

Frequently Asked Questions

Toxics Cleanup Program

May 2012

Questions and Answers on the Model Toxics Control Act (MTCA)

Q: What is the Model Toxics Control Act (MTCA)?

A: In March of 1989, an innovative, citizen-mandated toxic waste cleanup law went into effect in Washington, changing the way contaminated sites in this state are cleaned up. Passed by voters as Initiative 97, this law is known as the Model Toxics Control Act, chapter 70.105D RCW. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process.

Q: What agency is responsible for implementing and enforcing the Model Toxics Control Act?

A: Washington State Department of Ecology Toxics Cleanup Program.

Q: Who pays for Cleanups under the Model Toxics Control Act?

A: Cleanups under MTCA are paid for by persons responsible for the contamination, called “potentially liable persons”. When the persons responsible for cleanup refuse to do the work, Ecology has the authority to do the cleanup and take court action to recover its costs. Grants are available for local governments to help pay for cleanups they are responsible for. Information on local government grants can be found at: <http://www.ecy.wa.gov/programs/swfa/grants/raq.html>

Q: Who is a “potential liable person”?

A: In general, any past or present relationship with a contaminated site may result in responsibility for cleanup. Under MTCA, a potentially liable person can be:

- A current or past facility owner or operator.
- Anyone who arranged for disposal or treatment of hazardous substances at the site.
- Anyone who transported hazardous substances for disposal or treatment at a contaminated site, unless the facility could legally receive the hazardous materials at the time of transport.
- Anyone who sells a hazardous substance with written instructions for its use, and abiding by the instructions

WHY IT MATTERS

Public outreach to citizens and the City of Kenmore.

Contact information

Maura S. O'Brien - Site Manager
Washington State Department of Ecology – Toxics Cleanup Program
3190 160th Ave. SE.,
Bellevue, WA 98008
Phone: (425) 649-7249
Email: maura.obrien@ecy.wa.gov

Document Review Locations

Kenmore Public Library
6531 Northeast 181st Street
Kenmore, WA 98028
Phone: (425) 486-8747

City of Kenmore
18120 68th Avenue Northwest,
Kenmore WA 98028
Phone (425) 486-8747

Department of Ecology
Northwest Regional Office
3190 160th Ave. SE
Bellevue, WA 98008
By appointment only:
Contact Sally Perkins
Email: sally.perkins@ecy.wa.gov
Phone: (425) 649-7190

Ecology's Website

<https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>

Special accommodations

If you need this document in a format for the visually impaired, call (425) 649-7117.

Persons with hearing loss, call 711 for Washington Relay Service.
Persons with a speech disability, call (877) 833-6341.

results in contamination.

However, there are a number of exemptions and defenses to liability under MTCA. Persons potentially liable for cleanup are encouraged to contact an environmental attorney familiar with the law to determine their liability status.

Q: What if there is more than one potential liable person?

A: When there is more than one potentially liable person, each person is “jointly and severally” liable for cleanup at the site. This means any one potentially liable person can be held liable for the entire cost of cleanup. Ecology encourages all parties involved to work together to negotiate how the cost of cleanup will be shared among all potentially liable persons.

Q: How does a site gets listed?

A: After learning about potential contamination on property, Ecology, or the local health department under contract to Ecology, conducts an “initial investigation” to confirm that the site requires further cleanup. This investigation typically includes a review of available records about the site, a site inspection, and sometimes limited testing to confirm contamination is present. If this investigation confirms that further action (such as testing or cleanup) may be necessary, the facility is entered onto Ecology’s “Integrated Site Information System” database and a notification letter is sent to the owner and other persons Ecology is aware of that may be potentially liable for cleanup of the site.

Q: What is the Hazardous Sites List?

A: All confirmed contaminated sites that have not been already voluntarily cleaned up undergo a more detailed evaluation. These sites are ranked according to their risk and placed on Ecology’s “Hazardous Sites List”.

Q: What is a Consent Decree?

A: A consent decree is a formal legal agreement filed in court. The cleanup work to be conducted and the terms under which it must be done are negotiated and agreed to by the potentially liable person, Ecology and the state Attorney General’s office. Consent decrees protect the potentially liable person from being sued for “contribution” by other persons that underwent cleanup expenses at the site. Consent decrees can also be used to support a claim against other potentially liable persons requesting that they help pay for part of the cleanup costs. Sites cleaned up under a consent decree are exempt from having to obtain certain state and local permits but they are required to comply with the technical standards typically contained in those permits.

Where I can find information about Ecology Cleanup Sites?

A: <https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>

Q: What are the steps to clean up a site under MTCA?
A:

Figure 2. Model Toxics Control Act Cleanup Steps.



*Comment periods can be combined when possible.

Q: How is the public kept informed of cleanups under the MTCA?

A: The public is notified and given an opportunity to review and comment on all Agreed Orders, Consent Decrees, Enforcement Orders and Interim Actions created to achieve cleanup under MTCA.

The notices include:

- **Fact Sheet or postcard notification:** Ecology will mail fact sheets to businesses and persons living near a site and interested organizations to inform them of public meetings, opportunities for comment, and important site activities. Comment periods are the primary method Ecology uses to get feedback from the public on proposed cleanup decisions. Comment periods usually last 30 days and are typically announced at key points in the cleanup process.
- **Site Register notification:** The “Site Register” is an electronic newsletter issued by Ecology providing information on cleanups and opportunities for public comment occurring. To receive the Site Register in electronic or hard copy format, please call (360) 407-6000. The Site Register is also available on Ecology’s website at:
http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html
- **Public Calendar:** Ecology also publishes an electronic calendar notifying the public of upcoming public meetings for all agency activities. The Public Involvement Calendar is available on Ecology’s website at: <http://apps.ecy.wa.gov/pubcalendar/calendar.asp>
- **Public Participation Plan:** Ecology’s intent is to provide meaningful opportunities for community involvement prior to making cleanup decisions at a site. A public participation plan describes the tools that Ecology will use at a site to inform the public about site activities and identify opportunities for the community to become involved. The plan 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.
- **Mailing List:** Ecology maintains a list of interested parties, organizations, and residents living near a cleanup site. This mailing list is used to distribute information regarding the cleanup to interested individuals and to announce public comment opportunities.
- **Information Repositories:** Information repositories are convenient places where the public can go to read and review site information. The information repositories are often at public libraries or community sites and Ecology regional offices. During the comment period, the site documents will be available for review at listed repository locations for the site.

For the northwest Washington region including King County, site documents are available at: Ecology Northwest Regional Office, 3190 160th Ave. SE, Bellevue, WA 98008-5482 (Please call Sally Perkins at (425) 649-7190 for an appointment).

- **Public Meetings:** When there is a high level of public interest in a site, Ecology will often hold informal public meetings at key times during the cleanup process to keep the public informed and solicit input before Ecology makes a decision. In addition, if ten or more people request a formal public hearing/ public meeting during a comment period, Ecology will hold a formal public hearing/public meeting for the purpose of taking comments on proposed actions at a site.
- **Website:** Every contaminated site in Ecology's Integrated Site Information System (ISIS) database has a website as of late 2011. To find a cleanup site, go to :
<https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>

Q: Are there grants available for local citizen groups and neighborhoods affected by contamination?

A: Citizen groups living near contaminated sites may apply for public participation grants during open application periods. These grants help citizens receive technical assistance in understanding the cleanup process and create additional avenues for public participation. For more information about public participation grants, please go to Ecology's website at:
<http://www.ecy.wa.gov/programs/swfa/grants/ppg.html>