



# NOVA Plan 2005 - 2011

A plan to guide expenditures under the  
Nonhighway and Off-Road Vehicle Activities  
(NOVA) Program

Adopted  
September 15, 2005



# Acknowledgements

## Interagency Committee for Outdoor Recreation:

### 2002 Adoption

**Ruth Mahan**, Chair, Citizen member  
**Connie Kearney**, Citizen member  
**Christine Wakefield Nichols**, Citizen member  
**Robert Parlette**, Citizen member  
**Jeff Koenings**, Director  
Department of Fish and Wildlife  
**Cleve Pinnix**, Director  
State Parks-Recreation Commission  
**Doug Sutherland**, Commissioner of Public Lands  
Department of Natural Resources

### 2005 Amendments

**Valeria Ogden**, Chair, Citizen member  
**Bill Chapman**, Citizen member  
**Karen Daubert**, Citizen member  
**Jeff Parsons**, Citizen member  
**Yvonne Yokota**, Citizen member  
**Jeff Koenings**, Director  
Department of Fish and Wildlife  
**Rex Derr**, Director  
State Parks-Recreation Commission  
**Doug Sutherland**, Commissioner of Public Lands  
Department of Natural Resources

**Laura Eckert Johnson**, Director

## IAC NOVA Plan Coordinators, Editors (2002 and 2005):

**Greg Lovelady**, Manager, Applied Planning Section  
**Scott Chapman**, Outdoor Grant Manager

## NOVA Plan Advisory Committee (2002):

**Jim Archambeault**, Forest Service  
**Mike Curley**, Mountain bicycle trail user  
**Byron Stuck**, Motorcycle trail user  
**Karl Forsgaard**, Pedestrian trail user  
**Ken Irwin**, Co. Sheriff; Enforcement-Education  
**Carol Jensen**, Four-wheel drive trail user  
**Jeri Krampetz**, Multiple-use trail user  
**Dale Knowlton**, All-terrain vehicle trail user  
**Loren McGovern**, Equestrian trail user  
**Tim Vore**, Multiple-use trail user  
**Sheryl Wimberly**, Dept. of Natural Resources

## Standing NOVA Advisory Committee (2002):

**Wyn Birkenthal**, Local agency representative  
**Arlene Brooks**, Four-wheel drive trail user  
**Rick Dahl**, Motorcycle trail user  
**Art Tuftee**, Mountain bicycle trail user  
**Dale Knowlton**, All-terrain vehicle trail user  
**Ken Konigsmark**, Pedestrian trail user  
**Lori Lennox**, Equestrian trail user  
**Gail Throop**, Federal agency representative  
**Sheryl Wimberly**, State agency representative

## Standing NOVA Advisory Committee (2005)

**Arlene Brooks**, Off-Road Vehicle  
**Bob Brooke**, Equestrian  
**Rick Dahl**, Off-Road Vehicle  
**Paul Dahmer**, Dept. of Fish & Wildlife  
**Richard Elkins**, Fishing-Hunting  
**Jonathan Guzzo**, Nonmotorized, Hiking  
**Jerry Homola**, Off-Road Vehicle  
**James Horan**, State Parks  
**Kenneth Irwin**, Local Agency  
**Theresa Julius**, Nonhighway Road  
**Jeff Lambert**, Nonmotorized, hiking  
**Pene Speaks**, Dept. of Natural Resources  
**John Spring**, Nonhighway Road  
**Vladimir Steblina**, Federal Agency  
**Art Tuftee**, Mountain Bicycling

## Principal Investigators (2002): Gilmore Research Group, Seattle Washington

**JoElla Weybright**, Vice President  
**Bradley J. Johnson**, Analyst and Moderator

*This Plan represents the support and efforts of many individuals. We extend a special note of thanks to all who participated in the interviews, focus groups, and Internet survey, and provided comments on the draft plans. These people, many of whom represent user groups and public agencies, contributed invaluable guidance and were instrumental in the Plan's development.*

# Foreword

***Evolution of the NOVA Act.*** Through the years, the Nonhighway and Off-Road Vehicle Activities (NOVA) Program Act (RCW 46.09, page 41) has been updated several times. In 1978 it was modified to allow the funding of education-enforcement programs. In 1986 it was updated to provide funding for nonmotorized trail activities. In 2004 changes included:

- Revised definitions
- Revised environmental review language
- Revised advisory committee membership and duties
- Revised fund distributions
- Revised provisions for the education-enforcement (E&E) category.
- Creation of the Nonhighway Road (NHR) funding category.

In 2005 the Interagency Committee for Outdoor Recreation (IAC) updated the text in this Plan to reflect these 2004 Legislative changes.

The 2005 *NOVA Plan* sets policies to guide expenditures under the NOVA Act. The program provides funding to local, state, and federal agencies so that they may acquire land, plan, build, and maintain facilities, and manage off-road vehicle (ORV), nonmotorized (NM), and nonhighway road recreation opportunities.

NOVA funds originate in large part from a refund of a portion of the state fuel tax paid by NOVA recreationists, described in the following definitions.

***Definitions.*** The definitions that follow are important to understanding the policies in this plan (RCW 46.09.020, page 41 contains more definitions).

"Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

"Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

"Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

"Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

"ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sport parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

"ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

This Plan primarily focuses on the provision of opportunities for:

- Nonhighway road recreationists – assisting activities on or closely related to such roads.
- Nonmotorized recreationists – assisting activities related to nonmotorized backcountry trail use accessed via a nonhighway road.
- ORV recreationists – assisting activities related to motorized backcountry trail and competition track activities.

***NOVA Funding, Policies.*** Forty-one and a half (41.5) percent of NOVA funding is directly appropriated to Washington's Department of Natural Resources, Department of Fish and Wildlife, and State Parks and Recreation Commission. The remainder, 58.5 percent, is appropriated to the Interagency Committee for Outdoor Recreation (IAC), which distributes its funding to public agencies through a competitive grants program.

This *Plan* explores various issues related to IAC's NOVA Program, including 24 policies that address overall program direction, administration, and project evaluation. These policies are intended to guide program funding in a manner that satisfies user needs, is environmentally responsible, and minimizes conflict between user groups.

In a separate process, IAC will implement a number of these policies through modifications to its policy and project selection manuals—the day-to-day guidelines used to govern the NOVA Program and select projects for funding.

Many of the policies are intended to provide greater balance and structure to the NOVA Program. Other policies help ensure that funds will provide increased benefits to the recreating public. Increased emphasis on stewardship will help maintain existing opportunities and increase user enjoyment.

When the policies are implemented, we anticipate that new facilities will be designed to minimize maintenance and will be located more conveniently to users. More emphasis will be placed on maintaining existing infrastructure. Management projects will focus on the season and place of user activity. Volunteer and other non-government contributions will leverage program funds. Use of motorized or nonmotorized "primary management objectives" on trails will help clarify user expectations and preserve inventory.

This *Plan* was developed in cooperation with the IAC, various public agency representatives, organized recreation user groups, and nearly 2,000 recreationists who contributed valuable insight to the research process.

# Contents

Acknowledgements .....	iii
Foreword.....	iv
Contents .....	vii
Introduction .....	1
<b>NOVA Program .....</b>	<b>1</b>
<b>2002 NOVA Plan .....</b>	<b>2</b>
<b>Planning Process .....</b>	<b>3</b>
<b>Plan Organization and Interpretation .....</b>	<b>6</b>
NOVA Program Policies .....	7
<b>A. NOVA Program.....</b>	<b>7</b>
A-1 Purpose.....	7
A-2 Advisory Committee.....	7
A-3 Program Based on Quality Information.....	8
A-4 IAC To Provide Current Information.....	9
<b>B. Education/Information and Law Enforcement.....</b>	<b>10</b>
B-1 Purpose.....	10
B-2 Emphasize Field Work and High Use Season.....	10
B-3 Provide Information on Goals, Objectives, Demand, Needs.....	10
B-4 FTE Funding Limit.....	11
B-5 Project Funding For Up To Two Years .....	11
<b>C. NOVA Facility Acquisition, Development, Maintenance, Planning.....</b>	<b>11</b>
C-1 Primary Management Objective .....	11
C-2 Focus on Population Centers .....	11
C-3 Encourage Non-Government Contributions.....	12
C-4 Encourage Matching Value.....	12
C-5 Minimize Maintenance .....	12
C-6 Finish Plans and Applicant Processes.....	12
C-7 M&O Goals, Objectives, Demand, Needs .....	12
C-8 SEPA & NEPA .....	13
C-9 Lease Period.....	13
C-10 Evaluate Projects Head-to-Head .....	13
C-11 M&O Funding Period .....	14
C-12 Grant Ceilings .....	14
C-13 Encourage Natural Settings.....	14
C-14 Trail Reconstruction Goals .....	15
C-15 Land Managers Choose Sites .....	15
Discussion.....	16
<b>A. General Program.....</b>	<b>16</b>
IAC and NOVA Program.....	16
NOVA Advisory Committee .....	16
State Fuel Use Study and Apportionment .....	16
User Conflicts and Solidarity .....	17
Environmental Concerns .....	17
<b>B. ORV Education, Information, and Law Enforcement .....</b>	<b>18</b>
E&E Funding .....	18
Work Plan Requirements.....	18
Education or Enforcement? .....	19

Education/Enforcement and Nonmotorized Trail Recreation .....	19
<b>C. ORV Facility Planning, Acquisition, Development, and Maintenance .....</b>	<b>19</b>
Public Land Closure Perception .....	19
ORV Sport Parks .....	20
Return to ATV Roots .....	20
Grant Limits and Match .....	21
ATV and SUV Increases and Lack of ATV Trails .....	21
<b>D. NHR Facility Planning, Acquisition, Development, and Maintenance .....</b>	<b>22</b>
Grant Limits and Match .....	22
Roadless Areas .....	22
<b>E. ORV and NHR Common Themes .....</b>	<b>22</b>
Maintenance is a High Priority .....	22
ORV & NHR Cooperation .....	23
Encourage Increased Level of Volunteer Participation.....	23
Trail Signs.....	24
Loop Trails.....	24
<b>Conclusion .....</b>	<b>25</b>
<b>Appendix 1: NOVA Program History .....</b>	<b>26</b>
<b>Appendix 2: Chapter 46.09 RCW .....</b>	<b>41</b>



# Introduction

## NOVA Program

---

Since 1971, Washington State has administered a program designed to benefit recreational off-road vehicle (ORV) users. In 1986 and again 2004 the program was broadened. First, it was modified to also serve recreationists who pursue nonmotorized (NM) trail activities, including equestrians, hikers, and mountain bicyclists. Later, it was expanded again to serve those who choose activities near nonhighway roads (NHRs, page 39), such as sightseers, anglers, and gatherers.

Although many aspects of the programs have changed over the last 34 years, the intent has remained the same: to provide quality recreation opportunities to those who consume gasoline as they traverse Washington's back roads in pursuit of recreation.

Originally known as the All-Terrain Vehicle Program and later the ORV Program, it is now called the **Nonhighway Road and Off-Road Vehicle Activities (NOVA) Program**. The term NOVA is used here to refer to the program established by Chapter 46.09 RCW, Off-Road and Nonhighway Vehicles (Appendix 2, page 41). This law, as amended over the years, directs funding to the state departments of Natural Resources Fish and Wildlife, the State Parks and Recreation Commission, and the Interagency Committee for Outdoor Recreation (IAC). IAC makes its NOVA funds available to public agencies through a competitive grants program.

The law establishes specific purposes for NOVA funds. For example, funds appropriated directly to the Department of Natural Resources may be used for: planning, land acquisition, maintenance, management, and information programs. IAC also administers NOVA funds by similar categories, including: planning, acquisition, development, maintenance, management, education, information, and law enforcement. The statute also provides minimum and maximum expenditures for many categories.

