

Chapter 173-98 WAC
USES AND LIMITATIONS OF THE WATER
POLLUTION CONTROL REVOLVING FUND

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WAC

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WAC 173-98-010 What is the purpose of this chapter? The purpose of this chapter is to set forth limitations on the allocation and uses of moneys administered by the department of ecology from a special fund within the state treasury known as the state water pollution control revolving fund (SRF), as authorized by chapter 90.50A RCW. This fund provides financial assistance to applicants throughout the state of Washington who need such assistance to meet high priority water quality management needs.

[Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-010, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-010, filed 8/29/89, effective 9/29/89.]

WAC 173-98-020 What are the definitions of key terms? Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Act" means the Federal Water Pollution Control Act (33 U.S.C. 4661 et seq.).
- (2) "Applicant" means a public body that has applied for funding.
- (3) "Best management practices" means physical, structural, and/or managerial practices approved by the department or by another agency with regulatory oversight that, when used singularly or in combination, prevent or reduce pollutant discharges.
- (4) "Concentrated animal feeding operation" means an animal livestock feeding operation that discharges animal waste to the waters of Washington state more frequently than the twenty-five year, twenty-four hour storm event; or if the operation is under a department administrative order, notice of violation, a National Pollution Discharge Elimination System permit; or the operation will be required to have a National Pollution Discharge Elimination System permit

coverage in the near future; or the department or the U. S. Environmental Protection Agency determines the operation is considered to be polluting the waters of Washington state.

(5) "Commercial, industrial, and institutional flows" means the portion of the total flows to a facilities project that originate from commercial establishments, industrial facilities, or institutional sources such as schools, hospitals, and prisons.

(6) "Construction" means the erection, installation, expansion, or improvement of water pollution control facilities or activities.

(7) "Cost-effective alternative" means that alternative with the lowest present worth or equivalent annual value that achieves the requirements of the project while recognizing the environmental and other nonmonetary considerations.

(8) "Defeasance" means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

(9) "Department" means the Washington state department of ecology.

(10) "Design" means the plans and specifications for water pollution control facilities or activities.

(11) "Director" means the director of the Washington state department of ecology or his or her authorized designee.

(12) "Easement," for the purposes of this rule, means a written agreement between a public body and an individual landowner, that allows the public body to have access to the property at any time to inspect, maintain, or repair activities or facilities installed with a loan or a grant, or to hold occasional public tours of the site for educational purposes.

(13) "The effective date of the loan agreement" means the date the loan agreement is signed by the department's water quality program manager.

(14) "Enforcement order" means an administrative order that is a document issued by the department under the authority of RCW 90.48.120 and that directs a public body to complete a specified course of action within an explicit period of time to achieve compliance with the provisions of chapter 90.48 RCW.

(15) "Engineering report" means a report that evaluates engineering and other alternatives that meet the requirements set forth in Chapter 173-240 WAC, Submission of plans and reports for construction of wastewater facilities.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "Excess capacity" means water pollution control facilities capability beyond what is needed for the existing residential population to meet the water quality based effluent limitations in the recipient's National Pollution Discharge Elimination System or state waste discharge permit.

(18) "Existing residential need" means work required on the water quality based effluent limitations in the recipient's water pollution control facilities for the existing residential population in order to meet the recipient's National Pollution Discharge Elimination System or state waste discharge permit.

(19) "Facilities plan" means plans and studies necessary for treatment works to comply with enforceable requirements of the act and with state statutes. Facilities plans must include a systematic evaluation of alternatives that are feasible in light of the unique demographic, environmental or ecological, topographic, hydrologic and institutional characteristics of the area. Facilities plans must also demonstrate that the selected alternative is cost-effective.

(20) "Federal capitalization grant" means a federal grant awarded by EPA to the state as seed money to help establish the state water pollution control revolving fund.

(21) "Financial assistance" means each of the four types of assistance specified in [WAC 173-98-030](#) (1)(b) through (f) and other assistance authorized by Title VI of the act and chapter 90.50A RCW.

(22) "Funding cycle" means the annual cycle of activities related to allocating funds for a single fiscal year.

(23) "Fund" means the state water pollution control revolving fund.

(24) "General obligation debt" means an obligation of the recipient secured by annual ad valorem taxes levied by the recipient and by the full faith, credit, and resources of the recipient.

(25) "Initiation of operation" means the actual date the water pollution control facilities initiates operation and the entity begins using the facilities for its intended purpose. This date may occur prior to final inspection and will be determined by the department after consultation with the recipient. This date may be the same or earlier than the date of project completion.

(26) "Infiltration and inflow" means water, other than wastewater, that enters a sewer system.

(27) "Infiltration and inflow correction" means the cost-effective alternative or alternatives identified in an approved facility plan for eliminating or reducing the infiltration and inflow from an existing sewer system.

(28) "Intended use plan (IUP)" means a plan identifying the intended uses by the department of the amount of funds available for financial assistance from the state water pollution control revolving fund (SRF) for that fiscal year as described in section 606(c) of the act. The projects on the intended use plan will be ranked by environmental and financial need.

(29) "Loan agreement" means a legal contract between a recipient and the state, enforceable under state law, and specifying the terms and schedules under which assistance is provided.

(30) "Loan default" means failure to make a loan repayment within sixty days after the payment was due.

(31) "Local prioritization process" means a process to prioritize projects locally.

(32) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to:

(a) Atmospheric deposition, surface water runoff from agricultural lands, urban areas, forest lands, subsurface or underground sources; and

(b) Discharges from boats or other marine vessels.

(33) "Plans and specifications" means the construction contract documents and supporting engineering documents prepared in sufficient detail to allow contractors to bid on and construct water pollution control facilities. "Plans and specifications" and "design" may be used interchangeably.

(34) "Project" means the scope of work for which financial assistance is issued.

(35) "Project completion" means the date the project is determined by the department as being complete.

(36) "Public body" means the state of Washington or any agency, county, city or town, other political subdivision, municipal corporation or quasi-municipal corporation, and those Indian tribes recognized as such by the federal government at the time the SRF loan agreement is signed.

