

# Chapter 173-170 WAC

## AGRICULTURAL WATER SUPPLY FACILITIES

### WAC

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**WAC 173-170-010 Purpose and authority.** The purpose of this chapter is to establish requirements for the grant and loan program covering rehabilitation, improvement, and construction of agricultural water supply facilities pursuant to Referendum 38, chapter 43.99E RCW. The department shall provide grants and loans to applicants for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water. In this regard, an objective of providing state assistance to public bodies engaged in irrigation shall be to assist those entities in improving their efficiency of water use beyond current levels.

Note: All statutes, rules, or regulations cited in this chapter are available for review at Department of Ecology, P.O. Box 47600 Olympia, WA 98504-7600.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-010, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-010, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-020 Definitions.** (1) "Department" means the Washington state department of ecology.

(2) "Agreement" means a binding legal document containing all applicable terms and conditions pertaining to loans and/or grants entered into under Referendum 38 which is signed by the program manager for the department's water resources program and by the duly authorized official of the applicant.

(3) "Agricultural water supply facility" means a water supply and distribution system used for agricultural purposes and owned or operated by a public body, including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

(4) "Applicant" means the public body making a request for financial assistance under Referendum 38.

(5) "Class A project" means a construction element associated with an agricultural water supply facility which:

(a) Results in improved water use efficiency and/or quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) Canal and lateral linings; (ii) piped conveyance and distribution system; (iii) consolidation and/or realignment of delivery systems; (iv) flow measuring devices, e.g., flow control devices; (v) entire structures/regulating structures (which are new or replace obsolete ones) including: (A) Checks, (B) checkdrops, (C) siphons, (D) turnouts, (E) flumes, (F) reregulation reservoirs; (vi) multiple use water storage dams and reservoirs; (vii) automation with central control of regulating structures including on-off control of pumping plants in canals and laterals; (viii) new booster pumps for pressurized systems; (ix) project pumping plants;

(c) In the event there are technological advances that increase water use efficiency and/or result in significant water savings that are not described in (a) of this subsection, such project element(s) will be evaluated as a Class A project by the department.

(6) "Class B project" means a construction element associated with an agricultural water supply facility which:

(a) Does not contribute to quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) In-line water withdrawal pumping plant; (ii) well drilling, well pumps; (iii) diversion dams; (iv) replacement, rehabilitation, or improvement of in-line booster pump(s); (v) rehabilitation or improvement of storage dam(s) or part(s) thereof.

(7) "Emergency project" means a capital improvement construction element to repair, due to natural causes (except drought), water supply, diversion or conveyance facilities, which is necessary to prevent unsafe conditions or ensure the continued delivery or conveyance of water in the agricultural water supply system.

(8) "Financial assistance" means grants and loans as authorized by chapter 43.99E RCW, Referendum 38.

(9) "Fisheries facility" means a construction element associated with an agricultural water supply facility which:

(a) Is identified as an integral element of a project for the construction, rehabilitation, and/or improvement of an agricultural water supply facility; and

(b) Will provide recognized benefits to the anadromous and/or resident fish species of the state.

(10) "Implementation phase" means the acquisition, design, construction, and improvement of agricultural water supply facilities within an irrigation district or a specific area or drainage basin for storing, diverting, transporting, or distributing water to land for irrigation and for protecting and enhancing fisheries, recreational, or other beneficial uses that may be associated with such facilities.

(11) "Local clearinghouse" means the county or regional comprehensive planning agency designated to serve as a

coordinating office for certain local areas. A list of clearing-houses is available from the department. The local clearing-houses review proposed projects for conformance to regional plans, ask for comments from other agencies, and relay these remarks back to the applicant. This process helps assure that policies and comprehensive plans of cities, counties, or regions will be followed.

(12) "Payment schedule" means the due dates for loan payments and any interest thereon, as included in the loan agreement.

(13) "Planning phase" means the preparation of a comprehensive water conservation plan which conforms with WAC 173-170-060, which covers the applicant's entire jurisdiction and service area.

(14) "Plans and specifications" means engineering information and calculations to support the project and construction drawings with necessary engineering detail of the project and complete material specifications and standards to support the drawings and project. These will be prepared in sufficient detail and, upon approval by the department, become part of the bid documents which allow contractors to bid on and construct agricultural water supply facilities or attendant fisheries facilities or recreational facilities or a portion thereof.

(15) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington.

