OFFICIAL RESPONSE TO PERFORMANCE AUDIT ON COMMUNITY ENGAGEMENT DURING CONTAMINATED SITE CLEANUPS – MARCH 7, 2025

The Department of Ecology (Ecology), the Department of Health (DOH), and the Office of Financial Management (OFM) provide this management response to the State Auditor's Office (SAO) performance audit report received on January 27, 2025.

SAO PERFORMANCE AUDIT OBJECTIVES

The SAO's performance audit addressed these questions:

1. What engagement approaches does Ecology use when working with communities affected by contaminated site cleanup efforts?
2. Does Ecology tailor its approach to meet the specific needs of each community?
3. Does Ecology consistently and equitably gather, consider, and integrate feedback from affected communities into its cleanup efforts.

Recommendations 1–20 to the Dept. of Ecology in brief:

SAO Recommendation 1: To expand Ecology's oversight of community engagement and implement recommendations 2–21 below:

1. Determine the resources it would need to increase its oversight of high risk and moderate-high risk sites.

STATE RESPONSE:

Ecology agrees with Recommendation 1. It's important for Ecology to have an up-to-date understanding of existing cleanup site conditions and be able to assess new cleanup sites as they are discovered.

Ecology is currently implementing its new Site Hazard Assessment and Ranking Process (SHARP) that assesses and scores the risk and severity of exposure to contamination at contaminated sites. SHARP also looks at local demographic data from DOH's Environmental Health Disparities Map to identify whether potentially exposed populations include a likely vulnerable population or overburdened community. Ecology will use information about contaminated sites still needing remedial action to determine which pose the highest risk to communities and vulnerable populations. Ecology is also working on a SHARP application to help staff assess sites more efficiently and show results of assessments on its public-facing website.

Ecology currently has about 6,200 sites that need SHARP assessments. Three dedicated SHARP specialist staff, as well as existing initial investigators and site managers, are currently working to assess each of these outstanding sites. After three new specialists were hired and trained, we were able to assess approximately 400 sites in 2024. We anticipate having the capacity to assess more sites in 2025, 2026, and beyond, assuming current levels of staffing.

Action Steps and Time Frame

- Continue to evaluate contaminated sites with SHARP to identify overall risk and severity of sites. This initiative is already in Ecology's 2025–2030 Strategic Plan. As sites are assessed, higher-risk sites will be identified, including those that may affect vulnerable populations and/or overburdened

community areas. As noted above, this work is ongoing. We estimate Ecology could have most sites assessed by December 31, 2029.

- Identify any higher-risk sites that are not already managed by Ecology where the agency should oversee community engagement. We propose identifying these sites every year as new SHARP rankings become available, with the first group identified by June 30, 2026.
- At the same time as the previous action item, determine what additional resources Ecology needs to perform community engagement activities for the first group of higher-risk sites by June 30, 2026.
- Continue to identify additional groups of sites annually until all have been assessed. We further propose to begin working on higher-risk sites that impact vulnerable populations in overburdened communities first, other higher-risk sites second, and remaining sites after that.

SAO Recommendations 2–4: To address a lack of community engagement activities at sites managed by third parties, as described on pages 18–19:

2. Ensure community engagement occurs at high risk and moderate-high risk independent and voluntary cleanup program sites. Such engagement should take into account the specific needs of vulnerable populations.
3. If such third parties assume responsibility for community engagement, establish guidelines for how they should engage with affected communities.
4. Develop internal guidelines setting out Ecology's role in oversight for these activities.

STATE RESPONSE:

Ecology agrees with Recommendations 2–4. These recommendations will require additional staff and funding appropriated by the Legislature to implement fully. Ecology will determine the additional staff and funding needed in the plan developed in response to Recommendation 5.

The Action Steps and Time Frame below reflect the scenario of securing additional staff and funding resources.

