



# **Remedial Action Grant and Loan Guidance for the 2023–25 Biennium**

## **Oversight Remedial Action Grants and Loans, Area-wide Groundwater Investigation Grants, and Safe Drinking Water Action Grants**

### **Toxics Cleanup Program**

Washington State Department of Ecology  
Olympia, Washington

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- During the 2022 legislative session, the Washington State Legislature revoked the permit funding condition in MTCA for Remedial Action Grants and therefore Section 4.3 of this guidance no longer applies. See strikeouts pp. 17–19.

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<sup>1</sup> [www.ecology.wa.gov/contact](https://www.ecology.wa.gov/contact)

# Department of Ecology's Regional Offices

## Map of Counties Served



<b>Southwest Region</b> 360-407-6300	<b>Northwest Region</b> 206-594-0000	<b>Central Region</b> 509-575-2490	<b>Eastern Region</b> 509-329-3400
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Region	Counties served	Mailing Address	Phone
<b>Southwest</b>	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
<b>Northwest</b>	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
<b>Central</b>	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
<b>Eastern</b>	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
<b>Headquarters</b>	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

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DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## Table of Contents

Publication Information .....	i
Contact Information.....	i
ADA Accessibility .....	i
Department of Ecology’s Regional Offices .....	iii
Map of Counties Served .....	iii
Table of Contents.....	i
List of Figures.....	iii
List of Tables .....	iii
Acknowledgements.....	iv
Acronyms & Abbreviations.....	v
Program Contacts .....	vii
Executive Summary .....	1
Chapter 1: Purpose and Applicability .....	3
1.1 Rules and guidance .....	4
1.2 Other remedial action grant opportunities .....	5
Chapter 2: Cleanup Process.....	7
2.1 Cleanup program .....	7
2.2 Options for contaminated site cleanup .....	7
2.4 Steps in the cleanup process.....	8
Chapter 3: Funding Cycle .....	11
3.1 Application submittal .....	11
3.2 Project evaluation and ranking .....	12
3.3 Ecology’s budget request and appropriation .....	13
3.4 Agreement development.....	14
3.5 Reapplying .....	14
Chapter 4: Funding Policies and Criteria.....	15
4.1 Cash management.....	15
4.2 Other funding sources.....	15
4.3 Permit eligibility requirement.....	17
4.4 Cultural Resources Requirement .....	19
4.5 Environmental justice evaluation criteria .....	20
4.6 Climate resilience and green remediation .....	21
Chapter 5: Grant and Loan Management.....	23
5.1 Roles and responsibilities .....	23
5.2 Remedial action spending plans.....	24
5.3 Technical reports .....	25
5.4 Quarterly grant progress reports & payment .....	25
5.5 Amendments .....	25
5.6 Close out .....	26
5.7 Audits .....	26
Chapter 6: Cost Eligibility.....	27

6.1	Proper documentation.....	29
6.2	Eligible costs .....	31
6.3	Conditionally eligible .....	34
6.4	Ineligible costs.....	37
Chapter 7: Oversight Remedial Action Grants .....		39
7.1	Project eligibility .....	39
7.2	Grant funding .....	41
7.3	Eligible costs .....	42
7.4	Evaluation criteria .....	43
Chapter 8: Oversight Remedial Action Loans .....		53
8.1	Project eligibility .....	53
8.2	Grant funding .....	54
Chapter 9: Area-wide Groundwater Investigation Grants .....		55
9.1	Project eligibility .....	56
9.2	Grant funding .....	56
9.3	Eligible costs .....	56
9.4	Evaluation Criteria.....	57
Chapter 10: Safe Drinking Water Action Grants .....		63
10.1	Project Eligibility .....	63
10.2	Grant funding .....	65
10.3	Eligible costs .....	65
10.4	Evaluation Criteria.....	66
Glossary .....		71
References and Resources .....		74
Appendix A: Chapter 173-322 WAC, Remedial Action Grants and Loans .....		A-1

## List of Figures

**Figure 1:** The Model Toxics Control Act Cleanup Rule outlines the steps needed to clean up contaminated sites. Public participation is an essential part of the process. .... 9

**Figure 2:** Ecology's two-year budget cycle for Remedial Action Grants begins with the solicitation between January and March of even numbered years and usually concludes with the enacted budget in July of odd numbered years..... 13

## List of Tables

**Table 1:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 2: Improve Human Health ..... 46

**Table 2:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 3: Improve the Environment ..... 48

**Table 3:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 4: Equitable Distribution ..... 49

**Table 4:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 5: Redevelopment and Reuse in Cleanups ..... 50

**Table 5:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 6: Meaningful Community Investment ..... 51

**Table 6:** Area-wide Groundwater Investigation Grants – Category 1: Faster Cleanup ..... 58

**Table 7:** Area-wide Groundwater Investigation Grants – Category 2: Improve Human Health and the Environment ..... 59

**Table 8:** Area-wide Groundwater Investigation Grants – Category 3: Equitable Distribution..... 60

**Table 9:** Area-wide Groundwater Investigation Grants – Category 4: Redevelopment and Reuse in Cleanups..... 61

**Table 10:** Safe Drinking Water Action Grants Evaluation Criteria – Category 1: Faster Cleanup. 67

**Table 11:** Safe Drinking Water Action Grants Evaluation Criteria – Category 2: Improve Human Health..... 68

**Table 12:** Safe Drinking Water Action Grant Evaluation Criteria – Category 3: Equitable Distribution ..... 69

**Table 13:** Environmental justice, climate change, and cultural resources mentioned in this guidance..... 77

## Acknowledgements

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- Chance Asher, Sediment Policy
- Scott O’Dowd, Policy & Technical Support Unit



## Acronyms & Abbreviations

Acronym or Abbreviation	Definition
ARARs	Applicable, relevant and appropriate requirements
CAP	Cleanup Action Plan
CPM	Cleanup project manager
DUNS	Data Universal Numbering System
EAGL	Ecology's Administration of Grants and Loans
Ecology	Washington State Department of Ecology
EIM	Environmental Information Management
FS	Feasibility Study
FY	Fiscal Year
GAAP	Generally accepted accounting principles
IDP	Inadvertent Discovery Plan
MCL	Maximum Contaminant Level
MTCA	Model Toxics Control Act
NRDA	Natural Resource Damage Assessment
NRD	Natural Resource Damage
PFAS	Per- or polyfluoroalkyl substances
PLP	Potentially liable person
PRP	Potentially responsible party
PRPR	Payment Request & Progress Report
Pub. No.	Ecology publication number
RAG	remedial action grants and loans
RCW	Revised Code of Washington (statute)
ROZ	Redevelopment Opportunity Zone
RI	Remedial Investigation
SAAM	State Administrative & Accounting Manual
SAW	Secure Access Washington
SEPA	State Environmental Policy Act
SWV	Statewide Vendor Number

<b>Acronym or Abbreviation</b>	<b>Definition</b>
TCP	Toxics Cleanup Program
TIN	Taxpayer Identification Numbers
U.S. EPA	United States Environmental Protection Agency
VCP	Voluntary Cleanup Program
VIN	Vehicle Identification Number
WAC	Washington Administrative Code (rule)

## Program Contacts

**For questions related to project solicitation, grant application, grant agreement, eligible costs, EAGL database, and general grant administration,** contact the Ecology Grant Financial Manager assigned to the region where the contaminated site is located (Table 1).

**For questions about the remedial actions funded under a grant agreement,** contact the Ecology Cleanup Project Manager (CPM) assigned to the project. This person is specified in the grant agreement or associated correspondence with the site.

**For questions about remedial action grant availability,** contact the Toxics Cleanup Program Section Manager for the region where the contaminated site is located (Table 2).

**Table 1:** Toxics Cleanup Program’s Grant Financial Mangers by region

Region	Counties	Grant Financial Manager
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom	<b>Lydia Lindwall</b> 360-515-6217 <a href="mailto:Lydia.Lindwall@ecy.wa.gov">Lydia.Lindwall@ecy.wa.gov</a>
Southwest, Central, and Eastern	Adams, Asotin, Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Pierce, Skamania, Spokane, Stevens, Thurston, Yakima, Wahkiakum, Walla Walla, and Whitman	<b>Dan Koroma</b> 360-764-6459 <a href="mailto:Daniel.Koroma@ecy.wa.gov">Daniel.Koroma@ecy.wa.gov</a>

**Table 2:** Toxics Cleanup Program’s Section Mangers by region

Region	Counties	Grant Financial Manager
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, and Yakima	<b>Valerie Bound</b> 509-454-7886 <a href="mailto:Valerie.Bound@ecy.wa.gov">Valerie.Bound@ecy.wa.gov</a>
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman	<b>Kathy Falconer</b> 509-329-3568 <a href="mailto:Kathy.Falconer@ecy.wa.gov">Kathy.Falconer@ecy.wa.gov</a>
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom	<b>Bob Warren</b> 425-649-7054 <a href="mailto:Bob.Warren@ecy.wa.gov">Bob.Warren@ecy.wa.gov</a>
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum	<b>Rebecca Lawson</b> 360-407-6241 <a href="mailto:Rebecca.Lawson@ecy.wa.gov">Rebecca.Lawson@ecy.wa.gov</a>

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## Executive Summary

The Model Toxics Control Act (MTCA), Chapter [70A.305](#) RCW,<sup>2</sup> governs the cleanup of contaminated sites in Washington state. Voters approved MTCA in November 1988 as Initiative 97. The law became effective on March 1, 1989. One of the main purposes of MTCA is to raise “sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state’s lands and waters” (RCW [70A.305.010](#)).<sup>3</sup>

One mechanism Ecology uses to help advance cleanups is the Remedial Action Grant and Loan (RAG) Program. Under this Program, Ecology offers several types of grants and loans to local governments to investigate and clean up contaminated sites. The RAG Program is governed by the regulations in the RAG Rule, Chapter [173-322A](#) WAC.<sup>4</sup>

In February of even-numbered years, Ecology solicits applications for the following remedial action grants and loans:

- [Oversight Remedial Action Grants and Loans](#).<sup>5</sup> Provides funding to local governments that investigate and clean up contaminated sites under an order<sup>6</sup> or decree<sup>7</sup>.
- [Area-wide Groundwater Investigation Grants](#).<sup>8</sup> Provides funding to local governments that investigate known or suspected areas of groundwater contamination caused by multiple releases of hazardous substances.
- [Safe Drinking Water Action Grants](#).<sup>9</sup> Provides funding to local governments to ensure safe drinking water is available to communities where the source of drinking water has been polluted by the release of a hazardous substance.

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<sup>2</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305> (Hazardous Waste Cleanup – Model Toxics Control Act)

<sup>3</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.010> (Declaration of policy.)

<sup>4</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A>

<sup>5</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans>

<sup>6</sup> As defined in WAC [173-322A-100](#)(33), the term “order” includes enforcement orders and agreed orders issued under MTCA, and unilateral administrative orders and administrative orders on consent issued under the federal cleanup law

<sup>7</sup> As defined in [WAC 173-322A-100](#)(11), the term “decree” or “consent decree” means a consent decree issued under chapter 70.105D RCW or the federal cleanup law.

<sup>8</sup> <https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Area-wide-groundwater-investigation-grants>

<sup>9</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants>

Ecology uses the applications to develop its budget request for the next biennium and update its ten-year financing plan for remedial action grants and loans. Ecology must submit both its budget request to the Governor and its [MTCA Capital Account ten-year financing report](#)<sup>10</sup> to the Legislature in September of even-numbered years. A final budget is usually effective and enacted on July 1 of the following odd-numbered year.

This document provides guidance to local governments when they are applying for and managing an Oversight Remedial Action Grants and Loans, Area-wide Groundwater Investigation Grants, and Safe Drinking Water Action Grants during the 2023–25 biennium, including eligibility and other regulatory requirements and limitations. You can find more information about other types of RAGs on Ecology’s [paying for cleanups webpage](#).<sup>11</sup>

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<sup>10</sup> Find all MTCA Legislative reports at <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports>. Find the 2020 MTCA Capital Account Ten-Year Financing Report at <https://apps.ecology.wa.gov/publications/SummaryPages/2009060.html>

<sup>11</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Paying-for-cleanups>

## Chapter 1: Purpose and Applicability

The Washington State Department of Ecology's (Ecology's) Toxics Cleanup Program (TCP) administers the [Remedial Action Grant and Loan \(RAG\) Program](#)<sup>12</sup> for local governments under the Model Toxics Control Act (MTCA), Chapter [70A.305](#) RCW.<sup>13</sup> The purpose of the RAG Program is to expedite the cleanup<sup>14</sup> and redevelopment of contaminated sites<sup>15</sup> while lessening the impact of cleanup costs on local ratepayers and taxpayers. Remedial action grants and loans supplement local government funding and other sources of funding.

This document provides guidance for the **2023–25 Biennium** on how to apply, meet program requirements, and manage funded projects for the following types of remedial action grants and loans:

- **[Oversight Remedial Action Grants](#)**:<sup>16</sup> Provides funding to local governments that investigate and clean up contaminated sites under an order<sup>17</sup> or decree<sup>18</sup> overseen by Ecology under MTCA, or by the United States Environmental Protection Agency (U.S. EPA) under the federal cleanup law.<sup>19</sup>
  - **Extended Grant Agreements**: an overarching agreement option for Oversight Remedial Action Grants where the project's total eligible costs exceed \$20 million and the project will span multiple biennia.

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<sup>12</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Paying-for-cleanups>

<sup>13</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>14</sup> As used in this Guidance, the term “cleanup” means the same as “remedial action” under Chapters 173-322A and 173-340 WAC and includes both investigations and cleanup actions.

<sup>15</sup> As used in this Guidance, the terms “contaminated site” and “site” mean the same as “hazardous waste site” under Chapters 173-322A and 173-340 WAC.

<sup>16</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans>

<sup>17</sup> As defined in WAC [173-322A-100](#)(33), the term “order” includes enforcement orders and agreed orders issued under MTCA and unilateral administrative orders and administrative orders on consent issued under the federal cleanup law.

<sup>18</sup> As defined in [WAC 173-322A-100](#)(11), the term “decree” or “consent decree” means a consent decree issued under chapter 70.105D RCW or the federal cleanup law.

<sup>19</sup> As defined in WAC [173-322A-100](#)(20), the “federal cleanup law” is the “Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.”

- **[Oversight Remedial Action Loans](#)**:<sup>20</sup> Allows Ecology to provide low interest loans to local governments with an Oversight Remedial Action Grant to help fulfill their local match requirement.
- **[Area-wide Groundwater Investigation Grants](#)**:<sup>21</sup> Provides funding to facilitate redevelopment within a local government’s jurisdiction by conducting a study of the groundwater in a limited geographic area known or suspected to be contaminated by multiple sites.
- **[Safe Drinking Water Action Grants](#)**:<sup>22</sup> Provides funding to local governments to ensure safe drinking water is available to communities where the source of drinking water has been polluted by the release of a hazardous substance.

## 1.1 Rules and guidance

The rules governing the RAG Program are found in Chapter [173-322A](#) WAC.<sup>23</sup> Appendix A of this Guidance includes excerpts of the rule that apply to Oversight Remedial Action Grants and Loans, Area-wide Groundwater Investigation Grants, and Safe Drinking Water Action Grants. Definitions of terms used in this Guidance can be found in the Appendix and in Chapter [173-340](#) WAC,<sup>24</sup> Model Toxics Control Act Cleanup Regulations (also known as the MTCA Cleanup Rule).

This Guidance summarizes and explains the rule requirements specific to Oversight Remedial Action Grants and Loans, Area-wide Groundwater Investigation Grants, and Safe Drinking Water Action Grants. If any part of this Guidance is found to be in conflict with the rule language in Chapters 173-322A or 173-340 WAC, the rule language governs.

Applicants and Recipients<sup>25</sup> should read and understand this Guidance, the applicable rules, and the applicable version of Ecology’s “[Yellow Book](#)”<sup>26</sup> also known as *Administrative Requirements for Recipients of Ecology Grants and Loans* (2017).

Applicants and Recipients are also responsible for understanding the scope of work in their grant agreements, program requirements, cost eligibility, and any general and special terms and conditions in their grant agreements.

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<sup>20</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans>

<sup>21</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Area-wide-groundwater-investigation-grants>

<sup>22</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants>

<sup>23</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A>

<sup>24</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

<sup>25</sup> As used in this Guidance, the term “Applicant” applies before receipt of the grant, and “Recipient” applies after the grant has been awarded.

<sup>26</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>



## 1.2 Other remedial action grant opportunities

Under the RAG program, Ecology offers two other types of remedial actions grants:

- **Independent Remedial Action Grants:**<sup>27</sup> Provides grants to local governments that investigate and clean up contaminated sites independently under Ecology's [Voluntary Cleanup Program](#)<sup>28</sup> (VCP). Currently, Ecology only provides such grants after the local government has completed the cleanup and has obtained a No Further Action determination.
- **Integrated Planning Grants:**<sup>29</sup> Provides grants to local governments to assess one or more contaminated sites and develop integrated projects plans for cleaning up and redeveloping brownfield properties at those sites. Brownfield properties are previously developed properties that are currently abandoned or underused because of actual or perceived historic contamination. IPGs are intended to help local governments make informed decisions when considering whether to purchase or redevelop such properties

For the **2021–23 biennium**, which ends June 30, 2023, Ecology will continue to solicit applications for these grants **on an ongoing basis**. For guidance on how to apply, meet program requirements, and manage funded projects for these grants, please refer to the following:

- [Remedial Action Grant and Loan Guidance: Independent Remedial Action Grants for the 2021-23 Biennium.](#)<sup>30</sup>
- [Remedial Action Grant and Loan Guidance: Integrated Planning Grants 2021-23 Biennium.](#)<sup>31</sup>

For the **2023–25 biennium**, Ecology plans to release updated guidance for these grants.

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<sup>27</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Independent-remedial-action-grants>

<sup>28</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

<sup>29</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Integrated-planning-grants>

<sup>30</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2109048.html>

<sup>31</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2109049.html>

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## Chapter 2: Cleanup Process

This chapter provides background on the cleanup program established under Washington’s environmental cleanup law, the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW. It also provides an overview of the steps used to investigate and clean up contaminated sites in Washington State.

### 2.1 Cleanup program

The Model Toxics Control Act (MTCA), Chapter 70A.305 RCW, governs the cleanup of contaminated sites in Washington state. Voters passed the law in November 1988 as Initiative 97. The law came into effect on March 1, 1989. Under that law, Ecology adopted rules that describe the process and requirements for cleaning up contaminated sites:

- Chapter [173-340](#) WAC,<sup>32</sup> MTCA Cleanup Rule.
- Chapter [173-204](#) WAC,<sup>33</sup> Sediment Management Standards, also known as the Sediment Cleanup Rule.

The law’s declaration of policy also calls for raising “sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state’s lands and waters” (RCW 70A.305.010). To do this work – which includes providing funds for grants and loans – voters authorized a tax on the first possession on hazardous substances in Washington, including petroleum products and certain chemicals and pesticides. The law as amended by [Engrossed Substitute Senate Bill 5993](#)<sup>34</sup> (ESSB 5993) in 2019, directs a portion of the revenue from the Hazardous Substance Tax to the Model Toxics Control Capital Account, which can be used by Ecology for remedial action grants and loans to local governments (RCW [70A.305.190](#)(4)(a)(i) and (ii) and (5)).<sup>35</sup>

### 2.2 Options for contaminated site cleanup

Under the MTCA Cleanup Rule, local governments may clean up a contaminated site using one of the following options:

- **Independent cleanup.** A local government may clean up a contaminated site independently unless Ecology is supervising the cleanup or is negotiating an order or decree to supervise the cleanup (WAC [173-340-515](#)).<sup>36</sup> Local governments planning or conducting an independent cleanup may request technical assistance from Ecology

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<sup>32</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

<sup>33</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>

<sup>34</sup> <http://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5993-S.SL.pdf?cite=2019%20c%20422%20C2%A7%20203>

<sup>35</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.190>

<sup>36</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-515>

under the [Voluntary Cleanup Program](#),<sup>37</sup> including advice on how to clean up a site and written opinions on whether a planned or completed cleanup meets the substantive requirements of MTCA.

For independent cleanups, Ecology offers local governments [Independent Remedial Action Grants](#)<sup>38</sup> (IRAGs).

- **Ecology-supervised cleanup (formal cleanup).** Ecology may supervise the cleanup of a contaminated site by a local government that is potentially liable or a prospective purchaser under an order or decree (WAC [173-340-520](#)<sup>39</sup> through [173-340-540](#)<sup>40</sup>).

For Ecology-supervised cleanups, Ecology offers local governments [Oversight Remedial Action Grants and Loans](#)<sup>41</sup> (ORAGs). This Guidance applies to ORAGs.

For more information, visit Ecology's webpage: [Options for contaminated site cleanup](#).<sup>42</sup>

## 2.4 Steps in the cleanup process

Under the MTCA Cleanup Rule, the cleanup process involves the following basic steps, which are illustrated in Figure 1:

- **Site Discovery & Initial Investigation.** Sites can be discovered when contamination is encountered during construction work; suspicion of contamination identified while conducting due diligence activities for property transactions; or as a result of findings in reports from property owners, employees, neighbors, or other agencies. After the contamination is reported, Ecology conducts an Initial Investigation to determine if the site needs further investigation. Property owners or operators may clean up the site at this stage. If not, Ecology adds it to the Confirmed & Suspected Contaminated Sites List.
- **Site Hazard Assessment (SHA).** Ecology evaluates the potential risk to human health and the environment from the site based on exposure potential and severity of hazard
- **Remedial Investigation (RI).** The RI serves as the mechanism for collecting data to characterize site conditions, determining the magnitude and extent of contamination, and assessing risk to human health and the environment.

