



STATE OF WASHINGTON

OFFICE OF THE INTERAGENCY COMMITTEE
1111 Washington Street SE
PO Box 40917
Olympia, WA 98504-0917

January 13, 2006

TO: IAC Members and Designees
FROM: Laura Eckert Johnson, Director *LEJ*
PREPARED BY: Greg Lovelady, Rules Coordinator *GLU*
SUBJECT: WAC Adoption ~ Adding Four New
WWR Programs and Making Other Changes Notebook Item #10

Summary. In accord with the provisions of Chapter 303, Laws of 2005 (ESSB 5396), this proposal asks IAC's board to adopt revisions to the following Washington Wildlife and Recreation Program (WWRP) Washington Administrative Codes (WAC):

1. Update the chapter's purpose (WAC 286-27-010) and planning requirements (WAC 286-27-040).
2. Add a new section defining "conversion of use" (WAC 286-27-045).
3. Update and clarify the section on acquisitions through reorganization and inclusion of the Farmlands Preservation Account (WAC 286-27-055).
4. Add a new section on long-term obligations (WAC 286-27-061).
5. Update and clarify the section on development (WAC 286-27-065).
6. Reorganize by adding a new section containing rules moved from elsewhere in the WACs (WAC 286-27-066).
7. Add a new section on covering the Farmlands Preservation Account (WAC 286-27-066).
8. Update and clarify the section on matching resources and funding caps (WAC 286-27-066).
9. Repeal and move elsewhere sections 286-27-020 ("Effect") and 286-27-060 ("Project Conversions").

Four attachments are provided to assist with this proposal:

1. Draft adoption resolution.
2. Code Reviser's filing form and the official text of recommended changes.
3. "Concise Explanatory Statement," including a summary of all comments received and proposed IAC responses.



Discussion. This proposal was originally launched to ensure the four new WWRP categories-accounts provided in ESSB 5396 were efficiently integrated into IAC's grant programs. Along the way, staff took advantage of several opportunities to improve and clarify the current WACs. The four new sub-programs are: (1) the Farmlands Preservation Account, (2) the Riparian Protection Account, and the State Lands (3) Development-Renovation Category and (4) Restoration-Enhancement Category.

As described in the following summary, this proposal contains nine main parts, shown in numeric WAC order. Only paragraphs with suggested changes are shown. The complete text is in *Attachment 2*.

WAC Text	Staff Notes
<p>WAC 286-27-010 ((Scope.)) <u>What is the purpose of this chapter?</u> This chapter contains rules affecting the Washington wildlife and recreation grant program (WWRP) administered by the committee under <u>chapter 79A.15 RCW</u> ((43.98A.060(1) and 43.98A.070(5))). Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC. These moneys are available through the committee for projects in ((state parks, local parks, trails, water access, critical habitat, natural areas and urban wildlife habitat)) <u>the following accounts and categories:</u></p> <p><u>(1) Farmlands preservation account.</u></p> <p><u>(2) Habitat conservation account:</u></p> <p><u>(a) Critical habitat category;</u></p> <p><u>(b) Natural areas category;</u></p> <p><u>(c) Urban wildlife habitat category; and</u></p> <p><u>(d) Restoration-enhancement on state lands category.</u></p> <p><u>(3) Outdoor recreation account:</u></p> <p><u>(a) State parks category;</u></p> <p><u>(b) Local parks category;</u></p> <p><u>(c) Trails category;</u></p> <p><u>(d) Water access category; and</u></p> <p><u>(e) Development-renovation on state lands category.</u></p> <p><u>(4) Riparian protection account.</u></p>	<ul style="list-style-type: none"> • <i>THROUGHOUT, FOR EASE OF READING, SECTION TITLES ARE REFORMATTED INTO QUESTIONS.</i> • <i>SECTION 43.98A IS UPDATED TO THE CURRENT RCW REFERENCE OF 79A.15</i>
<p>WAC 286-27-040 <u>Does the WWRP have planning requirements((-))?</u> <u>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).</u></p> <p><u>(1) At minimum the plan must include:</u></p> <p>((1)) <u>(a) A statement of the applicant's long-range goals and objectives;</u></p> <p>((2)) <u>(b) An inventory, or description of the planning area;</u></p> <p>((3)) <u>(c) An analysis of demand and need, that is, why actions are required;</u></p> <p>((4)) <u>(d) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;</u></p> <p>((5)) <u>(e) A current capital improvement program of at least ((five)) <u>six</u> years;</u></p> <p>((6)) <u>(f) Evidence that this plan has been approved by the applicant's governing entity ((most appropriate to the plan's scope)). For example, a city ((or county-wide)) plan ((must)) <u>would be approved at the council level and a county-wide plan at the county council</u> or commission level. Plans with a different scope ((will)) <u>would be approved by department heads, ((district rangers,)) regional managers/supervisors, etc.;</u></u></p>	<ul style="list-style-type: none"> • <i>SIX YEARS IS THE STANDARD ESTABLISHED BY IAC IN 2004</i>

