



STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

March 2008

**Item #14: Proposed Changes to Policies regarding Nonhighway
And Off-Road Vehicle Activities (NOVA) Program
Fund Allocation**

Prepared By: Jim Fox, Special Assistant to the Director
Greg Lovelady, Applied Planning Manager

Presented By: Jim Fox, Special Assistant to the Director

**Approved by the
Director:**

Proposed Action: Decision

Summary

This memo proposes policy changes to the Recreation and Conservation Funding Board's (Board) Nonhighway and Off-Road Vehicle Activities (NOVA) Program. If adopted, these policies would modify the process used to allocate funds to the various program categories. The purpose of this proposal is to help ensure the funds are used more quickly by reducing the amount carried over to future years.

Staff Recommendation

A Board subcommittee reviewed NOVA fund allocations.¹ The subcommittee does not recommend any change to the policy regarding how gasoline tax and permit fees are allocated to the off-road vehicle (ORV) category. However, the subcommittee does propose to change the allocation process for:

1. Unobligated funds from previous grant cycles
2. Competitive dollars
3. Excess funds² from one or more categories in a current grant cycle

¹ See November 2007 Board meeting, agenda item #2, Management Report.

² Excess (unobligated) funds are those that remain in a category after all projects that applied for grants in that category have been funded. Excess funds also occur when funds that were obligated to a project

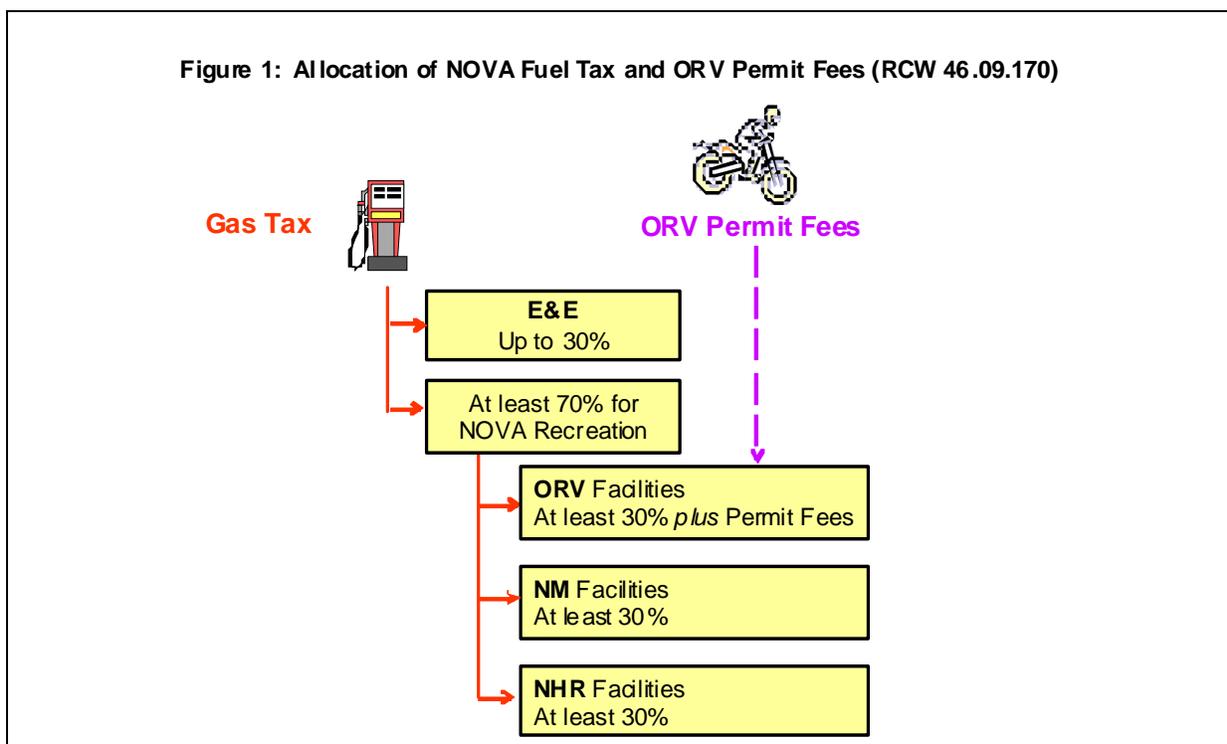


4. The proportion of funds reserved for the second year grant cycle in the three *NOVA Recreation* categories.

The changes will help the Board to awards the funds to projects in a timely manner and reduce the amount of money carried forward to future grant cycles³. Resolution 2008-015 is provided for Board consideration.

