

WASHINGTON STATE DEPARTMENT OF ECOLOGY CENTENNIAL ACCORD IMPLEMENTATION PLAN

INTRODUCTION

The Department of Ecology is an executive agency under the Governor and is fully committed to the principals of consultation and cooperation memorialized in the Centennial Accord, the 2000 Millennium Agreement and related executive orders. Ecology is Washington's principal environmental management agency. Our mission is to protect, preserve and enhance Washington's environment, and promote the wise management of our air, land and water for the benefit of current and future generations. Our goals are to prevent pollution, clean up pollution, and support sustainable communities and natural resources.

The unique legal status of tribes and presence of tribally reserved rights and cultural interests throughout the state creates a special relationship between tribes and the state agencies responsible for managing and protecting the natural resources of the state. Tribes and tribal members possess property and self government rights that predate the formation of the United States and the creation of the State of Washington and are guaranteed under treaties and federal law. At the same time, tribal members are citizens of the United States and the State of Washington. Due to federal laws and inherent tribal sovereignty, each reservation in the state constitutes a bordering jurisdiction for environmental purposes. Environmental actions outside the reservation affect the tribe and the residents of the reservation just as the actions within the reservation affect the state and its citizens.

By implementing these principles we hope to better understand and respect the rights and interests of tribal governments and their members and create durable intergovernmental relationships that promote coordinated environmental approaches and partnerships in service to all of our citizens and the environment. Implementation of the Centennial Accord the 2000 Millennium Agreement is an on-going process and Ecology will continually seek ways to improve our government-to-government relationship with tribes.

CONSULTATION

Consultation means more than simply informing affected tribes about what the agency is planning to do. Consultation means respectful, effective communication that works toward a consensus before a decision is made or an action is taken. Ecology is committed to government-to-government consultation with tribes on all actions and issues of interest to tribes under Ecology's statutory authority.

Ecology's objective is to provide early notification and an open invitation for consultation on all decisions that may affect tribal rights and interests. On major issues where we have been informed of tribal interests or the implication of a policy or action has obvious tribal implications, Ecology will seek to cooperatively establish the manner and time frame for consultation with tribal governments. Consultation with tribal governments will occur independent of the public participation process but representatives of tribal governments and tribal members have equal access to Ecology's public participation processes as well. When a major rule or policy process is planned, Ecology will encourage tribal participation as key members of any planned advisory group while at the same time inviting interested tribes to consult on a government-to-government basis.

Given the varied priorities of tribes, the extent of tribal reserved rights throughout the state, and the number of tribal reservations that share watersheds and airsheds with the state, it is unlikely that Ecology will be able to identify in advance all of the environmental issues that may be appropriate subjects for tribal consultation. Ecology will be receptive to all requests from tribal governments for intergovernmental consultation on actions, policies and issues within Ecology's authority. The Director and Regional Director's of Ecology have a standing open-door policy with tribes and will meet with federally recognized tribes upon request of the tribe's leaders.

Ecology will maintain government-to-government communications with tribal governments by interacting through officials of appropriate stature and authority. Unless otherwise directed, we will address the tribe's natural resources director and natural resources staff as our primary tribal counterparts. Ecology will also strive to reply to tribal requests for state comments and consultation on tribal actions in a timely manner.

The Government-To-Government Implementation Guidelines developed by the tribal/state working group acknowledges that consultation is process and not a guarantee of agreement on outcomes. While dedicated to implementing constructive consultation practices, Ecology hopes to go beyond issue-specific consultation and build durable on-going relationships with interested tribal governments to effectively communicate, collaborate, and coordinate mutual priorities and programs. Ecology has institutionalized a number of measures to implement the principles of the Centennial Accord and Millennium Agreement within Ecology's programs and activities.

Since 1989 Ecology has maintained an executive level tribal governmental liaison responsible for assisting tribes and Ecology's programs and staff implement government to government relations. The governmental liaison provides tribes with a point of contact within the agency to assist them in understanding the agency's laws, policies and programs and helps tribes gain access to the appropriate staff within the agency. Similarly, the liaison assists the agency programs in understanding tribal issues, making tribal contacts, initiating tribal consultation, and by promoting on-going coordination with tribes. This position also serves to facilitate meetings, negotiate intergovernmental agreements on behalf of the agency and director, and mediate or resolve conflicts between the agency and tribal governments.

Several programs within Ecology have developed procedures promoting coordination and consultation with tribes.