<p>((7) Excepted are riparian zone habitat protection projects under RCW 43.98A.040- (1)(d), where planning requirements in section 329(6), chapter 235, Laws of 1997, shall apply rather than those listed in subsections (1) through (6) of this section.)) <u>(2) A plan is not required for projects submitted in the farmland preservation account.</u></p>	<ul style="list-style-type: none"> • THIS WAS A ONE-TIME BUDGET ALLOCATION THAT IS NO LONGER APPLICABLE.
<p>NEW SECTION 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 with WWRP funds are converted to uses other than those for which the funds were originally approved and described in the project agreement with the committee. Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.</p>	<ul style="list-style-type: none"> • INCLUDED FOR CLARIFICATION, THIS DEFINITION IS FROM CHAPTER 79A.15 RCW.
<p>WAC 286-27-055 ((Acquisition projects—Deed of right, conversions, leases and easements.)) <u>Are there long-term obligations for acquiring interest in real property? ((For acquisition projects,)) Yes. Sponsors must execute an instrument(s) ((or instruments which contain)) containing these provisions:</u></p> <p>(1) For ((fee, less than fee, and easement)) acquisition ((projects)) of perpetual interest in real property:</p> <p style="padding-left: 20px;">(a) A legal description of the property acquired;</p> <p style="padding-left: 20px;">(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 ((in perpetuity unless a term is specified in the project agreement)); and</p> <p style="padding-left: 20px;">(c) ((A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.</p> <p>(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:</p> <p style="padding-left: 20px;">(a) Must be for at least fifty years unless precluded by state law;</p> <p style="padding-left: 20px;">(b) May not be revocable at will;</p> <p style="padding-left: 20px;">(c) Must have a value supported through standard appraisal techniques;</p> <p style="padding-left: 20px;">(d) Must be paid for in lump sum at initiation;</p> <p style="padding-left: 20px;">(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.))</p> <p><u>Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use.</u></p> <p><u>(2) For acquisition of nonperpetual interest in real property:</u></p> <p style="padding-left: 20px;"><u>(a) A legal description of the property and a description of the interests acquired;</u></p> <p style="padding-left: 20px;"><u>(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;</u></p> <p style="padding-left: 20px;"><u>(c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use;</u></p> <p style="padding-left: 20px;"><u>(d) A lease(s) or easement(s) period of at least fifty years except for:</u></p> <p style="padding-left: 40px;"><u>(i) Farmlands preservation account projects which shall be for at least twenty-five years;</u></p> <p style="padding-left: 40px;"><u>(ii) Projects that extend conservation reserve enhancement program leases which shall be for at least twenty-five years;</u></p>	<ul style="list-style-type: none"> • THE FARMLANDS ACCOUNT SUPPORTS ONLY ACQUISITION AND PRESERVATION PROJECTS • REFERENCES TO "HABITAT CONSERVATION" INCLUDE "RIPARIAN HABITAT" PROJECTS • THIS STRUCK PORTION MOVED ELSEWHERE IN THIS PROPOSAL.

<p><u>(e) Is not revocable at will;</u> <u>(f) Has a value supported through appraisal methods approved by the committee;</u> <u>(g) Terms of payment between the sponsor and seller.</u></p>	<p>• INTENT IS TO DISCUSS THESE ITEMS IN IAC POLICY MANUALS: (1) EXCEPTIONS, (2) FARMLANDS PRESERVATION ACCOUNT PROJECTS WHICH MAY BE REIMBURSED BY THE COMMITTEE OVER TIME, AND (3) PROJECTS THAT EXTEND CONSERVATION RESERVE ENHANCEMENT PROGRAM PROJECTS.</p>
<p>NEW SECTION WAC 286-27-061 Are there long-term obligations for restoration projects? Yes.</p> <p>(1) Unless otherwise approved by the committee, environmental restoration and enhancement projects granted WWRP funds must continue to provide the functions for which the funds were originally approved and not be converted to any other use.</p> <p>(2) When approving such a conversion, the committee shall require the grant recipient or successor to provide for environmental restoration or enhancement as a replacement. When approving the replacement, committee 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.</p>	
<p>WAC 286-27-065 ((Development projects—Conversion to other uses.)) <u>Are there long-term obligations for development projects?</u> ((1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.</p> <p>(2) The committee shall only approve such a conversion under conditions which assure that:</p> <p>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;</p> <p>(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of sponsor..."), will serve as a replacement which:</p> <p>(i) Is of reasonably equivalent recreation utility and location;</p> <p>(ii) Will be administered by the same political jurisdiction as the converted development;</p> <p>(iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat plan (see WAC 286-27-040); and</p> <p>(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.)) <u>Yes.</u></p> <p><u>(1) Properties, structures, and facilities developed with the assistance of money granted by the committee shall not be converted except as provided in WAC 286-27-066.</u></p> <p><u>(2) Properties, structures, and facilities developed with the assistance of money granted by the committee 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.</u></p> <p><u>(3) Properties, structures, and facilities intended for public use shall meet state and federal accessibility guidelines and nondiscrimination laws, regulations, and</u></p>	<p>• DELETIONS IN THIS SECTION HAVE BEEN MOVED ELSEWHERE IN THIS PROPOSAL.</p> <p>• DUE TO THE LACK OF A GOOD DEFINITION, "SOUND BASIS" IS DELETED</p>

<p><u>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.</u></p>	
<p>NEW SECTION WAC 286-27-066 What additional rules apply to conversions of use?</p> <p>(1) Except as provided in this section, interest in real property and facilities acquired, developed, renovated, enhanced or restored with WWRP funds shall not, without prior approval of the committee be converted to uses other than those for which the funds were originally approved.</p> <p>(2) The committee shall assure the substitution or replacement of interest in real property and/or facilities in accordance with this chapter.</p> <p>(3) The committee shall only approve conversions when:</p> <p>(a) All practical alternatives to the conversion have been evaluated and rejected; and</p> <p>(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must:</p> <p>(i) Be of equivalent or greater usefulness and location;</p> <p>(ii) Be administered by the same sponsor or successor unless otherwise approved by the committee;</p> <p>(iii) Satisfy need(s) identified in the most recent plan(s) required under WAC 286-27-040;</p> <p>(iv) Be eligible to receive a grant in the WWRP account or category from which funds were originally allocated, unless otherwise authorized by the committee;</p> <p>(v) If acquisition of interests in real property: Be interest in real property(ies) of at least equal fair market value and public benefit at the time of replacement;</p> <p>(vi) 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 of WWRP funds; and</p> <p>(vii) If a restoration or enhancement project: Provide restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.</p> <p>(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 fair market value at the time of replacement may be required.</p>	<ul style="list-style-type: none"> • SECTION MOVED HERE FROM ELSEWHERE IN THE CURRENT WAC AND UPDATED TO COMPLY WITH ESSB 5396. • LANGUAGE REFLECTS THE EXPANDED PROGRAM THAT ESTABLISHED ELIGIBILITY FOR RESTORATION AND ENHANCEMENT PROJECTS. • "MOST RECENT PLAN" IS USED TO REDUCE ANY BURDEN ON COMMUNITIES NOT REQUIRED TO PLAN UNDER THE GROWTH MANAGEMENT ACT • ADDED TO COVER NEWLY EXPANDED WWRP. • MOVED HERE FROM PREVIOUS LOCATION.
<p>NEW SECTION WAC 286-27-071 What rules apply to the sale of farmlands?</p> <p>(1) Any moneys from the sale of farmland acquired by a city or county in fee simple with farmland preservation account funds, along with any net income derived from agricultural activities on the property, shall be returned to the farmland 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 committee.</p>	
<p>(2) The sale of the farmland and use of funds to purchase additional farmland properties must be approved by the committee.</p>	