Action Steps and Time Frame Estimates

- Identify independent sites, including those in the voluntary cleanup program, that are higher risk. As sites are assessed using SHARP, Ecology should be able to identify higher-risk sites where the agency's oversight of community engagement is needed. Engagement will consider the specific needs of nearby communities. As noted in the response to Recommendation 1, we propose identifying a group of sites every year through 2029, with the first group identified by June 30, 2026.
- Ecology can estimate and request additional resources in phases as information becomes available to more effectively plan, determine workload, gain or reprioritize resources, and implement recommendations.
- Develop guidelines for how third parties should engage with affected communities if they take responsibility for community engagement. Ecology will need to reprioritize some of its existing policy and guidance work to develop these guidelines. Estimated completion would be by December 31, 2027.
- Develop internal guidelines for Ecology's role in overseeing these activities. Ecology will need to reprioritize some of its existing policy and guidance work to develop these guidelines. Estimated completion would be by December 31, 2027.

SAO Recommendations 5–6: To address sites that currently lack a cleanup plan, as addressed on pages 20–21:

5. Develop a proactive plan describing how the agency will address the highest-risk sites in a timely manner.
6. Evaluate high risk or moderate-high risk sites that are close to vulnerable populations to determine which the agency should manage itself.

STATE RESPONSE:

Ecology agrees with Recommendations 5–6. Ecology believes it would be best for the agency to manage higher-risk sites, prioritizing sites impacting vulnerable populations in or near overburdened communities. However, this will likely take additional staff and funding appropriated by the Legislature, or existing cleanup work will need to be reprioritized.

The Actions Steps and Time Frame below reflect the scenario of securing additional staff and funding resources.

Action Steps and Time Frame

- Develop a plan describing how the agency will address the highest-risk sites in a timely manner, which will first require assessing and identifying such sites using SHARP (see response to Recommendation 1). As SHARP assessments continue, the list of highest-risk sites and Ecology's plan for addressing them will be continually updated. Ecology will likely have assessed enough sites to start developing a plan by June 30, 2026. At that time, Ecology will also identify the additional staff and financial resources necessary to start addressing these higher-risk sites. This funding would need to be appropriated by the Legislature.
- Identify higher-risk sites impacting vulnerable populations in or near overburdened communities not already managed by Ecology. These sites will be identified and prioritized on a rolling basis, with a continually updated list of highest-risk sites and Ecology's plan for addressing them. The first group of sites should be available for review by June 30, 2026. At that time, Ecology will also identify the additional staff and financial resources necessary (including community engagement costs). This funding would need to be appropriated by the Legislature.
- Once resources are secured to manage additional sites, the process of entering those sites into legal agreements and the cleanup process itself can begin. If additional resources become available, this work could begin on July 1, 2027.

SAO Recommendations 7–8: To address the areas where Ecology did not meet the requirements and leading practices for community engagement, as described on pages 23–26:

7. Research the communities surrounding a contaminated site by conferring with community organizations, tribes and government agencies to identify which methods of engagement best fit the community.
8. Conduct evaluations to assess whether improvements are needed to the community engagement process.

STATE RESPONSE:

Ecology agrees with Recommendations 7–8. Fully implementing these recommendations may require additional staff and financial resources or reprioritizing existing work.

Ecology staff already meet regularly to improve our community engagement process and explore new ways to better understand community needs. The Community Engagement Plan required by the Healthy Environment for All (HEAL) Act (Chapter 70A.02 RCW) was created and adopted by Ecology. It describes how we will engage with overburdened communities and vulnerable populations as we evaluate new and existing activities and programs. The plan includes best practices for outreach, processes to support the inclusion of members of communities affected by agency decision-making, and some directives related to HEAL Act-covered activities.

Ecology staff draw from the Community Engagement Plan — specifically for assessing best practices and identifying overburdened communities and vulnerable populations — to inform the development of their activities.

Ecology staff will incorporate the SAO recommendations into this work to better understand which methods best fit differing communities and conduct evaluations to make improvements in the community engagement process.

In August 2023, we adopted amendments to the MTCA Cleanup Regulations, Chapter 173-340 WAC, requiring the development of site-specific Tribal engagement plans for all site cleanups conducted or supervised by Ecology. We propose to use the information from the Tribal engagement process to better understand and continually improve how to meaningfully engage Tribes (see State Response to Recommendations 18–19).

Action Steps and Time Frame

- Provide direction and SAO recommendations to existing community engagement staff for their existing continual improvement process by June 30, 2025, to be addressed on an ongoing basis.

