

MTCA/SMS Advisory Group
July 26, 2010
SMS Rule Revisions Update

SMS Rule Revisions Update

Goals for Today

- Update advisory group on:
 - What we have done
 - Where we are currently
 - What we will be doing for the summer
- Discuss Ecology's thinking regarding draft rule language and/or concepts on identified issues.
- Pose questions for advisory group feedback.

SMS Rule Revisions Update

General Questions to Keep in Mind

- Do the draft rule revisions meet the goals:
 - Harmonizing the SMS and MTCA?
 - Making the cleanup process more efficient?
 - Improving implementation of the SMS rule?
- Are there “red flag” unintended consequences of these rule revisions?
- Are the draft rule revisions necessary to improve clarity of the SMS rule?

What rule sections are we revising?

- Human Health and Background Framework:
 - WAC 173-204-500, -520, -550, -560, -570, -580
- Ecological Risk Narrative:
 - WAC 173-204-500
- Freshwater Standards:
 - WAC 173-204-500, -520, -570
- Integration:
 - WAC 173-204-560, -580
- Definitions:
 - WAC 173-204-200
- Terminology
 - WAC 173-204-200, -500, -570

Discussion Areas

- Human Health/Background Decision-making Framework
- MTCA/SMS Integration (Attachments A, B, D)
- Ecological Risk Narrative (Attachment C)

HH/Background Framework

Advisory Group Feedback

- **Long Term Environmental Goal** should be Natural Background.
- **Short Term Cleanup Goal** should be Regional Background on a watershed or embayment scale.
- **Source Control** of NPDES dischargers should be an integral part of preventing recontamination.
- **Liability Resolution** is critical to implementing cleanup.
- **Recontamination** may make maintaining Natural Background infeasible.
- **Feasible Implementation** is key to successful cleanup.

HH/Background Framework

Concepts TCP is Considering

- **Units** - Smaller, more manageable defined areas for cleanup and liability resolution within a larger “site”.
- **Partial settlements** to resolve liability for “unit” (smaller area of baywide “site”) cleanups, that provide significant environmental contribution to overall cleanup (while resolving PLP liability for “site” (baywide contamination) in a different way).
- Use of **baywide funds** for shared (baywide) contamination responsibility (long-term monitoring, cleanup of residual contamination, etc.).
- Some application of innocent landowner provisions with respect to **recontamination** scenarios.

HH/Background Framework

Concepts TCP is Considering

- Regional background – definition and role in decision-making process.
- What level of contamination allows someone to settle liability.
- Ways to improve integration with source control requirements.

HH/Background Framework

Questions

- Comments on draft decision making framework discussed on April 26, 2010 meeting:
 - Short and long term cleanup goals: Regional and Natural background as cleanup standards.
 - Partial settlements to remediate “units” within a larger “” (baywide contamination).
 - Definition of regional background.
 - PLP liability resolution for recontamination not from PLP.

MTCA/SMS Integration

Questions (Attachments A, B, D)

- Do the proposed revisions capture, and solve, the main disconnects between the SMS and MTCA?
- Are the proposed SMS terminology revisions clear?
- Do the definition and terminology revisions help to clarify unclear or confusing wording?
- Are there other definitions or terminology that will improve the clarity of the SMS rule?

Ecological Narrative

Key Points (Attachment C)

- Why are we looking at revisions?
- What types of changes we are considering:
 - Consideration of bioaccumulative and toxic impacts to higher trophic levels.
 - Impacts include reproduction, growth, survival from bioaccumulation or direct contact.
 - Assessment may be required if persistent, bioaccumulative chemicals are present.

MTCA/SMS Integration

Key Points (Attachments A, B, D)

- Why are we looking at revisions?
- What types of changes are we considering:
 - Common terminology in the two rules
 - Revised definitions to support integration and implementation
 - Rule revisions to support integration/implementation
 - WAC 173-204-560, -570, -580

Ecological Narrative Questions

- Will the proposed revisions improve implementation of the SMS rule for the protection of upper trophic levels?
- Can you identify implementation issues with this type of narrative standard?
- Are there additional studies needed to implement this narrative?
- Is the level of detail appropriate?

Summary/Next Steps This Summer

- Work through issues and finalize a draft Human Health/Background decision-making framework.
- Identify draft rule revisions that would be needed to implement the Human Health/Background framework.
- Cross-program discussions on integrating source control and cleanup (including implications for rule revisions).
- Additional peer review of freshwater standards.
- Review advisory group feedback on draft rule language and from previous meetings.
- Update draft rule language.