division 602

Provision of Technical Assistance (-1200)

- Requires interagency system for responding to PBP Technical Assistance requests

Program Evaluation (-1300)

- Requires periodic program evaluation

Comments & Responses

Comments Received

- Written and oral comments received from:
 - 2 Tribes
 - 9 individuals/groups
- Tribal comments and majority of public comments received were in support of proposed rules

Summary of Tribal Comments

Theme	Department Response
Ensure meaningful engagement from disadvantaged communities and regulatory agencies.	State agency roles and community engagement will be discussed in the PBP Handbook.
Interest in joining the Application Review Team to contribute their historical and technical expertise.	<ul style="list-style-type: none">• Tribes are eligible recipients of grant awards, they would not serve on an Application Review Team but• Tribes will be contacted directly if they are within the proposed planning boundary of an application and invited to provide input.

Summary of Public Comments

Theme	Department Response
Clarify the purpose to include program elements	Changes made
Reorganize rules to follow a more intuitive structure	Changes made
Clarify process for how a collaborative might lose state-recognition of their plan	Changes made
Clarify timeline of notification	Changes made
Other minor changes for clarity	Changes made

Summary of Public Comments

Theme	Department Response
The value of state recognition and related state support for plan implementation remains unresolved	Proposed Rules reflect statutory authority: <ol style="list-style-type: none"><li data-bbox="888 683 1724 732">1. Eligible for other planning grants<li data-bbox="888 743 1738 922">2. Commitment of State Agencies to identify strategies they may support<li data-bbox="888 933 1566 982">3. Consideration in the IWRS Value of state recognition is greater than what can be captured in rule

Summary of Public Comments

Theme	Department Response
Requiring match be secured before disbursement of funds is unnecessarily restrictive	<ul style="list-style-type: none">• Standard practice for state funding opportunities• Ensures investment of state dollars will result in completed plans• Shortens time needed to plan = less planning fatigue

Summary of Public Comments

Theme	Department Response
Not enough requirements in rule for frequency of different program elements	Improves adaptability of program to respond to program needs
Proposed rules will help provide needed standards for place-based water planning but more is likely needed	Additional standards will be outlined in more detail in guidance
There is the potential to exclude instream interests from the planning process	Representing instream interests is definitional to PBP

Summary of Public Comments

Theme	Department Response
Proposed rule language is confusing and adequate public and Tribal notice of the rulemaking process was not given	<ul style="list-style-type: none">• PBP guidance will meet standards for readability and comprehension• Notice fulfilled all requirements

Fiscal and Racial Equity Impacts

Fiscal Impact

- Rules may positively impact Oregon economy through funding of eligible place-based planning collaboratives and contracts
- May have varying impacts on planning participants, including state agencies, governments, organizations, and members of the public

AM0

Slide 36

AMO [@MASHKOVSKAYA Margo A * WRD] This statement is different than the 602 rules- should they be the same?
MUTH Adair * WRD, 2025-03-07T23:35:02.295

Racial Equity Impact

- Grants may assist with building capacity of a community to engage in PBP
- Proposed rules may foster more inclusive and equitable water resource management, leading to a more secure water future for impacted communities
- Relationship to IWRS offers opportunity for diverse voices to have a further reaching impact in statewide planning efforts
- No unintended adverse consequences on racial equity are expected from proposed rules

Alternatives & Director's Recommendation

Alternatives

1. Adopt final proposed rules as modified by the Department following public comment (Attachment 7 in the staff report)
2. Adopt final proposed rules as modified by the Commission
3. Not adopt final proposed rules and request the Department to further evaluate the issues

Director's Recommendation

- 1. Adopt final proposed rules as modified by the Department following public comment (Attachment 7 in the staff report)**
2. Adopt final proposed rules as modified by the Commission
3. Not adopt final proposed rules and request the Department to further evaluate the issues

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DEPARTMENT

Thank you!

**Lili Prah, Margo Mashkovskaya, &
Adair Muth**

Slide 41

GW0 remove email addresses

GONZALEZ Danielle L * WRD, 2025-03-06T22:28:16.996

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