## NOVA Plan

---

Through its Statewide Comprehensive Outdoor Recreation Planning (SCORP) Program, IAC maintains several plans to help guide the maintenance and enhancement of the state's recreation system. A cornerstone is *An Assessment of Outdoor Recreation in Washington State: A Comprehensive Outdoor Recreation Planning Document, 2002-2005*. This assessment takes a broad look at the outdoor recreation issues and needs facing the state. Another important plan is the *Washington State Trails Plan*, which focuses on a subset of the recreation system. It addresses many trail resources and uses.

The *NOVA Plan* is even more focused. It examines issues and needs, mostly trail related, specific to Chapter 46.09 RCW. Its audience is IAC, the NOVA Advisory Committee, agencies that receive NOVA funds, and recreationists and others interested in the NOVA Program. In particular, Chapter 46.09 RCW directs IAC to “maintain a statewide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure” of NOVA funds.

The **vision** for the *NOVA Plan* is to:

*Maintain a framework that allows various user groups and agencies to provide quality opportunities for Off-Road Vehicle, nonhighway road, and nonmotorized recreationists—opportunities that satisfy user needs, are environmentally responsible, and minimize conflict among user groups.*

Specifically, the **goals** of the *NOVA Plan* are to:

- Assess issues related to the NOVA Program;
- Provide policy guidance on the use of NOVA funds; and
- Make recommendations about future program direction.

# Planning Process

---

**2002 Plan Update.** The *NOVA Plan* planning process was designed to respond directly to the mandates in RCW 46.09.250: "...to guide distribution and expenditure..." of NOVA funds. Consensus among planning process participants was the preferred means of deciding needs and recommendations. While this consensus may not have addressed the allocation of resources among user groups, it is intended to reflect various project sponsor and user group priorities.

IAC invited extensive public participation in the planning process. Members from the NOVA Advisory Committee, Ad Hoc NOVA Plan Advisory Committee, affected agencies, interested user groups, and the general public all had several opportunities to contribute to the *Plan*. To assist in the planning process and stimulate dialogue, IAC staff distributed a discussion paper that explored the history and issues associated with the NOVA Program.

From February 12, 2001 through May 18, 2001, and including focus group participants, a total of 96 interviews were conducted among recreationists and NOVA Program administrators in the State of Washington. An additional 1,729 recreationists participated in an Internet survey from April 26, 2001 to May 16, 2001.

The in-depth individual interviews, focus groups, and Internet survey were designed and conducted to explore the insights, perceptions, and opinions of respondents. The research process, using multiple methodologies, included:

- 18 In-depth interviews of NOVA Ad-Hoc Committee members and others;
- 6 In-person focus groups;
- 2 Statewide telephone focus groups; and
- Internet survey.

As a part of the above outreach, members of the Ad Hoc NOVA Plan Advisory Committee and others participated in a series of interviews, each lasting between 30 and 90 minutes. These in-depth discussions were conducted to identify issues and areas of opportunity and concern, and to establish a framework for the focus group sessions and Internet survey.

A series of eight focus groups were held in various locations throughout the state. Two sessions were held with sponsored program agency representatives and with recreationists (two with motorized users, two with nonmotorized users and two with both—"mixed"). To ensure that people in outlying areas could be represented in these discussions, two of the focus groups were conducted via statewide telephone conference call with the moderator leading the discussion the same as the in-person groups. Each discussion lasted approximately two hours. The number of participants ranged from 7

to 14, with most groups consisting of 8 to 9 respondents for a total of 80 focus group participants.

The individuals in the recreation user groups were recruited from lists provided by their state organization, club, or association. Lists of program administrators and enforcement and educator personnel were obtained from IAC. Each recreationist participant was prescreened by telephone to help ensure that the focus groups were made up of people representing a wide range of experience and knowledge.

Researchers sought additional statewide participation for the NOVA planning process via an Internet survey. Important issues and concerns that arose during the in-depth interviews and focus groups provided additional input for the Internet survey. This survey was posted on a site hosted by The Gilmore Research Group from April 20 through May 13, 2001. The link to this site was sent out to user organizations and individuals across the state, each being urged to pass along the link and invitation for interested people to provide their opinions and suggestions through this electronic medium. A total of 1,729 people took part in the survey.

**Draft Plan Review.** Based on the above research, a preliminary draft plan was prepared and circulated to IAC staff and the ad hoc NOVA Plan Advisory Committee in June 2001. By July, the complete draft was distributed to all parties on record as indicating an interest in the Plan. Later that month, a copy of the draft was made available for review and download on IAC's web page. Included was an email feedback form that respondents used to provide Plan comments directly to IAC. Dozens of individuals took advantage of this opportunity.

To review the Plan's draft policies and receive further feedback, in August IAC staff conducted a series of forums across the state: Ellensburg, Olympia, Seattle, and Spokane. In addition, staff offered to conduct more of these forums for any interested group. In response, one additional forum was provided in Seattle.

In the months leading to Plan adoption, IAC staff continued to receive comments and suggestions on the draft, many of which led to revisions. One comment, concerning the use of NOVA funds to support facilities closed to motorized uses, led to a several-month delay while IAC conferred with legal counsel and the legislature acted to resolve the issue.

**2005 Plan Update.** The 2003 Legislature charged a special NOVA Advisory Committee with developing recommendations that would, in part, address the fund allocation issues not included in the 2002 Plan. In addition, the Advisory Committee was also directed to develop recommendations for statutory changes:

*"...consistent with the results of the most recent [NOVA] fuel use study..." while addressing "...the operation and maintenance needs of existing*

*facilities...”.*

On completion of its work, the Advisory Committee presented five recommendations to the legislature and five recommendations to the IAC board, as summarized below.

<b>2004 NOVA Program Recommendations</b>		
<b><i>Recommendations to the Legislature</i></b>		
1	<p>Definitions. Add: “motorized vehicle,” “ORV sport park,” “non-highway road recreation facilities,” “nonhighway road recreational user,” “nonmotorized recreation facility,” and “nonmotorized recreational user.”</p> <p>Simplify: “ORV,” “nonhighway vehicle,” “ORV recreation facilities,” “ORV trail,” “nonhighway road,” and “highway.”</p>	Approved
2	<p>Fund distribution. Adjust 1% gasoline tax funding:</p> <ul style="list-style-type: none"> <li>36% = Department of Natural Resources</li> <li>2% = State Parks</li> <li>3.5% = Department of Fish &amp; Wildlife</li> <li>58.5% = Interagency Committee for Outdoor Recreation               <ul style="list-style-type: none"> <li>• 30% = Education-Enforcement and broaden to address nonhighway road (NHR), nonmotorized (NM), and off-road vehicle (ORV) issues</li> <li>• 70% = NHR (30%), NM (30%), ORV (30%), Competition. (10%)</li> </ul> </li> </ul>	Approved
3	<p>Environmental Review. Allow National Environmental Policy Act requirements to substitute for State Environmental Policy Act requirements; eliminate redundant public notification requirement.</p>	Approved
4	<p>Advisory Committee. Add state agency representatives; Have the advisory committee counsel these state agencies; <i>and</i> Have the agencies report to the advisory committee yearly.</p>	Approved
5	<p>Gasoline tax cap. Remove 1990 cap imposed to prevent gasoline tax increases from benefiting the NOVA Program.</p>	No action
<b><i>Recommendation to the IAC (Administrative)</i></b>		
A	<p>Competitive funds. Allocate the 10% funding remaining after distribution of IAC’s Nonhighway Road, Nonmotorized, and Off-Road Vehicle dollars to projects that serve the most NOVA recreationists.</p>	Approved
B	<p>Criteria waiver. IAC may waive minimum RCW 46.09 funding requirements under certain conditions.</p>	Approved
C	<p>Advisory Committee. IAC should further define term lengths, per diem, travel allowance, and related issues.</p>	Approved
D	<p>Eligibility criteria. Try to adopt eligibility criteria that help managers make smart facility placement decisions.</p>	Approved
E	<p>Update policies. Work to adopt an open process when updating NOVA policies for consistency with the legislative changes.</p>	Approved

## Plan Organization and Interpretation

---

The remainder of the *Plan* has two major sections. The **first section** features specific policies intended to help guide expenditures under the NOVA Program. All policy statements have been placed in this section.

The **second section** contains a synthesis of the discussions on which the policy statements are based. The synthesis is built on the foundation provided by the original discussion papers, augmented by the results of the planning process.

The policy and discussion sections present material related to three topical areas:

- A. NOVA Program
- B. Education, information and law enforcement
- C. NOVA recreational facility acquisition, development, maintenance, and planning

For example, the policy and discussion sections both begin with themes related to the entire NOVA Program. This is followed by examinations of specific dimensions of the program, such as information, education, and law enforcement.

Appendix 1 contains a program history, beginning with the first grants in 1971. Appendix 2 contains a copy of the NOVA Act, chapter 46.09 RCW (2004). This chapter contains sections on:

- Definitions (46.09.020)
- ORV use permits (46.09.030-46.09.080)
- Disposition of use permit funds (46.09.110, 46.09.280)
- Operating violations, accident reports, penalties and enforcement (46.09.120, 46.09.130, 46.09.140, 46.09.190, 46.09.200)
- Motor vehicle fuel taxes not refundable (46.09.150)
- Distribution of NOVA funds (46.09.170)
- Administration (46.09.240)
- State Plan (46.09.250)
- Advisory Committee (46.09.280).

IAC implements these *Plan* policies through the process it uses to select projects for NOVA funding. For example, the evaluation questions used by the NOVA Advisory Committee to help compare and rank proposed projects reflect the *Plan's* policies.

Policies modified with the term "*encourage*" indicate that a project dimension will be measured and, to the degree that it reflects policy intent, will be rewarded by evaluation points. Policies modified with the term "*require*" will be interpreted to mean that an element is a threshold requirement for funding consideration *and* may be scored.

# NOVA Program Policies

## A. NOVA Program

---

**Policy A-1** The NOVA Program shall allow agencies to provide quality opportunities for nonhighway road, nonmotorized, and ORV recreationists — opportunities that satisfy user needs, are environmentally responsible, and minimize conflict among user groups. Sponsors will demonstrate accountability and help attain this goal, in part, by reporting on project related activities.

*(Further discussion is on pages 2, 17, 23.)*

**NOVA funding shall augment, not replace, other sources of funding.**

The NOVA Program allows user groups and public agencies to work cooperatively to provide *nonhighway road, nonmotorized, and ORV* recreation opportunities. Because of the program's revenue source and the effects of its funding, the program brings together many interests which are sometimes in conflict. NOVA funds shall be used to provide quality recreation opportunities in a manner that strives to minimize conflict and environmental damage.

NOVA funding is intended to enhance the capabilities of recreation providers and managers. Similar to other IAC funding programs, NOVA funding shall achieve results that would not be possible without state funding. It shall not replace other funding. When NOVA funding is available for maintenance and operation, for example, it shall not be used to replace or divert monies that would otherwise be available for that purpose.

**Policy A-2** The NOVA Advisory Committee shall include representatives from user groups and agencies affected by NOVA funding.

*(Further discussion is on page 16.)*

The Advisory Committee shall include the following representatives:

- 3 state agencies (Department of Natural Resources, State Parks, Department of Fish and Wildlife)
- 1 federal agency (Bureau of Land Management, Fish and Wildlife Service, Forest Service, National Park Service)
- 1 local government (police, sheriff, or other administrator of NOVA projects)
- 3 ORV (intent to include off-road motorcycle, ATV, and four-wheel drive)

- 4 nonmotorized recreation
  - 2 hiking (hiker, backpacker, climber, etc.)
  - 1 mountain bicycling
  - 1 equestrian
- 3 nonhighway road with one or more of the following recreational interests associated with fuel used on nonhighway roads:
  - Hunting and/or fishing (required)
  - Driving for pleasure or sightseeing
  - Wildlife viewing
  - Camping
  - Picnicking
  - Gathering (firewood, berries, mushrooms, etc.)

