



DEPARTMENT OF
ECOLOGY
State of Washington

Guidelines for Regional Onsite Sewage System Loan Program

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Guidelines for Regional Onsite Sewage System Loan Program

Water Quality Program
Washington State Department of Ecology
Olympia, Washington

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Program Name and Purpose

These *Guidelines*, together with attachments, govern the Regional On-site Sewage System Loan Program (RLP). This document has been approved for use by the Partners in the RLP as identified in the companion Memorandum of Understanding (MOU). Unless otherwise provided for in these *Guidelines*, exceptions to the policies outlined in this document require the approval of the Partners.

The primary purpose of the RLP is to provide loan assistance to eligible property owners in the participating counties to repair, upgrade, or replace failing or malfunctioning on-site sewage systems (OSS) to protect public health and water quality. The program also allows use of funds for conversion to sewers and side-sewer replacements under limited circumstances. Among other secondary benefits, the RLP also helps:

- Educate current and prospective borrowers on the importance of functional and well-maintained OSS to human health, water quality, and property values.
- Strengthen relationships with and use of services from the on-site sewage industry.
- Protect shellfish harvesting and other prized economic and cultural uses of the waters and resources of the state's coastal counties.

Program Overview

Background

Recognizing the need to help people take care of their OSS and the related public benefits, some of Washington's marine counties established local septic loan programs in the early 1990s. Since that time, counties have used creative and varied partnerships, funding sources, and program structures to capitalize and sustain these programs to fix hundreds of systems. Despite the progress and successes, the local programs have faced many challenges including uneven and limited capital, changing and limited geographic coverage, and inability to take advantage of economies of scale.

In 2012, Puget Sound local health jurisdictions (LHJs) collectively asked for help exploring alternative approaches and assessing financial need for a regional scale program. The subsequent analysis emerged as a priority project of the 2012 Puget Sound Action Agenda. Using National Estuary Program funds, the Washington Department of Health (Health) led the project and completed recommendations in 2014. This RLP is the result of that work, including the policy decision to invite Pacific and Grays Harbor counties to participate and eventually make it a 14-county marine program. (See [septic finance assessment](#) for more information.)

In 2015 the Department of Ecology (Ecology) awarded grant and loan funds from the Water Quality Program's FY 2016 Combined Funding Cycle to a group of counties, led by Tacoma Pierce County Health Department (TPCHD). The application TPCHD submitted proposed to develop and implement a loan program to repair and replace failing OSS throughout the 14-county region. Nine of those counties signed on to the initial funding application.

(See [State Fiscal Year 2016 Final Water Quality Funding Offer List and Intended Use Plan](#) for more information.)

Partners and Roles

The funding application submitted to Ecology calls for a state agency to administer the loan program. Consequently, Ecology will be the lead administrative agency and Health will provide coordination and technical support. Serving collectively as the Partners, Ecology, Health, and the participating local governments (counties and LHJs) have signed an MOU that broadly outlines the roles and responsibilities of the participants. The Partners each retain their underlying regulatory authority and responsibilities.

In carrying out the RLP, general roles of the Partners include the following:

Department of Ecology

- Ecology will be responsible for monitoring the MOU and these *Guidelines* for program consistency. If Ecology believes that changes in either document are needed, it will coordinate the change process with Health.
- Ecology will conduct a procurement process (Request for Proposal) to contract with one or more Financial Institution Partner (FIP) to provide loans to property owners to finance OSS repairs and other eligible work.
- Ecology will manage and oversee the contract with the FIP(s) selected through the RFP process. This will include disbursing funds and receiving repayment of SRF loan funds that are disbursed. Ecology will disburse funds based on eligible costs incurred, track deliverables and outcomes, and monitor FIP performance.
- Ecology will share reports from the FIP with the Partners and participate in calls and meetings of the Partners, including the annual meeting.

Department of Health

- Health will serve as coordinator for the RLP, facilitating general communication among the participating local governments, Ecology, and the FIP(s).
- If Ecology notifies Health that either the MOU or these *Guidelines* require changes, Health will facilitate the process of getting those changes approved by the Partners and incorporated into the document(s).
- Health will organize and facilitate the annual meeting of the Partners and other special meetings and calls as needed.