(16) "Recreational facility" means a water and/or water-associated system which:

(a) Is identified as an integral element of an agricultural water supply facility; and

(b) Will provide recognized benefits for human use and recreation through fishing, boating, water skiing, swimming, rafting, picnicking, and/or camping.

(17) "Referendum 38" means the grant and loan financial assistance program and its procedures, which pertain to agricultural water supply facilities alone or in combination with fishery, recreational, or other beneficial uses of water, as authorized in chapter 43.99E RCW.

(18) "Request for financial assistance" means the formal application packet, as described in WAC 173-170-030 and 173-170-060, submitted to the department requesting grant and/or loan funds to accomplish an eligible project.

(19) "Water use efficiency elements" means those implementation projects or portions thereof which result in reduced operational and conveyance losses and improved delivery of requisite amounts of water to farms within the limits of the pertinent water right permit or certificate.

(20) "Yakima River Basin Water Enhancement Project" (YRBWEP) is a federal, tribal, state and local cooperative program for improving water supply, habitat and stream flow conditions in the Yakima River Basin of Washington. The project was originally authorized by Congress in 1979 with subsequent implementing legislation being passed in 1984 for fish passage improvements and in 1994 for water conservation and related elements.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-020, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-020, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-030 Application process—Planning phase.** (1) Requests for financial assistance for the planning phase shall be submitted to the department between November 1 of any year and the last day of February of the following year.

(2) The applicant shall submit an application form with the following minimum information:

(a) Who shall prepare the comprehensive plan;

(b) A projected completion date for the comprehensive plan;

(c) A United States Geological Survey Quadrangle or comparable map of the area to be covered by the comprehensive plan.

(3) Requests for loan funding must be accompanied by a resolution executed by the applicant's governing body that they will follow the procedures for indebtedness in chapter 87.03 RCW and establish a reserve account into which funds will be deposited in an amount adequate to provide coverage for principal and interest payments due under the loan agreement, whenever circumstances beyond the applicant's control preclude payments from standard sources.

(4) Within ninety days of receipt of the request for financial assistance, the department will notify the applicant of its preliminary findings regarding eligibility. In all cases the department shall make its final selection of funded projects and notify the applicants no later than May 31 following the application period.

[Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-030, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-040 Comprehensive water conservation plan—Contents—Funding.** The comprehensive water conservation plan, which is the ultimate work product due at the end of the planning phase, will address and provide information on the following topics for the geographical area indicated in the request for financial assistance:

#### Applicant Organization

(1) Applicant's statutory authority; history of organization management; assessment authority; and operation procedures and management policies.

#### Land Base and Land Use

(2) Layout map showing:

(a) Boundaries of the applicant's jurisdiction and service area;

(b) Location of: (i) The lands which are assessed by the applicant, and (ii) those lands to which water is delivered in accordance with the water rights or water right claims or otherwise;

(c) Land use information including total acres irrigated over a representative historical period and cropping patterns for each year of a recent five-year period.

#### Water Supply, Use, and Rights

(3) Layout map showing location of: (a) Natural features (streams, rivers, lakes, groundwater aquifers) including those in the watershed(s) where the water supply originates; and (b) all of the applicant's existing water supply facilities inside and out of its service area.

(4) Information on the applicant's and/or pertinent individual's water rights and/or water right claims for irrigation water supply, including ongoing or future water rights or water rights claims, conflicts, and litigation.

(5) Hydrologic water supply data including historical records of surface water availability (natural flows and storage), and groundwater pumpages and other pertinent aquifer data on availability for withdrawal for water supply purposes.

(6) Quantities of surface water diverted and/or groundwater withdrawn for water supply for each year of a recent five-year period. (Annual and monthly acre-feet and maximum and minimum monthly flows in cubic feet per second (cfs) for surface water and gallons per minute (gpm) for groundwater.)

(7) Identify and assess the hydrological water flow system within the applicant's service area as it pertains to the quantities of water: (a) Diverted or withdrawn, (b) conveyed and distributed, (c) delivered and applied on farm, (d) which recharge the groundwater and are returned to the agricultural water supply system, and (e) which comprise return flows for further irrigation downstream within the agricultural water supply system.

(8) Identify the quality of water supply and an assessment of the water quality impacts from use of the agricultural water supply system within the applicant's jurisdiction.

#### Present Facilities and Operations

(9) Identify and describe the present physical system utilized for the storage, diversion, pumping, conveyance, and distribution of the water supply.

