

# Chapter 286-27 WAC

## WASHINGTON WILDLIFE AND RECREATION PROGRAM

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

286-27-020	Effective date. [Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-020, filed 8/12/91, effective 9/12/91.] Repealed by WSR 06-05-025, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4).
286-27-030	Definitions. [Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-030, filed 8/12/91, effective 9/12/91.] Repealed by WSR 96-08-044, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4).
286-27-050	Planning requirements, habitat conservation account. [Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-27-050, filed 3/29/96, effective 4/29/96. Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-050, filed 8/12/91, effective 9/12/91.] Repealed by WSR 97-08-003, filed 3/20/97, effective 4/20/97. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720.
286-27-060	Project conversions. [Statutory Authority: RCW 43.98A.070(5). WSR 93-24-007, § 286-27-060, filed 11/19/93, effective 12/20/93. Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-060, filed 8/12/91, effective 9/12/91.] Repealed by WSR 06-05-025, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4).
286-27-070	Participation manuals. [Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-070, filed 8/12/91, effective 9/12/91.] Repealed by WSR 96-08-044, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4).
286-27-080	Funded projects. [Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-080, filed 8/12/91, effective 9/12/91.] Repealed by WSR 96-08-044, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4).

**WAC 286-27-010 What is the purpose of this chapter?** This chapter contains rules affecting the Washington wildlife and recreation grant program administered by the board under chapter 79A.15 RCW. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules" chapter 286-13 WAC. These moneys are available through the board for projects in the following accounts and categories:

- (1) Farmlands preservation account;

(4/18/14)

- (2) Habitat conservation account:
  - (a) Critical habitat category;
  - (b) Natural areas category;
  - (c) Urban wildlife habitat category; and
  - (d) State lands restoration and enhancement category.
- (3) Outdoor recreation account:
  - (a) State parks category;
  - (b) Local parks category;
  - (c) Trails category;
  - (d) Water access category; and
  - (e) State lands development and renovation category.
- (4) Riparian protection account.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-010, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-010, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-27-010, filed 3/29/96, effective 4/29/96. Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-010, filed 8/12/91, effective 9/12/91.]

**WAC 286-27-040 Does the program have planning eligibility requirements?** Yes. Except as noted under subsection (2) of this section, to be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2).

- (1) At a minimum the plan must include:

- (a) A statement of the applicant's long-range goals and objectives;
- (b) An inventory;
- (c) An analysis of demand and need, that is, why actions are required;
- (d) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
- (e) A current capital improvement program of at least six years; and
- (f) Evidence that this plan has been approved by the applicant's governing entity. For example, a city plan would be approved at the council level and a county-wide plan at the county council or commission level. Plans with a different scope would be approved by department heads, regional managers/supervisors, etc.

- (2) A plan is not required for projects submitted in the farmlands preservation account.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-040, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-040, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1). WSR 98-08-014, § 286-27-040, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. WSR 97-08-003, § 286-27-040, filed 3/20/97, effective 4/20/97. Statutory

Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-27-040, filed 3/29/96, effective 4/29/96. Statutory Authority: Chapter 43.99 RCW. WSR 91-17-010, § 286-27-040, filed 8/12/91, effective 9/12/91.]

**WAC 286-27-045 What is a conversion of use?** A "conversion" occurs when interests in real property and facilities acquired, developed, renovated, enhanced or restored are converted to uses other than those for which the funds were originally approved and described in the project agreement. Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56-040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-045, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15-120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-045, filed 2/7/06, effective 3/10/06.]

**WAC 286-27-055 Are there long-term obligations for acquiring interest in real property?** Yes. Sponsors must execute an instrument(s) containing these provisions:

- (1) For acquisition of perpetual interest in real property:
  - (a) A legal description of the property acquired;
  - (b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat conservation, and/or outdoor recreation purposes; and
  - (c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use.
- (2) For acquisition of nonperpetual interest in real property:
  - (a) A legal description of the property and a description of the interests acquired;
  - (b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat conservation, and/or outdoor recreation purposes for the term of the lease or easement;
  - (c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use;
  - (d) A lease(s) or easement(s) period of at least fifty years except for:
    - (i) Farmlands preservation account projects which shall be for at least twenty-five years; or
    - (ii) Projects that extend conservation reserve enhancement program leases which shall be for at least twenty-five years.
  - (e) Is not revocable at will;
  - (f) Has a value supported through appraisal methods approved by the board; and
  - (g) Terms of payment between the sponsor and seller.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56-040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-055, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15-120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-055, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1). WSR 98-08-014, § 286-27-055, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12-720(4). WSR 96-08-044, § 286-27-055, filed 3/29/96, effective 4/29/96.]

