



Proposed Changes to the Model Toxics Control Act Cleanup Regulation

Now is the time to comment!

Ecology has prepared this fact sheet to update you on proposed changes to the MTCA rule. We hope you will take this opportunity to learn more about the proposed changes and tell us what you think.

**The public comment period is:
April 4 through May 25, 2007**

If you have comments on the proposed rule, please send them to:

Mr. Pete Kmet
Department of Ecology,
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
E-mail: pkme461@ecy.wa.gov

Ecology has scheduled three public hearings to receive written or oral comments on the proposed changes to the rule. At each public hearing, an overview presentation and question and answer period will be held prior to the start of the official public hearing. Following are the dates, times, and locations of the public hearings:

Public hearing dates, times and locations:

Seattle
May 10, 2007 - 5:30 p.m.
St. Benedict School Auditorium
4811 Wallingford AVE N

Port Angeles
May 14, 2007 - 5:30 p.m.
County Commissioners Board Room
Clallam County Courthouse
223 E 4th ST

Spokane
May 17, 2007 - 5:30 p.m.
Department of Ecology
Eastern Regional Office
N 4601 Monroe ST, STE 100
Second Floor Conference Room

For more information or questions, please call (360) 407-7187 or TCP Receptionist (360) 407-7170, or view the website at:

http://www.ecy.wa.gov/programs/tcp/regs/amend_2007/proposed_amend.html

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The Washington State Department of Ecology (Ecology) is proposing changes to the Model Toxics Control Act (MTCA) Cleanup Regulation (Chapter 173-340 WAC). The rule revisions will update the policies and procedures for establishing and evaluating compliance with cleanup levels and remediation levels for several types of chemicals.

Reasons for the Proposed Rule Changes

The Model Toxics Control Act was passed by Washington voters in November 1988. The law establishes the basic authorities and requirements for cleaning up contaminated sites.

Ecology originally adopted cleanup standards in February 1991 and completed significant changes to the cleanup standards in February 2001. Under the revised rule, a person undertaking a cleanup action may use the Environmental Protection Agency's toxicity equivalency factor (TEF) values and methodology when assessing dioxin and furan mixtures. Later that year, Ecology published a guidance document that explains how to use the TEF methodology when establishing cleanup levels.

In November 2005, the Rayonier Corporation filed a lawsuit challenging Ecology's use of the guidance document at the Port Angeles mill site. Rayonier argued that the MTCA rule requires Ecology to establish cleanup levels for each dioxin congener. This was based on using a cancer risk level of one-in-one million (or 10^{-6}), as opposed to applying 10^{-6} risk level to the whole mixture. In April 2006, Ecology settled the lawsuit and agreed that Rayonier's approach was also a possible interpretation of the current MTCA rule. Ecology agreed to settle the lawsuit because neither the current MTCA rule nor the federal guidance referenced in the MTCA rule clearly requires the procedures in the CLARC guidance.

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Along with settlement discussions, several environmental organizations presented a rulemaking petition to Ecology in March 2006. These groups requested that Ecology amend the rule. This would clarify that the policies and procedures mentioned in the Ecology guidance are used when establishing cleanup levels for dioxins/furans and other similar mixtures. Ecology reviewed the petition and decided to begin the rulemaking process to address the issues raised in the lawsuit and rulemaking petition. Ecology decided that amending the MTCA rule to define key policy choices is preferable versus resolving those policies on a site-specific basis.

Summary of the Proposed Rule Changes

Ecology proposes revising the policies and procedures. These revisions set cleanup levels and remediation levels for certain chemical mixtures and establish compliance with those levels. The changes apply to mixtures of dioxins and furans, polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs). The proposed revisions include:

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Toxics Cleanup Program
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PUBLIC COMMENT REQUESTED
We use several mailing lists. If you receive a duplicate, please pass it on.

Risk Policies Applicable to Certain Mixtures.

Ecology proposes:

- Cleanup levels for dioxin and furan mixtures are based on a cancer risk of one-in-a-million.
- Cleanup levels for PAH mixtures are based on a cancer risk of one-in-a-million.
- Cleanup levels for PCB mixtures are based on a cancer risk of one-in-a-million.
- Toxic Equivalency Factors Used to Characterize Mixtures. Ecology proposes amending the rule to add the most recent toxicity equivalency factors (TEFs) for dioxins/furans and PCBs recommended by the World Health Organization. Ecology also proposes updating potency equivalency factors (PEFs) for carcinogenic PAHs adopted by the California Environmental Protection Agency.
- Default Parameters Used to Calculate Cleanup Levels. Ecology proposes revising the default Gastrointestinal Absorption Fraction used to establish soil cleanup levels for dioxins and furans.
- Evaluating Cross-Media Impacts. Ecology proposes requiring that cleanup proponents consider the physical-chemical properties of individual PAH compounds or dioxin-congeners when evaluating cross-media impacts.