

# Remedial Action Grants Work Group Meeting



**December 5, 2013**

Washington State Department of Ecology  
Toxics Cleanup Program

# Background on Rule Making



Overview

# Purpose of Rule Making

---

- Implement changes to the Model Toxics Control Act, Chapter 70.105D RCW, passed by the Washington State Legislature in 2013 affecting the remedial action grant and loan program.
- Make other appropriate changes to requirements governing remedial action grants and loans.
- Streamline existing requirements, improve rule clarity, and improve consistency with other requirements.

# Legislative Changes to Grants

---

- Enter into extended grant agreements for cleanup projects exceeding \$20 million and occurring over multiple biennia.
- Provide periodic reimbursement of independent remedial action costs.
- Provide integrated planning grants to local governments for studies that facilitate the cleanup and reuse of contaminated sites.
- Provide area-wide groundwater remedial action grants without requiring local governments to be a potentially liable person or seek reimbursement of grant funds from such persons.
- Enter into grant agreements with local governments before they acquire or secure access to a property, provided they include a schedule.

# Legislative Changes to Priorities

---

- Provides highest funding priority to extended grant agreements.
- Prioritizes remaining grant funding for:
  - Contaminated sites with a high hazard ranking.
  - Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser.
- For integrated planning and area-wide ground water remedial action grants, prioritizes funding of projects located within redevelopment opportunity zones.

# Revision of Grant Guidelines

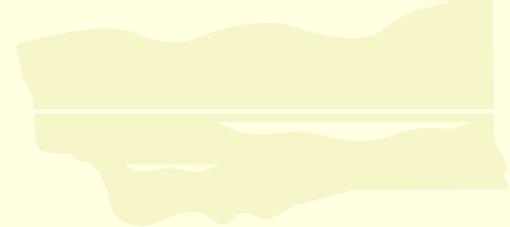
---

- During the rule-making process, Ecology plans to revise the associated Grant Guidelines, which are used to implement the rule.
- Ecology plans to provide a draft of the revised Grant Guidelines when the proposed rule is submitted for public review and comment.



# Rule Making Timeline

Target Date	Activity
Nov. 6, 2013	Rule making starts.
December 2013	Consult with stakeholders.
January 2014	Complete draft of proposed rule language.
Winter 2014	Provide opportunity to review draft of proposed rule language. Make changes based on comments.
Spring 2014	File proposed rule. Provide for formal public review and comment of proposed rule.
Summer 2014	Adopt final rule. Effective one month later.



# Redevelopment Opportunity Zones



Discussion Topic

# Overview

---

- The legislation authorizes local governments to establish ROZs within their jurisdictions.
- The establishment of ROZs can help focus and prioritize funds and resources, at both the state and local level.
- The legislation provides additional tools to facilitate cleanup and reuse of properties within ROZs.

# Overview

---

- Local governments may create a **brownfield renewal authority** to manage cleanups within a zone.
- To fund cleanups within a zone, the Legislature may establish a **brownfield redevelopment trust fund account**.
- For sites located within a zone, Ecology may enter into agreed orders and mixed funding agreements with **prospective purchasers**.
- Ecology may **prioritize funding** of integrated planning or area-wide ground water remedial action grants located within a zone.

# Implementation Plan

---

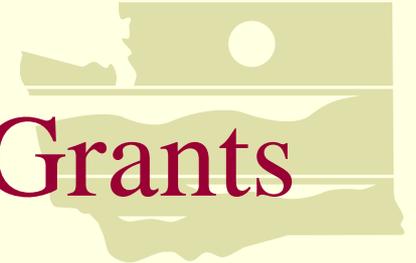
- Continue to consult with local governments who may be interested in establishing ROZs.
- Consider whether a contaminated site is located within a ROZ when prioritizing funding for certain types of grants.
- Consider using the new types of prospective purchaser agreements within ROZs on a pilot basis once zones are established.

