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ECOLOGY
State of Washington

Drought Response Grant Funding Guidance

Chapter 173-167 WAC

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**Drought Response
Grant Funding Guidance**

Chapter 173-167 WAC

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Olympia, Washington

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Drought Response Grant Funding Guidance

On April 4, 2019, the Department of Ecology (Ecology) issued an emergency order, declaring drought in three watersheds in Washington State. On May 20, Ecology added 24 watersheds, putting about half of Washington State under a drought declaration. The drought declaration will be effective until April 3, 2020.

A current [map of designated drought areas](https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-2019) is on our website at <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-2019>. A map and listing of Water Resource Inventory Areas (WRIA) is provided in Appendix A.

The Legislature adopted a budget on April 28, 2019, that provided \$2.0 million in funding to Ecology for emergency drought response to alleviate hardships caused by the water shortage. Projects eligible for funding must be located in areas that are listed in the drought declaration.

Ecology is soliciting proposals from applicants to begin as quickly as possible to address immediate drought hardship. Grants will be awarded on an eligibility basis as funds are available, and grants are not considered open competitive. In general, Ecology will make efforts to review projects submitted for funding within two weeks of receiving a completed application, and will make a funding decision in as soon as one to two weeks afterward. You can access information on our [drought emergency funding rule](http://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-167) at: <http://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-167>.

This funding opportunity will be open beginning June 4, 2019. The adopted emergency rule, Chapter 173-167 WAC, remains effective until October 2, 2019. Projects funded under this opportunity must be completed by the end of the drought declaration, April 3, 2020.

Grant applicants may apply for a Total Eligible Cost of up to \$350,000. Grant applicants must demonstrate the availability of cost-share funds of 50 percent of the Total Cost of the project, unless an applicant meets the exemption for public water systems in WAC 173-167-030(3).

For example:

Total Eligible Cost (Ecology share)	\$350,000
<u>Applicant share</u>	<u>\$350,000</u>
Total Cost of project	\$700,000

1. Eligible Applicants

Applicants eligible for funding include:

- State, county, or city governmental agencies.
- Federally-recognized tribes.
- Public utility districts, formed under chapter 54.04 RCW.
- Water and sewer districts, formed under chapter 57.02 RCW.

- Conservation districts, formed under chapter 89.08 RCW.
- Irrigation districts, formed under chapter 87.03 RCW.
- Port districts, formed under chapter 53.04 RCW.
- Watershed management partnerships, formed under chapter 39.34.200 RCW.

2. Eligible Project Elements

1. To be eligible for funding, one or more of the following must be partially or completely within the area of a drought declaration order by Ecology:
 - (a) The public water system's service area.
 - (b) The geographic area where irrigated agriculture or livestock are located.
 - (c) The source of water, or the water body, that supplies water to the entity applying for funding.
2. The reduction in water supply caused by drought must cause, or will cause, undue hardship, as described under WAC 173-167-120.
3. Cost-share funds of at least 50 percent are required, unless the applicant qualifies for an exemption from this requirement under WAC 173-167-030(3).

3. Ineligible Project Elements

Projects or project components that are ineligible to receive funding include:

- Projects or project objectives previously funded by Ecology. However, expansion or additional phases of a project that provide additional benefits may be eligible.
- Major and capital equipment purchases without pre-approval from Ecology.
- Lighting, landscaping, or other project elements that do not provide a water supply or instream resources benefit.
- Contaminated soils removal or remediation.
- Projects required under statute, rule, ordinance, or court order, or that conflict with other ecology rules, projects, or guidance.
- Staff time not directly related to the project.
- Bond costs for debt issuance.
- Operation and maintenance costs.
- Bonus or acceleration payments to contractors to meet contractual completion dates for construction.
- Compensation or damages for any claim or injury of any kind arising out of the project, including any personal injury, damage to any kind of real or personal property, or any kind of contractual damages, whether direct, indirect, or consequential.
- Dispute resolution under the grant agreement.

- Operating expenses or other indirect costs, in excess of approved indirect salary rate.
- Overtime differential paid to employees of a public entity to complete administrative or force account work.
- Permit fees not directly required for the completion of the project.
- Professional dues.

4. Project Selection

Only projects that are located in the watersheds where drought has been declared can be considered for funding. Projects eligible for funding must address drought hardships to agriculture or livestock, public water supplies, or fisheries and wildlife. The current drought declaration maps are on [Ecology's website](https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-2019) at <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-2019>.

If you have questions about a potential project, contact your regional office representative. Regional contact information is provided on page 1.