(37) "Public health emergency" means a situation declared by the Washington state department of health in which illness or exposure known to cause illness is occurring or is imminent.

(38) "Recipient" means an applicant for financial assistance which has signed an SRF loan agreement.

(39) "Reserve account" means, for a loan that constitutes revenue-secured debt, the account of that name created in the loan fund to secure the payment of the principal and interest on the loan.

(40) "Revenue-secured debt" means an obligation of the recipient secured by a pledge of the revenue of a utility and one not of a general obligation of the recipient.

(41) "Scope of work" means a detailed description of a project, including measurable objectives useful for determining successful completion. The scope of work is negotiated between the department and the loan or grant recipient.

(42) "Senior lien obligations" means all revenue bonds and other obligations of the recipient outstanding on the date of execution of this agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this agreement having a claim or lien on the gross revenue of the utility prior and superior to the claim or lien of the loan, subject only to maintenance and operation expense.

(43) "Severe public health hazard" means a situation declared by the state department of health and the department in which the potential for illness exists, even if the illness is not currently occurring or imminent. For the purposes of this chapter there must be contamination of drinking water or contamination must be present on the surface of the ground in such quantities and locations to create a potential for public contact. The problem must generally involve a serviceable area including, but not limited to, a subdivision, town, city, or county. Also, the problem must be one which cannot be corrected through more efficient operation and maintenance of the wastewater disposal system(s).

(44) "Sewer" means a pipe and related pump stations located on public property, or on public rights of way and easements, that conveys wastewater from individual buildings or groups of buildings to a treatment plant.

(45) "Side sewer" means a sanitary sewer service extension from the point five feet outside the building foundation to the publicly owned collection sewer.

(46) "Small flows" means flows from commercial, industrial, or institutional sources that enter a sanitary sewer system.

(47) "State water pollution control revolving fund (SRF)" means the water pollution control revolving fund established by RCW 90.50A.020.

(48) "Step process" means a systematic process that facility projects must follow to be eligible for loans or grants.

(49) "Total eligible project cost" means the sum of all costs associated with a water quality project that have been determined to be eligible for loan or grant funding.

(50) "Total project cost" means the sum of all eligible and ineligible costs associated with a water quality project.

(51) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including, but not limited to, change in:

- (a) Temperature;
- (b) Taste;

- (c) Color;
- (d) Turbidity; or
- (e) Odor.

It also means a discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state that will or is likely to create a nuisance or render those waters harmful, detrimental, or injurious to the public health, safety, or welfare, or injurious to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(52) "Water pollution control activities" means actions taken by a public body to achieve the following purposes:

- (a) To control nonpoint sources of water pollution;
- (b) To develop and implement a comprehensive conservation and management plan for estuaries; and
- (c) To maintain, improve, or protect water quality through the use of water pollution control facilities, management programs, or other means.

(53) "Water pollution control facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, or recycling of wastewater. Wastewater includes, but is not limited to, sanitary sewage, storm water, combined sewer overflows, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property integral to the treatment process, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include facilities, equipment, and collection systems which are necessary to protect federally designated sole source aquifers.

(54) "Water resource inventory areas," sometimes referred to as "WRIAs," means one of sixty-two watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in chapter 173-500 WAC as it existed on January 1, 1997. All parts of the state of Washington are located in a single water resource inventory area.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-020, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-020, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-020, filed 8/29/89, effective 9/29/89.]

WAC 173-98-030 How, and under what conditions, can money from the state water pollution control revolving fund be used? (1) Uses of the money. The state water pollution control revolving fund (SRF) may be used for the following purposes:

- (a) To accept and retain funds from capitalization grants provided by the federal government, state matching funds appropriated in accordance with chapter 90.50A RCW, payments of principal and interest, and any other funds earned or deposited;
- (b) To make loans to applicants in order to finance the planning, design, and/or the construction of water pollution control facilities, make loans to applicants for the implementation of nonpoint source pollution control management programs (which includes planning and implementing elements of the nonpoint source pollution assessment and management program),

and make loans to applicants for the development and implementation of a comprehensive estuary conservation and management plan, subject to the requirements of the act;

(c) To provide loans for up to twenty years reserve capacity for water pollution control facilities;

(d) To buy or refinance the debt obligations incurred by applicants after March 7, 1985, for the construction of water pollution control facilities. (March 7, 1985, was the date that the amendments adding Title VI to the act were first considered by Congress. Any refinancing agreements must be for construction initiated after that date according to federal and state law);

(e) To guarantee or purchase insurance for local obligations where such an action would improve credit market access or reduce interest rates;

(f) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of those bonds will be deposited in the fund; and

(g) To finance the reasonable costs incurred by the department in the administration of the account as authorized by the act and chapter 90.50A RCW.

(2) Policies for establishing the terms of financial assistance. Recipients' interest rates will be based on the average market interest rate. The average market interest rate will be based on the daily market rate published in the *Bond Buyer's Index* for tax exempt municipal bonds for the period from sixty to thirty days before the SRF annual funding application cycle begins, using the daily market interest rate for that period.

Loan terms and interest rates are as follows:

Repayment Period	Interest Rate
Up to five years:	Thirty percent of the average market rate.
More than 5 but no more than 20 years:	Sixty percent of the average market rate.

The director of the department of ecology or the director's designee may approve lower interest rates for the annual funding application cycle if a financial analysis of the fund demonstrates that lower interest rates for that year are not detrimental to the perpetuity of the fund.

(3) Financial hardship assistance for facilities construction.

(a) Financial hardship assistance may be available to loan recipients for the existing residential need portion of a water pollution control facilities construction project if the project will cause a residential sewer user charge in excess of one and one-half percent of the median household income.

(i) Median household income for this purpose is based on the most recent available census data, updated yearly based on inflation rates as measured by the Federal Bureau of Labor Statistics and published as the Consumer Price Index.

