

Title 399 WAC

COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (PUBLIC WORKS BOARD)

Chapters

399-10	General provisions.
399-20	Public records.
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Chapter 399-10 WAC GENERAL PROVISIONS

WAC

399-10-010	Organization and operation of the public works board.
399-10-020	Board meetings.
399-10-030	Communications with the board.

WAC 399-10-010 Organization and operation of the public works board. (1) The public works board is a thirteen-member board appointed by the governor under RCW 43.155.030.

(2) The governor appoints one of the general public members as chair. The board may elect other officers for terms deemed necessary.

(3) The department of community, trade, and economic development provides staff support and office space to the board.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-10-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-10-010, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-10-010, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 95-11-093, § 399-10-010, filed 5/19/95, effective 6/19/95; 93-22-014, § 399-10-010, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-010, filed 12/4/85.]

WAC 399-10-020 Board meetings. (1) The board holds regular meetings on the first Tuesday of each month, except in July. In the month of August meetings are held on the first and third Tuesdays. The board may chose to cancel or move regular meetings and notice of any changes will be as provided by law.

(2) 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.

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

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-10-020, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-10-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 93-22-014, § 399-10-020, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-020, filed 12/4/85.]

WAC 399-10-030 Communications with the board.

Any and all written communications with the board, including but not limited to requests for information or copies of agency records, or submittals of any nature, must be addressed to the public works board, in care of:

Executive Director
Public Works Board
P.O. Box 48319
Olympia, WA 98504-8319

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-10-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-10-030, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 93-22-014, § 399-10-030, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-030, filed 12/4/85.]

Chapter 399-20 WAC PUBLIC RECORDS

WAC

399-20-010	Purpose.
399-20-020	Definitions.
399-20-030	Public records available.
399-20-040	Public records officer.
399-20-070	Requests for public records.
399-20-090	Exemptions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

399-20-050	Records index. [Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-050, filed 12/4/85.] Repealed by 07-05-029, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(4).
399-20-120	Adoption of form. [Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-120, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-120, filed 12/4/85.] Repealed by 07-05-029, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(4).

WAC 399-20-010 Purpose. This chapter is intended to ensure that the board complies with chapter 42.56 RCW, the Public Records Act, especially RCW 42.56.030 through 42.56.230 and RCW 42.56.510 through 42.56.580, which address disclosure of public records.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-010, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-010, filed 12/4/85.]

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 pre-

pared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Board" means the public works board, created in chapter 43.155 RCW, and also refers to the board's officers and staff, where appropriate.

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

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-020, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 95-11-093, § 399-20-020, filed 5/19/95, effective 6/19/95. 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 42.56.070 and 42.56.210 as now or hereafter amended, and by WAC 399-20-090.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-030, filed 11/19/98, effective 12/20/98. 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 board shall designate a staff member to be the public records officer. 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 42.56 RCW.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-040, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-040, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-040, filed 12/4/85.]

WAC 399-20-070 Requests for public records. The Public Records Act, chapter 42.56 RCW, requires agencies to prevent unreasonable invasions of privacy, to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the board.

Therefore, members of the public may inspect, copy, or obtain copies of public records in compliance with chapter 42.56 RCW. The public records officer will assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-070, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-070, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-070, filed 12/4/85.]

WAC 399-20-090 Exemptions. (1) The public records officer will determine whether a requested record is exempt from disclosure under chapter 42.56 RCW.

(2) If a requested record is determined to be exempt in part, the public records officer will delete the exempt portions of the record before making it available for inspection or copying. The public records officer will fully justify any deletion in writing.

(3) Whenever the public records officer denies a public records request, a written statement specifying the reason for the denial shall be provided.

(4) The Public Disclosure Act requires agencies to respond promptly to requests for public records. Within five business days after receiving a public records request, the public records officer must respond by either:

(a) Providing the record;

(b) Acknowledging the request and stating a reasonable estimate of the time the board will need to respond; or

(c) Denying the request.

The board may require additional time to respond for reasons consistent with RCW 42.56.520.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-20-090, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-20-090, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-090, filed 12/4/85.]

Chapter 399-30 WAC

PUBLIC WORKS LOANS AND PLEDGES

WAC

399-30-010	Purpose.
399-30-030	Applications for construction and preconstruction financial assistance.
399-30-031	Applications for drinking water state revolving funds and water system acquisition and rehabilitation program financial assistance.
399-30-032	What are the requirements for meeting the Growth Management Act under RCW 43.155.070?
399-30-033	How will the board address a "public health need" under RCW 43.155.070?
399-30-034	How will the board address "substantial environmental degradation" as found in RCW 43.155.070?
399-30-040	Application evaluation procedure and board deliberations.
399-30-042	Application evaluation procedure and board deliberations—Capital planning support.
399-30-050	Recommendations to the legislature for construction loans.
399-30-060	Loan and financing guarantee contracts for the construction loan program.