In selecting members IAC will strive to ensure:

- They represent federal, state, and local government and the primary NOVA activities (all-terrain vehicle riding, horse/stock users, four-wheel driving, mountain bicycling, hiking, motorcycling).
- They demonstrate the support of those represented.
- Together they comprise a broad range of human diversity (gender, geography, ethnicity, physical ability, age).
- They have the time and resources to participate.
- They have basic experience in and an understanding of NOVA issues.
- They are committed to helping implement the policies reflected in this plan and project evaluation system.

Likewise, after selection, committee members will:

- Represent those groups/agencies for whom they have been selected.
- Demonstrate the support of those represented.
- Commit the time and resources needed for participation.
- Remain committed to the policies in this plan and project evaluation system by providing recommendations that reflect program policies and ensure the integrity of the project evaluation process.

In accordance with RCW 46.09.280, only representatives of the NOVA Advisory Committee's ORV and mountain biking recreationists, government representatives, and land managers will make recommendations regarding the expenditure of ORV permit funds received under RCW 46.09.110.

**Policy A-3 NOVA Program review and administration shall be based on valid, up-to-date information.** (See *Fuel Study* on pages 16 and 27.)

At least once every 12 years IAC will seek funding to complete a new NOVA fuel-use study. (The 12-year cycle coordinates with the NOVA Plan, which by statute, must be updated every six years.) In completing the survey, IAC will:



*“...study the source and make recommendations on the distribution and use of funds provided to NOVA recreational activities under RCW 46.09.170. The study shall determine the relative portion of the motor vehicle fuel tax revenues that are attributable to vehicles operating on nonhighway roads or off-road trails for recreational purposes... [and] shall include the types of vehicles and location of their use, the types of recreational activities, the types of recreational facilities used, and the recreational use of forest roads.”*

**Policy A-4 IAC shall endeavor to provide user groups with current NOVA-related information through a variety of communication methods.**

*(Further discussion is on page 16.)*

Efficient and effective communication is critical for increasing awareness, building trust, and ensuring that accurate information is available. To address this, IAC shall implement a plan that may include:

- Email to user groups;
- News releases to media outlets, including organizational newsletters;
- An updated IAC web page which may contain relevant program history, links to statutes, schedule, planning and grant application documents, an overview of current applicants and funded projects, and staff and advisory committee membership information.
- Informational materials distributed at retail outlets or attached to Department of Licensing notifications.

## **B. Education/Information and Law Enforcement (E&E)**

---

**Policy B-1 E&E programs shall help preserve NOVA opportunities. E&E funding shall encourage responsible recreational behaviors through positive management techniques.**

Because law enforcement can reduce recreationists' inappropriate behavior, it helps protect the availability of sanctioned NOVA opportunities. NOVA funding shall not, however, be used to replace local law enforcement funding. It shall instead augment local capabilities and result in improved NOVA recreation management. In general, projects that focus solely on enforcement of area closures, or within areas with few or no legal opportunities, shall be discouraged.

**Policy B-2 Encourage projects that primarily employ contact with current NOVA recreationists in the field during high use seasons.**

To encourage program efficiency, focus scarce E&E resources on existing users at the place and time of NOVA activity (for example, Dept. of Natural Resources and Forest Service managed lands). This maximizes the benefit to users, while discouraging activities that have fewer benefits, such as "mall shows" and many in-school (K-12, etc.) programs.

Continue to concentrate scarce funding on expenditures most directly related to E&E activities, such as E&E personnel salaries and benefits, and related materials and equipment which will continue to be reimbursable and eligible as matching credit. Costs not reimbursable or eligible for matching credit include administrative and clerical support, dispatch services, supervision, and costs associated with preparation of NOVA grant applications.

**Policy B-3 Require E&E project applicants to provide project goal and objective information as part of the application process. Encourage applicants to provide demand and need information as a part of the evaluation process.** (Further discussion is on page 18.)

It is important that key planning elements, (program goals & objectives, description of demand & need) be retained as part of the application process. Additionally, the requirement for regular progress reports on activities and expenditures will be continued.

**Policy B-4 Establish a funding cap of \$200,000 per project.**<sup>1</sup>

*(Further discussion is on page 18.)*

Before adoption of this policy, the limit on E&E project support was based on Full Time Equivalent (FTE) employees (\$45,000 per FTE, established in 1982) and capital equipment (\$30,000). To adjust for inflation, the FTE amount was increased to \$54,000 in 2005. However, caps based on FTEs was cumbersome to calculate, especially when applicants sought funding for multiple FTEs, each of which planned to work a different number of hours annually, and at various hourly rates. As a result, in 2007 the cap method was changed from one based on FTEs and equipment to one based solely on individual projects – the same method used in other IAC grant programs with caps.

**Policy B-5 Fund E&E projects for up to two consecutive years.**

Allowing E&E funding to be used for two years increases budget certainty for sponsors and may result in higher quality programs. At the same time, it reduces the work associated with annual project evaluation for sponsors, the NOVA Advisory Committee, and IAC.

## **C. NOVA Recreation Facility Acquisition, Development, Maintenance, and Planning**

---

**Policy C-1 Encourage a primary management objective designation (equestrian, hiking, mountain bicycling, ORV, etc.) on facilities receiving NOVA funding.**

Designating trails and other facilities with a primary management objective not only helps clarify the experience users can expect, but also provides clear and consistent direction to managers. Use of primary management objectives is supported by the *Washington State Trails Plan (IAC, 1991)*.

**Policy C-2 Encourage projects convenient to population centers.**

Because of the nonhighway road threshold criteria (access via a non-gasoline tax supported road, etc.) and emphasis on natural settings, most NOVA recreation opportunities are provided in relatively remote settings. While it is often difficult or impossible to locate such opportunities in urbanized areas, priority shall be given to projects convenient to such areas. This policy is supported by the *Washington State Trails Plan (IAC, 1991)* and *An Assessment of Outdoor Recreation in Washington State (IAC, 2002)*, and is consistent with RCW 79A.25.250.

---

<sup>1</sup> IAC board resolution 2007-03, February 8, 2007.

**Policy C-3 Encourage non-government contributions.** (Further discussion is on page 22.)

Contributions of money, materials, and/or services by volunteers, the private sector, nonprofit organizations, and others are important in the NOVA Program. Donations: • stretch scarce public funding, • improve the overall cost-benefit, • extend “ownership” to those involved in the project, and • help demonstrate broad public support.

**Policy C-4 Encourage sponsors to contribute matching value to their project.**  
(Further discussion is on page 23.)

Similar to Policy C-3, project sponsors who contribute part of a project’s cost (via dollars, materials, or labor/service) make NOVA Program dollars reach more projects while demonstrating a local commitment in the project’s success.

**Policy C-5 Encourage projects that have design considerations that minimize the need for ongoing maintenance.**

Projects can often incorporate design elements that reduce maintenance needs. Decisions about placement and materials, for example tread surfaces, often affect maintenance needs. Adequate consideration of maintenance during the design phase can result in long-term savings that far outweigh most short-term construction cost increases.

**Policy C-6 Require general plans and completion of applicant-required processes before the IAC board funding meeting.**

Project sponsors shall provide evidence of planning that supports the proposed project. Unlike project-specific engineering plans, these general plans shall clearly define goals, objectives, and needs, and be developed in a process that includes opportunities for public participation. They may include local agency comprehensive park plans, growth management plans, national forest plans, national park management plans, etc.

**Policy C-7 Require applicants for maintenance and operation proposals to state their project’s goals and objectives in the application. Encourage these applicants to provide “need” information during project evaluations.**

If a project (the “solution”) is to be successful, it must be clearly linked to a defined problem. Stating a project’s goals and objectives accomplishes this. A *goal* is a broad statement of intent that describes a desired outcome - for example, “stop resource damage” or “improve trail safety”. *Objectives* are connected to the goal and are both more specific and measurable. Objectives help us know when the goal has been accomplished. Typical objectives include “stop trail sediment from entering streams” and “apply federal trail safety standards”.

“Need” is not so easily defined and so is rated in the more subjective project evaluations (in the nonhighway road, nonmotorized, and ORV evaluation instruments, see questions 1 and 2). In the NOVA program, need relates to a project’s support as expressed in a publicly reviewed and adopted state, regional, or other plan. It can be described in terms of physical condition of existing facilities, safety and environmental issues, or the threat of the loss of an opportunity. Need can vary with the availability of similar opportunities, travel times, accessibility, and use levels.

**Policy C-8 Require completion of applicant required environmental processes before issuing a Project Agreement.** (Further discussion is on page 17.)

Consistent with local, state, and federal laws and regulations, applicants must provide evidence of compliance with environmental planning and review requirements. This means demonstrating compliance with either the State or Federal Environmental Policy Act (SEPA or NEPA). In most cases, this means providing to IAC within 90 days after IAC funding approval, such documentation as a Determination of Non-Significance (SEPA); Record of Decision, Decision Notice, or Decision Memo (NEPA).

Applicants must also comply with any permitting requirements, including shoreline, hydraulics, building, health, etc. IAC does not require proof of compliance with these permit obligations.

**Policy C-9 Require a lease period of at least 25 years for projects acquiring leases.**

(This policy primarily concerns the state Dept. of Natural Resources.) Before adoption of this policy, IAC required that, at minimum and short of a fee simple purchase, any land acquisition project needed to guarantee a lease lifespan of 50 years. Since, however, it is nearly impossible to obtain a 50-year lease today because facility life expectancy is usually only 20-25 years, this requirement is reduced to 25 years.

**Policy C-10 Within their respective NHR-NM-ORV funding categories, evaluate acquisition, development, M&O, and planning projects on a head-to-head basis.**

By statute, NOVA facility funding is divided into three categories:

- *nonhighway road*, • *nonmotorized*, and • *off-road vehicle*. Requiring that all projects within these categories compete in direct competition with one another is one way we can help ensure that only the most desirable projects are funded.

**Policy C-11 Fund maintenance and operation projects for up to two consecutive years.**

Allowing M&O funding to be used for two years increases budget certainty for sponsors and may result in higher quality programs. At the same time, it reduces the work associated with an annual project submission for sponsors, the NOVA Advisory Committee, and IAC.

**Policy C-12 The grant ceiling for individual projects is limited as shown in the following table.**

<i>NOVA Program Grant Assistance Limits</i>		
	<i>M&amp;O</i>	<i>Land Acquisition-Development-Planning</i>
<i>NHR</i>	\$50,000/yr. /proj. <sup>[1]</sup>	\$100,000/project
<i>NM</i>	\$50,000/yr. /proj. <sup>[1]</sup>	\$100,000/project
<i>ORV</i>	\$100,000/yr./proj. <sup>[2]</sup>	[no limit]

<sup>[1]</sup> Limited to a maximum of \$100,000 and 2 years.

<sup>[2]</sup> Limited to a maximum of \$200,000 and 2 years.

**Further, only the three previously IAC assisted sport parks (Thurston-Grays Harbor Cos., City of Richland, Spokane Co.) will be considered for funding.**

The above limits are imposed due to the shortage of funds available for projects, typically about \$560,000-\$600,000 in fuel tax dollars per year, per funding category (NHR-NM-ORV).

Plan research strongly suggests broad support for increasing the availability and quantity of NOVA funding. One of the most intensely discussed issues during plan preparation was trail maintenance. Program administrators suggested that historically, too much funding has been directed to capital projects without the necessary maintenance infrastructure and funding to support the efforts. Overall, Plan research also shows recreationists find maintenance of trails as their most important issue.

