Model Toxics Control Act Regulation and Statute

MTCA Cleanup Regulation
Chapter 173-340 WAC

Model Toxics Control Act
Chapter 70.105D RCW

Uniform Environmental Covenants Act
Chapter 64.70 RCW

Compiled by
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WASHINGTON STATE DEPARTMENT OF ECOLOGY

Focus

Model Toxics Control Act Cleanup Regulation: Process for Cleanup of Hazardous Waste Sites

In March of 1989, an innovative, citizen-mandated toxic waste cleanup law went into effect in Washington, changing the way hazardous waste sites in this state are cleaned up. Passed by voters as Initiative 97, this law is known as the Model Toxics Control Act, chapter 70.105D RCW. This fact sheet provides a brief overview of the process for the cleanup of contaminated sites under the rules Ecology adopted to implement that Act (chapter 173-340 WAC).

How the Law Works

The cleanup of hazardous waste sites is complex and expensive. In an effort to avoid the confusion and delays associated with the federal Superfund program, the Model Toxics Control Act is designed to be as streamlined as possible. It sets strict cleanup standards to ensure that the quality of cleanup and protection of human health and the environment are not compromised. At the same time, the rules that guide cleanup under the Act have built-in flexibility to allow cleanups to be addressed on a site-specific basis.

The Model Toxics Control Act funds hazardous waste cleanup through a tax on the wholesale value of hazardous substances. The tax is imposed on the first in-state possessor of hazardous substances at the rate of 0.7 percent, or $7 per $1,000. Since its passage in 1988, the Act has guided the cleanup of thousands of hazardous waste sites that dot the Washington landscape. The Washington State Department of Ecology's Toxic Cleanup Program ensures that these sites are investigated and cleaned up.

What Constitutes a Hazardous Waste Site?

Any owner or operator who has information that a hazardous substance has been released to the environment at the owner or operator's facility and may be a threat to human health or the environment must report this information to the Department of Ecology (Ecology). If an "initial investigation" by Ecology confirms further action (such as testing or cleanup) may be necessary, the facility is entered onto either Ecology's "Integrated Site Information System" database or "Leaking Underground Storage Tank" database. These are computerized databases used to track progress on all confirmed or suspected contaminated sites in Washington State. All confirmed sites that have not been already voluntarily cleaned up are ranked and placed on the state "Hazardous Sites List." Owners, operators, and other persons known to be potentially liable for the cleanup of the site will receive an "Early Notice Letter" from Ecology notifying them that their site is suspected of needing cleanup, and that it is Ecology's policy to work cooperatively with them to accomplish prompt and effective cleanup.

Who is Responsible for Cleanup?

Any past or present relationship with a contaminated site may result in liability. Under the Model Toxics Control Act a potentially liable person can be:

- A current or past facility owner or operator.
- Anyone who arranged for disposal or treatment of hazardous substances at the site.
- Anyone who transported hazardous substances for disposal or treatment at a contaminated site, unless the facility could legally receive the hazardous materials at the time of transport.
- Anyone who sells a hazardous substance with written instructions for its use, and abiding by the instructions results in contamination.

In situations where there is more than one potentially liable person, each person is jointly and severally liable for cleanup at the site. That means each person can be held liable for the entire cost of cleanup. In cases where there is more than one potentially liable person at a site, Ecology encourages these persons to get together to negotiate how the cost of cleanup will be shared among all potentially liable persons.

Ecology must notify anyone it knows may be a "potentially liable person" and allow an opportunity for comment before making any further determination on that person's liability. The comment period may be waived at the potentially liable person's request or if Ecology has to conduct emergency cleanup at the site.

Achieving Cleanups through Cooperation

Although Ecology has the legal authority to order a liable party to clean up, the department prefers to achieve cleanups cooperatively. Ecology believes that a non-adversarial relationship with potentially liable persons improves the prospect for prompt and efficient cleanup. The rules implementing the Model Toxics Control Act, which were developed by Ecology in consultation with the Science Advisory Board (created by the Act), and representatives from citizen, environmental and business groups, and government agencies, are designed to:

- Encourage independent cleanups initiated by potentially liable persons, thus providing for quicker cleanups with less legal complexity.
- Encourage an open process for the public, local government and liable parties to discuss cleanup options and community concerns.
- Facilitate cooperative cleanup agreements rather than Ecology-initiated orders. *Ecology can, and does, however use enforcement tools in emergencies or with recalcitrant potentially liable persons.*

What is the Potentially Liable Person's Role in Cleanup?