WAC 399-30-010 Purpose. (1) The public works board provides financial assistance to local governments from the public works assistance account or other sources to assist local governments in financing public works projects. The

board may also pledge money to the repayment of all or a portion of the principal or interest on obligations issued by local governments to finance public works projects.

(2) The purpose of this chapter is to describe how local governments may apply to the board for financial assistance, and to provide for the review of the applications.

(3) The public works board provides technical assistance, including training and other services provided to local governments to help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-010, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10, 85-24-072 (Order 85-17), § 399-30-010, filed 12/4/85.]

WAC 399-30-030 Applications for construction and preconstruction financial assistance. (1) Any local government in the state of Washington may apply for financial assistance to assist in financing critical public works projects.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."

(3) Direct costs eligible for public works financial assistance are those costs directly attributable to a specific project and include:

(a) Work done by employees of the applicant, or by other government employees under an interlocal agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the interlocal agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (A) F.I.C.A. (Social Security) - employer's share;
- (B) Retirement benefits;
- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;

(G) Holiday;

(H) Sick leave; and

(I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.

(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, negotiators or attorneys;

(v) Removal or demolition of improvement;

(vi) Other direct costs in connection with the acquisition.

Amounts received from the sale of excess real property or improvements and from any rentals will be reduced from 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 established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using type of fund are allowed the same rates as used by the department of transportation.

(f) Direct materials and supplies.

(i) An overhead rate or "loading factor" is not considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, will be considered a reduction of direct costs. Any material that is salvaged in connection with a project will be assigned a reasonable value and considered a reduction of direct costs.

(iii) Wetland plants and other materials used for wetland planting, wildlife habitat, or fish habitat may be provided to a public or nonprofit organization without a reduction of direct costs.

(g) Interdepartmental charges for work performed by the local government for the benefit of specific construction projects is limited to direct costs plus an allocation of indirect costs based on ten percent of direct labor dollars, excluding employee benefits.

(h) Other direct costs incurred for materials or services acquired for a specific project are eligible for participation by public works loan funds and may include, but are not limited to such items as:

(i) Public communication plans and activities;

- (ii) Telephone charges;
- (iii) Reproduction and photogrammetry costs;
- (iv) Video and photography for project documentation;
- (v) Computer usage;
- (vi) Printing and advertising; and
- (vii) Value engineering and performance audits.

(4) Other than work identified in subsection (3)(a) of this section, no government employee labor related costs, including force account work, are eligible for financing assistance or to be considered as local match under this chapter.

(5) Applications must be submitted on forms provided by the board for the current funding cycle.

(6) A responsible official of the applicant jurisdiction must certify each application for financial assistance. The official must also provide the board with additional materials or information in support of the application when requested by the board or its staff.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-30-030, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-030, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 92-03-052, § 399-30-030, filed 1/13/92, effective 2/13/92. Statutory Authority: 1985 c 446 § 10, 85-24-072 (Order 85-17), § 399-30-030, filed 12/4/85.]

WAC 399-30-031 Applications for drinking water state revolving funds and water system acquisition and rehabilitation program financial assistance. The board, the department of health, and the department of community, trade, and economic development jointly administer the drinking water state revolving fund and follow the process described in chapter 246-296 WAC.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-031, filed 2/13/07, effective 3/16/07.]

WAC 399-30-032 What are the requirements for meeting the Growth Management Act under RCW 43.155.070? (1) "Compliance with the Growth Management Act" means that at the time of application for financial assistance:

(a) A local government that is required to or chooses to plan under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan and development regulations be adopted; and

(b) The local government has not been found out of compliance by a growth management hearings board; or

(c) A growth management hearings board has found a local government in compliance with the requirements of chapter 36.70A RCW, after previously finding the local government was not in compliance.

(2) Exceptions based on "public health need" or "substantial environmental degradation" shall not be used as a method to provide unrestricted access to financial assistance for local governments not in compliance with the law.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-032, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-032, filed 4/14/99, effective 5/15/99.]

WAC 399-30-033 How will the board address a "public health need" under RCW 43.155.070? "Public

health need" means that a situation exists that causes or is about to cause a real, documented, acute public health need related to the state's air, water, or soil that contributes to injuries or deaths on public highways, or risk of a public health emergency due to contaminated domestic water, the failure of a sanitary sewer system, storm sewer system, or solid waste or recycling system; and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address a public health need, the board shall consider the following factors:

(1) For bridge or road projects - whether injury or fatal injury motor or nonmotorized vehicle traffic collisions at a specific site, roadway control section, or area have occurred at a rate to be in the top five percent of all such collisions within the applicant jurisdiction for the most recent three-year period; and whether the proposed public works project will eliminate or reduce the likelihood of such vehicle collisions. Applicants applying under this subsection may utilize jurisdiction-wide accident data, or break the data down into arterial or nonarterial roads, intersection or nonintersection, and for intersections, whether they are signalized or non-signalized.

