

**CHAPTER 173–80 WAC**  
**LIMITATIONS ON USE OF REFERENDUM 39 GRANT FUNDS FOR**  
**WATER POLLUTION ABATEMENT**

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WAC

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**WAC 173–80–010 Purpose and scope.** The purpose of this chapter is to set forth limitations on the allocation and uses of monies administered by the department of ecology for purposes of providing grants and loans for wastewater treatment facilities, agricultural pollution abatement facilities, and lake restoration projects pursuant to chapter 43.99F RCW (Referendum 39). To derive the most benefit for the state in protecting the health and safety of the people it is necessary to establish criteria for the use of funds made available by Referendum 39. This chapter will outline

- (1) limitations on the allocation and uses of the funds,
- (2) the criteria to be considered for determining who will receive funds, and
- (3) the process to be followed for distributing the funds.

[Statutory Authority: RCW 43.21A.080. 82–05–011 (Order DE 81–50), § 173–80–010, filed 2/5/82.]

**WAC 173–80–020 Definitions.**

- (1) “Department” means the Washington state department of ecology.
- (2) “Wastewater treatment works construction program” (hereinafter referred to as the wastewater treatment program) means the state/local program of grants and loans under chapter 43.99F RCW (Referendum 39) to public entities for the purpose of planning, designing, constructing, or upgrading treatment works.
- (3) “Agricultural wastes grants program” means the program of grants and loans administered by the department for the planning, design and construction of publicly owned or operated agricultural pollution control facilities.

- (4) “Lake restoration grants program” means the program of state grants and loans administered by the department for the planning, design and implementation of lake restoration projects.
- (5) “Director” means the director of the Washington state department of ecology or his or her authorized designee.
- (6) “Management of wastes” means the control, collection, transport, treatment, and disposal of nonradioactive solid and nonradioactive liquid waste materials.
- (7) “Renewable energy” means, but is not limited to, the production of steam, hot water for steam heat, electricity, cogeneration, gas, fuel through incineration of wastes, refuse-derived fuel processes, pyrolysis, hydrolysis or bioconversion, and energy savings through material recovery from waste source separation and/or recycling.
- (8) “Energy savings as a result of the management of the wastes” means but is not limited to the capital cost associated with an energy efficient treatment or transport process chosen over a process more commonly used in standard engineering practice which is more energy intensive.
- (9) “Project priority list” means the annual list of rated and ranked projects for which state grant assistance is expected during the year for which the list is issued.
- (10) “Priority rating system” means the process and criteria used by the department of ecology to rate and rank projects in the state that are considered eligible for assistance under chapter 43.99F RCW.

[Statutory Authority: RCW 43.21A.080. 82-05-011 (Order DE 81-50), § 173-80-020, filed 2/5/82.]

#### **WAC 173-80-030 Limitations on the use of funds.**

- (1) The following water program projects shall be eligible for state grants, loans, or combination of grants and loans in an amount not to exceed seventy-five percent of the total eligible cost of the project as determined by the department and subject to the special provisions contained in this chapter.
  - (a) Wastewater treatment projects.
  - (b) Lake restoration projects.
  - (c) Agricultural pollution control projects.
- (2) Loans may be authorized by the director, provided:
  - (a) The loan repayment period does not exceed five years.
  - (b) The cumulative total of all loans authorized during any biennium does not exceed ten percent of the cumulative total of funds appropriated by the legislature for that biennium, excluding any special appropriation authorized by WAC 173-80-050(6).
  - (c) The director considers and documents why it is in the best interest of the state's citizens to provide a loan.
  - (d) The director considers and documents how the loan will be repaid.
- (3) The wastewater treatment program will establish an accounting procedure to identify the money which is spent on projects that are capable of producing renewable energy or energy savings as a result of the management of the wastes.

[Statutory Authority: RCW 43.21A.080. 82-05-011 (Order DE 81-50), § 173-80-030, filed 2/5/82.]

**WAC 173–80–040 Provision of guidelines.** The department will publish guidelines which establish procedures for awarding grants and eligibility criteria for each Referendum 39 grant program identified in WAC 173–80–030(1). These guidelines will describe the grant application, review, and award process and will be available prior to the first grant award.

[Statutory Authority: RCW 43.21A.080. 82–05–011 (Order DE 81–50), § 173–80–040, filed 2/5/82.]