Participating local governments

- The participating local governments (counties and LHJs) will provide property owner referrals to the FIP(s). Each Partner will help promote the program within its local

jurisdiction. The participating local governments will provide approved information about the loan program to owners of known failing septic systems.

- The participating local governments will fulfill their responsibilities for septic system permitting and other regulatory work as required under local and state OSS codes (chapter 246-272A WAC) and other relevant codes. This work may include review of septic design repair applications, approving complete applications, completing final inspections, approving record drawings, and notifying the FIP upon request that the project is completed so payment is authorized for completed work.
- The participating local governments will serve in an advisory capacity to the RLP and participate in calls and meetings, including the annual meeting. One representative of each local government will serve in an advisory capacity and assist with ongoing program implementation. Partners may assign alternates to participate in the annual meeting.
- The participating local governments, or septic service providers in certain cases, will maintain an up-to-date Inadvertent Discovery Plan (IDP). If it is in their practice, the participating local governments will ensure that septic service providers keep the IDP on-site during ground-disturbing activities.

Financial Institution Partner(s) (FIP)

For details on the responsibilities of the FIP(s), please refer to the contract between Ecology and the FIP(s). However, in general the FIP(s) will be responsible for:

- Making lending decisions.
- Disbursing funds to property owners or their contractors.
- Collecting repayments from its borrowers.
- Repayment to Ecology of State Revolving Fund disbursements under the RLP.
- Submitting reports to Ecology at least quarterly along with an annual report.
- Participating as appropriate/requested in calls and meetings of the Partners, including the annual meeting.
- Marketing and outreach in coordination with the counties and LHJs.

Communications

Ecology, Health, and participating local governments have an important role in promoting and marketing the program. Partners are encouraged to use the marketing resources provided by the FIP. The FIP will make these resources available on a webpage, which the FIP will update periodically or as needed. These resources include approved loan language, imagery, logos, and ad materials. The Partners should have at least ten business days to review draft marketing materials, press releases, and other marketing materials prior to their publication and use.

Because communications regarding loan terms are subject to state and federal compliance requirements, specific communication protocols are expected:

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- Participating local governments, Health, and Ecology will allow the FIP the opportunity to review and approve any language about the FIP and its loans beyond the marketing resources the FIP provides.
- Participating local governments will notify the FIP at least ten business days before marketing and/or mailing activities are planned and provide the FIP with the opportunity to participate.
- Participating local governments will not communicate to potential or current borrowers details about their loan status.
- Partners will not use potential loan default as a tool to influence homeowner compliance with on-site sewage system regulations.

When Partners discuss the RLP with media outlets, they will acknowledge the involvement of the other Partners, as appropriate.

In addition to marketing and outreach, communication protocols are necessary for addressing customer complaints. Borrower complaints may be directed to the FIP or a septic professional (installer, designer, etc.) When the FIP receives such complaints, they will:

- Notify the appropriate county or LHJ by phone, and provide details of the complaint, if possible.
- Stay out of disputes between the septic professionals and the borrowers.
- Only disburse funds with the borrower/property owner's approval.



Figure 1: An excavator installs a new drainfield.

Organizational Structure

Annual and ad hoc meetings

In addition to ongoing collaboration among the Partners, Health will organize and facilitate an annual meeting of the Partners to discuss implementation activities and to assess the needs, status, and direction the program. The annual meeting will serve as an opportunity for routine

oversight and adaptive management of the RLP. The issues and work conducted at this meeting will overlap with matters covered elsewhere in these *Guidelines* (e.g., reporting, adding participants, and adding funds). The Partners will work together to determine appropriate timing of the meeting to best support future funding applications and other program activities.

Among other functions, the meeting will be used to:

- Review the annual report of the FIP(s) and the current state of the program.
- Consider letters of interest from eligible local governments wishing to join the RLP or letters from any jurisdiction wishing to withdraw.
- Consider amendments to the program *Guidelines* and MOU.
- Review key issues and policy questions addressed during startup and implementation of the program.
- Review capital needs of the program and plans to seek added capital.
- Consider changes to the scope, design, or geographic coverage of the program.