(2) For domestic water projects - whether a drinking water system regulated by the department of health has been contaminated or is in imminent danger of being contaminated to the extent of creating a public health risk and; whether the proposed public works project will eliminate or reduce the chance of contamination.

(3) For sanitary sewer projects - whether failure of existing wastewater system or systems, including on-site systems, has resulted in contamination being present on the surface of the ground in such quantities and locations so as to create a potential for public contact; or whether contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use; and whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(4) For storm sewer projects - whether failure of an existing storm sewer system has caused or is in imminent danger of causing localized flooding which disrupts critical public services; causes disease, illness, or attraction of rodents so as to create a public health risk; or contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use and; whether the proposed public works project will eliminate or reduce the danger of localized flooding which disrupts critical public services or causes a public health risk.

(5) For solid waste or recycling projects - whether failure of an existing solid waste or recycling system has caused or is in danger of causing ground water contamination; causes disease, illness, or attraction of rodents so as to create a public health risk and; whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(6) For all projects - whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - whether the public health problem is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - other factors the board finds on the record are significant in light of facts and circumstances unique to the project.

(9) The factors enumerated in subsection (1) of this section must be addressed in a letter of request, with supporting documentation, addressed to the chair of the board and signed by the public official who signed the application for financial assistance.

(10) The factors enumerated in subsections (2) through (5) of this section must be addressed in a letter of request, with supporting documentation, addressed to the secretary of the Washington state department of health and signed by the public official who signed the application for financial assistance. A determination of a public health need may be made by the secretary, or designee, and addressed to the same public official. The board will consider the determination of the secretary. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-033, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-033, filed 4/14/99, effective 5/15/99.]

WAC 399-30-034 How will the board address "substantial environmental degradation" as found in RCW 43.155.070? "Substantial environmental degradation" means a situation causes or is about to cause real, documented, substantial environmental degradation that contributes to violations of the state's air quality, water quality, or soil contaminate standards, interferes with beneficial uses of the air, water, or land, and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address substantial environmental degradation, the board shall consider the following factors:

(1) For bridge and road projects - whether motorized or nonmotorized vehicle traffic has caused substantial environmental degradation of the air, water, or soils of the state at the site for which a proposed public works project is the subject of a financial assistance application, and; whether the proposed public works project will eliminate or reduce the chance of such vehicle-caused critical substantial environmental degradation.

(2) For domestic water projects - whether a drinking water system regulated by the department of health has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will

eliminate or reduce the chance of substantial environmental degradation.

(3) For sanitary sewer projects - whether failure of an existing wastewater system, including individual on-site systems, has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(4) For storm sewer systems - whether failure of an existing storm sewer system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(5) For solid waste or recycling projects - whether failure of an existing solid waste system or recycling system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(6) For all projects - whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - whether the substantial environmental degradation is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - other factors the board finds on the record are significant in light of facts and circumstances unique to the project. Fish passage, water quality, or water quantity issues directly impacting salmonid fish survival in a watershed which is designated as a candidate for listing, proposed for listing, threatened listing, or endangered listing under the federal Endangered Species Act may be considered significant and unique to a project.

(9) The factors enumerated in subsections (1) through (5) of this section must be addressed in a letter of request, with supporting documentation, to the director of the Washington state department of ecology and signed by the public official who signed the application for financial assistance. A determination of substantial environmental degradation may be made by the director or designee and addressed to the same public official. The board will consider the determination of the director. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-034, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-034, filed 4/14/99, effective 5/15/99.]

WAC 399-30-040 Application evaluation procedure and board deliberations. (1) The board will consider and prioritize, or disapprove, all applications for financial assistance 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 an 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 management efforts and project need.

(i) Not less than sixty points, of a one hundred point total, will be assigned to responses to questions identified in the application as relating to local management effort.

(ii) The remaining forty points will be assigned to responses to questions identified in the application as relating to project need.

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

(e) The board may 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) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(vi) Other criteria that the board considers advisable.

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

(g) In order to ensure fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

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

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-040, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-30-040, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-040, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 95-11-093, § 399-30-040, filed 5/19/95, effective 6/19/95; 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040, 88-10-009 (Order 88-

02), § 399-30-040, filed 4/22/88; 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10, 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

WAC 399-30-042 Application evaluation procedure and board deliberations—Capital planning support. (1) The board will consider and approve, 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) Direct costs eligible for capital planning support are those costs directly attributable to: A systemic related plan, including capital facilities plans and capital improvement plans; comprehensive plans, environmental studies, including biological assessments or environmental assessments; or archeological and historic preservation activities.

(3) All applications will be evaluated 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 requirements will be notified in writing of the disqualification.

