WAC 399-10-010 Organization and operation of the public works board. (1) The public works board, hereinafter referred to as the board, is a thirteen-member board appointed by the governor and created pursuant to RCW 43.155.030.

(2) The governor shall appoint one of the general public members of the board as chair. The board may elect such other officers for such terms as it may from time to time deem necessary in accordance with the board’s bylaws.

(3) The board’s staff support and office space is provided by the department of community development, whose main office is located in the Ninth & Columbia Building, Olympia, Washington, 98504; phone (AC 206) 753-2200.

(4) The purpose of the board is to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects.

WAC 399-10-020 Board meeting. (1) Notice of the times and places of the regular meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the board.

(2) Special meetings of the board may be called at any time by the chairman of the board or by a majority of the board members. Notice of such meetings will be as provided by law.

WAC 399-20-010 Purpose. The purpose of this chapter shall be to ensure the compliance by the public works board with the provisions of chapter 1, Laws of 1973, Initiative Measure No. 276, and in particular sections 25 through 32 of that act, and RCW 42.17.250 through 42.17.320 concerning disclosure of public records.

WAC 399-20-020 Definitions. The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, photostating and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all paper, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.
WAC 399-20-020 Title 399 WAC: Public Works Board

(3) "Board" means the public works board, created pursuant to chapter 446, Laws of 1985, and shall also refer to the board's officers and staff, where appropriate.

(4) "Department" means the department of community development, and shall also refer to the department's staff, where appropriate.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-020, filed 12/4/85.]

WAC 399-20-030 Public records available. All public records of the board are deemed to be available for public inspection and copying, except as otherwise provided by RCW 42.17.260 and 42.17.310 as now or may hereafter be amended, and by WAC 399-20-090.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-030, filed 12/4/85.]

WAC 399-20-040 Public records officer. The department's public records officer shall be the public records officer for the board. The public records officer shall be responsible for implementation of the board's rules and regulations regarding inspection and copying of public records, and for ensuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-040, filed 12/4/85.]

WAC 399-20-050 Records index. (1) The board will make available to any person upon request a current index which provides identifying information as to the following records:

(a) Those statements of policy and interpretations of policy, statutes and regulations which have been adopted by the board;
(b) Administrative staff manuals and instructions to staff that affect a member of the public;
(c) Planning policies and goals, and interim and final planning decisions;
(d) Factual staff reports and studies, factual consultant's reports and studies, specific reports and studies and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and
(e) Correspondence and materials relating to any responsibilities of the board.

(2) The current index promulgated by the board shall be available to all persons under the same rules and on the same conditions as are applied to the public records available for inspection and copying.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-050, filed 12/4/85.]

WAC 399-20-060 Office hours. Public records shall be available for inspection and copying during the department's normal office hours. For purposes of this chapter, normal office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-060, filed 12/4/85.]

WAC 399-20-070 Requests for public records. In accordance with the requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, and to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the board, public records may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the board which shall be available at the board's offices, or by writing or calling the board. The form shall be presented or mailed to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the board's offices during normal office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;
(b) The calendar date on which the request was made, and, when presented in person, the time of day;
(c) The nature of the request;
(d) If the matter requested is referred to within the current index maintained by the records officer, a reference to the requested record as it is described in such current index.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-070, filed 12/4/85.]

WAC 399-20-080 Copying. No fee shall be charged for the inspection of public records. The board may charge a fee of ten cents per page for providing copies of public records, when copies of more than ten pages are provided, and for use of the department's copy equipment. This charge is the amount necessary to reimburse the department for its actual cost incident to such copying.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-080, filed 12/4/85.]

WAC 399-20-090 Exemptions. (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 399-20-070 is exempt from disclosure under the provisions of RCW 42.17.260 and 42.17.310.

(2) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available any public record, in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records shall be accompanied by a written statement specifying the reason for the denial.

(1990 Ed.)
WAC 399-20-100 Review of denials of public records requests. (1) Any person who objects to the denial of a request for public records may petition for prompt review of such decision by submitting a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Following receipt of a written request for review of a decision denying a request for public records, the public records officer or other authorized staff member denying the request shall refer it to the chairman of the board or his designee. The chairman or his designee shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with the final decision, within two business days following receipt of the request for review.

(3) Administrative remedies shall not be considered exhausted until the request has been returned with a decision or until the close of the second business day following the denial of inspection, whichever occurs first.