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<sup>37</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

<sup>38</sup> <https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Independent-remedial-action-grants>

<sup>39</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-520>

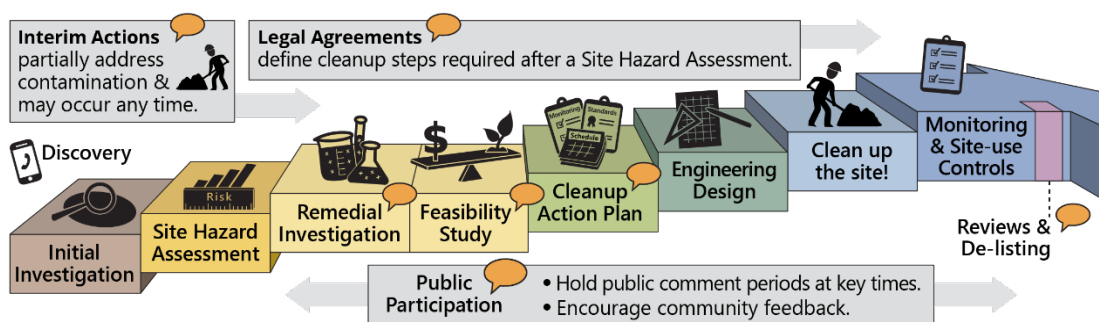
<sup>40</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-540>

<sup>41</sup> <https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans>

<sup>42</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options>

- **Feasibility Study (FS).** The FS uses information from the RI for the development, screening, and evaluation of cleanup alternatives to enable selection of a cleanup action for the site.
- **Interim Actions.** At any time during the cleanup process, interim actions may be conducted to reduce the risk to human health or the environment or partially clean up contamination.
- **Cleanup Action Plan (CAP).** The CAP is developed using the information gathered during the previous phases. The CAP identifies preferred cleanup methods and specifies cleanup standards and other requirements at the site.
- **Cleanup Construction.** Actual cleanup begins when the CAP is implemented. This includes design, construction, operation, and monitoring of cleanup actions.
- **Monitoring.** During and after cleanup construction, the effectiveness of the cleanup action is monitored through sampling and reporting.
- **Controls.** If the cleanup action leaves contamination behind, institutional and engineered controls may be required to prevent or limit the movement of, or exposure to, hazardous substances remaining at the site. Ecology conducts periodic reviews of sites with institutional or engineering controls at least every five years to evaluate the ongoing effectiveness and protectiveness of the cleanup action.
- **De-list the Site.** Ecology removes the site from its contaminated site lists after it meets all cleanup standards and requirements.

For more information, visit Ecology’s webpage: [How the cleanup process works](#).<sup>43</sup>



**Figure 1:** The Model Toxics Control Act Cleanup Rule outlines the steps needed to clean up a contaminated site. Public participation is an essential part of the process.

<sup>43</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process>

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## Chapter 3: Funding Cycle

This chapter describes the major steps of Ecology's two-year funding cycle. Washington State's budget operates on a biennium, or two-year funding cycle. A biennium begins on July 1 of each odd-numbered year and ends on June 30 of the next odd-numbered year.

In February of even-numbered years, Ecology solicits applications for the following remedial action grants and loans:

- Oversight Remedial Action Grants and Loans;
- Area-wide Groundwater Investigation Grants;
- Safe Drinking Water Action Grants.

Ecology uses the applications to develop its budget request for the next biennium and update its ten-year financing plan for remedial action grants and loans. Ecology must submit both its budget request to the Governor and its [MTCA Capital Account ten-year financing report](#)<sup>44</sup> to the Legislature in September of even-numbered years. The report estimates the amount of public financing needed to help Ecology and local governments investigate and clean up contaminated sites in the next biennium and over the next ten years. The report is required under

RCW [70A.305.030](#)(4).<sup>45</sup>

### 3.1 Application submittal

All Ecology grants and loans are administered through Ecology's Administration of Grants and Loans (EAGL) online system. EAGL is a comprehensive web-based grant and loan management system that allows Applicants and Recipients to complete grant applications, submit payment requests with progress reports, submit closeout and equipment reports, and request amendments online.

To gain access to the EAGL system, an Applicant must first create a [Secure Access Washington \(SAW\) account](#)<sup>46</sup>. Once a SAW account has been set up, Applicants can log in and request access to EAGL. The EAGL account approval process can take up to three business days. Once the account has been authorized, Applicants and Recipients can log in and use EAGL to apply for

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<sup>44</sup> Find all MTCA Legislative reports at <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports>. Find the 2020 MTCA Capital Account Ten-Year Financing Report at <https://apps.ecology.wa.gov/publications/SummaryPages/2009060.html>

<https://apps.ecology.wa.gov/publications/SummaryPages/2009060.html>

<sup>45</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.030>

<sup>46</sup> <https://secureaccess.wa.gov/ecy/eagl>

and manage their grants. Only grant programs that are accepting applications will be displayed in EAGL.

**SAW and EAGL video tutorials:**

- [How to obtain a Secure Access Washington \(SAW\) account](#)<sup>47</sup>
- [Applying for Ecology grants](#)<sup>48</sup>

**EAGL instructions with screenshots and helpful tips:**

- [EAGL Instructions for 2023–25 Remedial Action Grant & Loan Applications](#) (2022)
- [EAGL External Users' Manual](#) (2017)<sup>49</sup>

**For help using EAGL or completing an application:**

- Contact the appropriate Ecology Grant Financial Manager listed in the Program Contacts at the beginning of this Guidance.

## 3.2 Project evaluation and ranking

Applications submitted during the 2022 project solicitation (February and March 2022) will be considered for funding for the 2023–25 biennium, which begins in July 2023. Awarded funding is available approximately 1.5 years after project solicitation. Read more about this timing in Section 3.3, “Ecology’s budget request and appropriation.”

The “Eligibility” and “Scoring Criteria” forms in EAGL that Applicants complete gives Ecology information about the project and its eligibility. Ecology staff will consider information provided in the application when scoring. The application’s final score is used as part of the project ranking and funding decision process. Criteria vary by grant type and are specified in Chapter 173-322A WAC. The grant-specific chapters in this Guidance include sections that explain the scoring for each grant type. The corresponding WAC is provided in Appendix A of this document.

The final scores are used to rank the projects for each grant type and determine funding priority. The subsequent project list is used by Ecology to request funding within available monetary resources.

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<sup>47</sup> <https://www.youtube.com/watch?v=pj0EnljG3RQ&feature=youtu.be>

<sup>48</sup> <https://www.youtube.com/watch?v=9B3gvb3QRBk>

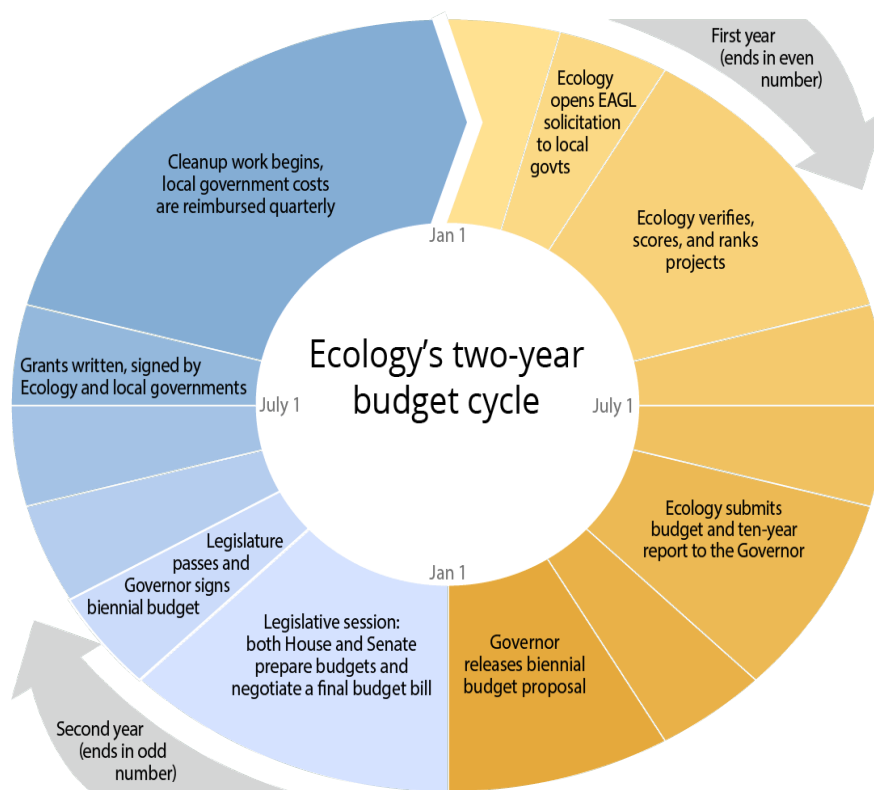
<sup>49</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701015.html>



### 3.3 Ecology’s budget request and appropriation

In September of even-numbered years, Ecology submits a prioritized budget request for remedial action grants and loans to the Governor’s Office, and submits the MTCA Capital Account Ten-Year Financing Report to the Legislature.

Before the end of each even-numbered calendar year, the Governor’s office releases their budget proposal. That budget is used as the starting point for the Legislature when session begins in January of an odd-numbered year. The Legislature will pass a final budget, which is usually effective and enacted on July 1 of the odd-numbered year. Grants cannot be written until the budget is enacted, which is usually over a year after the initial application.



**Figure 2:** Ecology's two-year budget cycle for Remedial Action Grants begins with the solicitation between January and March of even numbered years and usually concludes with the enacted budget in July of odd numbered years.

### **3.4 Agreement development**

After the biennial budget is enacted, Ecology verifies information as needed (such as permit status) and then notifies Applicants if their project received funding. For funded projects, Ecology will work to accurately capture the scope of work for the grant. With the exception of the Grant Administration task, Oversight Remedial Action Grants and Loans defer to the scope of work defined in the order or decree. Safe Drinking Water Action Grants and Area-wide Groundwater Investigation Grants will be assigned an Ecology Grant Financial Manager and Ecology Cleanup Project Manager. Ecology staff will then work with the Recipient to ensure the grant scope of work matches the needs of the cleanup and program requirements.

### **3.5 Reapplying**

Unfunded projects will be moved to the “Unfunded” status in EAGL. Ecology may request funding of additional projects in a supplemental budget request. However, the legislative session for the first supplemental budget overlaps with the biennial solicitation for the following biennium. Due to this overlap, any project that did not initially receive funding should be resubmitted during the next project solicitation.

## Chapter 4: Funding Policies and Criteria

This chapter highlights general funding policies and updates related to implementing the Remedial Action Grant and Loan Program. For questions about these policies, please contact the appropriate Ecology Grant Financial Manager.

### 4.1 Cash management

Ecology generally funds remedial action grants by each major phase of remedial action (remedial investigation, feasibility study, and cleanup). To better manage cash flow and provide the most grant funds possible to Applicants who are ready to proceed with cleanups, the RAG rule prohibits Ecology from:

- Awarding more funds for a project each biennium than estimated to be necessary to complete the scope of work for that biennium; or
- Awarding more funds for a project until the Recipient substantially spends or commits the funds awarded during the previous biennium (WAC [173-322A-220\(5\)](#)).

### 4.2 Other funding sources

When applying and developing a budget for a remedial action grant, the local government must identify all actual and potential sources of public and private financing for the project. These sources may include:

- Other grants;
- Local matching funds;
- Agreements with other public and private Potentially Liable Persons (PLPs) or Potentially Responsible Parties (PRPs) to help pay for remedial action costs;
- Insurance policies and claims made against those policies; or
- Lawsuits filed to pursue a contribution claim or cost recovery claim under MTCA or the federal cleanup law.

An Applicant should conduct a thorough search for other PLPs or PRPs and relevant insurance policies, and initiate contact with these persons to try to reduce the public's share of cleanup costs. Ecology may condition a remedial action grant on a requirement to have exhausted all means, including litigation if appropriate, to recover funds from these other sources.

## 4.2.1 Allowed use of other proceeds

A Recipient may use proceeds from another grant or from a settlement of an insurance claim, contribution claim, or cost recovery claim for the following cleanup-related costs:

- The Recipient's grant match, unless the proceeds are from the same fund source as the remedial action grant or from another Ecology grant;<sup>50</sup>
- The legal costs incurred by the Recipient to pursue the claim or action, which are not grant-eligible;
- The remedial action costs incurred by the Recipient at the site that were not grant-eligible, such as long term operation and maintenance or monitoring costs and certain retroactive costs; or
- With Ecology's approval, remedial action costs incurred by the Recipient at another contaminated site that was not the basis of the remedial action grant, insurance claim, contribution claim, or cost recovery claim for remedial action costs at the site.

## 4.2.2 Using other proceeds as grant match

Provided certain conditions are met, a Recipient may use proceeds from another grant<sup>50</sup>, an insurance claim, a contribution claim, or a cost recovery claim under MTCA or the federal cleanup law to meet the match requirements for a remedial action grant.

- Upon application for another remedial action grant, all other funding sources (including from another grant or a lawsuit or insurance claim to recover remedial action costs) must be identified in the application.
- Upon application for another grant, or filing a lawsuit or an insurance claim to recover remedial action costs at the contaminated site, the Recipient must notify Ecology of the application or filing within 30 days.
- Upon successful application for another grant or resolution of a lawsuit or insurance claim to recover remedial action costs, the Recipient must notify Ecology within 30 days of the total amount of funds received to date for remedial action costs at the contaminated site. Additional funds must also be reported in the next quarterly Progress Report submitted with the next Payment Request. The report should include:
  - The date of grant award, successful legal action, or insurance claim;

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<sup>50</sup> See Administrative Requirements of Recipients of Ecology Grants and Loans (Yellow Book), Part III Eligible Costs, Section G Match Requirements.  
<https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

- The specific amount of proceeds (or anticipated proceeds) received and the portion attributable to eligible costs; and
- A copy of the grant agreement, settlement, judgment, or other document resolving the lawsuit or claim that details the funds received.

### 4.2.3 Repayment of excess proceeds

When the proceeds from all other grant awards and settlements of all insurance claims, contribution claims, and cost recovery claims at a contaminated site exceed the allowed uses of the proceeds described above, the following may occur:

- If the remedial action grant has not yet been issued, Ecology will typically reduce the amount of the remedial action grant by the excess proceeds;
- If the remedial grant has been issued and spent, Ecology will typically require repayment of the remedial action grant up to the amount of the excess proceeds.

## 4.3 Permit eligibility requirement

In 2019, the Washington State Legislature added the following condition for remedial action grants and loans in Sec. 203(5) of [ESSB 5993](#)<sup>51</sup>, which reformed the MTCA financing structure:

[Ecology] may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the budget (RCW [70A.305.190](#)<sup>52</sup>(5)). This permit condition applies to Oversight Remedial Action Grants and Loans and Safe Drinking Water Action Grants. Ecology has developed the following policies on how it will implement the condition when soliciting and evaluating applications and when requesting and awarding funding.

During the 2022 legislative session, the Legislature passed Senate Bill [5895](#),<sup>53</sup> which removes the permit funding condition in the Model Toxics Control Act (MTCA) for Remedial Action Grants. The rest of section 4.3 has been retracted because of Senate Bill 5895.

### 4.3.1 ~~Project solicitation~~

~~Local governments may apply for these grants and loans only during the biennial project solicitation period. As part of the application, local governments must provide information about the project's readiness to proceed, including whether any permits are required and when such permits are expected to be obtained.~~

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<sup>51</sup> <https://app.leg.wa.gov/billsummary?BillNumber=5993&Initiative=false&Year=2019>

<sup>52</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.190>

<sup>53</sup> [https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5895.SL.pdf?q=20220427121117:HAZARDOUS WASTE SITES—LOCAL GOVERNMENT REMEDIAL ACTION GRANTS—TIMING, SB 5895, Chapter 102, Laws of 2022](https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5895.SL.pdf?q=20220427121117:HAZARDOUS%20WASTE%20SITES—LOCAL%20GOVERNMENT%20REMEDIAL%20ACTION%20GRANTS—TIMING,SB%205895,Chapter%20102,Laws%20of%2022)

Based on these applications, Ecology will determine the project's eligibility and priority, and develop a project list for the budget request to the Governor's office for that biennium. The project list is also published in the biennial [Model Toxics Control Act Capital Account ten-year financing report](#)<sup>54</sup>. The project list is only considered for funding during that biennium.

### 4.3.2 Updating project status

Upon enactment of Washington State's budget, Ecology will ask Applicants whose projects were funded to update their project's permitting status. Applicants must specify whether:

- ~~All permits required for the project have been obtained; **or**~~
- ~~All permits required for the project are expected within one year of the effective date of the enacted budget; **or**~~
- ~~All permits required for the project are not expected within one year of the effective date of the enacted budget.~~

If all permits required for the project have not been obtained, Applicants must also specify:

- ~~Whether some remedial actions may proceed in the absence of the permits (such as engineering design); **and**~~
- ~~Whether grant funding is needed for those remedial actions (funding may not be needed if previously awarded funds are sufficient).~~

When deciding whether to award a grant or loan for a project, Ecology may consider each remedial action within a project separately. For example, Ecology may consider engineering design separate from construction. For projects where some, but not all, remedial actions meet the permit condition, Ecology may phase project funding, or defer awarding a grant or loan until all required permits have been obtained for the project. Based on whether permits are required for a remedial action, and the status of obtaining those permits, Ecology will take the following steps:

- ~~**No permits required or all required permits have been obtained:**~~ For a remedial action where no permits are required or where all required permits have been obtained, Ecology may award the grant or loan.
- ~~**All permits expected within one year of effective date of the enacted budget:**~~ For a remedial action where all permits are expected within one year of the enacted budget, Ecology will defer awarding a grant or loan until all required permits for the remedial

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<sup>54</sup> Find all MTCA Legislative reports at <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports>. Find the 2020 MTCA Capital Account Ten-Year Financing Report at <https://apps.ecology.wa.gov/publications/SummaryPages/2009060.html>

~~action are obtained. However, if all required~~ permits are not obtained within that year, Ecology will:

- De-obligate funding for the remedial action; **and**
  - Remove the project from the biennial project list, making the remedial action ineligible for funding during the remainder of the biennium.
- **One or more permits not expected within one year of effective date of the enacted budget:** For a remedial action where one or more permits are not expected within one year of the effective date of the enacted budget, Ecology will:
    - De-obligate funding for the remedial action; **and**
    - Remove the project from the biennial project list, making the remedial action ineligible for funding during the remainder of the biennium.

#### 4.3.4 Re-applying for de-obligated funds

If Ecology de-obligates funding for a remedial action during a biennium, the remedial action is ineligible for funding during the remainder of the biennium. Ecology may use these de-obligated funds to fund other projects in the biennium.

To obtain funding for the remedial action in the next biennium, the local government must re-apply during the specified project solicitation period. Ecology will evaluate the application according to the Remedial Action Grant and Loan rule which prioritizes ongoing projects (WAC 173-322A-210(1)(b)) and considers readiness to proceed criteria, including a review of permit status.

## 4.4 Cultural Resources Requirement

Under [Governor's Executive Order 21-02](https://www.governor.wa.gov/sites/default/files/exe_order/eo_21-02.pdf)<sup>55</sup>, projects funded by a remedial action grant or loan require Ecology review for potential impacts to cultural resources. Examples of cultural resources include Native American sacred places and landscapes; archaeological sites or objects; buildings, objects, sites, structures or districts older than 45 years; locations of significant events or pre-contact or historic occupation, such as trails, petroglyphs, village sites, or battlefields. State and local regulatory standards vary by project type, type of funding, and location. The goal of the review is to identify any cultural resources potentially affected by the proposed action, assess the effects of the proposed action, and seek ways to avoid, minimize, or mitigate any adverse impacts.

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<sup>55</sup> [https://www.governor.wa.gov/sites/default/files/exe\\_order/eo\\_21-02.pdf](https://www.governor.wa.gov/sites/default/files/exe_order/eo_21-02.pdf)

#### 4.4.1 Cultural resources consultation and Inadvertent Discovery Plans

Ecology will review all remedial action grant and loan projects for potential impacts to cultural resources. We will consult with the Department of Archaeology and Historic Preservation and affected tribes for all projects involving field activities. The consultation process includes providing a completed [Ecology Cultural Resources Review Form](#).<sup>56</sup> Applicants need to contact the Ecology project manager to coordinate completion of this form.

Local governments are encouraged to work with the Ecology project manager to initiate a cultural resources consultation as soon as possible. The consultation process can take months to complete and Ecology may not reimburse otherwise grant-eligible costs if consultation is not completed prior to initiating field activities.

If a recipient seeks reimbursement of past costs, Ecology will implement a separate evaluation process to fulfill the cultural resources protection requirements of Executive Order 21-02. That process is described in the focus sheet, [Cultural Resources Protection and Remedial Action Grants: Reimbursement of Past Costs](#),<sup>57</sup> Ecology Publication No. 21-09-072.

For all projects involving field activities, recipients also need to complete an Inadvertent Discovery Plan (IDP), which outlines steps to take in the event of a discovery of archaeological materials or human remains, in accordance with applicable state and federal laws. Recipients may use Ecology's [IDP template](#)<sup>58</sup> or an alternative that contains similar information. Provide the IDP to the Ecology project manager for review during planning for field activities.

#### 4.5 Environmental justice evaluation criteria

Providing equitable environmental protection to all people in our state is important to Ecology and the State of Washington. This core principle is part of the agency's commitment to environmental justice. Washington State law defines environmental justice as:

"...the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm." ([E2SSB 5141](#)).<sup>59</sup>

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<sup>56</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070537.html>

<sup>57</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2109072.html>. Slated to be published in early 2022.