SAO Recommendations 9–11: To address Ecology's lack of community engagement requirements for site managers and staff, as described on pages 27–29:

9. Develop procedures for how and when managers and staff should conduct community engagement activities.
10. Require cleanup site managers and staff to follow community engagement procedures
11. Develop a system for managers to oversee community engagement activities.

STATE RESPONSE:

Ecology agrees with Recommendations 9–11. Ecology may be able to combine its work on Recommendations 9 through 11 with its work on Recommendations 13, 14, 15, 16, and 21. The same workgroup could plan, draft procedures, develop training, and produce guidance related to each of these related recommendations. However, unless additional resources are obtained, existing Ecology staff will be shifted away from cleanup site work or other rule, policy, procedure, or guidance development work. Such other work will be delayed or reduced significantly to start on the new priorities.

The Actions Steps and Time Frame below reflect the scenario of securing additional staff and funding resources or reprioritizing existing resources.

Action Steps and Time Frame

- Establish Ecology staff workgroup to develop guidance, procedures, and training. The workgroup will be established by June 30, 2025, and complete these tasks by June 30, 2026.

- Provide training so Ecology staff and managers understand how to properly apply and implement new guidance and procedures. Begin training and require site managers and outreach staff to follow community engagement procedures on sites with ongoing engagement activities by July 1, 2026.
- Develop a system for managers to track and oversee community engagement activities being conducted by staff. Begin development by July 1, 2026.

SAO Recommendation 12: To address the difficulty of obtaining information about independently managed sites on Ecology's website, as described on pages 19–20:

12. Update its website and data repository to make the scope of the agency's work clearer. Such updates should include providing an indicator in the agency's Cleanup and Tank Search to identify whether a site is an independent site or managed by Ecology.

STATE RESPONSE:

Ecology generally agrees with Recommendation 12. Ecology recognizes that providing publicly available information about who is responsible for cleanup at individual sites can support effective community engagement efforts. Ecology can provide data about which sites are managed by the agency and may be able to provide information about some independent sites. Information may also be available on sites that do not yet have a plan for cleanup. However, specified information has not always been tracked, so as databases have been updated, information for those fields is not always available. Implementing this recommendation can likely be done with existing resources by reprioritizing existing work.

Action Steps and Time Frame

- Update the Cleanup and Tank Search application to display the "Cleanup Unit Process Type" and whether a cleanup site is independent or managed by Ecology, to be completed by June 30, 2026.

SAO Recommendations 13–16: To address inconsistent coordination between the departments of Ecology and Health, as described on pages 21–22:

13. Develop procedures for how and when site managers and staff should collaborate with Health.
14. Require site managers and staff at Ecology to follow procedures for when and how to collaborate with Health.
15. Require site managers and staff to document their collaboration efforts consistently.
16. Develop a system for Ecology managers to oversee their site managers' collaboration activities with Health.

STATE RESPONSE:

Ecology agrees with Recommendations 13–16. This work could be combined with the work on Recommendations 9–11 above. To fully implement these recommendations, Ecology and DOH will need to either obtain additional staff and funding resources or reprioritize existing staff and work. Without additional resources, Ecology and DOH staff will need to be shifted away from site cleanup work or other rule, policy, procedure, or guidance development work, which will be significantly delayed or reduced to start on these new priorities. Ecology will need DOH to provide two staff to assist with this entire effort from start to finish.

The Actions Steps and Time Frame below reflect the scenario of securing additional staff and funding resources or reprioritizing existing resources.

Action Steps and Time Frame

- Establish collaborative Ecology/DOH workgroup to develop guidance, procedures, and training. The workgroup will be established by June 30, 2025, and complete these tasks by June 30, 2026.
- Provide training to staff and managers on how to properly apply and implement guidance and procedures by December 31, 2026.
- Develop a tracking system and require site managers and staff to document their collaboration efforts consistently by December 31, 2026.
- Develop a tracking system for Ecology managers to oversee their site managers' collaboration activities with DOH by December 31, 2026.

