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Subject: MTCA rulemaking: EJ comments

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Hi Richelle and Scott,

Thanks again for chatting a few weeks ago. I just wanted to reiterate our concerns regarding environmental justice and racial equity in the MTCA rulemaking. Please see our comments below on behalf of Citizens for a Healthy Bay, Duwamish River Cleanup Coalition, RE Sources for Sustainable Communities, and Washington Environmental Council.

In general, we believe the processes outlined in the proposed rule fall short of addressing our EJ concerns because they do not include how to implement a process that would reduce the disproportionate location of MTCA sites in communities of color.

Specifically related to SHARP:

- The proposed EJ flag in SHARP does not address racial disparity. The current SHARP system includes a yes/no flag if sites exceed the 80th percentile for any one of the six EJSscreen demographic indicators (under 5, over 64, race, income, less than a high school education, and linguistic isolation). Given that nearly half of all MTCA sites are located in census tracts that are disproportionately communities of color, we would like to see the new rule specifically work towards reducing the racial disparity. We understand this could be accomplished in a policy developed alongside the SHARP tool.

While all six of the demographic indicators are important to acknowledge, the current system has no way of prioritizing cleanups in sites located in communities of color. At a minimum, race must be more easily identifiable.

There are several approaches that Ecology could take to better address racial disparities using the current flag system. This could involve separating the current EJ flag into multiple flagged factors – including one specific to race, incorporating the percentile values to reflect the relative value of the different indicators, and/or creating an index of one or more indicators.

- We are also concerned that SHARP biases against sites with limited data availability. For many of the questions in the SHARP tool, a site receives a lower exposure score if there is insufficient data available to confirm an exposure. Many communities of color and low-income communities located near contaminated sites may not have the resources necessary to adequately characterize the contamination. We would encourage Ecology to develop a standardized system to identify and require more data to be collected if a site has limited data available.

- Lastly, we still would like more information for how the prioritization process will work once the SHARP tool is developed and how the flagged factors might influence that process. We would like to ensure that the flag is used to prioritize cleanups of sites located in communities of color.

We would like to see language that specifies institutional backstops for Ecology to eliminate racial disparities of MTCA sites. At a minimum, this should include target dates, reporting requirements, and other metrics for reducing the disproportionate number of toxic waste sites located in communities of color and low-income communities in the rule. We propose the following language:

- It is the policy of Department of Ecology and the State of Washington to eliminate disparities in the frequency and impacts of MTCA sites on communities of color and low-income communities by 2030. Ecology will identify metrics to measure disproportionality, analyze both current MTCA sites and MTCA sites identified in the future, and report to the legislature every two years its progress toward eliminating disproportionate impacts.

Reporting to the legislature and public should include information on whether Ecology is working to reduce racial disparities. We encourage Ecology to conduct and update an equity analysis that compares the overall distribution of MTCA sites and programs to demographic data including race and income. This should provide performance measures to determine if racial disparities decline or worsen so that Ecology can adaptively manage the system.

We also encourage Ecology to conduct an equity analysis on how programs that receive pollution and prevention funding from MTCA serve communities that are overburdened by toxic pollution and face barriers of social and economic disadvantages. The results should be published publicly on the Ecology website and shared digitally with relevant entities such as past and present Public Participation Grant recipients.

Lastly we would like to provide additional input on how environmental justice will be considered in selecting cleanup alternatives as the rule is developed (WAC 173-340-360).

Please reach out if you have any questions or comments. We look forward to working with you more on this important issue!

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