(ii) If median household income data are not available for a community or if the community disputes the data used by the department, the department will allow a local government to conduct a scientific survey to determine the median household income.

(iii) In situations where a project is proposed for an area with demographics which may not be representative of the entire census designated place, the department may require a scientific survey to determine the median household income.

(iv) In rare cases where financial hardship cannot be established using residential user fees as a percent of median household income financial hardship determinations will be made on a case-by-case basis.

(b) The need for hardship assistance is calculated on water pollution control facilities construction costs associated with existing residential need at the time an application for funding is received by the department. The analysis does not include costs for growth. For example, if an applicant applies for ten million dollars to finance facilities construction costs, where six million dollars is for existing residential need and the remaining four million dollars is for growth, the hardship analysis would be based on the six million dollars for existing residential need.

(c) If the department determines that financial hardship exists, it may make changes to the offer of financial assistance in an attempt to lower the residential user charges below the financial hardship level for the existing residential need. These changes may include:

(i) Changing the structure of the loan agreements with terms to lengthen the repayment period to a maximum of twenty years, lowering the interest rate, or a combination of a lower interest rate and an extended term; and, if this is not sufficient,

(ii) Offering partial centennial grant funding as allowable under the provisions of chapter 173-95A WAC.

(d) If an applicant is requesting financial hardship assistance, it should submit a completed financial hardship analysis form with its application for financial assistance.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-030, filed 12/8/00, effective 1/8/01; 00-09-010 (Order 00-02), § 173-98-030, filed 4/7/00, effective 5/8/00. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-030, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-030, filed 8/29/89, effective 9/29/89.]

WAC 173-98-040 Where can I obtain more detail about the application, review, and issuance processes for funds from the state water pollution control revolving fund? (1)

Applicants must apply for financial assistance in order to be considered for funding and for their projects to be included on the intended use plan. Projects must be on a current or past intended use plan in order to receive SRF loans.

(a) A schedule of the annual funding cycle will be published no later than the last business day of November each year, for the funding corresponding to the next state fiscal year.

(b) The period during which applications are accepted each year will last a minimum of sixty days, and application forms and guidelines for that year will be made available at the beginning of that period.

(c) In the first thirty days of the period during which applications are accepted each year, the department will conduct at least one application workshop in each of the department's four regions.

(d) When there is limited demand for funds from the current funding cycle, projects from any past intended use plan, starting with the most recent, may be funded in priority order, where:

(i) Cost overruns to a funded project are shown to be justifiable; or

(ii) Final cost reconciliation shows that higher costs are reasonable; or

(iii) The applicant received partial funding for the project and the change is shown on a current intended use plan.

(2) The application for funding will consist of two parts. Part one of the application will request information for identification, description, and other information about the project for tracking purposes, and part two of the application will request information about the water quality problem or problems being addressed by the project and the proposed solutions to the problems. In the application, applicants will be asked to fully describe the environmental and financial need for the project. Applications for SRF financial assistance for facilities projects must address problems such as public health emergencies, severe public health hazards, the need to provide secondary or advanced treatment, the need to improve and protect water quality, reduction of combined sewer overflows, and other environmental needs. Applications for SRF financial assistance for nonpoint projects must implement the remedies and prevention of water quality degradation associated with nonpoint source water pollution and must not be inconsistent with needs identified in the department's approved nonpoint source pollution management plan.

(3) The application form, part two, will include five main question areas, each with subsidiary questions designed to elicit the information needed to evaluate the project. The maximum points awarded for these question areas equal ninety percent of the total possible score with a maximum of ten percent coming from the local prioritization. The five main question areas and their associated maximum point percentages are:

(a) "What is the overall water quality problem and how will the problem be solved or addressed by the project?" This question is intended for general background purposes and to give evaluators an overview of the proposed project; no points are assigned.

(b) "What are the specific public health and water quality impairments caused by the problem and what are the pollution prevention aspects?" This question area is worth a maximum of thirty-four percent of the total score.

(c) "How will your proposed project address the water quality problem, and what are your measures of success?" This question area is worth a maximum of thirty-four percent of the total score.

(d) "What are some of the local initiatives you have taken that will help make your project a success?" This question area is worth a maximum of twelve percent of the total score.

(e) "Are there any state of Washington or federal mandates that this proposed project addresses?" This question area is worth a maximum of ten percent of the total score.

(f) "Local prioritization process." This question area is worth a maximum of ten percent of the total score. The local prioritization process is described in detail in WAC 173-95A-050.

(4) The department will evaluate the proposed projects based on the information contained in the applications.

(a) Projects will be ranked according to potential water quality benefit and protection of public health.

(b) Projects which have the highest environmental and public health need will be given priority for financial assistance under the SRF program.

(c) Because funds must be used in a timely manner, readiness to proceed is also used in establishing the priority of projects.

(d) Other factors, including funding provisions in chapter 90.50A RCW and provisos identified in the department's biennial capital budget, relationship to the department's published plans such as the *Water Quality Management Plan to Control Nonpoint Sources of Pollution* and

total maximum daily load studies, and relationship to published plans created by other federal and state agencies will be included in the priority evaluation.

(e) The department will request other agencies to provide evaluation assistance as needed, including but not limited to, the Washington state conservation commission, the Puget Sound action team, and the Washington state department of health.

(f) The department will coordinate maximum funding amounts and other issues with other state and federal funding agencies when possible.

(5) The total score that each proposed project receives based on the application form, part two, will be added to the local prioritization score (see WAC 173-95A-050 for more information on the local priority-setting process) to develop the final score for the proposed project.

(6) The department will prepare a draft intended use plan each year after evaluating all applications. The draft intended use plan will list projects in rank order starting with the project receiving the most points in its final score. This will also generally be the order that projects may be offered financial assistance. After issuing the draft intended use plan the department will allow a minimum of thirty days for public review and comment on the draft intended use plan. No later than fifteen days before the end of the public review and comment period the department will conduct at least one workshop to explain the draft intended use plan, answer questions about the draft intended use plan and the evaluation process, and provide details on the public comment process.

