

**February 12, 2009**

**Ecology intends to begin rulemaking. The Department of Ecology filed a CR-101 Preproposal Statement of Inquiry with the Office of the Code Reviser announcing intent to begin rulemaking efforts.**

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**The Department of Ecology** is proposing to update the Model Toxics Control Act (MTCA) Cleanup Regulation and certain portions of the Sediment Management Standards (SMS). These rules govern the cleanup of contaminated sites in Washington.

The Model Toxics Control Act statute, Chapter 70.105D RCW, requires that Ecology periodically update cleanup standards. The cleanup regulation specifying cleanup standards, Chapter 173-340 WAC, must be reviewed and, as appropriate, updated at least once every five years. Significant changes were made in 2001 and targeted amendments added in 2007. Ecology published the Sediment Management Standards, Chapter 204 WAC, in 1991.

Over the past decade, changes have emerged in the body of scientific information that shapes cleanup standards. Ecology believes it is appropriate to consider updates so that cleanup decisions continue to be based on the best available science. In addition, certain parts of the regulation need updating to reflect new state and federal laws. Finally, Ecology is using this opportunity to consider whether the 2001 amendments in practice have worked as envisioned. If not, then Ecology will consider options for clarifying those provisions.

**What is Ecology considering revising?**

Some of the issues being considered by Ecology include:

- Revisions to establish clear policies and align MTCA and SMS requirements for sediments.
- Updating cleanup standards to reflect new scientific information and recent changes to state and federal regulations. Issues include: policies and methods to address the vapor intrusion pathway, fish consumption rates for high exposure groups, cleanup levels for lead-contaminated soils, and revisions to Method A cleanup levels.
- Revising the rule to address implementation concerns identified since the 2001 MTCA rule amendment. Issues include: clarifying procedures for establishing cleanup standards and selecting cleanup actions, procedures for issuing property-specific opinions under Ecology's Voluntary Cleanup Program, and timelines for the investigation and cleanup of leaking underground storage tanks).
- Revising the rule to incorporate new statutory requirements, including: the Uniform Environmental Covenants Act (passed in 2007 as SB 5421), the authority for Ecology to issue liens on property to recover the cost of remedial action (passed in 2006 as SSB 5449), and the authority for Ecology, under the Voluntary Cleanup Program, to issue opinions on independent cleanup of a portion of a site (passed in 2007 as SHB 1039).

Ecology recognizes that public involvement is key to this rule-making effort. One of our goals is to provide interested persons the opportunity to contribute to the rule development process in an informed and meaningful way. To do this we will be creating and maintaining a web page with background on the issues being analyzed, options being considered, opportunities to provide input, and contact information. Interested persons are invited to visit the web site and sign up for email updates. The web page is accessible from [www.ecy.wa.gov](http://www.ecy.wa.gov). (Click on *Toxics Cleanup* then on *In Progress: MTCA Cleanup Regulation Update*.) For more information contact: Martha Hankins, Policy & Technical Support, Toxics Cleanup Program, Washington Department of Ecology; 360-407-6864 or email to [RuleUpdate@ecy.wa.gov](mailto:RuleUpdate@ecy.wa.gov).