The types of projects that may be eligible for funding include, but are not limited to:

Agriculture or Livestock

- Purchasing or leasing water or water rights to be used during the drought period for instream or out-of-stream beneficial uses.
- Developing new source(s) of water supply, or mitigating use of existing emergency sources, to supplement an insufficient source.
- Replacing intakes, pumps and related accessories.
- Replacing leaky or damaged pipelines or installing new transmission pipelines to provide system reliability.
- Improving canals and laterals with control structures.
- Lining of leaky canals.
- Upgrading diversion structures.
- Addition of reregulating reservoirs.
- Installation of measuring devices that improve efficiency of irrigation.
- Modifying an existing source or deepening an existing well.
- Developing an intertie or alternate water source in conjunction with an adjacent water supplier.
- Irrigation scheduling programs and activities.

Public Water Supply

- Developing new source(s) of water supply, or mitigating use of existing emergency sources, to supplement an insufficient source.

- Transportation of emergency water supplies for public health and sanitation.
- Implementing water conservation strategies.
- Water use reduction programs and activities, including leak detection or other water conservation actions that can lead to demonstrable reduction in water demand or increased availability.

Fisheries and Wildlife

- Actions to ensure fish survival and health within hatcheries, which may include improvement to water quality, water supply, or other measures.
- Projects that eliminate migration barriers, such as temporary structures to increase flow velocity or depth.
- Modifying stream channels adjacent to a hatchery to ensure passage to the facility.
- Stream channel modification such as trenching, sandbagging, or berming to protect spawning gravels or to provide migratory channels for fish passage.
- Temporary streamflow diversion to critical bird nesting habitat or wetland habitat populated by priority species, as identified by the state Department of Fish and Wildlife (WDFW).
- Temporary impoundment of water in existing wetland habitat populated by priority species, as identified by WDFW.
- Temporary streamflow diversion to upland watering devices.

The cost of providing personnel necessary to implement the activities in an eligible drought relief project is also eligible for drought relief funding.

5. How to Apply

Applicants must submit applications for funding through the Ecology Administration of Grants and Loans (EAGL) system. The funding application and an EAGL User's Manual that provides instructions are available on our website at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans>

Include specific details about the project in the Drought Relief Form in EAGL. This information will aid in our evaluation and application of eligibility criteria in Table 1, below, which are listed in WAC 173-167-060.

In addition, applicants should include maps or drawings as attachments with their applications. This may include a drawing or engineering design of the project, project area map(s), and other relevant schematics.

Impacts and Benefits

Agricultural Projects

Describe existing conditions that include specific impacts that are being experienced under drought conditions. This should include either overall acreage and type of crops grown in the affected area, or number and type of livestock impacted. Estimate anticipated amount of water shortage both as an instantaneous rate and total volume. Estimate anticipated economic losses projected due to the water supply shortage, both short-term and long-term. Describe any conservation actions already taken and any planned actions to reduce the impact of the drought.

Benefits should be clearly stated in terms of the amount of water that will be obtained, and the quantity of benefit (acreage, crop type, number of livestock, etc.) that you anticipate being achieved with the project. If the full economic losses projected are not being addressed through the project, estimate the economic benefits from the project and identify the losses not addressed.

Public Water Supply Projects

Describe existing conditions, including the name, public water system ID number, population served by the water system, and other relevant information. Describe conditions that are being experienced as a result of the current drought, and identify impacts to public health, system reliability, water quality, or other relevant information. Attach your water system's water shortage response plan, if one exists. If no plan has been developed, project applicants must commit to completing one.

Benefits should be clearly stated in terms of the amount of water that will be obtained, and how the project will address public health protection and system reliability. Include an evaluation of other potential approaches for providing long-term water supply reliability and public health protection.

Fish Habitat, Hatchery, and Wildlife Projects

Describe existing conditions, including the flow and fish habitat conditions for the specific river, river reach, or hatchery as applicable. Include current known fisheries impacts, such as fish species affected, life stage(s), duration of impact, and listing status under the Federal Endangered Species Act.

Benefits from the project should be clearly stated in terms of the amount of flow increase, how fish hatchery or habitat conditions will be improved, or how recreation will be enhanced by the project. As relevant, include specific information about the fish species affected, life stage(s), duration of benefit, and listing status under the Federal Endangered Species Act.

Evaluation Process

Ecology evaluates project proposals based on responses provided in the applications. Table 1 shows the scoring criteria Ecology will use to select projects for funding. A team of Ecology

Water Resources Program staff will review each project proposal. Projects must score a total of 40 points, meaning projects have to meet all of the eligibility criteria to receive funding.

