

# Chapter 420-04 WAC

## GENERAL

### WAC

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**WAC 420-04-010 Definitions.** For purposes of Title 420 WAC, the definitions in RCW 77.85.010 apply. In addition, unless the context clearly indicates otherwise, the following definitions also apply:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property, and related interests such as water or mineral claims and use rights.

"Applicant" means any agency, person or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the board. Generally, eligible applicants for SRFB funds include a state, local, tribal or special purpose government, a non-profit organization, a combination of such governments, or a landowner for projects on its land.

"Application" means the form(s) developed and implemented for use by applicants in soliciting project funds administered by the board.

"Board" means the Salmon Recovery Funding Board (SRFB) created by chapter 13, Laws of 1999 1st sp. sess. (2E2SSB 5595), now codified as chapter 77.85 RCW.

"Chair" means the chair of the board.

"Development" means the construction or alteration of facilities, the placement or removal of materials, or other physical activity to restore or enhance salmon habitat resources.

"Director" means the director of the IAC or that person's designee, responsible for implementation of board activities under chapters 79A.25 and 77.85 RCW.

"IAC" means the interagency committee for outdoor recreation (IAC), an executive state agency established under chapter 79A.25 RCW.

"Lead entity" means the local organization or group designated under RCW 77.85.050.

"Manual(s)" means a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the board for dissemination by paper, electronic or other formats to all who may wish to participate in the board's grant program(s).

"Preliminary expense" means project costs incurred prior to board approval, other than site preparation/develop-

ment costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the IAC on behalf of the board.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the IAC acting on behalf of the board, and a project sponsor.

"Project sponsor" means an applicant under RCW 77.85.010(6) who has been awarded a grant of funds, and has a signed project agreement.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-010, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-015 Address.** All communications with the board shall be directed to the IAC offices at the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 40917, Olympia, Washington 98504-0917. Telephone (360) 902-3000. Web site: [www.wa.gov/iac/salmonmain](http://www.wa.gov/iac/salmonmain).

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-015, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-020 Organization and operations.** The board:

(1) Is an unsalaried body of ten members. Five members are citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of three years each. The other members are the:

- Commissioner of public lands;
- Director of the department of fish and wildlife;
- Director of the state conservation commission;
- Director of the department of ecology; and
- Secretary of transportation (or the designees of these individuals).

The five citizen members, including the chair, are voting members. The chair of the board is appointed by the governor from among the five citizen members.

(2) Is authorized and obligated to administer grant programs for salmon recovery, and related programs and policies.

(3) Performs and accomplishes work by a staff under the supervision of the IAC director appointed by the governor.

(4)(a) Conducts regular meetings, pursuant to RCW 42.30.075, according to a schedule it adopts in an open public meeting.

(b) May conduct special meetings at any time, pursuant to RCW 42.30.080, if called by the chair.

(c) Maintains an official record of its meetings in a recorded audio format, unless written minutes are otherwise indicated for logistical reasons.

(5) Defines a quorum as three of its voting members, with a preference that at least two of the agency members shall also be present.

(6) Adopts parliamentary meeting procedure generally as described in *Robert's Rules of Order*. Only voting members may make motions or formal amendments, but agency members may request the chair for leave to present a proposal for board consideration.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-020, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-030 Manuals and waivers—Guidance.**

(1) The board shall adopt one or more manuals that describe its general administrative policies, for use by grant applicants, potential applicants, project sponsors, and others. The board shall inform all applicants in any given grant cycle of the specific project application process and methods of review, including current evaluation tests and instruments, by explaining these items in the manuals or other publicly available formats. Manuals may be adopted for each grant cycle, or for a topical issue, and shall contain a clear statement of the applicability of the policies outlined. The board also instructs the director to use applicable IAC administrative manuals for general guidance in the implementation of SRFB grant contracts. These include IAC manuals regarding land acquisition, conservation easements, funded projects, and reimbursement procedures.

(2) Board policies, including those referenced in the manuals, shall be considered and approved by the board in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, meeting notice in the *Washington State Register*, or other means.

(3) Project applicants, project sponsors, or other interested parties may petition the director for a waiver or waivers of those items within the manuals dealing with general administrative matters and procedures. Determinations on petitions for such waivers made by the director are subject to review by the board at the request of the petitioner.