Amendments to program *Guidelines* and MOU will require follow up and signed approval of any changes to the MOU, including added partners. Decisions will be made via consensus by the Partners. A quorum (half plus one) of partners is needed to make decisions. If there is not a quorum, Health will call for a vote(s) by email when the meeting minutes are distributed, no later than one month after the meeting.

The FIP(s) will present an annual report at the annual meeting and will participate in other parts of the meeting as appropriate. Health and Ecology will collaborate to summarize the key findings and issues in a brief annual status report on the RLP for use by the Partners.

In addition to the annual meeting, any of the Partners can request a conference call or special meeting at any time to discuss issues.

Key contacts

The following individuals have been designated to act on behalf of the participating local governments and state agencies in administering the RLP:

- Clallam County: Jen Garcelon
- Clark County Public Health: Sean Hawes
- Cowlitz County Health Department: Season Long/Andrea Yoho
- Grays Harbor County: Jeff Nelson
- Island County: Vanya Brown
- Jefferson County Public Health: Stuart Whitford
- Public Health—Seattle & King County: Lynn Schneider
- Kitsap Public Health District: John Kiess
- Mason County Public Health: Debbie Riley
- Pacific County: Shawn Humphreys
- Tacoma-Pierce County Health Department: Gary Porter

- Snohomish County: Lisa Dulude/Kevin Ruuhela
- Thurston County Public Health: Art Starry
- Whatcom County Health Department: John Wolpers/Mike Kim
- Washington Department of Ecology: Jeff Nejedly
- Washington Department of Health: Jeremy Simmons

Ecology will update this list twice a year.

FIP Reporting Requirements

In addition to the annual report provided for the annual meeting of the Partners, the FIP(s) will be required to provide reports to Ecology at least quarterly. The details of those reporting requirements are spelled out in the contract between Ecology and the FIP(s). At a minimum, quarterly reports must include loan denial rates and a breakdown of loan activity by county. Ecology will share all FIP reports with the Partners.

Loan Program Basics (requirements for RFP)

At a minimum, the FIP(s) responding to Ecology's RFP should outline a program that "reduces financial barriers" for the repair or replacement of failing or malfunctioning OSS. Participating FIP(s) should aim to develop lending criteria and approaches to provide loans to people in a wide range of financial situations. Approaches may include, for example, deferred payment loans, flexible loan terms, or use of grant funds to reduce interest rates or loan principal. FIP programs will be required to meet all state and federal lending requirements and requirements of Ecology's funding programs.

Match or leverage

Loans made by the FIP(s) using the Clean Water State Revolving Fund (CWSRF) can provide the dollar-for-dollar match required for use of Centennial Clean Water (Centennial) grant funds. The FIP(s) may also use other funds (private or public grants or other sources) to meet the match required for the grant funds.

Eligibility

Any property owner with a documented failed, malfunctioning, or inadequate OSS will be eligible to apply for a loan under the RLP. Local health jurisdiction may use their own definitions regarding "failure," "adequacy," or other factors affecting eligibility not addressed by Ecology's *Water Quality Financial Assistance Funding Guidelines* when determining eligibility of a particular project. Acceptable documentation may be provided by the participating local health jurisdictions or a qualified on-site professional. Eligibility of "inadequate" systems would be limited to circumstances where there is clear risk to water quality or public health. "Property owner" includes owners of single family or multi-family residences or small commercial enterprises. Small commercial enterprises are defined as those served by OSS with an average daily flow of less than 3,500 gallons per day as well as meeting the income limitations in WAC 173-98-310.

Eligible projects may also include conversion of failed OSS to centralized sewer systems and replacement of failed side-sewers, under certain circumstances, following approval by the LHJ.

Use of loan proceeds

The contract with the FIP(s) will be structured to permit use of loan proceeds for the following types of projects:

- Repair, upgrade, or replacement of a failed or malfunctioning OSS. An upgrade can include alterations if the work is part of a repair or if the OSS is more than 25 years old.
- Conversion of a failed OSS to a centralized sewer system.
- Replacement of a failed side-sewer where there's impact or clear risk to water quality or public health. These types of projects are eligible following approval by the LHJ.

