

Washington State Department of Transportation

The Washington State Department of Transportation (WSDOT) appreciates the opportunity to review and comment on the proposed changes to the Model Toxics Control Act (MTCA), Chapter 173-340 WAC. WSDOT will submit comments as directed by the Ecology link. WSDOT seeks clarity and consistency in the regulations where Ecology has or been delegated authority. WSDOT will input the following comments onto the Ecology website:

- Please include an abbreviation and acronym list.
 - Please ensure definitions are consistent among the regulations Ecology has jurisdiction on. For example, a spill to the roadway that has been issued No Further Action (NFA) after the roadway cleanup is different if the spill has also migrated onto the adjacent soil that still requires cleanup. Using the same term NFA when applied is confusing to those wanting to ensure cleanup has been completed. Will both types of the NFA be included on Ecology's website?
 - Clarify and or define "remediation", "mitigation", etc. Please include a definition of emerging contaminants and contaminants of emerging concerns.
 - Please define, within this regulation, how dangerous waste and extremely hazardous waste apply in comparison to the Dangerous Waste Regulations. Chapter 173-303 WAC.
 - Please add a reference to Chapter 173-303 WAC for the disposal of Investigative Derived Waste.
 - WSDOT appreciates the proposal of "sites" as a replacement for "facilities". The term "site" can include linear projects and are more inclusive than the term facility.
 - Please define indigenous/traditional knowledge.
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- WSDOT does have an existing "inadvertent discovery plan" that it believes works with the language proposed in the rule.
 - Please define a cleanup/remediation of a waste and further explain the steps for a cleanup alternative. WSDOT appreciates the flexibility being offered when considering human health impacts for cleanup.
 - WSDOT is pleased that Ecology updated from the use of WARM with SHARP tool. Will there be additional workshops to further guide potential users of SHARP?
Is there a way to represent/identify homeless encampment issues? The ability to identify and categorize the associated issues will assist landowners that have potential liability.
 - Please insert "environmental/social justice" as a consideration for cleanups. Please define or direct the reader where the associated details will be housed in this regulation, other regulations, or guidance documents.
 - Adds "threatened" release with "discovery of release". Please clarify how threatened will be determined and if this with other such terms requires a process upfront or will be required for all areas.
 - How will Ecology balance its relisting issue with NFA and other waste designations? What are the Cost and implications for third parties?
 - WSDOT appreciates that Ecology proposes to extend the number of days, from 30 to 90, when there is a discovery of a release and the number of days for a report submittal.
 - WSDOT seeks confirmation that cleanups under Independent remedial actions can be done prior to, during, or after the initial investigation. If there is a waiting period, please clarify those circumstances and situations.

- WSDOT seeks flexibility with notification/publication (i.e. site register) for cleanups, public comment periods, workplans, and cleanup plans addressing cleanups on events on WSDOT right of way.
- WSDOT seeks clarification if workplans, remedial investigation, and remedial actions can concurrently be submitted.
- Please clarify the need to monitor for groundwater contamination and the role institutional controls may have in that relationship.
- Please clarify monitoring requirements for surface water and groundwater contamination and where institutional controls can be used in lieu of them.
- Please clarify how homeless encampments do or do not apply within MTCA.
- WSDOT appreciates the definitions of a settlement, with an agreed order, and no settlement.
- In terms of Tribal engagement, how will Ecology work with other potentially impacted agencies when engaging the Tribes on applicable sites?
- If Ecology implements the green/resilient approach to clean up, will guidance including examples for specifics like monitoring, fuel usage, and terms like environmentally friendly lube oil be defined or examples of such products with this approach be available in an Ecology guidance?

Thank you again for this opportunity, please let me know if you have any questions.

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