

*Outdoor Recreation in Oregon:
The Changing Face of the Future*

January 2008

Appendix D
Oregon Administrative Rules



Prepared by the Oregon Parks and Recreation Department

**OREGON ADMINISTRATIVE RULES
CHAPTER 736, DIVISION 8
OREGON PARKS AND RECREATION DEPARTMENT**

DIVISION 8

**DISTRIBUTION OF LAND AND WATER CONSERVATION FUNDING ASSISTANCE
TO UNITS OF LOCAL GOVERNMENT FOR PUBLIC OUTDOOR RECREATION**

736-008-0005 - Purpose of Rule

This rule establishes the procedures and requirements used by the Oregon Parks and Recreation Department, State Liaison Officer, when distributing federal Land and Water Conservation Fund monies to state agencies and eligible local governments, and the process for establishing the priority order in which projects shall be funded.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0010 - Statutory Authority and Procedure

ORS 390.180 requires the Director of the Oregon Parks and Recreation Department to adopt rules establishing procedures the Oregon Parks and Recreation Department shall use when the Department allocates money to local governments or other state agencies.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0015 - Federal Requirements

The Land and Water Conservation Fund Act of 1965, as amended, provides matching grants to states and local units of government for acquisition and development of public outdoor recreation areas and facilities. Funds for the program are derived from entrance or admission fees to federal recreation areas, Outer Continental Shelf revenues from leasing oil and gas sites in coastal waters, federal surplus real property sales and a small portion of federal motorboat fuel taxes. All applicants for federal funding assistance must also satisfy the requirements delineated in the "National Park Service's Land and Water Conservation Fund Grants Manual", Parts 600 through 685. [Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0020 - Definitions

For purposes of OAR 736-008-0005 through 736-008-0055 the following definitions shall apply:

- (1) "Acquisition" - The gaining of property rights, including but not limited to fee title or easements, for public use by donation or purchase.
- (2) "Conversion" - Property acquired and/or developed with LWCF assistance that has been converted to other than public outdoor recreation uses.
- (3) "Current Park Master Plan" - A site-specific resource based plan guiding park acquisition, development, protection and management of park areas and facilities.
- (4) "Department" - The Oregon Parks and Recreation Department.

- (5) "Development" - The construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.
- (6) "Director" - The Director of the Oregon Parks and Recreation Department.
- (7) "Eligible Project" - An acquisition, development, or major rehabilitation undertaking which satisfies the requirements of the federal Land and Water Conservation Fund Program.
- (8) "Implementation Program" - A requirement of SCORP which identifies salient recreation issues to be addressed over a two-year period.
- (9) "Land and Water Conservation Fund (LWCF)" - Those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).
- (10) "Local Comprehensive Plan" - The comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS Chapter 197.
- (11) "Major Rehabilitation" - The repair, restoration, or reconstruction of eligible facilities which is necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of maintenance.
- (12) "Oregon Application Procedures Manual" - A manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in LWCF assistance.
- (13) "Oregon Outdoor Recreation Committee (OORC)" - The committee appointed by the Director to prioritize LWCF project applications.
- (14) "Project Authorization" - State/local agreement which authorizes the project, as signed by both the Department and project sponsor.
- (15) "Project Sponsor" - The recipient of the grant funds and the agency responsible for implementation of the project and the maintenance and operation of the site.
- (16) "Reapportionment Account" - Those monies derived from project underruns, cancellations and reduction in project scope. Separate accounts will be kept for both state and local sponsors.
- (17) "State Comprehensive Outdoor Recreation Plan" - Otherwise known as SCORP, the document used to identify and assess Oregon outdoor recreation needs.
- (18) "State Liaison Officer (SLO)" - Designated by the Governor, the Oregon Parks and Recreation Department Director and his designees who have the responsibility to administer the stateside LWCF.
- (19) "State/Local Agreement" - Agreement between the state and project sponsor which authorizes the project to begin.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0025 - Apportionment of Monies Between State and Local Agencies

- (1) Monies apportioned annually by the Department of Interior to the state from the federal Land and Water Conservation Fund shall be divided into three shares:
 - (a) An amount equal to one-half of the annual anticipated administrative costs of the office of the State Liaison Officer to operate the program;
 - (b) Not less than 60 percent of the remainder to units of local government; and
 - (c) Up to 40 percent of the remainder to eligible state agencies.
- (2) Monies derived from project underruns, project cancellations, reduction in project scope will be made available to the Director to redistribute to state or local projects.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0030 - Assessment for Services

- (1) Each local government project sponsor shall be assessed a percentage of the total final project cost for services provided by the Department. This percentage assessment shall be established in the state/local agreement. The assessment shall be reviewed by the Department annually to insure that income does not exceed 50 percent of the administrative costs for grant distribution to units of local government. This assessment shall be made at the time of any project billing with the fee being withheld from the amount paid to the sponsor.
- (2) Any project sponsor requesting a conversion will be required to pay an advance deposit. The deposit would cover staff salary and OPE, and administrative fees to process the conversion. The advance deposit amount will be based on the appraised value of the property to be converted. If the advance deposit does not cover all costs, the project sponsor will be billed for the balance due. If the total costs are less than the deposit, the Department will reimburse the project sponsor for the unused deposit amount.
 - (a) Converted property appraised up to \$50,000 will require a \$1,000 deposit;
 - (b) Converted property appraised from \$50,001 to \$100,000 will require a \$2,000 deposit;
 - (c) Converted property appraised above \$100,000 will require a \$3,000 deposit.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0045 - Application Procedure

The purpose of this section is to set forth requirements that must be met by local government applicants in submitting an application for Land and Water Conservation Fund assistance.