<sup>58</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070560.html>

<sup>59</sup> <http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5141-S2.SL.pdf?q=20210820010251>



This principle is consistent with MTCA’s key policy that:

Each person has a fundamental and inalienable right to a healthful environment, and each person has a responsibility to preserve and enhance that right (RCW [70A.305.010\(1\)](#)).<sup>60</sup>

This principle is further reflected in the RAG rule, which requires Ecology to consider the following factor when prioritizing projects for funding:

Whether the [contaminated] site is located within a highly impacted community (see, for example, WAC [173-322A-320\(3\)\(d\)](#)).<sup>61</sup>

A “highly impacted community” is defined in the RAG rule as:

[A]community that [Ecology] has determined is likely to bear a disproportionate burden of public health risks from environmental pollution (WAC 173-322A-100(24)).

Ecology currently identifies a highly impacted community as one where:

1. The population of the census tract scores a rank of 9 or 10 on the [Environmental Health Disparities Index](#)<sup>62</sup> maintained by the Department of Health. The environmental health disparities index considers 19 indicators that include environmental exposures and effects as well as sensitive populations and socioeconomic factors.

OR

2. The site is located in the 80<sup>th</sup> percentile for people of color population or low income population demographic indicators according U.S. EPA’s [EJSCREEN](#).<sup>63</sup>

## 4.6 Climate resilience and green remediation

Planning for adaptation (identifying and preparing for climate change impacts) and mitigation (reducing future climate change) are critical issues for contaminated sites that Ecology must address. Improving our ability to anticipate and prepare for climate change impacts will help protect human health and the environment, protect the substantial investment in cleaning up contaminated sites, and ensure the long-term effectiveness of cleanups. In Washington State, relatively modest observed climate trends are projected to accelerate in the decades ahead,

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<sup>60</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.010>

<sup>61</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A-320>

<sup>62</sup>

<https://www.doh.wa.gov/DataandStatisticalReports/WashingtonTrackingNetworkWTN/InformationbyLocation/WashingtonEnvironmentalHealthDisparitiesMap>

<sup>63</sup><https://www.epa.gov/ejscreen>

contributing to an increase in sea level rise, extreme precipitation events, wildfires, and flooding.

According to the U.S. EPA, green remediation is the “practice of considering all environmental effects of remedy implementation and incorporating options to maximize net environmental benefit of cleanup actions.”<sup>64</sup> The goals of green remediation are to increase the environmental benefit and reduce the environmental impacts throughout the cleanup process. Implementing green remediation best management practices can result in:

1. **Benefits to human health and the environment.** Reducing nitrogen/sulfur oxides and diesel particulate matter emissions benefits air quality; and reducing greenhouse gas emissions decreases contributions to carbon in the atmosphere.
2. **Cost savings.** Conserving energy reduces fuel and electricity costs, and minimizing waste material reduces transportation costs and landfill tipping fees.
3. **Benefits to the local economy.** Using local goods and services can generate revenue and jobs for the community and limit the mileage from transporting people and materials. This, in turn, conserves energy and fuel and reduces air pollutant emissions.

For more information on incorporating climate change considerations in cleanup, please review Ecology’s climate change guidance, [Adaptation Strategies for Resilient Cleanup Remedies: A guide for cleanup project managers to increase the resilience of toxic cleanup sites to the impacts from climate change](#)<sup>65</sup> (2017), Ecology Publication No. 17-09-052.

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<sup>64</sup> U.S. EPA Definition taken from <https://www.epa.gov/remedytech/green-remediation-incorporating-sustainable-environmental-practices-remediation>

<sup>65</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1709052.html>

## Chapter 5: Grant and Loan Management

This chapter describes the financial and administrative aspects of managing a remedial action grant or loan and is intended to address some common questions that frequently arise during agreement execution. The information in this chapter supplements the following:

- Information contained in the applicable version of Ecology’s “[Yellow Book](#),”<sup>66</sup> the *Administrative Requirements for Recipients of Ecology Grants and Loans*.
- The project-specific terms and conditions specified in the grant agreement.
- The General Terms and Conditions for Ecology grants and loans. This document is included in each grant or loan agreement. Contact the appropriate Ecology Financial Grant Manager for the latest version. If the General Terms and Conditions are amended during the biennium, the version in effect on the date the agreement was signed or date of the most recent amendment applies. The General Terms and Conditions are not negotiable.
- The scope of work or other requirements specified in an order, decree, or the grant agreement. For Oversight Remedial Action Grants and Loans, the order or decree contains the scope of work and determines eligible costs. For Area-wide Groundwater Investigation Grants and Safe Drinking Water Action Grants, the grant agreement outlines the scope of work and determines eligible costs.

### 5.1 Roles and responsibilities

The remedial action grant and loan process that supports cleanup work involves several key individuals: the grant Applicant or Recipient, the Ecology Grant Financial Manager, the Ecology Cleanup Project Manager, and the Ecology Toxics Cleanup Program Section Manager.

#### 5.1.1 Grant Applicant or Recipient

The local government that applies for the grant is responsible for managing the work funded by the grant, including compliance with both cleanup and grant administration requirements. Remedial actions must be consistent with applicable rules, the order or decree, and the approved work plan. Remedial actions must also be completed within reasonable costs. The Recipient is responsible for ensuring that contractors or consultants are procured and act in accordance with all applicable federal and state laws.

Applicants are responsible for submitting accurate application materials including all elements of the grant application. Once the grant is executed the Recipient is responsible for updating the spending plan, quarterly payment request and progress reports, and timely notification to

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<sup>66</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

Ecology staff of any changes to the scope of work, work schedule, or other changes to the grant budget.

### **5.1.2 Ecology Grant Financial Manager**

The Ecology Grant Financial Manager is the Recipient's contact for questions or concerns regarding cost eligibility, EAGL assistance, amendments, and grant administration. Once the grant is awarded, the Grant Financial Manager will work with the Recipient to ensure the grant description, budget, and scope of work appropriately reflect the work to be funded by the grant. Once the grant is activated, the Grant Financial Manager will facilitate amendments, review each payment request, and ensure proper grant close out. The Grant Financial Manager reviews each payment request to ensure proper documentation, accuracy of records, and cost eligibility.

### **5.1.3 Ecology Cleanup Project Manager**

The Ecology Cleanup Project Manager is the primary point of contact for site work, and is responsible for managing the cleanup and responding to questions or concerns about remedial actions. Cleanup Project Managers verify Applicant information prior to project ranking and funding decisions by the Toxics Cleanup Program Management Team. Once the grant is active, the Cleanup Project Manager will conduct site visits; review technical documents; and review quarterly progress reports and payment requests. Technical documents are reviewed to ensure compliance with MTCA and other applicable requirements, and for completeness and data quality. When a grant is active, the Cleanup Project Manager will review payment requests and progress reports to ensure technical accuracy, reasonableness of costs, and compliance with the scope of work as defined in the order, decree, or grant agreement.

### **5.1.4 Ecology Toxics Cleanup Program Section Manager**

Ecology's Toxics Cleanup Program Section Manager supervises Ecology's Cleanup Project Managers within their geographic area of responsibility. For remedial action grants, their role includes informing potential Applicants of available grants; coordinating ten-year plan submissions; working with other members of the Toxics Cleanup Program Management team to rank and score projects for budget requests; and monitoring grant activity and expenditures.

## **5.2 Remedial action spending plans**

Ecology generally funds remedial action grants by each major phase of remedial action (remedial investigation, feasibility study, and cleanup). This allows Ecology to better manage cash flow and provide the most grant funds possible to Applicants who are ready to proceed with cleanups. Recipients must update spending plans for their grant within EAGL with each payment request. Ecology's Toxics Cleanup Program Management Team meets quarterly to review the actual expenditures to date and projected future expenditures. If a project becomes significantly delayed, unspent funds may be deobligated from the project.

## 5.3 Technical reports

Any technical reports required under the grant or loan should be submitted to the Ecology Cleanup Project Manager for review as specified in the order, decree, or grant agreement. All sampling data generated during remedial actions must be entered into Ecology's Environmental Information Management system (EIM). Payments may be withheld if the data has not been properly entered into EIM or not all technical documents submitted.

## 5.4 Quarterly grant progress reports & payment

Remedial action grants are provided on a cost reimbursement basis. This means a cost must be incurred by the Recipient before it is eligible for reimbursement under a remedial action grant. Requests for reimbursement and adequate documentation of eligible costs incurred after the agreement signature date must be submitted to Ecology within 120 days of incurring the costs.

The Recipient must complete progress reports and submit one with each payment request, or at a minimum each quarter, during the lifetime of the grant. Progress reports describe actions and accomplishments in meeting project milestones, and include a certification that sampling results have been submitted to Ecology as required. Ecology's Grant Financial Manager and Cleanup Project Manager review progress reports to learn how the activities are proceeding, the reasons for any delays or cost overruns, and if any changes took place in the project, project staff, or contractors. Quarterly progress reports must include information on the status of pending cost recovery actions and insurance claims.

Ecology's Grant Financial Manager cannot process a payment request without a progress report, proper documentation, or updated spending plan for that billing period.

## 5.5 Amendments

After Ecology's Grant Financial Manager establishes the grant budget, amendments to change the length of the agreement, or increase or decrease the budget, may be considered. However, Ecology does not promise or guarantee such amendments. Ecology may amend an agreement to change the length of the agreement or the budget for the agreement. Ecology usually does not amend an agreement to increase funding. If additional funding were needed, Ecology would usually award it in a subsequent grant agreement after the successful application in a subsequent project solicitation.

The Ecology Grant Financial Manager may only redistribute funds among the grant tasks or perform other amendments through a formal amendment process. If a change is needed, the Recipient can request an amendment through EAGL or by emailing their project's Ecology Grant Financial Manager. Once approved, the amendment process can begin.

Ecology may allow a Recipient to deviate from the task budget by up to 10% of the total grant budget. At their discretion, the Ecology Grant Financial Manager may require an amendment

when the budget is surpassed even if by less than 10%. If a payment request goes over the 10% threshold, the exceeding funds will be withheld until an amendment appropriately adjusts the budget and a new payment request is approved. The exceeding funds will automatically be dispersed along with the approved funds of the new payment request.

## 5.6 Close out

When a grant is completely spent, eligible activities are completed, or the grant is otherwise finished, the Recipient will need to submit:

- **Outstanding technical documents.** All technical documents must be provided to the Cleanup Project Manager as outlined in the order, decree, or grant agreement. Final payment and grant close out may be withheld if completed deliverables are not submitted appropriately to Ecology staff.
- **Final Payment Request and Progress Report.** Both of these EAGL forms will require the Recipient to identify it as the final payment request or progress report for the grant. Select “yes” on the final payment request and progress report to enable closing out the grant.
- **Close Out Report.** This is an EAGL form found in the Payment Request Menu where the Recipient summarizes the final achievements of the activities funded by the grant. In most cases, the Close Out Report will be required with the final Payment Request and Progress Report. However if it is not, then the Close Out Report is due within 45 days of grant closure initiation.

## 5.7 Audits

All grants and loans are subject to audit. Ecology has the right to audit the grant for three years after the grant is officially finished. Ecology may audit grant related documentation at any time during the project. If problems are identified, they must be corrected. If Ecology identifies any problems on invoices, all previous invoices must be reviewed and corrected. This could include repayment of grant funds or adjustments to subsequent billings to reimburse Ecology for overpayments.

## Chapter 6: Cost Eligibility

The Recipient is responsible for understanding cost eligibility terms prior to incurring an expense and billing to the grant. Cost eligibility is outlined in the terms of the agreement, the grant rules, Ecology's "[Yellow Book](#),"<sup>67</sup> and this Guidance.

Only Ecology's Grant Financial Manager can determine if a cost is eligible under the grant. Ecology Grant Financial Managers work with Ecology Cleanup Project Managers, who supervise the actual cleanup or investigation related activities, to ensure the costs are reasonable, necessary, and applicable to the project. If there are any questions about whether a specific cost may be billed to the grant, the Recipient must ask the Ecology Grant Financial Manager responsible for the agreement.

The Recipient is fully responsible for paying any cost that Ecology's Grant Financial Manager does not allow. This remains true even if the Recipient did not understand the cost was not eligible, or a contractor or other representative approved or purchased the item without the Recipient's knowledge or approval.

If the Ecology Grant Financial Manager decides a cost is not grant-eligible, the item should not be included on any future payment requests. The Recipient is responsible for submitting accurate and properly documented payment requests for eligible expenses.

Only eligible cash expenditures are reimbursable. In general, an eligible cost is:

- **Necessary to complete the scope of work.** The scope of work must be approved by Ecology's Grant Financial Manager and Ecology's Cleanup Project Manager. For sites under an order or decree, the scope of work in the grant agreement must be consistent with the required work plan for the order or decree. For Area-wide Groundwater Investigation Grants and Safe Drinking Water Action Grants, the scope of work is defined only in the grant agreement.
- **Reasonable for the task.** Ecology reserves the right to reject costs as excessive, even when work is fully approved from a technical standpoint. As a result, some expenses may be reimbursed at less than the allowable percentages or not at all. It is important to communicate project needs, especially equipment, with Ecology's Grant Financial Manager prior to making large expenditures to ensure the expenditure will be reimbursed.
- **Timing.** Costs must be incurred after the effective date of the agreement and before the expiration date of the agreement.

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<sup>67</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

- **Retroactive costs.** Costs incurred prior to the grant being written are at the sole expense of the Recipient, except as specified for the grant type. Please note that if this Agreement includes retroactive reimbursement for past costs covering field activities potentially impacting cultural resources, then that activity will be subject to Ecology review to assess actions taken to address potential direct and indirect effects on prehistoric and historic archaeological sites, historic buildings and structures, traditional cultural places, sacred sites or other cultural resources. Based on the findings of the review, some or all past costs may be deemed ineligible for retroactive reimbursement
  - **Oversight Remedial Action Grants and Loans:**
    - Costs incurred under the order or decree during the period of a prior grant agreement that have not been reimbursed by Ecology;
    - Costs incurred under the order or decree between the effective date of the order or decree and the agreement signature date;
    - Costs incurred negotiating the order or decree, provided that the costs are not legal costs and were incurred within 60 days after starting negotiations for an order, or 120 days after starting negotiations for a decree;
    - Costs incurred before the effective date of the order or decree conducting independent remedial actions, subject to certain conditions and limitations.
  - **Area-wide Groundwater Investigation Grants and Safe Drinking Water Action Grants:** Only retroactive costs incurred during the period of a prior grant agreement of the same type are eligible.
- **Consistent.** Charged costs must be consistent with the standard business practices of the Recipient, contractor, or consultant. A cost is not eligible if it is computed differently than costs incurred in any other Recipient, contractor, or consultant activity. The Recipient, contractor, or consultant must compute the direct and indirect charges in the same way as those charges would be computed if the costs were related to any other activity. Consistency with standard business practices should be followed, except when grant billing or other requirements necessitate variation. Receipt and use of state funding for reimbursement should not impact how costs are billed, calculated, or determined. Ecology may request additional documentation or explanation of costs being billed.



## 6.1 Proper documentation

All remedial action costs must be properly documented to be considered eligible for reimbursement. The Recipient must upload all supporting documentation to EAGL for each payment request and progress report. This includes documentation for all expenses, including the Recipient's salary and benefits data, contractor and subcontractor invoices and receipts, accounting records or any other form of record that establishes the appropriateness of an expense. Receipts for supplies or meals must be itemized (if billing meals at per diem without receipts clearly note the date, individual who is claiming meals and meals being sought for reimbursement-breakfast, lunch dinner, and per diem rate). A charge card receipt with only a total payment amount is not acceptable documentation. Backup documentation requirements are the same for contractors and their subcontractors.

At a minimum, supporting documentation must include:

- Description of the item or services purchased. "Supplies" is not an adequate description. The invoice must include a list of the individual items purchased with the quantity and price;
- Name of vendor;
- Date of cost incurred;
- Invoice number;
- Invoice date;
- Serial, vehicle identification number (VIN), or other identifying number (for equipment or vehicles costing \$5,000 or more);
- Cost and quantity for each line item or service;
- Tax;
- Total cost;
- Notes associating the cost to the grant site can be handwritten on invoice by the Recipient;
- Grant task number that cost is being billed to.

Backup documentation should organizationally follow the receipt or invoice to which it relates. It is best practice to upload invoices individually to EAGL rather than all lumped together in one PDF. The Recipient should name PDFs with the Invoice Number included. EAGL has a 35mb limit for each upload and it is more difficult to review large PDFs. Please save PDFs in a format that allows a search capacity. If the Recipient scans the PDF as a picture, we cannot search

them and we may return the Payment Request/ Progress Report to the Recipient for resubmittal.

**Fixed Price or Lump Sum** contracts often used in public works contracting also require backup documentation to support charges. This includes trip tickets for contaminated soil disposal, rental receipts for equipment, subcontractor invoices, sampling and analysis bills, and receipts for supplies and direct expenses. Ecology may also require the contract to be uploaded as backup.

**Withholding** is not billable to the grant until it has been paid to a consultant or contractor and proper documentation can be provided. Costs must have been incurred to be reimbursable. Backup documentation of consultant or contractor payments often includes a) copies of emails or memos from the Recipient to the bank approving the release of the funds, and b) copies of financial transactions or a letter from the bank showing release of funds to the consultant or contractor. An invoice from the consultant or contractor billing for the withholding, and a warrant from the Recipient showing payment of the withholding, are also acceptable documentation.

**Recipient salary and benefit costs** should document the date work was performed and the hours worked per day. The Recipient may use an Excel spreadsheet, or a printout from their accounting system. All backup documentation must be uploaded into EAGL, along with a statement about where and how the backup information was collected (such as from a time accounting system or manual spreadsheet updates). If Recipient time is entered into an Excel spreadsheet, then a copy of the signed timesheet should be provided as additional backup. Documentation must be presented for each day worked, not only in a summary rolled up into pay periods. The backup documentation must include:

- The name of employee charging to the grant with their actual salary and benefits;
- For each employee, provide the hours worked each day, by date, and by grant task;
- The role each employee fulfills for the project.

**Consultant time** requires the number of hours worked per day, a brief description of tasks worked each day, and necessary backup from a payroll system or project tracking database. It is understood that consultant time is usually charged at a chargeable rate that includes benefits. However if the rate seems unreasonable, Ecology may not reimburse at the full chargeable rate. The same cost eligibility rules apply to consultants hired directly by the Recipient and the subcontractors hired by any primary consultants or contractors.

## 6.2 Eligible costs

For the purposes of this Guidance, “grant-eligible costs” are also called “eligible costs.” While the scope of work will be identified in the order, decree, or grant agreement, there are often specific issues related to eligible costs that may arise during grant implementation. When there is a question about what is an eligible cost, the Recipient should first review the applicable version of Ecology’s “[Yellow Book](#),”<sup>68</sup> *Administrative Requirements for Recipients of Ecology Grants and Loans*.

- **Administrative costs.** Administrative costs that are incurred as part of normal administrative processes for approval of contracts or payment of bills are eligible costs. For example, time spent reviewing invoices, preparing payment requests or progress reports, and other project-related documents, or participating in briefing meetings with elected officials who need to approve a contract related to the grant, are eligible costs.
- **Direct expenses.** Direct costs are eligible costs. These are costs that can be identified specifically with a particular task for the project, such as:
  - Compensation for employee time devoted to the project;
  - Cost of materials used specifically for the project;
  - Cost of goods or services furnished for the project by other entities such as consultants or other agencies or programs.
- **Operation and maintenance or monitoring costs.** Operation and maintenance or monitoring occurs after construction of a cleanup action component is complete. These actions are usually specified in an Operation and Maintenance Plan, required under WAC [173-340-400](#)(4)(c)<sup>69</sup>, or a Compliance Monitoring Plan, required under WAC [173-340-410](#).<sup>70</sup> However, these costs are not grant-eligible if they are incurred more than one year after completing construction. See Ineligible Costs later in this chapter.

Ecology may only fund one year of operation and maintenance or monitoring for each funded cleanup action component, including long-term actions such as monitored natural attenuation or monitored natural recovery. Any costs incurred performing such activities after the first year are the sole responsibility of the Recipient.

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<sup>68</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

<sup>69</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-400>

<sup>70</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-410>

When it's not clear whether construction of a cleanup action component has been completed, Ecology uses U.S. EPA's guidance, "[Closeout Procedures for National Priority Sites](#),"<sup>71</sup> to determine if construction is complete.

- **Overhead.** Overhead costs are those incurred for a common purpose and not readily identifiable with a particular project. Examples of overhead include: utilities for a facility not specific to the project or support departments such as human resources, fiscal staff, or supervisory personnel.

These costs should be proportioned between the grant and other non-grant related usage. The Recipient may charge overhead to cover costs that are not typically directly billed to the grant. Allowable overhead for remedial action grants is **up to 25%** of salaries and benefits for employees directly billing to the project for remedial action grants. If the normal organizational overhead rate for employees is 20%, then the grant should not be billed for more than 20% overhead. Overhead charges must be reported on the same billing as the connected salaries and benefits on which they are calculated as a separate line item.

- **Fleet costs and mileage.** The billing method for automobile or fleet costs needs to be clearly established and remain consistent throughout the grant. This method also needs to be consistent with how the Recipient typically manages their automobile or fleet expenses. It cannot be created specifically for purposes of the grant. The state mileage rate in effect at the time the cost was incurred is applicable as a maximum for any mileage billed by the Recipient, consultants, or contractors. Markups may not be applied to mileage unless the final rate is equal to or less than the [state mileage rate](#)<sup>72</sup> in effect at the time the travel occurred. It is the Recipient's responsibility to correct mileage billed in excess of the state rate.
- **Parking.** Parking is a grant-eligible expense. Receipts must be provided for reimbursement. Absent a receipt, the cost will not be allowed.
- **Rental cars.** If the Recipient or a Recipient's contractor or consultant leases a rental car, the invoice should include the miles driven and the time period of the rental. Ecology may ask the Recipient to provide the project hours worked by the individual who used the car. If the employee or consultant did not work fulltime on grant activities during the period the car was leased, Ecology's Grant Financial Manager will only approve a prorated share of the rental or lease cost. Original gasoline receipts must be provided for fuel costs when a car is rented, unless otherwise approved by Ecology's Grant Financial Manager.