<p>WAC 286-27-075 ((Matching amounts and caps determined.)) <u>Are matching resources required--Are there caps? Yes.</u> Consistent with RCW ((43.98A.060)) 79A.15.060(4) and ((43.98A.070)) 79A.15.070(4), the committee will establish sponsor matching share requirements and ((acquisition-development)) fund request limits. ((Any changes will normally be done at a committee meeting six months before program funding consideration.))</p>					
<p>REPEALER The following sections of the Washington Administrative Code are repealed:</p> <table border="0"> <tr> <td data-bbox="240 531 423 562">WAC 286-27-020</td> <td data-bbox="760 531 829 562">Effect.</td> </tr> <tr> <td data-bbox="240 625 423 657">WAC 286-27-060</td> <td data-bbox="760 625 976 657">Project conversions.</td> </tr> </table>	WAC 286-27-020	Effect.	WAC 286-27-060	Project conversions.	<ul style="list-style-type: none"> • DELETED TO AVOID CONFUSION WITH THE SEVERAL POST 10/1/1991 LEGISLATIVE CHANGES. • SECTION MOVED ELSEWHERE IN THIS PROPOSAL.
WAC 286-27-020	Effect.				
WAC 286-27-060	Project conversions.				

Public Review. As of the date of this memorandum, twenty-one people have commented on this proposal, a high number for an IAC WAC update. Much of the response, summarized in Attachment 3, is due to staff's broad outreach efforts and the technology that helped to make this possible. These comments may be categorized as follows (due to rounding, percentages are approximate):

- 52 percent (11 people) had questions and/or sought clarifications.
- 24 percent (5 people) asked questions about issues to be covered in policy manuals.
- 14 percent (3 people) provided suggestions that either led to updates or were considered by staff for updating the proposal.
- 14 percent (3 people) agree with the proposal or had no comment.

This WAC proposal was provided for outside review on several occasions, including:

- January 25, 2006, draft proposal provided to IAC members and designees in the board meeting notebooks.
- January 19, 2006, notification of this topic as an agenda item for adoption sent to 130+ individuals and media outlets and posted on IAC's website.
- January 5, 2006, post cards announcing the WAC topics and providing links to more detailed information sent to 7,500 persons.
- December 19, 2005: final draft text and CR-102 form filed with the Joint Administrative Rules Review Committee, Office of Financial Management, and state Code Reviser for publication in the *Washington Register*.
- November 29-30, 2005: preliminary draft text provided to approximately 4,000 parties, including IAC board and designees; SRFB board members; those listed as interested in farmlands preservation, riparian habitat, IAC WAC proposals, and the Washington Wildlife and Recreation Program; and IAC advisory committees; information also posted on agency website.
- November 15, 2005: memo and additional briefing papers presented at a public IAC board meeting.

- September 16, 2005: memo and briefing papers presented at a public IAC board meeting; resolutions providing direction to staff adopted.
- August 11, 2005: Announced intent to develop these WACs to approximately 1,500 parties; posted background information on agency website.
- August 5, 2005: intent to develop these WACs (CR-01) filed with state Code Reviser for publication in the State Register and announced to IAC members and designees, advisory committee members, and persons on IAC's WAC mailing list.
- July 26, 2005: Rule Development Agenda filed with state Code Reviser for publication in the State Register; copies were provided to Office of Financial Management, the Rules Review Committee, and other interested parties; announced IAC's intent to consider these WACs.

Comment Summary Requirement. Before filing an adopted rule, the Administrative Procedures Act [WAC 34.05.325(6)(a)(iii)] requires an agency to summarize:

"...all comments received regarding the proposed rule, and respond to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so."

The official comment period began on November 29 and runs through the IAC board meeting on February 2, 2006. As of the date of this memorandum, 21 persons have commented (*Attachment 3*).

Regarding Changes to this Proposal. State law allows IAC to adopt a rule somewhat different from that proposed so long as it is not "substantially different." Anything deemed substantially different from the proposal cannot be adopted without re-initiating the notification and comment procedure [RCW 34.05.340(1)]. Factors to be considered in determining whether a proposed rule might be substantially different include the extent to which:

- A reasonable person affected by the rule would have understood how the rule would have affected his/her interests
- The subject differs from that originally proposed
- The effects of the adopted rule differ from the effects of the proposed rule.

If the board prefers not to adopt at the February meeting, the following options are available:

- Postpone adoption until a future meeting. State law requires that "rules not adopted and filed... within [180] days after publication of the text... shall be regarded as withdrawn." IAC's next meeting (probably June 2006) is less than 180 days out. WAC 34.05.335(3)
- Withdraw the rule from further consideration.

