

PUBLIC PARTICIPATION AND THE MODEL TOXICS CONTROL ACT: WHAT, WHY AND WHEN TO COMMENT

The Model Toxics Control Act (MTCA) is Washington's hazardous pollution cleanup law (WA State "Superfund"). MTCA funds and directs the investigation, cleanup, and prevention of sites that are contaminated by hazardous substances. MTCA works to protect people's health and the environment, and to preserve natural resources for the future.

The Washington State Department of Ecology (Ecology) encourages community feedback via public comment periods during several parts of the cleanup of a polluted site.



PUBLIC PARTICIPATION PLAN (PPP)

The PPP provides meaningful opportunities for community involvement prior to making cleanup decisions at a site.

It describes the tools that Ecology will use to inform the public about site activities and identify opportunities for people to become involved in the cleanup decision-making process. The PPP for MTCA sites is like the Environmental Protection Agency's (EPA) Community Involvement Plan for Superfund sites.

The PPP is intended to be a flexible working document that will be updated as community concerns emerge and more information becomes available during the cleanup process. Commenting on the PPP is important because you may have information about how and when the community should be involved that Ecology does not know about.

LEGAL AGREEMENTS

A legal agreement is made between Ecology and the persons responsible for investigating and cleaning up the contamination at a site. When the public reviews and comments on legal agreements, it ensures that the public is a part of the cleanup decision-making process. The public can provide suggestions on important steps of the cleanup (e.g. cleanup plans or post-cleanup monitoring and restrictions).

There are two types of legal agreements:

1. A Consent Decree is a formal legal agreement filed in court.
2. An Agreed Order is a legally binding administrative order issued by Ecology and agreed to by the responsible persons.

INTERIM ACTIONS

An interim action is different from a cleanup action in that it only partially addresses the cleanup of a site. These partial cleanup actions may occur any time during the cleanup process, and they require the same public participation that cleanup actions require under MTCA.

Commenting on interim actions is important because you may agree or not agree with the decision or have concerns about how it will affect human health and/or the environment.

REMEDIAL INVESTIGATION (RI) + FEASIBILITY STUDY (FS)

The RI determines the type of pollution and where it has spread. It also determines the potential risks to human health and the environment. This information is necessary to develop and evaluate cleanup action plan alternatives (see FS section below). Commenting on the RI is important because you may agree or not agree with how the site has been described and how people may be exposed.

The FS assembles a list of different ways (alternatives) to clean up a site. It also reviews the different cost options. It chooses a preferred cleanup alternative based on whether the proposed alternative adequately protects public health and the environment. Commenting on the FS is important because community voice is critical to centering and prioritizing public health over polluter costs. You may have a personal story about how your community is harmed and want to propose another alternative that is more protective of community health.

CLEANUP ACTION PLAN

The CAP is Ecology's plan for how a site will be cleaned up. It provides the cleanup standards, the schedule for cleanup, and how the site will be monitored and maintained over time. It is similar to the EPA's Record of Decision for Superfund sites. Commenting on the CAP is important because you may agree or not agree with level of cleanup Ecology is requiring and/or the way Ecology is planning to do the cleanup and have suggestions that prioritizes human health and/or the environment.

REVIEWS AND DE-LISTING

Once a site is cleaned up, every 5 years Ecology reviews whether the cleanup standards are being achieved. Assuming the site stays clean over time, Ecology will remove the site from its Hazardous Sites List (also known as "de-listing"). Comments on reviews and de-listing is important because you may want to share important information that could help Ecology determine whether additional cleanup is necessary to protect human health and the environment at the site.

PLEASE SEE OUR PUBLIC COMMENT 101 FACT SHEET FOR HOW TO MAKE PUBLIC COMMENTS →