ORV recreationists indicated trail maintenance was their second most important issue. With the exception of sport parks, IAC has rarely seen a maintenance and operations project that approaches the \$200,000 limit.

IAC limits the number of competition ORV sport parks it will support because of their relatively high cost.

**Policy C-13 Encourage emphasis on projects in areas that are predominantly natural, such as are typically (but not necessarily) found in a “backcountry” environment. This policy does not apply to the ORV funding category.**

To be eligible for nonhighway road and nonmotorized funding, projects must be adjacent to or accessed by a nonhighway road. Consideration of a "backcountry experience" in project selection is based on the notion that additional emphasis should be placed on allocating funds back to the type of setting where funds were generated. A portion of the NOVA fund is generated by motorists traveling on nonhighway roads, such as those that occur in national parks or forests. As such, travelers who pay the fuel tax will benefit from projects on or next to these roads. Emphasis on providing setting attributes that are predominantly natural is supported by *Washington Outdoors: Assessment and Policy Plan* (IAC).

This policy, however, does not apply to the ORV funding category. In surveys and NOVA advisory committee discussions, members of the ORV community said that, while they do enjoy natural settings, such areas are not of sufficient significance to make them a funding priority.

**Policy C-14 When reconstructing trails, encourage projects that correct environmental problems, retain trail difficulty and user experiences, and minimize user displacement.**

Reconstruction can be less expensive than new construction and often presents opportunities to employ current standards and correct environmental problems. Project sponsors shall be sensitive to current trail uses and experiences, and seek to minimize "over building" the trail and significantly changing the opportunity for either motorized or nonmotorized users.

**Policy C-15 *Find appropriate sites through the initiative of land managers.***

IAC will not assume a proactive role in site identification. Consistent with its other programs, IAC will continue to rely on public land managers to identify appropriate NOVA project sites through their land use planning and public involvement processes. Recreationist groups are encouraged to continue to work with land managers to identify sites. IAC staff will continue to publicize the availability of NOVA funding opportunities through its grant workshops, web page, and publications.

# Discussion

## A. General NOVA Program

---

### *IAC and NOVA Program*

As discussed in Plan policy A-4 (page 9), efficient and effective communication is critical for increasing awareness, building trust, and ensuring that accurate NOVA program information is provided to users.

Research for this Plan found that numerous recreationists know little about the NOVA Program and IAC. Some have sought to learn more but had no idea where to turn. Respondents who had some understanding of the program were often misinformed. For example, when asked how NOVA funding distributions were decided, they were unaware that the principal recreation activities have representatives directly involved in funding decisions.

### *NOVA Advisory Committee*

Research for this Plan indicates that recreationists would like to know more about the duties of the NOVA Advisory Committee. An often-cited area of concern is the role of members in such areas as scoring projects, attending meetings and communicating with their constituencies. In many cases, the perception is that committee members, key user organizations, and association leadership use their positions on the advisory committee to address either personal or narrow political agendas.

It is critical to have NOVA Advisory Committee volunteers well informed and involved in their respective roles. Even so, before the 2004 committee reorganization, comments by IAC staff, NOVA Advisory Committee members, and Ad Hoc *NOVA Plan* Advisory Committee members described reasons for serious concern, including poor meeting attendance and questionable project scoring. In part to address these concerns, Policy A-2 (page 8) regarding a review of NOVA Advisory Committee representation, job descriptions, term limits, etc. was completed in 2004 in accord with SHB 2489.

### *State Fuel Use Study and Apportionment*

Many of the views expressed during Plan research on conducting a new study of fuel-use, and the related apportionment of funding, had not changed substantially since completion of the 1993 *NOVA Plan*. The need for the study and reconsideration of how funds are divided among the NOVA categories, particularly NMs and ORVs, was consistently mentioned by many of the respondents as an issue that should be addressed. This, of



course, was a major reason the study and subsequent program changes cited in this plan were ultimately completed.

### **User Conflicts and Solidarity**

With more users, few dollars, and a limited recreational trail system, the potential for user conflicts is ever present. One issue the Plan study sought to address was how to build solidarity among user groups. When the initial in-depth interviews were conducted some user group representatives denied conflicts exist while others agreed conflicts exist with the best solution being further segregation and educational programs.

Focus group respondents, however, often indicated points of views opposite of those cited by members of the Ad Hoc *NOVA Plan* Advisory Committee. That is, in numerous instances focus group recreationists said it may be club or organization leadership that leads or heightens attention on user group conflicts. These grass-roots level participants indicated a strong willingness to get along, bridge differences, and to work for a common good between user groups.

Overall, respondents were in favor of building solidarity between groups. Education, better communications and trail signs identifying the anticipated user group are areas suggested as improvements.

There were also many instances where respondents were misinformed, apparently through organizational communications, on substantive issues related to NOVA. These comments warrant responses to several questions: to what level do club and organization leadership represent their constituencies? Are club and organization leadership providing accurate, impartial, and up-to-date information to their constituency? What is the best way to communicate this information?

### ***Environmental Concerns***

The 1993 *NOVA Plan* required supporting plans and the “*completion of applicant required processes... prior to submission of an application to IAC for NOVA capital funding.*” Some user group respondents, however, indicated this lacked specificity regarding needed environmental review. In order to eliminate confusion, Policy C-8 (page 13) was revised.

## **B. ORV Education, Information, and Law Enforcement**

### ***E&E Funding***

Education and enforcement personnel indicated several areas of importance during Plan research. Foremost among these were:

- Increasing the E&E Full-Time employee Equivalent (FTE) dollar support limit;
- Maintaining the current option to provide matching value (since most E&E respondents indicated they currently match in excess of 40%); and
- Giving priority to ORV areas previously funded to ensure they receive NOVA E&E support.

There is concern by many E&E project sponsors regarding the growing opposition within local government for continuing the sponsorship of NOVA projects due to increasing costs and insufficient benefits. This could lead to the elimination of individual department sponsored projects.

The issue of E&E staffing was the most discussed topic during the E&E focus groups. (Policy B-4, page 11.) Beginning in 1982, IAC limited funding for each E&E position to \$45,000 per FTE (Full-Time Equivalent) with a limit of \$30,000 for equipment. E&E staff supported keeping the \$30,000 capital equipment limit as they feel any additional monies would be better directed toward supporting staff. Respondents also suggested the \$45,000 FTE limit nearly guarantees that each NOVA funding request will have a matching component.

E&E personnel also indicated some educational program activities should continue to receive a low priority. These include booths at shopping malls and county fairs, public service announcements, and in-school programs.

### ***Work Plan Requirement***

Even though there are arguments supporting adoption of work plans by E&E project sponsors<sup>[2]</sup>, continuation of this requirement was opposed in program administrators and E&E focus groups. The respondents indicated that once completed, their work plans are not consulted again. E&E officers said that when first assigned to E&E duty, they did not consult the document, but rather were briefed by their partner on the assignment's purpose, goals, objectives, etc. The elimination of this requirement may allow the officers to dedicate more time to other activities.

Retaining a few key elements in a non-plan format (Policy B-3, page 10), however, will be important. For example, such items as a listing of program

---

<sup>[2]</sup> Work plans can help in decision making, coordinating interests, prioritizing needs and actions, evaluating trends, budgeting, ensuring continuity of direction as officials change.

goals and objectives, and a description of demand and need are important to understanding a project, and should be made a part of the application and evaluation process.

### ***Education or Enforcement?***

As stated in the 1993 *NOVA Plan*, debate surrounds certain ORV educational efforts, which many feel are more promotional than educational in nature—encouraging use rather than just providing information (Policy B-2, page 10). For example, some believe that E&E presentations in schools can encourage otherwise uninterested youngsters to desire the speed and power of an ORV. Plan research suggests respondents favor interest clubs or organizations as the preferred means of communicating information, rules, regulations, environmental issues and trail etiquette. E&E funded agencies tend to favor using enforcement as their educational tool.

### ***Education-Enforcement and Nonmotorized Trail Recreation***

An issue raised by some members of the nonmotorized community is the need for a greater law enforcement presence in areas used by hikers, equestrians, and mountain bicyclists. In response, the 2004 Legislature modified the NOVA statute (chapter 46.09 RCW) to allow E&E activities to address all NOVA Program categories.

The *focus is still on recreational behaviors*, including site protection, minimum impact camping, conflict reduction, etc. Program participants expect that reductions in crime in remote areas will follow. That is, there should be less trash dumping, firearm use, trailhead thefts, trespassing, and vandalism.

## **C. ORV Facility Planning, Acquisition, Development, and Maintenance**

---

### ***Public Land Closure Perception***

Research for the Plan suggests that many motorized recreationists believe that public lands are being closed to their recreational pursuits. A number of respondents, from individual interviews, focus groups, and Internet survey support these sentiments.

Given current data, however, it is difficult to gauge the number of trails that have been closed to ORV recreation or, indeed, if any “official” trails (as opposed to unsanctioned user-built trails) have actually been closed. The most recent comprehensive trail inventory is over a decade old. Anecdotal evidence from land managers suggests some “user built” trails have been closed.

Regarding this issue, motorized recreationists have multiple concerns. They feel:

- They are losing access to their public lands;
- That if an ORV project is funded, subsequent legal action by other groups will thwart their efforts;
- That their opinions are discounted by agency bureaucracy; and
- That if nonmotorized recreationists have their way, most motorized trail recreation will eventually be illegal.

In short, they fear for the survival of their sport and access to public lands.

### ***ORV Sport Parks***

In developing background for this Plan, many respondents questioned the level of NOVA Program support for events at the competition sport parks assisted with IAC funds versus maintenance of backcountry trail-related facilities. It is generally felt that fees and charges at the parks should cover more of the cost of user events, and be more comparable to other publicly managed opportunities. (Policy C-12, page 14.)

Supporters of NOVA funding for management of sport parks feel that, because the areas provide unique regional opportunities, they should receive more funding from state sources. Others point out that IAC's support of acquisition and development of sport parks has created increased demand for limited ORV dollars for maintenance and operations, and has reduced the ability to create new, dispersed ORV trail opportunities.

Plan research suggests respondents generally favor the concept of sport parks becoming more self-sufficient. In fact, sport parks consistently ranked lowest for motorized users. This is consistent with the findings that show few of the respondents to the Internet survey<sup>[3]</sup> use the sport park facilities. However, it should be noted that both groups (motorized and nonmotorized) recognize the specialized need for the type of recreation ORV sport parks can provide.

### ***Return to ATV Roots***

Some motorized recreationists have expressed interest in returning the NOVA Program to its 1971 All-Terrain Vehicle (ATV) Program beginnings. They suggest if NOVA were to "return to its roots," more ORV trails and facilities could be built and more funding could be made available for trail maintenance.

In light of the perception by many motorized recreationists that funding is

---

<sup>[3]</sup> Respondents to the Internet survey were a self-selected sample and the findings do not necessarily represent opinions of all motorized and nonmotorized recreationists.

dwindling and lands are being closed to their activities, it may seem attractive to return to a time when the only funding consideration involved ORVs. The fact is, however, that there are few backcountry facility and trail funding programs. In 2000, for example, combining IAC's two backcountry trail programs, NOVA and the National Recreational Trails Programs, similar amounts were dedicated to nonmotorized and ORV activities: \$1,307,533 (nonmotorized) and \$1,454,975 (ORV).<sup>[4]</sup>

The 1986 Legislature revised the law governing NOVA Program funding to allow for the eligibility of certain nonmotorized recreation facilities. To seek a return to the 1971 legislation would require legislative change and would eliminate nonmotorized program contributors whom many feel should benefit from this program.