Background

The Legislature adopted the current NOVA allocation formula in 2004 (Figure 1). In September 2004, the Board adopted the allocation policies in the NOVA Policy Manual 14. These policies address the order in which fuel tax and off-road vehicle (ORV) permit dollars are distributed to the ORV, Nonmotorized (NM), and Nonhighway Road (NHR) categories (the “three recreation categories”). The Board’s policies also address how excess and unobligated funds are distributed to the three categories.



in a previous grant cycle are no longer needed. Such “returned” excess funds occur when a sponsor cannot complete a project or completes it under budget.

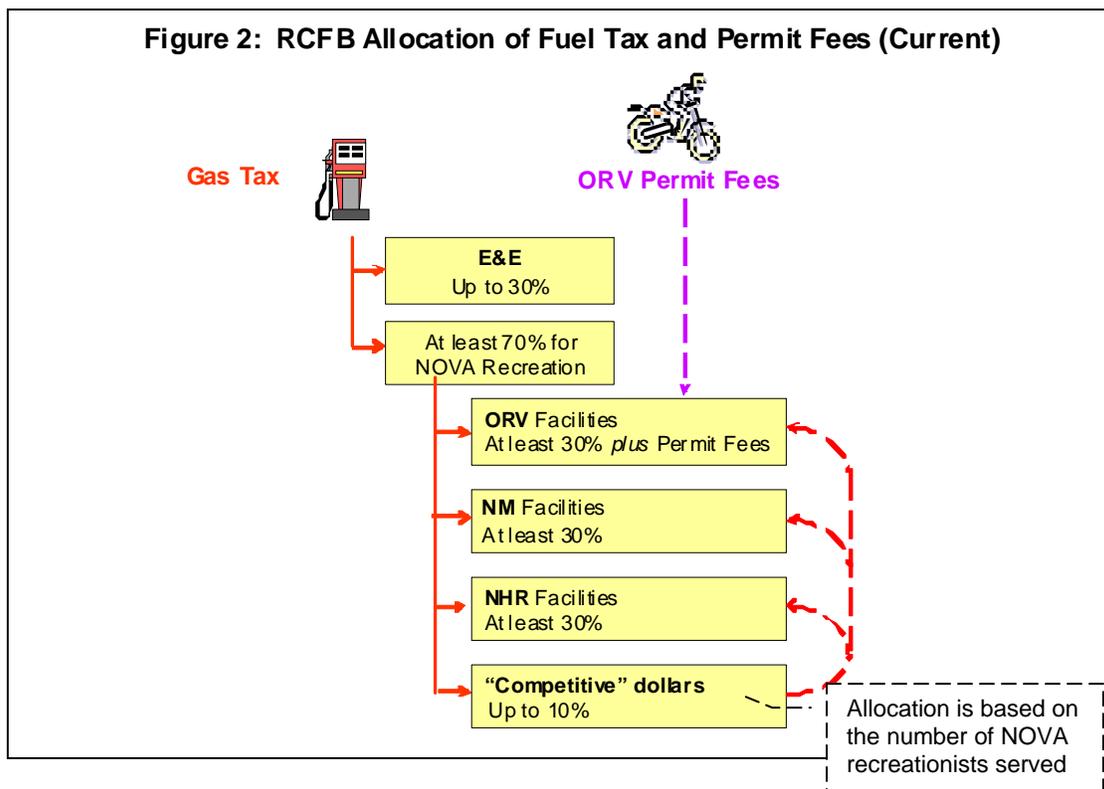
³ Summary of excess funds in the last four RCFB NOVA grant cycles:

- 11/2007, no excess
- 11/2006, nonhighway road category = \$179,659 excess; off-road vehicle category = \$5,537 excess;
- 11/2005, off-road vehicle category = \$206,125 excess
- 3/2005, nonhighway road category = \$60,95 excess.