WAC 399-20-110 Protection of public records. In order to properly protect the public records in the custody of the board, the following guidelines shall be adhered to by any person inspecting such public records:

(1) No public records shall be removed from the offices of the board;

(2) Inspection of any public records shall be conducted in the presence of a designated board or department employee;

(3) No public records may be marked or defaced in any manner during inspection;

(4) Public records which are maintained in a file jacket, or in a chronological order, may not be dismantled except for purposes of copying and then only by a designated employee of the board or department; and

(5) Access to file cabinets, shelves, vaults, etc., is restricted to board or department personnel.

WAC 399-20-120 Adoption of form. The board hereby adopts for use by all persons requesting inspection or copying of its records, the form set out below, entitled "request for public records."

In order to request copies of our public records, please complete the attached form and return it with the proper payment to the address below. We will forward to you those requested copies which are not exempt from disclosure when we receive this form. Thank you.

WAC 399-20-120 (11/85)

FOR BOARD USE ONLY
Number of copies ___
Number of pages ___

[Title 399 WAC—p 3]
Chapter 399-30 WAC
PUBLIC WORKS LOANS AND PLEDGES

WAC
399-30-010 Purpose.
399-30-020 Definitions.
399-30-030 Loan and financing guarantee applications.
399-30-040 Application evaluation procedure and board deliberations.
399-30-042 Application evaluation procedure and board deliberations—Capital planning support.
399-30-045 Emergency loan program.
399-30-050 Recommendations to the legislature.
399-30-060 Loan and financing guarantee contracts.
399-30-065 Emergency loan and financing guarantee contracts.

WAC 399-30-010 Purpose. (1) Pursuant to authority derived from chapter 446, Laws of 1985, the public works board may make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may also pledge money to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(2) The purpose of this chapter is to prescribe the form and manner in which local governments may make application to the board for financial assistance, and to provide for the consideration and disposition of such applications.

WAC 399-30-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the public works board.

(2) "Department" means the department of community development.

(3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems.

(6) "Emergency public works project" means a public works project made necessary by a natural disaster, or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-120, filed 12/4/85.]

[Title 399 WAC—p 4]
(c) Right-of-way acquisition costs including:
   (i) Purchase of land and easements acquired for and
       devoted to the project;
   (ii) Purchase of improvements;
   (iii) Adjustment or reestablishment of improvements;
   (iv) Salaries, expenses or fees of appraisers, negotia-
       tors or attorneys;
   (v) Removal or demolition of improvement;
   (vi) Other direct costs in connection with the acquisi-
       tion. Amounts received from the sale of excess real
       property or improvements and from any rentals shall be
       a reduction of the direct cost.
   (d) Contract construction work.
   (e) Direct vehicle and equipment charges at the actual
       rental cost paid for the equipment or, in the case of city
       or county-owned equipment, at the rental rates estab-
       lished by the local government's "equipment rental and
       revolving fund" following the methods prescribed by the
       division of municipal corporations: Provided, That such
       costs shall be charged on a uniform basis to equipment
       used for all projects regardless of the source of funding.
   (f) Direct materials and supplies. The cost of materi-
       als used in projects shall be based upon methods pre-
       scribed for the "equipment rental and revolving fund" by
       the division of municipal corporations.
       (i) An overhead rate or "loading factor" shall not be
           considered an appropriate additive to the actual cost of
           materials and supplies used on construction projects un-
           less the factor is readily and properly supportable by the
           governmental unit's accounting records.
       (ii) The cost, or reasonable estimate thereof, of mate-
           rials paid for as contract estimate items, but not used,
           shall be considered a reduction of direct costs. Any ma-
           terial which may be salvaged in connection with a
           project shall be assigned a reasonable value and consid-
           ered a reduction of direct costs.
   (g) Interdepartmental charges for work performed by
       the local government's departments, other than the road
       or street department, for the benefit of specific con-
       struction projects shall be limited to direct costs plus an
       allocation of indirect costs based upon ten percent of di-
       rect labor dollars, excluding employee benefits.
   (h) Other direct costs incurred for materials or ser-
       vices acquired for a specific project shall be eligible for
       participation by public works loan funds and may in-
       clude, but shall not be limited to such items as:
       (i) Telephone charges;
       (ii) Reproduction and photogrammetry costs;
       (iii) Computer usage; and
       (iv) Printing and advertising.
   (4) Applications shall be submitted to the board in
       writing, on such forms as may be prescribed by and ob-
       tained from the board, and shall contain but not be lim-
       ited to the following information:
       (a) Name and address of the local government mak-
           ing the application;
       (b) Complete description of the public works project
           for which financing assistance is sought;
       (c) Demonstration of the applicant jurisdiction's criti-
           cal need for the project;
       (d) The applicant jurisdiction's financing proposal for
           the proposed project;
       (e) If the application is being made for a loan, a re-
           payment plan;
       (f) The number of communities to be served by the
           proposed project;
       (g) Tax rates imposed by the applicant local govern-
           ment for taxes whose revenues can be used to finance
           public works projects; and
       (h) Utility rates charged for sewerage, water, gar-
           bage, and other utilities.
   (5) Any application for financial assistance submitted
       to the board shall be signed and verified by a responsi-
       ble official of the applicant jurisdiction. Such official shall
       also provide the board with any additional materials or
       information in support of the application which the
       board or its staff may request.