Eligibility of sewer conversions and side-sewer replacements is intended to address problems associated with isolated individual properties, not large-scale sewer extensions or side-sewer replacement projects. Such projects should secure funding directly from Ecology's Water Quality Program or other funding sources.

Eligible costs for projects include evaluation of the system; design; permitting and inspection; installation costs; connection fees (if connecting to sewer); loan fees and other closing costs.

Loan-funded projects and all corrective actions must conform to applicable local and state codes including the state OSS code, chapter 246-272A WAC.

Single program

Through its RFP process, Ecology will select one FIP or FIP partnership to seamlessly administer the RLP throughout the region defined by the participating counties (program service area). The terms for all loans offered must be consistent throughout the region. The FIP or FIP partnership must be able to adapt as counties join or leave the RLP.

O&M Requirement

The RFP will request that the FIP(s) provide a mechanism for ensuring compliance with locally required operation and maintenance (O&M) of any OSS receiving a program loan.

Expanding the Regional Loan Program

Adding Participants

This program is open to all 14 marine counties in Washington. At the time the MOU was first signed, not all 14 counties elected to participate. However, those counties that did not sign the MOU remain eligible to opt into the program. The process for that is outlined below.

- A marine county or local health jurisdiction that wishes to join the RLP will submit a written request to Health. This may occur at any time. In addition, Health will notify and invite non-participating counties to join the RLP in advance of the annual meeting.

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- At the annual meeting, the Partners will discuss the request(s) and any concerns or implications related to program administration, capitalization levels and sustainability, and other issues. The requesting agency may attend the meeting or participate by conference call to address questions and comments before the deliberation and vote. The requesting county has the option to step out of the meeting during the deliberation and vote.
- As with other business matters of the annual meeting, the decision to accept or deny the request(s) will rely on group consensus.
- If a quorum (half plus one) of Partners is not in attendance at the annual meeting, Health will call for a vote by email when the meeting minutes are distributed, no later than one month after the meeting.
- After the Partners accept a county or LHJ's request to join the RLP, Health will send the requesting agency an approval letter. Ecology will provide the agency with a copy of the MOU, which the agency will sign and submit to Ecology. At this point, the agency will be a full member of the RLP.

Adding Funds

The RLP was initially funded with the 2016 award of a combination of Centennial grant and CWSRF loan (with both conventional and forgivable principal portions). Over time, those funds will be depleted, and the program will require additional capital. The participating jurisdictions may apply for additional funding under Ecology's Water Quality Combined Financial Assistance Program during any normal funding cycle. That cycle typically accepts applications in late summer/early fall. Health should consider the timing of the application cycle when scheduling the annual meeting. This includes appropriate lead time to accommodate evaluation and discussion of RLP capital needs and the work needed to develop and submit funding applications.

Ecology will consult its Assistant Attorney General to ensure that contracting with the FIP(s) for use of any new funds is completed in accordance with all applicable laws and regulations.

Expanding the Region

This program originally served the marine counties of Washington State. However, counties and LHJs outside of the defined region are encouraged to join the program. Counties and LHJs outside the region may apply to join the program through the following process:

1. Submit a written request to join the RLP to the FIP and Health. The letter should provide details of the needs that would be met by joining the RLP. A detailed list of letter contents is located can be found in Attachment A of these Guidelines. The FIP and Health must receive the letter by October 1 of each year in order to include the new jurisdiction in the following fiscal year's Water Quality Combined funding application.
2. An existing Partner will apply for funding under Ecology's Water Quality Combined Financial Assistance Program, and include the requesting jurisdiction's water quality and public health information in the application based on the request letter.

3. Attend the Annual Partners Meeting. The Partners will follow the procedure outlined above in “Adding Participants,” including the steps to sign the MOU.
4. Assist loan program launch in the expanded county. Details can be found as an attachment to these guidelines.

When participants or funds are added, Ecology will amend the contract with the FIP. The FIP and Ecology will need to re-sign the amended contract.

Ecology will consult its Assistant Attorney General to ensure that contracting with the FIP(s) for use of any new funds is completed in accordance with all applicable laws and regulations.

