



Rule Implementation Plan

Chapter 173-340 WAC

Model Toxics Control Act Cleanup Regulations

Washington State Department of Ecology
Olympia, Washington

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¹ <http://www.ecology.wa.gov/contact>

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

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DEPARTMENT OF
ECOLOGY
State of Washington

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Acronyms and Abbreviations

APA	Administrative Procedure Act
CSL	Contaminated Site List
Ecology	Washington State Department of Ecology
EPA	U.S. Environmental Protection Agency
MTCA	Model Toxics Control Act
NFASL	No Further Action Site List
RCW	Revised Code of Washington
SHARP	Site Hazard Assessment and Ranking Process
SMS	Sediment Management Standards
STAG	Stakeholder & Tribal Advisory Group
TCP	Toxics Cleanup Program
UST	Underground Storage Tank
WAC	Washington Administrative Code

Chapter 1: Introduction

On August 23, 2023, the Washington State Department of Ecology (Ecology) adopted amendments to Chapter [173-340 WAC](#)², the Model Toxics Control Act (MTCA) Cleanup Regulations. The regulations, which are also called the rule, govern the investigation and cleanup of sites in Washington state that are contaminated by the release of hazardous substances.

The MTCA Cleanup Regulations help protect human health and the environment. The purpose of this rule implementation plan is to inform those who must comply with the rule amendments, and inform anyone who may be interested in learning how Ecology intends to implement the rule.

This document provides information about how Ecology intends to:

- Implement and enforce the rule.
- Inform and educate affected persons.
- Promote and assist voluntary compliance with the rule.
- Evaluate whether the rule is achieving its purpose.
- Train and inform Ecology staff about the rule amendments.

This plan also identifies:

- Supporting documents and tools that we may need to develop or update.
- Resources where you can find more information about the rule.
- Ecology staff who can answer questions about rule implementation.

This document is required by the Administrative Procedure Act ([RCW 34.05.328](#)).³

² <https://app.leg.wa.gov/WAC/default.aspx?cite=173-340>

³ <http://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328>

Chapter 2: Implementing and Enforcing the Rule

Ecology's Toxics Cleanup Program (TCP) will take the lead in implementing the rule changes. We will incorporate the rule's implementation into our ongoing program activities. Both implementation and enforcement remain part of Ecology's existing regulatory framework. These amendments modify, clarify, and enhance that existing regulatory framework.

2.1 Implementation

The amended rule was adopted on August 23, 2023, and becomes effective on January 1, 2024. Between the adoption and effective dates, TCP staff will develop guidance materials and tools, and provide trainings on key topics that support the amended rule changes.

During that period, Policy staff and subject matter experts in TCP will be responsible for developing new program policy and guidelines and updating existing documents. We will hold trainings and webinars for Ecology staff first—especially for those who implement the rule in their daily work. We then will provide trainings for other state and federal agencies, contaminated site owners and operators, cleanup consultants, and other members of the regulated community.

To promote the rule's implementation, our guidance documents and trainings will focus on several key topics:

- Environmental justice
- Tribal engagement and public participation requirements
- Site hazard ranking and assessment process (SHARP)
- Clarified procedures for remedial investigations and remedy selection
- Updated requirements for underground storage tanks (UST) release response.

In August 2023, the Toxics Cleanup Program hired a Deputy Program Manager who will lead the program's strategic planning. As of August, we are also recruiting three new full-time staff members who will support implementation of the new site hazard ranking and assessment process (SHARP). Existing program staff will complete other necessary implementation tasks.

2.2 Enforcement

The Model Toxics Control Act is Washington’s environmental cleanup law, Chapter [70A.305](#) RCW.⁴ This statute is Ecology’s authority for enforcement. Enforcement mechanisms are unchanged in the amended rule. Enforcement provisions are provided in RCW [70A.305.050](#)⁵ (Enforcement.).

⁴ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305>

⁵ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.050>

Chapter 3: Informing and Educating Affected Persons

Throughout the rulemaking, Ecology has conducted outreach to and encouraged participation from Ecology staff, the MTCA Cleanup Rule [Stakeholder & Tribal Advisory Group \(STAG\)](#),⁶ state and federal agency staff, business community members, MTCA practitioners, and the public. Ecology will continue reaching out and educating people who will be affected by the rule changes.