Recommendation. The proposal recommended in *Attachments 2 and 3* are needed to ensure compliance with the recent addition of four new WWRP categories-programs, including the provisions of Chapter 303, Laws of 2005 (ESSB 5396). These updates retain all standard program requirements (planning, conversions, etc.) while making many clarifications. As such, we recommend adoption of the resolution presented in *Attachment 1*. As previously announced, all necessary measures for adoption will be in place at the board's February 2, 2006 hearing.

Attachment 1

Resolution #2006 - 03
WAC Adoption: WWRP-Related Proposal
Chapter 286-27 WAC

WHEREAS, the Interagency Committee for Outdoor Recreation (IAC) adopted resolution 2005-30 authorizing the Director to file the documents necessary for implementation of the changes in the Washington Wildlife and Recreation Program (WWRP) specified in Chapter 303, Laws of 2005 (ESSB 5396); and

WHEREAS, Sections 2(8), 6(4), 7(3), and 15(2) of the cited law authorize IAC to adopt rules addressing conversion of land and facilities acquired or developed with WWRP funds and rules for the new Farmland Preservation and Riparian Habitat Accounts-Programs; and

WHEREAS, a proposal, herein shown as Attachment 3 and filed with the State Code Reviser on December 19, 2005, has been developed and considered in a far reaching public review process in which comments were encouraged; and

WHEREAS, this proposal is accord with existing agency policies, state law, and the intent to clearly communicate fair and consistent rules;

NOW, THEREFORE BE IT RESOLVED, that IAC approves the proposal and directs its staff to undertake steps necessary for final filing and implementing the rule changes specified in the aforementioned attachment; and

BE IT FURTHER RESOLVED, that IAC also directs its staff to respond to any comments received regarding the adopted proposal with information on how the final adoption reflects IAC's consideration of the comments, or why it fails to do so.

Resolution moved by: _____

Resolution seconded by: _____

Adopted — Defeated — Deferred (circle)

February 2, 2005



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: : Interagency Committee for Outdoor Recreation (IAC)

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>05-17-031</u> ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)
 Washington Wildlife and Recreation Program (WWRP), Chapter 286-27 WAC.

#1- 286-27-010, Scope (purpose).	#7- (new) 286-27-061, Restoration projects—long term obligations.
#2- (repeal) 286-27-020, Effective date.	#8- 286-27-065, Development projects—long term obligations.
#3- 286-27-040, Planning eligibility.	#9- (new) 286-27-066, Conversions of use—additional rules.
#4- (new) 286-27-045, Conversions defined.	#10- (new) 286-27-071, Sale of farmlands.
#5- 286-27-055, Acquisition projects—long term obligations.	#11- 286-27-075, Matching amounts and caps.
#6- (repeal) 286-27-060, Conversions (see #4 & #9).	

Hearing location(s): Natural Resources Building Room 172 1111 Washington St. SE Olympia, WA Date: <u>February 2, 2006</u> Time: <u>1 p.m.</u>	Submit written comments to: Name: Greg Lovelady, IAC Rules Coordinator Address: 1111 Washington St. SE (Natural Resources Building) PO Box 40917, Olympia, WA 98504-0917 e-mail GregL@iac.wa.gov fax (360)902-3026 Phone (360) 902-3008 by <u>January 23, 2006</u>
	Assistance for persons with disabilities: Contact (See above) by <u>January 25, 2006</u> TTY (360) 902-1996 or (360) 902-3008

Date of intended adoption: February 2, 2006
 (Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
 IAC proposes to revise this WAC chapter is to: (1) Provide updates necessary to include the four new grant programs provided by the 2005 Legislature in ESSB 5396 [RCW 79A.15]: Farmlands Preservation, Riparian Protection, State Agency Lands Restoration-Enhancement, State Agency Lands Development-Renovation. (2) Clarify existing language.

The following describes some of the proposed updates (numbers are keyed to topics listed above).

#4, 5, 7, 9: Conversions. Provisions from elsewhere in WAC 286-27 are brought into these sections and expanded to include restoration and enhancement; included is information regarding the contents of required document(s) and the conditions for IAC approval of conversions.

#5, 7, 8: Long term obligations. Provides information on the responsibilities of project sponsors that use WWRP funds for land acquisition, restoration, and/or development.

#10, Sale of farmlands. The disposition of funds resulting from the sale of farmlands and required approval are discussed.

#11, Matching amounts and caps: Continues to specify that IAC will establish sponsor matching requirements and request limits. Deletes the provision that these amounts are "normally" established six month before program funding consideration (intent is to add this provision to the IAC policy manual).

Reasons supporting proposal: See above.

Statutory authority for adoption: RCW 79A.15.030(8), 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.15.130(4)	Statute being implemented: Chapter 79A.15 RCW
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Is rule necessary because of a: Federal Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Federal Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No State Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, CITATION:	CODE REVISER USE ONLY <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> CODE REVISER'S OFFICE STATE OF WASHINGTON FILED <div style="border: 1px solid black; padding: 5px; width: 100px; margin: 0 auto;"> DEC 19 2005 </div> </div> TIME <u>128</u> AM WSR <u>06-01-062</u> PMP
DATE December 15, 2005	
NAME (type or print) Greg Lovelady	
SIGNATURE 	
TITLE Rules Coordinator	

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization)

Interagency Committee for Outdoor Recreation (IAC)

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Greg Lovelady	Box 40917, Olympia WA 98504 (1111 Washington St. Olympia)	(360) 902-3008
Implementation	Laura Eckert Johnson	(Same as above)	(360) 902-3000
Enforcement	Laura Eckert Johnson	(Same as above)	(360) 902-3000

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

Not applicable. Affected parties are local governments, state and federal agencies.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

