

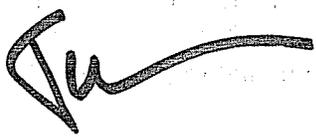


STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 4, 2013

TO: Interested Parties

FROM: Jim Pendowski, Program Manager
Toxics Cleanup Program 

SUBJECT: Implementation Memorandum: Changes to Ecology's Remedial Action Grants (RAG) in the 2013-15 Biennium

In the 2013 legislative session, the Washington State Legislature made significant changes to the Model Toxics Control Act (MTCA) (SB 5296 and HB 2079). The attached focus sheet highlights those changes, their implications and Washington State Department of Ecology's (Ecology), Toxics Cleanup Program (TCP) implementation plan. Information about the legislation is available at: <http://www.ecy.wa.gov/programs/tcp/regs/legislation-2013.html>.

One of the most significant changes to MTCA is to the Remedial Action Grant program (RAG). The legislation authorizes Ecology to make several changes to the program to facilitate the cleanup and redevelopment of brownfield properties. These are previously developed properties that are currently abandon or underused because of historic contamination.

The Legislature directed Ecology to revise the rules governing the RAG program by June 30, 2014. The current rules are set forth in Chapter 173-322 WAC. Ecology has also published RAG Guidelines to support implementation of the current rule. Ecology plans to complete revisions to both the RAG rule and guidelines by June 30, 2014.

In the interim, the Legislature authorized Ecology to implement the new statutory provisions through interpretive guidance. This memo, and the current RAG Guidelines, constitute that guidance and should be used on a case-by-case basis until the rules are revised. A copy of the current guidelines is also attached. Appendix D of the current guidelines provides the current version of the RAG and Loans rule (Chapter 173-322 WAC).

Ecology does not expect that the legislative changes will have a significant impact during the interim period since funds for most of the grant programs have already been allocated for the 2013-2015 biennium.

This memo outlines the following:

- Changes to the RAG Grant and Loan programs this biennium.
- Availability of funding this biennium.
- Contact information.

Changes to Remedial Action Grant and Loan Programs:

The following provides a general description of the different types of RAG and loans and the significant changes for 2013-2015 biennium based on the legislation. Where there is a conflict between this memorandum and the RAG Guidelines, this memorandum governs.

- **Prioritization of Funding**

The legislation directed Ecology to consider both the risks posed by and land reuse potential of contaminated sites when allocating staff and financial assistance, including RAG. However, this does not preclude Ecology from allocating resources based solely on the risks posed by a contaminated site.

When allocating funding, Ecology will consider the following legislative priorities when making RAG funding decisions:

- Extended grant agreements, which are a subset of oversight RAG, receive the highest priority for funding.
- For all other grants, Ecology will prioritize projects where (1) the site has a high hazard ranking or (2) the site is located within a redevelopment opportunity zone and the local government is a prospective purchaser.
- For Integrated Planning Grants (IPG) and area-wide groundwater RAG, Ecology will prioritize projects located within a redevelopment opportunity zone.

- **Integrated Planning Grants**

The purpose of the IPG program is to provide opportunities for local governments to develop integrated project plans for cleanup and reuse of a contaminated site by coordinating the planning for future site use with the remedial actions needed at the site.

For the 2013-15 biennium, no significant changes were made to grant program. The legislation changed these grants from a pilot program to a permanent grant category and clarified what types of studies are eligible for funding. There is some limited capacity for new integrated planning grants in the 2013-15 biennium.

- **Oversight Remedial Action Grants**

The purpose of the oversight RAG program is to provide funding to local governments that conduct remedial actions 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.

For the 2013-15 biennium, except for extended grant agreements (discussed below) no changes were made to these grants. Also, because the Legislature has already earmarked available funds for specific projects in the 2013-15 budget, no additional funds for these grants are currently available.

Extended Grant Agreements

Extended grant agreements are a subset of oversight RAG. The legislation authorizes Ecology to enter into such agreements at sites where the cleanup project exceeds \$20 million and occurs over multiple budget cycles. These projects will receive priority for grant funding each biennium, enabling local governments to commit to long-term cleanups while not tying up grant funds to cover future costs.

For these types of projects, grant recipient should develop a long range schedule and multiple biennia spending profile. Grant funds would be awarded each biennium to pay for anticipated expenses during just that biennium. This avoids tying up a large amount of grant funds for several years to cover future costs. This is intended to help achieve the Legislature's goal of putting the MTCA grant funds to work on more sites.

For the 2013-15 biennium, the Legislature did not allocate any funds for extended grant agreements. However, Ecology plans to examine existing oversight RAG agreements for the potential for restructuring to extended grant agreements. This will then be used to construct Ecology's budget request for the 2015-17 biennium.

