

Chapter 420-04 WAC

GENERAL

WAC

420-04-010	Definitions.
420-04-015	Address.
420-04-020	Duties of the board.
420-04-030	Policies and procedures.
420-04-060	Director's authority.
420-04-070	Compliance with the State Environmental Policy Act and other laws.
420-04-080	Petitions for declaratory order of a rule, order, or statute.
420-04-085	Petitions for adoption, amendment, or repeal of a rule.
420-04-100	Public records.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

420-04-040	Project selection. [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.] Repealed by WSR 16-07-085, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW.
420-04-050	Final decision. [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.] Repealed by WSR 16-07-085, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW.

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 project" means a project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access or trail easements, covenants, water rights, leases, and mineral rights.

"Agreement" or "project agreement" means the accord accepted by the office and the sponsor for the project and includes any attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the project agreement subject to any limitations on their effect.

"Applicant" means any party that meets qualifying standards as described in RCW 77.85.010(6), including deadlines, for submission of an application soliciting a grant of funds from the board.

"Application" means the documents and other materials that an applicant submits to the office to support the applicant's request for grant funds.

"Board" means the salmon recovery funding board as described in RCW 77.85.110.

"Capacity funding" is a grant to lead entities and regional organizations as described in RCW 77.85.130(4) to assist in carrying out functions to implement chapter 77.85 RCW.

"Chair" means the chair of the board described in RCW 77.85.110.

"Citizens committee" means a committee established by a lead entity that consists of representative interests of coun-

ties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests as described in RCW 77.85.050.

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

"Enhancement project" or "hatchery and harvest enhancement project" means a project that supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, ensure compatibility between hatchery production and salmon recovery programs, or support sustainable fisheries.

"Habitat project list" means the list of projects as described in RCW 77.85.010(3) compiled by a citizens' committee and submitted by a lead entity to the board as described in RCW 77.85.050(3). The habitat project list shall establish priorities for individual projects and define the sequence for project implementation as described in RCW 77.85.050. The list of projects in the habitat project list must be within the lead entity area as described in RCW 77.85-050(2). The habitat project list includes the lead entity ranked project list.

"Lead entity" means a city, county, conservation district, special purposes district, tribal government, regional recovery organization or other entity that is designated jointly by any one or more of the counties, cities, and Native American tribes within the lead entity area as described in RCW 77.85.050.

"Lead entity area" means the geographic area designated jointly by any one or more of the counties, cities, and Native American tribes within that area, which is based, at a minimum, on a watershed resource inventory area, as described in RCW 77.85.010(13), combination of water resource inventory areas, or any other area as described in RCW 77.85.050(2).

"Lead entity ranked project list," also known as the "habitat work schedule," means those projects on the habitat project list that will be implemented in the current funding cycle per RCW 77.85.010(4) and as described in RCW 77.85.060.

"Manual(s)" means a compilation of state and federal laws; board rules, policies and procedures; and director procedures, forms, and instructions assembled in manual form for dissemination to parties that participate in the board's or office's grant program(s).

"Match" or "matching share" means the portion of the total project cost in the project agreement provided by the project sponsor.

"Monitoring or research project" means a project that monitors the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

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

"Planning project" means a project that results in a study, assessment, project design, or inventory.

"Preagreement cost" means a project cost incurred before the period of performance identified in the project agreement.

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

"Project area" means the area consistent with the geographic limits of the scope of work of the project. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired in the project.

"Regional recovery organization" or "regional salmon recovery organization" means an organization described in RCW 77.85.010(7).

"Reimbursement" means the payment of funds from the office to the sponsor for eligible and allowable project costs that have already been paid by the sponsor per the terms of an agreement.

"Restoration project" means to bring a site back to its historic function as part of a natural ecosystem or improving or enhancing the ecological functionality of a site.

"Salmon recovery region" means a geographic area as described in RCW 77.85.010(10).

"Sponsor" means an eligible applicant under RCW 77.85.010(6) who has been awarded a grant of funds and is bound by an executed project agreement; includes its officers, employees, agents, and successors.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-010, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-010, filed 6/13/14, effective 7/14/14. 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, office, director and staff 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, fax 360-902-3026, web site www.rco.wa.gov.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-015, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-015, filed 6/13/14, effective 7/14/14. 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 Duties of the board. (1) The board was created by the legislature in the Salmon Recovery Funding Act of 1999 (section 3, chapter 13, Laws of 1999 special session) codified in RCW 77.85.110.

(2) Membership of the board is defined in RCW 77.85.-110.

(3) The board is authorized to:

(a) Allocate and administer funds for salmon habitat projects and salmon recovery activities from amounts appropriated by the legislature as described in RCW 77.85.120;

(b) Develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration as described in RCW 77.85.130(1);

(c) Adopt an annual allocation of funding as described in RCW 77.85.130(1);

(d) Establish a maximum amount of funding available for any individual project as described in RCW 77.85.130(1);

(e) Establish criteria for determining the award of grants for capacity funding as described in RCW 77.85.130(4);

(f) Give preference and consideration to projects as described in RCW 77.85.130(2);

(g) Require applicants to incorporate the environmental benefits of the project into their grant applications, and utilize the statement of environmental benefits in its prioritization and selection process as described in RCW 77.85.135;

(h) Adopt procedures for lead entities to submit habitat project lists as described in RCW 77.85.050, including establishing the submission deadlines;

(i) May reject, but not add, projects from a habitat project list submitted by a lead entity for funding as described in RCW 77.85.130(3);

(j) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program as described in RCW 77.85.135; and

(k) Provide the legislature with a list of the proposed projects and a list of the projects funded as described in RCW 77.85.140.

