

RCW 79.105.010 Aquatic lands – Findings.

The legislature finds that state-owned aquatic lands are a finite natural resource of great value and an irreplaceable public heritage. The legislature recognizes that the state owns these aquatic lands in fee and has delegated to the department the responsibility to manage these lands for the benefit of the public. The legislature finds that water-dependent industries and activities have played a major role in the history of the state and will continue to be important in the future. The legislature finds that revenues derived from leases of state-owned aquatic lands should be used to enhance opportunities for public recreation, shoreline access, environmental protection, and other public benefits associated with the aquatic lands of the state. The legislature further finds that aquatic lands are faced with conflicting use demands.

RCW 79.105.030 Aquatic lands – Management guidelines.

The management of state-owned aquatic lands shall be in conformance with constitutional and statutory requirements. The manager of state-owned aquatic lands shall strive to provide a balance of public benefits for all citizens of the state. The public benefits provided by state-owned aquatic lands are varied and include:

- (1) Encouraging direct public use and access;
- (2) Fostering water-dependent uses;
- (3) Ensuring environmental protection;
- (4) Utilizing renewable resources.

Generating revenue in a manner consistent with subsections (1) through (4) of this section is a public benefit.

ARTICLE XV**HARBOR AND TIDE WATERS**

SECTION 1 HARBOR LINE COMMISSION AND RESTRAINT ON DISPOSITION. The legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable waters of all harbors, estuaries, bays and inlets of this state, wherever such navigable waters lie within or in front of the corporate limits of any city, or within one mile thereof on either side. Any harbor line so located or established may thereafter be changed, relocated or reestablished by the commission pursuant to such provision as may be made therefor by the legislature. The state shall never give, sell, or lease to any private person, corporation, or association any rights whatever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high water, and within not less than fifty feet nor more than two thousand feet of such harbor line (as the commission shall determine) be sold or granted by the state, nor its rights to control the same relinquished, but such area shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

RCW 79.115.010 Harbor lines and areas to be established

- (1) It is the duty of the board acting as the harbor line commission to locate and establish harbor lines and determine harbor areas, as required by Article XV, section 1 of the state Constitution, where harbor lines and harbor areas have not previously been located and established.
- (2) The board shall locate and establish outer harbor lines beyond which the state shall never sell or lease any rights whatever to private persons, and to locate and establish the inner harbor line, thereby defining the width of the harbor area between such harbor lines. The harbor area shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

WAC 332-30-109 Harbor area.

- (1) Harbor areas shall be reserved for landings, wharves, streets and other conveniences of navigation and commerce.
- (2) Water-dependent commerce shall be given preference over other uses of harbor areas.
- (3) Every consideration shall be given to meeting the expanding need for navigation and water-dependent commerce in existing harbor areas.
- (4) Several industries using the same harbor area facility shall be given preference over single industry use.
- (5) Shallow draft uses, such as barge terminals and marinas, shall be preferred over deep draft uses, in areas requiring extensive maintenance dredging.
- (6) Harbor lines may be adjusted, when authorized by the legislature, to provide reasonable opportunity to meet the present and future needs of commerce and navigation.
- (7) In harbor areas where no current constitutional use (navigation and commerce) is called for or practical and other uses are in demand, interim uses may be authorized by the board of natural resources if in the public interest.
- (8) The department will, where in the public interest, promote the conversion of existing nonconforming uses to conforming uses by assisting if possible, such users in resiting their operations and by withdrawing renewal options on affected state harbor area leases.
- (9) The department will promote full development of all existing suitable harbor areas for use by water-dependent commerce.
- (10) Abandoned structures determined to be unsightly or unsafe by the department shall be removed from harbor areas by the owner of the structures upon demand by the department or by the department in which case the owner will be assessed the costs of such removal.
- (11) Floating houses are not permitted in harbor areas.

WAC 332-30-115 Harbor area use classes.

These classes are based on the degree to which the use conforms to the intent of the constitution that designated harbor areas be reserved for landings, wharves, streets and other conveniences of navigation and commerce.

(1) **Water-dependent commerce.** Water-dependent commerce are all uses that cannot logically exist in any other location but on the water and are aids to navigation and commerce. These are preferred harbor area uses. Leases may be granted up to the maximum period allowed by the Constitution and may be renewed. Typical uses are:

(a) Public or private vessel terminal and transfer facilities which handle general commerce including the cargo handling facilities necessary for water oriented uses.

(b) Public and private terminal facilities for passenger vessels.

(c) Watercraft construction, repair, maintenance, servicing and dismantling.

(d) Marinas and mooring areas.

(e) Tug and barge companies facilities.

(f) Log booming.

(2) **Water-oriented commerce.** Water-oriented commerce are commercial uses which historically have been dependent on waterfront locations, but with existing technology could be located away from the waterfront. Existing water-oriented uses may be asked to yield to water dependent commercial uses when the lease expires. New water-oriented commercial uses will be considered as interim uses. Typical uses are:

(a) Wood products manufacturing.

(b) Watercraft sales.

(c) Fish processing.

(d) Sand and gravel companies.

(e) Petroleum handling and processing plants.

(f) Log storage.

(3) **Public access.** Facilities for public access are lower priority uses which do not make an important contribution to navigation and commerce for which harbor areas are reserved, but which can be permitted providing that the harbor area involved is not needed, or is not suitable for water-dependent commerce. Leases may be issued for periods up to thirty years with possible renewals. Typical uses are:

(a) Public fishing piers.

(b) Public waterfront parks.

(c) Public use beaches.

(d) Aquariums available to the public.

(e) Underwater parks and reefs.

(f) Public viewing areas and walkways.

(4) **Residential use.** Residential uses do not require harbor area locations and are frequently incompatible with water-dependent commerce. New residential uses will not be permitted to locate in harbor areas, except that vessels used as a residence will be permitted wherever other vessels are permitted if the residential uses are otherwise allowed by WAC [332-30-171](#) and meet all applicable laws and lease requirements. This restriction on new leases differentiates residential uses from interim uses. Existing residential uses may be asked to yield to other uses when the lease expires. Proposed renewals of residential leases will require the same analysis as specified for interim uses.

(5) **Interim uses.** Interim uses are all uses other than water-dependent commerce, existing water-oriented commerce, public access facilities, and residential uses. Interim uses do not require waterfront locations in order to properly function. Leases may only be issued and reissued for interim uses in exceptional circumstances and when compatible with water dependent commerce existing in or planned for the area. See WAC 332-30-137 Nonwater-dependent uses for evaluation standards.

(6) Areas withdrawn are harbor areas which are so located as to be currently unusable. These areas are temporarily withdrawn pending future demand for constitutional uses. No leases are issued.

No agency filings affecting this section since 2003

[Statutory Authority: RCW 79.90.455, 79.90.460. WSR 02-21-076 (Order 710), § 332-30-115, filed 10/17/02, effective 11/17/02. Statutory Authority: RCW 79.90.105, 79.90.300, 79.90.455, 79.90.460, 79.90.470, 79.90.475, 79.90.520, 79.68.010, 79.68.68 [79.68.080], and chapter 79.93 RCW. WSR 85-22-066 (Resolution No. 500), § 332-30-115, filed 11/5/85. Statutory Authority: Chapter 79.92 RCW. WSR 83-21-004 (Order 404, Resolution No. 433), § 332-30-115, filed 10/6/83. Statutory Authority: RCW 43.30.150. WSR 80-09-005 (Order 343), § 332-30-115, filed 7/3/80.]