3.1 Affected Persons

The rule amendments will affect:

- Ecology staff working in cleanup
- Tribal governments
- Federal, state, and local government agencies
- Contaminated site owners and operators
- Environmental consultants and cleanup contractors
- UST owners and operators
- Other members of the regulated community

3.2 Information, Education, and Outreach

Immediately after the rule is adopted on August 23, 2023, we will distribute notices of rule adoption to the public through the Site Register, the MTCA-SMS-Rule-Update email distribution list, Ecology's website, and social media. We will email entities who are subject to the rule (and for whom we have email addresses), such as underground storage tank owners and operators and potentially liable parties.

TCP will then educate and inform internal Ecology staff and external persons who are affected by the rule by:

- Developing and updating guidance documents.
- Developing tool implementation plans such as SHARP tool, online program planning and assessment dashboard, electronic notification system.

⁶ https://www.ezview.wa.gov/site/alias__1988/37514/default.aspx

- Updating Ecology's webpages to notify users of the rule adoption and to direct them to published supporting documents and contact information.
- Providing trainings and webinars about newly established requirements and clarifications.
- Continuing to provide technical assistance to the regulated community and public as we interact with them.

Chapter 4: Promoting and Assisting Voluntary Compliance

Educating stakeholders about the rule's amended changes and clarifications will help to promote voluntary compliance. During site visits and work interactions, Ecology's site managers and staff will continue informing the regulated community about relevant changes and clarifying their expectations. TCP staff will also be available to conduct training sessions, provide technical assistance, and respond to queries by phone and email. The regulations and guidance documents will be available on Ecology's website and STAG website.

Chapter 5: Evaluating the Rule

As of the date of this document, the Toxics Cleanup Program's performance measures track several types of metrics that will be used to evaluate the rule's effectiveness over time. These metrics include:

- The percentage of sites cleaned up or in the process of being cleaned up;
- The percentage of acres of contaminated sediment sites cleaned up or in the process of being cleaned up; and
- The number of reported releases from underground storage tanks.

We also track the number of Brownfields sites that re-enter the market as productive, usable tax-revenue producing and environmentally restored sites. Additional metrics are tracked by TCP site managers who set cleanup standards in cleanup action plans and monitor the cleanup process to ensure compliance with rule requirements. Ecology staff can access these dashboards through an internal SharePoint site called [TCP Management Information Center](#).⁷

TCP staff plan to develop a public-facing, online planning and assessment dashboard on Ecology's website for reporting our program's progress and outcomes. As we develop the dashboard, we will identify additional goals, strategies, and metrics for core program elements, as well as major initiatives that (at a minimum) will include:

- Initial investigations under WAC [173-340-310](#)⁸;
- Site hazard assessments and rankings under WAC [173-340-320](#)⁹;
- Each of the administrative options for investigating and cleaning up a contaminated site described in WAC [173-340-510](#)¹⁰ and [173-340-515](#)¹¹;
- Public funding of remedial action projects from the model toxics control capital account under RCW [70A.305.190](#)(4)(a)¹²; and
- Periodic reviews under WAC [173-340-420](#).¹³

⁷ <http://ecyaptcp/TCPMIC> [Internal SharePoint site for Ecology staff]

⁸ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-310>

⁹ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-320>

¹⁰ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-510>

¹¹ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-515>

¹² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.190>

¹³ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-420>

Additional metrics may include:

- Existing measures from TCP Management Information Center, as appropriate.
- Number of sites awaiting cleanup and in cleanup started status (cumulative and by year), and region for likely overburdened communities and other communities.
- Number of sites on the Contaminated Site List (CSL) and No Further Action Site List (NFASL) (cumulative and by year), and region for likely overburdened communities and other communities.
- Number of SHARP rankings for new sites (cumulative and by year), and region for likely overburdened communities and other communities.
- Number of SHARP rankings for sites on CSL prior to January 1, 2024, (cumulative and by year), and region for likely overburdened communities and other communities.

