

Washington Department of Ecology

MTCA Cleanup Regulation Update & MTCA/SMS Integration

Advisory Group & Sediments Workgroup

Objectives and Expectations: a Roadmap for the Next Six Months

Draft

Ecology is looking for input on technical, scientific, and policy issues as we revise and update the MTCA cleanup regulation and cleanup portions of the sediments management standards. The next phase of the MTCA and SMS regulation update process is anticipated to have six to eight month duration and will include input from two advisory committees: a MTCA/SMS Advisory Group and a Sediment Workgroup.

The purpose of these committees is to provide input and feedback to Ecology on the complex issues being addressed. Input from both committees will be documented and fully considered by Ecology. However, Ecology will make the final decisions regarding specifics of proposed amendments to the MTCA Cleanup Regulation and SMS rule.

Rulemaking Objectives

The primary objective of the advisory committees is to assist Ecology in reviewing and updating the MTCA Cleanup Regulation and cleanup provisions in the SMS Rule.

Ecology's primary focus is to:

- Establish clear policies and methods for setting sediment cleanup requirements for bio-accumulative chemicals.
- Revise and update cleanup requirements to reflect new scientific information and revisions to state and federal regulations.
- Revise cleanup requirements to address implementation concerns identified since the 2001 rule amendments.
- Revise the rule to incorporate new statutory requirements (for example, the Uniform Environmental Covenants Act passed by the Washington Legislature in 2007).

Ecology is looking for input on a number of technical, scientific, and policy related issues. Ecology staff will do their best to address issues identified during the committee meetings. However, it is possible that some important issues may require additional research or data, and may be carried forward into the next round of rule updates.

Ecology announced this rulemaking effort in February 2009. In order to have the preliminary work done and a early preliminary draft of proposed amendments ready for further public input by June

2010, these committees will meet from fall 2009 through spring 2010. Ecology would like formally propose amendments to the MTCA Cleanup Regulation and SMS rule in the fall of 2010. Then, following a required formal public comment period, Ecology would adopt the proposed amendments. (This anticipates adopting the amendments in spring or summer of 2011.)

Expectations

Ecology is asking that the MTCS/SMS Advisory Group and the Sediments Workgroup provide input on technical, policy, practicality and implications of proposed rule changes. Ecology encourages multiple viewpoints, and meeting will be facilitated in a way that allows members to talk through the issues.

The meetings are organized in a manner that enables members to educate Ecology – and one another - and to work together developing options for consideration. The meetings will elicit ideas and proposals, and discussion can focus on the pros and cons. Differences of opinion will be understood and documented.

Committee members were selected to represent the diversity of those impacted by the Washington state cleanup requirements. Committee meetings will be open to the public. Members of the public wishing to provide input into the process are welcome to attend committee meetings and encouraged to route comments and concerns through a representative on the committee. In addition, specific time is reserved on each agenda for audience comment.

Ecology will post meeting materials on the Ecology website:
www.ecy.wa.gov/programs/tcp/regs/2009MTCA/mtcaAmend.html.

Meetings of the MTCA/SMS Advisory Group will be held between November 2009 and June 2010, approximately monthly. The Sediment Workgroup will meet during the same time period and will focus specifically on technical aspects of sediment cleanups. The November meeting is a combined kickoff meeting, and members will discuss the project roadmap to addressing the identified issues and the potential sequencing of issues for discussion. For all meetings, members can anticipate discussion of the identified topics, with “homework” to foster constructive discussion.

Proposed Ground Rules

Since this is not a decision-making body, nor the entity responsible for final recommendations, the primary role the advisory committee is to provide thoughtful input on issues. Members may or may not reach agreement on approaches or strategies. Ecology recognizes, however, that ideas generated might be the basis for future actions and will proceed with this in mind.

Members agree to:

1. Work together in a collaborative environment where ideas are shared openly, and problem solving and brainstorming are encouraged.
2. Be individually responsible for making sure our issues and concerns are communicated; and to commit as a group to address issues raised by each member and to look for opportunities for progress and agreement.
3. Engage in open discussion, with the right to disagree, while respecting each other as colleagues.
4. Read meeting summaries and to approve or correct them as appropriate in order to assure an accurate (but not necessarily verbatim) record of meeting progress is maintained.
5. Members representing organizations agree to share relevant existing publicly available information with the group. Information is expected to be shared freely between members and with other interested groups and policy leaders.

6. Make every effort to attend meetings and acknowledge that consistent attendance by the named representative for each member organization is critical to project success.
7. Seek advice from outside the group as necessary and to inform our constituents promptly on progress.
8. Communicate when we are representing the opinion or perspective of our sponsoring organizations when it differs from our own.
9. Work in-between meetings as agreed to by the group.
10. Refrain from characterization of others' views to the media.

A Roadmap of the months ahead: Proposed meeting topics and sequencing of issues

The proposed sequence of issues and topics for committee meetings presented here are the current thoughts of the Ecology team. Ecology welcomes input and suggestions from committee members. (Dates past January 2010 are still tentative.)

MTCA/SMS Advisory Group Meetings

Meeting #1: (Joint kickoff meeting) Friday, November 20, 2009

- Introductions
- Agency expectations
- Background on process and issues
- Overview of sediment-related issues

Meeting #2: Friday, December 18, 2009

- Review outcomes previous meeting
- MTCA/SMS Integration (including issues related to human health and background)
- Vapor intrusion
- Remedy selection

Meeting #3: Monday, January 11, 2010

- Review outcomes previous meeting
- MTCA/SMS integration (continued discussion)
- Vapor intrusion (continued discussion)
- Cleanup Standard framework
- Remedy selection & Institutional controls (application to uplands and sediments)

Meeting #4: Monday, February 22, 2010

- Review outcomes from previous meeting
- Risk issues (early life stage adjustments to cancer slope factors; concurrent exposures; fish consumption rates)

- Freshwater sediment criteria (biological and chemical)

Meeting #5: Monday, March 22, 2010

- Review outcomes from previous meeting
- MTCA/SMS Integration; Dredged Materials Management Program (DMMP) provisions
- Other deleterious and hazardous substances
- Leaking underground storage tanks
- Voluntary cleanup program
- Groundwater to surface water pathway

Meeting #6: Monday, April 26, 2010

- Draft MTCA rule revisions
- Draft SMS rule revisions

Sediments Workgroup Meetings

Meeting #1: Joint kickoff meeting Friday, November 20, 2009

SED Meeting #2: Wednesday, December 2, 2009

- Human Health and Background
- Freshwater Standards

SED Meeting #3: Thursday, January 7, 2010

- Human Health and Background

SED Meeting #4: Tuesday, March 16, 2010

- Human Health and Background
- Other Deleterious Substances

SED Meeting #5: Thursday, April 15, 2010

- Human Health and Background
- Freshwater Standards
- Other Deleterious Substances
- Review rule language

Proposed concluding joint meeting, May or June, date tbd

- Summary of Input to Ecology
- Discussion
- Public comment