

SMARM

September 30, 2020

Updates from the WA Department of Ecology Toxics Cleanup Program

Chance Asher, Sediment Policy Program Lead



For Today

- Legislative and judicial happenings
- Toxics Cleanup Program Budget
- 2019 - 2020 guidance & policy work



Sediment Cleanup User's Manual (SCUM)

Guidance for Implementing the Cleanup Provisions of the Sediment Management Standards, Chapter 173-204 WAC

Publication No. 12-09-057
Original publication March 2015
First Revision December 2017
Second Revision December 2019

Toxics Cleanup Program Changes



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2020 Legislative Updates

- **SGA 9367:** Laura Watson, Director of Ecology
- **HB 2385 Antifouling paints:** Statutory ban on copper-based antifouling paints
- **SHB 2246 Title 70 Reorganization.** MTCA 70.105D RCW renamed 70A.305 RCW

WA Court of Appeals Decision

Port of Anacortes v. Frontier Industries

- **Issue:** Is wood waste a hazardous substance under MTCA?
- **Key Facts:**
 - Wood waste impacted sediment
 - Biological and chemical criteria exceedances
 - Hazardous substances released
 - Port seeking contribution from defendants
- **Decision:**
 - MTCA intent: polluters should pay to clean up their contamination
 - Hazardous substances released during tenants tenure as operators
- **Impact of Decision:**
 - People are responsible for the contaminants released
 - Consistent with Ecology's 2013 Wood Waste Cleanup guidance



Site: Port of Anacortes Log Pocket

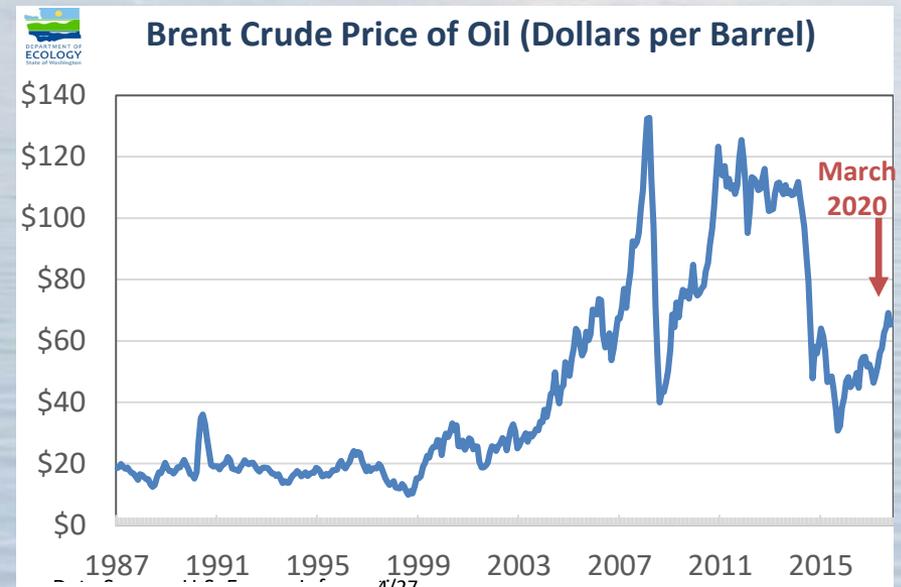
Change in Cleanup Revenue

Pre 2019 - Hazardous Substances Tax

- Price-based (crude oil)
- Cleanup and pollution prevention
- Years-long decline impacting cleanup funds.

Post 2019 - Hazardous Substances Tax

- Volumetric-based (petroleum products)
- Cleanup and pollution prevention
- Goal: Protect and stabilize MTCA fund



