

# Chapter 352-75 WAC

## BOAT SEWAGE PUMPOUT CONTRACT PROGRAM

### WAC

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**WAC 352-75-010 Purpose.** The purpose of this chapter is to set forth the parameters for the distribution and uses of moneys administered by the parks and recreation commission. A portion of the income is derived from the watercraft excise tax pursuant to RCW 82.49.030(3). These moneys shall provide financial assistance to applicants throughout the state of Washington for the construction of sewage pumpout or sewage dump station facilities which will aid the achievement of clean waterways throughout the state of Washington.

To prevent the despoliation of the waters in Washington state, to provide adequate opportunities for the responsible disposal of boat sewage, and to obtain the most benefits for the state in protecting valuable recreational resources, the sewage pumpout and sewage dump station program was developed and criteria established for the award and use of funds made available pursuant to RCW 88.36.100(2). This chapter and chapter 88.36 RCW set forth the following:

- (1) The limitations on the allocation and uses of the funds;
- (2) The criteria to be considered for determining who will be eligible to receive funds;
- (3) The process to be followed for awarding the funds; and
- (4) Other related issues.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-010, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-010, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-020 Definitions.** When used in this chapter or chapter 88.36 RCW, the following words and phrases shall have the meaning designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "State parks" means the operating arm of the Washington state parks and recreation commission, which is responsible for implementation of commission programs established pursuant to statute or policy.

(2) "Boater" means any person on a vessel on waters of the state of Washington.

(3) "Boat wastes" shall include, but are not limited to, sewage, garbage, marine debris, discarded plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

(4) "Commission" means the Washington state parks and recreation commission.

(5) "Director" means the director of the Washington state parks and recreation commission, pursuant to RCW 43.51.060(8).

(6) "Eligible cost" for sewage pumpout and sewage dump stations means the cost of that portion of the facility that can be financed under the provisions of this chapter and guidelines developed pursuant to this chapter.

(7) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(8) "Final offer list" is the list of projects approved by the commission which can receive funding from the account during the time period that the offer list is effective.

(9) "Financial recipient" is the entity which has been awarded a contract with state parks to receive funding for the construction of a sewage pumpout or sewage dump station.

(10) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(11) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes or other pollutants at unacceptable levels, based on applicable water quality and shellfish standards.

(12) "Private entity" means any individual firm, corporation, association, partnership, consortium, joint venture, industry, or any other nonpublic entity which operates or has the potential to operate a boat sewage pumpout or portable sewage dump station facility.

(13) "Project" means sewage pumpout or sewage dump station facility(ies) for which a public or private entity applies for and receives funding or financial assistance.

(14) "Priority ranking list" means the list of rated and ranked projects for which state financial assistance is requested.

(15) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(16) "Sewage dump station" means any receiving chamber or tank designed to receive vessel sewage from a portable container.

(17) "Sewage pumpout station" means a mechanical device, generally stationed on a dock, pier, float, barge, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-020, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-020, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-030 Contract eligibility.** (1) The commission may award contracts to public, tribal, or private owned marinas, boat launches, or boater destination sites. The commission shall designate a marina, boat launch, or boater destination as eligible to apply for funding for the installation of a sewage pumpout or sewage dump station based on the following criteria:

(a) The marina, boat launch, or boater destination is located in an environmentally sensitive or polluted area; or

(b) The marina, boat launch, or boater destination site has one hundred twenty-five slips or more and there is a lack of sewage pumpouts within one-quarter mile.

(2) The commission may at its discretion designate a marina, boat launch, or boater destination as eligible to apply for funding for the installation of a sewage pumpout and/or sewage dump station if it meets the following criteria:

(a) There is a demonstrated need for a sewage pumpout or sewage dump station at the marina, boat launch, or boater destination based on professionally conducted studies undertaken by federal, state, or local government, or the private sector; and

(b) The marina, boat launch, or boater destination provides commercial services, such as sales of food, fuel, or supplies, or overnight or live-aboard moorage opportunities; or

(c) The marina, boat launch, or boater destination site is located at a heavily used boater destination or on a heavily traveled route as determined by the commission; or

(d) There is a lack of adequate sewage pumpout station capacity within one-quarter mile.

(3) The commission may make exceptions to the eligibility to apply for funding for the installation of sewage pumpout and/or sewage dump station requirements under subsection (2) of this section if the marina, boat launch, or boater destination lacks available sewer, septic, water, or electrical services.

(4) State parks shall notify owners or operators of marinas, boat launches, and destination sites of the availability of funding to support installation of appropriate sewage pumpout or sewage dump stations. State parks shall also notify such operators or owners of which waters of the state have been designated as environmentally sensitive or polluted for the purpose of this program.

(5) State parks will provide all financial recipients with a set of financial guidelines for contract administration. These guidelines will include all state forms and will describe in detail state procedures for recordkeeping, reporting, reimbursement, and auditing.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-030, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-030, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-040 Application process.** To be considered by the commission for receipt of sewage pumpout or sewage dump station funds a potential eligible public or private entity must:

(1) Submit a letter of intent to state parks.

