

WAC 173-204-500 Sediment cleanup decision process and policies.

(1) Applicability.

(a) This part is promulgated under the authority of chapter 70.105D RCW, the Model Toxics Control Act. This part establishes requirements for identifying, investigating, and cleaning up a release or threatened release of a contaminant to sediment that may pose a threat to human health or the environment. This part shall be used for the purposes of chapter 70.105D RCW.

(b) This part shall not be used in the implementation of the federal Clean Water Act (33 U.S.C. Sec. 1251). The sediment cleanup standards and the other cleanup criteria in this part are not sediment quality standards, which are established under Part III of this chapter, or sediment impact zone maximum criteria, which are established under Part IV of this chapter.

(c) This section describes the decision process and associated policies and principles governing the identification, investigation, and cleanup of contaminated sediment at sites under chapter 70.105D RCW. If there are any inconsistencies between this section and a specifically referenced section, the specifically referenced section shall govern.

(2) **Cleanup decision process.** In general, the process for cleanup of contaminated sediments includes the following steps:

(a) Identifying sediment station clusters of potential concern (WAC 173-204-510);

(b) Identifying cleanup sites for further evaluation (WAC 173-204-520);

(c) Evaluating sites identified in (b) of this subsection (WAC 173-204-530);

(d) Determining the appropriate site cleanup authority (WAC 173-204-540);

(e) Conducting a remedial investigation and feasibility study (WAC 173-204-550);

(f) Establishing the applicable sediment cleanup standards (WAC 173-204-560 through 173-204-564);

(g) Selecting a cleanup action (WAC 173-204-570);

(h) Documenting the cleanup action decision and soliciting public review of that decision (WAC 173-204-575); and

(i) Where necessary, authorizing a sediment recovery zone (WAC 173-204-590).

(3) **Coordination with other laws.** The cleanup process and procedures under this part and under other laws may be combined.

(4) **Cleanup process expectations.** The department has the following expectations regarding the cleanup process for contaminated sediment sites. The department recognizes there may be sites where cleanup actions conforming to these expectations are inappropriate.

(a) Scale of cleanups. Sediment contamination can be widespread with multiple contaminants from multiple sources that have been intermingled and dispersed by natural processes and human activity. It is the department's intent to address this widespread contamination using multiple approaches that lead to cleanup as effectively and efficiently as possible. This may include:

(i) The establishment of sediment cleanup unit(s) within a site, and the expedited cleanup of those units consistent with the cleanup strategy and broader scale toxics reduction and source control strategies;

(ii) Coordinating cleanup of multiple sites and sediment cleanup units on a bay-wide, area-wide, or watershed-wide scale; and

(iii) Use of source control measures to minimize future contamination.

(b) Recontamination. Recontamination of sediment at remediated sites or sediment cleanup units may occur from ongoing discharges or other releases. It is the department's expectation that further cleanup of recontamination will not be required by the person(s) conducting the initial cleanup when the person(s) can demonstrate, upon department approval, that the recontamination is caused by ongoing discharges or other releases not under the authority or responsibility of the person(s) conducting the initial cleanup.

(c) Restoration time frame and cleanup actions. The department expects that the sediment component of sites and sediment cleanup units will achieve sediment cleanup standards as soon as practicable to minimize impacts to aquatic organisms, habitat, and human health. Recognizing there may be sites where the following expectations are inappropriate, the department expects the likely results of the remedy selection process in WAC 173-204-570 will be as follows:

(i) For sites with a limited areal extent of contamination, the department expects the focus will be on the use of active cleanup actions to achieve sediment cleanup standards quickly and minimize the need for long-term maintenance and monitoring; or

(ii) For sites with more wide-spread contamination, sediment cleanup standards may not be practicable to achieve using only active cleanup actions. For these types of sites, the department expects the focus will be on the use of active cleanup actions to remove, cap, or treat areas with higher contamination followed by the use of enhanced or monitored natural recovery to achieve sediment cleanup standards as soon as practicable.

(d) Compliance monitoring. The department expects that post-cleanup monitoring will be conducted at sites and sediment cleanup units to verify compliance with approved sediment cleanup standards.

(i) Monitoring will typically include analysis of sediment chemistry at a minimum, but may also include bioassays, tissue chemistry, benthic infauna, pore water, and surface water testing.

(ii) The department expects that, where site-specific circumstances warrant, more discharge monitoring may be required than would normally occur under a discharge permit.

(e) Scope of information. The scope of information needed to adequately characterize different site or sediment cleanup units will vary depending on site conditions and complexity. It is the department's expectation that sufficient information will be gathered in as few sampling events as feasible to enable appropriate decisions and cleanups to proceed expeditiously.