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<sup>71</sup> <https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites>

<sup>72</sup> <https://ofm.wa.gov/accounting/administrative-accounting-resources/travel/diem-rate-tables>

- **Consultant or contractor list of reimbursable expenses.** For vehicle expenses charged based on a list of their Reimbursable Expenses (example: \$100/day for use of their company vehicle) the grant may reimburse the amount of the per day or week charge for the use of the contractor or consultant vehicle in lieu of a rental vehicle from a rental company. In this case, the gasoline and mileage would not be paid separately. The only eligible cost is the charge for the vehicle usage.
- **Travel – per diem.** When on travel status, a Recipient’s and their consultant or contractor’s travel costs are grant-eligible under certain circumstances. Per diem costs will only be paid at the [state rate](#)<sup>73</sup> determined by the Office of Financial Management. Travel costs are not eligible for markup by a contractor, consultant, or the Recipient, unless the total cost remains at or below the state travel rate in effect at the time of travel. Any markups over the state rate or other disallowed travel costs are the sole responsibility of the Recipient.
  - Itemized receipts are always required for hotels. The room rate cannot be reimbursed in excess of the state rate. This does not include additional room fees and taxes. For example: if the state rate is \$91, the room must cost \$91 or less. However, the reimbursable hotel bill could be higher than \$91 after the addition of taxes and room fees. This does not include room service. Non-traditional lodging, such as Airbnb and VRBO, are subject to approval of the Ecology Grant Financial Manager. In general, nontraditional lodging will be reimbursed at the state rate and further taxes or room fees are likely to be disallowed since they are typically higher for this type of lodging.
  - Exceptions to state-approved hotel rates may be authorized by Ecology’s Grant Financial Manager under limited circumstances. However, the approval must be provided in writing prior to the cost being incurred. Costs in excess of the state rate are not allowed if not requested or approved in advance.
- **Permit fees.** Fees for permits necessary to complete remedial actions are an eligible cost. This includes local, state (including Ecology-issued permits), and federal permits. If remedial actions being conducted under an order or decree are exempt from a local, state, or federal permit, any equivalent fee charged by the permitting agency to identify applicable, relevant and appropriate requirements (ARARs) are eligible costs (excluding Ecology or the U.S. EPA oversight charges). To complete the work within the biennium, it may be necessary to pay an extra fee for expedited permit review. These expedited fees are also eligible costs. Fees for permits related to redevelopment of a site are not eligible costs.
- **Supplies.** Supplies are tangible personal property other than tools or equipment. Supplies are either direct billed or are considered an overhead expense. Supplies or

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<sup>73</sup> <https://ofm.wa.gov/accounting/administrative-accounting-resources/travel>

materials needed to perform the scope of work in the agreement are a grant-eligible cost. Under most grant agreements, these costs are part of overhead expenses but they can be directly billed if they are used only for grant-related activities. Receipts for supplies must be detailed and identify the specific items purchased.

**Example:** If toner, paper, or ink are purchased for an office printer used by multiple programs or projects, this is an overhead expense. If the Recipient has a project office with a project printer dedicated to use only on the grant funded activities, the printer supplies may be direct billed.

## 6.3 Conditionally eligible

Conditionally eligible costs are costs that may be grant-eligible if they meet certain conditions. **All conditionally eligible costs require prior written approval from Ecology's Grant Financial Manager.** Failure to obtain prior approval may result in the Recipient having to pay for these costs, which also makes them ineligible to count towards the grant match. The following section discusses specific issues related to conditionally eligible costs that often arise during the administration of remedial action grants.

- **Amenity replacement costs.** Costs of replacing amenities on the site such as trash and recycle bins, sidewalks, benches, lighting, turf, picnic tables, and drinking fountains, may be allowed if these amenities were destroyed as a result of cleanup construction. Recipients must provide up-front documentation about why the Recipient needed to remove and replace these amenities. The Ecology Cleanup Project Manager must have visually inspected them prior to destruction and required their removal for cleanup. If the Recipient carelessly destroyed amenities during cleanup activities, Ecology will not reimburse them under the grant. If amenities were past their normal life expectancy, Ecology will not reimburse them under the grant. Ecology may allow partial payment at the Ecology grant manager's discretion. **Computer purchases.** Computer purchases (and associated software) are a conditionally allowable cost. In some cases—typically long-term cleanups—computers are an allowed direct expense. Recipients must obtain written approval from Ecology's Grant Financial Manager to purchase computers that will be billed directly to the grant. Any costs incurred for computers or software purchased without Ecology's Grant Financial Manager's written approval are the Recipient's responsibility. To request written approval from Ecology's Grant Financial Manager for conditionally eligible costs, the Recipient must submit a justification for the purchase in writing, usually by email, which includes:
  - The work tasks to be performed on the computer;
  - A detailed price quote for the system that itemizes the components being requested for the purchase and any requested software or additions;
  - The amount of time the user or users are assigned to grant tasks;

- The share of the total purchase price requested for grant funding.
- **Equipment.** Equipment means tangible, nonexpendable, personal property that has a useful life of more than one year and an acquisition cost of at least \$5,000 per functional unit or system. Some tools can fall into the equipment category because of their cost.

Once an item exceeds the \$5,000 threshold, additional requirements govern its acquisition, use, and disposition and will require an Equipment Purchase Report in EAGL. Additional information on this topic is available in Ecology's "[Yellow Book](#)."<sup>74</sup> If a Recipient will want reimbursement for equipment purchases, the Recipient should inform Ecology's Grant Financial Manager so the purchase can be written into the grant agreement.

- **Tools.** Tools are tangible personal property having a useful life of more than one year and an acquisition cost of less than \$5,000 per functional unit. Tools are a conditionally allowable cost. They require written approval from Ecology's Grant Financial Manager. Considerations typically include the following:
  - Is the tool required to perform the scope of work in the agreement?
  - Is the cost reasonable?
  - Is the price of the tool the most economical means of accomplishing the task or work?
  - Will the Recipient maintain ownership/possession of the tool?

If tools are purchased without approval by Ecology's Grant Financial Manager prior to the purchase, the Recipient is solely responsible for the full cost. Ecology may purchase tools for Recipients but not for private individuals such as contractors. Ecology expects that contractors or consultants arrive trained and equipped to do the job for which they were hired.

- **Light refreshments.** Light refreshments for public meetings required in the scope of work for the agreement are conditionally allowable costs. The Recipient must request approval to provide light refreshments prior to incurring any expense. Before the meeting, submit the following to Ecology's Grant Financial Manager:
  - Written request that contains an explanation for the purpose of the meeting;
  - Meeting agenda or description of purpose; and

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<sup>74</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

- Draft budget (expense itemization) approved by Ecology's Grant Financial Manager in advance of the event.

After the meeting, submit the following to Ecology's Grant Financial Manager:

- Sign-in sheet or attendance list; and
- Final vendor receipts or invoices.

The Recipient and consultant or contractor lunches or meeting refreshments are not reimbursable under the grant agreement unless the employees are shown to be on travel status and the costs are approved by the Ecology Grant Financial Manager in advance of the costs being incurred.

- **Groundbreaking and cleanup completion ceremonies.** The costs of hosting a groundbreaking ceremony or one commemorating the completion of a cleanup are generally not grant-eligible costs. If allowed by Ecology's Grant Financial Manager, the requirements for light refreshments apply.
- **Negotiation costs.** Technical and administrative costs incurred by the Recipient during negotiations on an agreed order or consent decree may be eligible for grant reimbursement (legal costs are not grant-eligible). These costs must be incurred within 60 days of start of negotiations on an agreed order, or within 120 days of start of negotiations on a consent decree. Recipients should receive a notice from Ecology that this time period has begun. If not, the Recipient should request such a notice. The Ecology Cleanup Project Manager must agree the costs incurred were appropriate, reasonable, and necessary to develop the technical aspects of the order or decree (such as the scope of work). Costs related to discussion of an enforcement order are not eligible costs.

**Examples of grant-eligible costs:** Staff time or consultant costs to develop a scope of work, public participation plan, or sampling and analysis plan to be attached to the order or decree. Legal fees for negotiations are not a grant-eligible cost.

- **Overtime.** If overtime is not requested in advance, the Recipient may not request payment for overtime hours.
- **Overtime differential.** Overtime differential is seldom allowed. It is any increase in pay over the standard pay rate that is provided to compensate an employee for hours worked in excess of the standard work day or week. Overtime differential may be allowable only when one hundred percent (100%) of an employee's time is spent on grant activities and prior written approval is obtained.



- **Training.** Recipient staff training is a conditionally allowable cost. Recipient training must be directly related to the project and necessary to carry out the scope of work, such as Hazardous Waste Safety training.

Travel associated with approved training for the Recipient is allowable if authorized by Ecology's Grant Financial Manager in advance. Communicate with Ecology's Grant Financial Manager to discuss training and any associated travel needs prior to incurring any expense. Failure to do so could result in the expenses being denied. Training costs may be prorated when a Recipient only works part-time on grant activities.

Remedial action grants will not typically reimburse consultant or contractor training. Consultants or contractors should be prepared to perform the duties for which they are being hired. If the Recipient agrees to fund consultant training, the Recipient is solely responsible for these costs and should not expect to receive reimbursement under the grant.

- **Working lunches.** Recipient working lunches are a conditionally eligible cost and typically requires that the Recipient is on travel status. The Recipient must submit a written request for working lunches prior to incurring expenses. Consultant or contractor working lunches are not grant-eligible unless the Recipient obtains written approval from the Ecology Grant Financial Manager prior to the event. Ecology's Grant Financial Manager may approve expenses for Recipients consistent with how Ecology approves working lunches for Ecology staff. Please refer to Ecology's "[Yellow Book](#)"<sup>75</sup> for more information.

## 6.4 Ineligible costs

Ineligible costs are costs that are not eligible for reimbursement under the grant and cannot be used for grant match. Invoices or other documentation for these costs should not be submitted for reimbursement. The following section discusses specific issues related to ineligible costs that often come up in administration of remedial action grants.

- **Contingencies, rising costs, and change orders.** Grant agreements are written for a set amount. Any contingencies in separate contracts do not change the amount of the grant agreement.
- **Dispute resolution.** Technical, legal, and administrative expenses incurred by the Recipient to challenge an Ecology decision, such as the costs of dispute resolution under an order or decree or grant agreement.

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<sup>75</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

- **Ecology and U.S. EPA charges.** Costs that Ecology or U.S. EPA charge the Recipient for site management oversight (cost recovery) under the terms of orders or decrees or under the Voluntary Cleanup Program.
- **Grant application development.** Costs of preparing a grant application, including Recipient staff time, consultant, or contractor time.
- **Legal expenses or attorney fees.** Legal costs of any kind, including, but not limited to, the costs of seeking client advice; pursuing cost recovery; contribution or insurance claims administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; defending actions taken against the Recipient; and any attorney fees incurred by the Recipient.
- **Lobbying.** Any costs for entertaining; attempting to influence dignitaries or elected officials; discussing the project with elected officials who do not have contract approval authority, are not grant-eligible costs. This includes contacts with legislators to urge project funding.
- **Natural Resource Damage Assessment costs and Natural Resource Damages.** Costs related to development of Natural Resource Damage Assessments (NRDA), fees for damages to the environment or work required in lieu of fees under Natural Resource Damage (NRD) settlements, cleanup and habitat restoration work required under a state or federal NRD settlement.
- **Operation and maintenance or monitoring costs.** Operation and maintenance or monitoring costs incurred more than one year after completing construction of a cleanup action component, even if additional activities are necessary.
- **Penalties and late fees.** Penalties or late fees assigned to the Recipient or contractors. For example, the Recipient pays an invoice late and a contractor charges a late fee. This cost is not eligible for reimbursement under a remedial action grant. A penalty issued by Ecology for failure to comply with an order or decree is not a grant-eligible cost.
- **In-kind contributions.** Goods, services, and transactions not involving money.
- **Non-cleanup related activities.** Site development and mitigation costs not required as part of the remedial action.
- **Other party expenses.** The costs incurred under an order or decree by a potentially liable person or a potentially responsible party other than the Recipient except as provided under WAC [173-322A-320](https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A-320)(2)(c)(iii).<sup>76</sup>

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<sup>76</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A-320>

## Chapter 7: Oversight Remedial Action Grants

The purpose of Oversight Remedial Action Grants is to provide funding to local governments that investigate and clean up contaminated sites under an order or decree overseen by Ecology under MTCA or by the U.S. EPA under the federal cleanup law. These grants are intended to expedite the cleanup and redevelopment of high priority contaminated sites and lessen the impact of cleanup costs on local ratepayers and taxpayers.

### 7.1 Project eligibility

For Oversight Remedial Action Grants, a project consists of remedial actions conducted under an order or decree at a single contaminated site. Ecology may provide more than one grant for a project. Depending on availability of funding, the number of grant requests, and the pace of remedial actions, a project may have to be funded over multiple biennia.

To be eligible for an Oversight Remedial Action Grant, a project must meet all of the following requirements:

- The Applicant is a local government;
- The Applicant is a potentially liable person under MTCA, a potentially responsible party under the federal cleanup law, or prospective purchaser of a contaminated site;
- An order or decree requires remedial action at the contaminated site, and either:
  - Ecology requires the Applicant to conduct the remedial action under MTCA;
  - The U.S. EPA requires the Applicant to conduct the remedial action under the federal cleanup law, and Ecology either co-signs the order or decree or acknowledges in writing that it is a sufficient basis for grant funding; or
  - Ecology or the U.S. EPA requires another person to conduct the remedial action, and:
    - The Applicant co-signs the order or decree;
    - The Applicant agrees in writing to reimburse the person conducting the remedial actions for at least some of the costs; and

- If the remedial actions are required by U.S. EPA under federal cleanup law, Ecology co-signs the order or decree or acknowledges in writing that it is a sufficient basis for grant funding.<sup>77</sup>

### 7.1.1 Extended Grant Agreements

Local Governments will have the opportunity to submit additional eligibility information during the 2023–25 solicitation to be considered for an Extended Grant Agreement during the 2023–25 biennium. All Oversight Remedial Action Grant applications will be scored and ranked independently of their application for an extended grant agreement, unless an Extended Grant Agreement is active at the time Ecology develops the budget. Based on a review of the additional eligibility, project needs, and previous funding Ecology will consider negotiating an Extended Grant Agreement if a project receives funding.

To be eligible for an Extended Grant Agreement the project must meet all of the below criteria:

- Meet all eligibility outlined in Section 7.1 for Oversight Remedial Action Grants;
- Project costs must exceed \$20 million in total eligible cost (state share and local match);
- Project must extend over multiple biennia.

For such projects, these grants anticipate the development of long-range schedules and multiple biennia spending profiles. An overarching agreement will be negotiated between Ecology and the Recipient that establishes the general scope, schedule, and overall cost for the project. A separate grant agreement will be prepared for each biennium that describes the scope of work, schedule, and expenses anticipated to occur during that biennium. This avoids tying up a large amount of grant funds for several years to cover future costs. This grant is intended to help achieve the legislature’s goal of putting the MTCA grant funds to work on more sites.

The advantage of Extended Grant Agreements is that, by statute, these grants receive the highest priority for funding during the State’s budget process, which provides the highest level of assurance that funds will be available in future years as work continues at a site. Funds must be substantially expended or contracts awarded each biennium to keep this priority.

Extended Grant Agreements are subject to the same eligibility limitations as other Oversight Remedial Action Grants. However, due to the size of projects that are funded under Extended Grant Agreements, grants are limited to a maximum of fifty percent (50%) of total project costs regardless of the community’s economic status or use of innovative technology. Ecology intends to apply this 50% limit to each biennium. Extended Grant Agreements are also limited

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<sup>77</sup> An example of this is a closed landfill that is on land owned by a local government, but was operated by a private company that agrees to take the lead on completing remedial actions. A grant could be awarded to the local government to help pay for their portion of remedial costs.

in initial duration to 10 years; however, this duration can be extended by Ecology if substantial progress has been made on remedial actions under the initial agreement but additional work is left to be completed.

When determining total eligible project costs, costs will be calculated as if the entire project is being conducted at the time of application, with no discounting of future costs or adjustment of costs for inflation. Investigative costs, capital costs, and the first year of operating and monitoring costs after completion of the cleanup, are included in this calculation. Extended Grant Agreements are limited to single sites. Where there are multiple source properties with overlapping groundwater plumes or sediment contamination such that they consist of one site, the aggregate cost of remedial actions at all of these properties will be considered when Ecology is determining if the \$20 million threshold is exceeded.

For sites where there are multiple jurisdictions with cleanup responsibility working at the same site, Ecology will consider the aggregate cost of remedial actions by all the jurisdictions when determining if the \$20 million threshold is exceeded. If there is a mix of public and private potentially liable persons paying for the cleanup of a site, Ecology will consider only the public's share of the costs of remedial actions when determining if the \$20 million threshold is exceeded.

To ensure sufficient MTCA grant funds are available for other sites, Ecology anticipates that we will seek a balanced portfolio of sites with Extended Grant Agreements and other grant agreements. The amount of grant funds tied up in Extended Grant Agreements will be re-examined in future biennia as experience is gained with managing these agreements.

## 7.2 Grant funding

There is no limit on the amount of eligible project costs Ecology may fund. Ecology will limit each grant to the amount expected to be spent within one biennium.

Ecology may provide up to 50% state share of an eligible project cost, except as follows:

- If the Applicant is “economically disadvantaged,” as defined in WAC 173-322A-100(15) and (16), Ecology may fund up to an additional 25% of an eligible project cost. See [Economically Disadvantaged Cities, Towns, and Counties in Washington State \(2021–23 biennium\)](#).<sup>78</sup>
- If the Applicant uses “innovative technology,” as defined in WAC 173-322A-100(28), Ecology may fund up to an additional 15% of an eligible project cost.

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<sup>78</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2109045.html>

- Ecology may fund up to a total of 90% of an eligible project cost if the total eligible project costs are under \$5 million and the additional funding would either:
  - Prevent or mitigate unfair economic hardship imposed by cleanup liability;
  - Create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or
  - Create an opportunity for acquisition and redevelopment of brownfield property under RCW [70A.305.040](#)(5)<sup>79</sup> that would not otherwise occur.

Recipients are responsible for the remaining share of eligible project costs (match) and 100% of all non-eligible project costs.

Ecology retains the discretion to not award a grant for an eligible project or to provide less funding for an eligible project than the maximum amount or percentage allowed, based on funding availability or other factors (WAC [173-322A-220](#)(2)).<sup>80</sup>

### 7.3 Eligible costs

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. The Recipient can only be reimbursed for costs to implement a work plan previously approved by the Ecology Cleanup Project Manager. The work plan for Oversight Grants and Loans will be in the order or decree. All costs must be properly documented. Conditionally eligible costs must be pre-approved by the Ecology Grant Financial Manager. Examples of eligible activities and related costs for Oversight Remedial Action Grants include:

- Emergency or interim actions;
- Remedial investigations;
- Feasibility studies and selection of the remedy;
- Engineering design and construction of the selected remedy;
- Operation and maintenance or monitoring of a cleanup action component for one year after construction completion of the component;

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<sup>79</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.040>

<sup>80</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A-220>

- Grant administration consistent with the applicable version of Ecology’s “[Yellow Book](#)”<sup>81</sup>;
- The following retroactive costs:
  - Costs incurred under the order or decree during the period of a prior grant agreement that have not been reimbursed by Ecology.
  - Costs incurred under the order or decree between the effective date of the order or decree and the agreement signature date.
  - Costs incurred negotiating the order or decree, provided that the costs are not legal costs and were incurred within 60 days after starting negotiations for an order, or 120 days after starting negotiations for a decree.
  - Costs incurred before the effective date of the order or decree conducting independent remedial actions, subject to certain conditions and limitations.

## 7.4 Evaluation criteria

Ecology evaluates Oversight Remedial Action Grant and Loan applications based on several criteria that are grouped into six categories. Projects applying for an Extended Grant Agreement will be ranked and scored as an Oversight Remedial Action Grant. Eligibility for an Extended Grant Agreement will be considered separately if a project is funded. A project’s score is determined by adding together the total score for each category. The categories are:

**Category 1:** Faster Cleanup

**Category 2:** Improve Human Health

**Category 3:** Improve the Environment and Natural Resources

**Category 4:** Equitable Distribution

**Category 5:** Redevelopment and Reuse in Cleanups

**Category 6:** Meaningful Investment in Communities

The evaluation criteria for each category are shown below in Table 3 through Table 8. The scorecard identifies each criteria and the maximum possible criteria score. The Applicant should ensure to answer the application completely and accurately as this may impact their score. They should provide relevant information related to the criteria when completing the application in EAGL.

The evaluation criteria and processes are the same for Oversight Remedial Action Grants and Loans.