(7) The final intended use plan will be issued no later than sixty days after the end of the public review and comment period. The final intended use plan will reflect any changes made as a result of public comments or other information received during the public review and comment period, and will include a responsiveness summary. The final intended use plan will generally list projects in the order that projects may be offered financial assistance.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-040, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-040, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-040, filed 8/29/89, effective 9/29/89.]

WAC 173-98-050 What are the limitations on the use of funds and how are the funds categorized? (1) The fund may be used to provide financial assistance to applicants for the construction of water pollution control facilities which are identified in the intended use plan and activities eligible for assistance under sections 319 and 320 of the act.

(2) Unless the demand for funding is limited SRF loan agreements are subject to the following funding category limitations:

(a) Water pollution control facilities category: Not more than eighty percent of the fund will be available for the construction of facilities as established under section 212 of the act and subject to the requirements of that act. Those projects will be under the water pollution control facilities category.

(b) Nonpoint source and comprehensive estuary conservation and management category: Not more than twenty percent of the fund will be available for the implementation of programs or projects established under the department's approved nonpoint source pollution management plan established under section 319 of the act, and intended for the management of nonpoint

sources of pollution, and subject to the requirements of that act, or for programs or projects established under a comprehensive conservation and management plan under section 320 of the act relating to the National Estuary Program, and subject to the requirements of that act. Those projects will be under the nonpoint source and comprehensive estuary conservation and management category.

(c) Not more than fifty percent of the fund in each category will be available to any one applicant.

(3) In accordance with federal law, loan offers identified on the final intended use plan will be effective for up to one year from the date of the offer. All SRF loan offers that do not result in a signed SRF loan agreement within the effective offer period are automatically terminated. Funds reserved for SRF loan agreements that are not signed within the effective period may be carried over and made available for the next year's funding cycle.

(4) The fund may not be used for activities primarily directed toward water resources or water pollution control activities or facilities or portions of those facilities that are primarily intended to control, transport, treat, dispose, or otherwise manage commercial, institutional, or industrial wastewater or other water pollution control needs from those sites. Costs associated with commercial, institutional, or industrial pretreatment are not eligible for funding. However, commercial, institutional, or industrial wastewater flows attributable to a public body's water pollution control facilities which are determined by the department to be "small" may be allowed. Flows from individual commercial, industrial, or institutional sources are considered small when they are less than five percent of the total existing needs, as identified by the department's engineers. Collectively, flows from all individual commercial, industrial, or institutional sources are considered small when they are less than thirty percent of the total existing needs, as identified by the department's engineers.

(5) The fund may not be used to make direct loans to applicants to support the nonfederal share of eligible portions of projects receiving assistance under Title II of the act. The fund may be used to finance portions of such projects which were determined to be ineligible for federal assistance but which are eligible under the SRF program.

(6) Noneligible project costs include, but are not limited to, the following:

(a) Acts of nature: Projects related to acts of nature that alter the natural environment, thereby causing water quality problems;

(b) Aquatic plant control for aesthetic reasons, navigational improvements, or other purposes unrelated to water quality;

(c) Concentrated animal feeding operations except those located in the federally designated Puget Sound and lower Columbia River estuaries;

(d) Engineering reports;

(e) Facilities that propose to meet or maintain primary treatment of domestic sewage;

(f) Flood control: Projects primarily designed to provide flood control;

(g) Water pollution control activities or facilities or portions of those facilities that are primarily intended to control, transport, treat, dispose, or otherwise manage commercial, institutional or industrial wastewater or other water pollution control needs from those sites;

(h) Lake implementation projects where there is no public access;

(i) Permit fees;

(j) Costs associated with commercial, institutional or industrial pretreatment;

(k) Professional dues;

(l) Reclamation of abandoned mines;

(m) Projects proposed by Washington state agencies or federal agencies will not be funded; except that activities projects undertaken by state institutions of higher education are eligible to apply for funding when the activities are not part of the school's statutory responsibilities.

(n) Scientific research unrelated to a specific project;

(o) Sewers: Side sewer laterals or individual pump stations on private residential property, or other appurtenances where the facilities are not owned and maintained by a public body;

(p) Solid and hazardous waste facilities;

(q) Storm water activities and facilities associated exclusively with flood control;

(r) Projects or project elements solely addressing water quantity or other water resource issues.

(7) Noneligible project component costs include, but are not limited to, the following:

(a) Bond costs for debt issuance;

(b) Employee training not related to or identified in an SRF loan agreement;

(c) Equipment required for site and building maintenance;

(d) Facilities components:

(i) Abandonment of existing structures;

(ii) Bonus or acceleration payments to contractors to meet contractual completion dates for construction;

(iii) Capacity in excess of twenty years;

(iv) Construction claims and associated costs determined to be nonmeritorious;

(v) Construction claims, meritorious, in excess of the maximum allowable loan amount;

(vi) Corrective action plans for the one-year performance certification program;

(vii) Cost-plus-a-percentage-of-cost contracts (also known as multiplier contracts);

(viii) Demolition of structures that are not interfering with proposed construction, replacement parts, other than those for an initial set of spare parts for equipment that is critical for facilities to operate in compliance with discharge permit requirements;

(e) Fines and penalties due to violations of or failures to comply with federal, state, or local laws;

(f) Interest on bonds, interim financing, and associated costs to finance projects;

(g) Lake implementation projects where there is no public access;

(h) Land acquisition for siting of wastewater treatment plants, sewer rights of way, and easements, and associated costs;

(i) Landscaping for aesthetic reasons;

(j) Legal expenses other than those associated with development of local ordinances for water quality protection and improvement or associated with the use of a bond counsel in developing a loan agreement;

(k) Lobbying or expenses associated with lobbying;

(l) Monitoring equipment used by an industry for sampling and analyzing industrial discharges to municipal water pollution control facilities;

(m) Office equipment;

(n) Operating expenses of local government, such as the salaries and expenses of a mayor, city council member, and/or city attorney;

(o) Overtime differential paid to employees of local government to complete administrative or force account work;

- (p) Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or other means;
- (q) Preparation of loan or grant applications;
- (r) Previously funded objectives financed with an SRF loan;
- (s) Rework costs;
- (t) Routine or ongoing operation and maintenance costs;
- (u) Seminar and conference fees not identified in an SRF loan agreement;
- (v) Vehicle purchase or lease except those vehicles that are integral to a treatment process e.g., sludge truck.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-050, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-050, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-050, filed 8/29/89, effective 9/29/89.]