# Discussion

---

- Are you considering establishing ROZs within your jurisdiction? Do you think this is a useful means for focusing funding and resources?
- Since the legislation does not restrict how many ROZs may be established, do you have any suggestions as to how we could ensure ROZs remain a useful priority-setting mechanism?
- While not explicit in the legislation, Ecology believes the bill language implies that a ROZ will consist of properties that are either contiguous or at the least in close proximity to each other. Do you agree or disagree with that interpretation?
- Are you considering establishing a brownfield renewal authority within your jurisdiction to manage cleanups within a ROZ?
- In what circumstances do you think we should use the new types of prospective purchaser agreements?

# Integrated Planning Grants



WASHINGTON STATE  
DEPARTMENT OF  
E C O L O G Y

Discussion Topic

# Overview

---

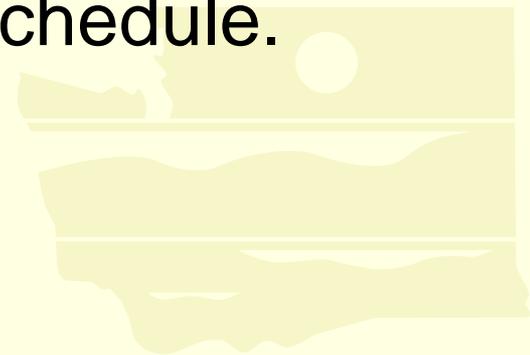
- These grants provide funding for developing integrated project plans for the cleanup and reuse of contaminated sites and the studies that are necessary to develop such plans.
- These grants have been issued under a pilot program. Criteria are currently specified in the grant guidelines, not the rule.



# Proposed Changes

---

- Include grants in the rule and specify types of activities eligible for funding.
- Prioritize funding of projects located within ROZ.
- Not require local government to acquire or secure access to properties before enter into agreement, provided there is a schedule.



# Discussion

---

- Do you think the list of eligible activities in the legislation needs to be clarified in the rule or guidelines?
- Based on your experience with these grants, are there any other issues that you think we should address in the rule or guidelines?



# Area-wide Groundwater Remedial Action Grants



Discussion Topic

# Overview

---

- These grants provide funding for investigating groundwater contaminated by hazardous substances from multiple sources.
- The purpose of these investigations is to identify the sources and facilitate the cleanup of the area-wide contamination.
- No investigations have been funded to date, in part because grant recipients were required to be potentially liable persons (PLPs) or seek reimbursement from PLPs.

# Proposed Changes

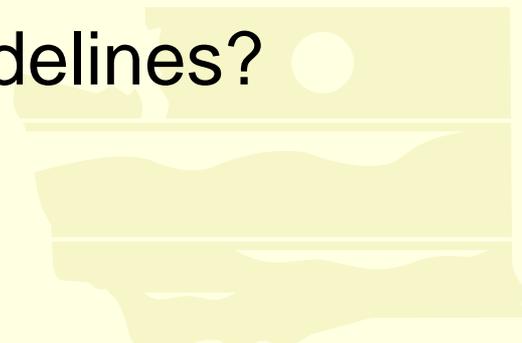
---

- Prioritize funding of projects located within ROZ.
- Not require local government to be a PLP or seek reimbursement from a PLP.
- Not require local government to acquire or secure access to properties before enter into agreement, provided there is a schedule.
- Also considering:
  - Limiting grants to remedial investigations (for cleanup, local government PLPs have access to other grants).
  - Capping grant funding (to leverage more projects).
  - Requiring small local match (to ensure efficient use of state funds).

# Discussion

---

- Will these proposals provide sufficient incentive for local governments to conduct area-wide groundwater remedial investigations?
- Based on your experience with these grants, are there any other issues that you think we should address in the rule or guidelines?



# Oversight Remedial Action Grants



Discussion Topic

# Overview

---

These grants provide funding to local governments that investigate and clean up contaminated sites under the supervision of Ecology or EPA (under an order or decree).



