



Rule Adoption Notice

MTCA Cleanup Regulation, Chapter 173-340 WAC

As a result of legislation passed in 2003 (ESSB 5766), The Department of Ecology (Ecology) is required to send out notification to businesses affected by rule adoptions. To comply with this law and to keep the regulated community better informed of Ecology rule adoptions, you are receiving this notification of a rule adoption.

CONTACTS

Program:

Pete Kmet
PO Box 47600
Olympia WA 98504
(360) 407-7199
pkme461@ecy.wa.gov

Rules Coordinator:

Jerry Thielen
PO Box 47600
Olympia, WA 98504
(360) 407-7551
jthi461@ecy.wa.gov

MORE MTCA CLEANUP REGULATION INFORMATION ONLINE

Visit:
http://www.ecy.wa.gov/programs/tcp/regs/final_amend_2007/amend.html

To get updates on Ecology's rulemaking activities, sign up for the WAC Track e-mail list.

Visit:
www.ecy.wa.gov/maillist.html

Requirements of the rule

The Model Toxic Control Act (MTCA) Cleanup Regulation sets up administrative processes and standards to identify, investigate, and clean up sites where hazardous substances have been released. It provides a process to complete effective and expeditious cleanups in a manner that protects human health and the environment. The rule mainly addresses releases of hazardous substances caused by past activities. However, the rule may be applied to potential and continuing releases of hazardous substances caused by current activities.

Summary of the rule changes adopted on November 12, 2007

Ecology is amending the MTCA Cleanup Regulation in response to a rulemaking petition presented by several environmental groups. These groups asked Ecology to amend the rule requirements for setting cleanup levels for dioxins/furans and other similar mixtures.

The rule revisions apply to sites with dioxins and furans, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs). The rule amendments include four main changes:

- Ecology revised the rule to require that Method B cleanup levels for mixtures of dioxins and furans, PAHs, and PCBs must each be based on a cancer risk of one-in-a-million.
- Ecology incorporated the most recent toxicity equivalency factors (TEFs) for dioxins/furans and PCBs developed by the World Health Organization and potency equivalency factors (PEFs) for carcinogenic PAHs adopted by the California Environmental Protection Agency.
- Ecology revised the method for considering the relative bioavailability of soil-bound dioxins and furans when setting soil cleanup levels.
- Ecology revised the rule to require people to consider the physical and chemical properties of individual PAH compounds or dioxin congeners when evaluating the movement of these chemicals in the environment.

Effective November 12, 2007

This amendment to Chapter 173-340 WAC becomes effective November 12, 2007

Anticipated effects of the rule

The revisions to the rule will affect facilities where there has been a release or threatened release of dioxins and furans, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) in amounts that may pose a threat to human health or the environment.

Public involvement

Ecology direct-mailed a focus sheet about the proposed rule, public involvement opportunities, and public hearing information to over 450 interested people. Recipients included environmental organizations, the business community, local governments, tribes, and other interested persons. Ecology also announced the proposed rule and public hearings in the Site Register, which is sent to over 1,500 individuals by direct mail and electronically.

Members of the public were given an opportunity to comment on the proposed rule amendments and a Determination of Non-Significance (DNS) issued under the State Environmental Policy Act (SEPA). Ecology provided a fifty-one day formal comment period that ended on May 25, 2007.

Ecology held three public hearings on the proposal: one in Seattle, one in Spokane, and one in Port Angeles. Printed notice of the proposed rule and public hearings were published in the Peninsula Daily News, The Columbian, the Seattle Times, the Yakima Herald-Republic and The Olympian. Ecology also published the notice of hearing dates on its Public Events Calendar webpage. Forty-two people attended the hearings and ten people provided oral testimonies.

Ecology received numerous written comments. The Concise Explanatory Statement including the agency's response to comments is available at the following website: http://www.ecy.wa.gov/programs/tcp/regs/final_amend_2007/amend.html

Appeal procedures

The Administrative Procedure Act (RCW 34.05.330) describes how people can appeal this adoption. To learn more about appealing this adoption, please contact Jerry Thielen, Ecology's Regulatory Affairs Manager at (360) 407-7551 or by e-mail jthi461@ecy.wa.gov.

For more information on the MTCA rule changes

Contact Pete Kmet at pkme461@ecy.wa.gov or (360) 407-7199.

If you require special accommodations or need this document in an alternate format, please contact the Toxics Cleanup Program at (360) 407-7170. People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call 877-833-6341.