The Model Toxics Control Act requires potentially liable persons to assume responsibility for cleaning up contaminated sites. For this reason, Ecology does not usually conduct the actual cleanup when a potentially liable person can be identified. Rather, Ecology oversees the cleanup of sites to ensure that investigations, public involvement and actual cleanup and monitoring are done appropriately. Ecology's costs of this oversight are required to be paid by the liable party.

When contamination is confirmed at the site, the owner or operator may decide to proceed with cleanup without Ecology assistance or approval. Such "independent cleanups" are

allowed under the Model Toxics Control Act under most circumstances, but must be reported to Ecology, and are done at the owner's or operator's own risk. Ecology may require additional cleanup work at these sites to bring them into compliance with the state cleanup standards. Most cleanups in Washington are done independently.

Other than local governments, potentially liable persons conducting independent cleanups do not have access to financial assistance from Ecology. Those who plan to seek contributions from other persons to help pay for cleanup costs need to be sure their cleanup is "the substantial equivalent of a department-conducted or department-supervised remedial action." Ecology has provided guidance on how to meet this requirement in WAC 173-340-545. Persons interested in pursuing a private contribution action on an independent cleanup should carefully review this guidance prior to conducting site work.

Working with Ecology to Achieve Cleanup

Ecology and potentially liable persons often work cooperatively to reach cleanup solutions. Options for working with Ecology include formal agreements such as consent decrees and agreed orders, and seeking technical assistance through the Voluntary Cleanup Program. These mechanisms allow Ecology to take an active role in cleanup, providing help to potentially liable persons and minimizing costs by ensuring the job meets state standards the first time. This also minimizes the possibility that additional cleanup will be required in the future – providing significant assurances to investors and lenders.

Here is a summary of the most common mechanisms used by Ecology:

- **Voluntary Cleanup Program**: Many property owners choose to cleanup their sites independent of Ecology oversight. This allows many smaller or less complex sites to be cleaned up quickly without having to go through a formal process. A disadvantage to property owners is that Ecology does not approve the cleanup. This can present a problem to property owners who need state approval of the cleanup to satisfy a buyer or lender.

  One option to the property owner wanting to conduct an independent cleanup yet still receive some feedback from Ecology is to request a technical consultation through Ecology's Voluntary Cleanup Program. Under this voluntary program, the property owner submits a cleanup report with a fee to cover Ecology's review costs. Based on the review, Ecology either issues a letter stating that the site needs "No Further Action" or identifies what additional work is needed. Since Ecology is not directly involved in the site cleanup work, the level of certainty in Ecology's response is less than in a consent decree or agreed order. However, many persons have found a "No Further Action" letter to be sufficient for their needs, making the Voluntary Cleanup Program a popular option.

- **Consent Decrees:** A consent decree is a formal legal agreement filed in court. The work requirements in the decree and the terms under which it must be done are negotiated and agreed to by the potentially liable person, Ecology and the state Attorney General's office. Before consent decrees can become final, they must undergo a public review and comment period that typically includes a public hearing. Consent decrees protect the potentially liable person from being sued for "contribution" by other persons that incur cleanup expenses at the site while facilitating any contribution claims against the other persons when they are responsible for part of the cleanup costs. Sites cleaned up under a consent decree are also exempt from having to obtain certain state and local permits that could delay the cleanup.