(4) Petitions for waivers of subjects regarding board policy, and those petitions that in the judgment of the director require board review, shall be referred to the board for deliberation. Policy waivers may be granted after consideration by the board at an open public meeting.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-030, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-040 Project selection.** The board shall use an open public selection process to guide it in allocating funds to and among project applicants. The board's priority rating system for evaluating projects and lists shall:

(1) Be adopted by the board in advertised public meetings;

(2) Consider applicant, local, regional, and statewide needs, technical merits, and other criteria;

(3) Be developed through the participation of interested parties and specialists, and include best available science;

(4) Be made widely available to interested parties in published manuals and related electronic materials;

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(5) Be designed for use by an independent technical panel or team of evaluators with relevant expertise when selected for this purpose on behalf of the board;

(6) Be in accord with statutes.

The director shall implement the board's criteria, assessment, evaluation and rating systems in preparing funding options or recommendations for board consideration.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-040, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-050 Final decision.** The board shall review options or recommendations for grant awards at scheduled board meetings announced as funding sessions. It retains the final authority and responsibility to award grant or loan funds, and to accept or depart from any recommendations. Unless otherwise required by law, the board's decision is the final decision concerning the funding of a project.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-050, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-060 Delegated authority.** Consistent with RCW 79A.25.240 and other applicable laws, the director is delegated the authority and responsibility to carry out policies and administrative functions of the board. This includes, but is not limited to, the authority to:

(1) Administer board programs at the offices of the IAC;

(2) Administer all applicable rules, regulations and requirements established by the board or reflected in the laws of the state;

(3) Implement board decisions; and

(4) Approve certain waiver requests or other administrative matters.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-060, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-070 Compliance with Environmental Policy Act guidelines.** (1) The board finds that, pursuant to RCW 43.21C.0382, all of its activities and programs are exempt from threshold determinations and environmental impact statement requirements.

(2) To the extent applicable, it is the responsibility of applicants and project sponsors to comply with the provisions of chapter 43.21C RCW, the State Environmental Policy Act rules, the National Environmental Protection Act, and to obtain associated land-use and regulatory permits and reviews.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-070, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-080 Declaratory order—Petition requisites—Consideration—Disposition.** (1) Any person may submit a petition for a declaratory order pursuant to RCW 34.05.240 in any written form so long as it:

(a) Clearly states the question the declaratory order is to answer; and

(b) Provides a statement of the facts which raise the question.

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(2) The director may conduct an independent investigation in order to fully develop the relevant facts.

(3) The director shall present the petition to the board at the first meeting when it is practical to do so and will provide the petitioner with at least five days notice of the time and place of such meeting. Such notice may be waived by the petitioner.

(4) The petitioner may present additional material and/or argument at any time prior to the issuance of the declaratory order.

(5) The board may issue either a binding or a nonbinding order or decline to issue any order.

(6) The board may decide that a public hearing would assist its deliberations and decisions. If such a hearing is ordered, it will be placed on the agenda of a meeting and at least five days notice of such meeting shall be provided to the petitioner.

(7) If an order is to be issued, the petitioner shall be provided a copy of the proposed order and invited to comment.

(8) The declaratory order cannot be a substitute for a compliance action and is intended to be prospective in effect.

(9) The board will decline to consider a petition for a declaratory or to issue an order when:

(a) The petition requests advice regarding a factual situation which has actually taken place; or

(b) When a pending investigation or compliance action involves a similar factual situation.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-080, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-085 Petitions for rule making, amendment or repeal—Form—Consideration—Disposition.**

Any person may submit a petition requesting the adoption, amendment or repeal of any rule by the board, pursuant to RCW 34.05.330 and the uniform rules adopted by the office of financial management that are set forth in chapter 82-05 WAC.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-085, filed 2/2/01, effective 3/5/01.]

**WAC 420-04-100 Public records access.** (1) The board is committed to public access to its public records. All public records of the board, as defined in RCW 42.17.260 as now or hereafter amended, are available for public inspection and copying pursuant to this regulation, except as otherwise provided by law, including, but not limited to, RCW 42.17.310 and 42.17.255 (Exemptions).

(2) The board's public records shall be available through the public records officer designated by the director. All records access for board records shall be conducted in the same manner as records access for IAC records, including office location, hours, copy fee and request forms. The board adopts by reference the records access procedures of the IAC and charges the director to administer for access purposes the board's records in the same manner as records of the IAC are administered, pursuant to chapter 286-06 WAC.

(3) Any person who objects to the denial of a request for a public record of the board may petition the director for review by submitting a written request. The request shall spe-

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cifically refer to the written statement which constituted or accompanied the denial.

(4) After receiving a written request for review of a decision denying inspection of a public record, the director, or designee, will either affirm or reverse the denial by the end of the second business day following receipt according to RCW 42.17.320. This shall constitute final board action. Whenever possible in such matters, the director or designee shall consult with the board's chair and members.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.-120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-04-100, filed 2/2/01, effective 3/5/01.]