- (1) Eligibility for Funding Assistance. Public agencies eligible for LWCF funding assistance are:
 - (a) Local Governments:
 - (A) City Park and Recreation Departments;
 - (B) County Park and Recreation Departments;
 - (C) Park and Recreation Districts;
 - (D) Port Districts;
 - (E) Indian Tribes;
 - (F) Metropolitan Service District.
 - (b) State Agencies:
 - (A) Oregon Parks and Recreation Department;
 - (B) Oregon Department of Fish and Wildlife;
 - (C) Oregon Department of Forestry;
 - (D) Oregon Division of State Lands.
- (2) Matching Requirements. The Land and Water Conservation Fund provides for up to 50 percent funding assistance. The eligible agency match may include local budgeted funds, donated funds, and value of private donated property, equipment, materials, labor, or any combination thereof. The minimum federal share shall be no less than \$12,500 (\$25,000 total project costs). Section 6f of the LWCF Act prohibits the use of other federal funds as matching share of a LWCF grant
- (3) Projects Eligible for Funding:
 - (a) Projects eligible are acquisition, development and rehabilitation projects that are consistent with the outdoor recreation goals and objectives contained in the Statewide

- Comprehensive Outdoor Recreation Plan (SCORP) and the Implementation Program, and recreation elements of local comprehensive plans.
- (b) Marine facility development requests are eligible for funding. Project which use federal Dingle-Johnson funds may not be used as match with LWCF.
- (4) Local Agency Requirements. Local agencies participating in the funding assistance program must show that there is a current park master plan in effect and that the project is consistent with the local comprehensive land use plan.
- (5) State Agency Requirements. State agencies participating in the fund assistance program must show that the project is in their legislatively approved biennial budgets or is mandated by legislation.
- (6) Application Form. All applications for funding assistance for outdoor recreation projects must be submitted on forms supplied by the Department. All applications must be consistent with the Oregon Application Procedures Manual and contain the following information:
- (a) Program narrative;
 - (b) Environmental assessment;
 - (c) Vicinity map;
 - (d) Project boundary map;
 - (e) Park master plan;
 - (f) Civil Rights compliance;
 - (g) Local Council of Governments review;
 - (h) State agency review;
 - (i) Property deed or lease;
 - (j) Estimate of development costs and schedule;
 - (k) Preliminary title report (acquisitions only);
 - (l) Documented Americans with Disabilities Act Compliance Plan specific to projects;
 - (m) Other documentation that may be required by the Department.
- (7) Local Project Time Line:
- (a) All applications for funding must be submitted to the Oregon Parks and Recreation Department in a completed form consistent with section (6) of this rule, no later than January 1 for funding in the next federal fiscal year which begins October 1. Incomplete applications will not be considered for funding assistance. The Department Grants Program staff shall perform a technical review of all applications and forward eligible applications to the Oregon Outdoor Recreation Committee (OORC). Project sponsors will be contacted about missing documentation, which must be submitted to the Department within 10 days. On or about April 1, OORC will meet to recommend funding priorities to the Director for all eligible projects submitted.
 - (b) By October 1 of each year, sponsors whose projects have been prioritized and are scheduled for funding assistance must submit to the Department the following project information:
 - (A) Certification by project sponsor of availability of local match;
 - (B) All required permits and certifications as identified in the Department Procedural Manual;
 - (C) Preliminary plans and specifications (for construction projects);
 - (D) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards for Federal Land Acquisitions.