IAC is not a listed agency in section 201, and proposed rules are technical, affecting governmental parties only.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-27-010 (~~(Scope)~~) What is the purpose of this chapter? This chapter contains rules affecting the Washington wildlife and recreation grant program (WWRP) administered by the committee under chapter 79A.15 RCW (~~(43.98A.060(1) and 43.98A.070(5))~~). Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC. These moneys are available through the committee for projects in (~~(state parks, local parks, trails, water access, critical habitat, natural areas and urban wildlife habitat)~~) the following accounts and categories:

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

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-27-040 Does the WWRP have planning 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 minimum the plan must include:
- ~~((+1))~~ (a) A statement of the applicant's long-range goals and objectives;
 - ~~((+2))~~ (b) An inventory, or description of the planning area;
 - ~~((+3))~~ (c) An analysis of demand and need, that is, why actions are required;
 - ~~((+4))~~ (d) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
 - ~~((+5))~~ (e) A current capital improvement program of at least ~~(five)~~ six years;

~~((6))~~ (f) Evidence that this plan has been approved by the applicant's governing entity (~~(most appropriate to the plan's scope)~~). For example, a city (~~(or county-wide)~~) plan (~~(must)~~) would be approved at the council level and a county-wide plan at the county council or commission level. Plans with a different scope (~~(will)~~) would be approved by department heads, (~~(district rangers,)~~ regional managers/supervisors, etc.;

~~((7) Excepted are riparian zone habitat protection projects under RCW 43.98A.040 (1)(d), where planning requirements in section 329(6), chapter 235, Laws of 1997, shall apply rather than those listed in subsections (1) through (6) of this section.)~~ (2) A plan is not required for projects submitted in the farmland preservation account.

NEW SECTION

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 with WWRP funds are converted to uses other than those for which the funds were originally approved and described in the project agreement with the committee. Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-27-055 (~~(Acquisition projects--Deed of right, conversions, leases and easements.)~~) Are there long-term obligations for acquiring interest in real property? (~~(For acquisition projects,)~~) Yes. Sponsors must execute an instrument(s) (~~(or instruments which contain)~~) containing these provisions:

(1) For (~~(fee, less-than-fee, and easement)~~) acquisition (~~(projects)~~) 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 (~~(in perpetuity unless a term is specified in the project agreement)~~); and

(c) (~~(A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use~~

~~other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.~~

~~(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:~~

~~(a) Must be for at least fifty years unless precluded by state law;~~

~~(b) May not be revocable at will;~~

~~(c) Must have a value supported through standard appraisal techniques;~~

~~(d) Must be paid for in lump sum at initiation;~~

~~(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.)~~ 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;

(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 committee;

(g) Terms of payment between the sponsor and seller.

NEW SECTION

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

(1) Unless otherwise approved by the committee, environmental restoration and enhancement projects granted WWRP funds 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 committee shall require the grant recipient or successor to provide for

environmental restoration or enhancement as a replacement. When approving the replacement, committee 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.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-27-065 (~~((Development projects--Conversion to other uses:))~~) Are there long-term obligations for development projects? (~~((1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.~~

~~(2) The committee shall only approve such a conversion under conditions which assure that:~~

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

~~(b) A new development, in the spirit of WAC 286-13-080 (" . . . aid through the committee is intended to supplement the existing capacity of sponsor. . ."), will serve as a replacement which:~~

~~(i) Is of reasonably equivalent recreation utility and location,~~

~~(ii) Will be administered by the same political jurisdiction as the converted development,~~

~~(iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat plan (see WAC 286-27-040); and~~

~~(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.)~~) Yes.

(1) Properties, structures, and facilities developed with the assistance of money granted by the committee 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 committee 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.

NEW SECTION

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 with WWRP funds shall not, without prior approval of the committee be converted to uses other than those for which the funds were originally approved.

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

(3) The committee 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 committee;

(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 committee;

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

(vi) 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 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 fair market value at the time of replacement may be required.

NEW SECTION

WAC 286-27-071 What rules apply to the sale of farmlands?

(1) Any moneys from the sale of farmland acquired by a city or county in fee simple with farmland preservation account funds, along with any net income derived from agricultural activities on

the property, shall be returned to the farmland 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 committee.

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

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-27-075 ~~((Matching amounts and caps determined.))~~ Are matching resources required--Are there caps? Yes. Consistent with RCW ~~((43.98A.060))~~ 79A.15.060(4) and ~~((43.98A.070))~~ 79A.15.070(4), the committee will establish sponsor matching share requirements and ~~((acquisition-development))~~ fund request limits. ~~((Any changes will normally be done at a committee meeting six months before program funding consideration.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 286-27-020

Effect.

WAC 286-27-060

Project conversions.

Concise Explanatory Statement
[Per RCW 34.05.325(6) and 34.05.370(2)(g)]

Reasons for adopting this rule. The purpose of the changes to chapter 286-27 WAC, also known as the Washington Wildlife and Recreation Program (WWRP) WACs, is to:

- (1) Provide updates necessary to include the four new grant programs provided by the 2005 Legislature in ESSB 5396 [RCW 79A.15]: Farmlands Preservation, Riparian Protection, State Agency Lands Restoration-Enhancement, State Agency Lands Development-Renovation.
- (2) Clarify existing language.

Differences between the text as proposed and adopted. (to be completed after adoption)

Reasons for any differences. (to be completed after adoption)

How final rule reflects agency consideration of comments or why it fails to do so. (to be completed after adoption)

Comment summary and IAC response. Comments on this WAC proposal are compiled into the following table, including a summary of each comment, a statement of how the rule reflects agency consideration of the comment, or why it fails to do so. Before the adopted rule is filed, this report will be provided to those who have commented and those who have requested copies.