### **Grant Limits and Match**

Generally, respondents to this planning process were satisfied with the application requirements and process. Agency personnel were asked a series of questions to determine perceptions and opinions on a variety of grant related questions. Administrators suggest maintaining the policy on grant limits and matching values. Respondents said obtaining a volunteer match is usually not difficult. (Policy C-12, page 14.)

### ***ATV and SUV Increases and Lack of ATV Trails***

Since completion of the 1993 *NOVA Plan*, evidence from IAC's *Statewide Outdoor Recreation Participation Assessment and Plan* (2001) focus groups suggests a marked increase in All-Terrain Vehicle (ATV) and Sport Utility Vehicle (SUV) use. Program administrators, education and enforcement personnel, and ATV recreationists cite a lack of ATV trails. Unfortunately, it is difficult to gauge the miles of designated ATV trail in Washington as the last trail inventory is over a decade old. For this reason, IAC has worked to secure funding for an update.

In part, it is the responsibility of recreationist user groups to persuade land managers that such projects are needed and that facilities should be provided. Some have suggested the reason that new facilities have not been provided is that land managers lack the necessary resources to defend such proposals from legal action brought by opposing trail groups. This is perhaps one reason why IAC has seen a decline in grant applications for new ORV facility developments.

---

<sup>[4]</sup> IAC's Washington Wildlife and Recreation Program—Trails Category, which primarily targets nonmotorized urban trails, was not included in this analysis.

## **D. Nonmotorized Facility Planning, Acquisition, Development, and Maintenance**

---

### ***Grant Limits and Match***

Generally, respondents to this planning process were satisfied with the application requirements and process. Agency personnel were asked a series of questions to determine perceptions and opinions on a variety of grant related questions. Administrators suggested maintaining the current policy with regards to whether a grant limit or a match should be established. Respondents said obtaining a volunteer match is usually not difficult. However, National Park Service representatives said that forecasting and securing volunteer involvement on a project which may not begin for a year or more is often a challenge.

### ***Roadless Areas***

The issue of roadless areas was considered during the research process. Some nonmotorized recreationists said they do not want new motorized trails constructed or existing trails hardened (e.g., by adding concrete blocks) in roadless areas as they feel doing so could prevent those areas from receiving a Wilderness designation in the future. IAC's policy, however, is to not duplicate the land use decisions made by other entities. IAC only sets funding priorities after decisions have been made by the resource management agency.

## **E. ORV and Nonmotorized Recreation: Common Themes**

### ***Maintenance is a High Priority***

The most common theme during Plan research was maintenance. The majority of respondents favor more maintenance and better-funded NOVA maintenance and operations projects, a sentiment particularly strong among nonmotorized recreationists. Although a high proportion of motorized recreationists do favor maintenance, their number one choice for funding is acquisition and development of new trails, followed closely by maintenance.

One of the most intensely discussed issues involved the suggestion by land managers is that, historically, too much funding has been directed to capital projects without the necessary maintenance infrastructure and funding to support the efforts.

Nonmotorized respondents to individual interviews, focus groups, and the Internet survey clearly indicated that the maintenance of trails is their highest priority. Based on the 1993 *NOVA Plan*, IAC did not provide funding

for maintenance and operations of nonmotorized recreation facilities, although Chapter 46.09 RCW empowers it to do so. The policies in this 2005 Plan reflect the change in user group attitudes that now favor maintenance and operations funding in all facility categories: nonhighway road, nonmotorized, and off-road vehicle.

### ***ORV & NM Cooperation***

The concept of having motorized and nonmotorized (NM) recreationists working together was a predominant theme uncovered during research. Respondents suggest all user groups need to work together for better funding and to ensure continued access to trails and facilities.

Overall, respondents were in favor of building solidarity between groups. More education, better communications, and signs that identify the user groups one can expect to encounter on a trail were suggested improvements. There were also many instances where respondents were misinformed, apparently through organizational communications, on substantive issues related to NOVA.

### ***Encourage Increased Level of Volunteer Participation in Projects***

As stated in the policy section, research indicates support for projects that supply the “biggest bang for the buck,” or a more favorable cost-benefit. By encouraging an increased level of volunteer participation in maintenance and operations projects, a reduction in overall trail maintenance expenditures will occur. To this end, IAC will continue to encourage the establishment of volunteer maintenance projects with land managing agencies.

An example of the type of volunteer maintenance projects favored includes a crew leader type program. Working in cooperation with land managing agencies, such programs involve volunteer groups consisting of motorized and nonmotorized recreationist working together, when appropriate, to address trail maintenance issues. In this type of project, agency personnel contract with non-profit groups and train crew leaders to conduct trail maintenance projects. These trained crew leaders, in turn, coordinate intensive summer trail maintenance projects using volunteer labor. Since volunteer projects potentially have a high benefit–cost ratio, consideration should be given to rating them higher on project funding applications.

## **Trail Signs**

Respondents agreed that trail managers should be encouraged to provide information (signs, Website information, etc.) about the types of usage to be expected on each trail. (See *Primary management objective policies*, page 11.) Support for this concept was very strong among both motorized and nonmotorized user groups. Focus group participants, also, generally supported the use of signs and increased information, although they also expressed concern about the effectiveness or clutter of too many signs.

## **Loop Trails**

Respondents indicated a number of trail design features that were important, such as water bars, properly maintained trails, and trails with interesting and varied natural features. However, a topic that was very common among respondents was the lack of loop trails. This issue was of particular importance to motorized recreationists, equestrians, and mountain bicyclists. During the research process many respondents indicated the lack of loop trails and the frustration of having to turn around at the end of a circuit, or to end up at a “tank trap” (a deep trench dug across a trail to discourage further access). Loop trails may afford many recreationists an opportunity for a better experience and increased safety by directional travel.

Agencies should take this into account when creating new trails or expanding existing trails. IAC may also expand the information it provides in its current “design” evaluation question and provide examples of what constitutes good design.



# Conclusion

Adoption of this 2005 Plan revision marks the 34<sup>th</sup> year of the NOVA Program. Originally conceived to provide financial aid for motorized trail recreation and certain non-gasoline tax supported roads, today it has evolved to also provide major assistance for a broad range of pursuits. NOVA funding program subcategories now include:

- Trail and nonhighway road education and enforcement support activities
- Nonhighway road related recreational facility funding
- Nonmotorized trail facility funding and
- Off-road vehicle trail facility funding.

As the program continues through its fourth decade, it faces important challenges. For some, there are trail conflicts and too few opportunities, while for others there are program administration issues. This Plan addresses these subjects and its decisions will set direction for years to come. Regardless, the activities the Plan covers will continue to be a vital part of the quality of life enjoyed by Washington's residents and visitors alike. We will continue to hike and drive four-wheel drive vehicles; ride motorcycles, ATVs, mountain bicycles, and horses. From experience we also know that new activities will be added to this listing of things we like to do.

Perhaps more than ever we will continue to go outdoors to enjoy nature to leave behind the stresses common to today's lifestyles.

# Appendix 1

## A. NOVA Program, A History

---

### 1. ATV Program: 1971 – 1978

In 1971 the Legislature created the state All-Terrain Vehicle (ATV) Program through language placed in Chapter 46.09 of the Revised Code of Washington. This law, as later amended, established a fund source for the development and management of "ATV recreation." At that time this was an all encompassing, generic term for motorized, off-highway recreation with motorcycles (trail bikes), four-wheel drive vehicles, and conventional automobiles when used on backcountry roadways. Since then, the term "ATV" has come to mean something entirely different. It now refers to a small, easy-to-straddle off-road vehicle (ORV) with three or four low-pressure tires.

The ATV Program was the result of two groups' interest in the state gasoline tax revenue generated from motor vehicle fuel consumed off of public highways. One group, mostly composed of state government agencies, noted that there were extensive road systems on state lands, namely those managed by the departments of Wildlife and Natural Resources, and the Parks and Recreation Commission. These road systems were open to the public, but built and maintained from funds other than the tax on motor vehicle fuels. The legislature wanted to divert a portion of motor fuel taxes to manage these "nonhighway roads."<sup>[5]</sup>

The other group looking at state gas tax revenues generated from motor fuel consumed off highways was a coalition of ORV enthusiasts. That group took a different tack to a similar goal. Under the terms of RCW 82.36.280 there is a general rule that a refund will be made on any taxes paid on motor fuel consumed off the "regular" public highway system. Refunds are made to boaters, farmers, and others for off-highway use of motor fuels under this section. The coalition wanted motor fuel taxes paid on fuel consumed by ORV vehicles to be diverted to programs benefiting the users.

---

<sup>[5]</sup> It was determined that, although the State Constitution earmarks the gas tax for exclusive use for highway purposes, this does not mean that the money can only be used for city streets, county roads and public highways built or maintained by the state Department of Transportation. The term "public highway" appeared to be broad enough to include other roads constructed and maintained by public agencies. To clarify the issue, a new term -nonhighway roads (NHRs)- was coined. These are roads that are open to public use and are not constructed but may potentially be maintained, at least in part, with gas tax revenues. (In the early 1970s, only state and privately managed roads were classified as "nonhighway.")

Almost simultaneously, the state legislature and the ORV recreation coalition sought to divert some gasoline tax revenues from public highway programs to nonhighway and ORV programs. The result was the 1971 legislation that created the ATV Program.

Under the ATV Program, IAC distributed one percent of the fuel tax, along with a portion of the permit fees paid by ATV users. A block grant program helped state agencies in maintaining certain roadways, and assisted both state and local agencies in managing ATV recreation. IAC distributed nearly \$8 million dollars among 34 agencies between 1972 and 1978 under this program. Most of the ATV expenditures were for coordinators, site searches and plans, with less spent on land acquisition and development.

### **Fuel Use Study: 1972 – 1973**

In 1972-73 an All-Terrain Vehicle Fuel Use Study was conducted to help determine how much of the fuel tax should be diverted to the ATV Program. The study, conducted by the Research and Technology Division of the then Department of Motor Vehicles, examined how much gas tax revenue was generated from motor vehicle fuel consumed by recreational traffic on nonhighway roads <sup>[6]</sup> and by recreational use of ORVs. The study revealed that nonhighway recreational uses accounted for approximately 4.61 percent (77.9 million gallons) of the 1.7 billion total taxable gallons of motor fuel sold from July 1, 1972 through June 30, 1973.

While the study provided information on how much of the fuel tax should be dedicated to nonhighway recreation or ATV purposes, it did not provide detailed information about the proportions of fuel used by various types of ATV use. For example, the study did not separate fuel consumption between nonhighway roads and trails or privately managed lands; nor did it measure the amount of fuel used for recreation on federally managed nonhighway roads (national forests and national parks), on which significant recreation-related travel occurs. Results of the study did indicate that of the nonhighway-use fuel sold:

- 40.5 percent was used on state managed nonhighway roads;
- 28.5 percent was used on privately managed nonhighway roads and trails and lands; and
- 31.0 percent was used on state and federally managed trails/lands.

---

<sup>[6]</sup> RCW 46.09.020 seems to define a nonhighway road broadly enough to include the popular routes leading to Paradise and Sunrise in Mt. Rainier National Park, Hurricane Ridge in Olympic National Park, and Windy Ridge in the Mt. St. Helens National Volcanic Monument. Across the state, nonhighway roads are used by recreationists to access rivers and forest lands (including trailheads, used predominately by equestrians, hikers, mountain bicyclists, off-road vehicle recreationists, and cross-country skiers). Nonhighway roads are also used by those who may never leave the vicinity of their vehicle while they enjoy the ride, a roadside viewpoint, picnic table, or a related support facility.