Funding will be awarded to eligible projects that:

- Are cost-effective at alleviating hardship during the drought declaration, as described in WAC 173-167-110.
- Demonstrate that the current declared drought is/will result in undue hardship for the applicant and/or instream resources, as described in WAC 173-167-120.
- Provide a detailed description and documentation of the financial hardship, fishery impact, or public health concerns resulting from the reduced water supply.
- Will be completed during the current drought declaration.
- Will demonstrate benefits that occur during the current drought year.
- Demonstrate availability of cost-share funds for 50 percent of the Total Cost (such as from other state, local, or federal sources), unless an applicant meets the exemption for public water systems in WAC 173-167-030(3).

Table 1. Scoring Criteria

Category	Criteria	Score
Cost-Effective	The project provides an acceptable result at a reasonable cost (WAC 173-167-110).	Yes = 10 points No = 0 points
Hardship	Application demonstrates that hardship to the applicant is caused by the currently declared drought (WAC 173-167-120).	Yes = 10 points No = 0 points
Benefits	Application demonstrates that the project will be completed during the current drought declaration, and the benefits of the project will be achieved during the current drought declaration. (WAC 173-167-060(3)(c) and (d)). See also Impacts and Benefits on page 5.	Yes = 10 points No = 0 points
Cost-Share Funds	The applicant demonstrates the availability of cost-share funds of at least 50 percent of the Total Cost of the project, unless the applicant qualifies for an exemption (WAC 173-167-030(2)).	Yes = 10 points No = 0 points
		Total Score possible: 40

Environmental Review

Cultural resource review

All federal or state cultural resources requirements must be completed prior to the start of any work on a project site. Grant recipients must take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources.

All activities associated with site assessments for historic properties are grant eligible.

Appendix B provides more information regarding cultural resources review requirements and the process.

Standard Agreement Terms and Conditions

The following are important terms and conditions that play a role in the day-to-day decisions made on loan or grant projects. A complete listing of the administrative requirements for all grants and loans administered by Ecology is contained in the [Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL](https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html) at:

<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>

Budgets

All recipients must track the project budget by task. Object-based budget management is not permitted. Object budget information provided in the application is used to evaluate if all costs were considered by the applicant at the time of application and to track requested purchases during project implementation.

The budget amount for Administration cannot exceed 15 percent of the total eligible cost of the project.

Disbursements of Grant Funds

Ecology disburses grant funds to recipients on a cost-reimbursable basis. The recipient must incur eligible costs within the approved grant-funding period; from the effective date to the expiration date of the funding agreement.

Payment Requests Processing

Payment requests are initiated and processed through the EAGL system. Backup documentation is required for all goods and services listed in a payment request.

Procuring Goods and Services

The recipient is responsible for procuring professional, personal, and other services using sound business judgment and good administrative procedures consistent with applicable federal, state, and local laws, orders, regulations, and permits. This includes issuing the invitation for bids, requesting proposals, selecting contractors, awarding sub-agreements, and other related procurement matters.

The Office of Minority and Women Owned Business Enterprises (OMWBE) has established voluntary goals for the participation of minority- and women-owned businesses in procurements made with Ecology funds. Each grant agreement will contain a condition regarding OMWBE. While participation is voluntary, Ecology requires reporting the level of participation.

Progress Reports

Progress Reports must be submitted with each payment request.

Project Site Visits and Post Project Assessments

Ecology's Project Management Team may conduct site visits to provide technical assistance, ensure compliance with applicable laws and rules, and verify progress or payment information for projects.

Transportation Costs

The recipient may charge mileage to the project at the current state mileage rate. The mileage charge includes all vehicle-related needs, such as gas, tires, insurance, and maintenance.

6. Agreement Management

Contractor or Consultant Role Permissions in EAGL

Recipients may not allow any contractors or consultants to hold the Authorized Official role in EAGL. Only organization staff can have an Authorized Official role for an active grant so as to maintain effective internal controls and accountability, and to avoid related audit findings. This role is able to certify and submit payment requests and progress reports, submit amendment requests, and to change member roles. If a contractor needs access permissions for grant administration, recipients may assign them to a Contractor or Writer role.

Incurring Eligible Costs - Important Dates

The *effective date* is the earliest date on which eligible costs may be incurred. The effective date is negotiated between the applicant and the Project Manager during development of the Grant Agreement.

The applicant may incur project costs on and after the effective date and before Ecology's signature of the final agreement, but expenditures cannot be reimbursed until the agreement has been signed by Ecology's Water Resources Program Manager. While applicants can incur eligible costs before the agreement is signed, they do so at their own risk.