- (c) The Department will remove those project applications from the priority list (as outlined in subsection (b) of this section) that are unable to provide the required documentation.
 - (d) The amount of federal funding assistance available within the federal fiscal year (October 1 to September 30), will determine the projects to be funded;
 - (e) If additional federal monies become available throughout the current funding year, projects on the priority list will be funded in priority order;
 - (f) Reapportionment account will be requested on or about March 31 of each year to assure that the State does not lose the availability of those funds. All reapportionment monies received will be allocated to the current funding cycle.
- (8) Project administration:
- (a) A signed state/local agreement shall constitute project authorization. It shall be executed 30 days after federal approval. Projects not authorized within this time frame will be cancelled. Funds recovered from cancellations will be reassigned to other projects on the priority list.
- No project may begin without a signed state/local agreement from the Department;
- (b) Final documentation (permits, plans and specifications) must be submitted to the Department prior to project authorization;
 - (c) In the event that the funding assistance available cannot fully fund the last priority project, the sponsor will be given the option of reducing the scope of the project or the Department will pass the available funds to the next priority project;
 - (d) The sponsor shall have one year from the date of authorization to begin substantial work (i.e., the award of contracts or to complete at least 25 percent of the work, if done by force account). Force account work is work on a development project with the forces and resources of the project sponsor. Projects not conforming to this schedule will be cancelled, unless substantial justification warrants an extension. Extensions in such cases will be made for a six-month period only. In no situation will further extensions be granted.
 - (e) Projects that do not receive funding assistance for the federal fiscal year submitted will be returned to the applicant without prejudice;
 - (f) All projects shall be completed and billed within two years from the authorization date. Projects will be inspected and audited by the Department, or its designee prior to final grant payment. Partial payments up to 90 percent of the grant amount may be billed during the project for work completed.
 - (g) Project amendments that increase the federal share will generally not be allowed. Project amendment requests based on extraordinary circumstances will, however, be reviewed on a case-by-case basis. Requests for time extensions must be approved prior to expiration of the approved project period as set forth in the state/local agreement.
 - (h) Time Line Summary:
 - (A) January 1 - Complete application due;
 - (B) April 1 - Priority April selection by OORC;
 - (C) September 30 - Project certification;
 - (D) October 10 - Revise list;
 - (E) October 10 - Formal application submitted for federal obligation.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0050 - Oregon Outdoor Recreation Committee

- (1) The Oregon Outdoor Recreation Committee (OORC) shall be composed of nine members appointed by the Oregon Parks and Recreation Department Director. The Committee membership, to serve nonconcurrent four-year terms, shall represent the following interests:
 - (a) Counties east of the Cascade Mountains;
 - (b) Counties west of the Cascade Mountains;
 - (c) Cities under 15,000 people;
 - (d) Cities over 15,000 people;
 - (e) Park and Recreation Districts, Metropolitan Service District or Port Districts;
 - (f) Oregon Parks and Recreation Department;
 - (g) People with Disabilities;
 - (h) Minorities; or Representatives from Tribal Governments; and
 - (i) The public at large;
 - (j) The chair shall appointed by the Director from the committee membership, considering the recommendations of the committee.
- (2) Selection of committee members shall be from a list of not less than two candidates for each position to be supplied by:
 - (a) County representation shall be from lists supplied by the Oregon Parks Association and the Association of Oregon Counties;
 - (b) City representation shall be from lists supplied by the Oregon Recreation and Park Association and the League of Oregon Cities;
 - (c) Park and Recreation District, Port District or Metropolitan Service District representation shall be from a list supplied by the Special Districts Association of Oregon;
 - (d) Representatives for People with Disabilities, Tribal Governments, Minorities, Public at Large, and Parks Department shall be selected by the Director.
- (3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by the Department according to the rates established by the Department of Administrative Services and approved by the Director.
- (4) Function of OORC:
 - (a) The Committee shall meet in April of every even year, starting in 1996, and at other times upon the call of the Director. The committee will establish a priority order of eligible local government projects for Land and Water Conservation Funding assistance or provide other assistance as requested by the Department. The meeting will assure full and open project selection processes that will include an outreach to all citizens of the state.
 - (b) In order to assure full citizen participation in the selection of local projects to be prioritized for funding, all projects submitted must be consistent with the recreation element of the local comprehensive land use plan. The prioritization process will provide the opportunity for the citizens of the state to address the degree to which each project meets the outdoor recreation needs of the state and local community. The Department will provide public notice of all projects to be presented to the OORC at least 30 days prior to their meeting.
 - (c) Each sponsor shall be allowed to make a presentation under a procedure established by the Department.

- (5) Priority Selection Criteria. Projects shall be prioritized by OORC based on at least the following:
- (a) Department review and recommendations, including a technical scoring of each project that will include the extent to which projects satisfy basic outdoor recreation needs and/or urgent needs identified in SCORP, the extent the project meets the recreation needs identified in the local comprehensive land use plan, and sponsor's past performance in their ability to complete and bill projects, maintain existing facilities, and whether there are any outstanding conversions;
 - (b) The committee shall review all applications using project selection criteria, including but not limited to the following:
 - (A) Extent the project demonstrates user benefits, public interest and support;
 - (B) Extent the project demonstrates conformance with local and state planning guidelines, the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and local Park Master Plans; all projects must be identified in local comprehensive plans and current master plans;
 - (C) Financial considerations, including cost/benefit ratio;
 - (D) Environmental assessment as defined in Oregon Application Procedures Manual.
 - (E) Extent the project increases outdoor recreation opportunity in the service area.
 - (F) How well the project's design accommodates people with disabilities.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

736-008-0055 - Emergency Procedure

- (1) Under extreme conditions such as severe cut backs of federal funds or complete elimination of these funds an emergency procedure may be initiated at the discretion of the Oregon Parks and Recreation Department Director.
- (2) The emergency procedure will establish new time lines and funding strategies to coincide with the time delay created at the federal level. The Director may delay or abolish time lines, and fund projects on the existing priority list with under runs and cancellations until either projects or money is exhausted.
- (3) Under the emergency procedure the Director will notify prospective sponsors of any anticipated time changes and assure sponsors of adequate lead time in developing new time lines.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Note: The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State.