

WAC 173-360A-1073 Mechanism—Local government fund. (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by establishing a dedicated fund account that conforms to the requirements of this section.

(2) **Restrictions on commingled funds.** Except as specified in subsection (3)(b) of this section, a dedicated fund may not be commingled with other funds or otherwise used in normal operations.

(3) **Local government fund requirements.** To be considered eligible, a dedicated fund must meet one of the following requirements:

(a) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks and is funded for the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage;

(b) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking remedial action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks, and is funded for five times the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under WAC 173-360A-1015, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

(c) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks. A payment must be made to the fund once every year for seven years until the fund is fully funded. This seven year period is hereafter referred to as the "pay-in-period." Equation 1073-1 must be used to determine the amount of each payment; and

Equation 1073-1	
$\text{Payment amount} = \frac{\text{TY} - \text{CF}}{\text{Y}}$	
Where:	
TY =	The total required financial assurance for the owner or operator
CF =	The current amount in the fund
Y =	Number of years remaining in the pay period

(i) The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority must be available for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks; or

(ii) The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

(4) **Letter from chief financial officer.** To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as specified in WAC 173-360A-1095, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

[Statutory Authority: Chapter 90.76 RCW. WSR 18-15-083 (Order 16-02), § 173-360A-1073, filed 7/18/18, effective 10/1/18.]