(10) Assess and evaluate the existing water supply system including system efficiencies and energy use.

#### Water Needs and Adequacy of Water Supply

(11) Forecast future trends of land use.

(12) Estimate irrigation water requirements for the present and anticipated land use and cropping patterns.

(13) Relate the water needs to present water supply available.

#### Evaluation of Opportunities for Improvements in Water Supply and Distribution System Efficiencies

(14) Identify improvements in water supply and distribution system efficiencies (structural and nonstructural).

(15) Document a system improvements and rehabilitation plan, prepare preliminary designs and cost estimates, and estimate time frame for implementation. Identify location of improvements on layout map.

(16) Quantify the reasonable net water savings that would result from the efficiency improvements.

(17) Identify and describe opportunities for improving irrigation water management.

(18) Quantify any net energy savings that would result from efficiency improvements.

(19) Evaluate the socioeconomic impacts from the efficiency improvements and rehabilitation plan and changes or modifications of the systems operations and management policies. Discuss and quantify the benefits that accrue from the implementation of the improvements and rehabilitation plan.

(20) Assess and evaluate the impacts and benefits of transferring the net water savings to other water uses and resources.

(21) Identify associated wetlands and assess the impacts on them from implementation of the physical system's improvements and rehabilitation plan.

(22) Evaluate the impacts on water quality standards from implementation of the physical system's improvements and rehabilitation plan.

(23) Evaluate other environmental impacts from the efficiency improvements and rehabilitation plan. Develop a plan regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA) if applicable.

#### Financial

(24) Develop a financial program that addresses the implementation of the improvements and rehabilitation plan. The financial program should include, among other elements, a time schedule for completing the comprehensive water conservation plan, a summary of the applicant's current indebtedness and repayment plans, present and future operation, maintenance and energy costs (with and without implementation of the proposed project), and a schedule of assessments to cover planned indebtedness to complete implementation of the comprehensive water conservation plan.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-040, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-040, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-050 Planning phase—Funding.** (1) As available and awarded, financial assistance for the planning phase will be provided in the form of:

(a) Grants in the amount of fifty percent of the total eligible phase costs; and

(b) Concurrent loans in the amount of forty percent of the total eligible phase costs.

(2) Loans shall be for a maximum five-year period, repayable at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following July 1 of the state fiscal year in which the loan agreement is entered into, discounted by four percent.

(3) Comprehensive water conservation plans must precede the implementation phase for projects approved after the effective date of these rules.

(4) Financial assistance for the planning phase, regardless of the form it takes, may not exceed two hundred thousand dollars per applicant.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-050, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-050, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-060 Application process—Implementation phase.** (1) Requests for financial assistance for the implementation phase shall be submitted to the department between November 1 of any year and the last day of February of the following year.

(2) The applicant will submit two preapplication forms to the nearest local clearinghouse; one for the department and

one for planning and community affairs. These forms are available from either the department or the clearinghouse.

(3) The applicant shall accompany the request for financial assistance with a copy of the completed comprehensive water conservation plan as approved by the department indicating which part(s) of the plan the proposed project fits under and the location of the proposed project on a United States Geological Survey Quadrangle map or any other comparable and readily available map.

(4) Within ninety days of receipt of the request for financial assistance, the department will notify the applicant of its preliminary findings regarding eligibility as to organization, type of project, purpose(s) of project, and conformance with the objectives of Referendum 38. In all cases the department shall make its final selection of funded projects and notify the applicant no later than May 31 of the year following the close of the current application period.

(5) Requests for loan funding must be accompanied by a resolution executed by the applicant's governing body that they will follow the procedures for indebtedness in chapter 87.03 RCW and establish a reserve account into which funds will be deposited in an amount adequate to provide coverage for principal and interest payments due under the loan agreement, whenever circumstances beyond the applicant's control preclude payments from standard sources.

[Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-060, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-070 Criteria for approval of requests for financial assistance—Implementation phase.** (1) The implementation phase project(s) must be included in a comprehensive water conservation plan approved by the department.

(2) The agricultural water supply facilities must be designed to accomplish the purpose of the planned project. Accepted engineering design principles, criteria, and concepts will be used in the design of the facilities and approved by the department. Cost estimates for the proposed project must be prepared in detail. Plans and specifications must be approved by the department prior to advertising for construction bids.

