

In Progress:

**MTCA Cleanup
Regulation Update**

Chapter 173-340 WAC

June 2, 2008

Washington Department of Ecology, Toxics Cleanup Program

The rule-making process

Part I

Scoping



Rule authorization



Rule development plan



Part II

CR-101

CR-102

CR-103



Formal process with statutory requirements

Early Scoping Meetings

- ***Science Advisory Board***
 - Fish consumption rates.
 - Support rule updates to reflect current scientific information.
- ***Environmental groups***
 - High priority on setting cleanup levels for bioaccumulative chemicals.
 - Support establishing freshwater sediment standards and updating lead cleanup levels.
- ***Department of Health***
 - Support updates to reflect current scientific information.
- ***Association of Washington Businesses***
 - Concerned about anything leading to increased costs.
 - Supportive of efforts to simplify and clarify the rule.
 - Recommended cross program coordination (e.g., fish consumption rates).
- ***Environmental Consultants***
 - Caution that more stringent cleanup levels will lead to fewer actual cleanups.
 - Area background issues will take on greater importance with lower cleanup levels.
 - Consistency in decisions from Ecology Site Managers
Clarify the relationship between MTCA and SMS.
- ***EPA***
 - Maintain flexibility in MTCA.
 - Concern about how to address background concentrations, (e.g., areawide soils and sediments).
 - More training for Ecology Site Managers to increase consistency in decisions.
- ***Ecology Site Managers***
 - MTCA and SMS, wood wastes, freshwater sediments, and human health risk assessment.
 - Training
 - Caution that more stringent cleanup levels will lead to fewer actual cleanups.
- ***Attorneys***
 - Clients want certainty and predictability regarding what needs to be done.
 - Consider recent court cases and Ecology's goals and intent.

A number of themes emerged:

- MTCA works pretty well.
- Coordination between MTCA & SMS is important. (Issues include wood waste/other deleterious substances, freshwater sediments, and human health.)
- Maintain flexibility but improve predictability.
- Improve consistency in Ecology decisions across sites.
- Improve cross-program consistency on key issues (e.g., fish consumption rates).
- More stringent cleanup levels will mean fewer sites get cleaned up.
- Address the issue of how to deal with properties located within larger contaminated areas.
- Coordinate with Puget Sound cleanup efforts.
- Not all issues belong in rulemaking – consider guidance, policy, and training to achieve objectives.
- Involve stakeholders but avoid another PAC type process

Agency approval to move forward and:

- Set clear policies and methods for sediment cleanup actions (for example, integrate the MTCRA and SMS rule requirements for cleanup standards of bioaccumulative chemicals).
- Revise and update cleanup requirements to reflect new scientific information and revisions to state and federal regulations (for example, fish consumption rates).
- Revise cleanup requirements to address implementation concerns identified since the 2001 rule amendments (for example, property-specific opinions under TCP's Voluntary Cleanup Program and requirements for cleanup of leaking underground storage tanks).
- Revise the rule to incorporate new statutory requirements (for example, the Uniform Environmental Covenants Act passed by the Washington Legislature in 2007).

Planning phase:

- Issues
- Workgroups
- Public Involvement
- Communications plan
- Resources needed
- Schedule
- *Other?*

Issue areas with scientific questions:

- Updating definitions to reflect recent science
- Coordinating Sediment Management Standards w/ MTCA
- Human Health Risk Assessment
- Terrestrial Ecological Evaluation
- Area Background & Natural Background
- Statistical Methods
- Areawide contamination
- Vapor Intrusion Pathway
- Other?