<i>WWRP</i>		
Comment Author	Summary of Comment	Draft Response
1. Ken Miller, email, 11/29/05	I couldn't locate anything that clarifies whether or not forestland is equivalent to "farmland"? Are we in or out?	RCW 79A.15.010 defines farmlands as "any land defined as 'farm and agricultural land' in RCW 84.34.020(2)." This definition appears to exclude forestland from consideration.
2. Kate Stenberg, Ph.D., email, 11/30/05	Under long term obligations for restoration - if the project is to be converted, not only should the recipient have to replace the restoration values elsewhere - but there should also be a consideration of temporal impacts - e.g. the first restoration site may have 15 or 20 years of growth in place and the new site would set those ecological values back to year one. It's more than a loss of acreage, it's also a time loss when sites are converted.	We agree and intend to address this issue in the policy manuals (draft to be available by January). See also proposed WAC section 286-27-061(2) [which is the 286-27-B previously emailed to you].
3. Bill Fraser, State Parks, email, 11/30/05	Thanks for the opportunity to review proposed changes. I don't have any revisions to suggest, but I would like to get more info on the Habitat/Restoration-enhancement and Recreation/Development-renovation categories. Could you direct me to a source that I might learn of the details of these programs?	IAC staff member Kammie Bunes (360/ 902-3019) will contact you.
4. Steve Penland, email, 11/30/05	This is the first rule that I've seen written in plain talk. It works. I think a good editor could make further improvements, but it's better than the traditional approach. I'll try to provide substantive comments before 12/9.	Thank you for commenting.

WWRP		
Comment Author	Summary of Comment	Draft Response
5. Randy Person, State Parks, email, 11/30/05	Will funds for the new categories come from separate appropriations, leaving the current Washington Wildlife and Recreation Program (WWRP) categories funded at somewhere around current levels? Or will the pie just be cut into smaller pieces?	RCW 79A.15.030: If appropriations for a biennium total more than \$40 million: (i) \$20 million to the habitat conservation account and \$20 million to the outdoor recreation account; (ii) any amount over \$40 million up to \$50 million: (A) 10% to the habitat conservation account; (B) 10% to the outdoor recreation account; (C) 40% to the riparian protection account; (D) 40% to the farmlands preservation account; (iii) any amounts over \$50 million: (A) 30% to the habitat conservation account; (B) 30% to the outdoor recreation account; (C) 30% to the riparian protection account; (D) 10% to the farmlands preservation account.
6. Kirk Hanson, Small Forest Landowner Office, Olympia, email, 11/30/05	I highly encourage you to include language in the rules for the Riparian Protection Program to state that non-industrial private forestlands are eligible. I recently attended a public form on two of your new programs, the Riparian Protection Program and the Farmlands Preservation Program. I feel both of these programs will fill significant gaps in the suite of incentive programs available to private landowners. My particular interest was in whether either program would be eligible on forestland or for private small forest landowners. At the public forum I spoke with Jim Fox about expanding eligibility to include small forest landowners. He mentioned at the time that the Farmland Preservation Program was specifically designed for traditional farms and that tree farms did not meet the intent of the program. However, he did mention that forestlands would be eligible for the Riparian Protection Program. That being the case, I highly encourage you to include language in the rules for the Riparian Protection Program to state that non-industrial private forestlands are eligible.	RCW 79A.15 RCW states that " <i>State and local agencies and lead entities under chapter 77.85 may apply for... riparian habitat projects under... this section.</i> " The intent is that applicants may seek grant assistance to acquire conservation easements, and subsequent habitat restoration, as provided in the enabling legislation. If, for example, a proposal is to acquire property rights along a riparian corridor, and the corridor contains forest lands, then the project would likely be eligible. We plan to include further eligibility details in the policy manual, draft to be available by January.
7. John Keates, City of Chelan, email, 11/30/05	Except as provided in 286-27-C, interest in real property and facilities acquired, developed, enhanced or restored with Washington Wildlife and Recreation Program funds may not, without prior approval of the	We are not aware of such exceptions. We are, however, aware of cases where the Dept. of

WWRP		
Comment Author	Summary of Comment	Draft Response
	<p>committee be converted to uses other than those for which the funds were originally approved". Relating to this paragraph, can you provide an example of a case where the committee approved the use of a funded project to a use for which it was not originally approved? The reason I ask is we have been talking in detail with the state Dept. of Transportation about a trail project here in Chelan and they will have nothing to do with any project that involves Interagency Committee for Outdoor Recreation funds due to this provision and we need help from WSDOT to successfully implement the project. In this case, they won't grant the City use of WSDOT right of way for a trail due to the conversion issue if the project development includes IAC funding. Are there any exceptions that you know of? Funding is hard enough to come by and IAC has basically been eliminated as a funding option for our project at this time and this proposed trail is very important to our community.</p>	<p>Transportation has entered into similar agreements and can provide this information to you.</p>
<p>8. Dan Budd, WDFW, email, 12/1/05</p>	<p>1. <i>Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.</i> Comment: Options and rights of first refusals are not technically interests in real property and are not typically things that would be involved in a conversion.</p> <p>2. <i>(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 25 years; (ii) Projects that extend conservation reserve enhancement program leases which shall be for at least 25 years;</i> Comment: As I've stated in the past, I feel that 50 years is too long of a required lease period and will preclude opportunities for public benefit. I believe that the 50 years should be amended back to 25 years bringing it in line with the Farmland time period.</p> <p>3. <i>(2) Properties, structures, and facilities developed with the assistance of money granted by the committee 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.</i> Comment: There should be some provision for development projects for useful life. It is not reasonable to expect that some types of developments funded by the Committee will last forever. After a facility has reached the end of its useful life, it is not equitable to require that an agency redevelop the property with their own funds or be considered to be in a conversion situation.</p>	<p>1. We agree. However, this language is in statute [79A.15.010(1)].</p> <p>2. For reasonable land protection in this program, 50 years is the board adopted policy.</p> <p>3. We are presently drafting a policy to address the definitions of service life and obsolescence.</p>