- The Water Resources Program has a long standing policy of providing regular notices to interested tribes of proposed water right decisions, within a geographic area of the tribe's choosing, together with an extended period for comment or consultation.
- All proposed agency rules are reviewed internally for their possible impacts on tribal governments. If significant likely tribal impacts are identified, a special outreach to tribal governments is implemented.
- Ecology's staff guidance on conducting water clean-up plans (Total Maximum Daily Load -TMDL) incorporates outreach to tribes. The purpose of the guidance is to provide early notice and coordination and consultation with interested tribal governments. These procedures are being updated and are under review by tribes.
- Ecology's environmental assessment program has developed procedures to encourage coordination with tribes on TMDL studies and ambient monitoring.

- Ecology’s “Permit Assistance Handbook” which serves as a citizen’s guide to environmental permitting requirements recognizes the unique jurisdictional status of Indian reservations and encourages parties on or near reservations to contact the appropriate tribal permitting office.

Ecology has also entered into a number of formal and informal intergovernmental agreements and processes with tribes (along with, in some cases, the Environmental Protection Agency) covering:

- Clean Water Act section 303(d) listing of impaired waters
- Specific TMDL studies and implementation
- Water quality action plans
- Natural Resource Damage Assessment
- Spill Response
- Toxic clean up of contaminated land
- Natural resource damage assessment
- General permitting
- Clean Water Act Section 401 certification

Key areas of intergovernmental relations for continued emphasis in the future are water quality coordination, especially in conjunction with tribal delegation under the Clean Water Act; and water rights and water use, especially in relation to the recognition of tribal federally reserved water rights.

DISPUTE RESOLUTION PROCESS

Ecology recognizes that disputes or differences with tribes will arise from differences of opinion in the interpretation of scientific information, the law, and/or differences in priorities. The process that Ecology has negotiated with tribes under specific agreements provide a way to manage significant disputes:

The parties will strive to address the matter informally, at the staff level. In the event that staff are unable to resolve a dispute, the issue will be presented to immediate supervisors, who will attempt to resolve the dispute. If the dispute is not resolved, the staff will present the matter to progressively higher levels of management until consensus is reached. In the event consensus is not reached for decisions under Ecology's purview, the Director, after consulting with the elected leader(s) of the federally recognized Tribe(s), will make the final decision.

Ecology is willing to consider other processes for managing and resolving disputes with tribes both on a case by case basis or to replace this general dispute resolution process. The use of dispute resolutions processes does not in any way preclude a tribe from pursuing appeals to agency actions under applicable laws.

PROGRAMS

Ecology's programs consist of :

- **Air Quality Program**
- **Environmental Assessment Program**
- **Hazardous Waste and Toxics Reduction Program**
- **Nuclear Waste Program**
- **Shorelands and Environmental Assistance Program**
- **Solid Waste and Financial Assistance Program**
- **Spill Prevention, Preparedness, and Response Program**
- **Toxics Cleanup Program**
- **Water Quality Program**
- **Water Resources Program**
- **Agency Administration**

Ecology's major services, organized by business function, are listed below. Most of these functions cut across the agency's principal statutory authorities and programs.

- **Environmental Education**
Classroom curriculum guides, teacher workshops, volunteer opportunities, and other resources for students and teachers.
- **Technical Assistance**
Various resources and other assistance to support voluntary compliance with environmental rules and good stewardship of Washington's environmental resources.
- **Grants & Loans**
Financial assistance awarded to public entities to support environmental management objectives.

- **Watershed Planning**
Support of local planning activities to address problems related to fish recovery, flooding, stream flows, and water quality.
- **Environmental Review (SEPA)**
Review of environmental impacts of proposed projects.
- **Permitting**
Issuance of environmental permits, licenses, certifications, and other approvals.
- **Enforcement**
Actions taken to obtain compliance with environmental laws and regulations whenever voluntary compliance cannot be achieved.
- **Spill Response**
Response to oil and hazardous-materials spills to minimize risk to public health and safety and damage to the environment.
- **Site Cleanup**
Identification and cleanup of contaminated sites. Includes Sediment Management and Underground Storage Tanks
- **Geographic Information System**
Ecology's offers GIS services on the internet at:
<http://www.ecy.wa.gov/services/gis/index.html>. At this site users can find the following:
A list of available GIS data:
<http://www.ecy.wa.gov/services/gis/data/avaldata.htm>
Order form for digital data:
<http://www.ecy.wa.gov/services/gis/data/digital.htm>
Order form for maps: <http://www.ecy.wa.gov/services/gis/maps/mapreq.htm>
Watershed Maps (Water Resource Inventory Areas):
<http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm>

FUNDING DISTRIBUTION

Aquatic Weeds Management Fund Grants

Invasive, non-native aquatic plants are a serious threat to the health of lakes, rivers, and streams throughout the state. Excessive weed growth impairs fish and wildlife habitat and restricts recreational activities. Traditionally, residents and property owners have borne the high costs of controlling these plants. In 1991, the legislature established the Freshwater Aquatic Weeds Account to provide financial and technical support to tackle the problem on a statewide level. This Account provides funding for technical assistance, public education and grants to help control aquatic weeds. Revenue for the Account comes from a \$3 increase in annual license fees for boat trailers.

