

# PERFORMANCE AUDIT

## Report Highlights



Office of the  
Washington  
State Auditor  
Pat McCarthy

## Community Engagement During Contaminated Site Cleanups

Toxic substances in the environment endanger human health until someone cleans them up. Diesel fuel and home heating oil, heavy metals like mercury and lead, chemicals like PCBs and dioxins: these and other pollutants can contaminate entire ecosystems including soil, water, sediment and air. If left untreated, such problems damage the environment further by entering the water supply, emitting toxic gases that intrude into buildings, and degrading the soil so it becomes unsafe to live upon. The adverse consequences for our health if such contaminants are left untreated are well documented. They include increased risk of damage to the central nervous system, impaired responses in the immune systems, cancer and premature death. Washington state agencies have documented more than 14,000 known or suspected contaminated sites in our state; about 7,900 have been addressed or do not need cleanup actions at present. The state's current roster lists 6,378 sites in need of cleanup; some are in the process of remediation or cleanup, others are being monitored to determine if further work is needed. These risks to human health are not uniformly distributed across the state's population, however, and vulnerable populations are disproportionately exposed to the problems of contaminated sites.

Federal and state laws govern how the Department of Ecology should clean up contaminated sites. But beyond the physical act of remediating the problem, these laws also define the nature and scope of community and tribal engagement Ecology must perform during the cleanup process. Three laws in particular underpin Ecology's responsibilities:

- The federal Resource Conservation and Recovery Act of 1976
- The state Model Toxics Control Act of 1989
- The state Healthy Environment for All Act of 2021

The community engagement prescribed by these laws is intended to create and sustain trusting relationships by facilitating two-way communication around local perspectives. Contaminated sites are primarily concentrated in communities with vulnerable populations and can lead to worse health outcomes for the people living there. For these reasons, this audit aimed to determine if there is inequity in how Ecology engages with communities near cleanup sites. This audit examined how Ecology collects and incorporates feedback from the communities and Native American tribes living in proximity to contaminated sites in Washington. The audit also considered the role of the Department of Health with respect to Ecology's cleanup efforts.

## **Ecology manages only 8% of Washington's contaminated sites, leaving the majority of sites without any requirements for community engagement**

During our audit work, we found an underlying issue we did not expect: that Ecology is currently responsible for delivering community and/or tribal engagement activities on only a small fraction of the 6,378 active cleanup sites listed on the agency's website.

Ecology currently manages 8% of active contaminated sites, where it provides required community engagement. These are sites where Ecology either conducts the cleanup or supervises the cleanup by another party under a legal agreement. The majority of sites – 57% – are managed by third parties, without Ecology's participation in or oversight of community engagement that would otherwise have been required by the work under the Model Toxics Control Act. This means the communities affected by the 212 higher risk sites managed by third parties may not receive such activities, nor will Ecology know what community engagement the third parties might have conducted, because the agency is not required by law to perform such oversight. In addition, we found information about independently managed sites was difficult to obtain on Ecology's website. Another 1,600 contaminated sites lack plans for when, how or who will clean them up. Furthermore, our analysis found that 125 of these planless sites have been ranked as either high risk or moderate-high risk.

Improved coordination between Ecology and Health, as well as local health departments, could help keep local communities safe. We found agency collaborative efforts appeared to be informal, while staff guidance and training also appeared minimal. Poor coordination between Ecology and local health departments can contribute to health hazards for community members.

## **Although Ecology followed many required and leading practices, local community experiences varied widely**

Ecology met most legal requirements and leading practices at six cleanup sites we evaluated for community engagement activities, with two exceptions. At the start of a cleanup project, Ecology could improve its community research; at the end of the project, it could more consistently evaluate its community engagement activities. Our community interviews revealed some dissatisfaction about Ecology's engagement with people affected by cleanups. Interviewees sought tailored engagement efforts that more directly addressed their needs. Ecology's lack of a uniform approach in handling other aspects of community outreach likely contributed to their concerns.

## **While some tribes said Ecology's level of engagement met their needs, others said they needed more and earlier in the cleanup process**

Multiple laws impose unique requirements regarding Ecology's engagement with tribes. The audit solicited the views of tribal representatives concerning their experiences with Ecology and its engagement requirements under these laws. Most participants said the agency's engagement met their tribe's needs, while responses varied on whether those engagement activities felt equitable. Ecology's early engagement efforts met most participants' needs. Finally, tribal representatives had ideas for how the agency could improve its engagement efforts. Ecology staff said they are already making changes to address new legal requirements.

## State Auditor's Conclusions

The sheer number of contaminated sites in our beautiful state is concerning. Of the more than 14,000 documented sites, about 6,300 have yet to see cleanup activities completed. It is very likely that most of these sites will need to be cleaned up to protect the health of Washington residents.

The sites vary widely, from long-closed gas stations in rural areas to former industrial plants near urban areas. More than half of the 6,300 contaminated sites are managed by third parties, like private property owners. Another 1,600 of them lack plans for when, how or who will clean them up. Like many members of the public, we expected that the state was responsible for oversight of this issue. Part of that oversight is ensuring local communities are engaged before and during the cleanup process.

As this report details, however, most sites are not actively overseen by the state, and therefore not subject to community engagement requirements.

We determined that the state Department of Ecology currently manages just 493 of active contaminated sites. We found that Ecology, when it does manage a project, for the most part effectively engages surrounding communities and affected Native American tribal governments in the cleanup process. Nonetheless, people we interviewed who had experience working with the agency noted areas where it could improve its efforts. This audit includes recommendations to help it do so.

In my view, the more pressing concerns are projects overseen by third parties. It is appropriate that those responsible for the contamination of the land should be responsible for its cleanup. However, unlike Ecology, third parties face no requirement to engage with the local community.

Washington's approach to environmental justice directs agencies, including the Department of Ecology, to ensure they facilitate the equitable participation of marginalized people, such as those who work and live near places affected by contamination. Therefore, I believe Ecology should consider how an equitable approach to engagement can become the norm for higher risk site cleanup efforts, such as the 212 sites we identified, not just the comparatively small share under the state's direct supervision.

## Recommendations

We made a series of recommendations to the Department of Ecology to address a lack of community engagement activities at independently managed contaminated sites, and to further improve community and tribal engagement at site cleanups conducted or supervised by Ecology. We recommended the agency ensure community engagement occurs at high risk and moderate-high risk sites managed by third parties, and establish a proactive plan for evaluating the highest risk sites that do not yet have a cleanup plan.

We also made recommendations to address inconsistent coordination between the departments of Ecology and Health.