

Proposed Changes to the Remedial Action Grants and Loans Program

In 2013, the Washington Legislature adopted Senate Bill 5296 and House Bill 2079, which made significant changes to the Model Toxics Control Act (MTCA). In order to implement some of those changes, the Department of Ecology (Ecology) is amending Chapter 173-322 WAC, Remedial Action Grants and Loans. This focus sheet highlights the proposed amendments and schedule for adopting the amendments.

What Has Changed?

On April 15, 2014, Ecology filed a proposed rule governing remedial action grants for public review and comment. The main purpose of the rule proposal is to implement changes to MTCA grants, passed by the Legislature in 2013. The legislation establishes new funding priorities for the program and directs Ecology to make several changes to the program.

Funding Selection Process

In response to requests by local governments, we are taking steps to clarify and formalize the existing remedial action grant process and make it more transparent. We are also proposing some modifications to the existing process, including:

- Soliciting projects on an annual basis.
- Expanding priority-setting criteria.
- Requiring most projects to be included in the 10-year financing report to the legislature to be eligible for grants.
- Posting a ranked list of projects.

Funding Priority

Based on legislative changes, we are prioritizing extended grant agreements and expanding priority-setting criteria to include land reuse potential of the site and the ability of the grant to leverage other public or private funding for cleanup or reuse. To address environmental justice concerns, we have also included consideration of whether the site is located in a highly impacted community.

WHY IT MATTERS

Ecology provides remedial action grants and loans to communities throughout the state to facilitate the cleanup and reuse of contaminated publicly owned lands and to lessen the impact of those cleanups on local taxpayers.

Funds for the grants and loans come from a tax on hazardous substances. For the 2013-15 fiscal biennium, the Legislature appropriated \$62.5 million for remedial action grants and loans.

These rules govern the issuance and performance of remedial action grants and loans.

More Information:

For more information about the remedial action grant and loan program, visit:

www.ecy.wa.gov/programs/tcp/grants/explore-tcp.html

Contact information

Adrienne Dorrah
Rule Coordinator
360-407-7195
Adrienne.Dorrah@ecy.wa.gov

Special accommodations

If you need this document in a format for the visually impaired, call the Toxics Cleanup Program at 360-407-7170.

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Periodic Reimbursement

The legislation authorizes Ecology to periodically reimburse local governments during an independent cleanup of a site. We are proposing to maintain the existing post-cleanup reimbursement option and to offer a new option of reimbursing costs quarterly in accordance with a scope of work and schedule in the grant agreement. To incentivize completion of the project, 20% of each reimbursement would be withheld as security until the cleanup is completed.

Derelict Vessels

We are proposing to eliminate the derelict vessel remedial action grant as a separate type of grant and to address such sites like any other contaminated site. We are proposing this change because:

- The legislation eliminated funding for derelict vessel grants under the Local Toxics Control Account (LTCA).
- The Ecology grant program has been limited to only the disposal of hazardous substances, not the removal or disposal of the abandoned or derelict vessel. The Department of Natural Resources (DNR) operates a more expansive program that funds both the disposal of the hazardous substances and the vessel.
- In 2014, the Legislature amended the laws governing liability for the vessels and appropriated \$4.5 million from the MTCA Environmental Legacy Stewardship Account (ELSA) for the DNR program.

Meth Lab Site Assessment and Cleanup Grants

We are proposing to eliminate methamphetamine lab site assessment and cleanup grants as a separate grant type and to address such sites, if needed, like any other contaminated site. We are proposing this change because:

- The legislation eliminated funding for such actions under the Local Toxics Control Account.
- The number of such sites has decreased significantly in the past several years as production has shifted out of Washington State.

Ecology will still provide independent remedial action grants for investigation and cleanup of such sites, but meth manufacturing sites will now be prioritized against other contaminated sites.

Area-wide Groundwater Investigation Grants

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. We are proposing to increase the state share from 50% to 100% to incentivize these types of projects.

Safe Drinking Water Actions Grants

The purpose of safe drinking water action grants is to assist local governments, or a local government applying on behalf of a water purveyor that serves their jurisdiction, in providing safe

drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites. We are proposing to increase the state share of these grants from 50% to 90% to reflect that applicants are typically not liable for the contamination and that these grants would generally be used in emergency response.

Economic Disadvantage

Based on an extensive review of several economic indicators, we are proposing to modify our criteria for determining which counties are economically disadvantaged and to establish new criteria for cities. Both county and city will be based on per capita income relative to the respective median.

Update of guidelines

During this rule-making process, Ecology is also updating the Remedial Action Grants and Loans Program Guidelines to reflect the proposed changes to the rule. You can view the current Guidelines at www.ecy.wa.gov/biblio/1007012.html.

We plan to make available a draft of the update Guidelines for review and comment later during this rule-making process. We will consider any comments received on the draft Guidelines. The draft will be posted at www.ecy.wa.gov/programs/tcp/regs/wac173322/1309.html.

Public Hearing Schedule

Ecology will hold a public hearing on this rule proposal. The hearing will begin with a short presentation followed by a questions and answer (Q&A) session. Testimony will start at the end of the Q&A session.

Date: May 29, 2014

Time: 10:00 a.m.

Location: Department of Ecology
Headquarters
300 Desmond Drive SE
Lacey, WA 98503

Webinar: Ecology is also offering the presentation, Q&A session, and public hearing through a webinar. A webinar is an online meeting forum that you can join from any computer using internet access. To participate and provide comments through the webinar, you also need to have a phone or a computer with phone modem capability. For more information about the webinar and instructions on how to join and participate through the webinar, visit:
www.ecy.wa.gov/programs/tcp/regs/wac173322/1309-proposal.html.

Public Hearing Schedule (continued)

Comments: During the formal public hearing, Ecology will accept comments:

1. At the hearing location; and
2. Through the webinar.

Submit Your Comments

The comment period ends June 6, 2014.

You can give us your official comments in the following ways:

1. Testify or submit written comments at public hearings.
2. Email your comments to: RAGrule@ecy.wa.gov
3. Mail comments to: Department of Ecology
Toxics Cleanup Program
Adrienne Dorrah
PO Box 47600
Olympia, WA 98504-7600
4. Fax comments to: (360) 407-7154