The *expiration date* (of an agreement or amendment) is the last date on which costs may be incurred and be considered eligible. The *project completion date* is the date specified in the agreement on which the Scope of Work will be fully completed. Both dates are negotiated between the applicant and the Project Manager.

Appendix A. Water Resource Inventory Areas (WRIAs)



1. Nooksack
2. San Juan
3. Lower Skagit-Samish
4. Upper Skagit
5. Stillaguamish
6. Island
7. Snohomish
8. Cedar-Sammamish
9. Duwamish-Green
10. Puyallup-White
11. Nisqually
12. Chambers-Clover
13. Deschutes
14. Kennedy-Goldsborough
15. Kitsap
16. Skokomish-Dosewallips
17. Quilcene-Snow
18. Elwha-Dungeness
19. Lyre-Hoko
20. Soleduc-Hoh
21. Queets-Quinault/Lower Chehalis
22. Upper Chehalis
23. Willapa
24. Grays-Elochoman
25. Cowlitz
26. Lewis
27. Salmon-Washougal
28. Wind-White Salmon
29. Klickitat
30. Rock-Glade
31. Walla Walla
32. Lower Snake
33. Palouse
34. Middle Snake
35. Esquatzel Coulee
36. Lower Yakima
37. Naches
38. Upper Yakima
39. Alkali-Squilchuck
40. Lower Crab
41. Grand Coulee/Upper Crab-Wilson
42. Moses Coulee
43. Wenatchee
44. Entiat
45. Chelan
46. Methow
47. Okanogan
48. Foster
49. Nespelem
50. Sanpoil
51. Lower Lake Roosevelt
52. Lower Spokane
53. Little Spokane
54. Hangman
55. Middle Spokane
56. Middle Lake Roosevelt
57. Colville
58. Kettle
59. Upper Lake Roosevelt
60. Pend Oreille
61. Upper Lake Roosevelt
62. Pend Oreille

Appendix B: Cultural Resource Review

This guidance provides information for projects funded by Ecology to meet Executive Order 05-05 (E.O. 05-05) and Section 106 (Section 106) of the National Historic Preservation Act (NHPA) requirements.

Federal and state laws and rules require the funding agency (Ecology) to contact the Washington State Department of Archaeology and Historic Preservation (DAHP) and affected tribes regarding the proposed project activities. Any prior communication between the recipient, the DAHP, and the tribes is not sufficient to meet requirements. This contact initiates Government-to-Government consultation between Ecology and tribal governments. Requirements are not met until Ecology has provided information to the Tribes and DAHP about project activity.

If another agency reviewed the project area within the past five years, under E.O. 05-05 or Section 106, Ecology may be able to adopt that review. Recipients should submit the review documents to Ecology's Project Manager for review and approval.

Any ground-disturbing activities that occur prior to the completion of the project review process may not be eligible for reimbursement. Activities associated with E.O. 05-05 and Section 106 review are grant and loan eligible and reimbursable. Any mitigation measures as an outcome of the process will be requirements of the agreement. Recipients must comply with all E.O. 05-05 and Section 106 requirements prior to implementing any project that involves ground disturbing activities.

This process must be followed even if the recipient has been working with Tribes on the project.

1) When there will be ground-disturbing activities:

- a) The recipient completes and submits an [ECY 05-05/106 form](https://fortress.wa.gov/ecy/publications/SummaryPages/ECY070537.html) at <https://fortress.wa.gov/ecy/publications/SummaryPages/ECY070537.html>.
 - i) The recipient is responsible for researching the sensitivity of the location selected for project funding and documenting this in the form.
 - ii) The recipient submits an electronic copy of the ECY 05-05/106 form along with any previous tribal and DAHP correspondence regarding the project to Ecology's Project Manager.
- b) When there is a high likelihood of cultural resources on the project site, the recipient may conduct a site-specific cultural resources survey. If an applicant completes a site-specific cultural resources assessment or survey, the applicant does not need to complete an ECY 05-05/106 form.
 - i) Use [DAHP's Cultural Resource Report Cover Sheet](http://www.dahp.wa.gov/sites/default/files/CRSURVEYcoversheet_Aug2011.doc) for cultural resources surveys at http://www.dahp.wa.gov/sites/default/files/CRSURVEYcoversheet_Aug2011.doc