Since 2004, the Board has found that the Legislature may divert unobligated NOVA funds to other programs during the next biennium. The Board wants to maximize the use of funds in a current biennium and minimize the risk of funds being diverted, while still funding the highest priority projects in each NOVA category.

Currently, the Board allocates NOVA fuel tax and ORV permit funds in the following order (Figure 2):

- First, it awards 30 percent of fuel tax dollars to the top ranked projects in the *Education and Enforcement (E&E)* category.
- The remaining 70 percent is allocated to the three recreation categories.
 - Each category receives 30 percent of the funds for the top-ranked projects the category.
 - The remaining ten percent of the *NOVA Recreation* dollars are designated by the Board as “competitive” dollars. These are first allocated to finish funding any projects in the three *NOVA Recreation* categories that are partially funded, starting with the project that benefits the most NOVA recreationists. If funds remain, they are applied to the highest ranked unfunded projects in the three recreation categories, in order of those benefitting the most NOVA recreationists
- Finally, the ORV permit dollars are allocated to projects in the ORV category based on the recommendation of a subgroup of the NOVA advisory Committee.



To award the funds to projects in a timelier manner and reduce the amount of money carried forward to the next grant cycle, staff and the subcommittee propose the following process for allocating funds:

A. First, apply "returned" funds to the next ranked project; add any remaining funds to the competitive pool.

Currently, excess funds are carried over to the same category in the next grant cycle. If there are "returned" funds from a previous grant cycle, the Board would follow the current process of applying them to the next ranked viable alternate projects in the same category in that grant cycle. However, if there are insufficient alternates to use all of the returned fuel tax funds, the Board would add these returned to the competitive dollars in the next grant cycle. Likewise, excess gas tax funds remaining from the previous grant cycle would be added to the competitive dollars in the next grant cycle. As required by law, excess ORV permit dollars would be carried over only to the ORV category in the next grant cycle.

B. Expand the criteria for allocating competitive dollars, and award them after awarding ORV permit dollars.

Doing so would allow competitive dollars to be used for other categories and reduce the amount of ORV permit dollars carried over to future grant cycles. The Board would use

the process described above to award competitive dollars, but with expanded criteria to include:

- The number of NOVA recreationists served (currently, this is the sole criterion)
- The amount of non-state match provided by a project (proposed)
- The number of projects in each category having unfunded projects (proposed)

In addition to these criteria, staff suggests considering this criterion submitted with public comments:

- Whether the project is from a category that has contributed to the competitive pool in prior years.

If there are only enough competitive funds to partly fund a project, the project must be viable with partial funding. If not, the funds will be moved to the next-ranked project meeting the criteria above.

C. Allocate any current year excess funds to other categories.

If there are too few projects to use all of the funds in one or more of the recreation categories, the gasoline tax funds would not be carried forward to the next grant cycle. Rather, the funds would be awarded to projects in other recreation categories where there are still partly-funded or unfunded projects (allowed under RCW 46.09.170(2)(d)(iii)). The Board would use the same criteria proposed in section B, above, for awarding competitive dollars. If all projects in the three categories were to be funded, then the remaining excess fuel tax funds would be carried over to the next grant cycle and added to the competitive dollars. Excess ORV permit dollars would be carried over only to the ORV category in the next grant cycle.

D. Front-load distribution of funds in a biennium's first year.

Currently, E&E funds are awarded once per biennium. The recreation funds, however, are divided, with half awarded in the first fall of the new biennium and the other half the following fall. Under this proposal, the Board would award between 60 and 70 percent of the recreation funds in the first year (the amount would vary based on advisory committee and staff recommendations). Doing so would increase the likelihood of projects being completed within the biennium and minimize the risk of the Legislature appropriating the funds for other purposes in the following biennial budget. When awarding the remaining second-year funds, the Board would consider giving additional preference to projects that can proceed immediately.

