



Toxics Cleanup Program

Policy 120A: Independent Remedial Actions

Established: December 2016

Contact: Policy and Technical Support Unit, Headquarters

Purpose: Independent remedial actions are remedial actions conducted without the department's oversight or approval and are not under an order or decree. However, limited assistance may be given to persons conducting independent cleanups. This policy gives guidance on the nature and extent of assistance. Toxics Cleanup Program (TCP) management considers appropriate at sites where the department is not pursuing oversight.

Disclaimer: This Policy is intended solely for the guidance of Ecology staff. It is not intended, and cannot be relied on, to create rights, substantive or procedural, enforceable by any party in litigation with the state of Washington. Ecology may act at variance with this Policy depending on site-specific circumstances, or modify or withdraw this Policy at any time.

Approved by: _____

Accommodation Requests: To request ADA accommodation, including materials in a format for the visually impaired, call Ecology's Toxics Cleanup Program at 360-407-7170. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.

Purpose and Applicability

Independent remedial actions are remedial actions conducted without the department's oversight or approval and are not under an order or decree. However, limited assistance may be given to persons conducting independent cleanups. This policy gives guidance on the nature and extent of assistance Toxics Cleanup Program (TCP) management considers appropriate at sites where the department is not pursuing oversight.

1. TCP Staff May Assist Individuals Conducting Independent Cleanups.

In accordance with WAC 173.340.130(3)(a) & (b), TCP staff may provide requested informal advice and assistance to persons conducting independent actions at any time during the development and implementation of the independent remedial actions.

2. Technical Assistance Shall Be Limited.

Technical assistance at independent cleanup sites shall be limited in duration. Under most circumstances, technical assistance on independent sites should be no more than limited telephone contact and/or short meetings. Staff should consider the requirements of WAC 173-340-130(3)(b) for those technical assistance requests which are likely to involve significant staff time.

Staff are limited to providing assistance on the general administrative and technical requirements of Ch. 173-340 WAC.

Note: Persons conducting independent remedial actions should be notified that any comments the department makes on sites being cleaned up without an order or decree are merely advisory and nonbinding, and that they do not constitute an approval of remedial action. (See WAC 173-340-130(3)(a).)

3. TCP May Allow Independent Actions At Sites On The Program Plan

Generally, once TCP begins action at a site on the program plan, the cleanup at that site should be conducted with TCP oversight. However, under some circumstances it is appropriate to allow independent actions at sites on the program plan. For example, if a site is scheduled for department action at some time in the future, but resources are not yet available to begin action, it may be appropriate to allow an independent action to proceed.

If an independent cleanup action is conducted at a site on the program plan before TCP is ready to initiate action, the site manager may:

- a. replace the site with another on the program plan;

- b. inform the owner/operator that TCP intends to be involved in the decision-making at the site and begin preparations for an order or decree; or
- c. inform the owner/operator that TCP intends to be involved in the decision-making at the site at some time in the future when resources are available.

4. Independent Cleanup Reports For Previously Unknown Sites Trigger Initial Investigation Determination.

For previously unreported releases that may pose a threat to human health or the environment, Ecology shall conduct an initial investigation within 90 days of receiving an independent interim action or cleanup action report. (See WAC 173-340-310, and Policy 310A).

In these situations, the independent report should be reviewed on at least a cursory basis by TCP staff and used in making one of the following initial investigation determinations:

- a. Emergency remedial action is required;
- b. Interim action is required;
- c. A site hazard assessment is required; or
- d. No further action is required at this time.

5. For Sites Known To TCP, Independent Interim Action And Cleanup Reports Are Reviewed To Aid Pre-Remedial Decision Making.

As resources are available, independent cleanup reports will be reviewed to aid pre-remedial decision making.

For sites where an initial investigation has been conducted, independent interim action or cleanup reports are used to help TCP staff: prioritize sites for SHAs, prioritize sites for placement on the program plan, or determine if a site can be removed from the hazardous sites list.

When independent interim action or cleanup reports are reviewed with more detail to aid pre-remedial decision making, the evaluation should normally include:

- a. Site visit to evaluate current site conditions;
- b. Review of pertinent sampling and analytical data. (i.e. parameters tested and extent of sampling);

- c. Assessment of potential routes of exposure;
- d. Assessment of potentially affected environment;
- e. Comparison of cleanup levels achieved to those required by MTCA cleanup standards;
- f. Comparison of the remedy selected with the requirements in WAC 173-340-360; and
- g. Consideration for delisting the site.

(See Pol 330A.)

6. Reports For Releases From Underground Storage Tanks (USTs) Shall Be Examined For Compliance with WAC 173-340-450.

Independent remedial action reports for releases associated with non-exempt USTs should include all applicable information required in WAC 173-340-450, unless the information has been previously submitted to TCP. TCP staff should refer to the "Guidance for Remediation of Releases from Underground Storage Tanks" to evaluate UST cleanups.

7. The Regional Site Register Contact Shall Ensure That Owners/Operators Are Provided Notice Before Listing Receipt Of An Independent Action Report In The Site Register.

Prior to listing receipt of the independent interim action or cleanup report in the site register, the site register contact will ensure that the owner/operator or other report originator is sent written notification acknowledging receipt of the report.

8. Independent Action Reports Shall Be Listed In The Site Register.

In accordance with POL 600A, the independent report recipient will forward all appropriate information on independent action reports to the site register contact. Receipt of independent action reports shall be listed in the site register as required by WAC 173-340-600.

9. Independent Cleanup Sites Requiring Further Action Shall Be Included On The SMIS/SIS Or LUST Database.

Independent cleanup sites where TCP has determined that further action is required shall be listed on the SMIS/SIS or LUST database in accordance with Policy 310A.