WAC 173-98-060 What is the step process for planning facilities and activities projects? (1) The step process: The "step process" is a systematic method or proceeding with projects. The step process begins with site-specific planning, and continues through design to construction or implementation. It is required for facilities construction projects and, in a modified form, is required for some kinds of activities projects.

(2) The step process for facilities. To be eligible for an SRF loan, facilities projects must proceed according to the "step process."

(a) Before a public body with a facilities project is eligible to apply for funds, all previous steps must be approved by the department in order to help ensure that funds are well spent on projects proceeding towards a successful outcome. Funding for site-specific facilities planning (step one) or design (step two) does not guarantee the awarding of future loans for construction (step three). The loan agreement will not be signed until all previous steps have been completed and approved by the department.

(b) Planning (step one). Step one involves the preparation of a site-specific facilities plan that identifies and prioritizes the cost-effective alternatives for addressing a water pollution control problem with or without state and federal funding. There is no prerequisite for planning. If there is an existing engineering report, prepared with or without department funding, it must be upgraded for SRF eligibility if it does not meet the definition of a facilities plan.

(c) Design (step two). Step two includes the preparation of plans and specifications for use in construction. These must be based on the preferred cost-effective alternative identified in the facilities plan.

(i) Facilities plans must be approved by the department before an application for design can be considered for funding. Site-specific facilities planning documents not funded by a department grant or loan must also be approved by the department before an application for design can be considered.

(ii) Due to specific loan review criteria, a facilities plan approved by the department for purposes other than securing a loan will not be accepted for design purposes.

(iii) Facilities plans approved by the department more than two years prior to the close of the SRF application period must contain evidence of recent department review to ensure the document reflects current conditions.

(d) Construction (step three). Step three includes the actual building of facilities based on the approved design.

Design must be approved by the department before an application for construction can be considered for funding.

(e) Design and construction (step four). In some cases, design and construction may be combined into one loan award. Applications for step four loans will be accepted and considered for funding if it can be demonstrated that step two design can be completed and approved by the department within one year of the date the final intended use plan is made public. The SRF loan share of the total eligible project under step four cannot exceed fifty percent of the amount available in the appropriate funding category, or one million dollars, whichever is less.

(f) Step compliance and step deviations. There is one situation in which a deviation from the step process can be allowed:

(i) If the Washington state department of health has declared a public health emergency and if the proposed project would remedy this situation.

(ii) In this situation, the department will accept applications for funding consideration that do not follow the step process. However, no loan agreement will be signed until all previous steps have been completed and approved by the department. This deviation from the step process will only allow an application to be considered for funding. It does not allow a loan to be awarded until all step requirements have been satisfied.

(iii) If a deviation is approved, the applicant may deviate by only one step. For instance, the department could accept an application for design if planning was not completed and approved, or an application for construction if design was not completed and approved. However, the department may not accept an application for construction if planning was not completed and approved.

(3) Prerequisite documents for facilities projects: Draft documents must be sent to the department's engineers at least sixty days prior to end of application cycle for approval by end of application cycle.

(4) The step process for activities. In most cases, the step process for activities is not required. However, those applications proposing to implement a specific project identified in a completed comprehensive plan are given additional consideration in the evaluation process. Agricultural best management practices that involve improvements on private property, or lake projects, must follow the step process.

(a) Planning (step one) involves the identification of problems and evaluation of cost-effective alternatives, based on environmental and economic considerations, for correcting and preventing water quality problems. Specific activities may include planning for watershed management, ground water management areas, lake restoration, and water quality assessment and other related activities.

(b) Implementation (step two) includes the actual implementation of the project based on the approved planning document.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-060, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-060, filed 11/24/98, effective 12/25/98. Statutory

Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-060, filed 8/29/89, effective 9/29/89.]

WAC 173-98-070 What other laws, regulations, or requirements must recipients comply with?

(1)(a) All recipients shall comply with all applicable federal, state, and local laws, orders, regulations, and permits. Applications must not be inconsistent with pertinent adopted water quality plans including, but not limited to, plans under sections 208, 303(e), 319, and 320 of the act.

(b) The Puget Sound water quality management plan constitutes the comprehensive conservation and management plan required in section 320 (b)(4) of the act. Plans must not be inconsistent with shoreline master programs, ground water management programs and storm water plans, combined sewer overflow (CSO) reduction plans and county or city comprehensive sewer plans.

(c) In accordance with the SRF loan agreement, the applicant shall provide assurances that the necessary permits required by authorities having jurisdiction over the project have been secured. Copies must be available to the department, upon request.

(2) Recipients shall fully comply with all federal, state, and local laws and regulations related to procurement, discrimination, labor, job safety, and drug-free environments. The recipient shall also comply with the state and federal minority-and-women-owned businesses regulations.

(3) If an SRF loan is provided for water pollution control facilities, recipients shall submit a declaration of construction of water pollution control facilities to the department within thirty days of project, phase, or segment completion.

(4) Recipients must maintain accounting records in accordance with "generally accepted government accounting standards." These standards are defined as, but not limited to, those contained in the United States General Accounting Office (GAO) publication "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." For example, charges must be properly supported, related to eligible costs, and documented by appropriate records. These accounts must be maintained as separate accounts.

(5) Accounting irregularities may result in an immediate stoppage of payment until irregularities are resolved. The director may require immediate repayment of misused loan funds.

(6) According to RCW 90.50A.060, in the event of loan default, the state of Washington may withhold any amounts otherwise due to the recipient from the state and direct that such moneys be applied to the indebtedness and deposited into the SRF.