(f) Timely decisions. The department shall endeavor to make sediment cleanup decisions in an expeditious manner, as soon as all information required by the department is available, consistent with the availability of department resources and the priority of the cleanup site.

(5) Relationship between sediment cleanup standards and cleanup actions. It is the policy of the department to establish sediment cleanup standards and select cleanup actions that support the goal of reducing and ultimately eliminating adverse effects on biological resources and significant health threats to humans from sediment contamination.

(a) Sediment cleanup standards. WAC 173-204-560 establishes requirements for sediment cleanup standards. Sediment cleanup standards consist of sediment cleanup levels for individual contaminants and the

locations within the site or sediment cleanup unit where the sediment cleanup levels must be met (points of compliance). Sediment cleanup standards may also include other regulatory requirements that apply to a cleanup action for contaminated sediment because of the type of action and/or location of the site (applicable laws).

(i) Sediment cleanup level. A sediment cleanup level is the concentration or level of biological effects for a contaminant in sediment that is determined by the department to be protective of human health and the environment. The sediment cleanup level is established in accordance with the requirements in WAC 173-204-560(2). The sediment cleanup level is initially established at the sediment cleanup objective and may be adjusted upward as appropriate based on whether it is technically possible to meet the sediment cleanup objective and whether meeting the sediment cleanup objective will have a net adverse environmental impact on the aquatic environment as specified in WAC 173-204-560 (2) (a) (i) (B). A sediment cleanup level may not be adjusted upward above the cleanup screening level. The sediment cleanup level, in combination with the point of compliance, typically defines the area or volume of sediment at a site or sediment cleanup unit that must be addressed by the cleanup action.

(A) Sediment cleanup objective. The sediment cleanup objective defines the goal for protection of human health and environment. This goal is expected to be achieved through a combination of cleanup actions and source control. The sediment cleanup objective is established in accordance with the requirements in WAC 173-204-560(3). If a risk-based concentration is below the natural background level or practical quantitation limit, then the sediment cleanup objective is established at a concentration equal to the practical quantitation limit or natural background, whichever is higher.

(B) Cleanup screening level. The cleanup screening level is established in accordance with the requirements in WAC 173-204-560(4). If a risk-based concentration is below the regional background level or practical quantitation limit, then the cleanup screening level is established at a concentration equal to the practical quantitation limit or regional background, whichever is higher.

(ii) Point of compliance. A point of compliance is the location within the site or sediment cleanup unit where sediment cleanup levels must be achieved. The point of compliance is established in accordance with the requirements in WAC 173-204-560(6).

(b) Cleanup actions. WAC 173-204-570 establishes requirements for cleanup actions for contaminated sediment. The cleanup actions must achieve sediment cleanup standards within the site or sediment cleanup unit, as applicable. Cleanup actions usually consist of a combination of active and passive actions. At sites and sediment cleanup units where there are ongoing sources, the cleanup actions will usually also include source control measures.

(i) Active cleanup actions. Sediment contamination may be addressed by active cleanup actions such as dredging, capping, treatment, and enhanced natural recovery. Active cleanup actions are preferred over passive cleanup actions.

(ii) Passive cleanup actions. When appropriate, passive cleanup actions, such as monitored natural recovery and institutional controls, may be used in combination with active cleanup actions and source control measures to address sediment contamination.

(iii) Source control. Source control measures consist of controlling ongoing sources to limit discharges of contaminants that accumulate in sediment. Source control measures may be required as part of a

cleanup action to prevent recontamination of the site or sediment cleanup unit above the sediment cleanup level.

(c) Presumption of protectiveness. Sediment cleanup actions that achieve sediment cleanup levels at the applicable points of compliance and comply with applicable laws are presumed to be protective of human health and the environment.

(6) Applicability of new sediment cleanup standards.

(a) The department shall determine the sediment cleanup standards that apply to a site or sediment cleanup unit based on the rules in effect under this part at the time the department issues a final cleanup action plan or similar decision document as described in WAC 173-204-575.

(b) A site or sediment cleanup unit cleaned up with sediment cleanup standards determined in (a) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments of the requirements in this part governing the establishment of sediment cleanup standards, unless the department determines on a case-by-case basis that the previous cleanup action is no longer sufficiently protective of human health and the environment.

[Statutory Authority: Chapter 70.105D RCW. WSR 13-06-014 (Order 08-07), § 173-204-500, 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), § 173-204-500, filed 3/27/91, effective 4/27/91.]