WWRP		
Comment Author	Summary of Comment	Draft Response
9. Karen Daubert, 12/1/05, email	Reviewed both [WWRP and Match-Supplant chapters] last night and I have no other comments. Great job.	Thank you for commenting.
10. Dianne Bailey, Snohomish Co., email, 12/2/05	<p>Re. the WAC 286-27, conversion of use proposal: Consider addition of language that would allow properties purchased with IAC assistance to be dedicated, or granted, <u>without</u> a conversion process, if the dedication is required by the permitting agency during the construction period of the public facility and only if the grant benefits the property.</p> <p>Examples would be easements required by utility districts to serve the public use facilities within the property and road right of way dedications requested during grading permit process. We are experiencing delays in our construction due to the necessity of conversions that really do not make much sense since the easements or dedications serve the property by providing a safer access to the site and needed amenities to the public spaces.</p> <p>In the past we have requested an administrative waiver for the conversion, a waiver request on a current project was recently denied (IAC participated with purchase and development dollars). Please respond to the request for this addition of language to IAC policy.</p>	We are updating/re-drafting our conversion policies and will make your comments a part of this discussion.
11. Margaret Macleod, Interagency Coordinator, email, 12/5/05	<p>1. Re. the Habitat Conservation Account: Restoration – Enhancement on State Lands Category and the new Riparian Protection Account: I'm making an assumption that the Restoration – Enhancement on State Lands Category applies only to state agencies and that local governmental agencies, such as cities and counties, will not be able to compete in this category. Is this a correct assumption?</p> <p>2. Also, I tried looking for more information on the Riparian Protection Account and it doesn't seem to be available yet. Will this Account include acquisition and restoration/enhancement projects?</p> <p>3. Will local government agencies be able to apply for funding through this Account?</p>	<p>1. Correct: the two state lands categories noted set aside funds for projects only from the Departments of Natural Resources and Fish and Wildlife.</p> <p>2. We are working to make more information on the riparian program available. Subject to appropriation, this program will provide funds for acquisition, development, enhancement, restoration, and renovation. (chapter 79A.15 RCW).</p> <p>3. Eligible applicants are state and local agencies and lead entities.</p>
12. Lori Flemm, City of Kent Parks Dept., email, 12/5/05	Suggestion for WAC 286-27-040: on line 48 add, " <i>The project for which the grant application is submitted must be included in the Capital Improvement Program. The project cost figure should show the local commitment and the grant funds needed to complete the project.</i> " This same concept could be included in Frequently Asked Question #4 on your website in	This is information that we plan to include in the policy manual and/or evaluation instrument, a draft of which will be ready by January.

WWRP		
Comment Author	Summary of Comment	Draft Response
	proposed change 1 of 3.	
13. Curt Pavola, DNR, email, 12/2/05	WAC 286-27-045: 1. Page 2, first paragraph: Consider adding the word "renovated" to "...facilities acquired, developed, enhanced, RENOVATED, or restored...." 2. Page 3, midway down the page in item (1): same comment as above (add "renovated").	Agree - we will add this term.
14. Scott Robinson, DNR, email, 12/6/05	In RCW, WAC, or elsewhere, is "state lands" defined, as in "restoration-enhancement on state lands"? Do state lands refer to uplands as well as aquatic lands?	We are not aware of a precise definition. However, staff's interpretation is that it could include upland and aquatic lands owned by the state.
15. Kirstan Arestad, Senate Legislative Assistant, hand notes, 12/8/05	1. Proposed WAC 286-27-010: Are the WWRP monies noted here available are "for all projects" in the named categories and accounts? 2. Proposed WAC 286-27-066(2)(v): Appears to be an incomplete sentence.	1. Yes – the statute governing distributions is RCW 79A.15. 2. This section is a continuation of 286-27-066(3): <i>"The committee shall only approve conversions when: ...(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must: ...(v) ...Be interest in real property(ies)..."</i> .
16. Craig Calhoun, Department of Natural Resources, email, 12/8/05	Nothing pops out at me other than noticing that Riparian Protection Account seems to be left out of the lists under 286-27-055(1)(b) and (2)(b). Is that intentional or an oversight? I don't see why RPA would be treated differently.	For purposes of the sections you mention, projects submitted under the Riparian Protection Account would use the conveyance ("deed of right") prepared for habitat conservation projects.
17. Katharine Bill, Methow Conservancy, email, 12/9/05	1. Currently, farmland in the Methow Valley is being lost to subdivision and residential development at a rapid rate, and while there is funding available for riparian habitat acquisition, there is <u>no other source</u> of farmland conservation easements except for a small share of the federal Farm and Ranchlands Protection Program. 2. The new Farmlands Preservation Account has created an important incentive for our County (and others) to start a farmland protection program, and it is particularly significant that the original 50% match	1. Thank you for commenting. 2. A 50% match is required in the Farmlands Preservation Account Program. RCW 79A.15. 130(8) states: <i>"The committee may not approve a local project where the local agency's share is less than the amount to be</i>