Analysis

Most comments received to date (Attachment A) favor implementation of the proposal. The NOVA advisory committee unanimously agreed to recommend that the Board accept the proposal with two changes (not incorporated above):

- Do not add allocation criteria for distribution of competitive dollars; the current

criteria (“number of NOVA recreationists served”) works well, is not complicated, and doesn’t repeat criteria already in the evaluation instrument.

- Do not change the order in which the ORV permit fees and competitive dollars are distributed. ORV permit fees should be distributed last so it would not penalize those who already pay this additional tax.

Next Steps

If the Board approves any changes proposed above, staff will update NOVA Program Policy Manual #14, and send out notices to potential applicants and other interested parties.

Attachments

Resolution #2008-015

A. Public Comments on the NOVA Fund Allocation Policy Proposal

RESOLUTION #2008-015

**POLICY FOR ALLOCATING EXCESS NONHIGHWAY AND
OFF-ROAD VEHICLE ACTIVITIES (NOVA) PROGRAM FUNDS**

WHEREAS, the Recreation and Conservation Funding Board (Board) wants to award NOVA funds to projects in a timely manner and reduce the amount of money carried forward to the next grant cycle; and

WHEREAS, doing so will help ensure the funds improve recreational opportunities as soon as possible while reducing the risk that the funds will be diverted to other programs; and

WHEREAS, the Board and the Recreation and Conservation Office (RCO) have developed processes that should help reduce the amount of the unobligated funds carried forward to future grant cycles; and

WHEREAS, establishing such a process would further the Board's strategic goal to "[e]nsure funded projects and programs are managed efficiently"; and

WHEREAS, the RCO staff has solicited and considered public comment on these proposed processes;

NOW, THEREFORE BE IT RESOLVED, that the Board will allocate funds in the following sequence, as described in the memorandum attached hereto, beginning with the 2008 grants cycle:

1. Apply returned funds to the next ranked project and add any remaining funds to the competitive pool.
2. Expand the criteria for allocating competitive dollars and award them after awarding ORV permit dollars.
3. Allocate any current year excess funds to other categories using the same criteria used to allocate competitive dollars
4. Add any remaining unobligated funds to the competitive dollars in the next grant cycle.

BE IT FURTHER RESOLVED, that beginning with the 2009-2011 biennium, the RCFB will allocate up to 70% of the NOVA recreation category dollars in the first grant cycle of the biennium and the remaining funds in the second cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: March 27, 2008

**Attachment A: Public Comments on the NOVA Fund Allocation Policy Proposal,
 March 21, 2008**

On February 15, 2008, Recreation and Conservation Office staff contacted approximately 600 addresses with the following message.

RCFB would like to hear your thoughts on the NOVA Program revisions explained in the attachment. The proposal is to modify the way funds are allocated to the various program categories. The purpose of these revisions is to maximize use of the funds in a biennium, reduce the risk of having the funds re-directed by the Legislature to other purposes, all while continuing to fund the highest priority projects in each NOVA category.

This proposal does not affect administration of off-road vehicle permit fees. If you have thoughts or questions on this proposal, please contact me by noon on March 3, 2008.

This table summarizes the comments received to date. This table replaces the comments that were incorrectly provided for this topic on March 21, 2008.

