

WAC 332-30-114 Management agreements with port districts. By mutual, formal, written agreement the department may authorize a port district to manage some or all of those aquatic lands within the port district meeting the criteria stated in subsection (2) of this section. The port district shall adhere to the aquatic land management laws and policies of the state as specified in chapters 79.105 through 79.140 RCW. Port district management of state aquatic lands shall be consistent with all department regulations contained in chapter 332-30 WAC. These requirements shall govern the port's management of state aquatic lands. The administrative procedures used to carry out these responsibilities shall be those provided for port districts under Title 53 RCW.

(1) Interpretations. Phrases used in legislation (RCW 79.105.420) providing for management agreements with ports shall have the following interpretation:

(a) "Administrative procedures" means conducting business by the port district and its port commission.

(b) "Aquatic lands abutting or used in conjunction with and contiguous to" means state-owned aquatic lands which share a common or coincident boundary with an upland parcel or in the event the state aquatic land does not attach to an upland parcel (i.e., bedlands, harbor areas, etc.), this term shall include the aquatic land adjacent to and waterward of the port owned or controlled aquatic parcel which has a common or coincident boundary to the upland parcel.

(c) "Diligently pursued" means such steady and earnest effort by the port district and the department which results in the resolution of any deficiencies preventing the issuance of a management agreement to the port.

(d) "Leasehold interest" means the benefits and obligations of both the lessor and lessee resulting from a lease agreement.

(e) "Model management agreement" means a document approved by the board of natural resources to be used for all individual management agreements with port districts.

(f) "Operating management" means the planning, organizing, staffing, coordinating, and controlling for all activities occurring on a property.

(g) "Otherwise managed" means having operating management for a property.

(h) "Revenue attributable" means all rentals, fees, royalties, and/or other payments generated from the use of a parcel; or the most likely amount of money due for the use of a parcel as determined by procedures in chapter 332-30 WAC, whichever is greater.

(2) Criteria for inclusion. State-owned parcels of aquatic lands, including those under lease or which may come under lease to a port, abutting port district uplands may be included in a management agreement if criteria set forth in RCW 79.105.420 are met and if there is documentation of ownership, a lease in good standing, or agreement for operating management, in the name of the port district for the upland parcel.

(3) A model management agreement and any amendments thereto shall be developed by the department and representatives of the port industry. The board of natural resources shall review and approve the model management agreement and any subsequent amendments.

(4) Processing requests. The following application requirements, review procedures, and time frame for responses involved in the issuance of a management agreement to a port district shall apply.

(a) Application requirements. The following items must be submitted to the department by the port district in order for its request to be an application for a management agreement:

(i) A copy of a resolution of the port commission that directs the port district to seek a management agreement;

(ii) An exhibit showing the location of and a description adequate to allow survey for each parcel of state-owned aquatic land to be included in the agreement, plus sufficient information on abutting port parcels to satisfy the requirements of subsection (2) of this section;

(iii) The name, address, and phone number of the person or persons that should be contacted if the department has any questions about the application.

(b) Time frames for responses:

(i) Within thirty days of receipt of an application, the department shall notify the port district if its application is complete or incomplete;

(ii) Within thirty days of receipt of notification by the department of any incompleteness in their application, the port district shall submit the necessary information;

(iii) Within ninety days of receipt of notification by the department that the application is complete, the port district and department shall take all steps necessary to enter into an agreement.

[Statutory Authority: RCW 79.105.360. WSR 06-06-005 (Order 724), § 332-30-114, filed 2/16/06, effective 3/19/06. Statutory Authority: 1984 c 221 and RCW 79.90.540. WSR 84-23-014 (Resolution No. 470), § 332-30-114, filed 11/9/84.]