(2) Complete an application form prescribed by state parks on or before the filing date set by state parks in the application form.

(3) Agree that funds are available on a reimbursement basis only.

(4) Include a copy of the applicant's shoreline substantial development permit with the application.

(5) If a public and/or tribal entity, submit documentation of SEPA compliance with the application.

(6) If a private entity, submit an environmental checklist with the application.

(7) Agree to complete all construction by established completion date.

State parks will review all applications for compliance with the minimum qualification requirements as set forth in RCW 88.36.040 and chapter 352-75 WAC. Applicants which do not meet the minimum qualifications will be notified in writing of the disqualification. Applications will be evaluated and ranked in accordance with the following criteria:

(a)(i) Approval of site by local jurisdiction;

(ii) Proximity to existing sewage pumpout or sewage dump stations;

(iii) Resource sensitivity;

(iv) Boater use;

(v) Size of marina;

(vi) Economics of installation;

(vii) Feasibility of installation; and

(viii) Geographic balance.

(b) Based on the process set forth in subsection (1) of this section, state parks shall establish a priority ranking list. This list will rank all qualified applications in a priority order. The priority ranking list will be available for thirty days for public review and comment. One or more public hearings may be conducted if state parks determines there is significant public interest. Comments received during the public review period will be considered before the priority ranking list is submitted to the commission for final approval. State parks staff shall provide the commission with preliminary evaluations and rankings of the applications to include a summary of each proposal recommended for funding. The commission will consider the recommendations received from state parks staff and adjust the ranked list of applications based on the information provided to them, if desired, and approve the applications. As a result of the commission's decision, a final offer list will be developed and issued. If an applicant on a final offer list does not sign a contract with the commission within ninety days of the list publication, the offer is automatically cancelled, and the applicant must reapply and compete for funding during a new funding cycle.

(c) Once an applicant has contracted to participate in the boat sewage pumpout or sewage dump station program, he/she must provide state parks with:

(i) A finished final design approved and stamped by a professional engineer. Said design must be submitted to and approved by state parks prior to any construction activity.

(ii) Complete plans, specifications, and cost estimates.

(iii) Assurance through a certified statement that the bidding, contracting, and construction activities comply with the applicable portions of Title 39 RCW.

(iv) At the conclusion of the construction the applicant will provide state parks with:

(A) Contractor's billings;

(B) A19-1 invoice vouchers for reimbursement;

(C) Copies of all advertisements;

(D) Copies of all bids;

(E) Copies of all change orders;

(F) A copy of the original public works contract if a public entity, or a copy of the original contract with the general contractor if a private entity; and

(G) A copy of the contractor's performance bond.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-040, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-040, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-050 Use of funds.** Funds in the boat sewage pumpout and sewage dump station program shall only be used to contract with public and private entities to install sewage pumpout or sewage dump stations located on fresh waters and salt waters.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-050, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-050, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-060 Ongoing cost.** Each financial recipient shall comply with the requirements set forth in RCW 88.36.050 and this chapter. It shall further monitor the use of its sewage pumpout and dump station unit and report such usage to state parks not later than thirty days after the 31st day of December for the preceding year in the format prescribed by state parks.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-060, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-060, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-070 Equipment breakdown.** Each financial recipient is responsible for the upkeep or preservation of condition of its sewage pumpout and dump station facility, including cost of ordinary repairs necessary and proper from time to time for that purpose. In the event an equipment breakdown does occur, the financial recipient must notify state parks within two working days of the breakdown. The facility must be repaired and be fully operational within ten days after the breakdown where the breakdown can be cured with normal expected repairs of five hundred dollars or less. For repairs greater than five hundred dollars, the facility must be fully operational within twenty days after the breakdown. A written report for all breakdowns must be submitted to state parks within two weeks of the breakdown describing the problem(s), repair(s), and cost(s). State parks reserves the right to make exceptions to the breakdown repair time limits in extenuating circumstances.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-070, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-070, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-080 General contract provisions.** Contracts entered into with the commission shall be under the guidelines of RCW 88.36.050 and this chapter. Each contract shall include but not be limited to the following provisions:

- (1) Term and acceptance of contract.
- (2) Scope of project and maximum project costs.
- (3) Maximum project costs and budget adjustments.
- (4) Design and construction.
- (5) Reimbursement.
- (6) Governing law.
- (7) Severability.
- (8) Dispute resolution.

(7/24/91)

(9) Negotiation period.

(10) Termination.

(11) Survival.

(12) Ownership.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-080, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-080, filed 4/30/90, effective 5/31/90.]

**WAC 352-75-090 Spill reporting and cleanup.** In the event that materials from the boat sewage pumpout and dump station spill in the marina, boat launch, or boat destination areas, the financial recipient shall promptly commence and complete cleanup of the area and shall notify state parks within forty-eight hours of any spill which is otherwise required to be reported to any federal, state, or local regulatory agency.

[Statutory Authority: Chapters 43.51 and 88.36 RCW. WSR 91-15-103, § 352-75-090, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.51.050. WSR 90-10-052, § 352-75-090, filed 4/30/90, effective 5/31/90.]