Remedial Action Grant Funding History



HST Revenue Forecast MTCA Accounts

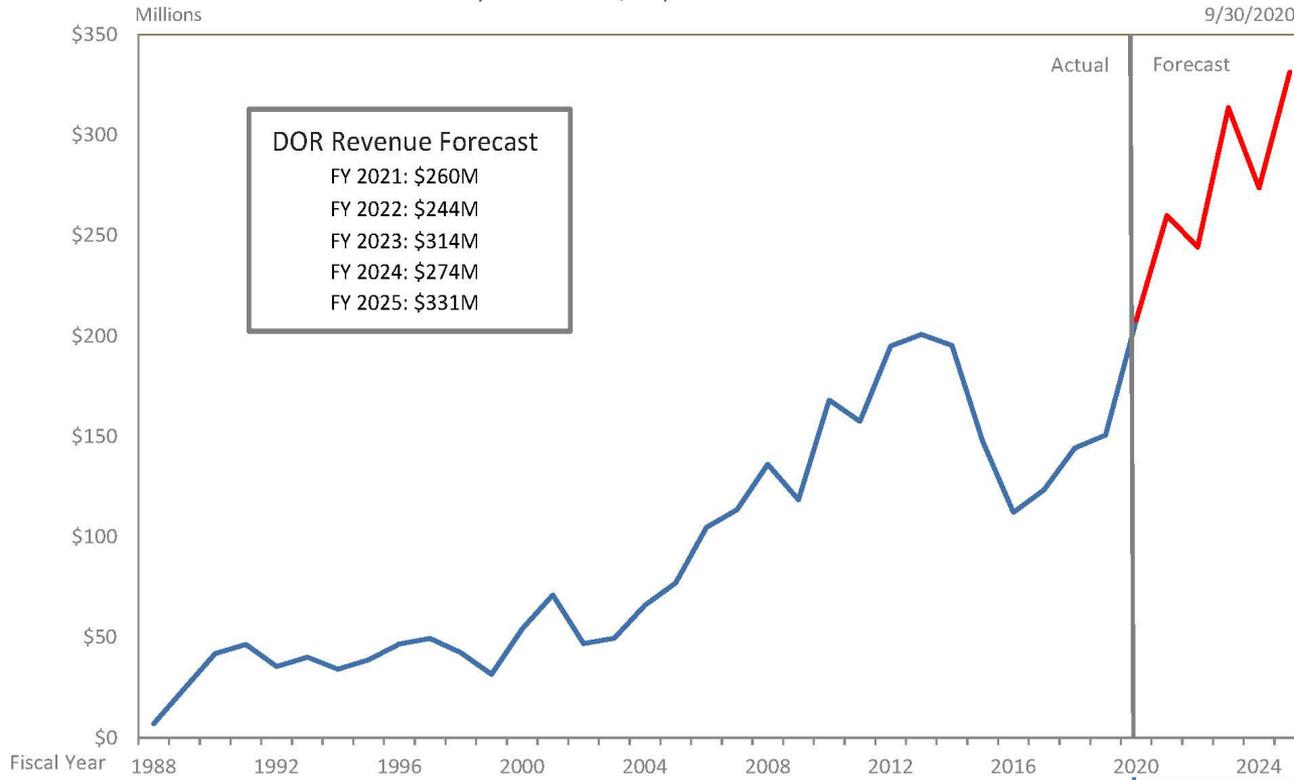


Hazardous Substance Tax Revenue for MTCA Accounts

Reflects September 2020 Forecast

HST Revenue History 1988 - 2020, Department of Revenue HST Forecast 2021 - 2025

9/30/2020

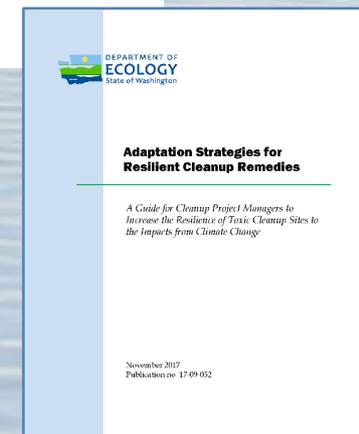
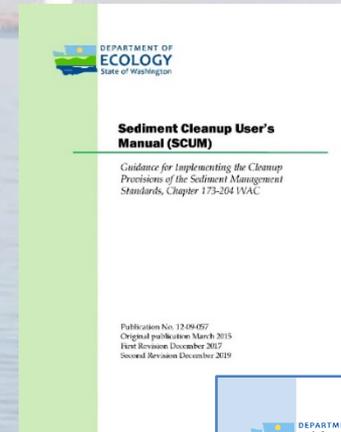


HST GAAP revenue history from Agency Financial Reporting System (AFRS). Figure reflects only MTCA revenue and does not include \$50 million in HST revenue that is deposited in the Motor Vehicle Fund beginning in Fiscal Year 2020. ESSB 5993 made major changes to the MTCA accounts and HST in the 2019-21 biennium. See Ecology publication 19-01-006, 'Focus on: MTCA Account and Revenue Changes,' (<https://fortress.wa.gov/ecy/publications/SummaryPages/1901006.html>) for more information.