(c) Staff will perform an evaluation of applications which meet the requirements of WAC 399-30-030(2) to determine if the application is consistent with the policies contained in the capital planning support loan application.

(d) Those applications found to be consistent with board policies may be recommended to the board for funding. All application materials will be available to the board for its deliberations. The board will approve a list of projects based on the information provided to it by the staff and the applications.

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

(i) Geographical balance;

(ii) Economic distress;

(iii) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(iv) 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 submitted for funding.

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

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-042, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-30-042, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-042, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 92-03-052, § 399-30-042, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040, 88-17-080 (Order 88-03), § 399-30-042, filed 8/22/88.]

WAC 399-30-050 Recommendations to the legislature for construction loans. (1) Prior to November 1, 1986, and in each subsequent year, the board will develop and sub-

mit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of projects which the board recommends for funding by the legislature.

(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 will develop and submit to the chairs of the appropriate fiscal committees of the senate and house of representatives a description of the emergency loans made under this program.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-050, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-050, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 92-03-052, § 399-30-050, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040, 89-10-041 (Order 89-01), § 399-30-050, filed 4/28/89. Statutory Authority: 1985 c 446 § 10, 85-24-072 (Order 85-17), § 399-30-050, filed 12/4/85.]

WAC 399-30-060 Loan and financing guarantee contracts for the construction loan program. (1) The board will only execute loan agreements or otherwise financially obligate funds from the public works assistance account after the legislature approves the list and accompanying appropriation, except for preconstruction, planning, and emergency loans.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the construction loan funds will be disbursed to the applicant local government through a contract. The contract will offer terms and conditions as the board determines are reasonable, based on the following standards:

(a) The local government's financial participation funds must be from locally generated funding or federal or state shared revenues that can be allocated at the discretion of the local government.

(b) The interest rates, local share requirements and loan limits will be determined annually by the board.

(c) Loans must not exceed twenty years, or the useful life of the improvements, whichever is shorter.

(3) The local government and the department must execute a final contract before any funds are disbursed.

(4) The local government must submit for approval a scope of work, including such things as a budget and performance measures consistent with the application for financial assistance to the department within ninety days after the department offers a loan or financing guarantee.

(5) The local government must execute any loan or financing guarantee contracts offered within ninety days after the department offers the contract.

(6) The local government must begin work on a public works project prior to October 1 of the year in which the loan or financing guarantee is offered.

(7) The local government must complete work on the public works project within the time specified in the loan agreement, unless a written request for extension is approved by the board.

(8) The board or department will not reimburse local governments for any funds spent on public works projects financed through the public works assistance account before a contract agreement has been formally executed. Funds spent before the contract is executed may be used toward

local participation requirements if they are for eligible activities under WAC 399-30-030 and are consistent with the executed loan agreement.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-060, filed 2/13/07, effective 3/16/07; 04-09-085, § 399-30-060, filed 4/20/04, effective 5/21/04. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-060, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 92-03-052, § 399-30-060, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040, 88-23-095 (Order 88-08, Resolution No. 86-12), § 399-30-060, filed 11/22/88; 86-18-009 (Resolution No. 86-12), § 399-30-060, filed 8/21/86. Statutory Authority: 1985 c 446 § 10, 85-24-072 (Order 85-17), § 399-30-060, filed 12/4/85.]

Chapter 399-40 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL POLICY ACT

WAC

399-40-020 Statement.

WAC 399-40-020 Statement. Pursuant to WAC 197-11-800(14), the public works board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-11 WAC.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-40-020, filed 2/13/07, effective 3/16/07; 92-03-051, § 399-40-020, filed 1/13/92, effective 2/13/92. Statutory Authority: 1985 c 446 § 10, 85-24-072 (Order 85-17), § 399-40-020, filed 12/4/85.]

Chapter 399-50 WAC

ETHICS IN PUBLIC SERVICE

WAC

399-50-010 Definitions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

399-50-040 Disclosure of recusal. [Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-50-040, filed 4/6/01, effective 5/7/01. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4), 00-11-021, § 399-50-040, filed 5/9/00, effective 6/9/00.] Repealed by 07-05-029, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(4).

WAC 399-50-010 Definitions. (1) Unless another definition is given, words used in this chapter have the same meaning as in chapter 42.52 RCW, Ethics in public service.

(2) "Annual construction roster" means the prioritized list of projects recommended for funding, which is developed and submitted to the legislature before November 1 of each year under RCW 43.155.070(4).

(3) "Beneficial interest" means the right to enjoy profit, benefit, or advantage from a contract or other property and also has the meaning given to it in Washington case law. Ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Project" means public works project as defined in RCW 43.155.020(6).

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-50-010, filed 2/13/07, effective 3/16/07. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4), 00-11-021, § 399-50-010, filed 5/9/00, effective 6/9/00.]