- ***De Minimus* Consent Decree:** Landowners whose contribution to site contamination is "insignificant in amount and toxicity" may be eligible for a de minimus consent decree. In these decrees, landowner typically settle their liability by paying for some of the cleanup instead of actually conducting the cleanup work. Ecology usually accepts a de minimus settlement proposal only if the landowner is affiliated with a larger site cleanup that Ecology is currently working on.
- **Prospective Purchaser Consent Decree:** A consent decree may also be available for a "prospective purchaser" of contaminated property. In this situation, a person who is not already liable for cleanup and wishes to purchase a cleanup site for redevelopment or reuse may apply to negotiate a prospective purchaser consent decree. The applicant must show, among other things, that they will contribute substantial new resources towards the cleanup. Cleanups that also have a substantial public benefit will receive a higher priority for prospective purchaser agreements. If the application is accepted, the requirements for cleanup are negotiated and specified in a consent decree so that the purchaser can better estimate the cost of cleanup before buying the land.
- **Agreed Orders:** Unlike a consent decree, an agreed order is not filed in court and is not a settlement. Rather, it is a legally binding administrative order issued by Ecology and agreed to by the potentially liable person. Agreed orders are available for remedial investigations, feasibility studies, and final cleanups. An agreed order describes the site activities that must occur for Ecology to agree not to take enforcement action for that phase of work. As with consent decrees, agreed orders are subject to public review and offer the advantage of facilitating contribution claims against other persons and exempting cleanup work from obtaining certain state and local permits.

Ecology-Initiated Cleanup Orders

Administrative orders requiring cleanup activities without an agreement with a potentially liable person are known as **enforcement orders**. These orders are usually issued to a potentially liable person when Ecology believes a cleanup solution cannot be achieved expeditiously through negotiation or if an emergency exists. If the responsible party fails to comply with an enforcement order, Ecology can clean up the site and later recover costs from the responsible person(s) at up to three times the amount spent. The state Attorney General's Office may also seek a fine of up to $25,000 a day for violating an order. Enforcement orders are subject to public notification.

Financial Assistance

Each year, Ecology provides millions of dollars in grants to local governments to help pay for the cost of site cleanup. In general, such grants are available only for sites where the cleanup work is being done under an order or decree. Ecology can also provide grants to local governments to help defray the cost of replacing a public water supply well contaminated by a hazardous waste site. Grants are also available for local citizen groups and neighborhoods affected by contaminated sites to facilitate public review of the cleanup. See Chapter 173-322 WAC for additional information on grants to local governments and Chapter 173-321 WAC for additional information on public participation grants.

Public Involvement

Public notices are required on all agreed orders, consent decrees, and enforcement orders. Public notification is also required for all Ecology-conducted remedial actions.

Ecology's Site Register is a widely used means of providing information about cleanup efforts to the public and is one way of assisting community involvement. The Site Register is published every two weeks to inform citizens of public meetings and comment periods, discussions or negotiations of legal agreements, and other cleanup activities. The Site Register can be accessed on the Internet at: www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

How Sites are Cleaned Up

The rules describing the cleanup process at a hazardous waste site are in chapter 173-340 WAC. The following is a general description of the steps taken during the cleanup of an average hazardous waste site. Consult the rules for the specific requirements for each step in the cleanup process.

1. Site Discovery: Sites where contamination is found must be reported to Ecology's Toxics Cleanup Program within 90 days of discovery, unless it involves a release of hazardous materials from an underground storage tank system. In that case, the site discovery must be reported to Ecology within 24 hours. At this point, potentially liable persons may choose to conduct independent cleanup without assistance from the department, but cleanup results must be reported to Ecology.

2. Initial Investigation: Ecology is required to conduct an initial investigation of the site within 90 days of receiving a site discovery report. Based on information obtained about the site, a decision must be made within 30 days to determine if the site requires additional investigation, emergency cleanup, or no further action. If further action is required under the Model Toxics Control Act, Ecology sends early notice letters to owners, operators and other potentially liable persons inviting them to work cooperatively with the department.

3. Site Hazard Assessment: A site hazard assessment is conducted to confirm the presence of hazardous substances and to determine the relative risk the site poses to human health and the environment.

4. Hazard Ranking: The Model Toxics Control Act requires that sites be ranked according to the relative health and environmental risk each site poses. Working with the Science Advisory Board, Ecology created the Washington Ranking Method to categorize sites using data from site hazard assessments. Sites are ranked on a scale of 1 to 5. A score of 1 represents the highest level of risk and 5 the lowest. Ranked sites are placed on the state Hazardous Sites List.

5. Remedial Investigation/Feasibility Study: A remedial investigation and feasibility study is conducted to define the extent and magnitude of contamination at the site. Potential impacts on human health and the environment and alternative cleanup technologies are also evaluated in this study. Sites being cleaned up by Ecology or by potentially liable persons under a consent decree, agreed order or enforcement order are required to provide for a 30 day public review before finalizing the report.