## 2. ORV Program: 1977 – 1986

By the mid-1970s, it became apparent that most of the agencies participating in the IAC-managed ATV Program were experiencing great difficulties in using the funds to achieve the program's objectives. Therefore, a coalition of recreation user groups and state agencies approached the 1977 Legislature requesting modifications to the All-Terrain Vehicle Act.

As a result, the legislature amended Chapter 46.09 RCW to create the Off-Road and Nonhighway Vehicles Act, better known as the ORV Act. A primary change in this legislation was the way ORV funds were distributed. Under the amended law, funds distributed by IAC shifted from a block grant method to one based on individual project merit. In other words, funding could only occur now after project sponsors had presented firm plans and commitments to provide ORV recreation.

The amount of motor vehicle fuel excise tax transferred to the ORV Program remained at one percent. The 4.61 percent level found in the fuel use study was not politically feasible to refund.

Under the 1977 Act, funding earmarked for the benefit of nonmotorized facilities, previously distributed by IAC, was now provided directly to the state agencies. The Department of Wildlife received 3.5 percent of the one percent refund "solely for the acquisition, planning, development, maintenance and management of nonhighway roads and recreation facilities." The Department of Natural Resources received 25 percent for the same purposes, plus another 20 percent "to be used only for the acquisition, planning, development, maintenance and management of designated ORV trails, areas and campgrounds."

In effect, IAC was out of the nonmotorized funding picture. It was charged solely with distributing the remaining 51.5 percent of the one percent to federal, state, and local agencies to manage ORV programs.

The first year of project-specific funding and allocation of the first state ORV grants to a federal agency (Wenatchee National Forest) was 1978. Projects funded in 1978 would prove to be an accurate prediction of program direction for the next several years: grants to counties emphasized planning, intensive use, education, and enforcement, while grants to state and federal agencies emphasized dispersed opportunities on trails. No requests were received from cities.

From 1978 through 1986, IAC administered \$9.7 million under the ORV Program for ORV recreation facilities and programs (Table 1).

<b>Table 1.</b> <b>IAC Administered ORV Program Funding (1978 - 1986)</b>				
<b>Agency Type</b>	<b>Off-Road Vehicle Projects</b>			<b>TOTAL</b>
	Education and Enforcement	Maintenance and Operation	Planning, Acquisition & Development	
Local	\$1,956,000	\$1,820,000	\$2,810,000	\$6,586,000
State	10,000	261,000	231,000	502,000
Federal	0	2,000	2,582,000	2,584,000
<b>TOTAL</b>	<b>\$1,966,000</b>	<b>\$2,083,000</b>	<b>\$5,623,000</b>	<b>\$9,672,000</b>

### 3. NOVA Program: 1986 – 1993

As the mid-1980s approached, it again became apparent that more fine-tuning of the ORV legislation would be needed. The program had evolved to a point where a different user group was demanding to be heard—the "nonmotorized" recreationists. This group is composed primarily of individuals, such as hikers or equestrians, who use nonhighway roads (NHR) to access nonmotorized recreational opportunities on Department of Natural Resources or Forest Service roads to access trail heads. This group wanted a share of the funds for the acquisition and development of lands and facilities.

A second reason for modifying Chapter 46.09 RCW was to establish priorities among the agencies and user groups competing for funding under this grants program. A compromise for allocation of program funds, reached after months of intense debate, mandated that:

- IAC would receive 54.5 percent (instead of 51.5 percent) of the available funds for distribution for recreational nonmotorized facilities, ORV education and law enforcement activities, and recreational ORV facilities;
- The Department of Natural Resources would receive 40 percent for nonmotorized and ORV purposes (and divert 10 percent of its share to IAC for ORV law enforcement);
- The Department of Wildlife would continue to receive 3.5 percent for nonmotorized purposes; and
- The State Parks and Recreation Commission would receive 2 percent for ORV purposes.

A NOVA Program Advisory Committee, established by the 1986 Act (RCW 46.09.280), assists IAC in administration of its NOVA funds. The committee consists of nonmotorized and ORV recreationists, and local, state and federal agency representatives. Committee members provide valuable advice to IAC and represent the views and needs of the users, organizations and agencies that are affected by NOVA funding.

Between 1986 and 1993, IAC granted \$17.7 million for ORV recreation facilities and programs, and nonmotorized recreation facilities (Table 2).

<b>Table 2.</b>					
<b><i>IAC Administered NOVA Program Funding (1986 – 1993)</i></b>					
<b>Agency Type</b>	<b>Off-Road Vehicle Projects</b>			<b>Nonhighway Road Projects</b>	<b>TOTAL</b>
	Education and Enforcement	Maintenance and Operations	Planning, Acquisition & Development	Planning, Acquisition & Development	
Local	\$3,954,000	\$2,108,000	\$3,880,000	\$372,000	\$10,314,000
State	170,000	0	1,190,000	799,000	2,159,000
Federal	313,000	114,000	2,637,000	2,138,000	5,202,000
<b>TOTAL</b>	<b>\$4,437,000</b>	<b>\$2,222,000</b>	<b>\$7,707,000</b>	<b>\$3,309,000</b>	<b>\$17,675,000</b>

In 1990, the Legislature raised the fuel tax \$.05 per gallon (from \$.18 to \$.23). At that time it also amended Chapter 46.09 RCW (and other recreational fuel tax refund statutes) to prevent any of the increase from being refunded to the NOVA Program. In effect, the legislature capped the refund, limiting it to the portion of the fuel tax rate in effect in 1990.

### **1992-93 Legislative Session**

1992 saw the first serious attempt to modify Chapter 46.09 RCW since the NOVA Program was created in 1986 and the NOVA fuel tax refund was "capped" in 1990. This attempt was embodied in Substitute Senate Bill 5319.

If passed into law, this bill would have lifted the 1990 cap imposed on fuel tax increases for both the NOVA Program and the IAC-managed Boating Facilities (Initiative 215) Program and given IAC discretion to move funds between ORV and nonmotorized categories. The amount of NOVA funds earmarked for E&E grants would have remained fixed at 20 percent.

Although passage of the bill would have increased the amount of NOVA funding, some NOVA stakeholders were concerned about changes to the funding apportionments. In a transportation committee hearing reflective of the contentious nature of the program, conflicting statements were made by apparently polarized NOVA interests—motorized interests opposed the proposal while most nonmotorized interests favored it.

Although the bill passed out of policy committees it never reached the floor of the Senate for a vote. Some observers believe that the bill survived early defeat because of the interest of Eastern Washington legislators in securing more funds for county ORV law enforcement efforts, and the considerable support of those benefiting from increases to the boating facilities funding.

#### 4. NOVA Program: 1994 - 2002

In the period between adoption of the 1993 and 2002 Plans, the Program funded 289 NOVA projects totaling more than \$28 million dollars, including sponsoring agency contributions (Table 3).

<b>Table 3.</b>				
<b>IAC Administered NOVA Program Funding (1994 – 2002<sup>(1)</sup>)</b>				
<b>Funding Category</b>	<b># of Projects</b>	<b>IAC NOVA Funding</b>	<b>Sponsor Match</b>	<b>Total Value</b>
Education & Enforcement (ORV E&E)	59	\$5,302,511 <sup>(2)</sup>	\$1,875,150	\$7,177,622
Maintenance & Operations (ORV M&O)	58	4,688,742	2,926,934	7,615,676
Off-Road Vehicle (ORV) Projects	81	7,260,020	974,859	8,234,879
Nonmotorized (NM) Projects	75	3,394,507	2,165,249	5,559,757
<b>Total</b>	<b>289<sup>(3)</sup></b>	<b>\$20,645,780</b>	<b>\$7,942,193</b>	<b>\$28,587,973</b>
<sup>(1)</sup> NOVA projects were not funded in 2002; funding meetings were rescheduled for March of succeeding years. <sup>(2)</sup> Amount exceeds 20% [RCW 46.09.170(1)(d)(iii)] due to Dept. of Natural Resources transfers provided under RCW 46.09.170(1)(a)(v). <sup>(3)</sup> Includes a formerly funded project type ("ORV support coordinator"). From 1979 – 1993 16 such projects were funded.				

#### 5. NOVA Program: 2003 – 2005

By 2001, interest in a new fuel use study had reached a peak, causing the legislature to direct IAC "...to determine the relative portion of motor vehicle fuel tax revenues attributable to vehicles operating off-road and on nonhighway roads for various recreational purposes directed". The 12-month diary based survey was completed in February 2003 and signaled the beginning of another round of sweeping program changes.

A direct result of the presentation of "Washington State Nonhighway and Off-road Vehicle Activities Fuel Use Survey", prepared for IAC by Hebert Research, Inc., was passage of Substitute Senate Bill 1698, signed by the Governor on May 9, 2003. This law revised the NOVA Advisory Committee membership and directed that it make recommendations to the 2004 Legislature. In effect, the advisory committee was to review the NOVA Program distribution formulas and policies and make recommendations back to the Legislature consistent with the most recent fuel use study.

The resulting “*Report to the Legislature: Nonhighway and Off-Road Vehicle Activities Program* (December 31, 2003) provided the recommendations summarized on page 5. These recommendations led to Substitute House Bill 2489, signed into law on March 24, 2004, which adopted the changes proposed in the *Report to the Legislature*. To complete the process, IAC adopted the related program policy manuals on September 14, 2004. By March 10, 2005, the first group of 71 projects under the revised law had been funded by IAC.

After the funding meeting of March 2005 (in which a record 109 projects were submitted for funding consideration), IAC changed the program’s schedule. In the future, funding meetings would be held in November, to synchronize the NOVA funding schedule with the majority of IAC’s grants programs. This meant there would be two NOVA funding meetings in 2005.

## **B. ORV Education, Information, and Law Enforcement History**

---

The education and enforcement (E&E) category of the NOVA Program is established in RCW 46.09.170. Under the block grant ATV Program in effect in the early and mid-70s, no discrete law enforcement projects were funded. In 1977, however, the "ATV law" was changed to the "ORV" law and state ORV funds were no longer made available on a block grant basis. Instead, ORV funds were distributed on a competitive project basis. That year, the first education-oriented grant was made.

Between 1978 and 1985, education and enforcement grant applications competed with all other ORV project applications. The number and amount of education and law enforcement grants grew quickly. In late 1985, concern was expressed about the amount of funding used for E&E activities. E&E funding had increased over 75 percent between 1984 and 1985 (Table 4). In fact, grant dollars awarded to E&E projects over a six-year period had increased 500 percent. As one result, IAC adopted an administrative guideline to limit E&E grants to \$45,000 per full-time equivalent (FTE).



**Table 4.**  
**ORV Education & Enforcement (E&E) Grants Since 1979**

Year	Amount	# Projects	Year	Amount	# Projects
1979	\$101,000	3	1989	-	-
1980	146,000	5	1990	\$749,000	18
1981	146,000	4	1991	685,000	16
1982	242,000	5	1992	798,000	16
1983	370,000	7	1993	599,000	12
1984	316,000	7	1994	1,280,342	15
1985	559,000	9	1995 <sup>†</sup>	1,356,311	15
1986	562,000	10	1997	1,412,578	15
1978	679,000	14	1999	1,459,036	14
1988	606,000	14	2002 <sup>‡</sup>	1,585,000	14

Note: In November 1989 a new schedule of deadlines was adopted which moved the E&E funding meeting from November to March of each year. To account for the additional time needed to carry projects through to the next funding meeting in March of 1990, three months of supplementary funding support was added to each 1988 project. (Funding meeting dates were also changed in 1997 and 2002.)

<sup>†</sup> 1995 marks the beginning of the biennial funding cycle.

<sup>‡</sup> 2002-2003 funding is an estimate based on 14 E&E applications requesting \$1,585,000.

