

WAC 173-204-570 Selection of cleanup actions. (1) **Purpose.** This section establishes the minimum requirements and criteria for selecting sediment cleanup actions under chapter 70.105D RCW. This section applies both to sediment-only cleanup sites and to the sediment portion of any combined upland and sediment cleanup site.

(2) **General requirements.** The department shall review and provide written approval of cleanup actions and sediment recovery zones under WAC 173-204-575 prior to implementation of a cleanup action.

(3) **Minimum requirements for sediment cleanup actions.** The requirements in this subsection and the requirements for establishing sediment cleanup standards under WAC 173-204-560 shall be considered concurrently. All sediment cleanup actions shall meet the following minimum requirements:

- (a) Protect human health and the environment;
- (b) Comply with all applicable laws;
- (c) Comply with the sediment cleanup standards specified in WAC 173-204-560 through 173-204-564;
- (d) Use permanent solutions to the maximum extent practicable, as specified in subsection (4) of this section;
- (e) Provide for a reasonable restoration time frame as specified in subsection (5) of this section. Preference shall be given to alternatives with a shorter restoration time frame;
- (f) Where source control measures are necessary as part of a cleanup action, preference shall be given to alternatives that include source control measures that are more effective in minimizing the accumulation of contaminants in sediment caused by discharges;
- (g) If a sediment recovery zone is necessary as part of the cleanup action, meet the requirements in WAC 173-204-590;
- (h) Cleanup actions for a site shall not rely exclusively on monitored natural recovery or institutional controls and monitoring where it is technically possible to implement a more permanent cleanup action. Where institutional controls are used, they must comply with WAC 173-340-440 and the department shall, as appropriate, consider any aquatic state land use classification under chapter 332-30 WAC. Preference shall be given to institutional controls with a demonstrated ability to control exposures and ensure the integrity of the cleanup action;
- (i) Provide an opportunity for review and comment by affected landowners and the general public, consistent with the public participation plan, and consider concerns identified in these comments;
- (j) Provide adequate monitoring to ensure the effectiveness of the cleanup action. Preference will be given to alternatives with a greater ability to monitor the effectiveness of the cleanup action; and
- (k) Provide for periodic review to determine the effectiveness and protectiveness of cleanup actions that utilize containment, enhanced natural recovery, monitored natural recovery, institutional controls, sediment cleanup levels based on practical quantitation limits, or a sediment recovery zone. When required by this provision, the periodic review shall follow the process and requirements specified in WAC 173-340-420.

(4) **Using permanent solutions to the maximum extent practicable.**

(a) This subsection specifies the requirements for determining whether a cleanup action consists of permanent solutions to the maximum extent practicable, as required under subsection (3)(d) of this section. When making this determination, the process and criteria in

WAC 173-340-360(3) shall be used, except as provided in (b) of this subsection.

(b) The evaluation of cleanup action alternatives under WAC 173-340-360(3) requires consideration of several criteria. One of those criteria is long-term effectiveness. Cleanup actions may consist of a combination of cleanup action components. When assessing the relative degree of long-term effectiveness of cleanup action components, the following types of components may be used as a guide, in descending order, in place of the components listed in WAC 173-340-360(3)(f)(iv):

(i) Source controls in combination with other cleanup technologies;

(ii) Beneficial reuse of the sediments;

(iii) Treatment to immobilize, destroy, or detoxify contaminants;

(iv) Dredging and disposal in an upland engineered facility that minimizes subsequent releases and exposures to contaminants;

(v) Dredging and disposal in a nearshore, in-water, confined aquatic disposal facility;

(vi) Containment of contaminated sediments in-place with an engineered cap;

(vii) Dredging and disposal at an open water disposal site approved by applicable state and federal agencies;

(viii) Enhanced natural recovery;

(ix) Monitored natural recovery; and

(x) Institutional controls and monitoring.

(5) **Providing a reasonable restoration time frame.** This subsection specifies the requirements and procedures for determining whether a cleanup action provides for a reasonable restoration time frame, as required under subsection (3)(e) of this section.

(a) **Presumption.** Unless otherwise determined by the department, cleanup actions that achieve compliance with the sediment cleanup standards at the site or sediment cleanup unit within ten years of completion of construction of the active components of the cleanup action shall be presumed to have a reasonable restoration time frame.

(b) **Relationship to sediment recovery zone.** If the restoration time frame for a cleanup action is longer than ten years after completion of construction of the active components of the cleanup action, then a sediment recovery zone must be established as part of a cleanup action in accordance with WAC 173-204-590.

(c) **Factors.** When determining whether a cleanup action provides a reasonable restoration time frame, the following factors shall be considered:

(i) The length of time it will take for the cleanup action to achieve the sediment cleanup standards at the site or sediment cleanup unit. Preference shall be given to alternatives that achieve sediment cleanup standards at the site or sediment cleanup unit sooner;

(ii) Potential risks posed by the site or sediment cleanup unit to biological resources and human health;

(iii) Practicability of achieving the site or sediment cleanup unit-specific cleanup standards in less than a ten-year period;

(iv) Current use of the site or sediment cleanup unit, surrounding areas, and associated resources that are, or may be, affected by residual contamination;

(v) The aquatic state land use classification under chapter 332-30 WAC of the lands encompassing the site or sediment cleanup unit;

(vi) Potential future use of the site or sediment cleanup unit, surrounding areas, and associated resources that are, or may be, affected by residual contamination;

(vii) Likely effectiveness of source control measures to reduce the time to achieve cleanup standards;

(viii) Likely effectiveness and reliability of institutional controls;

(ix) Degree of, and ability to, control and monitor migration of residual contamination; and

(x) The degree to which natural recovery processes are expected to reduce contamination.

[Statutory Authority: Chapter 70.105D RCW. WSR 13-06-014 (Order 08-07), amended and recodified as § 173-204-570, filed 2/25/13, effective 9/1/13. Statutory Authority: Chapters 43.21C, 70.105D, 90.48, 90.52, 90.54 and 90.70 RCW. WSR 91-08-019 (Order 90-41), § 173-204-580, filed 3/27/91, effective 4/27/91.]