6. Selection of Cleanup Action: Using information gathered during the study, a cleanup action plan is developed. The plan identifies preferred cleanup methods and specifies cleanup standards and other requirements at the site. A draft of the plan is subject to public review and comment before it is finalized.

7. Site Cleanup: Actual cleanup begins when the cleanup action plan is implemented. This includes design, construction, operation and monitoring of cleanup actions. A site may be taken off the Hazardous Sites List after cleanup is completed and Ecology determines cleanup standards have been met.

For More Information / Special Accommodation Needs

If you would like more information about the state Model Toxics Control Act, please call us toll-free at **1-800-826-7716,** or contact your regional Washington State Department of Ecology office listed below. Information about site cleanup, including a listing of ranked hazardous waste sites, is also accessible through our Internet address: http://www.ecy.wa.gov/programs/tcp/cleanup.html

- **Northwest Regional Office** **425/649-7000**
  (Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom Counties)
- **Southwest Regional Office** **360/407-6300**
  (Southwestern Washington, Olympic Peninsula, Pierce, Thurston and Mason Counties)
- **Central Regional Office** **509/575-2490**
  (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima Counties)
- **Eastern Regional Office** **509/329-3400**
  (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman Counties)

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WASHINGTON STATE DEPARTMENT OF ECOLOGY

Focus

Model Toxics Control Act Cleanup Regulation: Establishing Cleanup Standards and Selecting Cleanup Actions

Background

Washington's hazardous waste cleanup law, the Model Toxics Control Act (chapter 70.105D RCW), mandates that site cleanups protect the state's citizens and environment. To implement this statutory mandate, the Department of Ecology (Ecology) has established cleanup standards and requirements for the cleanup of hazardous waste sites (cleanup actions). The rules establishing these standards and requirements were developed by Ecology in consultation with the Science Advisory Board (established under the Act) and with representatives from local government, citizen, environmental, and business groups. The rules were first published in February 1991, with amendments in January 1996, February 2001, and October 2007.

Determining Cleanup Requirements

The Model Toxics Control Act (MTCA) Cleanup Regulation (chapter 173-340 WAC) defines a two-step approach for establishing cleanup requirements for individual sites:

- **Establishing Cleanup Standards.** The standards provide a uniform, statewide approach to cleanup that can be applied on a site-by-site basis. The two primary components of the standards, cleanup levels and points of compliance, must be established for each site. Cleanup levels determine at what level a particular hazardous substance does not threaten human health or the environment. Points of compliance designate the location on the site where the cleanup levels must be met.
- **Selecting Cleanup Actions.** This step involves evaluating methods that could be used to clean a site and then deciding which of those methods would best achieve cleanup standards. When more than one method of cleanup is used at a site, it may be necessary to establish "remediation levels" to indicate what concentrations of contaminants will be handled using the different cleanup methods. Aside from meeting the cleanup standards, the cleanup actions must also comply with applicable state and federal laws, protect human health and the environment, provide for compliance monitoring to ensure effectiveness, provide for permanent cleanup to the maximum extent practicable, provide for a reasonable restoration time frame, and consider public concerns. When it is not practicable to restore a site to the cleanup standards, the regulation allows use of engineered containment systems to seal off contamination on the site in some circumstances, provided it can be shown that the cleanup will still be protective of human health and the environment.

Step 1. How Cleanup Levels are Established

Eliminating all risks at a contaminated site often is not possible, even after cleanup. And since any level of exposure to a hazardous substance is assumed to result in some risk, "clean" generally means that a site is cleaned up to the point that contamination no longer poses an unacceptable threat to human health and the environment. This point is defined by the cleanup level established for each medium (ground water, surface water, soil, and air) at a site.