Until 1986, 50% of the ORV dollars managed by IAC could be allocated to the E&E category. That year, the NOVA legislation was amended, in part to limit E&E funding from IAC's NOVA apportionment (54.5 percent of total) to no more than 20 percent. Another provision, made during last-minute negotiations among various interests, had the Department of Natural Resources return 10 percent of its direct NOVA appropriation to IAC for E&E grants in those counties where DNR managed ORV facilities.

The *1987 Washington State Off-Road Vehicle Plan* recommended "E&E projects give priority to proposals that demonstrate a primary focus on the education and safety of ORV users, and the promotion of a responsible outdoor ethic."

NOVA funding supports a wide variety of education and enforcement activities. Some sheriff's departments, such as those in Chelan and Yakima counties, put uniformed officers in the field to contact enthusiasts on trails and in campgrounds.

An increasing number of USDA, Forest Service sponsors receive NOVA funding for seasonal trail rangers who perform education and enforcement. The Forest Service looks to these rangers to help manage use on federal lands, especially as new or improved facilities such as trails and camps have increased in numbers and management challenges.

The Department of Natural Resources also competes with other sponsors for E&E funding. The agency is increasingly faced with "urban problems" on

its lands. Vandalism, shootings, and other illegal activities have forced DNR to request funding for its own law enforcement personnel.

In prior years, non-enforcement programs, such as those in Snohomish County (1990-92) and the Tacoma Metropolitan Park District, have used NOVA funds to support ORV education and awareness activities (no law enforcement elements). These agencies emphasized in-school and pick-up-and-ride programs to teach the fundamentals of environmental sensitivity and riding safety to young people.

Other miscellaneous E&E activities are not easily categorized. Examples include publication of the *Washington ORV Guide* (a reference of places to ride, legal requirements, and riding etiquette), displays at the Puyallup Fair (a major booth at the state's most-attended exposition), and an ORV curriculum project (development of a standardized education "package" for program sponsors).

## 2002 Issues

Education and enforcement and maintenance and operations grants were streamlined in 1995 from annual funding to a biennial cycle.

Since the 1993 Plan update a few long standing county participants in the E&E program have dropped out:

- Kittitas County, 18 projects from 1978-1999, none thereafter.
- Thurston County, 14 projects from 1978-1991, none thereafter.
- Pierce County, 6 projects from 1985-1992, none thereafter.

One reason for these departures from the program is the difficulty in finding qualified deputies to work only six months each year.

Longstanding program participants are:

- U.S. Forest Service, 45 projects from 1987-2001.
- Yakima County, 25 projects from 1978-2001.
- Chelan County, 23 projects from 1978-2001.
- Grant County, 15 projects from 1983-2001.
- Washington State Department of Natural Resources, 17 projects from 1993-2001.
- Mason County, 13 projects from 1985-2001.

## 2004 Changes

Before the 2004 legislative session, chapter 46.09 of the Revised Code of Washington authorized use of funds only for ORV user education and information and law enforcement programs. In the 2004 legislative session, and in accord with NOVA Advisory Committee recommendations, "ORV" was removed from the mandate, thus effectively allowing NOVA E&E projects to address other NOVA activities: equestrian and hiking.

## C. ORV Facility Planning, Acquisition, and Development History

---

Off-road vehicle activity began modestly in the years immediately following World War II, when surplus military vehicles came into use for recreational purposes. In the late 1960s and early 1970s, ORV recreation exhibited rapid growth.

The increase in recreational use of ORVs quickly came into conflict with a decided lack of developed facilities designed and sanctioned for ORV use. Because of this, ORV use often negatively impacted communities or neighborhoods, land and resources, and other forms of recreation.

The initial lack of facilities forced ORV use into a difficult position—the most visible use was unsanctioned and therefore not widely accepted by the public. Virtually all ORV use quickly became identified in the public mind with objectionable behavior—whether an unlicensed youth riding an unmuffled motorcycle on a vacant lot, or intense ORV use heavily impacting vegetation on public or private land.

Most recreation-providing agencies, especially at the local level, did not have the resources necessary to plan or provide ORV facilities. One key resource initially in short supply was funding.

Under the ATV Program, IAC distributed approximately \$8 million in block grants to 31 counties and to the Department of Game (now Fish and Wildlife), the Department of Natural Resources, and the State Parks and Recreation Commission. Funds were distributed according to the ORV facility inventory of a given area.

Dissatisfaction with a perceived lack of accountability in the "inventory-driven" block grant program led to the formation of a user-oriented task force to review the ATV Program. Coordinated by IAC, the task force included the Northwest Motorcycle Association, the Pacific Northwest Four-Wheel Drive Association, and the Department of Natural Resources. The task force's efforts resulted in important changes to Chapter 46.09 RCW in 1977, including the creation of a project-specific grant program, which allowed grants explicitly for planning, land acquisition, and facility development.

Since the late 1970s, IAC has committed about \$33.2 million in funding for ORV planning, acquisition, and development projects under the ORV Program, and later the NOVA Program.

Historically, land acquisition projects have not played a very large role in the NOVA Program. For example, there were only 9 acquisition projects funded between 1978 and 1993. Only 5 projects were funded between 1994 and 2000. Nearly all of these projects were submitted by the State Department of Natural Resources to acquire leases for recreation facilities, such as trails and campgrounds.

#### **D. ORV and Nonmotorized Facility Maintenance and Operation History**

---

ORV and nonmotorized (NM) recreation facilities include trails, trailheads, campgrounds, and day use areas. Owning and managing these facilities involves many ongoing responsibilities, including trail clearing, outhouse and picnic table repair, fire and weed control, fence and sign repair, and visitor management. Ideally, maintenance and operation should achieve a standard that, among other things, protects the resource and visitor, preserves functionality, satisfies legal requirements, and minimizes long-term capital costs.

The NOVA Program has the ability to fund management of ORV and nonmotorized facilities. Because IAC is given the discretion to use NOVA funds for capital and management purposes, it must decide the most beneficial uses. Thus, due to the relative scarcity of nonmotorized funds before the 2004 changes to the funding formula, and until adoption of the 2002 Plan, IAC policy did not allow the granting of funds to nonmotorized maintenance and operation projects.

Since 1978, the vast majority of IAC's maintenance and operation support has gone to local agencies to assist intensive use areas—ORV sport parks.

In the late 1980s at least three factors contributed to increased demand for NOVA's maintenance and operation funding:

- Completion of a third IAC-funded sport park in Spokane County. ORV sport parks have traditionally received the vast majority of their management funding from IAC. After completion, and despite initial assurances that its facility would be self-supporting, Spokane's sport park began competing with facilities in Thurston County and Richland for M&O dollars.
- Shifting of tasks previously funded under the Education and Enforcement (E&E) category. It became increasingly apparent that many dimensions of proposed projects, previously funded as E&E, were maintenance and operation responsibilities. These tasks were separated out and shifted to projects seeking maintenance and operations funding.

- Increase in Forest Service sponsored maintenance and operations projects. Forest plans identify NOVA as a potential funding source for management of its dispersed ORV opportunities.

## 2002 Update

*Sport Parks.* For the 2000-01 period, maintenance and operation grant requests from Spokane County for its Airway Heights ORV Sport Park decreased substantially. For that period, it requested and received \$64,820 for a tractor/backhoe and general-liability insurance. No funding was requested for general maintenance and operations, even though considerable funding had been granted for these purposes previously: \$207,898 (1994-95), \$207,301 (1996-97), \$104,375 (1998-99).

Early in 1999, a private party was engaged to operate the park on behalf of the county with its full range of ORV activities and events: open 10 months of the year (10 AM to dusk, seven days a week), including a four-wheel drive course, mud-bog, sand drags, asphalt racing, oval dirt racing, motocross track and overnight camping. In addition to providing the majority of the overhead expenses required to operate the park, the contractor was obligated to provide an estimated annual in kind contribution of \$50,000 to Spokane County, reflected in the form of the two year "Sponsor Match" of \$100,000 for the IAC grant.

*Forest Service Trails.* Maintenance and operation grants to the U.S. Forest Service have increased dramatically since the 1993 Plan:

- 1984-1993, 11 grants, during 10 years, an average of 1.1 grants/year.
- 1994-1999, 35 grants, during 6 years, an average of 5.8 grants/year.
- 2000-2005, 45 grants, during 6 years, an average of 7.5 grants/year.

There are two reasons for this increase. The first is the removal of a policy affecting maintenance and operations funding to the Forest Service. Before 1991, the policy limited the Forest Service to all but the most rudimentary and low cost trail maintenance, such as spring trail removing debris that would blow/fall down over the winter. Until that time, IAC's priority was to support new trail development, of which the Forest Service provided many proposals for IAC to fund:

- 1978-2000, 87 development projects funded, an average of 4 projects/year.
- 1978-1993, 58 development projects, an average of 3.9 projects/year.
- 1994-2000, 29 development projects, an average of 4.8 projects/year.
- 2001-2005, 35 development projects, an average of 7 projects/year.

From these numbers, it appears funded development projects actually increased (from an average of 3.9 to 7 projects per year). However, sometimes there is a fine line between defining a project as maintenance and operations or renovation. Since 1993, IAC has funded 91 ORV development projects, about 25% of which provided new opportunities. The remaining 52 projects either renovated an existing site or made improvements such as bridging creeks to allow the existing use to continue without harming the environment.

Renovation projects rarely run into environmental opposition (i.e. lawsuits, internal concerns expressed by agency biologists, etc.) when the Forest Service is completing its checklist to determine whether or not the project should proceed on to IAC's funding process. Correcting environmental problems on existing trails was the primary reason the majority of these projects were brought to IAC.

The second reason for the increase in IAC NOVA funding to the Forest Service are the severe cutbacks in federal funding. These cutbacks have resulted in more applications to IAC. Just one example of the several reductions the Forest Service's recreation programs have suffered involves timber revenues. Historically, Region 6's (Oregon and Washington) has received greater recreation funding than the other regions. This was due to a vigorous timber program that was able to financially support some recreation improvements such as trailheads. More importantly, however, is that timber revenues also funded the bulk of overhead costs, such as computers, office space, and support staff.

Because of economic concerns regarding impacts on rural communities the Forest Service budgets in Region 6 were maintained at higher levels than in the rest of the nation. In 2002, however, the regional foresters decided to level the funding throughout the nation. This resulted in serious budget reductions in the recreation program in 2004, 2005, and 2006. These reductions have hit the local ranger districts particularly hard with reductions in the range of 30% each year.

## **2005 Update**

In 2002, Thurston County closed the Thurston-Grays Harbor Counties' ORV sport park, citing a need to maintain and improve parks that benefit local residents. Also cited were concerns about liability following the deaths of two people. Until the closure, the County had operated one of only three publicly owned competition parks in the state assisted with NOVA funds. The other two are in Spokane County and Richland.

IAC, which had provided the principal source of funding for the park's acquisition, development, and maintenance, cited serious concerns that the county had violated its NOVA contracts by closing the park. As a result, and after multiple attempts over a two-year period to negotiate the reopening of the park, the state filed a lawsuit in 2004 requesting that a judge decide the

rights and responsibilities of both the county and the state in this matter. In 2005, however, the Legislature adopted a budget proviso [section 303(4), ESSB6090] that resolved the matter by directing pursuit of one of two options:

- Thurston and Grays Harbor counties could sell the property with the proceeds to be reinvested in opportunities for off-road vehicles in Western Washington; or
- Thurston and Grays Harbor counties could transfer ownership of the property to another local or state agency for ORV recreation purposes.

In September 2005, Thurston County transferred ownership of its portion of the park to Grays Harbor County (GHC) and it was reopened in October 2005.