September 2020
Forecast

Current Policy Work

- Sediment Cleanup User's Manual
- Draft Green Remediation guidance
- Climate Change guidance implementation:
 - Finalizing GIS vulnerability assessment tool
 - Identifying pilot sites to assess vulnerabilities
 - Site manager training
- How to address VCP and sediment sites
- MTCA rulemaking



MTCA Cleanup Rulemaking Phased Approach

First Rulemaking 2018 – 2021:

- Corrections
- Clarifications
- Site Hazard Assessment
- Remedy Selection and Disproportionate Cost Analysis
- Leaking Underground Storage Tanks

Second Rulemaking: Cleanup Standards

Third Rulemaking: Deferred or emerging topics

MTCA Cleanup Rulemaking

Sediment-Related Issues

Site Hazard Assessment

- Required under MTCA – WARM ranking system
- Sediment was omitted
- Goals:
 - Prioritization
 - Progress tracking
 - Public communication
- Revisions include:
 - Media
 - Sediment - New
 - Vapor intrusion - New
 - Soil
 - Surface water
 - Ground water
 - Exposure routes
 - Severity

MTCA Cleanup Rulemaking

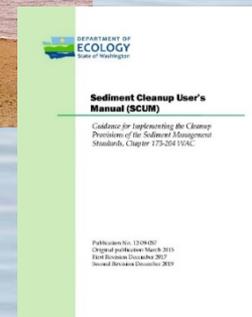
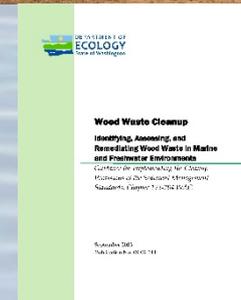
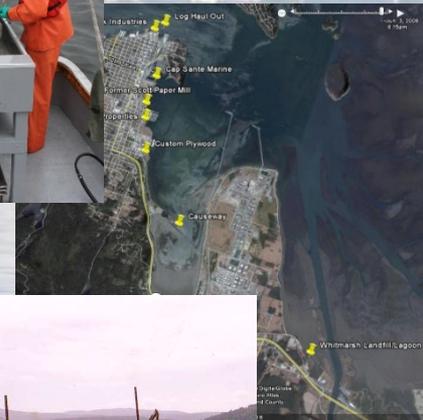
Sediment-Related Issues

Remedy Selection

- Consistent with the Sediment Management Standards
- Consistent with Sediment Cleanup User's Manual (Chapter 12, Appendix H)
- Added to minimum requirements (WAC 173-340-360):
 - Resilience to climate change impacts
 - Environmental justice - burden to highly impacted communities
- Evaluation of Alternatives
 - Long-term effectiveness – resilience to climate change
 - Benefit or burden to highly impacted communities
 - Permanent to maximum extent practicable - Disproportionate cost analysis

Budget Impacts

- Governor's Order - hiring and contract spending freeze
- Work that has been paused:
 - Regional background – Elliott Bay
 - Natural background – Freshwater
 - Fidalgo Bay – Custom Plywood
- Work that may slow down or not begin:
 - Sites in: Port Angeles, Budd Inlet, Oakland Bay, Commencement Bay
 - SCUM and Wood Waste guidance updates
 - New policy work
- Next biennium Remedial Action Grants???



Sediment Cleanup User's Manual

<https://fortress.wa.gov/ecy/publications/SummaryPages/1209057.html>

Wood Waste Cleanup Guidance

<https://fortress.wa.gov/ecy/publications/SummaryPages/0909044.html>

Sediment Management Standards Rule

<https://fortress.wa.gov/ecy/publications/SummaryPages/0909044.html>

Climate Change and Cleanup Guidance

<https://fortress.wa.gov/ecy/publications/SummaryPages/1709052.html>

SMS or SCUM

Questions or
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MTCA Rulemaking

Questions or
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Questions?



Bunny