Chapter 90.50A RCW
WATER POLLUTION CONTROL FACILITIES—FEDERAL CAPITALIZATION GRANTS

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RCW 90.50A.005 Purpose. The long-range health and environmental goals for the state of Washington require the protection of the state's surface and underground waters for the health, safety, use, enjoyment, and economic benefit of its people. It is the purpose of this chapter to provide an account to receive federal capitalization grants to provide financial assistance to the state and to local governments for the planning, design, acquisition, construction, and improvement of water pollution control facilities and related activities in the achievement of state and federal water pollution control requirements for the protection of the state's waters. [1988 c 284 s 1.]

RCW 90.50A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Clean water act" means 33 U.S.C. Sec. 1251 through 1388, as it existed on June 9, 2016.

(2) "Debt service" means the total of all principal, interest, and administration charges associated with a water pollution control revolving fund loan that must be repaid to the department by the public body.

(3) "Department" means the department of ecology.

(4) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(5) "Federal capitalization grants" means grants from the federal government provided by the clean water act.

(6) "Fund" means the water pollution control revolving fund in the custody of the state treasurer.

(7) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forestlands, subsurface or underground sources, and discharges from boats or other marine vessels.

(8) "Public body" means the state of Washington or any agency, county, city or town, other political subdivision, municipal

corporation or quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(9) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(10) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) to maintain or improve water quality through the use of water pollution control facilities or other means.

(11) "Water pollution control facility" or "water pollution control facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, stormwater, combined sewer overflows, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers. [2016 c 88 s 1; 2013 c 96 s 1; 1988 c 284 s 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

RCW 90.50A.020 Water pollution control revolving fund. (1) The water pollution control revolving fund is hereby established in the state treasury. Moneys in this fund may be spent only after legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the clean water act;

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

(d) All repayments of moneys borrowed from the fund;

(e) All interest payments made by borrowers from the fund;

(f) Any other fee or charge levied in conjunction with administration of the fund; and

(g) Any new funds as a result of leveraging.

(3) The state treasurer may invest and reinvest moneys in the water pollution control revolving fund in the manner provided by law.

All earnings from such investment and reinvestment shall be credited to the water pollution control revolving fund. [2016 c 88 s 2; 1993 c 329 s 1; 1992 c 235 s 9; 1991 sp.s. c 13 s 102; 1988 c 284 s 3.]

Effective date—1993 c 329: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 329 s 3.]

Effective dates—1991 sp.s. c 13: See note following RCW 18.04.105.

RCW 90.50A.030 Use of moneys in fund. The department shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the clean water act and as provided in RCW 90.50A.040:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed the lesser of thirty years or the projected useful life, as determined by the state, of the project to be financed with the proceeds of the loan;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized upon the expiration of the term of the loan;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in the clean water act, including publicly owned industrial wastewater treatment facilities that reduce the burden on a municipal wastewater facility;

(b) For the implementation of a management program established under the clean water act relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under the clean water act relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

(4) The department shall present a biennial progress report on the use of moneys from the account to the appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

(5) The department may not use the moneys in the water pollution control revolving fund for grants. [2018 c 152 s 1; 2016 c 88 s 3; 2007 c 341 s 38; 1996 c 37 s 4; 1988 c 284 s 4.]

Effective date—2007 c 341: See RCW 90.71.907.

RCW 90.50A.040 Administration of fund. Moneys deposited in the water pollution control revolving fund shall be administered by the department. In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds for loans in accordance with the annual project priority list in accordance with the clean water act;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in the clean water act;

(7) Comply with provisions of the clean water act; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. [2016 c 88 s 4; 2007 c 341 s 39; 1988 c 284 s 5.]

Effective date—2007 c 341: See RCW 90.71.907.

RCW 90.50A.050 Loans from fund—Requirements for recipients. Any public body receiving a loan from the fund shall:

(1) Appear on the annual project priority list to be identified for funding under the clean water act;

(2) Submit an application to the department;

(3) Establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan; and

(4) Demonstrate to the satisfaction of the department that it has sufficient legal authority to incur the debt for which it is applying. [2016 c 88 s 5; 1988 c 284 s 6.]