# Changes under Consideration

---

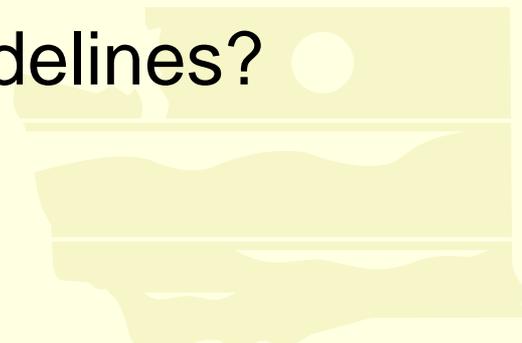
- Provide additional grant funds (reduce local match) under the following circumstances:
  - If the remedial actions are completed by the dates specified in the order or decree.
  - If model remedies are used.
- Upon construction completion, provide funding for up to 3 years of monitoring used to confirm attainment of cleanup standards.



# Discussion

---

- Will the above changes create sufficient incentives to expedite cleanups? What types of incentives, if any, should Ecology consider?
- Based on your experience with these grants, are there any other issues that you think we should address in the rule or guidelines?



# Extended Grant Agreements

Subset of Oversight Remedial Action Grants



Discussion Topic

# Overview

---

- The legislation specifically authorizes Ecology to enter into “extended grant agreements” (EGAs) with local governments for multi-biennial projects costing more than \$20 million.
- The initial duration of EGAs may not exceed 10 years, but may be extended upon finding that substantial progress has been made.
- EGAs may not cover more than 50% of the total eligible remedial action costs for a project.
- Ecology may not allocate funding under an EGA unless the local government demonstrates funds awarded during the previous biennium have been substantially expended or contracted.
- The legislation prioritizes funding for EGAs. This is intended to provide local governments more certainty that state funding will be available in future years.

# Discussion

---

- Are you interested in entering into “extended grant agreements”? Will they provide you the certainty that you need?
- How should we factor in multiple sites within an area (e.g., within an embayment) when determining eligibility for such grants?
- Are there any other issues regarding these grants you think we should address in the rule or guidelines?

# Independent Remedial Action Grants



Discussion Topic

# Overview

---

- These grants provide funding to local governments that investigate and clean up contaminated sites independently under the Voluntary Cleanup Program (VCP).
- Currently, local governments are only reimbursed after the entire site is cleaned up and Ecology issues a No Further Action (NFA) determination.
- The legislation now allows Ecology to also periodically reimburse local governments during the cleanup process.

# Periodic Reimbursement

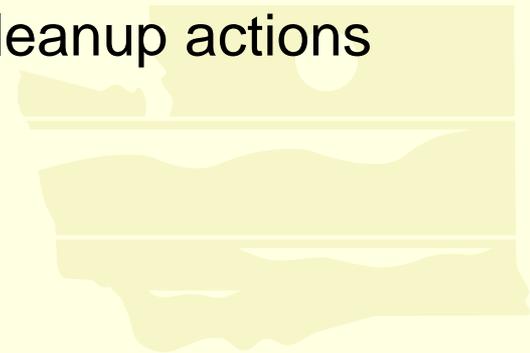
---

- We plan to maintain the current post-cleanup reimbursement option.
- We are considering various periodic reimbursement options, including:
  - By phase. Upon completing each phase, local government would need to submit a report to Ecology for review and approval under the VCP. Upon approval, Ecology would reimburse local government for that phase.
  - By quarter. Local government would need to submit a work plan for Ecology review and approval under the VCP. Upon approval, the local government could start work and seek reimbursement for that work on a quarterly basis.

# Periodic Reimbursement

---

- We are considering how to ensure state-funded independent cleanups are completed. Options include:
  - Capping funding for each phase.
  - Retaining some percentage of funding until NFA determination is issued.
  - Providing relatively more funding for cleanup actions than for remedial investigations.



# Other Changes under Consideration

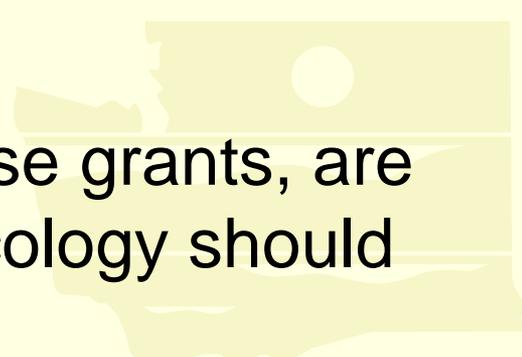
---

- Allow funding of property-specific cleanups, instead of just site-wide cleanups.
- Provide additional grant funds (reduce local match) if model remedies are used.
- Upon construction completion, provide funding for up to 3 years of monitoring used to confirm attainment of cleanup standards.
- Increasing the current \$200,000 limit on total grant funding.
- Reducing the current 5 year limit on retroactive funding.