- ii) The archaeologist must designate Ecology an owner of the data that is entered into DAHP's database.
 - iii) The recipient submits two hard copies and an electronic (.pdf) copy of the site-specific cultural resources survey report, along with any previous tribal and DAHP correspondence regarding the project to Ecology's Project Manager.
- 2) **If there are any activities involving structures 50 years or older:** the recipient completes a Historic Property Inventory form on DAHP's Historic Property Inventory online database for their review.
 - 3) The recipient must determine the Area of Potential Effect (APE) for their project location. Submit information to the Environmental Review Coordinator.
 - 4) Ecology will review the materials and develop a Preliminary Determination.
 - 5) Ecology will distribute the Preliminary Determination to affected tribes and DAHP through Government to Government consultation.
 - 6) Ecology will review any comments received on the Preliminary Determination and develop a Final Determination.
 - 7) If the project will have an adverse effect on archaeological sites or historic resources, Ecology will consult with the DAHP and tribes per 36 CFR 800.6. The Section 106 process will follow the steps for resolving adverse effects as outlined under 36 CFR 800.
 - 8) For all projects, the recipient will write an inadvertent discovery plan (IDP), if one is not in place already. Every person working on the project site must be familiar with the IDP procedures in case any cultural resources are discovered.
 - 9) Any post construction discoveries must follow the procedures as outlined under 36 CFR 800.13 and the Archaeological and Historic Preservation Act (AHPA), Pub. L. No. 93-291 (1974).
 - 10) Specific components of records on archaeological sites, cemeteries, cultural resources, and historic properties are exempt from public disclosure (RCW 42.56.300) and the recipient and Ecology will maintain confidentiality.

Section 106 versus Executive Order 05-05

Federal actions, decisions, and federal funding trigger section 106 of the National Historic Preservation Act. Ecology has delegated authority over ensuring Section 106 compliance when recipients apply for federal funding under the CWSRF, National Estuary Program and Section 319 Grant Program. Ecology is the lead for ensuring Section 106 compliance.

The Governor's Executive Order 05-05 is required for all state-funded capital projects. Ecology is the lead for ensuring 05-05 compliance.

Frequently Asked Question: Can Ecology "adopt" another agency's Section 106 review, or 05-05 review?

- For Section 106 Adoption:
 - The answer is *yes*, if your project is state funded.
 - Ecology can "adopt" Section 106 for state-funded projects that would normally go through the 05-05 cultural resource review process. Ecology has a review in place to verify the Section 106 documents are applicable. Please contact your Project Manager to verify a review can be adopted.
 - If your project involves federal funds, Ecology may still use another agency's documents when making its Preliminary and Final Determinations, which helps speed up cultural resource review.
- For Executive Order 05-05 Adoption:
 - The answer is *yes*, if your project is state funded.
 - Ecology can adopt another state agency's 05-05 process to meet cultural resources review requirements. Please contact your Project Manager to verify a review can be adopted.
 - The answer is no if your project is federally funded. However, Ecology may still use another agency's documents when making its Preliminary and Final Determinations, which helps speed up cultural resource review.

Correspondence: Ecology is responsible, as the funding agency, for contacting the Department of Archaeology and Historic Preservation (DAHP), tribes, and other interested parties to meet cultural resource review requirements. Previous approval from DAHP does not fulfill these requirements. Communication that may have occurred during a SEPA review is not sufficient to meet cultural resources review requirements.

Ground Disturbing Activities: This refers to any work that impacts the soil or ground from its current conditions.

Area of Potential Effect (APE): The APE is not the project boundary. The APE is the maximum geographic area where your project could potentially have an effect on historic properties, if any are present. The APE will vary with the type of project. To determine the APE you must know the nature and full extent of your project. For example, the APE for a natural gas pipeline might include not only the actual pipeline trench, but also includes the construction right-of-way, compressor stations, meter stations, staging areas, storage yards, access roads, and other ancillary facilities. The APE for a construction project will include the construction site, but might also include the buildings in a downtown area adjacent to the construction where vibrations may cause foundations to crack. Use the APE to determine your survey boundary.

Changes to Project Design or Project Area: If the recipient changes the project area or design after review has been completed, the recipient will have to reinitiate review in order to capture the changes.

For geo-tech work that occurs in the planning or design phases, ensuring your cultural review is completed early can not only help identify the appropriate locations from a subsurface perspective, you can obtain valuable input early in the planning process about sensitive locations.

Eligibility

All activities associated with cultural resources review are grant and loan eligible.

Construction or BMP implementation that occurs prior to cultural resources review will not be eligible for reimbursement.

Contact Rebecca Inman at 360-407-6450 or Rebecca.Inman@ecy.wa.gov, if you have any questions.