(7) Appeals of SRF loan agreement decisions will be processed in accordance with the water quality financial assistance appeals procedure. The only decisions which can be appealed are written decisions by the department made during the effective SRF loan agreement period. Appeals must be filed in writing to the department within forty-five days from the date of the disputed decision. Following the final decision of a dispute, the department and the recipient shall proceed with the project in accordance with the decision rendered. Administrative or legal costs and other expenses incurred as part of an appeal will not be eligible for reimbursement.

(8) The department, or at the department's discretion another authorized auditor, will audit the SRF loan agreement and records.

(9) Recipients shall maintain comprehensive insurance coverage on the project for an amount equal to the funds disbursed.

[Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-070, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-070, filed 8/29/89, effective 9/29/89.]

WAC 173-98-075 How does the Growth Management Act impact the use of funds?

(1) A local government not in compliance with the Growth Management Act may not receive loans or grants from the department, except that, in limited circumstances, a local government that is not in compliance with the Growth Management Act may receive loans or grants from the department where necessary to address a public health need or substantial environmental degradation.

(2) For the purposes of this chapter, "compliance with the Growth Management Act" means that:

(a) A county, city, or town that is required to or chooses to plan under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan and development regulations be adopted; and

(b) The county, city, or town has not been found out of compliance by a growth management hearings board; or

(c) A growth management hearings board has found a county, city, or town in compliance with the requirements of chapter 36.70A RCW, after previously finding the county, city, or town was not in compliance.

(3) For the purposes of this chapter, a public health need related to a loan or grant must be documented by a letter signed by the secretary of the Washington state department of health or his or her designee and addressed to the public official who signed the loan or grant application. "Public health need" means a situation where:

(a) There is a documented potential for:

(i) Contaminating a source of drinking water; or

(ii) Failure of existing wastewater system or systems resulting in contamination being present on the surface of the ground in such quantities and locations as to create a potential for public contact; or

(iii) Contamination of a commercial or recreational shellfish bed as to create a critical public health risk associated with consumption of the shellfish; or

(iv) Contamination of surface water so as to create a critical public health risk associated with recreational use; and

(b) The problem generally involves a serviceable area including, but not limited to, a subdivision, town, city, or county, or an area serviced by on-site sewage disposal systems; and

(c) The problem cannot be corrected through more efficient operation and maintenance of an existing wastewater disposal system or systems.

(4) For the purposes of this chapter, a substantial environmental degradation related to a loan or grant must be documented by a letter signed by the director of the department or his or her designee and addressed to the public official who signed the loan or grant application.

"Substantial environmental degradation" means that:

- that:
- (a) There is a situation causing real, documented, critical environmental contamination
 - (i) Contributes to violations of the state's water quality standards; or
 - (ii) Interferes with beneficial uses of the waters of the state; and
 - (b) The problem generally involves a serviceable area including, but not limited to, a subdivision, town, city, or county, or an area serviced by on-site sewage disposal systems; and
 - (c) The problem cannot be corrected through more efficient operation and maintenance of an existing wastewater disposal system or systems.
- (5) A county, city, or town that has been offered a loan or grant for a water pollution control facilities project may not receive loan or grant funds while the county, city, or town is not in compliance with the Growth Management Act unless:
- (a) Documentation showing that a public health need has been provided by the Washington state department of health; or documentation showing that a substantial environmental degradation exists has been provided by the department of ecology; and
 - (b) The county, city, or town has provided documentation to the department that actions or measures are being implemented to address the public health need or substantial environmental degradation; and
 - (c) The department has determined that the project is designed to address only the public health need or substantial environmental degradation described in the documentation, and does not address unrelated needs including, but not limited to, provisions for additional growth.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-075, filed 12/8/00, effective 1/8/01.]

WAC 173-98-080 Indemnification. (1) The department shall in no way be held responsible for payment of salaries, consultant's fees, and other overhead costs related to an SRF loan agreement issued to a recipient.

(2) To the extent that the Constitution and laws of the state of Washington permit, the recipient shall indemnify and hold the department harmless from and against any liability for any or all injuries to persons or property arising out of an SRF loan agreement except for such damage, claim, or liability resulting from the negligent act or omission of the department.

[Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-080, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-080, filed 8/29/89, effective 9/29/89.]

WAC 173-98-090 How are loans managed? (1) Timely use of funds: Projects funded with loans must be spent in a timely fashion so that funds are put to work for the water quality of the state as soon as possible. To accomplish this, certain time restrictions are placed on the use of funds as follows:

(a) Work on a project must be started within sixteen months of the publication date of the final intended use plan on which the project was proposed.

(i) Any expenditure of funds which is eligible for reimbursement under the terms of the loan agreement constitutes starting the project.

(ii) No more than one time extension of no more than twelve months may be made when there are valid reasons for the extension and when the extension is included in the signed funding agreement with the department.

(iii) Valid reasons for a time extension allowing a start date more than sixteen months after the publication date of the final intended use plan are limited to:

(A) Schedules included in water quality permits, consent decrees, or enforcement orders;

or

(B) The recipient and the department agree that there is a need to do work during an environmental window in a specific season of the year.

(iv) If the funding recipient has one of these valid reasons to wait longer than sixteen months to start the project, the reasons why it will take longer and the schedule the recipient will follow must both be stated clearly in a signed loan agreement.

(b) Work on a project must be completed within five years of the publication date of the final intended use plan on which the project was proposed or within a shorter time period if the shorter period is identified in the funding agreement for the project. When all work identified in the funding agreement scope of work is finished, the project is deemed to be completed. After the five-year time limit is reached, no further expenditures may be reimbursed unless an extension is made.

(i) No more than one time extension of no more than twelve months may be made when there are valid reasons for the extension; and

(A) The extension is requested no less than three months before the funding agreement is due to expire; and

(B) The department's water quality program manager agrees that the extension is for a valid reason.