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<sup>81</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Grant-loan-guidance>

**Table 3:** Oversight Remedial Action Grant and Loan Evaluation Criteria-Category 1: Faster Cleanup

Criteria Number	Evaluation Criteria	Maximum Score
1.1	<p><b>Prior grant performance (one applies):</b></p> <ul style="list-style-type: none"> <li>• <b>8 POINTS:</b> Applicant does not have an active grant for the site.</li> <li>• <b>4 POINTS:</b> Applicant has an active grant for the site, but it is expected to be spent by the beginning of the biennium.</li> <li>• <b>0 POINTS:</b> Applicant has an active grant and it is unclear that the grant will be spent by the beginning of the biennium.</li> </ul>	8
1.2	<p><b>Applicant's readiness to proceed sub-criteria (add up for final score for 1.2):</b></p> <ul style="list-style-type: none"> <li>• <b>2 POINTS:</b> Contracts are in place to begin the project (such as public works) or environmental consultant is hired (0 points if neither).</li> <li>• <b>4 POINTS:</b> All required local, state, and federal permits are currently in hand or no permits are required for the work funded by the 2023–2025 request (such as for RI/FS). <ul style="list-style-type: none"> <li>○ <b>1 POINT:</b> Identified all permits necessary for requested 2023–2025 funding.</li> <li>○ <b>0 POINTS:</b> None of the above apply.</li> </ul> </li> <li>• <b>2 POINTS:</b> Matching funds are secured and ready to be spent (0 points if not).</li> <li>• <b>2 POINTS:</b> Local government/staff project manager identified (0 points if not).</li> </ul>	10
1.3	<p><b>Leveraging other funds:</b></p> <ul style="list-style-type: none"> <li>• <b>6 POINTS:</b> Applicant has secured additional grants, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>4 POINTS:</b> Applicant is pursuing grant applications, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>2 POINTS:</b> Applicant has a capital plan for both cleanup and redevelopment or reuse of the site.</li> <li>• <b>0 POINTS:</b> None of the above apply.</li> </ul>	6



Criteria Number	Evaluation Criteria	Maximum Score
1.4	<p><b>Ecology’s readiness to proceed</b></p> <ul style="list-style-type: none"> <li>• <b>6 POINTS:</b> Order or decree for the work to be funded is effective or under negotiation.</li> <li>• <b>2 POINTS:</b> Ecology Cleanup Project Manager (Site Manager) has been assigned to the site (as reflected in Ecology’s Integrated Site Information System, ISIS).</li> <li>• <b>0 POINTS:</b> None of the above apply.</li> </ul>	6

**Table 1:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 2: Improve Human Health

Criteria Number	Evaluation Criteria	Maximum Score
2.1	<p><b>10 POINTS:</b> Presence of Extremely or Very Hazardous Chemicals is confirmed or there is the potential for RI/FS stage projects.</p> <ul style="list-style-type: none"> <li>• 1,1,2-Trichloroethane</li> <li>• 2-Methylnaphthalene</li> <li>• Aldrin</li> <li>• Antimony</li> <li>• Arsenic</li> <li>• Benzene</li> <li>• Benzo(a)pyrene (or cPAH toxic equivalency quotient)</li> <li>• Cadmium</li> <li>• Chromium VI</li> <li>• cis-1,2-Dichloroethene (cis-DCE)</li> <li>• Dieldrin</li> <li>• Dioxins</li> <li>• Lead</li> <li>• Mercury</li> <li>• Methylmercury</li> <li>• Naphthalene</li> <li>• Per- or polyfluoroalkyl substances (PFAS)<sup>82</sup></li> <li>• Polychlorinated biphenyls (PCBs)</li> <li>• Trichloroethene (TCE)</li> <li>• Vinyl chloride</li> <li>• Other substances identified by Ecology.<sup>83</sup></li> </ul> <p><b>0 POINTS:</b> Extremely or Very Hazardous chemicals are not present at the site.</p>	10
2.2	<p>Potential exposure routes of concern (2 points per exposure route):</p> <ul style="list-style-type: none"> <li>• Soil</li> <li>• Groundwater</li> <li>• Surface water</li> <li>• Vapor intrusion</li> <li>• Sediment</li> </ul>	10

<sup>82</sup> As of August 2021, the Washington Department of Health is in close to establishing drinking water State Action Levels (SALs) for five PFAS compounds. The current schedule call for final promulgation by the end of 2021.

<sup>83</sup> The list is based in part on data from the U.S. EPA, available at: <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query>

Criteria Number	Evaluation Criteria	Maximum Score
2.3	<p>Potential exposure risk to a sensitive population located within or adjacent to the site, such as:</p> <ul style="list-style-type: none"> <li>1. Nearby daycare, nursing home, or hospital.</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>2. The site is located in the 80<sup>th</sup> percentile according to <a href="https://www.epa.gov/ejscreen">EJSCREEN</a><sup>84</sup> for under the age of 5 or over the age of 64 demographic indicators.</li> </ul> <p>(10 points for yes to either of the above, 0 points for no)</p>	10

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<sup>84</sup> <https://www.epa.gov/ejscreen>

**Table 2:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 3: Improve the Environment

Criteria Number	Evaluation Criteria	Maximum Score
3.1	Potential for contamination to spread (6 points for yes or unknown, 0 points for no).	6
3.2	A designated sensitive environment or fishery resource exists within one mile of the site boundary (6 points for yes, 0 points for no).	6
3.3	<p><b>6 POINTS:</b> Potential exposure of sensitive wildlife or plant species that might access the site or be impacted by the contamination spreading (such as redband trout, migratory birds, orcas, salmon, monarch butterflies, and/or endangered species) or potential exposure of priority habitat.</p> <p><b>0 POINTS:</b> No expected exposure to sensitive wildlife or plant species or priority habitat.</p>	6
3.4	The project has the opportunity for significant fish/wildlife habitat restoration and/or other conservation benefits (6 points for yes, 0 points for no).	6
3.5	<p><b>6 POINTS:</b> The project evaluates or implements green remediation principles to minimize the environmental impact from cleanup actions (such as minimizing greenhouse gas emissions or implementing water conservation) or a reputable sustainability or green remediation program (such as LEED or Envision). See 4.6 Climate resilience and green remediation for more information.</p> <p><b>1 POINT:</b> The project incorporates sustainability or green remediation principles to some extent.</p> <p><b>0 POINTS:</b> The project does not incorporate sustainability or green remediation principles.</p>	6

**Table 3:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 4: Equitable Distribution

Criteria Number	Evaluation Criteria	Maximum Score
4.1	<p><b>15 POINTS:</b> The site is east of the Cascades or the community is “economically disadvantaged,” as defined in WAC <a href="#">173-322A-100</a>(15) and (16). See <a href="#">Economically Disadvantaged Cities, Towns, and Counties in Washington State (2021–23 biennium)</a>.</p> <p><b>0 POINTS:</b> If the above does not apply.</p>	15
4.2	<p><b>15 POINTS:</b> Community where the contaminated site is located is a “highly impacted community,” as defined in WAC <a href="#">173-322A-100</a>(24) and 4.5 Environmental justice evaluation criteria of this Guidance.</p> <p><b>0 POINTS:</b> If the above does not apply.</p>	15

**Table 4:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 5: Redevelopment and Reuse in Cleanups

Criteria Number	Evaluation Criteria	Maximum Score
5.1	The site contains a vacant, abandoned, or underutilized former industrial or commercial facility (6 points for yes, 0 points for no).	6
5.2	Applicant already identified a purchaser, developer, operator, or lessee for the redeveloped site (6 points for yes, 0 points for no).	6
5.3	<p><b>6 POINTS:</b> The project evaluates or implements green remediation principles to minimize the environmental impact from cleanup actions (such as minimizing greenhouse gas emissions or implementing water conservation) or using applicable concepts from a reputable sustainability or green remediation program (such as LEED and Envision). See 4.6 Climate resilience and green remediation for more information.</p> <p><b>1 POINT:</b> The project incorporates or discusses climate change adaptation principles to some extent.</p> <p><b>0 POINTS:</b> The project does not incorporate climate change adaptation considerations.</p>	6
5.4	<p><b>6 POINTS:</b> If project cannot start without funds, started but cannot be expeditiously completed without funds, or stopped and cannot continue without funds.</p> <p><b>0 POINTS:</b> None of the above apply.</p>	6
5.5	Applicant provided documents or information demonstrating that a lack of local funding or ability to obtain financing is significantly delaying the cleanup and subsequent use, sale, or redevelopment of the site (6 points for yes, 0 points for no).	6

**Table 5:** Oversight Remedial Action Grant and Loan Evaluation Criteria – Category 6: Meaningful Community Investment

Criteria Number	Evaluation Criteria	Maximum Score
6.1	<p><b>6 POINTS:</b> Site is located within a Redevelopment Opportunity Zone (ROZ) designated under RCW <a href="#">70A.305.150</a>.</p> <p><b>4 POINTS:</b> Site is located within an incorporated city, town, or urban growth area designated under RCW <a href="#">36.70A.110</a>.</p> <p><b>0 POINTS:</b> None of the above apply.</p>	6
6.2	<p>Local infrastructure (such as public transit, roads, water, sewer, utilities) to serve the redeveloped site are:</p> <p><b>6 POINTS:</b> Already in place.</p> <p><b>4 POINTS:</b> Under construction.</p> <p><b>2 POINT:</b> Planned.</p> <p><b>0 POINTS:</b> None of the above apply.</p>	6
6.3	<p><b>6 POINTS:</b> Redeveloped site will provide additional affordable housing stock when redeveloped.</p> <p><b>4 POINTS:</b> Redeveloped site will preserve affordable housing stock when redeveloped.</p> <p><b>0 POINTS:</b> Redeveloped site will not preserve or provide additional affordable housing stock.</p>	6
6.4	<p><b>6 POINTS:</b> Redeveloped site will be primarily for public use (for example, a park, museum, or library).</p> <p><b>4 POINTS:</b> Redeveloped site will be partially for public use (example, site contains both a public trail and private housing).</p> <p><b>0 POINTS:</b> Neither of the above apply.</p>	6
6.5	<p>Project demonstrates a clear vision for future use of the property (6 points for yes, 0 points for no).</p>	6

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## Chapter 8: Oversight Remedial Action Loans

The purpose of Oversight Remedial Action Loans is to supplement local government funding and funding from other sources to meet the match requirements for Oversight Remedial Action Grants. The loans are intended to encourage and expedite cleanup of contaminated sites and lessen the impact of cleanup costs on ratepayers and taxpayers.

There are two different types of Oversight Remedial Action Loans:

- **Standard Loans:** A Standard Loan is a below-market rate loan for up to a 20-year repayment period.
- **Extraordinary Financial Hardship Loans:** An Extraordinary Financial Hardship Loan is a below-market rate loan with deferred terms and conditions for repayment. The deferred terms and conditions may not be indefinite and the loan must be approved by the Director of the Department of Ecology or his/her designee.

### 8.1 Project eligibility

For the purposes of an Oversight Remedial Action Loan, a project consists of remedial actions conducted under an order or decree at a single site. A project may extend over multiple biennia. Ecology may provide more than one loan for a project.

To be eligible for a loan, a project must meet all of the following requirements:

- The Applicant is a local government.
- The Applicant has been or is being awarded an Oversight Remedial Action Grant and meets the eligibility requirements for the Grant.
- The Applicant demonstrates the following to Ecology's satisfaction:
  - For a Standard Loan, its financial need for the loan and ability to repay the loan.
  - For an Extraordinary Financial Hardship Loan, its financial need for the loan, inability to repay the loan under present circumstances, and ability to repay the loan in the future.

Ecology may require an independent third party financial review to support the demonstration.

## 8.2 Grant funding

Recipient's share (match) under the Oversight Remedial Action Grant. Ecology reserves the right to fund less than 100% of eligible costs based on available funding and other factors. If Ecology funds less than 100% of eligible costs, the Recipient is responsible for the remaining share. The Recipient is also responsible for any ineligible costs.

All cost eligibility and evaluation criteria are the same as for Oversight Remedial Action Grants. See Chapter 7: Oversight Remedial Action Grants

### 8.2.1 Repayments

#### Standard Loans

For a Standard Loan, the following terms and conditions will apply:

- If the repayment period is less than or equal to five years, then the interest rate is 30% of the average market rate, as published in the bond buyers index for tax-exempt municipal bonds.
- If the repayment period is more than five years and less than or equal to twenty years, then the interest rate is 60% of the average market rate.
- Interest will begin to accrue on each disbursement as it is paid to the Recipient.
- Other terms and conditions as specified in the loan agreement.

#### Extraordinary Hardship Loans

For an Extraordinary Financial Hardship Loan, Ecology can adjust the loan terms and conditions for Standard Loans or defer repayment of the loan. This will be based on the Applicant's demonstration of inability to repay the loan under their present financial circumstances and how this situation may change in the future. The loan deferral terms and conditions may change depending on a periodic review of the Recipient's ability to pay. Loan repayment may not be deferred indefinitely.

## Chapter 9: Area-wide Groundwater Investigation Grants

The purpose of Area-wide Groundwater Investigation Grants is to provide funding to local governments to investigate known or suspected areas of groundwater contamination caused by multiple releases of hazardous substances.<sup>85</sup> These grants are intended to facilitate the cleanup and redevelopment of multiple properties located within the impacted areas by addressing issues that would be difficult to resolve on a site-by-site basis.

An example of where an Area-wide Groundwater Investigation Grant could be used is a street intersection or block that contains several current and former gas station sites with suspected off-property contamination:

An owner of one of the gas stations within this area wants to redevelop their property, but is reluctant to start a remedial investigation. They are concerned it would lead to an expensive investigation of their property to determine which part of the areal groundwater contamination was a result of their facility, and which part was caused by their neighbors.

The city's comprehensive plan supports this redevelopment as it envisions the area redeveloping from its current automobile-oriented land uses to a mixed-use development. However, the envisioned redevelopment has not moved forward—in part because of uncertainty caused by the area-wide groundwater contamination.

To facilitate this redevelopment, the city applies for a grant. The grant is used to install and test groundwater monitoring wells within public right-of-ways throughout the area to better define the extent of the plumes coming from individual facilities. This information is made available to individual property owners.

In this case, the gas station owner can use this information, along with their own site-specific investigation, to define their cleanup liability, clean up their property, and move ahead with redevelopment.

An Area-wide Groundwater Investigation Grant could also be used for projects that investigate concerns regarding the presence of known or suspected persistent chemicals in the groundwater, such as per- or poly-fluoroalkyl substances (PFAS).

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<sup>85</sup> “Area-wide groundwater contamination” is defined as “multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately” (WAC [173-322A-100\(3\)](#)).

## 9.1 Project eligibility

For the purposes of Area-wide Groundwater Investigation Grants, a project consists of an investigation in a single study area. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

- The Applicant is a local government;
- The project involves known or suspected area-wide groundwater contamination;
- The investigation is not required by Ecology or the U.S. EPA under an order or decree; and
- The Applicant has or will obtain the necessary access for the investigation. This could involve individual access agreements for private property, public right-of-ways, or publicly owned property within the study area.

## 9.2 Grant funding

Ecology may fund up to \$500,000 of the eligible project costs. Ecology reserves the right to fund less than the maximum amount based on funding availability and other factors.

Ecology may fund up to 100% of eligible project costs. Recipients are responsible for any remaining share of those costs and 100% of all non-eligible project costs.

Ecology retains the discretion to not award a grant for an eligible project or to provide less funding for an eligible project than the maximum amount or percentage allowed, based on funding availability and other factors (WAC [173-322A-220\(2\)](#)).<sup>86</sup>

## 9.3 Eligible costs

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. The Recipient can only be reimbursed for costs to implement a work plan previously approved by the Ecology Cleanup Project Manager. The approved work plan will be outlined in the grant agreement and must be amended prior to any substantial changes in work for costs to be eligible. All costs must be properly documented. Conditionally eligible costs must be pre-approved by the Ecology Grant Financial Manager.

Eligible costs must be reasonable and necessary to conduct the area-wide groundwater investigation. Examples of eligible activities and related costs include:

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<sup>86</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A-220>

- Identifying the sources of the area-wide groundwater contamination.
- Determining the nature and extent of the area-wide groundwater contamination.
- Identifying the preferential groundwater contaminant migration pathways.
- Identifying area-wide geologic and hydrogeologic conditions.
- Establishing area-wide natural groundwater quality, including aquifer classification under WAC [173-340-720](#).<sup>87</sup>
- Grant administration consistent with the applicable version of Ecology’s “[Yellow Book](#)”.<sup>88</sup>
- Retroactive costs for the project incurred during the period of a prior grant agreement.

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These conditionally eligible costs must be approved in advance by Ecology’s Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.

## 9.4 Evaluation Criteria

Ecology evaluates Area-wide Groundwater Investigation Grants applications based on several criteria, which are grouped into four categories. A project’s score is determined by adding together the total scores for each category. The categories are:

**Category 1:** Faster Cleanup

**Category 2:** Protect Human Health and the Environment

**Category 3:** Equitable Distribution

**Category 4:** Redevelopment and Reuse in Cleanups

The evaluation criteria for each category are shown below in Table 9 through Table 12. The scorecard identifies each criteria and the maximum possible criteria score. The Applicant should ensure to answer the application completely and accurately as this may impact their score. They should provide relevant information related to the criteria when completing the application in EAGL.

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<sup>87</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-720>

<sup>88</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

**Table 6:** Area-wide Groundwater Investigation Grants – Category 1: Faster Cleanup

Criteria Number	Evaluation Criteria	Maximum Score
1.1	<p><b>Prior grant performance (one applies):</b></p> <ul style="list-style-type: none"> <li>• <b>9 POINTS:</b> Applicant does not have an active grant for the project.</li> <li>• <b>6 POINTS:</b> Applicant has an active grant for the area, but it is expected to be spent by the beginning of the biennium.</li> <li>• <b>0 POINTS:</b> Applicant has an active grant for the area and it is unclear that the grant will be spent by the beginning of the biennium.</li> </ul>	9
1.2	<p><b>Applicant's readiness to proceed sub-criteria:</b></p> <ul style="list-style-type: none"> <li>• <b>3 POINTS:</b> All legal access needed for study obtained (0 points if no).</li> <li>• <b>3 POINTS:</b> Environmental consultant is hired or not needed (0 points if needed, but not hired).</li> <li>• <b>3 POINTS:</b> All potentially liable parties (PLPs) or potentially responsible parties (PRPs) identified and notified (0 points if no).</li> <li>• <b>3 POINTS:</b> Local government/staff project manager identified (0 points if no).</li> </ul>	12
1.3	<p><b>Leveraging other funds:</b></p> <ul style="list-style-type: none"> <li>• <b>9 POINTS:</b> Applicant has secured additional grants, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>6 POINTS:</b> Applicant is pursuing grant applications, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>3 POINT:</b> Applicant has a capital plan for both cleanup and redevelopment or reuse of the site.</li> <li>• <b>0 POINTS:</b> None of the above apply.</li> </ul>	9

**Table 7:** Area-wide Groundwater Investigation Grants – Category 2: Improve Human Health and the Environment

Criteria Number	Evaluation Criteria	Maximum Score
2.1	Groundwater contamination is confirmed within study area (5 points for yes, 0 points for no).	5
2.2	<p><b>5 POINTS:</b> Presence of Extremely or Very Hazardous Chemicals is confirmed or suspected.</p> <ul style="list-style-type: none"> <li>• 1,1,2-Trichloroethane</li> <li>• 2-Methylnaphthalene</li> <li>• Aldrin</li> <li>• Antimony</li> <li>• Arsenic</li> <li>• Benzene</li> <li>• Benzo(a)pyrene (or cPAH toxic equivalency quotient)</li> <li>• Cadmium</li> <li>• Chromium VI</li> <li>• cis-1,2-Dichloroethene (cis-DCE)</li> <li>• Dieldrin</li> <li>• Dioxins</li> <li>• Lead</li> <li>• Mercury</li> <li>• Methylmercury</li> <li>• Naphthalene</li> <li>• Per- or polyfluoroalkyl substances (PFAS)<sup>89</sup></li> <li>• Polychlorinated biphenyls (PCBs)</li> <li>• Trichloroethene (TCE)</li> <li>• Vinyl chloride</li> <li>• Other substances identified by Ecology.<sup>90</sup></li> </ul> <p><b>0 POINTS:</b> Extremely or Very Hazardous chemicals are not present at the site.</p>	5

<sup>89</sup> As of August 2021, the Washington Department of Health is in close to establishing drinking water State Action Levels (SALs) for five PFAS compounds. The current schedule call for final promulgation by the end of 2021.

<sup>90</sup> The list is based in part on data from the U.S. EPA, available at: <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query>.