- For *cancer-causing substances*, the cleanup level for each substance at a site must be below a concentration that would cause an exceedance of the allowable level of excess cancer risk in humans. The allowable level of excess cancer risk is defined in the regulation (see discussion below). If more than one substance at a site can cause cancer, the effect of all of those substances combined must be considered when establishing cleanup levels.
- For *non-carcinogenic substances*, the cleanup level for each substance at a site must be below a concentration that could cause illness in humans. If more than one substance at a site affects the body in the same way, the effect of all of those substances combined must be considered when establishing cleanup levels.
- For *both types of substances*, the cleanup level for each substance must also be below a concentration that could adversely impact terrestrial or aquatic ecological receptors (plants and animals), unless it can be demonstrated that such impacts are not a concern at the site.

Methods for Establishing Cleanup Levels

The regulation provides three options for establishing cleanup levels. These options and their applicability are described below.

Method A: Applicable Laws and Tables

- ***How does it work?*** Method A provides tables of cleanup levels that are protective of human health for 25 to 30 of the most common hazardous substances found in soil and ground water at sites. These levels were developed using the procedures in Method B. The Method A cleanup level for a substance must be at least as stringent as the concentration in the Method A table and the concentrations established under applicable state or federal laws. For soil, the Method A cleanup level must also be at least as stringent as a concentration that will not result in significant adverse effects on the protection and propagation of terrestrial ecological receptors (plants and animals), unless it can be demonstrated that such impacts are not a concern at the site.

  If neither the Method A table nor the applicable state and federal laws provide a value, then the natural background concentration or the practical quantitation limit (PQL) may be used as the cleanup level.

- ***When is it used?*** Method A is designed for cleanups that are relatively straight-forward or involve only a few hazardous substances. This method is typically used at smaller sites that do not warrant the costs of conducting detailed site studies and site-specific risk assessments.

Method B: Universal Method

- ***How does it work?*** Cleanup levels under Method B are established using applicable state and federal laws and the risk assessment equations and other requirements specified for each medium.

  Method B is divided into two tiers—standard and modified. Standard Method B uses generic default assumptions to calculate cleanup levels. Modified Method B provides for the use of chemical-specific or site-specific information to change selected default assumptions.

  For both standard and modified Method B, the human health risk level for individual carcinogens may not exceed one-in-a-million. If more than one type of hazardous substance is present, the total risk level at the site may not exceed 1 in 100,000. Levels for non-carcinogens cannot exceed the point at which a substance may cause illness in humans (that is, the hazard quotient cannot exceed 1).

  In addition to accounting for human health impacts, Method B cleanup levels must account for any potential terrestrial or aquatic ecological impacts. Unless it can be demonstrated that such impacts are not a concern at the site, the cleanup level for each substance must be below a concentration that could adversely impact ecological receptors (plants and animals). Specific procedures are provided in the rule for assessing the impact of hazardous substances on terrestrial ecological receptors.

  The natural background concentrations and practical quantitation limits for a substance must also be considered when setting cleanup levels under Method B.

- ***When is it used?*** Method B may be used at any site and is the most common method for setting cleanup levels when sites are contaminated with substances not listed under Method A. Sites that are cleaned up to Method B cleanup levels generally do not need future restrictions on the use of the property due to the small amount of residual contamination typically left on the property.

Method C: Conditional Method

- ***How does it work?*** Method C is similar to Method B. Like Method B, Method C is divided into two tiers – standard and modified. The main differences are: (1) cleanup levels are based on less stringent exposure assumptions and (2) the lifetime cancer risk is set at 1 in 100,000 for both individual substances and for the total cancer risk caused by all substances on a site.

  As under Method B, potential terrestrial and aquatic ecological impacts must be accounted for in addition to human health impacts when establishing Method C cleanup levels. Unlike Method B, though, only the impacts on wildlife must be considered when conducting a terrestrial ecological evaluation.

  As under Method B, the natural background concentrations and the practical quantitation limits for a substance must also be considered when establishing Method C cleanup levels.

- ***When is it used?*** Method C cleanup levels may be used to set soil and air cleanup levels at industrial sites and to set air cleanup levels in manholes and utility vaults. For ground water, surface water, and air cleanup levels, Method C may also be used when Method A or B cleanup levels are lower than technically possible or area background concentrations, or when attainment of those levels may result in a significantly greater overall threat to human health and the environment than attainment of Method C cleanup levels, provided all practicable methods of treatment have been used and institutional controls are in place.

How Points of Compliance are Determined

"Point of compliance" defines the point or points on a site where cleanup levels must be met. This term includes both "standard" and "conditional" points of compliance.