WAC 399-30-040 Application evaluation procedure and
board deliberations. (1) The board will consider and
prioritize, or disapprove, all applications for loans or fi-
ancing guarantees at regular or special meetings of the
board. The applicant will be notified of meetings at
which its application will be considered.

(2) Applications will be evaluated and prioritized in
accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance
with the minimum qualification requirements of WAC
399-30-030(2). Jurisdictions whose applications do not
meet the minimum qualification requirements will be
notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all
applications which meet the requirements of WAC 399–
30-030(2). Applications will be scored according to the
number of points awarded for responses provided in the
statements of local effort and project need.

(i) Up to thirty-eight points may be awarded in the
evaluation of each application's demonstration of need
for the proposed project. Responses to questions 2.01,
2.02, and 2.04 will be evaluated to determine this score.

(ii) Up to two points may be awarded in the evalua-
tion of coordinated projects provided in applicant re-
sponses to question 2.03.

(iii) Up to sixty points may be awarded in the evalua-
tion of the applicant jurisdiction's demonstration that it
is making a reasonable effort to meet its public works
needs. Responses to questions 4.01 through 4.19 will be
evaluated to determine this score.

(d) Staff will provide the board with preliminary
evaluation and scoring of the applications. All applica-
tion materials will be available to the board for their de-
liberations. The board will develop a ranked list of
projects based on the information provided to them by
the staff and the applications.

(e) The board will then adjust the ranked list in con-
sideration of the following factors:

[Title 399 WAC—p 5]
WAC 399-30-042  Application evaluation procedure and board deliberations—Capital planning support. 

(1) The board will consider and prioritize, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) All applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of applications which meet the requirements of WAC 399–30–030(2). Applications will be scored according to the number of points awarded for responses provided in the application. Applications will be evaluated and scored on a point scale. Applications will not be accepted if the application is not complete. Applications will be scored according to the evaluation and scoring of applications. All applications will be evaluated according to the minimum qualification requirements of WAC 399-30-030(2). Applications will be scored on a point scale. Applications will not be accepted if the application is not complete.

(d) Staff will provide the board with preliminary evaluation and scoring of applications. All application materials will be available to the board for its deliberations. The board will develop a ranked list of projects based on the information provided to it by the staff and the applicants.

(e) The board may then adjust the ranked list in consideration of the following factors:

(i) Geographical balance;
(ii) Economic distress;
(iii) Type of projects;
(iv) Type of jurisdiction;
(v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects on the recommended list for funding.

(3) Applicants will be notified in writing of board decisions.


WAC 399–30–045  Emergency loan program. This section implements RCW 43.155.060 as amended in 1988 to provide that: The board may make low-interest or interest free loans to local governments for emergency public works projects. The emergency loan program is to financially assist eligible communities experiencing the loss of critical public works services or facilities due to an emergency, and that can demonstrate a substantial fiscal need as reflected in the lack of local budget resources or other funds reserved for this purpose.

(1) Eligible local governments. Applicants must meet the conditions as identified under WAC 399–30–030(2).

(2) Eligible uses of funds. Financial assistance received shall be used for the purpose of restoring the services and/or repair of the public works facilities involved in the emergency. Assistance provided may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following:

(a) Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency;
(b) State disaster or emergency funds;
(c) Insurance settlements; or
(d) Litigation.

Reimbursement from the sources listed above shall be made to the department and shall remain in obligation of the assisted local government up to four years after the date of formal project closeout with the department. Local governments receiving funds shall undertake efforts to be reimbursed in a timely manner. Further, that assistance will be offered only for those eligible costs identified in WAC 399–30–030(3).

(3) Availability of funds. Funding will be made available on a first-come first-served basis. Only those funds specifically appropriated by the legislature from the public works assistance account shall be used to make emergency loans. That amount shall not exceed five percent of the total amount appropriated from this account in any biennium.

(4) Application process. The application process shall be in writing on such forms or format as may be prescribed and obtained from the board. The date and time of receipt by the board designated representative shall determine the sequence for application processing.