Public Comments on the Proposed NOVA Fund Allocation Policies	
	Comment
1. James Horan, State Parks, NOVA Advisory Committee, 2/6/08	a. What prompted the proposed policy change? Were there indications from legislators or their staff that the carry over funds might be in jeopardy?
	b. Have there been many occasions where funds were carried over from biennium to biennium?
	c. If there has been a carry over of funds has the dollar amount been significant?
	d. Would changing some of the eligibility requirements and/or increasing the allowable amount of a grant encourage sufficient applications such that no carry over would likely occur?
2. Theresa Julius, NOVA Advisory Committee, 2/8/08	a. Excess (returned) funds from a previous grant cycle: I understand the concern by the RCFB about funds sitting around. Putting excess funds into the 10% pot seems like a reasonable alternative, if no other projects are available for funding in that category. I am comfortable with that proposal.
	b. Allocation of competitive dollars: I would think the ORV people will have a little problem with allocating permit dollars before competitive funds, so I will defer to their concerns and will "vote" with them.
	c. As to additional criteria for allocating the competitive dollars, it sounds like it is complicating the process. If RCO staff feel they have enough information to add the additional criteria, I am comfortable with those changes.
	d. Allocation of excess funds from a current grant cycle: I am going out on a limb for

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Comment	
	<p>the NHR category, but I am banking on my limited, yet passionate effort to bolster interest in this category, that there will be no excess funds in NHR in the near future and this point will be moot (for NHR). I don't "like" the idea moving funds to other categories but I understand why it is being proposed. I do not have a better idea to offer, so I hope other committee members that have concerns about this proposal have a creative solution to offer. Therefore, unless a creative solution can be agreed up by the committee, I won't argue with this proposal.</p>
	<p>e. Distribution of funds between the first and second grant cycles of the biennium: This idea I REALLY like. This will save time and energy for the applicants and committee members. If it is possible, it would be nice to slim down the applicants for the 2nd round. Like only accepting development and planning projects. Maybe even changing the process so we don't have to do in person reviews?</p>
<p>3. Jeff Lambert, NOVA Advisory Committee,, 2/8/08</p>	<p>a. Generally I am in agreement with the proposed changes to the NOVA allocation process. The changes seem minor and are intended to spend the money rather than having carry-over funds.</p>
	<p>b. Specifically, I completely agree with Paragraph A in the Proposal for Consideration sent out.</p>
	<p>c. Under Paragraph B., I agree with allocating competitive dollars after rather than before awarding the ORV permit dollars. I highly respect the ORV advocates securing their own funding but obviously the NOVA and permit funds together fund most of the ORV projects and maybe provides monies for projects that should be refined before funding.</p>
	<p>d. Also under Paragraph B, I wonder exactly how the criteria for competitive dollars would consider overall demand for funds in each category. I assume that if one category has one unfunded project and another category has many unfunded projects that somehow the category with many unfunded projects would have an advantage.</p>
	<p>How is that advantage calculated? Under the most NOVA recreationists served criteria, we on the advisory committee look at the number of users and if the project with the highest number of users is acceptable, we fund it. In other words, we may disagree on the value of a project, but we take the submitted number of users at face value. If there is a subjective "many unfunded" criteria, I foresee honest disagreements about how to consider "many unfunded" as a criteria. I would offer a suggestion on how to do it, but I don't have a ready answer. Last funding cycle, there were few Nonhighway projects and monies left over while there were many excellent unfunded Nonmotorized projects. But what if there are 5 unfunded in one category and 10 unfunded in another? I will say that I have found that the NOVA Advisory Committee has worked out project funding issues without much conflict and maybe we can rely on our continued ability to do the best for Washington State</p>

