

# Chapter 286-04 WAC

## GENERAL

### WAC

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**WAC 286-04-010 What definitions apply to this chapter?** For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"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.

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the board. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the board.

"Board" means the recreation and conservation funding board as described in RCW 79A.25.110.

"Chair" means the chair of the board as described in RCW 79A.25.110.

"Development" means the construction and/or restoration of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the office or that person's designee as described in RCW 79A.25.150.

"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the board under chapter 46.09 RCW.

"Manual(s)" mean 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 or director for dissemination to agencies and organizations that may wish to participate in the board's grant program(s).

"Office" means the recreation and conservation office or the office of recreation and conservation as described in RCW 79A.25.010.

"Preliminary expense" means project costs incurred prior to board or director approval, other than site preparation/development 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 board.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the office and a sponsor.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-010, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-04-010, filed 12/3/04, effective 1/3/05. Statutory Authority: RCW 43.99.080(2) and 46.09.240(1). WSR 98-08-014, § 286-04-010, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-010, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-010, filed 8/17/94, effective 9/17/94. Statutory Authority: Chapter 43.99 RCW. WSR 86-23-038 (Order 86-2), § 286-04-010, filed 11/17/86. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.-080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-010, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-010, filed 9/5/79; Order 3, § 286-04-010, filed 7/31/73; Order 1, § 286-04-010, filed 12/10/71.]

**WAC 286-04-015 Address.** All communications with the board shall be directed to the recreation and conservation office at the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 40917, Olympia, Washington 98504-0917, telephone 360-902-3000.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-015, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-015, filed 8/17/94, effective 9/17/94.]

**WAC 286-04-020 Organization and operations.** The board:

(1) Is an unsalaried body consisting of the (a) commissioner of public lands, (b) director of the department of fish and wildlife, (c) director of the parks and recreation commission, (or the designees of these individuals) and five citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of three years each. The chair of the board is a voting member, appointed by the governor from among the five citizen members.

(2) Was created by Initiative 215 (Marine Recreation Land Act of 1964). It is authorized to allocate and administer funds to agencies and organizations from the state's outdoor recreation and other such accounts as may now or hereafter be established.

(3) Is authorized and obligated to prepare, maintain and update statewide plans, including:

(a) A strategic recreation resource and open space or assessment and policy plan and state trails plan (RCW 79A.25.020 and 79A.35.040); and

(b) A nonhighway and off-road vehicle plan (RCW 46.09.370).

(4) Does not own or operate any outdoor recreation or resource facilities.

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

(6)(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.

(7) Members who have been appointed from the public-at-large shall be reimbursed at the rate established by the office of financial management in accordance with RCW 43.03.050(1) for each day or portion thereof spent on official business and shall be entitled to receive all necessary travel expenses on the same basis as is provided by law for state officials and employees generally.

(8) Defines a quorum as five of its members.

(9) Adopts parliamentary meeting procedure generally as described in *Robert's Rules of Order*.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-020, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-020, filed 8/17/94, effective 9/17/94. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.-080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-020, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-020, filed 9/5/79; WSR 78-03-032 (Order 78-1), § 286-04-020, filed 2/17/78; Order 3, § 286-04-020, filed 7/31/73; Order 1, § 286-04-020, filed 12/10/71.]

**WAC 286-04-030 Goals.** The general goals of the board and office are to:

(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize protection of the natural quality of the environment;

(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;

(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under their jurisdiction, will best serve their needs for outdoor recreation and habitat conservation; and

(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper stewardship of recreation and natural resources. See also RCW 79A.25.005.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-030, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-030, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-030, filed 8/17/94, effective 9/17/94. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-030, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-030, filed 9/5/79; Order 3, § 286-04-030, filed 7/31/73.]

**WAC 286-04-050 Compliance with Environmental Act guidelines.** (1) The board has determined that all of its activities and programs in effect as of December 12, 1975, or pursuant to WAC 197-11-800 are exempt from threshold determinations and environmental impact statement requirements under the provisions of WAC 197-11-875.

(2) To the extent applicable, it is the responsibility of applicants and sponsors to comply with the provisions of chapter 197-11 WAC, the State Environmental Policy Act rules for acquisition or development of projects, the National Environmental Protection Act, and to obtain associated land-use permits.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-050, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-050, filed 8/17/94, effective 9/17/94; Order 76-2, § 286-04-050, filed 6/30/76.]

**WAC 286-04-060 Manuals and waivers—Guidance.**

(1) The board or director shall adopt manuals that describe its general administrative policies for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

(2) Board policies, including those 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, formal meeting notice in the Washington State Register, or other such means.

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

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

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-060, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. WSR 98-08-014, § 286-04-060, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-060, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.-060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-060, filed 8/17/94, effective 9/17/94. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-060, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-060, filed 9/5/79; WSR 78-03-032 (Order 78-1), § 286-04-060, filed 2/17/78.]