- **Standard Point of Compliance.** The regulation defines the standard point of compliance for each medium (ground water, surface water, soil, and air). The point of compliance is generally defined as throughout the site. Unless a site qualifies for a conditional point of compliance (described below), cleanup levels must be met at the standard point of compliance for each media.
- **Conditional Point of Compliance.** For certain media (such as ground water and air), the regulation allows for the establishment of less stringent "conditional" points of compliance. As implied by the term, conditional points of compliance may only be established if certain specified conditions are met.

  For example, a conditional point of compliance for ground water may only be established where it can be demonstrated that it is not practicable (due to technological limitations, environmental conditions, or other factors) to meet the cleanup level throughout the site within a reasonable restoration time frame. Attaining cleanup levels directly under a landfill, for example, would require the excavation of tons of garbage, possibly causing more harm than good. In such cases, Ecology may approve a conditional point of compliance, provided that the point is located as close to the source of contamination as possible. Any contamination left on the site must be contained within a specified area that protects humans and ecological receptors (plants and animals) from exposure to the contaminants.

Step 2. Selecting Cleanup Actions

Step 2 of the cleanup process involves evaluating cleanup action alternatives (method(s) for cleaning up a site) and selecting a cleanup action from among those alternatives. The MTCA Cleanup Regulation specifies certain minimum requirements that all cleanup actions must meet, including the following threshold and other requirements:

- **Compliance with Cleanup Standards**. If a cleanup action alternative does not comply with cleanup standards, the alternative is an "interim action," not a "cleanup action." However, where an alternative involves containment of soils with hazardous substance concentrations exceeding cleanup levels at the point of compliance, the alternative may be determined to comply with cleanup standards provided it meets several specific requirements, including that the alternative is protective of human health and the environment.
- **Compliance with Applicable State and Federal Laws.** Cleanup levels and actions must comply with existing state or federal laws. For example, if the cleanup involves pumping and treating ground water and discharging the treated ground water to surface water, surface water discharge requirements in state and federal water quality laws must be met.
- **Protecting Human Health and the Environment.** The cleanup action selected must either remove or destroy the contamination, restoring the site to cleanup levels, or contain the contamination in such a way that will minimize future exposure of humans and ecological receptors (plants and animals). Cleanup action alternatives that achieve cleanup levels at the applicable points of compliance and comply with applicable state and federal laws are presumed to be protective of human health and

the environment. Cleanup action alternatives that provide for the containment of soils must be demonstrated to be protective of human health and the environment through either quantitative or qualitative risk assessments.

- **Providing for Compliance Monitoring.** The cleanup action selected must provide for monitoring to verify that the cleanup action achieves cleanup or other performance standards and that the cleanup action remains effective over time.
- **Using Permanent Solutions to the Maximum Extent Practicable.** As required by the Model Toxics Control Act, the cleanup action selected must use permanent solutions to the maximum extent practicable. Permanent solutions (cleanup actions) are actions in which cleanup standards can be met without further action being required, such as monitoring or institutional controls. To select the most practicable permanent solution from among those cleanup action alternatives that are protective of human health and the environment requires conducting a disproportionate cost analysis. This analysis involves comparing the costs and benefits of alternatives and selecting the alternative whose incremental costs are not disproportionate to the incremental benefits. The comparison of benefits and costs may be quantitative, but will often be qualitative and require the use of best professional judgment.
- **Providing for a Reasonable Restoration Time Frame.** Some cleanup methods, such as natural attenuation, can take years or even decades to restore a site for some contaminants. When evaluating alternative methods of cleanup, the period of time required to restore the site (to achieve cleanup and other performance standards) must be considered. The regulation specifies factors that must be considered when determining whether the restoration time frame is reasonable.
- **Considering Public Concerns.** Public notice and participation is an integral part of the remedy selection process. The public notice and participation requirements for cleanups conducted by Ecology or conducted by a potentially liable person under an order or decree are set forth in the rule. For example, the regulation requires that the draft cleanup action plan, which describes the proposed method of site cleanup, must be submitted for public review and comment. For cleanup plans where site-specific risk assessment is used to establish cleanup levels or to evaluate the protectiveness of a remedy or for cleanup plans that would restrict future site or resource use, public notices are required to specifically invite comment on these elements of the plan.

