

**RCW 70A.305.190 Model toxics control capital account.** (1) The model toxics control capital account is hereby created in the state treasury.

(2) In addition to the funds deposited into the model toxics control capital account required under RCW 82.21.030, the following moneys must be deposited into the model toxics control capital account:

(a) The costs of remedial actions recovered under this chapter, except as provided under RCW 70A.305.170(7);

(b) Penalties collected or recovered under this chapter; and

(c) Any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the model toxics control capital account must be used for the improvement, rehabilitation, remediation, and cleanup of toxic sites and other capital-related expenditures for programs and activities identified in subsection (4) of this section.

(4) Moneys in the model toxics control capital account may be used only for capital projects and activities that carry out the purposes of this chapter and for financial assistance to local governments or other persons to carry out those projects or activities, including but not limited to the following, generally in descending order of priority:

(a) Remedial actions, including the following generally in descending order of priority:

(i) Extended grant agreements entered into under subsection (5)(a) of this section;

(ii) Grants or loans to local governments for remedial actions, including planning for adaptive reuse of properties as provided for under subsection (5)(d) of this section. The department must prioritize funding of remedial actions at:

(A) Facilities on the department's hazardous sites list with a high hazard ranking for which there is an approved remedial action work plan or an equivalent document under federal cleanup law;

(B) Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser of the property and there is a department-approved remedial action work plan or equivalent document under the federal cleanup law;

(iii) Department-conducted remedial actions;

(iv) Grants to persons intending to remediate contaminated real property for development of affordable housing;

(v) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with clean-up standards under RCW 70A.305.030(2)(e) if:

(A) The amount and terms of the funding are established under a settlement agreement under RCW 70A.305.040(4); and

(B) The director has found that the funding will achieve both a substantially more expeditious or enhanced cleanup than would otherwise occur, and the prevention or mitigation of unfair economic hardship;

(vi) Public funding to assist prospective purchasers to pay for the costs of remedial action in compliance with clean-up standards under RCW 70A.305.030(2)(e) if:

(A) The facility is located within a redevelopment opportunity zone designated under RCW 70A.305.150;

(B) The amount and terms of the funding are established under a settlement agreement under RCW 70A.305.040(5); and

(C) The director has found the funding will achieve a substantially more expeditious or enhanced cleanup than would otherwise occur, provide a public benefit in addition to cleanup commensurate with the scope of the public funding; and meet any additional criteria established in rule by the department; and

(vii) To expedite multiparty clean-up efforts, purchase of remedial action cost-cap insurance;

(b) Grants, or loans, or contracts to local governments for solid waste plans and programs under chapters 70A.205, 70A.214, 70A.224, 70A.222, 70A.230, and 70A.300 RCW. Funds must be allocated consistent with priorities and matching requirements in the respective chapters;

(c) Toxic air pollutant reduction programs, including grants or loans to local governments for woodstoves and diesel;

(d) Grants, loans, or contracts to local governments for hazardous waste plans and programs under chapters 70A.405 and 70A.300 RCW, including chemical action plan implementation. Funds must be allocated consistent with priorities and matching requirements in the respective chapters; and

(e) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(5) The department may establish and administer a program to provide grants and loans to local governments for remedial actions, including planning for adaptive reuse of contaminated properties. To expedite cleanups throughout the state, the department may use the following strategies when providing grants to local governments under this subsection:

(a) Enter into an extended grant agreement with a local government conducting remedial actions at a facility where those actions extend over multiple biennia and the total eligible cost of those actions exceeds \$20,000,000. The agreement is subject to the following limitations:

(i) The initial duration of such an agreement may not exceed 10 years. The department may extend the duration of such an agreement upon finding substantial progress has been made on remedial actions at the facility;

(ii) Extended grant agreements may not exceed 50 percent of the total eligible remedial action costs at the facility; and

(iii) The department may not allocate future funding to an extended grant agreement unless the local government has demonstrated to the department that funds awarded under the agreement during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds;

(b) Enter into a grant agreement with a local government conducting a remedial action that provides for periodic reimbursement of remedial action costs as they are incurred as established in the agreement;

(c) Enter into a grant agreement with a local government prior to it acquiring a property or obtaining necessary access to conduct remedial actions, provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement;

(d) Provide integrated planning grants to local governments to fund studies necessary to facilitate remedial actions at brownfield properties and adaptive reuse of properties following remediation. Eligible activities include, but are not limited to: Environmental site assessments; remedial investigations; health assessments; feasibility studies; site planning; community involvement; land use

and regulatory analyses; building and infrastructure assessments; economic and fiscal analyses; and any environmental analyses under chapter 43.21C RCW;

(e) Provide grants to local governments for remedial actions related to area-wide groundwater contamination. To receive the funding, the local government does not need to be a potentially liable person or be required to seek reimbursement of grant funds from a potentially liable person;

(f) The director may alter grant matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(i) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(ii) Funding would create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(iii) Funding would create an opportunity for acquisition and redevelopment of brownfield property under RCW 70A.305.040(5) that would not otherwise occur; and

(g) When pending grant applications under subsection (4)(d) and (e) of this section exceed the amount of funds available, designated redevelopment opportunity zones must receive priority for distribution of available funds.

(6) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control capital account may be spent only after appropriation by statute. [2022 c 102 § 2; 2020 c 20 § 1320; 2019 c 422 § 203. Formerly RCW 70.105D.200.]

**Findings—2022 c 102:** "The legislature finds that:

(1) Remedial action grants are an effective means to assist a local government achieve toxic waste cleanup; and

(2) Requiring a local government to have all the necessary permits in hand prior to receiving remedial action grant funding has caused unintended delays in implementing projects." [2022 c 102 § 1.]

**Effective date—Intent—2019 c 422:** See notes following RCW 82.21.010.