Grant projects must address prevention and/or control of freshwater, invasive, non-native aquatic plants. The types of activities funded include: Planning, education, monitoring, implementation, pilot/demonstration projects, surveillance and mapping projects.

Cities, counties, state agencies, tribes, and special purpose districts (does not include lake management districts) are eligible to receive grants. Lakes groups and other private organizations must work in conjunction with their local governments to receive funding for projects.

Water Quality Financial Assistance

The Department of Ecology's Water Quality Program administers three major funding programs that provide low-interest loans and grants for projects that protect and improve water quality in Washington State (several other programs address related issues; contact us for more information). Ecology acts in partnership with state agencies, local governments, and Indian tribes by providing financial and administrative support for their water quality efforts. As much as possible, Ecology manages the three programs as one; there is one funding cycle, application form, and offer list. This brochure is a guide to introduce these financial assistance programs and to direct you to the information sources that can give further assistance with planning to meet your funding needs.

The three programs sharing guidelines, application, and funding cycle are:

- The Centennial Clean Water Fund (Centennial), which provides low-interest loans and grants for wastewater treatment facilities and fund-related activities to reduce nonpoint sources of water pollution.
- The State Revolving Loan Fund (SRF), which provides low-interest loans for wastewater treatment facilities and related activities, or to reduce nonpoint sources of water pollution.
- The Section 319 Nonpoint Source Grants Program (Section 319), which provides grants to reduce nonpoint sources of water pollution.

Here are some examples of the type of projects that we have funded in the past:

<ul style="list-style-type: none"> • Planning, design, and construction of wastewater and stormwater treatment facilities 	<ul style="list-style-type: none"> • Agricultural best management practices projects
<ul style="list-style-type: none"> • Stream and salmon habitat restoration 	<ul style="list-style-type: none"> • Local loan funds for water quality projects
<ul style="list-style-type: none"> • Watershed planning 	<ul style="list-style-type: none"> • Water reuse planning and facilities
<ul style="list-style-type: none"> • Water quality monitoring 	<ul style="list-style-type: none"> • Lake restoration
<ul style="list-style-type: none"> • Wellhead protection 	<ul style="list-style-type: none"> • Acquiring wetland habitat for preservation
<ul style="list-style-type: none"> • Construction of public boat pump-outs 	<ul style="list-style-type: none"> • Public information and education

The funding programs can provide funding to:

- Recognized Indian tribes
- Local governments
- Special purpose districts such as sewer, health, and conservation districts
- Not-for-profit groups (limited funding; contact us for details)

Low-interest loan and grant combinations may be available for up to 100 percent of eligible project costs.

- Loans are available for up to 100 percent of eligible project costs. Only loans may be used for site-specific facilities planning, facilities design, constructing point source facilities (except that in cases of demonstrated hardship grants may be available), land acquisition, installation of collection sewers, implementation projects on private property (e.g., best management practices for landowners), and side sewers. In addition to these projects for which only loans may be used, loans may be used for

almost any eligible project. See below for information on interest rates and supplemental financial hardship assistance.

Some innovative ways in which loans have been used in recent years include local loan funds for implementation of agricultural best management practices and for on-site sewer system repair or replacement.

- Grants for nonpoint source activities are available for up to 75 percent of eligible project costs. Grants for watershed and comprehensive basin planning are available for 75 percent of eligible project costs. Loans may be used to provide the grant match. Grants for constructing point source facilities are available only in cases of demonstrated financial hardship.

Remedial Action Grant

The grant applicant must be a local government who is a potentially liable person (PLP) at a hazardous waste site, or who has entered with the Department of Ecology into a prospective purchaser agreement assuming all or part of the cleanup liability at a hazardous waste site. One of the following conditions must also be met:

- 1) Ecology must have required the local government to perform some phase of remedial action. That requirement may take any of the following forms:
 - a) A consent decree under the Model Toxics Control Act (Chapter 40.105D RCW) or the Hazardous Waste Cleanup Act (Chapter 70.105B RCW) requiring remedial action at the site; or
 - b) An enforcement order or an agreed order, under Chapter 70.105D RCW or 70.3105B RCW, prior to March 1, 1989, requiring remedial action at the site; or
 - c) An enforcement order or consent order under the Water Pollution Control Act (Chapter 90.48 RCW) requiring remedial action at the site; or
 - d) An amendment to an enforcement order or a consent order under Chapter 90.48 RCW subsequent to March 1, 1989, requiring remedial action at the site.
 - e) Compliance schedule for underground storage tank cleanups.
- 2) The local government is a Potentially Responsible Party (PRP) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). As a PRP, the local government has entered

with the U.S. Environmental Protection Agency (EPA) into a decree requiring remedial action at a hazardous waste site. This decree must have been signed or acknowledged by Ecology in writing as a sufficient basis for remedial action grant funding.

