

WAC 173-322A-325 Oversight remedial action loans. (1) Purpose.

The purpose of oversight remedial action loans is to supplement local government funding and funding from other sources to meet the recipient share requirements for oversight remedial action grants under WAC 173-322A-320. The loans are intended to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Types of loans.** There are two different types of oversight remedial action loans, a standard loan and an extraordinary financial hardship loan. The two types of loans have different project eligibility requirements and different terms and conditions for repayment based upon the applicant's ability to repay the loan.

(a) **Standard loan.** A standard loan is a loan that includes the terms and conditions for repayment.

(b) **Extraordinary financial hardship loan.** An extraordinary financial hardship loan is a loan that includes deferred terms and conditions for repayment. Deferred terms and conditions may not be indefinite. Any such loan must be approved by the director or designee.

(3) **Project eligibility.** For the purposes of this loan, a project consists of remedial actions conducted under an order or decree at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a loan, a project must meet all of the following requirements:

(a) The applicant must have an oversight remedial action grant for the project under WAC 173-322A-320; and

(b) The applicant must demonstrate the following to the department's satisfaction. The department may require an independent third-party financial review to support the demonstration:

(i) For a standard loan, the applicant's financial need for the loan and ability to repay the loan; or

(ii) For an extraordinary financial hardship loan, the applicant's financial need for the loan, inability to repay the loan under present circumstances, and ability to repay the loan in the future.

(4) **Funding priority.** The department will assign an oversight remedial action loan the same priority as the associated oversight remedial action grant.

(5) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. For multiennial projects, proposals must be updated biennially. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals and updates should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. For multiennial projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

(i) Project eligibility under subsection (3) of this section. If the department determines the applicant meets the eligibility requirements for an extraordinary financial hardship loan, then the department may, upon the approval by the director, provide such a loan to the applicant instead of a standard loan; and

(ii) Funding priority under subsection (4) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the loan and develop the agreement. The department will consider:

(i) Funding priority under subsection (4) of this section;

(ii) Cost eligibility under subsections (6) and (7) of this section;

(iii) Allowable funding under subsection (8) of this section; and

(iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(6) **Cost eligibility.** The eligible costs for oversight remedial action loans shall be the same as the eligible costs for oversight remedial action grants under WAC 173-322A-320(5).

(7) **Retroactive cost eligibility.** The eligibility of retroactive costs for oversight remedial action loans shall be the same as the eligibility of retroactive costs for the oversight remedial action grants under WAC 173-322A-320(6).

(8) **Funding by department.** The department may provide the recipient of an oversight remedial action loan for up to one hundred percent of the recipient share under WAC 173-322A-320 (7)(b). The loan shall be used by the recipient to supplement local government funding and funding from other sources to meet the recipient share requirement.

(9) **Repayment by recipient.** The terms and conditions for repayment of a loan shall be specified in the loan agreement.

(a) **Standard loans.** For a standard loan, the following terms and conditions shall apply. Additional terms and conditions may be specified in the loan agreement.

(i) **Repayment periods and interest rates.**

(A) If the repayment period is less than or equal to five years, the interest rate shall be thirty percent of the average market rate.

(B) If the repayment period is more than five years and less than or equal to twenty years, the interest rate shall be sixty percent of the average market rate.

(ii) **Interest accrual.** Interest shall accrue on each disbursement as it is paid to the recipient.

(b) **Extraordinary financial hardship loans.** For an extraordinary financial hardship loan, the repayment terms and conditions specified in (a) of this subsection may be adjusted or deferred. Deferred terms and conditions are dependent on periodic review of the recipient's ability to pay. Terms and conditions may not be deferred indefinitely.

[Statutory Authority: Chapter 70.105D RCW. WSR 14-18-060 (Order 13-09), § 173-322A-325, filed 8/29/14, effective 9/29/14.]