(ii) Valid reasons for a time extension are limited to:

(A) Schedules included in water quality permits, consent decrees, or enforcement orders;

or

(B) The recipient and the department agree that there is a need to do work during an environmental window in a specific season of the year.

(iii) If the funding recipient has one of these valid reasons to be allowed a time extension, the reasons why it will take longer and the schedule the recipient will follow must both be stated clearly in a signed amendment to the existing loan agreement.

(2) Prior authorization to incur costs. In cases where a project has been identified on a final intended use plan, the applicant may make a written request to the water quality program manager, asking to begin incurring costs related to a loan for which there is not yet a signed loan agreement. If the department concurs with this request, the water quality program manager will send the applicant a letter authorizing the costs. The applicant incurs the costs at their own risk. When an agreement is signed, previously incurred costs that are not eligible under the terms of the agreement are the sole responsibility of the applicant.

(3) The administration of all loans will be subject to all terms and conditions in a funding agreement signed by the department and by the recipient.

(4) Ongoing management of most aspects of loan projects is subject to the most recent edition of *Administrative Requirements for Ecology Grants and Loans*, copies of which will be provided to all recipients.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-090, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-090, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-090, filed 8/29/89, effective 9/29/89.]

WAC 173-98-100 How do recipients comply with the state environmental review process? (1) All recipients which receive SRF loans must meet the provisions of the State Environmental Policy Act (SEPA), chapter 43.21C RCW, and the SEPA rules, chapter 197-11 WAC. Additional provisions are currently needed by federal law under Title VI of the act to satisfy the state's responsibility to help ensure that recipients comply with the National Environmental Policy Act (NEPA) and other applicable environmental laws, regulations, and executive orders. The lead agency (WAC 197-11-050(2)) responsible for SEPA compliance for each project under the SRF program shall also comply with the following additional provisions. When a categorical exclusion, finding of no significant impact, or a record of decision has been issued under NEPA for the same project scope of work, no additional environmental documentation is required. Applicants will need to adopt the federal environmental documentation to meet their responsibilities as required by SEPA rules WAC 197-11-600, 197-11-610, and 197-11-630. If federal environmental documentation has not been submitted for approval to the appropriate federal agency, applicants and designated lead agencies must:

- (a) Consult with the department before determining that the project is categorically exempt from SEPA and obtain concurrence that the project meets the criteria for a categorical exemption (WAC 197-11-305) and give public notice of the categorical exemption by publishing a notice in a newspaper of area-wide circulation. This notice shall include the locations where the public may review the facilities plan and other environmental information.
- (b) Consult with the department prior to issuing a threshold determination (WAC 197-11-330), and submit a copy of the environmental checklist (WAC 197-11-315) and a recommended threshold determination to the department.
- (c) Obtain written concurrence from the director with the recommended threshold determination as to whether a determination of nonsignificance (DNS) (WAC 197-11-340) or an environmental impact statement (EIS) is to be issued prior to issuing the actual document.
- (d) Issue the threshold determination, determination of nonsignificance (DNS) or determination of significance (DS) (WAC 197-11-360) and submit copies to the department; two copies shall be sent to the department's environmental review section and one copy to the regional water quality program (WQ) of the department. The director must concur in writing with the findings of the checklist and DNS if a DNS is issued.
- (e) Give public notice of the threshold determination by publishing a notice in a newspaper of area-wide circulation. This notice shall include the locations where the public may review the threshold determination, facilities plan, and other environmental information.
- (f) Distribute copies of the threshold determination and supporting documents to other affected local, state, and federal agencies, Indian tribes, and the public.
- (g) When a DS is issued, the lead agency will develop the final scope of elements to be addressed in the environmental impact statement (EIS) and obtain written concurrence from the director. The department shall be consulted throughout the EIS process.

(h) Distribute copies of the draft and final EIS to the department; two copies shall be sent to both the environmental review section and the department's water quality program.

(i) Give public notice of the draft and final EIS by publishing notices in a newspaper of area-wide circulation. Notices shall include the locations where the public may review the draft and final EIS or obtain copies.

(j) Distribute copies of the draft and final EIS to other affected local, state, and federal agencies, Indian tribes, and the public.

(k) The director must concur in writing with the finding of the final EIS.

(2) The lead agency shall issue a notice of action for the final EIS regarding the preferred alternative in accordance with RCW 43.21C.080, WAC 197-11-680, and 197-11-990.

(3) A cost-effectiveness analysis will be required for all SRF projects. Planning must include a comparison of the total cost, i.e., capital, operation and maintenance, and replacement costs of the project with other alternatives, including the no action alternative. The comparison of the total costs, e.g., total present worth or annual equivalent costs of projects for the planning period, must be included. Cost-effective analyses must also include nonmonetary cost of the project, i.e., the environmental impact, resource utilization, implementability, etc. This analysis must be included in the planning document and must be summarized in the EIS or DNS. Financial assistance under the SRF program will be offered to the cost-effective solution to the water pollution control problem.

(4) All mitigation measures committed to in the environmental checklist or state EIS, or in the finding of no significance impact/environmental assessment or record of decision/federal EIS (for federally approved projects) will become SRF loan agreement conditions. Applicants must complete all mitigation measures required. Failure to abide by these conditions will result in withholding of payments and may result in immediate repayment of the loan.

(5) The applicant must comply with the requirements of applicable environmental laws, regulations, and executive orders. Concurrence from the director will be based on best available information provided by the applicant. The department is not responsible for concurrence based on erroneous information.

[Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-100, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-100, filed 8/29/89, effective 9/29/89.]

WAC 173-98-110 What are the repayment options and schedules? (1) General provisions.

When the scope of work identified in the SRF loan agreement has been fully completed and/or the initiation of operation date has been determined:

(a) The department and recipient will execute a final SRF loan agreement amendment which details the final loan amount. This amount will include the principal from disbursements made to recipients and accrued interest. Interest will accrue on each disbursement as it is paid to the recipient.