Criteria Number	Evaluation Criteria	Maximum Score
2.3	<p>Potential exposure risk to a sensitive population located within the area of study, such as:</p> <ol style="list-style-type: none"> <li>Nearby daycare, nursing home, or hospital.</li> </ol> <p><b>OR</b></p> <ol style="list-style-type: none"> <li>The site is located in the 80<sup>th</sup> percentile according to <a href="#">EJSCREEN</a><sup>91</sup> for under the age of 5 or over the age of 64 demographic indicators.</li> </ol> <p>(5 points for yes to either of the above, 0 points for no)</p>	5
2.4	<p>Potential for contamination to spread (5 points for yes or unknown, 0 points for no).</p>	5
2.5	<p>A designated sensitive environment or fishery resource exists within one mile of the study area. (5 points for yes, 0 points for no).</p>	5
2.6	<p>Potential exposure of sensitive wildlife or plant species that might access the study area or be impacted by the contamination spreading (such as redband trout, migratory birds, orcas, salmon, monarch butterflies, and/or endangered species) or potential exposure of priority habitat. (5 points for yes, 0 points for no).</p>	5

**Table 8:** Area-wide Groundwater Investigation Grants – Category 3: Equitable Distribution

Criteria Number	Evaluation Criteria	Maximum Score
3.1	<p><b>15 POINTS:</b> The study area is east of the Cascades or the local government is “economically disadvantaged,” as defined in WAC <a href="#">173-322A-100</a>(15) and (16). See <a href="#">Economically Disadvantaged Cities, Towns, and Counties in Washington State (2021–23 biennium)</a>.</p> <p><b>0 POINTS:</b> If the above does not apply.</p>	15
3.2	<p><b>15 POINTS:</b> Community where the study is located is a “highly impacted community,” as defined in WAC <a href="#">173-322A-100</a>(24) and 4.5 Environmental justice evaluation criteria of this Guidance.</p> <p><b>0 POINTS:</b> If the above does not apply.</p>	15

<sup>91</sup> <https://www.epa.gov/ejscreen>



**Table 9:** Area-wide Groundwater Investigation Grants – Category 4: Redevelopment and Reuse in Cleanups

Criteria Number	Evaluation Criteria	Maximum Score
4.1	The study area contains one or more vacant, abandoned, or underutilized former industrial or commercial facilities (10 points for yes, 0 points for no).	10
4.2	<p><b>10 POINTS:</b> The study area is located within a Redevelopment Opportunity Zone (ROZ), designated under RCW <a href="#">70A.305.150</a>.</p> <p><b>8 POINTS:</b> The study area is located within an incorporated city, town, or urban growth area designated under RCW <a href="#">36.70A.110</a>.</p> <p><b>0 POINTS:</b> None of the above apply.</p>	10
4.3	<p>Local infrastructure (such as public transit, roads, water, sewer, utilities) to serve the redeveloped area are:</p> <p><b>10 POINTS:</b> Already in place.</p> <p><b>6 POINTS:</b> Under construction.</p> <p><b>2 POINTS:</b> Planned.</p> <p><b>0 POINTS:</b> None of the above apply.</p>	10

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## Chapter 10: Safe Drinking Water Action Grants

The purpose of Safe Drinking Water Action Grants is to assist local governments in providing safe drinking water to persons served by private wells or public water systems impacted by a contaminated site. An example would be paying for a stripping tower to treat water from a municipal well impacted by solvent contamination. Another example would be extending public water to an area where private wells have been contaminated by a site.

Ecology and the Washington State Department of Health (Department of Health) each have roles regarding Safe Drinking Water Action Grants. Both agencies may identify impacted water supplies either through routine water supply monitoring or contaminated site studies. Once the impacted water supply is identified, Ecology can provide grant funding for safe drinking water and administers the grant. Where grants are awarded, the Department of Health provides technical oversight of work on public water systems to ensure state drinking water regulations are met.

### 10.1 Project Eligibility

For the purposes of Safe Drinking Water Action Grants, a project consists of safe drinking water actions at a single contaminated site. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

- The Applicant is a local government.
- The Applicant is not required to conduct the safe drinking water actions under order or decree.
- The Applicant is the owner or operator of a public water system, or the Applicant is applying on behalf of the owner or operator of a public water system (purveyor).<sup>92</sup>
- Ecology has determined the drinking water source is affected or threatened by one or more contaminants originating from a contaminated site because:<sup>93</sup>
  - The contaminant levels exceed the maximum contaminant level (MCL) established by the State Board of Health in WAC [246-290-310](#);<sup>94</sup>

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<sup>92</sup> A public water system is any Group A water system, as described in Chapter [246-290](#) WAC.

<sup>93</sup> Naturally occurring contaminants and contaminants originating from sources other than a MTCA site or from within the water system do not qualify for these grants. Examples are: naturally occurring metals, bacterial contamination caused by septic systems, nitrates caused by manure application, and copper and lead introduced by the plumbing system

<sup>94</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=246-290-310>

- The contaminant levels exceed the cleanup levels established by Ecology under Chapter [173-340](#)<sup>95</sup> WAC; or
- The contaminant levels don't currently exceed the MCLs or cleanup levels, but may exceed them in the future.<sup>96</sup>
- The Department of Health has determined the Applicant's or purveyor's water system that would be used to provide alternative water is in substantial compliance with applicable rules of the State Board of Health or the Department of Health, including:
  - Group A Public Water Supplies (Chapter [246-290](#) WAC);<sup>97 98</sup>
  - Water Works Operator Certification (Chapter [246-292](#) WAC);<sup>99</sup>
  - Water System Coordination Act (Chapter [246-293](#) WAC);<sup>100</sup> and
  - Drinking Water Operating Permits (Chapter [246-294](#) WAC)<sup>101</sup>.

Any water line extensions must be consistent with the coordinated water system plan prepared under Chapter [70A.100](#)<sup>102</sup> RCW and the plans for new development prepared under Chapter [36.70](#)<sup>103</sup> or [36.70A](#)<sup>104</sup> RCW for the geographic area containing the affected water supplies. These laws may prohibit extensions beyond the water supplier's service area or designated city limits and urban growth areas. Applicants proposing such extensions should coordinate with the Department of Health and the Washington State Department of Commerce's Growth Management Program.

In order for projects that address persistent chemicals (such as per- or poly-fluoroalkyl substances (PFAS)) to be eligible, the compounds of concern must either have a Maximum Cleanup Level (MCL) established by the Department of Health or U.S. EPA, or a cleanup level established by Ecology under Part VII of Chapter [173-340](#) WAC.<sup>105</sup>

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<sup>95</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

<sup>96</sup> For example, the water supply is within or down gradient of a contaminant plume or the water supply, if pumped at its full permitted potential, would draw in contamination.

<sup>97</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=246-290>

<sup>98</sup> Group B water systems (generally small private water systems) are not authorized to receive Safe Drinking Water Grants.

<sup>99</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=246-292>

<sup>100</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=246-293>

<sup>101</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=246-294>

<sup>102</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.100>

<sup>103</sup> <https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70>

<sup>104</sup> <https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A>

<sup>105</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

## 10.2 Grant funding

There is no limit on the amount of eligible project costs Ecology may fund. Ecology will limit each grant to the amount expected to be spent within one biennium.

Ecology may fund up to 90% of an eligible project cost. Recipients are responsible for any remaining share of those costs and 100% of all non-eligible project costs.

Ecology retains the discretion to not award a grant for an eligible project or to provide less funding for an eligible project than the maximum amount or percentage allowed, based on funding availability and other factors (WAC [173-322A-220\(2\)](#)).<sup>106</sup>

## 10.3 Eligible costs

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. The Recipient can only be reimbursed for costs to implement a work plan previously approved by the Ecology Cleanup Project Manager. The approved work plan will be outlined in the grant agreement and must be amended prior to any substantial changes in work for costs to be eligible. All costs must be properly documented. Conditionally eligible costs must be pre-approved by the Ecology Grant Financial Manager.

Eligible costs must be reasonable and necessary to provide safe drinking water to people whose water supply has been impacted by a contaminated site. These grants cannot be used to fund individual service connections to undeveloped lots; oversizing or extending a water system for future development; ongoing operation or maintenance; or local improvement district assessments.

Examples of eligible activities and related costs include:

- Water supply source development and replacement, including well replacement, pumping and storage facilities (such as wells), source meters, and reasonable appurtenances.
- Transmission lines between major systems components, including interties with other water systems.
- Treatment equipment and facilities, including air stripping towers, package treatment plants, point-of-use treatment systems, and similar approaches.
- Distribution lines from major system components to system customers or service connections.
- Bottled water as an interim action.

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<sup>106</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A-220>

- Fire hydrants.
- Service meters.
- Project inspection, engineering, and administration.
- Individual service connections, including any connection fees and charges.
- Drinking water well decommissioning under WAC [173-160-381](#).<sup>107</sup>
- Other costs identified by the Department of Health as necessary to provide a system that operates in compliance with federal and state standards.
- Grant administration consistent with the applicable version of Ecology’s “Yellow Book.”
- Retroactive costs for a project incurred during the period of a prior grant agreement.

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These conditionally eligible costs must be approved in advance by Ecology’s Grant Financial Manager. Costs not allowed are the sole responsibility of the Recipient.

## 10.4 Evaluation Criteria

Ecology evaluates Safe Drinking Water Action Grant applications based on several criteria, which are grouped into three categories. A project’s score is determined by adding together the total score for each category. The categories are:

**Category 1:** Faster Cleanup

**Category 2:** Protect Human Health and the Environment

**Category 3:** Equitable Distribution

The evaluation criteria for each category are shown in Table 13 through Table 15. The scorecard identifies each criteria and the maximum possible criteria score. The Applicant should ensure to answer the application completely and accurately as this may impact their score. They should provide relevant information related to the criteria when completing the application in EAGL.

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<sup>107</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-160-381>

**Table 10:** Safe Drinking Water Action Grants Evaluation Criteria – Category 1: Faster Cleanup

Criteria Number	Evaluation Criteria	Maximum Score
1.1	<p><b>Prior grant performance (one applies):</b></p> <ul style="list-style-type: none"> <li>• <b>6 POINTS:</b> Applicant does not have an active grant for the project.</li> <li>• <b>3 POINTS:</b> Applicant has an active grant for the project, but it is expected to be spent by the beginning of the biennium.</li> <li>• <b>0 POINTS:</b> Applicant has an active grant and it is unclear that the grant will be spent by the beginning of the biennium.</li> </ul>	6
1.2	<p><b>Applicant’s readiness to proceed sub-criteria (adds up to 8 total possible points):</b></p> <ul style="list-style-type: none"> <li>• <b>2 POINTS:</b> All legal access needed for project obtained (0 points if no).</li> <li>• <b>2 POINTS:</b> Environmental consultant is hired or not needed (0 if needed, but not hired).</li> <li>• <b>2 POINTS:</b> Plan to reach safe drinking levels developed (0 points if no).</li> <li>• <b>2 POINTS:</b> Local government/staff project manager identified (0 points if no).</li> </ul>	8
1.3	<p><b>Leveraging other funds:</b></p> <ul style="list-style-type: none"> <li>• <b>6 POINTS:</b> Applicant has secured additional grants, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>4 POINTS:</b> Applicant is pursuing grant applications, private funds (including contributions, insurance, public-private partnerships, etc.).</li> <li>• <b>2 POINT:</b> Applicant has a capital plan for both cleanup and redevelopment or reuse of the site.</li> <li>• <b>0 POINTS:</b> None of the above apply.</li> </ul>	6
1.4	<p>Grant enables local government to more quickly provide safe drinking water to those affected (10 points for yes, 0 points for no).</p>	10

**Table 11:** Safe Drinking Water Action Grants Evaluation Criteria – Category 2: Improve Human Health

Criteria Number	Evaluation Criteria	Maximum Score
2.1	Project provides a permanent treatment system for drinking water at the source (6 points for yes, 0 points for no).	6
2.2	Project treats the drinking water source as opposed to providing alternative drinking water such as bottled water (6 points for yes, 0 points for no).	6
2.3	<p><b>6 POINTS:</b> Presence of Extremely or Very Hazardous Chemicals is confirmed or suspected.</p> <ul style="list-style-type: none"> <li>• 1,1,2-Trichloroethane</li> <li>• 2-Methylnaphthalene</li> <li>• Aldrin</li> <li>• Antimony</li> <li>• Arsenic</li> <li>• Benzene</li> <li>• Benzo(a)pyrene (or cPAH toxic equivalency quotient)</li> <li>• Cadmium</li> <li>• Chromium VI</li> <li>• cis-1,2-Dichloroethene (cis-DCE)</li> <li>• Dieldrin</li> <li>• Dioxins</li> <li>• Lead</li> <li>• Mercury</li> <li>• Methylmercury</li> <li>• Naphthalene</li> <li>• Per- or polyfluoroalkyl substances (PFAS)<sup>108</sup></li> <li>• Polychlorinated biphenyls (PCBs)</li> <li>• Trichloroethene (TCE)</li> <li>• Vinyl chloride</li> <li>• Other substances identified by Ecology.<sup>109</sup></li> </ul> <p><b>0 POINTS:</b> Extremely or Very Hazardous chemicals are not present at the site.</p>	6

<sup>108</sup> As of August 2021, the Washington Department of Health is in close to establishing drinking water State Action Levels (SALs) for five PFAS compounds. The current schedule call for final promulgation by the end of 2021.

<sup>109</sup> The list is based in part on data from the U.S. EPA, available at: <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query>.



Criteria Number	Evaluation Criteria	Maximum Score
2.4	<p>The impacted drinking water serves a sensitive population located within or adjacent to the site, such as:</p> <ol style="list-style-type: none"> <li>1. Nearby daycare, nursing home, or hospital.</li> </ol> <p><b>OR</b></p> <ol style="list-style-type: none"> <li>2. The site is located in the 80<sup>th</sup> percentile according to <a href="#">EJSCREEN</a><sup>110</sup> for under the age of 5 or over the age of 64 demographic indicators.</li> </ol>	6
2.5	<p>Potential for contamination to spread (6 points for yes or unknown, 0 points for no).</p>	6

**Table 12:** Safe Drinking Water Action Grant Evaluation Criteria – Category 3: Equitable Distribution

Criteria Number	Evaluation Criteria	Maximum Score
3.1	<p><b>30 POINTS:</b> Community with impacted drinking water is a “highly impacted community,” as defined in WAC <a href="#">173-322A-100(24)</a> and 4.5 Environmental justice evaluation criteria of this Guidance.</p> <p><b>0 POINTS:</b> If the above does not apply.</p>	30

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<sup>110</sup> <https://www.epa.gov/ejscreen>

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## Glossary

Term	Definition
<b>Applicant</b>	A term that applies before receipt of the grant vs. “Recipient” that applies after the grant has been awarded.
<b>biennium</b>	A period of two years. The state of Washington operates on a two year (biennial) budget cycle that starts July 1 <sup>st</sup> of each odd-numbered year, and ends June 30 <sup>th</sup> of the next odd-numbered year. The 2023–25 biennium starts July 1, 2023, and ends June 30, 2025.
<b>AHCG Program</b>	Ecology’s Affordable Housing Cleanup Grant program that provides funding to any person cleaning up a site for affordable housing development.
<b>Area-wide groundwater contamination</b>	Multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately” (WAC <a href="#">173-322A-100(3)</a> ) <sup>111</sup>
<b>cleanup actions</b>	Also known as cleanups or remedial actions. The collective planning, investigative, and technical work needed to clean up contaminated sites.
<b>cleanup site</b>	Also known as a contaminated site or hazardous waste site. A site or property where Ecology has confirmed one or more releases (or threatened release) of a hazardous substance.
<b>consent decree or decree</b>	A legal document issued under Chapter <a href="#">70A.305</a> RCW <sup>112</sup> or the federal cleanup law.
<b>contaminated site</b>	Also known as a cleanup site or hazardous waste site.
<b>EAGL</b>	Stands for Ecology’s Administration of Grants and Loans. This is a comprehensive web-based grant and loan management system Ecology uses that allows Applicants and Recipients to develop and manage their agreements online.
<b>Eligible cost</b>	A project cost that is eligible for funding under this chapter and the terms of the grant or loan agreement.
<b>fiscal year</b>	A period of one year named for the year it ends. For example, Fiscal Year 2024 starts July 1, 2023, and ends June 30, 2024.
<b>Hazardous substance</b>	Means any hazardous substance as defined in WAC 173-340-200.
<b>hazardous waste site</b>	Also known as a cleanup site or contaminated site. Defined in MTCA as any site that Ecology has confirmed a release or a threatened release of a hazardous substance requiring remedial action (WAC <a href="#">173-340-200</a> ). <sup>113</sup>
<b>Highly impacted community</b>	A community that the department has determined is likely to bear a disproportionate burden of public health risks from environmental pollution.

<sup>111</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A-100>

<sup>112</sup> <http://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>113</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-200>

Term	Definition
<b>Independent remedial action</b>	Remedial actions conducted without department oversight or approval and not under an order or consent decree.
<b>Model Toxics Control Act (MTCA statute)</b>	Washington’s environmental cleanup law, Chapter <a href="#">70A.305</a> RCW <sup>114</sup>
<b>Model Toxics Control Act Regulations (MTCA Cleanup Rule)</b>	Washington’s regulations that set standards and procedures for cleaning up contaminated sites (Chapter <a href="#">173-340</a> WAC <sup>115</sup> ). The MTCA Cleanup Rule is one of two cleanup rules in Washington adopted under the Model Toxics Control Act, Chapter <a href="#">70A.305</a> RCW. <sup>116</sup> The other cleanup rule is the Sediment Management Standards (Chapter <a href="#">173-204</a> WAC <sup>117</sup> ) known as the SMS Cleanup Rule.
<b>MTCA Capital Account Ten-Year Financing Report</b>	Ecology’s financial report produced every even-numbered year that describes cleanup financing needs over the next ten fiscal years.
<b>order</b>	A legal document that includes enforcement orders and agreed orders issued under MTCA, and unilateral administrative orders and administrative orders on consent issued under the federal cleanup law.
<b>Potentially liable person (PLP)</b>	Any person whom the department finds, based on credible evidence, to be liable under Chapter <a href="#">70A.305</a> WAC
<b>Prospective purchaser</b>	A person who is not currently liable for remedial action at a facility and who proposes to purchase, redevelop, or reuse the facility.
<b>Recipient</b>	A term that applies after the grant has been awarded vs. “Applicant” that applies after the grant has been awarded.
<b>remedial actions</b>	Also known as cleanups or cleanup actions. The collective planning, investigative, and technical work needed to clean up contaminated sites.
<b>Secure Access Washington</b>	A single sign-on application gateway created by Washington State Department of Information Services.
<b>sediment site</b>	A contaminated site in riverbeds and seabeds where aquatic animals such as crabs and clams live. Sediment can include silt, sand, cobble, and beaches.
<b>Scope of work</b>	The tasks and deliverables of the grant or loan agreement.
<b>Site</b>	Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.
<b>upland site</b>	A contaminated site on land or in groundwater.

<sup>114</sup> <http://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>115</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

<sup>116</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>117</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>

Term	Definition
<b>Voluntary Cleanup Program</b>	The program authorized under RCW <a href="#">70A.305.170</a> <sup>118</sup> and WAC <a href="#">173-340-515</a> . <sup>119</sup>
<b>Yellow Book</b>	Ecology’s administrative requirements common to all Ecology grants and loans that have an agreement effective date of August 11, 2017, or later ( <a href="#">publication no. 17-01-004</a> ) <sup>120</sup>

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<sup>118</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

<sup>119</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-515>

<sup>120</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>

## References and Resources

**Table 16:** Grant, loan, and EAGL resources mentioned in this guidance.

Resource	Description	Link
<b>Remedial Action Grant and Loan Guidance: Integrated Planning Grants 2021–23 Biennium</b>	Guidance when submitting applications for Integrated Planning Grants in the 2021-23 biennium (Pub. No. 21-09-049)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/2109049.html">https://apps.ecology.wa.gov/publications/SummaryPages/2109049.html</a>
<b>Remedial Action Grant and Loan Guidance: Independent Remedial Action Grants for the 2021–23 Biennium</b>	Guidance when submitting applications for Independent Remedial Action Grants in the 2021-23 biennium (Pub. No. 21-09-048)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/2109048.html">https://apps.ecology.wa.gov/publications/SummaryPages/2109048.html</a>
<b>Economically Disadvantaged Cities, Towns, and Counties in Washington State (2021–23 biennium)</b>	The tables in this document identify which counties, cities, and towns are economically disadvantaged and eligible for a reduced match for grants received in the 2021-23 biennium (Pub No. 21-09-045)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/2109045.html">https://apps.ecology.wa.gov/publications/SummaryPages/2109045.html</a>
<b>“Yellow Book”</b>	Guidance for all Ecology grants and loans: <i>Administrative Requirements for Recipients of Ecology Grants and Loans</i> (Pub. No. 17-01-004)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html">https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html</a>
<b>EAGL</b>	Ecology’s Administration of Grants and Loans system, where local governments and community groups can apply for funding opportunities including grants for cleanup and safe drinking water	Overview: <a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans</a> Secure Access Washington (SAW) log-in: <a href="https://secureaccess.wa.gov/ecy/eagl/">https://secureaccess.wa.gov/ecy/eagl/</a>
<b>EAGL Instructions for 2023–25 Remedial Action Grant &amp; Loan Applications</b>	Specific EAGL guidance when applying for Oversight, Area-wide, and Safe Drinking Water funding for the 2023–25 biennium (Pub. No. 22-09-044)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/2209044.html">https://apps.ecology.wa.gov/publications/SummaryPages/2209044.html</a>
<b>EAGL External Users’ Manual</b>	General EAGL guidance when applying for all Ecology grant and loans (Pub. No. 17-01-015)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/1701015.html">https://apps.ecology.wa.gov/publications/SummaryPages/1701015.html</a>
<b>How to obtain a Secure Access Washington (SAW) account</b>	YouTube video	<a href="https://www.youtube.com/watch?v=pj0EnIjG3RQ&amp;feature=youtu.be">https://www.youtube.com/watch?v=pj0EnIjG3RQ&amp;feature=youtu.be</a>
<b>Applying for Ecology grants</b>	YouTube video	<a href="https://www.youtube.com/watch?v=9B3gvb3QRBk">https://www.youtube.com/watch?v=9B3gvb3QRBk</a>
<b>Oversight Remedial Action Grants (webpage)</b>	Funding for local governments to investigate and clean up contaminated sites under an order or decree overseen by Ecology under MTCA or by EPA under the federal cleanup law	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans</a>

