

# Chapter 286-42 WAC

## AQUATIC LANDS ENHANCEMENT ACCOUNT PROGRAM

### WAC

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**WAC 286-42-010 What is the purpose of this chapter?** This chapter provides rules affecting the aquatic lands enhancement account grant program administered by the board under RCW 79.105.150. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules" chapter 286-13 WAC.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-010, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-010, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-020 What organizations may receive grants?** Through the board, grants are available to any division of local or state government and Native American tribe that is eligible to apply and that is legally authorized to acquire and develop public open space, habitat, recreation lands, and/or natural resources.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-020, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-020, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-030 Do these rules apply to projects funded on or before April 1, 2004?** No. Rules in this chapter apply only to projects funded after April 1, 2004.

[Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-030, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-040 What long term rules apply? (1)** Without prior approval of the board, land, natural resources and/or facilities purchased and/or developed with board administered funds shall not be converted to uses other than those for which funds were originally approved.

(2) The board is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-040, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-040, filed 12/3/04, effective 1/3/05.]

(4/18/14)

**WAC 286-42-050 When considering approval of a conversion, what rules apply?** The board shall only approve conversions when:

(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and

(2) Another resource(s) will serve as a replacement. The replacement resource(s) must:

(a) If a land acquisition, be real property of at least equal fair market value and public benefit at the time of conversion;

(b) If a development, provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;

(c) Be of reasonably equivalent or greater recreation and habitat usefulness and location;

(d) Be administered by the same political jurisdiction as the converted property and/or development;

(e) Satisfy need(s) identified in the board's or sponsor's plan; and

(f) Include only elements eligible under the board's program from which funds were originally allocated.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-050, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-050, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-060 For land acquisition projects, are there long term obligations?** Yes. Sponsors must execute an instrument(s) containing:

(1) For fee or perpetual property rights acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes forever unless a term is specified in the project agreement; and

(c) A prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the board.

(2) For lease, less than fee, or nonperpetual property rights, a binding agreement which:

(a) Contains a legal description of the property and rights acquired;

(b) Contains a conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes for the period specified;

(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the board;

(d) Is for at least twenty-five years unless precluded by state law;

(e) Is not revocable at will;

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- (f) Has a value supported through appraisal requirements approved by the board; and
- (g) Is paid for in lump sum at initiation.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-060, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-060, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-080 For development projects, are there long term obligations? Yes.**

(1) Properties and facilities assisted with moneys granted by the board shall not be converted (WAC 286-42-040(1)).

(2) Properties and facilities assisted with moneys granted by the board shall be:

(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;

(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;

(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration; and

(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.

(3) Facilities open to the public must:

(a) Be built, operated, and maintained according to state and federal accessibility guidelines;

(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods; and

(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-080, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-080, filed 12/3/04, effective 1/3/05.]

**WAC 286-42-090 Must a grant recipient provide matching funds for the project—Are grant amounts limited? Yes.** The board establishes sponsor matching share requirements and fund request limits. Any changes to current requirements are normally made at a board meeting six months before program funding consideration.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, and 42.56.040. WSR 14-09-074, § 286-42-090, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. WSR 05-01-030, § 286-42-090, filed 12/3/04, effective 1/3/05.]