Public Comments on the Proposed NOVA Fund Allocation Policies	
Comment	
	recreationists.
	e. And since the number of NOVA recreationists is in the legislation as the competitive category criteria, can the criteria be expanded as you have described? I hope that the criteria can be tweaked.
	f. I support Paragraphs C and D as submitted. I suggest setting the figure to 70 percent for NOVA funds in the first year.
	g. With respect to focusing on projects that are ready to proceed, the criteria we have been using is a little murky. I always think priority should go to projects that can proceed immediately and will not be delayed by events such as fire fighting responsibilities that diverts crews from the project, environmental or other permit issues yet unresolved, specialty material orders (e.g. bridges), and possible difficulties accessing the project site (remote areas open for limited periods). So if the RCFB wants a focus on readiness to proceed, staff and NOVA advisory committee members should have clear understanding of how to judge that criteria. So I suggest making the value of that criteria four times greater in the second year. While a heavy bias, such bias for a project that will be completed within a year is exactly what is required.
4. Rick Burke, 2/24/08	<p>In great part I agree with the document and the proposed methodology changes. I applaud the RCO for the changes to more fully utilize available funding sources within the NOVA program.</p> <p>I disagree with on paragraph in particular that would considers competitive dollars be applied in a post-allocation manner after ORV funds are considered. Gas tax dollars are one category and ORV dollars are another. At the end of the day, all things being equal, should recreationists in other categories desire that a fund similar to the ORV fund be created, I am certain that Senate Bills can be sponsored and our legislative process can arrange a similar “tag” and “fee-structure” for their activity, whatever it may. Otherwise leave ORV funds should not be considered within the equation and the “enhanced” competitive funds should be allocated accordingly, as equally as possible, to their respective categories within the NOVA the program.</p> <p>Aside of this one disagreement, I believe the document is a great step in doing just that. I have provided this and other (more editorial) comments within the attached document markup for RCO review and consideration.</p> <p>I am planning on making the WSTC conference this year and our family is planning a hiking vacation to Glacier National Park. As such we should have some neat experiences to share with all.</p> <p>I am still interested in any of the open NOVA positions but have not seen a call posted as yet. Let me know where to look and an approximate timing of any coming up.</p> <p>Comments to the document have also been provided to the “policy changes” link provided.</p>

Public Comments on the Proposed NOVA Fund Allocation Policies

Comment

EDITOR'S NOTE: THE FOLLOWING CONTAINS MR. BURK'S SUGGESTED CHANGES TO THE DRAFT TEXT IN THE RCO MEMO PROVIDED FOR PUBLIC COMMENT ON FEBRUARY 15, 2008.

Currently, excess funds are carried over to the same category in the next grant cycle. If there are "returned" funds from a previous grant cycle, the Board intends to retain the current process of applying them to the next ranked viable alternate projects in the same category in that grant cycle. However, (*ONLY*) if there are insufficient alternates to use all of the returned fuel tax funds within the specified category during the next grant cycle, the Board proposes that these returned funds be added to and distributed as competitive dollars in the next grant cycle. Likewise, excess gas tax funds remaining from the previous grant cycle would be added to and distributed as competitive dollars in the next grant cycle. Otherwise the allocation formula will remain unchanged. As required by law, excess ORV permit dollars would be carried over only to the ORV category in the next grant cycle.

B. Allocation of competitive dollars. The Board proposes to allocate the competitive dollars after rather than before awarding the ORV permit dollars [*SEE MR. BURK'S NOTE (1) AT THE BOTTOM OF PAGE 2*]. In addition to considering the number of NOVA recreationists served, the Board would also consider the amount of non-state match provided by a project and the number of projects in each category having unfunded projects. If there were only enough competitive funds to partly fund a project, the project would have to be viable with partial funding. If not, the funds would be moved to the next-ranked project meeting the criteria above.

C. Allocation of excess funds from a current grant cycle. If there are too few projects to use all of the funds in one or more of the *NOVA Recreation* categories, the Board proposes that gas tax funds not be carried forward to the next grant cycle. Rather the funds would be awarded to projects in other *NOVA Recreation* categories where there are still partly-funded or unfunded projects. RCFB would use the same criteria proposed above for awarding competitive dollars. If all projects in the three categories were to be funded, then the remaining excess fuel tax funds would be carried over to the competitive category in the next grant cycle. Excess ORV permit dollars, or other fund special dollars, would be carried over only to their respective categories in

¹ Note from Mr. Burk: "I can't say that I would agree to the full methodology in this paragraph. Gas Tax dollars are gas tax dollars and ORV dollars are ORV dollars. Although both can be used for project funding, the two should be mutually exclusive and not be blended in this methodology.

"Doing this will open the Pandora's box of preferential treatment of others over ORV and exposes RCO to undue criticism.