3) The local government has obtained a no further action (NFA) determination subsequent to an Independent Remedial Action.

Eligible Costs

- Eligible costs for the Site Study and Remediation grants include reasonable costs for:
 - Remedial investigations.
 - Feasibility studies.
 - Remedial designs.
 - Pilot studies.
 - Interim actions.
 - Cleanup Action Plans.
 - Other remedial action included in the order or decree, including landfill closure activities beyond the requirements of the minimum functional standards.
 - Capital costs of long-term monitoring systems.
 - Operating costs and maintenance costs incurred during the first year of cleanup after the facilities and equipment have been installed or constructed.
 - Some retroactive costs.

For more information, call Steve Loftness at (360) 407-6060.

Public Participation Grant

Tribes, along with all other governments and government institutions, are not directly eligible for these grants but tribal community groups and tribal associations acting independently of tribal governments are eligible. Established groups of three or more unrelated persons, or not-for-profit public interest organizations, can qualify for the grants. Groups do not need 501(c) 3 status to qualify. Groups not eligible include any person potentially liable for a release or threatened release of a hazardous substance, as defined by the Model Toxics Control Act and businesses or profit-seeking enterprises.

The people of Washington, through Initiative I-97, created the Public Participation Grant (PPG) program to involve the public in solving waste

management problems. These problems arise from the waste we all produce, both ordinary garbage and more dangerous substances. This program funds projects that enable people to influence the decisions made about waste sites.

Like many

states, Washington has sites contaminated by hazardous substances.

Government agencies and the parties responsible for the sites decide how to clean them up or restore them to usefulness. The public has the opportunity to comment on these plans, but many citizens feel they lack the knowledge or expertise to make effective comments. Grants can repay costs of procuring technical assistance to help citizens improve the decisions through their informed comments. We are also looking for projects that show how to prevent pollution by reducing or eliminating waste at the source. We are looking for projects that teach communities and industries how to cut back on the amounts and hazards of the wastes they produce.

PPG projects should help Washington residents to:

- identify the causes, sources, and effects of pollution;
- become aware of how their activities affect the environment;
- adopt responsible practices in their homes, schools, and businesses to clean up, reduce, or eliminate pollution; and
- participate more effectively in public comment opportunities about cleanup sites.

Coordinated Prevention Grant

Local governments with current Ecology-approved local waste management plans are eligible to apply for grants to help implement solid and hazardous waste projects and

programs in those plans. Tribes may receive funding through the local government responsible for the local waste management plan for activities identified in the plan.

Washington State requires local governments to plan how they will manage both hazardous and solid waste. The Coordinated Prevention Grant Program is designed to help local governments pay for updating local plans, and to put into action the projects identified in those plans. Therefore, the Coordinated Prevention Grant Program focuses on local solid waste planning authorities and jurisdictional health authorities as the lead agencies for coordinating and submitting grant applications. Other governmental bodies including Indian Tribes have the right to request the authorized jurisdictions to include their

needs in the application. These other governmental bodies may receive funding if they meet the eligibility requirements.

Experience has shown that solving hazardous and solid waste management problems depends on cooperation among local governments. Environmental problems do not respect jurisdictional boundaries, and the cost of solutions can rapidly outstrip an individual jurisdiction's resources. The Coordinated Prevention Grant Program supports Ecology's policy of encouraging local governments to strongly consider regional solutions and intergovernmental cooperation. In most of Washington State, counties bear the responsibility for planning and implementing solid and hazardous waste management.

For the 2000-2001 grant funding cycle, allocations are based on a county allotment and a per capita allotment. The formula funding is not an entitlement program. Local governments must submit satisfactory applications that meet eligibility requirements and priorities identified in their approved solid and hazardous waste management plans, and provide the required match.

ADDITIONAL INFORMATION FOR TRIBES

Tribal staff and members have access to detailed, up-to-date information about Ecology's services and programs on Ecology's web site. Ecology's web site includes a complete agency directory, organizational chart, current grant announcements and application forms, detailed budget information, complete list and text of laws and rules establishing Ecology's authorities, the current list proposed rules, environmental information, shoreline aerial photos of Washington's marine coast, current job listings, current and archived press releases, access to Ecology publications, and access to free subscription email lists covering 15 topics. Ecology's web site is located at:

<http://www.ecy.wa.gov/ecyhome.html>

For more information about Ecology and this Centennial Accord Implementation Policy contact Tom Laurie, Government Liaison, 360/407-7017, tlau461@ecy.wa.gov.