- **Independent Remedial Action Grants**

The purpose of the independent RAG is to provide funding to local governments that clean up contaminated sites independently, without Ecology supervision. The grants are intended to encourage and expedite independent remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers. Previously, to be grant-eligible, local governments had to complete the cleanup of a site and receive a "no further action" (NFA) determination from Ecology under the Voluntary Cleanup Program (VCP).

For the 2013-15 biennium, this post-cleanup reimbursement option is still available. However, as authorized under the legislation, Ecology may also periodically reimburse local governments during the cleanup process. This option will help local governments that have difficulty financing all of the remedial action costs up front. For this biennium, Ecology will reimburse local governments as each phase of the work is completed (remedial investigation, feasibility study, design, interim action, cleanup, and post-cleanup monitoring). Local governments that want to apply for periodic reimbursement will need to enroll in the VCP. Applicants are encouraged to submit a workplan for Ecology's review and approval prior to beginning work on individual phases. There is some limited capacity for independent RAG in the 2013-15 biennium.

- **Area-wide Groundwater Remedial Action Grants**

The purpose of the area-wide groundwater RAG program is to provide funding to local governments to facilitate the cleanup and redevelopment of property within their jurisdictions where the groundwater has been contaminated by hazardous substances from multiple sources. The grants are intended to encourage and expedite the investigation and cleanup of area-wide groundwater contamination.

For the 2013-2015 biennium, as authorized by the legislation, to be grant-eligible, local governments are no longer required to be a potentially liable person (PLP) or seek reimbursement of grant funds from a PLP. Ecology intends to limit these grants to groundwater investigations that focus on identifying sources of contamination and the overall hydrogeology in these areas. There is some limited capacity for these grants in the 2013-15 biennium.

- **Remedial Action Loans**

The purpose of remedial action loan program is to provide local governments with access to low interest loans to help fulfill their match requirement for remedial action grants.

For the 2013-15 biennium, no changes have been made to the remedial action loan program and no funds have been allocated for loans.

- **Safe Drinking Water Grants**

These grants help local governments to provide safe drinking water to areas where a hazardous substance has contaminated drinking water.

For the 2013-2015 biennium, no changes were made to these grants and no funds have been allocated for these grants

- **Derelict Vessel Grants**

The purpose of the derelict vessel remedial action grant program is to provide funding to local governments that clean up and dispose of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment.

For the 2013-15 biennium, no changes were made to these grants and no funds have been allocated for these grants.

- **Availability of Funding**

For the 2013-2015 biennium, most of the funds for RAG have already been appropriated by the Legislature for specific projects. Therefore, at least initially, there are not many funds available for new grants. This may change during the biennium, though, if currently funded projects are delayed. Failure to substantially expend allocated funds for a project during the biennium will not result in an automatic carryover to the next biennium. Unspent funds will be returned to the MTCA accounts and the site will need to compete for future funding.

Funding may be available during this biennium future for the following types of grants:

- **Integrated Planning Grants**
 Limited funding may be periodically available as funds from under spent grants are reallocated.
- **Independent Remedial Action Grants**
 Limited funding may be periodically available as funds from under spent grants are reallocated.
- **Area-Wide Groundwater Remedial Action Grants**

Some limited funding is available during this biennium. The available funds may increase if an additional authorization requested from the Legislature is granted or as funds from under spent grants are reallocated.

If you have any questions or would like more information regarding RAG please contact one of our TCP Budget staff or Section Managers below.

Toxics Cleanup Budget Staff Contact Information for the following Grants:		
• Grant Fund Availability	Angie Wirkkala, TCP Budget Manager	angie.wirkkala@ecy.wa.gov (360) 407-7219
• Grant Application Process	Lydia Lindwall, Remedial Action Grant Manager	lydia.lindwall@ecy.wa.gov (360) 407-6210
• Integrated Planning Grants	John Means, Brownfields Program Manager	john.means@ecy.wa.gov (360) 407-7188
Toxic Cleanup Section Manager Contact Information for the following Grants:		
• Oversight Remedial Action Grants	Bob Warren, Northwest Regional Office	bob.warren@ecy.wa.gov (425) 649-7054
• Independent Remedial Action Grants	Rebecca Lawson, Southwest Region Office	rebecca.lawson@ecy.wa.gov (360) 407-6241
• Area-wide Groundwater Remedial Action Grants	Valerie Bound, Central Region Office	valerie.bound@ecy.wa.gov (509) 454-7886
• Safe Drinking Water Grants	Mike Hibbler, Eastern Region Office	mike.hibbler@ecy.wa.gov (509) 329-3568
	Barry Rogowski, Ecology Headquarters Office	barry.rogowski@ecy.wa.gov (360) 407-7226