## **E. Nonhighway Road and Nonmotorized Categories Facility Planning, Acquisition, and Development History**

---

Until 1986, the ORV Program, predecessor to today's NOVA Program, funded motorized projects only. That year, Chapter 46.09 of the Revised Code of Washington was amended to allow the funding of nonmotorized projects. Later, in 2004, the law was again amended, this time to allow funding of projects that primarily benefit recreationists who are not trail users, but rather those who stay close to the nonhighway roads, such as anglers, gatherers (berry pickers, rock hounds, wood cutters, etc.), sightseers, etc. The rationale for these amendments is that recreationists pay taxes on fuel when they use nonhighway roads for recreational purposes, thereby contributing to this fuel tax-supported program.

*A nonhighway road, as defined by Chapter 46.09 RCW is:*

*"... owned or managed by a public agency, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last 25 years; or (b) maintenance in the last four years."*

An example of a "typical" nonhighway road is a federal or state logging road. These roads are built and maintained by timber receipts, general fund appropriations, and (for roads managed by the Departments of Natural Resources or Wildlife) NHR monies from Chapter 46.09 RCW. Additionally, NHRs also include roads within state forests and parks as well as national parks and forest lands.

Until 2004, Chapter 46.09 RCW limited IAC's Nonmotorized Category project funding to 20 percent of its total NOVA fund in any given year. Through 2001, this amounted to about \$400,000 to \$600,000 per year. Until completion of the 2002 NOVA Plan, IAC allocated nonmotorized funds to capital and planning projects. Grants for maintenance and operation projects were not allowed.

### **2001-2005 Update**

Since 1994, IAC funded 81 nonmotorized and nonhighway road development projects, a minority of which provided new opportunities while most renovated existing facilities or completed such projects as trail bridges. Through the years, most nonmotorized programs have shifted from a focus on development projects (pre-1994) to a focus on renovations (post-1993). Volunteer labor contributions have become very significant since 1993. There are a variety of reasons for this, including the federal downsizing of support for maintenance.

---



# Appendix 2

## Chapter 46.09 RCW (12/04)

### OFF-ROAD AND NONHIGHWAY VEHICLES

#### SECTIONS

- 46.09.010 Application of chapter -- Permission necessary to enter upon private lands.
- 46.09.020 Definitions.
- 46.09.030 Use permits -- Issuance -- Fees.
- 46.09.040 Use permit prerequisite to operation.
- 46.09.050 Vehicles exempted from ORV use permits and tags.
- 46.09.070 Application for ORV use permit.
- 46.09.080 ORV dealers -- Permits -- Fees -- Number plates -- Title application -- Violations.
- 46.09.085 Selling ORV without use permit.
- 46.09.110 Disposition of ORV moneys.
- 46.09.120 Operating violations.
- 46.09.130 Additional violations -- Penalty.
- 46.09.140 Accident reports.
- 46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable.
- 46.09.165 Nonhighway and off-road vehicle activities program account.
- 46.09.170 Refunds from motor vehicle fund -- Distribution -- Use.
- 46.09.180 Regulation by local political subdivisions or state agencies.
- 46.09.190 General penalty -- Civil liability.
- 46.09.200 Enforcement.
- 46.09.240 Administration and distribution of ORV moneys.
- 46.09.250 Statewide plan.
- 46.09.280 Nonhighway and off-road vehicle activities advisory committee.
- 46.09.900 Severability -- 1971 ex.s. c 47.

#### **RCW 46.09.010 Application of chapter -- Permission necessary to enter upon private lands.**

The provisions of this chapter shall apply to all lands in this state. Nothing in chapter 43.09 RCW, \*RCW 67.32.050, 67.32.080, 67.32.100, 67.32.130 or 67.32.140 shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner.

[1972 ex.s. c 153 § 2; 1971 ex.s. c 47 § 6.]

#### **RCW 46.09.020 Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.280.

(2) "Committee" means the interagency committee for outdoor recreation established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Department" means the department of licensing.

(5) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(6) "Motorized vehicle" means a vehicle that derives motive power from an internal combustion engine.

(7) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(8) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(9) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(10) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(11) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(12) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(13) "Off-road vehicle" or "ORV" means any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

(14) "Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

(15) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(16) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

(17) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(18) "ORV sport[s] park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(19) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

(20) "ORV use permit" means a permit issued for operation of an off-road vehicle under this chapter.

(21) "Owner" means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

(22) "Person" means any individual, firm, partnership, association, or corporation.

[2004 c 105 § 1; 1986 c 206 § 1; 1979 c 158 § 129; 1977 ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7.]

#### **RCW 46.09.030 Use permits -- Issuance -- Fees.**

The department shall provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. The provisions of RCW 46.01.130 and 46.01.140 apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees.

[1990 c 250 § 23; 1986 c 206 § 2; 1977 ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8.]

#### **RCW 46.09.040 Use permit prerequisite to operation.**

Except as provided in this chapter, no person shall operate any off-road vehicle within this state after January 1, 1978, unless the off-road vehicle has been assigned an ORV use permit and displays a current ORV tag in accordance with the provisions of this chapter: PROVIDED, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section.

[1977 ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9.]

**RCW 46.09.050 Vehicles exempted from ORV use permits and tags.**

ORV use permits and ORV tags shall be required under the provisions of this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) Off-road vehicles operated on agricultural lands owned or leased by the ORV owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV permit or vehicle license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles which are licensed pursuant to chapter 46.16 RCW or in the case of nonresidents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence.

[2004 c 105 § 9; 1986 c 206 § 3; 1977 ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10.]

**RCW 46.09.070 Application for ORV use permit.**

(1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of eighteen dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of eighteen dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of five dollars.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of seven dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.

[2004 c 106 § 1; 2002 c 352 § 1; 1997 c 241 § 1; 1986 c 206 § 4; 1977 ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12.]

**RCW 46.09.080 ORV dealers -- Permits -- Fees -- Number plates -- Title application -- Violations.**

(1) Each dealer of off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW shall obtain an ORV dealer permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of an application for an ORV dealer permit and the fee under subsection (2) of this section, the dealer shall be registered and an ORV dealer permit number assigned.

(2) The fee for ORV dealer permits shall be twenty-five dollars per year, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits.

(3) Upon the issuance of an ORV dealer permit each dealer may purchase, at a cost to be determined by the department, ORV dealer number plates of a size and color to be determined by the department, that contain the dealer ORV permit number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a manner prescribed by the department.

(4) No dealer, dealer representative, or prospective customer shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ORV dealer permit numbers shall be nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with this section.

(7) When an ORV is sold by a dealer, the dealer shall apply for title in the purchaser's name within fifteen days following the sale.

[1990 c 250 § 24; 1986 c 206 § 5; 1977 ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13.]

#### **RCW 46.09.085 Selling ORV without use permit.**

Except as provided in RCW 46.09.050, it is unlawful for any dealer to sell at retail an off-road vehicle without an ORV use permit required in RCW 46.09.040.

[2004 c 105 § 10.]

#### **RCW 46.09.110 Disposition of ORV moneys.**

The moneys collected by the department under this chapter shall be distributed from time to time but at least once a year in the following manner:

The department shall retain enough money to cover expenses incurred in the administration of this chapter: PROVIDED, That such retention shall never exceed eighteen percent of fees collected.

The remaining moneys shall be distributed for ORV recreation facilities by the interagency committee for outdoor recreation in accordance with RCW 46.09.170(2)(d)(ii)(A).

[2004 c 105 § 2; 1986 c 206 § 6; 1985 c 57 § 60; 1977 ex.s. c 220 § 9; 1972 ex.s. c 153 § 11; 1971 ex.s. c 47 § 16.]

#### **RCW 46.09.120 Operating violations.**

(1) It is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail, when these are restricted to pedestrian or animal travel; and

(i) On any public lands in violation of rules and regulations of the agency administering such lands.

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

[2003 c 377 § 1; 1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

**RCW 46.09.130 Additional violations -- Penalty.**

(1) No person may operate a nonhighway vehicle in such a way as to endanger human life.

(2) No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by the director of fish and wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

(3) For the purposes of this section, "hunt" means any effort to kill, injure, capture, or purposely disturb a wild animal or bird.

(4) Violation of this section is a gross misdemeanor.

[2004 c 105 § 4; (2004 c 105 § 3 expired July 1, 2004); 2003 c 53 § 233; 1994 c 264 § 35; 1989 c 297 § 3; 1986 c 206 § 7; 1977 ex.s. c 220 § 11; 1971 ex.s. c 47 § 18.]

**RCW 46.09.140 Accident reports.**

The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted.

[1990 c 250 § 25; 1977 ex.s. c 220 § 12; 1971 ex.s. c 47 § 19.]

**RCW 46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable.**

Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended.

[1977 ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20.]

**RCW 46.09.165 Nonhighway and off-road vehicle activities program account.**

The nonhighway and off-road vehicle activities program account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The interagency committee for outdoor recreation shall administer the account for purposes specified in this chapter and shall hold it separate and apart from all other money, funds, and accounts of the interagency committee for outdoor recreation. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and any moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account.

[1995 c 166 § 11.]

**RCW 46.09.170 Refunds from motor vehicle fund -- Distribution -- Use.  
(Effective June 30, 2005.)**

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the committee for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the committee receives under RCW 46.09.110, may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The committee may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the committee's project evaluation. Funds remaining after such a waiver must be allocated in accordance with committee policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2003-05 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the interagency committee for outdoor recreation, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission. This appropriation is not required to follow the specific distribution specified in subsection (2) of this section.

[2004 c 105 § 6. Prior: 2003 1st sp.s. c 25 § 922; 2003 c 361 § 407; 1995 c 166 § 9; 1994 c 264 § 36; 1990 c 42 § 115; 1988 c 36 § 25; 1986 c 206 § 8; 1979 c 158 § 130; 1977 ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22.]

#### **RCW 46.09.180 Regulation by local political subdivisions or state agencies.**

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter.

[1977 ex.s. c 220 § 15; 1971 ex.s. c 47 § 23.]

#### **RCW 46.09.190 General penalty -- Civil liability.**

(1) Except as provided in RCW 46.09.120(2) and 46.09.130 as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage.

[1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

#### **RCW 46.09.200 Enforcement.**

The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW \*43.30.310, 76.04.035, and 76.04.045.

[2001 c 253 § 3; 1986 c 100 § 52; 1971 ex.s. c 47 § 25.]

#### **RCW 46.09.240 Administration and distribution of ORV moneys.**

(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the interagency committee for outdoor recreation shall, at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 to state agencies, counties, municipalities, federal agencies, nonprofit ORV organizations, and Indian tribes. Funds distributed under this section to nonprofit ORV organizations may be spent only on projects or activities that benefit ORV recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The committee shall adopt rules governing applications for funds administered by the agency under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The interagency committee for outdoor recreation shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act, chapter 43.21C RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.).

[2004 c 105 § 7; 1998 c 144 § 1; 1991 c 363 § 122; 1986 c 206 § 9; 1977 ex.s. c 220 § 17.]

**RCW 46.09.250 Statewide plan.**

The interagency committee for outdoor recreation shall maintain a statewide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of funds under this chapter.

[1986 c 206 § 11; 1977 ex.s. c 220 § 18.]

**RCW 46.09.280 Nonhighway and off-road vehicle activities advisory committee.**

(1) The interagency committee for outdoor recreation shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including but not limited to people with ORV, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's ORV and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW 46.09.110.

(3) At least once a year, the interagency committee for outdoor recreation, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW 46.09.110 and 46.09.170 and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW 46.09.170 to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study.

[2004 c 105 § 8; 2003 c 185 § 1; 1986 c 206 § 13.]

**RCW 46.09.900 Severability -- 1971 ex.s. c 47.**

If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1971 amendatory act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 47 § 26.]