Promoting Public Participation

- **Citizen Technical Advisor.** Citizens may contact the Citizen Technical Advisor at the Department of Ecology to assist them in understanding the regulations governing cleanup and the implications of the cleanup choices being made.
- **Grants.** Grants are also available to citizens and non-profit public interest groups for the purpose of facilitating public participation in the investigation and cleanup of hazardous waste sites.

Protection After Cleanup

- **Institutional Controls.** Institutional controls are measures undertaken to limit or prohibit activities that interfere with the integrity of a cleanup action or that may result in exposure to hazardous substances at a site. The regulation specifies those circumstances where institutional controls are required as part of a cleanup action. These circumstances include the following: (1) sites where contamination remains at

concentrations that exceed the established Method A or B cleanup levels; (2) sites where Method C is used to establish cleanup levels; (3) sites where soil cleanup levels are established based on industrial land use, and (4) sites where a conditional point of compliance is used. Institutional controls may also be required to establish a site-specific cleanup level for non-potable ground water or to ensure the continued protection of terrestrial ecological receptors (plants and animals). In most cases, the institutional controls must be recorded as part of the property deed to warn future property owners of the condition and to restrict activities or use of the property that could result in exposure to the contamination. Tenants must also be notified of these restrictions in any lease agreement.

- **Financial Assurance.** Sites using engineered containment systems may be required to post a bond or other financial instrument to guarantee that the containment system is maintained as long as contamination is present at the site.
- **Confirmational Monitoring.** Monitoring must be conducted at each site to confirm the long-term effectiveness of the cleanup action once cleanup standards and other performance standards have been attained.
- **Periodic Review.** Where institutional controls or financial assurances are required (see above), or if certain other conditions exist, Ecology will conduct a review of the site every five years to ensure the continued protection of human health and the environment. Ecology will also publish a notice of any periodic review in the Site Register and provide an opportunity for public review and comment.

Leaking Underground Storage Tanks

Leaking underground storage tanks have the potential to cause fires or explosions and can easily contaminate nearby drinking water sources. Consequently, owners and operators of leaking underground storage tanks should contact Ecology for additional requirements that may apply to their sites.

For More Information / Special Accommodation Needs

If you would like more information on setting cleanup standards or cleaning up sites, please call us toll-free at **1-800-826-7716**, or contact your regional Washington State Department of Ecology office listed below. Information about site cleanup, including access to a variety of technical guidance documents, is also accessible through our Internet address: http://www.ecy.wa.gov/programs/tcp/cleanup.html.

- **Northwest Regional Office** **425/649-7000**
  (Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom Counties)
- **Southwest Regional Office** **360/407-6300**
  (Southwestern Washington, Olympic Peninsula, Pierce, Thurston and Mason Counties)
- **Central Regional Office** **509/575-2490**
  (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima Counties)
- **Eastern Regional Office** **509/329-3400**
  (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman Counties)

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WASHINGTON STATE DEPARTMENT OF ECOLOGY

Focus

Site Register

Site Register reports key information about contaminated sites

Background

The Model Toxics Control Act requires Ecology to provide timely information and opportunities for participation in the cleanup of contaminated sites. Chapter 173-340 WAC, the regulation defining the cleanup process, established the Site Register.

Information in the Site Register

The Site Register is published every two weeks to inform the public of:

- Activities related to the study and cleanup of contaminated sites
- Public meetings/hearings and public comment periods
- Discussion or negotiations of legal agreements
- Availability of cleanup reports
- Hazard ranking of sites

Entries in the Site Register include a short description of the site and an Ecology contact person.

Do you want to receive the Site Register?

If you would like to regularly receive the Site Register, please contact:

Site Register
Department of Ecology – Toxics Cleanup Program
PO Box 47600
Olympia WA 98504-7600
(360) 407-7170

OR

If you would like to be placed on the Site Register's e-mailing list, complete the electronic form at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

If you need this publication in an alternative format, please contact the Toxics Cleanup Program at (360) 407-7170. Persons with a hearing loss can call 711 for Washington Relay service. Persons with a speech disability can call 877-833-6341.

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