"Should recreationists in other categories desire that a fund similar to the ORV fund be created, I am certain that Senate Bills can be sponsored and our legislative process can arrange a similar "tag" and "fee-structure" for their activity, whatever it may be.

"From my a hiking and ORV enthusiast perspective, the proposed methodology appears to be a veiled attempt of improprieties. The comments made are not ORV specific, I would be saying the same if, there were a "user-fee" for any another recreation category that had a similar fee structure that was being considered for application in the similar manner.

"A suggested format for the first sentence in the statement is:

'The Board proposes to allocate the competitive dollars irrespective of any categories specially legislated fund.' With the second sentence deleted."

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Comment	
	the next grant cycle.
5. Alan E. Dragoo Veradale, WA, 2/25/08	<p>1] While I can understand and support the stated goals of the proposed changes, I cannot support the methods proposed to achieve those goals.</p> <p>2] Based on the description in the proposal document, I initially thought it might be illegal to allocate less than the statutory minimum to any category. However, I see that RCW 46.09.170(2)(d)(iii) allows the board to set policies to handle unused funds.</p> <p>3] Still, I am not in favor of redistributing those funds to other categories without any possibility of recovering them. Instead, I would suggest keeping track of the unused funds that were redistributed and giving those categories priority when distributing competitive funds in later years. For example, if there were \$50,000 less than the 30% minimum in ORV requests in 2009, those funds would be distributed to other categories that year. Then, if there were more than the 30% minimum in ORV requests in 2010, those ORV requests would be funded (up to the \$50,000 credit) from competitive funds before requests in other categories. The credits should be calculated at the end of the grant cycle, after any returned funds are accounted for.</p> <p>4] I would also like to see E&E projects eligible for the unused funds in the recreation categories. I can see that the 2-year E&E vs. 1-year rec grant cycles might make this more complicated.</p> <p>5] I do not believe that the relative ranking of projects within a category should change when allocating competitive funds. Criteria such as number of NOVA recreationists served, non-state match, and number of unfunded projects in a category should have no more or less influence on the allocation of competitive funds than on required funds. Projects in all categories should be ranked in a single list, probably by percentage of maximum possible score in their category. The highest ranked unfunded or partially funded project in any category is selected first.</p> <p>6] If, after the initial allocation of competitive funds, a project ends up with partial funding insufficient to make it viable, those funds should be treated as returned funds.</p> <p>7] Regarding returned funds, I believe they should be immediately allocated to the highest ranked unfunded or partially funded project in the same category if the returned funds take that category below the required 30% minimum and there is an available project. Otherwise, the funds should be immediately allocated to the highest ranked unfunded or partially funded project in any category.</p> <p>8] I am also opposed to allocating ORV tag funds to ORV projects before allocating competitive funds. I do not believe it is fair to put ORV projects at a disadvantage in the allocation of competitive gas tax funds simply because another source of funding for those projects is administered under the same program. I might, however, be willing to accept limiting the competitive funds allocated to ORV projects so as not to cause ORV tag funds to go unused. For example, if there were \$250,000 in unfunded ORV requests after allocating the 30% minimum and \$200,000 in ORV tag funds available, then a maximum of \$50,000 in competitive gas tax funds would be allocated to ORV projects.</p> <p>9] I believe the above ideas would let the board achieve the goal of allocating all of the</p>

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	Comment
	available funds in each grant cycle without overly punishing a category that has a low level of requests in one or more grant cycles.
6. Jacqueline Beidl, Wenatchee NF, 2/21/08	As with the [NRTP] proposal, this makes good common sense to me. Go for it!
7. Ann Dunphy, Mt. Baker Ranger District, 2/20/08	I support the changes as recommended except the unequal allotment of EE funding, we would seek an even level of funding rather than unequal.
8. Bob Pacific, Mt Baker-Snoq. NF, 3/4/08	If the project has value but loses out because it didn't rate quite high enough to get in the funded category then I think the projects should be moved to another category with left over funds. Not if it falls into the bogus projects category - getting funds because there is money left over in another particular grant program even though it should not.