

**Draft Sediment Management Standards Chapter 173-204 WAC Amendments
Public Comment Form**

Name of Commenter:		Kristy J. Hendrickson, Landau Associates, 130 2 nd Avenue S, Edmonds, WA 98020
Version of Document Reviewed:		<input checked="" type="checkbox"/> Review Version (Reader Friendly) <input type="checkbox"/> Official Version
Date:		October 29, 2012
Page Number	Line Number	Comment
General		Maintaining site-specific flexibility to establish sediment cleanup levels within a range using the existing two-tier framework and to identify and implement site-specific remedies that are protective and practicable is critical to achieving sediment cleanups.
General		We support Ecology's decision not to add a default fish consumption rate to the SMS rule. It is more appropriate to include a default fish consumption rate in the Water Quality Standards rule.
General		Providing for cleanup of sediment cleanup units prior to cleanup of larger sediment sites should expedite cleanups; however, as was discussed in Sediment Cleanup Advisory Committee meetings, if no significant settlement provisions are included in the rule for persons who conduct early cleanups, early cleanups are much less likely to occur. The expectation that "further cleanup of recontamination will not be required by the person(s) conducting the initial cleanup" (page xcv, lines 1495 – 1496) does not provide adequate certainty for PLPs to conduct early cleanup. We suggest adding provisions for settlements with PLPs who conduct early cleanups.
31	330 - 331	The definition of "natural background" should include PAHs and dioxins in the examples of persistent organic compounds and metals such as mercury that can be found in surficial soils and sediment throughout much of the state. Like PCBs, PAHs, dioxins, and mercury are persistent and are present throughout the state as a result of long-range transport.
34	389 - 393	The reference to area background in the definition of "regional background" is unnecessary and potentially confusing and should be deleted.
xciii	1457 - 1460	The proposed amendments provide for promulgating Part V of the SMS under MTCA only. We support this change.
xcv	1500 - 1502	Restoration time frame should be expected to be as short as practicable using a remedy selected through the remedy selection process in WAC 173-204-570. The sentence stating that sediments with limited contamination will be restored within a single construction season using active cleanup actions should be deleted.
cxxxi	2183 - 2189	Although MTCA refers to releases and threatened releases, it is not obvious how the SMS rule might be applicable to a threatened release.
cxxxi - cxxxii	2190 - 2208	The wording in WAC 173-204-570 (2) of the October 2011 preliminary draft amendments [section moved to WAC 173-204-560(2) in the August 15, 2012 proposed amendments] for establishing a site sediment cleanup level within the allowable range of concentration should be retained including the factors considered in establishing the sediment cleanup level as close as practicable to the sediment cleanup objective, net environmental effects, technical feasibility, and cost. The current proposed language does not adequately provide for adjustment of the cleanup level to regional background. Considering whether it is technically possible rather than technically practicable, which is the term used in remedy selection, to achieve a sediment cleanup level will lead to cleanup levels that cannot be achieved and maintained using technically feasible remedies selected under this rule.
cxxxv	2275 - 2297	Including regional background as a factor in determining the upper cleanup level tier (cleanup screening level) should facilitate protective, cost-effective cleanups, if it can be meaningfully considered in establishing sediment cleanup levels. Regional background should be defined in the same way in this section as it is in WAC 173-204-200(38) to specifically include stormwater as an example. Regional background values should be representative not just of subtidal sediments but also of sediments similar to those at a cleanup site. Ecology should develop a process and funding to establish regional background values in various areas to encourage cleanups. Requiring the first person to conduct remedial action in an area to provide sufficient data to establish regional background will discourage early cleanups.
clxii	2690-2691	A definition of "dry weight normalized" should be provided.

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clxx	2812 - 2813	The criteria for determining if a chemical has the potential to bioaccumulate should be the same as that in WAC 173-333-320(2)(b), if the log of the octanol -water partition coefficient (log Kow) is greater than five.
clxxv	2899-2900	The time frame for achieving compliance with sediment cleanup standards should be ten years from the completion of active cleanup actions, consistent with the current rule, rather than from the start of cleanup as is proposed in several places in these draft amendments.
clxxv	2906 - 2908	Evaluation of whether a remedy is permanent to the maximum extent practicable is addressed in WAC 173-204-570 (4). That analysis should not be undermined by Ecology expectations in other portions of the rule. The first sentence of section (h) is unnecessary and is inconsistent with the disproportionate cost analysis; it should be deleted.
clxxvi	2924 - 2938	The hierarchy provided here should be replaced by a list of factors impacting the long-term effectiveness of sediment remedies that are to be considered in the evaluation of long-term effectiveness. These factors could include the degree of certainty that the alternative will be successful, potential for recontamination from non-site sources, site hydrodynamics, sediment transport, depth of contamination, and depth of bioturbation.
clxxviii	2957 - 2960	The time frame for achieving compliance with sediment cleanup standards should be ten years from the completion of active cleanup actions, consistent with the current rule, rather than from the start of cleanup. The same change should be made throughout the proposed amendments.
clxxxi	3007	We support maintaining the provision for sediment recovery zones for areas where it is not practicable to achieve sediment cleanup standards within a ten-year restoration time frame. However, the time frame should begin at the completion of active cleanup actions rather than at the start of such actions.
Draft Sediment Cleanup Users Manual II		
The draft Sediment Cleanup Users Manual II includes significant details on how the SMS amendments will be implemented that go beyond those included in the proposed SMS amendments and therefore the draft document should go through a formal comment period.		