(4) The board does not own or operate any salmon recovery properties or facilities.

(5) The board is not a public hearings board and does not decide land use issues. To the extent possible, all project proposals should demonstrate adequate public notification and review and have the support of the public body applying for the grant or where the project is located.

(6) The office, under the supervision of the director appointed by the governor, performs and accomplishes work on behalf of the board.

(7) The board:

(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;

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

(e) 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 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-020, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-020, filed 6/13/14, effective 7/14/14. 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 Policies and procedures. (1) The board shall adopt plans, policies, and procedures per the duties of the board as described in WAC 420-04-020. Board policies 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 as appropriate.

(2) The director shall approve procedures per the duties of the director in WAC 420-04-060 (1)(c).

(3) The office shall publish the policies and the procedures and make them available to applicants, sponsors, and other interested parties.

(4) Applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with administrative procedures. The director may refer any petition on an administrative procedure to the board for determination. Determinations on petitions for such waivers made by the director are subject to review by the board at the request of the petitioner.

(5) Applicants, sponsors, or other interested parties may petition the board for a waiver or waivers of those items dealing with policy and procedures. Petitions for waivers of subjects regarding board policy and procedures, those petitions referred by the director to the board, and determinations made in subsection (4) of this section at the request of a petitioner, shall be considered by the board at an open public meeting.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-030, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-030, filed 6/13/14, effective 7/14/14. 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 420-04-060 Director's authority. (1) 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:

(a) Provide staff support to the board as described in RCW 77.85.110;

(b) Provide all necessary grants and loans administration assistance to the board, and distribute funds as provided by the board in RCW 77.85.130 as described in RCW 77.85.-120;

(c) Approve all procedures, except the procedures for lead entities to submit habitat project lists described in WAC 420-04-020 (3)(h), to implement the board's policies and general grant administration;

(d) Enter into contracts and agreements with applicants upon approval of the board;

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

(f) Implement board decisions;

(g) Approve certain waiver requests as described in WAC 420-04-030 and certain amendments to project agreements as determined by board policy;

(3/17/16)

(h) Appoint such technical and other committees as may be necessary to carry out the purposes of this chapter; and

(i) Approve the contents, requirements and format for receiving grant applications.

(2) The director may waive the board's administrative rules or policies only after the board has delegated such authority in an open public meeting.

(3) Consistent with chapter 77.85 RCW and other applicable laws, the director has authority and responsibility to carry out actions to support salmon recovery. This includes, but is not limited to, the authority to:

(a) Administer funding to support the functions of lead entities as described in RCW 77.85.050;

(b) Provide administrative support to the governor's salmon recovery office as described in RCW 77.85.030;

(c) Track all funds allocated for salmon habitat projects and salmon recovery activities on behalf of the board, including both funds allocated by the board and funds allocated by other state or federal agencies for salmon recovery or water quality improvement as described in RCW 77.85.140;

(d) Produce a biennial report on the statewide status of salmon recovery and watershed health, summarize projects and programs funded by the salmon recovery funding board, and summarize progress as measured by high-level indicators and state agency compliance with applicable protocols established by the forum for monitoring salmon recovery and watershed health as described in RCW 77.85.020; and

(e) Administer other programs related to salmon recovery as delegated by the legislature, governor, or through interagency agreements with other state agencies.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-060, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-060, filed 6/13/14, effective 7/14/14. 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 the State Environmental Policy Act and other laws. (1) The board's and office's activities and programs 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 sponsors to comply with the provisions of chapter 197-11 WAC, the State Environmental Policy Act rules and comply with all applicable federal, state, and local laws and regulations regardless of whether the sponsor is a public or private organization.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-070, filed 3/17/16, effective 4/17/16. 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 Petitions for declaratory order of a rule, order, or statute. (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.

[Ch. 420-04 WAC p. 3]

(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: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-080, filed 3/17/16, effective 4/17/16. 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 adoption, amendment, or repeal of a rule. 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 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-085, filed 3/17/16, effective 4/17/16. 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. (1) The board is committed to public access to its public records. All public records of the board, as defined in RCW 42.56.070 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 42.56.050 and 42.56.210.

(2) The board's public records shall be available through the public records officer designated by the director. All access to the board's records shall be conducted in the same manner as in chapter 286-06 WAC.

(3) The office will include language in the project agreement that requires sponsors that are not subject to public disclosure requirements under chapter 42.56 RCW to disclose any information in regards to funding as if the sponsor were subject to chapter 42.56 RCW (RCW 77.85.130(8)).

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-04-100, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-04-100, filed 6/13/14, effective 7/14/14. 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.]