Resource Contact: Policy and Technical Support Staff *Effective:* January 22, 1992

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Policy 340 Priority Setting For Sites Under Formal Ecology Oversight

This policy outlines the steps and criteria that the Toxics Cleanup Program (TCP) will use in determining which sites will be worked on under formal Ecology oversight on a priority basis. This includes sites under an enforcement order, agreed order, consent decree, or Ecology-conducted cleanups and does not include independent remedial actions being reviewed under Ecology's voluntary cleanup program (VCP sites).

1. Washington Ranking Method (WARM) Score Is A Primary Factor In Priority Setting

A site's potential threat to human health and the environment is estimated using the data gathered during the site hazard assessment. The Washington Ranking Method (WARM) categorizes sites on the basis of this information. Sites are ranked relative to other sites on the list on a scale of 1 to 5, with 1 representing the highest level of concern and 5 the lowest. Sites with a WARM ranking of 1 or 2 generally will be given priority over those sites having a WARM ranking of 3, 4, or 5.

2. Other Factors Considered In Priority Setting

Other factors besides the WARM ranking may be considered when setting priorities for conducting remedial actions at sites. Note that these factors do not affect the WARM ranking of a site. Factors that can raise the priority of a site and which are generally considered in the following descending order of importance are:

A. Contaminant Pathway. The WARM ranking reflects overall potential impacts to public health and the environment. So, sites with multiple exposure pathways tend to score higher. Therefore, sites posing a high threat to public health or the environment through a single pathway may be raised in priority over other sites with higher, or equal, WARM rankings. When available, the Washington Department of Health-Health Consultation will be used when evaluating the priority of a site based on public health considerations.

B. National Priorities List (NPL) Sites. NPL Sites may be raised in priority since Ecology has to be prepared to respond to EPA to protect the state's interests during site work and to meet grant commitments.

C. Need for Interim Action. Sites with the potential for getting substantially worse unless interim action is taken may be given higher priority.

D. Actual Impacts. Sites with actual impacts may be given higher priority over those with potential impacts.

E. Resource Commitments. When the department has previously committed or allocated resources to the site and has made a commitment to complete the work done at the site, then the priority of that site may be raised.

F. Funding Agreements. Sites at which the PLP is willing to pre-pay for Ecology staff to work on, or sites at which there is a federal funding agreement, may be given higher priority than their rank would indicate (See WAC 173-340-550(7) and Policy 500C for additional information on pre-payment agreements.).

G. Resource Availability. The availability of dedicated regional staff time or contract dollars sufficient to work on additional sites may allow lower priority sites to be worked on sooner. Other considerations are the balancing of sites with staff availability in regional offices and the use of dedicated resources.

H. Public Concern. If the public concern about a specific site is known to be high, then the program may raise the priority of the site if environmental conditions warrant.

I. Economic Factors. If the expedited cleanup of a site will save or create substantial jobs or money, then the site may be given priority.

J. Potentially Liable Person (PLP) Readiness. If the potentially liable person(s) has indicated a willingness to participate in negotiations for a consent decree, discussions for an agreed order, or has had previous cooperative participation under an order or decree, the program may raise the priority of the site.

K. "Do-Ability". If the site can be cleaned up within a fairly short time frame, with a minimal investment of resources, or with a well-known cleanup methodology or technology, then the program may increase priority of the site in order to facilitate a speedy cleanup.

3. Biennial Program Report Is A Preliminary Report Of Program Priorities

The Biennial Program Report is a report to the legislature prepared as part of the State's biennial budget process and is required by RCW 70.105D.030(3). It provides a projection of revenues to the state and local toxics control accounts and recommended projects and expenditures for the various state agencies and Ecology programs funded from these accounts. Ecology's fiscal office is responsible for preparing this report. The statute requires this report to be noticed for public review and comment, and submitted to the legislature by November 1 of each even-numbered year.

For the Toxics Cleanup Program, this report lists sites with remedial action in process and those sites for which remedial action is anticipated to occur during the following two fiscal years. The list is refined during the Toxics Cleanup Program annual planning process.

4. Priorities Established On A Biennial Basis

Every two years the Toxics Cleanup Program sets priorities for work on sites on the Hazardous Sites List. These priorities will be established as part of the program planning process typically beginning in January and approved by the Program Manager by July 1 of each odd-numbered year. This plan is updated in February of even-numbered years.

5. High-Priority Sites Will Be Identified

At least 35 sites per year will be designated as high priority for completion of a Site Hazard Assessment (SHA) within 180 days of such designation. The same factors identified in paragraph 2 will be used in selecting these sites. Priority setting will be done by the Ecology Regional Offices on an on-going basis and in consultation with local Health Districts for those districts that have received a grant for SHA work. Sites designated as high priority for SHAs will be identified in the Site Register.

Within 30 days after the Hazardous Sites List is published in February and August, the TCP Management Team shall decide which sites are high priority for Remedial Investigation/Feasibility Studies (RI/FS) in the next (or current) fiscal year. Additional sites may be added following subsequent publishing of the Hazardous Sites List until a total of 10 high-priority sites for the fiscal year have been named. TCP staff will be notified which sites have been designated as priority sites.

6. High-Priority Sites Have Deadlines For Task Completion

High-priority sites shall follow the deadlines described in WAC 173-340-140. The PLP will be sent a letter upon satisfactorily completing the RI/FS. This letter will be sent after the public has had an opportunity to review and comment on the report, as required by WAC 173-340-600. The date of this letter will be the beginning of the time period for the selection of the final cleanup action. This date still applies when the draft Cleanup Action Plan and RI/FS are simultaneously made available for public review and comment. It is recognized that some high-priority sites will require more than the 18-month time frame to complete an RI/FS. For these sites, the public notice designating the site schedule shall state the predicted amount of time that is expected to be needed (18 months, plus up to 12-month extension). Sites that are complex or have a large number of potentially liable persons are anticipated to fall into this category.

Other high-priority sites may require an unanticipated time extension prior to completion of remedial action phase. Ecology shall provide an opportunity for the public to comment on any deadline extension required for these sites. Site schedules for all high-priority sites will be published in the Site Register.

7. Priorities May Be Adjusted As Necessary

Since situations at individual sites may change, the department may adjust priorities as necessary. These adjustments may be made at any time. Since such adjustments could result in delaying anticipated work at other sites currently on the biennial program plan, appropriate justification and documentation of the reasons for such changes will be necessary and should follow prescribed Program and Agency procedures.

Note: This policy is intended solely for the guidance of Ecology staff. It is not intended, and cannot be relied on, to create rights, substantive or procedural, enforceable by any party in litigation with the state of Washington. Ecology may act at variance with this policy depending on site-specific circumstances, or modify or withdraw this policy at any time.

Approved:

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Toxics Cleanup Program