



# Rule Adoption Notice

## Remedial Action Grants & Loans, Chapter 173-322 WAC

*In 2003, the Legislature passed (ESSB 5766). This law requires Ecology to notify businesses that a rule adoption affects them. To comply with this law and to keep affected parties better informed of Ecology rule adoptions, we have sent you this notice of a rule adoption.*

### CONTACTS

#### Program:

Diane Singer  
PO Box 47600  
Olympia WA 98504  
(360) 407-6062  
[dire461@ecy.wa.gov](mailto:dire461@ecy.wa.gov)

#### Rules Coordinator:

Jerry Thielen  
PO Box 47600  
Olympia, WA 98504  
(360) 407-7551  
[jthi461@ecy.wa.gov](mailto:jthi461@ecy.wa.gov)

### MORE GRANT AND LOAN INFORMATION ONLINE

Visit:

<http://www.ecy.wa.gov/programs/swfa/grants/rag.html>

### UPDATES ON RULE-MAKING ACTIVITIES

To get updates on Ecology's rule-making activities, sign-up for the **WAC Track** e-mail list.

Visit:

[www.ecy.wa.gov/maillist.html](http://www.ecy.wa.gov/maillist.html).

### Requirements of the Rule

This rule sets up requirements for a program of grants and loans to “local governments” for remedial action. Ecology amended this rule pursuant to RCW 70.105D.070 (3) (a) and (7). The relevant statutes define “local government” to mean a city, town, or county. (See RCW 70.95.030 and 70.105.010). The rule defines “local government” to mean any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county. (See WAC 173-322-020.) The intent of remedial action grants and loans is to encourage and speed up the cleanup of hazardous waste sites. The program also intends to lessen the impact of the cleanup on ratepayers and taxpayers. The grants and loans are to supplement local government funding for remedial actions.

### Summary of the Rule Changes Adopted on March 22, 2007

Ecology amended chapter 173-322 WAC, Remedial Action Grants and Loans, for the following reason:

**To carry out a new Extraordinary Financial Hardship loan program:** Rule revisions were necessary to create a new Extraordinary Financial Hardship loan program. Loans under this program will have deferred terms and conditions that may not be indefinite. The rule requires an applicant for the Extraordinary Financial Hardship loan program to demonstrate the following:

- ◆ Financial need for the loan.
- ◆ Inability to repay the loan under present circumstances.
- ◆ Inability to obtain funds from any other source.
- ◆ Inability to bond or raise its tax base.

Local governments cannot receive Extraordinary Financial Hardship loans unless the Department of Ecology's Director approves their applications.

The requirements for hardship loans differ from the regular loans in two ways. The first is the applicant's complete inability to repay the loan under present circumstances (from any source of funding, whether insurance, bonds, taxes, etc.). The other is that deferred terms and conditions need the Director's approval.

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*If you require special accommodations or need this document in an alternate format, please contact the Solid Waste & Financial Assistance Program at (360) 407-6900. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

## Effective April 23, 2007

This amendment to Chapter 173-322 WAC becomes effective on April 23, 2007.

## Anticipated Effects of Rule

The anticipated revisions will affect small governmental entities with limited finances and would allow more loan options.

## Public Involvement Process

Ecology conducted public involvement and outreach efforts throughout the rule-making process. Those efforts included developing and updating a Web page that provided the public with information on rule-making activities and the opportunity to comment on the rule-making process. Ecology mailed a focus sheet containing public involvement and hearing information to over 1,380 interested persons and organizations, including counties, cities, ports, and other local governments. One public hearing took place at 1 p.m. on January 17, 2007, at Ecology's Headquarters Building in Lacey. No members of the public attended the hearing. No one provided any oral or written comments during the hearing. The proposed rule amendments were subject to a 64-day formal comment period, which ended on January 25, 2007.

Ecology received several written comments regarding eligibility requirements for remedial action grants and loans and was asked to amend the rule so that tribal governments are included as eligible for remedial action grants and loans. The proposed rule establishes requirements for a program of grants and loans to "local governments" for remedial action. The relevant statutes and regulation define "local government" to mean a city, town, or county. (See RCW 70.95.030 and 70.105.010, and WAC 173-322-020.) Ecology's legal review shows that this definition of local governments does not include tribes for purposes of remedial action grants and loans. In addition, tribes are generally considered sovereign nations. Case law, commentaries, and other information generally tend to suggest that there is separation and that local governments and tribes are not the same kind of entities. Therefore, changes in eligibility requirements for remedial action grants and loans would require a change to this rule's authorizing statute.

The Concise Explanatory Statement including the agency's response to comments is available at the following website: [http://www.ecy.wa.gov/programs/swfa/grants/rag\\_ammend.html](http://www.ecy.wa.gov/programs/swfa/grants/rag_ammend.html)

## Appeal Procedures

The Administrative Procedure Act (RCW 34.05.330) describes how persons can appeal this adoption. To learn more about appealing this adoption, please contact Jerry Thielen, Ecology's Regulatory Affairs Manager, at (360) 407-7551 or by email [jthi461@ecy.wa.gov](mailto:jthi461@ecy.wa.gov).

## More Information on Remedial Action Grants and Loans

Contact Diane Singer at [dire461@ecy.wa.gov](mailto:dire461@ecy.wa.gov) or (360) 407-6062.

- ◆ Chapter 173-322 WAC, Remedial Action Grants and Loans  
<http://apps.leg.wa.gov/wac/default.aspx?cite=173-322>
- ◆ Remedial Action Grants and Loans Web page  
<http://www.ecy.wa.gov/programs/swfa/grants/rag.html>
- ◆ Remedial Action Grants and Loans Rule Development Web page  
[http://www.ecy.wa.gov/programs/swfa/grants/rag\\_ammend.html](http://www.ecy.wa.gov/programs/swfa/grants/rag_ammend.html)