RCW 90.50A.060 Defaults. If a public body defaults on payments due to the fund, the state may withhold any amounts otherwise due to

the public body and direct that such funds be applied to the indebtedness and deposited into the account. [1988 c 284 s 7.]

RCW 90.50A.070 Establishment of policies for loan terms and interest rates. The department shall establish by rule policies for establishing loan terms and interest rates for loans made from the fund that assure that the objectives of this chapter are met and that adequate funds are maintained in the fund to meet future needs. [1988 c 284 s 8.]

RCW 90.50A.080 Puget Sound partners. (1) In administering the fund, the department shall give priority consideration to:

(a) A public body that is a Puget Sound partner, as defined in RCW 90.71.010; and

(b) A project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(2) When implementing this section, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2007 c 341 s 40.]

Effective date—2007 c 341: See RCW 90.71.907.

RCW 90.50A.090 Water pollution control revolving administration account—Creation—Report to the legislature. (1) The water pollution control revolving administration account is created in the state treasury. All receipts from charges authorized in this section must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only in a manner consistent with this section.

(2) The department is authorized to assess administration charges as a portion of the debt service for loans issued under the water pollution control revolving fund created in RCW 90.50A.020. The sole purpose of assessing administration charges is to predictably and adequately fund the department's costs of administering the water pollution control revolving fund loan program, as identified in subsection (5) of this section. The department must assess administration charges on each water pollution control revolving fund loan at the point the loan enters repayment status, after July 28, 2013, and rule changes are adopted to implement the administration charge. Loans that are at an interest rate below the established administration charge rate are exempt from the administration charge.

(3) The water pollution control revolving administration account consists of:

(a) Any administration charge levied by the department in conjunction with administration of the water pollution control revolving fund; and

(b) Any other revenues derived from gifts, grants, or bequests pledged to the state for the purpose of administering the water pollution control revolving fund.

(4) The state treasurer may invest and reinvest moneys in the water pollution control revolving administration account in the manner provided by law. All earnings from such investment and reinvestment must be credited to the water pollution control revolving administration account.

(5) Moneys in the water pollution control revolving administration account are to be used for the following water pollution control revolving fund loan program costs:

(a) Administration costs associated with conducting application processes, managing contracts, collecting loan repayments, managing the revolving fund, providing technical assistance, and meeting state and federal reporting requirements; and

(b) Information and data system costs associated with loan tracking and fund management.

(6) Each biennium, the department may spend from the water pollution control revolving administration account an amount no greater than four percent of the water pollution control revolving fund new capital appropriation.

(7) For its 2017-2019 biennial operating budget submittal, and every biennium thereafter, the department must compare the projected water pollution control revolving administration account balance and the projected administration charge income with projected program costs, including an adequate working capital reserve as defined by the office of financial management. In its submittal to the office of financial management, the department may:

(a) Find that the projected administration charge income is inadequate to fund the cost of administering the program, and that the rate of the charge must be increased. However, the administration charge may never exceed one percent on the declining principal loan balance;

(b) Find that the projected administration charge income exceeds what is needed to fund the cost of administering the program, and that the rate of the charge must be decreased;

(c) Find that there is an excess balance in the revolving administration account, and that the excess must be transferred to the water pollution control revolving fund to be used for loans; or

(d) Find that there is no need for any rate adjustments or balance transfers.

(8) At the point where the water pollution control revolving administration account adequately covers the program administration costs, the department may no longer use the federal administration allowance. If a federal capitalization grant is awarded after that point, all federal capitalization dollars must be used for making loans.

(9) By December 1, 2018, the department must submit to the appropriate legislative fiscal committees a report on implementation of the administration charge, including information on: The amount of income the administration charge has produced since its inception; the uses and adequacy of the income for administrative costs; any excess balances that have been transferred to the water pollution control revolving fund; and any additional sources that the department is using for program administration.

(10) The legislature may direct the state treasurer to make transfers of moneys in the water pollution control revolving

administration account to the water pollution control revolving fund. [2022 c 157 s 22; 2021 c 334 s 1000; 2019 c 415 s 992; 2013 c 96 s 2.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.