Resource	Description	Link
<b>Oversight Remedial Action Loans</b> (webpage)	Low interest loans to local governments that have an Oversight Remedial Action Grant to help fulfill their local match requirement	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Oversight-remedial-action-grants-loans</a>
<b>Area-wide Groundwater Investigation Grants</b> (webpage)	Funding to facilitate redevelopment within a local government’s jurisdiction by conducting a study of the groundwater in a limited geographic area known or suspected to be contaminated by multiple sites	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Area-wide-groundwater-investigation-grants">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Area-wide-groundwater-investigation-grants</a>
<b>Safe Drinking Water Grants</b> (webpage)	Funding to local governments to ensure safe drinking water for communities where source of drinking water has been polluted by the release of a hazardous substance	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants</a>
<b>Independent Remedial Action Grants</b> (webpage)	Grants to local governments that investigate and clean up contaminated sites independently under Ecology’s Voluntary Cleanup Program	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Safe-drinking-water-grants</a>
<b>Integrated Planning Grants</b> (webpage)	Grants to local governments to assess and develop an integrated plan for cleaning up and redeveloping contaminated site(s)	<a href="https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Integrated-planning-grants">https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Integrated-planning-grants</a>
<b>Ecology’s grants and loans since 2014</b>	Interactive map of Ecology’s grants and loans awarded since 2014. Displays information by project location or dollars per area, and can be filtered by Ecology programs and funding programs.	<a href="https://apps.ecology.wa.gov/eaglmap/?CustomMap=y&amp;BBox=-13962546,5698654,-13014726,6267345&amp;AL=5&amp;Opacity=0.8&amp;Basemap=esriTopo&amp;EP=5&amp;FP=16">https://apps.ecology.wa.gov/eaglmap/?CustomMap=y&amp;BBox=-13962546,5698654,-13014726,6267345&amp;AL=5&amp;Opacity=0.8&amp;Basemap=esriTopo&amp;EP=5&amp;FP=16</a>
<b>per diem rate tables</b>	Office of Financial Management’s rates for lodging, meals, and mileage per day	<a href="https://www.ofm.wa.gov/accounting/administrative-accounting-resources/travel/diem-rate-tables">https://www.ofm.wa.gov/accounting/administrative-accounting-resources/travel/diem-rate-tables</a>
<b>Closeout Procedures for National Priority Sites</b>	EPA’s guidance to determine whether construction of a cleanup action has been completed	<a href="https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites">https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites</a>
<b>Cleanup Site Search</b>	Database of 13,300-plus contaminated sites known to Ecology that draws from the internal Integrated Site Information System (ISIS) database	<a href="https://apps.ecology.wa.gov/gsp/SiteSearchPage.aspx">https://apps.ecology.wa.gov/gsp/SiteSearchPage.aspx</a>
<b>TCP Web Reporting</b>	Selection of reports and datasets that draws from two Ecology internal environmental databases: Integrated Site Information System (ISIS) and Underground Storage Tank System	<a href="https://apps.ecology.wa.gov/tcpwebreporting/">https://apps.ecology.wa.gov/tcpwebreporting/</a>

Resource	Description	Link
<b>Confirmed &amp; Suspected Contaminated Sites List</b>	List of sites undergoing cleanup and sites awaiting further investigation and/or cleanup	<a href="https://apps.ecology.wa.gov/tcpwebreporting/reports/cleanup/contaminated">https://apps.ecology.wa.gov/tcpwebreporting/reports/cleanup/contaminated</a>
<b>Hazardous Sites List</b>	Special edition of the Site Register published twice a year listing sites that have been assessed and ranked using the Washington Ranking Method, and sites on the National Priorities List	<a href="https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&amp;NameValue=Toxics+Cleanup&amp;DocumentTypeName=Newsletter">https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&amp;NameValue=Toxics+Cleanup&amp;DocumentTypeName=Newsletter</a>
<b>How the cleanup process works</b>	Steps in the MTCA formal cleanup process	How the cleanup process works: <a href="https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process">https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process</a>
<b>Washington’s Formal Cleanup Process Infographic</b>	Infographic illustrating steps in the MTCA formal cleanup process (Pub. No. 19-09-166)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/1909166.html">https://apps.ecology.wa.gov/publications/SummaryPages/1909166.html</a>
<b>Toxics Cleanup Program’s (TCP’s) policies and guidance</b>	Consolidated but not exhaustive list of TCP’s policies, procedures, implementation memos, and major guidance documents for cleaning up hazardous sites and meeting the requirements of MTCA.	<a href="https://ecology.wa.gov/Regulations-Permits/Plans-policies/Toxics-cleanup-policies">https://ecology.wa.gov/Regulations-Permits/Plans-policies/Toxics-cleanup-policies</a>
<b>TCP publications</b>	Published focus sheets, frequently asked questions, guidance documents, and technical reports that describe cleanup sites across the state	<a href="https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&amp;NameValue=Toxics+Cleanup&amp;DocumentTypeName=Publication">https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&amp;NameValue=Toxics+Cleanup&amp;DocumentTypeName=Publication</a>
<b>TCP Legislative reports</b>	Recurring and one-time legislative reports produced by the Toxics Cleanup Program	<a href="http://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports">http://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports</a>
<b>EPA’s Superfund Chemical Data Matrix (SCDM) query</b>	Query to generate lists of corresponding Hazard Ranking System factor values, benchmarks, and data elements	<a href="https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query">https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query</a>
<b>EIM and MyEIM</b>	Ecology’s Environmental Information Management System (EIM) and MyEIM database tools that contain environmental data for air, water, soil, sediment, aquatic animals, and plants used for cleaning up sites. Data is collected by Ecology and partners, including local governments.	<b>EIM:</b> <a href="https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database">https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database</a>  <b>MyEIM:</b> <a href="https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database/Using-MyEIM">https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database/Using-MyEIM</a>



**Table 13:** Environmental justice, climate change, and cultural resources mentioned in this guidance.

Resource	Description	Link
<b>Washington State Department of Health’s EJ</b>	Web-based data on public health aspects of environmental justice	<a href="https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/Resources/EnvironmentalJusticeIssues">https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/Resources/EnvironmentalJusticeIssues</a>
<b>Washington Tracking Network</b>	Map-based tool used to facilitate searching for and displaying health concerns that have links to environmental health	<a href="https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/">https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/</a>
<b>EPA’s environmental justice website</b>	National environmental justice data and link to EJScreen	<a href="https://www.epa.gov/environmentaljustice">https://www.epa.gov/environmentaljustice</a>
<b>Ecology’s climate change guidance for cleanup sites</b>	<i>Adaptation Strategies for Resilient Cleanup Remedies: A guide for cleanup project managers to increase the resilience of toxic cleanup sites to the impacts from climate change</i> (Pub. No. 17-09-052)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/1709052.html">https://apps.ecology.wa.gov/publications/SummaryPages/1709052.html</a>
<b>EPA’s green remediation for cleanup sites</b>	Information for incorporating sustainable environmental practices into remediation of contaminated sites	<a href="https://www.epa.gov/remedytech/green-remediation-incorporating-sustainable-environmental-practices-remediation">https://www.epa.gov/remedytech/green-remediation-incorporating-sustainable-environmental-practices-remediation</a>
<b>Ecology Cultural Resources Review Form</b>	Form for gathering information when complying with National Historic Preservation Act or Executive Order 21-02 Archaeological and Cultural Resources (Pub. No. ECY 070-537)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/ECY070537.html">https://apps.ecology.wa.gov/publications/SummaryPages/ECY070537.html</a>
<b>Cultural Resources Protection and Remedial Action Grants: Reimbursement of Past Costs</b>	Fact sheet outlining Ecology’s evaluation process to fulfill the cultural resources protection requirements of Governor’s Executive Order 21-02.	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/2109072.html">https://apps.ecology.wa.gov/publications/SummaryPages/2109072.html</a> <sup>121</sup>
<b>Public Inadvertent Discovery Plan (IDP)</b>	Plan and procedures for the unanticipated discovery of cultural resources and human skeletal remains (Pub. No. 070-560)	<a href="https://apps.ecology.wa.gov/publications/SummaryPages/ECY070560.html">https://apps.ecology.wa.gov/publications/SummaryPages/ECY070560.html</a>
<b>Executive Order 21-02</b>	Gov. Jay Inslee’s executive order for Archaeological and Cultural Resources (replaced Executive Order 05-05)	<a href="https://www.governor.wa.gov/sites/default/files/exe_order/eo_21-02.pdf">https://www.governor.wa.gov/sites/default/files/exe_order/eo_21-02.pdf</a>
<b>Former Executive Order 05-05</b>	Gov. Christine Gregoire’s executive order for Archaeological and Cultural Resources	<a href="https://www.governor.wa.gov/sites/default/files/exe_order/eo_05-05.pdf">https://www.governor.wa.gov/sites/default/files/exe_order/eo_05-05.pdf</a>

<sup>121</sup> Fact sheet is slated to be published in early 2022.

**Table 18:** Cleanup laws, regulations, and Legislative bills mentioned in this guidance.

Resource	Description	Link
<b>MTCA (statute)</b>	Hazardous Waste Cleanup—Model Toxics Control Act, Chapter 70A.305 RCW	<a href="https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305">https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305</a>
<b>MTCA Cleanup Rule</b>	Model Toxics Control Act—Cleanup Regulations, Chapter 173-340 WAC	<a href="http://apps.leg.wa.gov/WAC/default.aspx?cite=173-340">http://apps.leg.wa.gov/WAC/default.aspx?cite=173-340</a>
<b>RAG Rule</b>	Remedial Action Grants and Loans Regulations, Chapter 173-322A WAC	<a href="http://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A">http://apps.leg.wa.gov/WAC/default.aspx?cite=173-322A</a>
<b>Sediment Cleanup Rule</b>	Sediment Management Standards, Chapter 173-204 WAC	<a href="http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204">http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204</a>
<b>Group A Public Water Supplies</b>	Section 310: Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs), Chapter 246-290 WAC	<a href="https://apps.leg.wa.gov/WAC/default.aspx?cite=246-290-310">https://apps.leg.wa.gov/WAC/default.aspx?cite=246-290-310</a>
<b>Waterworks Operator Certification</b>	Chapter 246-292 WAC	<a href="https://apps.leg.wa.gov/WAC/default.aspx?cite=246-292">https://apps.leg.wa.gov/WAC/default.aspx?cite=246-292</a>
<b>Water System Coordination Act</b>	Chapter 246-293 WAC	<a href="https://apps.leg.wa.gov/WAC/default.aspx?cite=246-293">https://apps.leg.wa.gov/WAC/default.aspx?cite=246-293</a>
<b>Drinking Water Operating Permits</b>	Chapter 246-294 WAC	<a href="https://apps.leg.wa.gov/WAC/default.aspx?cite=246-294">https://apps.leg.wa.gov/WAC/default.aspx?cite=246-294</a>
<b>Public Water System Coordination Act of 1977</b>	Chapter 70.116 RCW	<a href="https://app.leg.wa.gov/rcw/default.aspx?cite=70.116">https://app.leg.wa.gov/rcw/default.aspx?cite=70.116</a>
<b>Planning Enabling Act</b>	Chapter 36.70 RCW	<a href="https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70">https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70</a>
<b>Growth Management-Planning by Selected Counties and Cities</b>	Chapter 36.70A RCW	<a href="https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A">https://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A</a>
<b>ESSB 5993 (Chapter 422, Laws of 2019)</b>	Engrossed Substitute Senate Bill 5993 Reforming the financial structure of the model toxics control program	<a href="https://app.leg.wa.gov/billsummary?BillNumber=5993&amp;Year=2019&amp;Initiative=false">https://app.leg.wa.gov/billsummary?BillNumber=5993&amp;Year=2019&amp;Initiative=false</a>

## Appendix A: Chapter 173-322 WAC, Remedial Action Grants and Loans

[Chapter Listing](#) [From Code Reviser's website, last updated 8/29/2014]

### WAC Sections\*

RAG Rule section	Section title
<a href="#">173-322A-010</a> <sup>122</sup>	Purpose and authority.
<a href="#">173-322A-020</a> <sup>123</sup>	Relation to other laws and rules.
<a href="#">173-322A-100</a> <sup>124</sup>	Definitions.
<a href="#">173-322A-200</a> <sup>125</sup>	Funding cycle.
<a href="#">173-322A-210</a> <sup>126</sup>	Funding priorities.
<a href="#">173-322A-220</a> <sup>127</sup>	Fiscal controls.
<a href="#">173-322A-320</a> <sup>128</sup>	Oversight remedial action grants.
<a href="#">173-322A-325</a> <sup>129</sup>	Oversight remedial action loans.
<a href="#">173-322A-340</a> <sup>130</sup>	Area-wide groundwater investigation grants.
<a href="#">173-322A-350</a> <sup>131</sup>	Safe drinking water action grants.

\*WAC sections related to grants not covered by this Guidance have been omitted.

### **173-322A-010 Purpose and authority.**

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(1) This chapter recognizes that:

(a) The state contains thousands of hazardous waste sites that present serious threats to human health and the environment, including the state's water resources;

(b) Many of these hazardous waste sites, such as landfills and port facilities, are owned or operated by local governments;

(c) Many of the properties affected by these hazardous waste sites are brownfield properties, where economic development and other community reuse objectives are hindered by the presence of contamination; and

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<sup>122</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-010>

<sup>123</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-020>

<sup>124</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-100>

<sup>125</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-200>

<sup>126</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-210>

<sup>127</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-220>

<sup>128</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-320>

<sup>129</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-325>

<sup>130</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-340>

<sup>131</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-322A&full=true#173-322A-350>

(d) The cost of cleaning up these hazardous waste sites in many cases is beyond the financial means of local governments and ratepayers.

(2) This chapter establishes requirements for a program of grants and loans to local governments for remedial action pursuant to RCW [70.105D.070](#) (4) and (8).<sup>132</sup>

(3) The purpose of the remedial action grants and loans program established by this chapter is to expedite the cleanup and redevelopment of hazardous waste sites and to lessen the impact of the cleanup on ratepayers and taxpayers. The remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out remedial actions.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-010, filed 8/29/14, effective 9/29/14.]

## **173-322A-020 Relation to other laws and rules.**

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(1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste site investigation and cleanup.

(2) Nothing in this chapter shall modify the order or decree the department has secured with potentially liable persons or prospective purchasers for remedial action. The execution of remedial actions pursuant to the order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants and loans shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grants and loans.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-020, filed 8/29/14, effective 9/29/14.]

## **173-322A-100 Definitions.**

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Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC [173-340-200](#) and [173-204-505](#).

(1) **"Agreement signature date"** means, for the purposes of grant and loan agreements, the date the agreement document is signed by the department.

(2) **"Applicant"** means a local government that applies for a grant or loan.

(3) **"Area-wide groundwater contamination"** means groundwater contamination on multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated groundwater that are not practicable to address separately.

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<sup>132</sup> The MTCA Cleanup Rule refers to several statutes' previous codification numbers. For example, in 2020 the Washington State Legislature recodified the Model Toxics Control Act from **Chapter 70.105D RCW** to **Chapter 70A.305 RCW**.

(4) **"Average market rate"** means the average market rate for tax-exempt general obligation municipal bonds for the month of June preceding the agreement signature date, as determined using rates published by *Bond Buyer*.

(5) **"Biennium"** means the twenty-four-month fiscal period extending from July 1st of odd-numbered years to June 30th of odd-numbered years.

(6) **"Brownfield property"** means previously developed and currently abandoned or underutilized real property and adjacent surface waters and sediment where environmental, economic, or community reuse objectives are hindered by the release or threatened release of hazardous substances that the department has determined requires remedial action under this chapter or that the United States Environmental Protection Agency has determined requires remedial action under the federal cleanup law.

(7) **"Budget"** means, for the purpose of grant and loan agreements, a breakdown of eligible costs by task.

(8) **"Cleanup action"** means the term as defined in WAC [173-340-200](#) or [173-204-505](#).

(9) **"Construction completion"** means physical construction of a cleanup action component is complete.

(10) **"Coordinated water system plan"** means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter [246-293](#) WAC.

(11) **"Decree"** or **"consent decree"** means a consent decree issued under chapter [70.105D](#) RCW or the federal cleanup law.

(12) **"Department"** means the department of ecology.

(13) **"Department share"** means the department's share of eligible costs.

(14) **"Director"** means the director of the department of ecology.

(15) **"Economically disadvantaged county"** means a county whose per capita income is equal to or below the median per capita income of counties in Washington state, as determined on July 1st of each odd-numbered year using the latest official American Community Survey five-year estimates of the U.S. Department of Commerce.

(16) **"Economically disadvantaged city or town"** means a city or town whose per capita income is equal to or below the median per capita income of cities and towns in Washington state, as determined on July 1st of each odd-numbered year using the latest official American Community Survey five-year estimates of the U.S. Department of Commerce.

(17) **"Eligible cost"** means a project cost that is eligible for funding under this chapter and the terms of the grant or loan agreement.

(18) **"Extended grant agreement"** means a grant agreement entered into under RCW [70.105D.070](#) (4)(e)(i).

(19) **"Feasibility study"** means the term as defined in chapter [173-340](#) or [173-204](#) WAC.

(20) "**Federal cleanup law**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

(21) "**Grant agreement**" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

(22) "**Hazardous substances**" means any hazardous substance as defined in WAC [173-340-200](#).

(23) "**Hazardous waste site**" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

(24) "**Highly impacted community**" means a community that the department has determined is likely to bear a disproportionate burden of public health risks from environmental pollution.

(25) "**Independent remedial actions**" means remedial actions conducted without department oversight or approval and not under an order or consent decree.

(26) "**Initial investigation**" means a remedial action that consists of an investigation under WAC [173-340-310](#).

(27) "**In-kind contributions**" means property or services that benefit a project and are contributed to the recipient by a third party without direct monetary compensation. In-kind contributions include interlocal costs, donated or loaned real or personal property, volunteer services, and employee services donated by a third party.

(28) "**Innovative technology**" means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under the conditions that exist at the hazardous waste site. Innovative technology has limited performance and cost data available.

(29) "**Interim action**" means a remedial action conducted under WAC [173-340-430](#).

(30) "**Loan agreement**" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest rates and repayment schedule, scope of work, performance schedule, and project budget.

(31) "**Local government**" means any political subdivision of the state, including a town, city, county, special purpose district, or other municipal corporation, including brownfield renewal authority created under RCW [70.105D.160](#).

(32) "**No further action determination**" or "**NFA determination**" means a written opinion issued by the department under WAC [173-340-515\(5\)](#) that the independent remedial actions performed at a hazardous waste site or property meet the substantive requirements of chapter [173-340](#) WAC and that no further remedial action is required at the hazardous waste site or property. The opinion is advisory only and not binding on the department.

(33) "**Order**" means an order issued under chapter [70.105D](#) RCW, including enforcement orders issued under WAC [173-340-540](#) and agreed orders issued under



WAC 173-340-530, or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

(34) **"Oversight remedial actions"** means remedial actions conducted under an order or decree.

(35) **"Partial funding"** means funding less than the maximum department share allowed under this chapter.

(36) **"Potentially liable person"** or **"PLP"** means any person whom the department finds, based on credible evidence, to be liable under [RCW 70.105D.040](#).

(37) **"Potentially responsible party"** or **"PRP"** means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

(38) **"Property"** means, for the purposes of independent remedial action grants, the parcel or parcels of real property affected by a hazardous waste site and addressed as part of the independent remedial action.

(39) **"Prospective purchaser"** means a person who is not currently liable for remedial action at a facility and who proposes to purchase, redevelop, or reuse the facility.

(40) **"Public water system"** means a Group A water system as defined in WAC [246-290-020](#).

(41) **"Purveyor"** means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

(42) **"Recipient"** means a local government that has been approved to receive a grant or loan.

(43) **"Recipient share"** or **"match"** means the recipient's share of eligible costs.

(44) **"Redevelopment opportunity zone"** means a geographic area designated under RCW [70.105D.150](#).

(45) **"Remedial action"** means any action or expenditure consistent with the purposes of chapter [70.105D](#) RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(46) **"Remedial investigation"** means the term as defined in chapter [173-340](#) or [173-204](#) WAC.

(47) **"Retroactive costs"** means costs incurred before the agreement signature date.

(48) **"Safe drinking water"** means water meeting drinking water quality standards set by chapter [246-290](#) WAC.

(49) **"Scope of work"** means the tasks and deliverables of the grant or loan agreement.

(50) **"Site"** means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(51) **"Site hazard assessment"** means a remedial action that consists of an investigation performed under WAC 173-340-320.

(52) **"Voluntary cleanup program"** means the program authorized under RCW [70.105D.030](#) (1)(i) and WAC 173-340-515.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-100, filed 8/29/14, effective 9/29/14.]

## **173-322A-200 Funding cycle.**

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(1) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals for each type of grant or loan must be submitted on forms provided by the department and include sufficient information to make the determinations in subsection (3) of this section. For multiannual oversight remedial action grant projects, proposals must be updated biennially. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals and updates should be submitted by the dates published by the department.

(2) **Application submittal.** Applications for each type of grant or loan must be submitted on forms provided by the department and include sufficient information to make the determinations in subsections (3) and (4) of this section. For multiannual oversight remedial action grant projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

(3) **Project evaluation and ranking.** Project proposals and applications for each type of grant or loan will be reviewed by the department for completeness and evaluated to determine:

- (a) Project eligibility; and
- (b) Funding priority under WAC [173-322A-210](#).

(4) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

- (a) Funding priority under WAC [173-322A-210](#);
- (b) Cost eligibility;
- (c) Allowable funding of eligible costs; and



(d) Availability of state funds and other funding sources.

(5) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-200, filed 8/29/14, effective 9/29/14.]

## **173-322A-210 Funding priorities.**

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(1) **Among types of grants and loans.** The department will fund remedial action grants and loans in the following order of priority:

(a) Oversight remedial action grants and loans under an existing extended grant agreement;

(b) Site assessment grants and other remedial action grants and loans for previously funded projects, provided that substantial progress has been made; and

(c) Remedial action grants and loans for new projects.

(2) **For each type of grant or loan.** For each type of remedial action grant or loan, the department will further prioritize projects for funding or limit funding for projects based on the factors specified in WAC

[173-322A-300](#) through [173-322A-350](#), as applicable.

