

**Washington Department of Ecology**  
**Legacy Pesticides Small Group Virtual Meeting**  
**Small Group 1 – Mapping, Soil Sampling, and Notification**

Thursday, September 24, 2020 | 1:00 p.m. – 3:00 p.m.

Zoom Link: <https://zoom.us/j/94177950174?pwd=K3Nva0FFa2hwVjR3bUNQaVN4SIlyZz09>

Meeting ID: 941 7795 0174 | Passcode: 420633

One tap mobile: +12532158782,,94177950174#,,,,,0#,,420633#

**Purpose of Meeting:** The purpose of this meeting is to meet as a small group, review Ecology’s online mapping tool on potential affected orchard lands, and to discuss small group-specific topics. Group members will have time to ask questions to MFA and Ecology and have an open dialog.

Schedule	Topic	Materials
1:00 p.m. (15 min.)	<b>Welcome</b> <i>Triangle Associates / Joy Juelson</i> <ul style="list-style-type: none"> <li>Welcome &amp; Introductions</li> <li>Review Agenda and overview of meeting objectives</li> <li>Review previous meetings and timeline</li> </ul>	Agenda  Timeline  Attorney bio
1:15 p.m. (40 min.)	<b>Demonstration: Draft Mapping Tool for Legacy Pesticide Orchards</b> <i>Ecology</i> <ul style="list-style-type: none"> <li>Ecology will demonstrate their updated, unreleased, and draft mapping tool that identifies potential affected old orchard lands</li> <li>Q&amp;A and input regarding the maps and demonstration</li> </ul>	Mapping Demonstration
1:55 p.m. (65 min.)	<b>Group Discussion: Liability and Feedback with Attorney</b> <i>Triangle Associates/Group Members</i> <ul style="list-style-type: none"> <li>Round robin and small group discussion regarding questions previously developed by the group for an Attorney</li> <li>Next steps</li> </ul>	Questions to Attorney
3:00 p.m.	<b>Adjourn</b>	

**Questions to Attorney:**

1. *Can a notification, similar to the one used for lead paint, suffice for liability purposes?*
  - o Question if the form used by real estate companies as the purchaser information disclosure could be a way of notification?
2. *When is cleanup required under the law?*
  - o Question if there is a state RCW established or is this regulation only under MTCA.
  - o Question if the baseline numbers and data provided by Ecology is a part of Ecology’s policy. Similarly, have those numbers been process legislatively or adjudicated in some manner?
3. *If I sample on my own, do I have to report the results to Ecology?*
  - o Question what the legal ramifications are if a homeowner or orchardist does their own samples for their own information.
  - o Question when sampling is done by a homeowner, is this creating a liability for Ecology.

4. *Can this stay a business transaction between buyer and seller? For example, seller agrees to price reduction for not addressing contaminated soil. Or no sampling or cleanup is conducted if new property owner agrees.*
5. *Who pays for the cleanup?*
6. *Who is liable (a legal term)? The landowner? Grower? Developer? Homebuilder? Homeowner?*
  - o *Asked how far back liability goes and are they jointly liable.*
7. *If Ecology has maps showing contamination or potential contamination, what responsibility does anyone have to check those?*
  - o *Question if the maps hosted on Ecology's website would become a notice to all sellers and obligate them to indicate "yes" their property is contaminated on the Form 17 Property Disclosure form?*
  - o *Question if we are creating liability for those who must disclose if their property is contaminated?*
8. *How does this affect property transactions?*
9. *Are current orchardists liable?*
10. *If a current property owner discovers they live on an old orchard and want to sell their property, what do they have to do?*
11. *If it is required on new development and not on existing residential properties, is there potential for a private citizen to bring a suit? What about an environmental group?*