**WAC 286-04-065 Project evaluations.** It is the policy of the board to use an open, public, competitive selection process to guide it in allocating funds to grant applicants. In this regard, the director shall use priority rating systems in preparing funding recommendations for board consideration. These systems shall:

(1) Be developed, to a reasonable extent, through the participation of interested parties and specialists;

- (2) Consider applicant, local, regional, and statewide needs, a project's technical merits, and other criteria;
- (3) Be adopted by the board in advertised public meetings;
- (4) Be made available in published form to interested parties;
- (5) Be designed for use by a team of evaluators selected for this purpose; and
- (6) Be in accord with statutes.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-065, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-065, filed 8/17/94, effective 9/17/94.]

**WAC 286-04-070 Director's authority.** Consistent with RCW 79A.25.020, and other applicable laws, the director is delegated the authority and responsibility to carry out policies of the board. This includes, but is not limited to the authority to:

- (1) Administer programs; employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;
- (2) Administer all applicable rules, regulations and requirements established by the board or reflected in the laws of the state; and
- (3) Approve certain cost increase or waiver requests.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-070, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-070, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-070, filed 8/17/94, effective 9/17/94. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-070, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-070, filed 9/5/79.]

**WAC 286-04-080 Federal overlay and requirements.**

At times through the years, the board's grant programs have been closely interrelated with certain federal grant programs. For example, see WAC 286-40-010, Land and Water Conservation Fund. The result of this interrelationship is that there are many federal requirements imposed on the board and its applicants over which the board has no control.

Many of these requirements may be found in the Land and Water Conservation Fund Grants Manual (National Park Service). In addition, most of the federal requirements are restated or clarified in the manuals.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-080, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-080, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.99.010, 43.99.110, 43.99.080, 43.99.120, 43.99.060, 42.17.370, 46.09.020, 46.09.170 and 46.09.240. WSR 83-01-030 (Order IAC 82-1), § 286-04-080, filed 12/8/82. Statutory Authority: Chapter 43.99 RCW. WSR 79-09-124 (Order 79-1), § 286-04-080, filed 9/5/79.]

**WAC 286-04-085 Declaratory order—Petition requirements—Consideration—Disposition.** (1) Any person may submit a petition for a declaratory order in accordance with RCW 34.05.240 in any 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.
- (2) The director may conduct an independent investigation in order to fully develop the relevant facts.
- (3) The director will 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 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.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-085, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-085, filed 8/17/94, effective 9/17/94.]

**WAC 286-04-090 What is the history of the board's fund sources?** (1) As of July 1, 1995, the "recreation resource account," RCW 79A.25.200, included funds, under RCW 79A.25.040, in support of the boating facilities and other programs. These funds are derived from:

- (a) Unclaimed marine fuel tax refunds;
- (b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and
- (c) Such other sources as may be provided.
- (2) As of July 1, 1995, the "NOVA program account," RCW 46.09.510, included funds, under RCW 46.68.045 and 46.09.520, in support of the nonhighway and off-road vehicle activities program. These funds are derived from:

- (a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;
- (b) Off-road vehicle permit fees; and
- (c) Such other sources as may be provided.
- (3) As of July 1, 1990, the "habitat conservation account," RCW 79A.15.020, included funds, under chapter 79A.15 RCW, in support of the Washington wildlife and recreation program. These funds are derived from:

- (a) Sales of bonds approved in capital budget appropriations; and
- (b) Such other sources as may be provided.
- (4) As of July 1, 1995, the "outdoor recreation account," RCW 79A.25.060, included funds, under chapter 79A.15 RCW, in support of the Washington wildlife and recreation program. These funds are derived from:

- (a) Sales of bonds approved in capital budget appropriations; and
- (b) Such other sources as may be provided.
- (5) Prior to July 1, 1995, the "outdoor recreation account," RCW 79A.25.060, included funds, in support of the board's programs. Funds were derived from:
  - (a) Unclaimed marine fuel tax refunds under RCW 79A.25.040;

(b) Sales of bonds under Referenda 11, 18, 21, and 28, and HJR 52;

(c) State apportionments of the federal land and water conservation fund;

(d) Moneys refunded from the motor vehicle fund under RCW 46.09.520 and funds received under RCW 46.68.045 for nonhighway and off-road vehicle purposes;

(e) Off-road vehicle permit fees;

(f) Sales of general obligation bonds for outdoor recreation purposes under RCW 79A.15.050; and

(g) Such other sources as were provided.

(6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under RCW 79A.25.210, in support of the firearms and archery range recreation program. These funds are derived from:

(a) Concealed pistol license fees under RCW 9.41.070;

(b) Destruction of firearms programs under RCW 9.41.098; and

(c) Such other sources as may be provided.

(7) As of July 1, 2003, the "aquatic lands enhancement account" funds are derived from the proceeds from sale or lease of aquatic lands or valuable materials therefrom under RCW 79.105.150.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-04-090, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-04-090, filed 12/3/04, effective 1/3/05. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-04-090, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.-080, 46.09.240 and 77.12.720. WSR 94-17-095, § 286-04-090, filed 8/17/94, effective 9/17/94.]