

WAC 197-11-253 SEPA lead agency for MTCA actions. (1) The lead agency should be determined as soon as possible after ecology has identified the PLPs for a facility and must be identified prior to issuing an order, agreed order, or consent decree, or prior to issuing the scope of work for an ecology conducted remedial action.

(2) Ecology will be lead agency for any remedial action conducted by ecology, or by a PLP under an order, agreed order, or consent decree, except for the situations described in subsections (3) and (4) of this section.

(3) Except as provided in subsection (4) of this section, an agency that will be conducting a remedial action under a MTCA order, agreed order, or consent decree will be lead agency provided there is no objection by another agency determined by ecology to be a PLP for the facility.

(a) If there are multiple agency PLPs, the agencies shall by agreement determine which agency will be lead agency. If the agencies cannot reach agreement, the agency that owns the largest acreage within the facility shall be lead agency. In any other instance where the agencies cannot agree, ecology will be lead agency.

(b) Prior to making a threshold determination, the lead agency may:

- (i) Transfer lead agency status to ecology;
- (ii) Invite ecology to share lead agency status; or
- (iii) Retain lead agency status.

(4) When a remedial action is part of a development proposal, the lead agency will be determined using the lead agency criteria in WAC 197-11-922 through 197-11-946. The lead agency may contact ecology prior to making a threshold determination to invite ecology to share lead agency status for that portion of the environmental analysis related to the remedial action (WAC 197-11-944).

(5) If an agency other than ecology is lead agency, the lead agency shall provide ecology an opportunity to review the environmental documents prior to providing public notice of the documents. Any environmental documents must address the remedial action which ecology anticipates will be necessary for the facility.

(6) When an agency other than ecology is lead agency, and the SEPA and MTCA documents are issued together with one public comment period, ecology and the lead agency will by agreement decide who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

[Statutory Authority: RCW 43.21C.110. WSR 95-08-041 (Order 94-22), § 197-11-253, filed 3/31/95, effective 5/1/95.]