(b) The department will prepare according to the SRF loan agreement, a repayment schedule which fully amortize the final loan amount within twenty years of project completion. The first repayment of principal and interest will be due no later than one year after the initiation of operation date or at project completion date, whichever occurs first. Equal payments will be

due every six months after this first payment. Loan balances may be repaid or additional principal payments may be made at any time without penalty.

(c) If any amount of the final loan amount or any other amounts owed to the department remains unpaid after it becomes due and payable, the department may assess a late charge. The late charge shall be additional interest at the rate of one percent per month, or fraction thereof, starting on the date the debt becomes past due and until it is paid in full.

(d) If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington state agencies, the payment shall be due on the next business day for Washington state agencies.

(2) Phased or segmented project. Where a project has been phased or segmented, the general provisions for repayment shall apply to the completion of individual phases or segments.

(3) More than five years to complete project. When a project approved by the department takes longer than five years to complete, loan repayment must begin within five years of the first disbursement for the project, unless the director determines that the fund is fiscally sound without this repayment schedule. Repayments for these loans must follow the general provisions as outlined in subsection (1)(b) of this section.

(4) Security for loan repayment. Loans shall be secured by a general obligation pledge or a revenue pledge of the recipient. The obligation of the recipient to make loan repayments from the sources identified in its SRF loan agreement shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind.

(a) General obligation. When repayment of a loan is secured by a general obligation pledge, the recipient shall pledge for so long as the loan is outstanding, to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors, on all of the taxable property within its boundaries in an amount sufficient, together with other money legally available and to be used for loan repayment, to pay when due the principal of and interest on the loan, and the full faith, credit, and resources of the recipient shall be pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of the principal of and interest on the loan.

(b) Revenue obligation. Repayment of a loan may be secured by an irrevocable pledge of the net revenues of the recipient's utility and, in appropriate cases, utility local improvement district assessments. In such cases:

(i) Lien position. Repayment of a loan shall constitute a lien and charge (A) upon the net revenues of the recipient's utility prior and superior to any other charges whatsoever, except that the lien and charge shall be junior and subordinate to the lien and charge of any senior lien obligations and, (B) if applicable, upon utility local improvement district assessments prior and superior to any other charges whatsoever.

(ii) Reserve requirement. For loans that are revenue-secured debt with terms greater than five years, the recipient must accumulate a reserve for the loan equivalent to at least the average annual debt service on the loan during the first five years of the repayment period of the loan. This amount shall be deposited in a reserve account in the loan fund in approximately equal annual payments commencing within one year after the initiation of operation or the project completion date, whichever comes first. "Reserve account" means, for a loan that constitutes revenue-secured debt, an account of that name created in the loan fund to secure the payment of the principal of and interest on the loan. The amount on deposit in the reserve account may be applied by the recipient (A) to make, in part or in full, the final repayment to the department of the loan amount or, (B) if not so applied, for any other lawful purpose of the recipient once the

loan amount, plus interest and any other amounts owing to the department hereunder, have been paid in full.

(5) Repayment from other than pledged sources. A recipient may repay any portion of its loan from any legally available funds other than those pledged in its SRF loan agreement to repay the loan.

(6) No defeasance or advance refunding. So long as the department holds a loan, the recipient shall not be entitled to, and shall not effect, its economic defeasance or advance refunding.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-110, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-110, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-110, filed 8/29/89, effective 9/29/89.]

WAC 173-98-120 General provisions. (1) Sale of facilities to private enterprises. Recipients may sell facilities for which the SRF loan was provided to private enterprises; however, the SRF loan agreement must be terminated in accordance with the terms of the agreement and the assistance repaid to the SRF immediately upon sale.

(2) Refinancing. The refinancing of existing debt obligations shall be limited to water pollution control facilities where project construction began after March 7, 1985. Applicants requesting refinancing must meet all the requirements contained in the act. They must be on the intended use plan before assistance will be offered and must be eligible to receive such assistance. There are two kinds of refinance with different regulations:

(a) Interim refinance: Interim refinance refers to a project which is still in progress and for which the applicant went forward on their own accord and using funding from a source other than the department. For projects in this category, applicants for funding should apply in the same manner as any other project, making certain to clearly state that the project is underway and that they have secured all prerequisite documents.

(b) Standard refinance: Standard refinance refers to a project which has been completed using funding from a source other than the department.

(i) Standard refinance projects will only be funded if there is limited demand for funds for new projects.

(ii) The department will not refinance debt from funding programs administered by the department.

(iii) All project prerequisites must have been met at the time the project was undertaken.

(iv) All standard refinance projects applying for funding in a fiscal year will be ranked by financial capability using the same criteria used for evaluating hardship, and giving the highest ranking to the applicants with the greatest financial need.

(v) For standard refinance projects, applicants for funding may use a shorter, simpler application form. This form will ask basic questions about the project and about the applicant's financial capability to pay for the project with and without the refinance.

(vi) Successful applicants for standard refinance projects must make their first repayment six months after they sign a funding agreement.

(3) Self certification. The department may authorize a recipient to certify compliance with selected program requirements. The recipient must request such certification authority and document that it has the capability and resources, that it is in the best interest of the state, and that the request is consistent with state and federal laws and regulations. Concurrences required in the environmental review process cannot be delegated to recipients.

(4) For all projects, the recipient must acknowledge state and federal financial assistance in all reports, technical documents, publications, brochures, and other materials produced using funding from the loan or grant. All site-specific projects must have a sign of sufficient size to be seen from nearby roadways, acknowledging state and federal financial assistance, and left in place throughout the life of the project. Department and environmental protection agency logos must be on all signs and documents and will be provided as needed.

[Statutory Authority: Chapter 90.50A RCW. 01-01-043 (Order 00-11), § 173-98-120, filed 12/8/00, effective 1/8/01. Statutory Authority: RCW 43.21.080 and chapters 34.05 and 90.50A RCW. 98-24-036 (Order 98-10), § 173-98-120, filed 11/24/98, effective 12/25/98. Statutory Authority: Chapter 90.50A RCW. 89-18-019 (Order 89-34), § 173-98-120, filed 8/29/89, effective 9/29/89.]