(3) The State Environmental Policy Act (SEPA) requirements for any proposed actions must be met. The SEPA rules, chapter 197-11 WAC, will be followed to determine the environmental impacts of the proposed project. A copy of the final SEPA document and any needed supporting environmental analysis must be submitted to the department.

(4) Documentation showing all lands and land rights required for satisfactory construction, operation, and maintenance of the project have been or can be acquired.

(5) The project will not be in conflict with any applicable federal, state, and local laws, orders, regulations, rules, licenses, and permits.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-070, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-070, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-080 Implementation phase—Funding.** (1) Implementation phase projects will be categorized by the department as Class A projects or Class B projects in

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accordance with the definitions for those terms under WAC 173-170-020 (5) and (6).

(2) As funds are available and awarded, financial assistance for Class A projects subject to a completed comprehensive water conservation plan shall be provided in the form of:

(a) Grants in the amount of thirty percent of the total eligible project costs; and

(b) Concurrent loans in the amount of sixty percent of the total eligible project costs.

(c) The department may issue an additional portion of the funding in grants for projects with significant public benefit.

(3) As funds are available and awarded, financial assistance for Class B projects subject to a completed comprehensive water conservation plan will be provided in the form of:

(a) Grants in the amount of fifteen percent of the total eligible project costs; and

(b) Concurrent loans in the amount of seventy-five percent of the total eligible project costs.

(4) Financial assistance for implementation phase projects shall be limited to a total of two million five hundred thousand dollars per applicant regardless of the form, except that loans once fully repaid shall not be measured against the limit.

(5) Loans awarded shall be available on the following repayment and interest schedule:

(a) Loans for up to a maximum five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by four percent.

(b) Loans for five years through a maximum ten-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by two percent.

(c) Loans for ten years through a maximum fifteen-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by one percent.

(d) Loans for fifteen years through a maximum twenty-five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following the beginning of the state fiscal year (July 1) in which the loan agreement is entered into.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-080, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-080, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-090 Emergency projects—Applications—Designation—Funding.** (1) Applications for emergency projects may be accepted at any time throughout the year. The application shall indicate:

(a) The nature of the occurrence that caused the need for repairs;

(3/19/03)

- (b) The location of needed repairs;
- (c) A project description of the repairs; and
- (d) A summary of how the repairs fit within the long-range improvements addressed in the comprehensive water conservation plan.

If the comprehensive water conservation plan has not been completed, a summary of how the repairs fit within proposed long-range improvements.

(2) A decision on whether to fund the emergency project will be made within fifteen days of receipt of the application. The department may agree to the applicant incurring costs prior to an agreement being signed and shall so indicate by letter to the applicant.

(3) Financial assistance for emergency projects shall be in the form of loans for up to ninety percent of the total eligible project costs.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-090, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-090, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-100 Yakima River Basin Water Enhancement Project—Funding.** (1) The Yakima River Basin Water Enhancement Project (YRBWEP) may be provided state funding by agreement with the department, to the extent that moneys are available.

(2) Funds provided under this section for YRBWEP shall be exempt from WAC 173-170-080.

[Statutory Authority: Chapter 43.99E RCW, Referendum 38, and RCW 90.54.040. WSR 03-07-104 (Order 02-11), § 173-170-100, filed 3/19/03, effective 4/19/03. Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-100, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-110 Fisheries and recreational facilities—Funding.** (1) A fisheries or recreational facility element is the part of an implementation project that provides public benefits through concomitant use of water within an agricultural water supply facility. Specific elements are defined in WAC 173-170-020 (9) and (16).

(2) Financial assistance for the fisheries and/or recreational element shall be available as grants in the amount of seventy-five percent of the fisheries and/or recreational element's total eligible costs.

(3) Financial assistance for a fisheries and/or recreational element may not exceed five hundred twenty-five thousand dollars for any one applicant, which sum is not part of the cap on funding for the implementation phase, contained in WAC 173-170-080(5).

[Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-110, filed 10/2/90, effective 11/2/90.]

**WAC 173-170-120 Supplemental guidelines.** The department will publish guidelines which will describe in greater detail the financial assistance application, application review and funding issuance processes, the terms of financial assistance, and other elements of this program. These guidelines will also describe recommended methodologies for the completion of the comprehensive water conservation plan.

[Statutory Authority: RCW 43.17.060. WSR 90-20-109, § 173-170-120, filed 10/2/90, effective 11/2/90.]