# Discussion

---

- Do you have any comments or suggestions on the specified changes?
- Do you have any other suggestions as to how Ecology could incentivize local governments to complete independent cleanups faster through the grant process? If so, what types of incentives should Ecology consider?
- Based on your experience with these grants, are there any other issues you think Ecology should address in the rule or guidelines?



# Safe Drinking Water Grants



Discussion Topic

# Overview

---

- These grants help local governments provide safe drinking water to areas where a hazardous substance has contaminated drinking water.
- These grants have been used, for example, to connect rural homes on private wells impacted by pesticide use to nearby community water systems.
- Currently, the rule requires owners to “substantially participate” in costs of providing alternative water. The rule also limits funding where contamination is due to bacterial contamination or nitrates.

# Topics under Consideration

---

- For financing individual service connections, what does “substantially participate” mean and under what conditions should this be required?
- Should lead and copper be added to the list of contaminants where funding is limited, since these often originate from within water systems, not contaminated sites?

# Discussion

---

- Based on your experience with these grants, are these appropriate topics to be addressed in this rule making and are there any other issues you think we should address in the rule or guidelines?



# Economically Disadvantaged Counties and Cities



Discussion Topic

# Counties

---

- Under the current rule, Ecology may provide additional funding (reduce local match) if the local government is a county, or is located in a county, that is “economically disadvantaged.”
- A county is defined to be “economically disadvantaged” if:
  - The per capita income of the county, as measured by the latest official OFM estimate, is in the lower twenty counties in the state; and
  - The county is economically distressed, as defined by chapter 43.168 RCW.

# Cities

---

- The current rule does not address situations where a county is not “economically disadvantaged,” but a city within that county is.
- To date, Ecology has addressed these situations on a case-by-case basis according to guidelines we developed. Those guidelines reflect the criteria used for identifying economically disadvantaged counties.
- Ecology is considering establishing criteria in the rule for identifying economically disadvantaged cities.

# Discussion

---

- Do you have any suggestions about what criteria Ecology should use to determine whether a city is economically disadvantaged?
- Are there examples of criteria used by other state or federal grant programs that Ecology should consider?



# Other Topics?



Are there any other issues, related to either the grant criteria or process, you think we should address in the rule or guidelines?

# Next Steps

---

- Provide summary of the meeting. Distribute and post on our web site.
- Talk to local health departments to discuss site hazard assessment grants.
- Consider your comments as we continue to work on the rule proposal.
- Provide an informal draft of the rule proposal for your review, probably in January 2014.

# Stay Informed / Contact Us

---

- Access our web page:

<http://www.ecy.wa.gov/programs/tcp/regs/wac173322/1309.html>.

- Sign up to receive email notices at:

<http://listserv.wa.gov/archives/ecy-remedial-action-grants.html>.

- Contact the Rule Coordinator:

Adrienne Dorrah

Phone: 360-407-7195

Email: [RAGrule@ecy.wa.gov](mailto:RAGrule@ecy.wa.gov)

- Contact the Rule Writer:

Michael Feldcamp

Phone: 360-407-7531

Email: [michael.feldcamp@ecy.wa.gov](mailto:michael.feldcamp@ecy.wa.gov)



# Useful Web Links

---

- **MTCA Legislation:**  
<http://www.ecy.wa.gov/programs/tcp/regs/legislation-2013.html>
- **Remedial Action Grants Rule Making:**  
<http://www.ecy.wa.gov/programs/tcp/regs/wac173322/1309.html>
- **Remedial Action Grants Program:**  
<http://www.ecy.wa.gov/programs/tcp/grants/rag.html>
- **Brownfield Program:**  
[http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields\\_hp.html](http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields_hp.html)