**WAC 286-27-061 Are there long-term obligations for restoration projects?** Yes.

(1) Unless otherwise approved by the board, environmental restoration and enhancement projects must continue to provide the functions for which the funds were originally approved and not be converted to any other use.

(2) When approving such a conversion, the board shall require the sponsor or successor to provide for environmental restoration or enhancement as a replacement. When approving the replacement, board considerations shall include the intended ecological benefits of the replacement compared to those of the original project and likelihood that the replacement project will be successful.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-061, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-061, filed 2/7/06, effective 3/10/06.]

**WAC 286-27-065 Are there long-term obligations for development projects?** Yes.

(1) Properties, structures, and facilities developed with the assistance of money granted by the board shall not be converted except as provided in WAC 286-27-066.

(2) Properties, structures, and facilities developed with the assistance of money granted by the board shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health standards to assure a reasonably safe condition and to prevent premature deterioration.

(3) Properties, structures, and facilities intended for public use shall meet state and federal accessibility guidelines and nondiscrimination laws, regulations, and policies; be maintained to a standard that encourages use; and be open and available to the public at reasonable hours and times of the year.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15-130. WSR 14-09-074, § 286-27-065, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-065, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1). WSR 98-08-014, § 286-27-065, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). WSR 96-08-044, § 286-27-065, filed 3/29/96, effective 4/29/96.]

**WAC 286-27-066 What additional rules apply to conversions of use?** (1) Except as provided in this section, interest in real property and facilities acquired, developed, renovated, enhanced or restored shall not, without prior approval of the board be converted to uses other than those for which the funds were originally approved.

(2) The board shall assure the substitution or replacement of interest in real property and/or facilities in accordance with this chapter.

(3) The board shall only approve conversions when:

(a) All practical alternatives to the conversion have been evaluated and rejected; and

(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must:

- (i) Be of equivalent or greater usefulness and location;

(ii) Be administered by the same sponsor or successor unless otherwise approved by the board;

(iii) Satisfy need(s) identified in the most recent plan(s) required under WAC 286-27-040;

(iv) Be eligible to receive a grant in the WWRP account or category from which funds were originally allocated, unless otherwise authorized by the board;

(v) If acquisition of interests in real property: Be interest in real property(ies) of at least equal market value and public benefit at the time of replacement;

(vi) If a development: Provide a facility of at least equal market value and public benefit as that which existed at the time of the original investment of WWRP funds; and

(vii) If a restoration or enhancement project: Provide restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.

(4) Projects authorized by the Interstate Commerce Commission under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) shall convert to railroad purposes automatically upon reactivation of a line for rail purposes under an ICC order. Substitution or replacement with interest in real property, facilities or moneys which are of at least equal market value at the time of replacement may be required.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.-130. WSR 14-09-074, § 286-27-066, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-066, filed 2/7/06, effective 3/10/06.]

**WAC 286-27-071 What rules apply to the sale of farmland?** (1) Any moneys from the sale of farmland acquired by a city or county in fee simple with farmlands preservation account funds, along with any net income derived from agricultural activities on the property, shall be returned to the farmlands preservation account, or, used by the city or county to purchase interests in additional farmland properties. The city or county may deduct expenses associated with the transaction and management of the property as authorized by the board.

(2) The sale of the farmland and use of funds to purchase additional farmland properties must be approved by the board.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.-130. WSR 14-09-074, § 286-27-071, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-071, filed 2/7/06, effective 3/10/06.]

**WAC 286-27-075 Are matching resources required—Are there caps?** Yes. Consistent with RCW 79A.15.-060(4), 79A.15.070(4), 79A.15.120(7), and 79A.15.130(8) the board will establish sponsor matching share requirements and fund request limits.

[Statutory Authority: 2007 c 241 § 39, RCW 34.05.220, 34.05.230, 42.56.040, 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130. WSR 14-09-074, § 286-27-075, filed 4/18/14, effective 5/19/14. Statutory Authority: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4). WSR 06-05-025, § 286-27-075, filed 2/7/06, effective 3/10/06. WSR 98-08-014, § 286-27-075, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1),