**WAC 173–80–050 Wastewater treatment works grants—Priority rating and other provisions.**

- (1) In instances where applications for wastewater treatment works grant funds exceed the amount currently available to the department, the director will establish a project priority list using published priority rating criteria which consider, but are not limited to, the following:
  - (a) Water quality impacts caused by existing circumstances.
  - (b) Public health impacts caused by existing circumstances.
  - (c) The prior local effort expended toward correcting the existing or similar wastewater problems.
  - (d) The cost-benefit relationship of the proposed project.
  - (e) Problem prevention aspects of the proposed project.
- (2) In instances where a priority list is required, the director will ensure that:
  - (a) A project priority list is developed on an annual basis.
  - (b) The priority list be readily available to the public for review and comment thirty days prior to its approval by the director.
  - (c) Comments received during any review period are considered and responded to before a final list is approved by the director.
  - (d) An approved list is available on or about forty-five days after the close of the application period.
- (3) The department may use funds authorized by chapter 43.99F RCW as fifteen percent grants to wastewater treatment projects for public entities who have received a federal grant under Title II of Public Law 97–117 prior to October 1, 1982, or a written guarantee from the department, prior to the effective date of this chapter, that such a grant will be available when a federal grant is received. New phases of those continuing construction wastewater treatment projects begun prior to October 1, 1982, are also eligible for a fifteen percent grant. Funds are to be awarded under this authority only if funds provided by chapter 43.83A RCW (Referendum Bill No. 26) are not available.
- (4) Prior to December 31, 1982, the department may award a grant for seventy–five percent of the eligible costs for completion of any wastewater treatment facility that began construction under the federal wastewater treatment program prior to October 1, 1981, and is not scheduled to receive a federal grant prior to federal fiscal year 1983.
- (5) Wastewater treatment program projects, except those allowed by WAC 173–80–050(4), shall not receive grants exceeding fifty percent of the eligible costs of the project.

- (6) The director may enter into a single lump sum design and construction contract with a grantee whose project exceeds a total cost of \$100 million and requires more than three years to design and construct, providing that all the following conditions are met:
- (a) The project appears on the current project priority list within the range fundable with remaining, unobligated monies authorized by chapter 43.99F RCW.
  - (b) The contract contains provisions limiting the total amount of state funding to fifty percent of the eligible costs or an agreed upon figure (whichever is less), establishing cash flow agreements, and any other provisions the director deems necessary to protect the financial interests of the state.
  - (c) The legislature appropriates the necessary funds.
  - (d) The grantee agrees to a one-time grant, including limited increases at time of bid, and will not thereafter seek any further funds under the provisions of chapter 43.99F RCW.

[Statutory Authority: RCW 43.21A.080. 82-05-011 (Order DE 81-50), § 173-80-050, filed 2/5/82.]

**WAC 173-80-060 Lake restoration project grants--General eligibility requirements and priority rating.**

- (1) General eligibility requirements include:
- (a) The lake must have a documented water quality problem which is resulting in impairment of beneficial uses;
  - (b) The proposed project must be sponsored by a public body as defined in chapter 43.99F RCW;
  - (c) The project sponsor must be able to provide at least ten percent of the total project cost unless a lower share is specifically authorized by the director; and
  - (d) Public access must be provided which is sufficient to allow the general public the same opportunity to enjoy the lake's recreational benefits as that enjoyed by residents living immediately adjacent to the lake.
- (2) When applications for grant funds exceed the amount currently available to the department, the director will establish a lake restoration project priority list using rating criteria which consider, but are not limited to, the following:
- (a) Water quality improvements to be achieved
  - (b) Increased or enhanced lake utilization
  - (c) Restoration potential
  - (d) Public health impacts to be corrected
- (3) When a lake restoration project priority list is required, the director will ensure that the priority list is readily available to the public for review and comment thirty days prior to its approval by the director.

[Statutory Authority: RCW 43.21A.080. 82-05-011 (Order DE 81-50), § 173-80-060, filed 2/5/82.]

**WAC 173–80–070 Agricultural wastes project grants—General eligibility requirements and priority rating.**

- (1) General eligibility requirements include:
  - (a) The project sponsor must be a public body as defined in chapter 43.99F RCW;
  - (b) Eligible project elements must benefit the public and be utilized by more than one member of the sponsoring group or agency;
  - (c) The project must directly benefit the quality of the receiving water; and
  - (d) The project sponsor must provide at least ten percent of the grant eligible costs unless a lesser amount is authorized by the director.
- (2) Project rating—When applications for grant funds exceed the amount currently available to the department, the director will establish an agricultural wastes project priority list using criteria which includes, but are not limited to:
  - (a) Water quality improvements to be achieved
  - (b) Improved efficiency in water quantity utilization
  - (c) Resource conservation potential
  - (d) Reduction in impairment of beneficial uses
- (3) When an agricultural waste project priority list is required, the director will ensure that the priority list is readily available to the public for review and comment thirty days prior to its approval by the director.

[Statutory Authority: RCW 43.21A.080. 82–05–011 (Order DE 81–50), § 173–80–070, filed 2/5/82.]

**WAC 173–80–080 Limiting the use of existing Referendum 39 regulations and funds.**

This chapter is not applicable to the allocation and uses of moneys administered by the department of ecology pursuant to chapter 3, Laws of 1986.

[Statutory Authority: 1986 c 3 § 4. 86–19–041 (Order DE 86–26), § 173–80–080, filed 9/12/86.]