(5) Board deliberations—Emergency loan applications.

(a) The board will consider and approve or disapprove all eligible applications for emergency financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(b) All applications will be accepted, evaluated, and prioritized in accordance with the following procedures:

(i) Applications will be accepted only when emergency funding is available.
Public Works Loans And Pledges

WAC 399-30-050 Recommendations to the legislature. (1) Prior to November 1, 1986, and in each subsequent year, the board shall develop and submit to the ways and means committees of the senate and house of representatives a prioritized list of projects which the board recommends for funding by the legislature. In the board’s first year of operation, the board shall submit this list to the ways and means committees by February 1, 1986.

(2) In addition to the requirements of RCW 43.155.070(4), the list will include such supporting material as the board considers necessary to meet the purposes of this chapter.

(3) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under this program as provided in RCW 43.155.070(4), as amended in 1988, and identified in RCW 43.155.065.

WAC 399-30-060 Loan and financing guarantee contracts. (1) The board shall not sign loan agreements or otherwise financially obligate funds from the public works assistance account until the list and accompanying appropriation are approved by the legislature.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: Provided, That the amount loaned to a local government shall not exceed ninety percent of eligible proposed project cost: Provided further, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues and/or federal and/or state-shared revenues subject to discretionary allocation by the recipient unit of local government: Provided further, That the interest rate for loans shall not exceed three percent per annum: Provided Further, That loans may be provided at rates of lower than three percent but greater than one percent if the local government participates to a greater extent than ten percent in financing the project receiving a trust fund loan: Provided further, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.

(3) Public works project loan and or financing guarantee agreements offered to local governments shall be formally executed by the local government and the department of community development prior to the disbursement of any funds thereunder.

(4) Public works project loan and or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on public works projects financed through loans or financing guarantees offered to local governments must commence prior to October 1 of the year in which the loan or financing guarantee is offered.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twenty-four months of the date work has begun on such projects, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account. Such funds may be used by the local government as an element in its required local participation in a project financed by the public works assistance account.

WAC 399-30-065 Emergency loan and financing guarantee contracts. (1) After the legislature has appropriated funds from the public works assistance account for emergency loans, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: Provided, That the amount loaned to a local government shall not exceed ninety percent of eligible proposed project cost: Provided further, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues and/or federal and/or state-shared revenues subject to discretionary allocation by the recipient unit of local government: Provided further, That the interest rate for loans shall not exceed three percent per annum: Provided Further, That loans may be provided at rates of lower than three percent but greater than one percent if the local government participates to a greater extent than ten percent in financing the project receiving a trust fund loan: Provided further, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.
government: Provided further, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.

(2) Public works project loan and/or financing guarantee agreements offered to local governments shall be formally executed by the local government and the department of community development prior to the disbursement of any funds thereunder.

(3) Public works project loan and/or financing guarantee scope of work forms shall be completed and returned to the department of community development by the local government within ninety days of the date a scope of work form request is initiated.

(4) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on public works projects financed through loans or financing guarantees offered to local governments must commence within one hundred eighty days of the date of loan execution.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twelve months of the date work has begun on such projects, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account: Provided, That if the local government has made a formal declaration of an emergency, eligible costs for correction of the emergency incurred from the date of such declaration, and approved by the public works board, will be eligible for reimbursement. Such eligible costs not reimbursed but incurred before a loan agreement is approved may be used by the local government as an element of its required local participation, if any, for the emergency public works project.

(8) All public works projects shall comply with the competitive bid requirement of RCW 43.155.060 to the extent feasible and practicable.

[Statutory Authority: RCW 43.155.040. 89-10-041 (Order 89-01), § 399-30-065, filed 4/28/89.]

Chapter 399-40 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL POLICY ACT

WAC

399-40-010 Purpose.

399-40-020 Statement.

WAC 399-40-010 Purpose. The purpose of this chapter is to comply with RCW 43.21C.120, which requires all agencies of government in the state of Washington, consistent with the rules and guidelines adopted under RCW 43.21C.110, to adopt rules pertaining to the integration of policies and procedures of the State Environmental Policy Act of 1971, into the various programs under their jurisdiction for implementation.

[Statutory Authority: RCW 43.21C.110. 85-24-072 (Order 85-17), § 399-40-010, filed 12/4/85.]

WAC 399-40-020 Statement. Pursuant to WAC 197-10-800, the public works board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-10 WAC.

[Statutory Authority: RCW 43.21C.110. 85-24-072 (Order 85-17), § 399-40-020, filed 12/4/85.]

(1990 Ed.)