Exceptions and Adaptive Management

Working in consultation with the FIP(s), the Partners will monitor issues, needs, and requests associated with program implementation. The Partners intend to implement the program with significant structure and discipline. However, within the limits set by the contract between Ecology and the FIP(s), the Partners also aim to apply adaptive management principles and common sense flexibility to address special situations related to eligibility or other unique circumstances. These special situations will be addressed on an ongoing basis by the FIP(s) with Ecology administrative oversight. Depending on the policy implications of a special situation (significant exceptions require Partner approval), Ecology will work with Health to convene a special meeting with the Partners or call to solicit input. To the extent possible, these special situations will be catalogued and discussed with the Partners at the annual meeting to ensure full understanding and support of key decisions.

The Partners will conduct a program review at least every five years to assess the program’s overall approach, effectiveness, and any needed course corrections or before any time extension to the contract between the FIP(s) and Ecology.

Appendices

Appendix A. How to Join the Regional OSS Loan Program

The Regional Loan Program (RLP) receives funding from the Department of Ecology's (Ecology) Water Quality Combined competitive financial assistance program. Ecology accepts applications from August through October every year to fund high priority water quality projects and makes the funding offers the following July. One partner agency may submit a funding application on behalf of the RLP. The Department of Health (Health) and Craft3 will support and coordinate the application. The information requested in Step 1 (below) guides the partner agency in completing the application.

1. Submit a written request to join the RLP from County/Public Health leadership (Templates will be available). The letter is due to Craft3 and Health by October 1. The letter may be submitted at any time, but only requests submitted before the deadline will be included in that year's funding application.

The request should contain the following information:

- Express desire to join the RLP and willingness to fulfill requirements/responsibilities.
- Express support for Ecology funding of the RLP.
- Describe the agency's reason for joining the RLP.
- Identify a lead staff at your agency for coordination and communication.
- Explain how participation in the RLP will fit within your agency's overall OSS Management Plan strategy. Include background about your agency's past or current OSS funding programs.
- Provide a brief summary (1-2 paragraphs) of the known water quality and public health issues in the county that relate to septic systems, including, but not limited to:
 - Known number of septic systems in the county and any knowledge of failures or failure rates.
 - List of impaired water bodies, TMDLs, groundwater issues, and any other water quality or public health issues that can or may be connected to septic systems (bacteria, nitrogen, shellfish downgrades, MRAs, etc.) Provide reference or documentation if the impairments have been identified as a priority by a local, state, or federal agency.
 - Location of other water quality hot spots.
 - Reference to or description of any water quality studies or analysis, and all local water quality planning or regulatory documents, as applicable.
 - Documented public or community support for improving water quality and public health, or addressing septic system issues.
- Agree to work with Craft3 to disseminate loan information following Step 4, below.

- Commit to participating in RLP meetings and decisions as directed by the MOU and RLP Guidelines, including voting on new members.
2. Attend the Annual Partners' Meeting.
 - During this meeting, participating local jurisdictions (Partners) will vote to bring in new local jurisdictions. The new jurisdictions must be included in that year's successful funding application/offer for consideration.
 3. Sign the MOU to join the program (pending funding approval).
 - Signing by the Authorized Signatory (for example, Health Department Administrator or County Commissioners). Returned signed MOU to:

Rebecca Brown
Department of Ecology - WQP
P.O. Box 47600
Olympia, WA 98504
Rebecca.brown@ecy.wa.gov
 4. Once accepted, assist RLP launch in your county.
 - Invite Craft3 to an orientation meeting with local staff.
 - Convene an industry/trade ally meeting and invite Craft3 to provide an orientation (~1 hour).
 - Connect your media/social media staff with Craft3 to publicize the new loan availability.
 - Update your website with loan information (boilerplate provided by Craft3).
 - Include loan information in department newsletters (boilerplate, success stories available).
 - Provide Loan Brochures to those who need (e.g. when sending failure notices).
 - Notify Craft3 of opportunities to join meetings or other local events to build awareness of the loan availability.