(3) **Oversight remedial action loans.** The department will fund an oversight remedial action loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds exceeds the amount allocated, the department will give the oversight remedial action grant and loan the same priority.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-210, filed 8/29/14, effective 9/29/14.]

## **173-322A-220 Fiscal controls.**

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(1) **General.** The department will establish reasonable costs for all grants and loans, require local governments to manage projects in a cost-effective manner, and ensure that all potentially liable persons assume responsibility for remedial action.

(2) **Funding discretion.** The department retains the discretion to not provide a grant or loan for an eligible project or to provide less funding for an eligible project than the maximum allowed under this chapter.

(3) **Funding limits.** The department may not provide more funding for an eligible project than the maximum allowed under this chapter for each type of grant or loan.

(4) **Retroactive funding.** Retroactive costs are not eligible for funding, except as provided under this chapter for each type of grant or loan.

(5) **Cash management of grants.** For oversight remedial action grants, the department may not:

(a) Allocate more funds for a project each biennium than are estimated to be necessary to complete the scope of work for that biennium. The biennial scope of work must be approved by the department; or

(b) Allocate more funds for a project unless the local government has demonstrated to the department that funds awarded during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds.

(6) **Consideration of insurance, contribution, and cost recovery claims.** A recipient may use proceeds from an insurance claim or a contribution or cost recovery claim under RCW [70.105D.080](#) or the federal cleanup law seeking recovery of remedial action costs at a hazardous waste site to meet recipient share requirements, subject to the conditions in (a) through (f) of this subsection.

(a) **Applicability.** The project at the hazardous waste site is currently funded on or will be funded after July 1, 2014, under a grant agreement.

(b) **Notice of claims.** Upon application for the grant or within thirty days of filing a lawsuit or insurance claim to recover remedial action costs at the hazardous waste site, whichever is later, the recipient must notify the department of the filing.

(c) **Notice of proceeds.** Upon application for the grant, the recipient must notify the department of the total amount of proceeds received to date on any claims for remedial action costs at the hazardous waste site. The department may require the recipient to periodically update the total amount of proceeds received on the claims. The department may also require the recipient to provide documentation of the proceeds received on the claims.

(d) **Notice of resolution.** Upon application for the grant or within thirty days of any resolution of a claim for remedial action costs at the hazardous waste site, whichever is later, the recipient must:

(i) Notify the department of the resolution;

(ii) Specify the amount of proceeds received under the resolution and the portion of the proceeds attributable to eligible costs; and

(iii) Provide the department a copy of the settlement, judgment, or other document resolving the claim or portion of the claim.

(e) **Repayment of grant funds.** If the total proceeds from all the claims for remedial action costs at a hazardous waste site exceed the following costs, then the department may reduce the department share or require repayment of costs reimbursed by the department under a grant agreement by up to the amount of the exceedance:

(i) The cost incurred by the recipient to pursue the claims;

(ii) The cost of remedial actions incurred by the recipient that are not funded by the department at the hazardous waste site, including costs incurred before resolution of the claims; and

(iii) If approved by the department, the cost of remedial actions incurred by the recipient that are not funded by the department for an eligible project at a hazardous waste site that is not the basis for the claims.

(f) **Eligibility of payments to other recipients.** Contribution and cost recovery claim payments are not eligible costs if the payments are made for remedial actions previously funded by a grant to another jurisdiction.

(7) **Reimbursement request deadlines.**

(a) Requests for reimbursement and adequate documentation of eligible retroactive costs incurred before the application date must be submitted to the department in the application.

(b) Requests for reimbursement and adequate documentation of eligible retroactive costs incurred between the application date and the agreement signature date must be submitted to the department within ninety days of the agreement signature date.

(c) Requests for reimbursement and adequate documentation of eligible costs incurred after the agreement signature date must be submitted to the department within one hundred twenty days of incurring the costs.

(d) If requests for reimbursement are not submitted by the deadlines in (a) through (c) of this subsection, as applicable, the department may deny reimbursement of the costs.

(8) **Spending plans for grant or loan agreements.** The department may require grant or loan recipients to provide and periodically update a spending plan for the grant or loan.

(9) **Financial responsibility.** As established by the Model Toxics Control Act, chapter [70.105D](#) RCW, and implementing regulations, potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant and loan programs may not be used to circumvent the responsibility of a potentially liable person. Remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(10) **Puget Sound action agenda.** The department may not fund projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW [90.71.310](#).

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-220, filed 8/29/14, effective 9/29/14.]

## **173-322A-320 Oversight remedial action grants.**

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(1) **Purpose.** The purpose of oversight remedial action grants is to provide funding to local governments that investigate and clean up hazardous waste sites under an order or decree. The grants are intended to encourage and expedite remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) **Project eligibility.** For the purposes of this grant, a project consists of remedial actions conducted under one or more orders or decrees at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

(a) The applicant must be a local government;

(b) The applicant must be a potentially liable person, potentially responsible party, or prospective purchaser at the hazardous waste site;

(c) The project must meet one of the following criteria:

(i) The applicant is required to conduct remedial actions at the hazardous waste site under an order or decree; or

(ii) A person other than the applicant is required to conduct remedial actions at the hazardous waste site under an order or decree and the applicant has:

(A) Signed the order or decree; and

(B) Entered into a written agreement with the other person to reimburse the person for a portion of the remedial action costs incurred under the order or decree;

(d) If the order or decree is issued under the federal cleanup law, it must be signed or acknowledged in writing by the department as a sufficient basis for funding under this chapter; and

(e) The project must be included in the department's ten-year financing plan required under RCW [70.105D.030](#)(5).

(3) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC [173-322A-210](#) and the following factors:

(a) The threat posed by the hazardous waste site to human health and the environment;

(b) Whether the applicant is a prospective purchaser of a brownfield property within a redevelopment opportunity zone;

(c) The land reuse potential of the hazardous waste site;

(d) Whether the hazardous waste site is located within a highly impacted community;

(e) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements;

(f) The ability of the grant to expedite the cleanup of the hazardous waste site;

(g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste site;

(h) The distribution of grants throughout the state and to various types and sizes of local governments; and

(i) Other factors as determined and published by the department.

(4) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. For multibiennial projects, proposals must be updated biennially. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals and updates should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. For multiennial projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

- (i) Project eligibility under subsection (2) of this section; and
- (ii) Funding priority under subsection (3) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsections (7) and (8) of this section; and
- (iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(5) **Cost eligibility.** To be eligible for funding, a project cost must be eligible under this subsection and the terms of the grant agreement and be approved by the department.

(a) **Eligible costs.** Eligible costs for an oversight remedial action grant include, but are not limited to, reasonable costs for the following:

- (i) Emergency or interim actions;
- (ii) Remedial investigations;
- (iii) Feasibility studies and selection of the remedy;
- (iv) Engineering design and construction of the selected remedy; and

(v) Operation and maintenance or monitoring of a cleanup action component for up to one year after construction completion of the component.

(b) **Ineligible costs.** Ineligible costs for an oversight remedial action grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the order or decree or the grant agreement;
- (iii) The costs incurred under an order or decree by a potentially liable person, potentially responsible party, or prospective purchaser other than the recipient, except as provided under subsection (2)(c)(iii) of this section;
- (iv) Retroactive costs, except as provided under subsection (6) of this section;

(v) The remedial action costs of the department or the U.S. Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at the hazardous waste site, including reviews of reimbursement requests;

(vi) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter 70.105D RCW or the federal cleanup law;

(vii) Site development and mitigation costs not required as part of a remedial action;

(viii) Legal costs including, but not limited to, the cost of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and

(ix) In-kind contributions.

(6) **Retroactive cost eligibility.** The following retroactive costs are eligible for reimbursement if they are also eligible under subsection (5) of this section:

(a) Costs incurred under the order or decree between the effective date of the order or decree and the agreement signature date;

(b) Costs incurred under the order or decree during the period of a prior grant agreement that have not been reimbursed by the department;

(c) Costs incurred negotiating the order or decree, provided that the costs are not legal costs and were incurred within:

(i) Sixty days after starting negotiations for an order; or

(ii) One hundred twenty days after starting negotiations for a decree; and

(d) Costs incurred before the effective date of the order or decree conducting independent remedial actions, provided that:

(i) The actions are:

(A) Conducted within five years before the start of negotiations for the order or decree;

(B) Consistent with the remedial actions required under the order or decree;

(C) Compliant with the substantive requirements of chapter 173-340 WAC; and

(D) Incorporated as part of the order or decree; and

(ii) Costs incurred before the start of negotiations for the order or decree do not exceed six hundred thousand dollars.

(7) **Funding of eligible costs.**

(a) **Department share.** The department may fund up to fifty percent of the eligible costs. Except for extended grant agreements, the department may fund a higher percentage of the eligible costs as follows.

(i) The department may fund up to an additional twenty-five percent of the eligible costs if the applicant is:

(A) An economically disadvantaged county, city, or town; or

(B) A special purpose district with a hazardous waste site located within an economically disadvantaged county, city, or town.

(ii) The department may fund up to an additional fifteen percent of the eligible costs if the applicant uses innovative technology.

(iii) The department may fund up to a total of ninety percent of the eligible costs if the eligible costs for the project are less than five million dollars and the director or designee determines the additional funding would:

(A) Prevent or mitigate unfair economic hardship imposed by cleanup liability;

(B) Create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(C) Create an opportunity for acquisition and redevelopment of brownfield property under RCW 70.105D.040(5) that would not otherwise occur.

(b) **Recipient share.** The recipient shall fund the percentage of the eligible costs not funded by the department under (a) of this subsection. The recipient may not use in-kind contributions to meet this requirement.

**(8) Cash management of grants.**

(a) The department may not allocate more funds for a project each biennium than are estimated to be necessary to complete the scope of work for that biennium. The biennial scope of work must be approved by the department.

(b) The department may not allocate more funds for a project unless the local government has demonstrated to the department that funds awarded during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds.

(9) **Administration of multiple grants.** Except for extended grant agreements, the department may provide oversight remedial action grants to a local government for more than one project under a single grant agreement.

**(10) Extended grant agreements.**

(a) **Project eligibility.** The department may provide an oversight remedial action grant to a local government for a hazardous waste site under an extended grant agreement if, in addition to meeting the eligibility requirements in subsection (2) of this section, the project extends over multiple biennia and the eligible costs for the project exceed twenty million dollars.

(b) **Agreement duration.** The initial duration of an extended grant agreement may not exceed ten years. The department may extend the duration of the agreement upon finding substantial progress has been made on remedial actions at the site.

(c) **Department share.** Under an extended grant agreement, the department may not fund more than fifty percent of the eligible costs.

[Statutory Authority: Chapter 70.105D RCW. WSR 14-18-060 (Order 13-09), § 173-322A-320, filed 8/29/14, effective 9/29/14.]

## **173-322A-325 Oversight remedial action loans.**

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(1) **Purpose.** The purpose of oversight remedial action loans is to supplement local government funding and funding from other sources to meet the recipient share requirements for oversight remedial action grants under WAC [173-322A-320](#). The loans are intended to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Types of loans.** There are two different types of oversight remedial action loans, a standard loan and an extraordinary financial hardship loan. The two types of loans have different project eligibility requirements and different terms and conditions for repayment based upon the applicant's ability to repay the loan.

(a) **Standard loan.** A standard loan is a loan that includes the terms and conditions for repayment.

(b) **Extraordinary financial hardship loan.** An extraordinary financial hardship loan is a loan that includes deferred terms and conditions for repayment. Deferred terms and conditions may not be indefinite. Any such loan must be approved by the director or designee.

(3) **Project eligibility.** For the purposes of this loan, a project consists of remedial actions conducted under an order or decree at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a loan, a project must meet all of the following requirements:

(a) The applicant must have an oversight remedial action grant for the project under WAC [173-322A-320](#); and

(b) The applicant must demonstrate the following to the department's satisfaction. The department may require an independent third-party financial review to support the demonstration:

(i) For a standard loan, the applicant's financial need for the loan and ability to repay the loan; or

(ii) For an extraordinary financial hardship loan, the applicant's financial need for the loan, inability to repay the loan under present circumstances, and ability to repay the loan in the future.

(4) **Funding priority.** The department will assign an oversight remedial action loan the same priority as the associated oversight remedial action grant.

(5) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. For multibiennial projects, proposals must be updated biennially. To be considered for inclusion in the department's budget for remedial action grants and loans,



project proposals and updates should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. For multiennial projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

(i) Project eligibility under subsection (3) of this section. If the department determines the applicant meets the eligibility requirements for an extraordinary financial hardship loan, then the department may, upon the approval by the director, provide such a loan to the applicant instead of a standard loan; and

(ii) Funding priority under subsection (4) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the loan and develop the agreement. The department will consider:

(i) Funding priority under subsection (4) of this section;

(ii) Cost eligibility under subsections (6) and (7) of this section;

(iii) Allowable funding under subsection (8) of this section; and

(iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(6) **Cost eligibility.** The eligible costs for oversight remedial action loans shall be the same as the eligible costs for oversight remedial action grants under WAC [173-322A-320](#)(5).

(7) **Retroactive cost eligibility.** The eligibility of retroactive costs for oversight remedial action loans shall be the same as the eligibility of retroactive costs for the oversight remedial action grants under WAC [173-322A-320](#)(6).

(8) **Funding by department.** The department may provide the recipient of an oversight remedial action loan for up to one hundred percent of the recipient share under WAC [173-322A-320](#) (7)(b). The loan shall be used by the recipient to supplement local government funding and funding from other sources to meet the recipient share requirement.

(9) **Repayment by recipient.** The terms and conditions for repayment of a loan shall be specified in the loan agreement.

(a) **Standard loans.** For a standard loan, the following terms and conditions shall apply. Additional terms and conditions may be specified in the loan agreement.

(i) **Repayment periods and interest rates.**

(A) If the repayment period is less than or equal to five years, the interest rate shall be thirty percent of the average market rate.

(B) If the repayment period is more than five years and less than or equal to twenty years, the interest rate shall be sixty percent of the average market rate.

(ii) **Interest accrual.** Interest shall accrue on each disbursement as it is paid to the recipient.

(b) **Extraordinary financial hardship loans.** For an extraordinary financial hardship loan, the repayment terms and conditions specified in (a) of this subsection may be adjusted or deferred. Deferred terms and conditions are dependent on periodic review of the recipient's ability to pay. Terms and conditions may not be deferred indefinitely.

[Statutory Authority: [Chapter 70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-325, filed 8/29/14, effective 9/29/14.]

## **173-322A-340 Area-wide groundwater investigation grants.**

(1) **Purpose.** The purpose of area-wide groundwater investigation grants is to provide funding to local governments that investigate known or suspected areas of area-wide groundwater contamination. The investigations are intended to facilitate the cleanup and redevelopment of properties affected by area-wide groundwater contamination.

(2) **Project eligibility.** For the purposes of this grant, a project consists of an investigation of area-wide groundwater contamination in a single study area. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

(a) The applicant must be a local government;

(b) The project must involve the investigation of known or suspected area-wide groundwater contamination;

(c) The applicant must not be required to conduct the investigation under an order or decree;

(d) The applicant must have the necessary access to conduct the investigation or obtain such access in accordance with a schedule in the grant agreement; and

(e) The project must be included in the ten-year financing plan required under RCW [70.105D.030](#)(5).

(3) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC [173-322A-210](#) and the following factors:

(a) The threat posed by the hazardous waste sites to human health and the environment;

(b) Whether the hazardous waste site is within a redevelopment opportunity zone;

(c) The land reuse potential of the hazardous waste sites;

(d) Whether the hazardous waste sites are located within a highly impacted community;

(e) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements;

(f) The ability of the grant to expedite the cleanup of the hazardous waste sites;

(g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste sites;

(h) The distribution of grants throughout the state and to various types and sizes of local governments; and

(i) Other factors as determined and published by the department.

#### (4) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

(i) Project eligibility under subsection (2) of this section; and

(ii) Funding priority under subsection (3) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

(i) Funding priority under subsection (3) of this section;

(ii) Cost eligibility under subsections (5) and (6) of this section;

(iii) Allowable funding under subsections (7) and (8) of this section; and

(iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(5) **Cost eligibility.** To be eligible for funding, a project cost must be eligible under this subsection and the terms of the grant agreement and be approved by the department.

(a) **Eligible costs.** Eligible costs for an area-wide groundwater investigation grant include, but are not limited to, the reasonable costs for the following:

- (i) Identifying the sources of the area-wide groundwater contamination;
- (ii) Determining the nature and extent of the area-wide groundwater contamination;
- (iii) Identifying the preferential groundwater contaminant migration pathways;
- (iv) Identifying area-wide geologic and hydrogeologic conditions; and
- (v) Establishing area-wide natural groundwater quality, including aquifer classification under WAC [173-340-720](#).

(b) **Ineligible costs.** Ineligible costs for an area-wide groundwater investigation grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (6) of this section;
- (iv) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;
- (v) Site development and mitigation costs not required as part of the remedial action;
- (vi) Legal costs including, but not limited to, the costs of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, the cost of defending actions taken against the recipient, and any attorney fees incurred by the recipient; and
- (vii) In-kind contributions.

(6) **Retroactive cost eligibility.** Retroactive costs are eligible for reimbursement if the costs are incurred during the period of a prior grant agreement, the costs are eligible under subsection (5) of this section, and the costs have not been reimbursed by the department.

(7) **Limit on eligible costs for a project.** The eligible costs for a project may not exceed five hundred thousand dollars.

(8) **Funding of eligible costs.**

(a) **Department share.** The department may fund up to one hundred percent of the eligible costs.

(b) **Recipient share.** The recipient shall fund the percentage of the eligible costs not funded by the department under (a) of this subsection. The recipient may not use in-kind contributions to meet this requirement.

[Statutory Authority: Chapter 70.105D RCW. WSR 14-18-060 (Order 13-09), § 173-322A-340, filed 8/29/14, effective 9/29/14.]

## **173-322A-350 Safe drinking water action grants.**

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(1) **Purpose.** The purpose of safe drinking water action grants is to assist local governments, or a local government applying on behalf of a purveyor, in providing safe

drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites.

(2) **Project eligibility.** For the purposes of this grant, a project consists of safe drinking water actions at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

(a) The applicant must be a local government;

(b) The applicant must be a purveyor or the applicant must be applying on behalf of a purveyor;

(c) The applicant or purveyor must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, including chapter [246-290](#) WAC (Group A public water supplies), chapter [246-292](#) WAC (Waterworks operator certification), chapter [246-293](#) WAC (Water System Coordination Act), and chapter [246-294](#) WAC (Drinking water operating permits);

(d) The drinking water source must be affected or threatened by one or more hazardous substances originating from a hazardous waste site;

(e) The department of ecology has determined that the drinking water source:

(i) Exhibits levels of hazardous substances that exceed the maximum contaminant levels (MCLs) established by the state board of health and set forth in WAC [246-290-310](#);

(ii) Exhibits levels of hazardous substances that exceed the cleanup levels established by the department of ecology under Part VII of chapter [173-340](#) WAC; or

(iii) Is threatened to exceed the levels of hazardous substances identified in (e)(i) or (ii) of this subsection;

(f) If the safe drinking water action includes water line extensions, the extensions must be consistent with the coordinated water system plan prepared under chapter [70.116](#) RCW and any plans for new development prepared under chapter [36.70](#) or [36.70A](#) RCW for the geographic area containing the affected water supplies; and

(g) The applicant must not be required to conduct the safe drinking water action under an order or decree.

(3) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC [173-322A-210](#) and the following factors:

(a) The threat posed by the hazardous waste site to drinking water;

(b) Whether the drinking water serves a highly impacted community;

(c) The per capita cost of providing safe drinking water;

(d) The ability of the grant to expedite the provision of safe drinking water;

(e) The ability of the grant to leverage other public or private funding for the provision of safe drinking water;

(f) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements; and

(g) Other factors as determined and published by the department.

**(4) Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

- (i) Project eligibility under subsection (2) of this section; and
- (ii) Funding priority under subsection (3) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsection (7) of this section; and
- (iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(5) **Cost eligibility.** To be eligible for funding, a project cost must be eligible under this subsection and the terms of the grant agreement and be approved by the department.

(a) **Eligible costs.** Eligible costs for a safe drinking water action grant include, but are not limited to, reasonable costs for the following, if needed:

- (i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;
- (ii) Transmission lines between major system components, including interties with other water systems;
- (iii) Treatment equipment and facilities;
- (iv) Distribution lines from major system components to system customers or service connections;

- (v) Bottled water, as an interim action;
- (vi) Fire hydrants;
- (vii) Service meters;
- (viii) Project inspection, engineering, and administration;
- (ix) Individual service connections, including any connection fees and charges;
- (x) Drinking water well decommissioning under WAC [173-160-381](#); and

(xi) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards.

(b) **Ineligible costs.** Ineligible costs for a safe drinking water action grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (6) of this section;
- (iv) The cost of oversizing or extending a water system for future development;
- (v) The cost of individual service connections for undeveloped lots;
- (vi) Local improvement district assessments;
- (vii) Operation and maintenance costs;

(viii) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;

(ix) Legal costs including, but not limited to, the costs of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and

(x) In-kind contributions.

(6) **Retroactive cost eligibility.** Retroactive costs are eligible for reimbursement if the costs are incurred during the period of a prior grant agreement, the costs are eligible under subsection (5) of this section, and the costs have not been reimbursed by the department.

(7) **Funding of eligible costs.**

(a) **Department share.** The department may fund up to ninety percent of the eligible costs.

(b) **Recipient share.** The recipient shall fund the percentage of the eligible costs not funded by the department under (a) of this subsection. The recipient may not use in-kind contributions to meet this requirement.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-350, filed 8/29/14, effective 9/29/14.]

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