SAO Recommendation 17: To address Ecology staff's inconsistency in providing translation services, as described on pages 27–28:

17. Develop and implement a plan to expand the agency's capacity for translation services.

STATE RESPONSE:

Ecology agrees with Recommendation 17. In 2024, Ecology strengthened its translation services by providing a language access plan to provide effective and accurate communications with the public. This plan is designed as a living document to be reviewed at regular intervals and updated as needed. Ecology also works with external service vendors for languages not served by the existing Ecology Multilingual Interpretation and Translation Teams (MITT). Ecology staff involved with community engagement regularly meet with staff from MITT to discuss community translation needs and potential process improvements.

Action Steps and Time Frame

- Continue regular meetings between community engagement staff and Ecology's MITT services to understand community needs and how to improve language access for communities affected by contaminated sites.
- Continue to work with Ecology's language access coordinator to assess translation needs and services.
- If the actions the agency is already taking are adequate, no additional action is necessary. If that isn't the case, resources will be needed to develop a plan and begin implementation. Those activities could begin on July 1, 2025, and the planning could be completed by June 30, 2026, with implementation beginning afterward.

SAO Recommendations 18–19: To help ensure Ecology's consistency with Tribal engagement, as described on page 36:

18. Prioritize completing the Tribal Engagement Plan, ensuring it is clear to staff what actions are legally required versus activities simply recommended in the agency's guidance.
19. Clarify the required timing of engagement with Tribes and give staff consistent guidance on how to identify tribes affected by cleanup and provide training.

STATE RESPONSE

Ecology agrees with Recommendations 18–19. Pursuant to WAC 173-340-620, Ecology has completed

the preliminary work associated with Recommendations 18–19. This includes developing an engagement plan template and guidance for staff to use on a site-specific basis. The objective of the engagement plan is to provide a consistent basis on which to build meaningful engagement with Tribes impacted by contaminated sites. Ecology staff have started to use those materials at new and ongoing cleanup sites. However, it will take time and resources to do so at (what could be) several hundred higher-risk sites. Ecology will collect feedback on the use of the engagement plan templates and associated guidance to determine if updates or improvements are needed.

Action Steps and Time Frame

- The Contaminated Site Tribal Engagement Plan template and guidance are completed and in use, having been implemented in January 2025.
- Continue collecting feedback on the Contaminated Site Tribal Engagement Plan template and guidance for potential updates and improvements, which began in January 2025.

SAO Recommendation 20: To ensure Tribal nations, as well as the general public, have access to current Ecology staff contact information, as described on page 32:

20. Ensure contact information for staff working on contaminated site cleanups is available and up to date on Ecology's public facing website.

STATE RESPONSE

Ecology agrees with Recommendation 20. Given the existing workload and number of cleanup site webpages, it is difficult to estimate the time needed to update all pages with current Ecology contact information. Additionally, Ecology will need to continue updating contact information as staff change or new sites are listed.

Action Steps and Time Frame

- Begin updating existing contact information by July 1, 2025.
- Continue updating contact information for existing sites and adding contact information for new sites.

Recommendation 21 to the Dept. of Ecology and Dept. of Health in brief:

SAO Recommendation 21: To address inconsistent coordination between the two departments, as described on pages 21–22:

21. Work together to develop a required training concerning collaboration between the two agencies during cleanup for a site. Development steps should address:

   a. Identifying staff and managers who work on site cleanup.

   b. Ensuring these people are required to take the training.

STATE RESPONSE

Ecology and DOH agree with Recommendation 21. The agencies should create this training after they have developed the procedures and guidance for how and when to collaborate. See Recommendations 9–11 and 13–16. Ecology, in coordination with DOH, will likely be able to develop and implement this training recommendation with existing resources given adequate time.

Action Steps and Time Frame

- Establish collaborative Ecology/DOH workgroup to develop guidance, procedures, and training. Ecology will initiate the workgroup by June 30, 2025.
- The workgroup will develop guidance, procedures, and training by June 30, 2026.
- Ecology: Implement training so staff and managers understand how to properly apply new guidance and procedures by July 1, 2026.
- Ecology: Train and require cleanup site managers and staff to follow DOH collaboration procedures on sites with ongoing community engagement activities by December 31, 2026.
- DOH: Advise and support Ecology/DOH workgroup to develop guidance, procedures, and training by June 30, 2026.