Appendix B. Sample Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING REGIONAL ON-SITE SEWAGE SYSTEM LOAN PROGRAM

This agreement is made and entered into between the Local Health Jurisdictions (LHJs) and Counties (collectively “participating local jurisdictions”) listed in Appendix A of this agreement; Washington State Department of Health (Health); and Washington State Department of Ecology (Ecology) for the purpose of providing a program to offer loan assistance to citizens of the participating local jurisdictions to address failing or malfunctioning on-site sewage systems to protect public health and water quality. Collectively, the parties are referred to as “Partners.” It is entered into solely for the mutual benefit of the parties to this agreement. This agreement is not entered into with the intent that it shall benefit any other person and no other such person shall be entitled to be treated as a third-party beneficiary of this agreement. This agreement updates and replaces the MOU dated September 2015.

WHEREAS, Ecology has awarded grant and loan funds for the Regional Loan Program (“RLP”) beginning with the Water Quality Program FY2016 Combined Funding Cycle (see State Fiscal Year 2016 Final Water Quality Funding Offer List and Intended Use Plan and following annual Water Quality Combined Final Offer Lists), and

WHEREAS, the grant/loan application submitted to Ecology by the LHJs and the Counties calls for a state agency to administer the RLP, and

WHEREAS, Ecology will be the lead administrative state agency and Health will provide accompanying coordination and technical support, and

WHEREAS, Ecology has conducted a procurement process and has contracted with Craft3 as the Financial Institution Partner (FIP) for the RLP, and

WHEREAS, on-site sewage system (OSS) owners need affordable financial options to repair and replace their systems or convert to sewer to ensure effective sewage treatment to help protect water quality and public health, and

WHEREAS, LHJs have responsibility for addressing failing OSS to protect ground water, surface water, and the public’s health in their respective counties, and

WHEREAS, approximately one third of the state’s households are served by decentralized (on-site) wastewater infrastructure and this vast and aging infrastructure needs ongoing care and investment.

NOW, THEREFORE, in consideration of the mutual promises herein, the Partners agree as follows:

This MOU may be reviewed and amended at the request of any of the Partners. An amended agreement would require approval by all participating local jurisdictions. Any of the local jurisdictions may withdraw from this AGREEMENT provided written notice is provided to each of the other Partners thirty (30) days prior to withdrawing from this AGREEMENT.

The remaining Washington State counties or their local health jurisdictions are eligible to participate in this MOU. Any of these participating local jurisdictions may opt into the RLP on an annual basis by providing written request to the Partners, receiving written approval from the Partners in keeping with procedures in the program guidelines, securing funding through the Annual Combined Funding Cycle, and by securing local approval of the MOU. A list of participating local jurisdictions is attached and incorporated as Appendix A to this MOU. This list will be updated annually or as needed. Ecology will send the updated list to partners.

The Partners agree to collaborate on the RLP as specified in the Roles and Responsibilities attached and incorporated as Appendix B to this MOU.

The FIP will provide competitive loan rates and flexible terms to property owners to finance OSS repairs, replacements, or conversion to sewer to protect water quality and public health. Financial responsibility for repayment to Ecology of any State Revolving Fund disbursements under the RLP will belong to the FIP. The Partners will provide property owner referrals to the FIP.

The program guidelines define program structure and service delivery during implementation of the RLP. The roles and responsibilities described in this MOU coincide with the period of operation of the RLP as spelled out in the contract between Ecology and FIP. The Partners intend to administer and continue this RLP as long as sufficient loan and grant funds are available to recapitalize and effectively sustain it.

The LHJs will fulfill their responsibilities for septic system permitting and technical assistance as required by chapter 246-272A WAC, including review of septic design repair applications, and record drawings; completing final inspections, and notifying FIP upon request that the project is completed so payment is authorized to contractors for completed work.

Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. Each party shall fully indemnify and hold harmless the other parties against all claims arising out of the indemnifying party's own negligent acts or omissions in performance of this agreement.

This MOU may be executed by facsimile or electronic mail in any number of current parts and signature pages hereof with the same effect as if all Members had all signed the same document. All executed current parts shall be construed together, and shall, together with the text of this MOU, constitute one and the same instrument.

[Name] [Date]
[Title]
Local Health Jurisdiction or County