WWRP		
Comment Author	Summary of Comment	Draft Response
	<p>requirement has been waived for this program. If there had been a 50% match required for each project, many Counties (including ours) would not have been nearly as motivated or able to participate in the program. I believe that now is a very important time to protect farms in eastern Washington while they are still in large, contiguous ownerships, and the new program, without the match, has created a very important new tool for the conservation and farming communities in our region.</p> <p>3. The Methow Conservancy is eager to partner with Okanogan County to protect farmland, and we have recently discussed this new opportunity with Bud Hover, one of three Okanogan County Commissioners. Commissioner Hover strongly supports farmland protection through conservation easements, where land remains privately owned, and where the landowner can continue to farm the property. I believe the Methow Conservancy and the County can forge an important partnership to protect critical pieces of agricultural land that would otherwise have no source of conservation funding. Here at the Methow Conservancy we're just completing our 50th conservation easement, and we have a great deal of land protection momentum and experience that we feel could be helpful to the County. We hope that the Farmland Protection Program rules will continue to require/encourage all project applicants to partner with a land trust or agency that has prior experience in drafting and holding conservation easements.</p> <p>4. I encourage the IAC to continue to discuss ways to fund the Farmland Protection Account beyond the maximum amount currently allowed. Even if the WWRP programs are funded at \$100 million per biennium, it is our understanding that the Farmland Protection Program will only receive \$9 million, and this is not enough given the significant opportunities that are here today in the Methow Valley and in eastern Washington.</p>	<p><i>awarded from the farmlands preservation account.</i>" However, in 2006, sponsors in this program are exempted from the requirement that 10% of the match be from local resources.</p> <p>3. Proposed evaluation criteria assesses each applicant's ability to acquire, manage, monitor, and enforce conservation easements. It may also include a question that supports experience and partnerships.</p> <p>4. Program funding is from the state legislature and is supported via such lobby groups as the Washington Wildlife and Recreation Coalition. IAC's role is that of an administrative body.</p>
<p>NOTE: THE ANNOUNCED DEADLINE WAS 12/9/2005 IN ORDER FOR COMMENTS TO BE CONSIDERED BEFORE FILING THE DRAFT WAC LANGUAGE WITH THE CODE REVISER. COMMENTS RECEIVED AFTER FILING MAY LEAD TO ADOPTION OF A RULE SOMEWHAT DIFFERENT FROM THAT FILED SO LONG AS THE LANGUAGE ADOPTED IS NOT "SUBSTANTIALLY DIFFERENT." ANYTHING SUBSTANTIALLY DIFFERENT SHALL NOT BE ADOPTED WITHOUT RE-INITIATING THE NOTIFICATION AND COMMENT PROCEDURE [RCW 34.05.340(1)].</p>		
<p>18. Christ Thomsen, DNR, email, 12/13/05</p>	<p>[Suggested new text is underlined; deletions are struck.]</p> <p>1. I converted each WAC title to statements, rather than questions. It is my opinion that this is more appropriate for rules.</p> <p>2. WAC 286-27-040(1)(d): "<i>A description of how the planning process <u>gave the public ample provided</u></i></p>	<p>Your comments arrived after the 12/9/05 deadline and too late to be considered prior to the WAC filing. However, your comments will be considered before</p>

WWRP		
Comment Author	Summary of Comment	Draft Response
	<i>opportunity to be for public involved involvement in development of the plan"</i>	<p>adoption.</p> <p>1. The view expressed by our staff and rule coordinators in other agencies is that the question and answer format is easier for most readers.</p> <p>2. We like how your suggestion shortens the statement. It does, however, delete the term "ample" which we favor.</p>
19. William C. Kennedy, City of Fife, email, 12/15/05	It is good to see that IAC funds can be used for additional uses. Although the rules look rather extensive, they appear do-able.	Thank you for commenting.
20. Suzanne Simmons, Seattle Parks, email, 12/19/05	<p>We support the new accounts that were created. Our one exception is that we would like to see the Farmlands Preservation program open to acquisition AND/OR development, rather than solely acquisition.</p> <p>We appreciate the clarification of the planning requirements, as well as the conversion issues. Overall, we concur with the proposed changes to the WWRP WACs.</p>	<p>Your comments arrived after the deadline and could not be considered before the WAC filing. However, your feedback will be considered before adoption.</p> <p>Opening the Farmlands Program to general development projects would require the legislature to change RCW 79A.15. 130(2)(a), which states: "<i>Moneys appropriated for this chapter... may be distributed for (i) the fee simple or less than fee simple acquisition of farmlands; (ii) the enhancement or restoration of ecological functions on those properties; or (iii) both. In order for a farmland preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.</i>"</p>
21. Mark Quinn, Dept. of Fish & Wildlife, email, 12/27/05	<p>[MQ SUGGESTED NEW TEXT IS UNDERLINED, DELETIONS ARE STRUCK.]</p> <p>1. WAC 286-27-061: "<i>Are there long term obligations for restoration projects <u>and enhancement</u></i>"</p>	Your comments arrived after the 12/9/05 deadline, too late to be considered prior to the WAC filing.

WWRP		
Comment Author	Summary of Comment	Draft Response
	<p><i>projects? Yes."</i></p> <p>Comment: 1. Applying the same language here that we use for real property conversions is not a good fit. We're treating actions (habitat enhancement/improvement) the same as acquisition projects. Also, most enhancement/restoration projects would have a shorter shelf life than acquisition projects. It might be better to recognize that restoration/enhancement projects improve the intrinsic nature (asset value) of the property for a variety of reasons, all of which would be captured (should be captured) through the appraisal process if the property is ever converted. To protect the investment in the short term, it might be better to say something like: "properties that have benefited from restoration and enhancement funds from this section, if converted within five years of the restoration or enhancement will require replacement in kind plus the value of grants received for restoration/enhancement or something similar. Beyond 5 years it shouldn't make any difference, it should be captured in the appraisal.</p> <p>2. WAC 286-27-065: "<i>Are there long term obligations for development and renovation projects? Yes."</i></p> <p>3. WAC 286-27-066: "<i>What additional rules apply to conversion of use? (3)(b)(vii) If a restoration or enhancement project: Provide <u>ecological and public benefits of at least equal value as that which existed at the time of the original investment of WWRP funds restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.</u></i>"</p>	<p>However, your comments will be considered before adoption.</p> <p>1. The draft conversion policy for restoration is aimed at the intended <u>function</u> of the restoration. Most restoration projects value would not show up in a property appraisal. Putting some time limit on conversion of a restoration project may be worth discussing as we continue to refine our conversion policies.</p> <p>2-3. We will present these suggestions to the IAC board, as a part of this table of comments, in advance of the February 2, 2006 meeting.</p>