Chapter 6: Training and Informing Ecology Staff

Training and informing Ecology staff will be key to efficiently implementing the rule's changes. TCP's Policy and Communications staff and subject matter experts will provide guidance documents and update Ecology's webpages. They will also offer training sessions and webinars to inform Ecology staff about the rule amendments and how those changes affect their work.

At a minimum, our informational materials and trainings will focus on the following key topics, with additional topics to be added as needed:

- Environmental justice;
- Tribal engagement;
- SHARP;
- Public participation and notification;
- Clarified procedures for remedial investigations and remedy selection;
- Updated requirements for underground storage tanks (UST) release response; and
- Disproportionate cost analysis procedures.

We will offer trainings for Ecology staff in TCP and other Ecology programs starting in the fall of 2023.

Our first trainings for TCP staff are scheduled in September and October 2023 as part of our program's ongoing, internal training series called "TCP University."

In September 2023, we have scheduled trainings on environmental justice and SHARP for staff in the Hazardous Waste and Toxics Reduction Program.

In November 2023, we are planning trainings for staff in other Ecology programs beyond the Toxics Cleanup and Hazardous Waste and Toxics Reduction programs. We will focus outreach efforts to staff who work on site cleanups and enforce MTCA in the Solid Waste Management and Nuclear Waste programs.

Chapter 7: Developing or Updating Supporting Documents and Tools

Ecology will develop or update the following list of supporting documents and tools:

1. Environmental justice guidance on the consideration of vulnerable populations and overburdened communities:
 - In alternative selections in feasibility studies.
 - On site-specific considerations related to climate resiliency.
 - On site cleanup prioritization and planning.
 - On public participation and facilitating equitable participation.
2. Tribal engagement plan and guidance.
3. SHARP implementation plan and online application.
4. Guidance on new feasibility reporting requirements for independent cleanups.
5. Guidance on the updated procedures for remedial investigations and remedy selection.
6. Underground storage tank systems guidance on revised compliance deadlines, and information on vapor intrusion pathways in initial site characterizations.
7. Policy on disproportionate cost analysis criteria and procedures.
8. Online dashboard on Ecology website to report strategic plans and performance assessments.
9. Online list of Ecology-approved methods on Ecology's website.
10. Electronic public notification tool.

Chapter 8: Additional Information and Contacts

8.1 Rulemaking

For more information about the rulemaking and to learn more about the changes to the rule, visit the [Chapter 173-340 rulemaking](#)¹⁴ webpage.

Visit the [STAG website](#)¹⁵ to learn about the Stakeholder & Tribal Advisory Group (STAG).

To receive updates about Ecology's cleanup rulemakings, subscribe to the [MTCA-SMS-Rule-Update email distribution list](#).¹⁶

If you have any general questions about the rulemaking or implementation of the rule amendments, please contact:

Clint Stanovsky, Rulemaking Lead
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-742-9703
MTCARule@ecy.wa.gov

8.2 Toxics Cleanup Program

For more information about Ecology's cleanup program that oversees and removes the contamination that can harm your health and environment, visit our [Toxics Cleanup Program](#)¹⁷ and [Model Toxics Control Act](#)¹⁸ webpages.

To receive updates about Ecology's cleanup program, subscribe to the [Site Register](#)¹⁹

¹⁴ <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-340>

¹⁵ https://www.ezview.wa.gov/site/alias__1988/37514/default.aspx

¹⁶ https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_102

¹⁷ <https://ecology.wa.gov/spills-cleanup/contamination-cleanup>

¹⁸ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act>

¹⁹ https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_118

8.3 Site Hazard Assessment and Ranking Process

For more information about Ecology's Site Hazard Assessment and Ranking Process (SHARP) visit our [Ranking contaminated sites](#)²⁰ webpage.

If you have any questions about SHARP, please contact:

Eileen Webb, SHARP Project Manager
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-763-2305
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8.4 Underground Storage Tank Regulatory Program

For more information about Ecology's Underground Storage Tank (UST) regulatory program, visit our [UST webpages](#).²¹

If you have any questions about the UST program or the changes to WAC 173-340-450, which governs initial response to UST releases, please contact:

Kristopher Grinnell, UST Coordinator
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-870-8459
kristopher.grinnell@ecy.wa.gov

²⁰ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Ranking-contaminated-sites>

²¹ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Underground-storage-tanks>

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