

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

Name of Commenter:		Tom Newlon
Version of Document Reviewed: 8/15/2012		<input checked="" type="checkbox"/> Review Version (Reader Friendly) <input type="checkbox"/> Official Version
Date:		October 29, 2012
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34	389 - 393	<p>Edit to definition of Regional Background: Delete “nonpoint” in line 390.</p> <p>The term “point source” has a very specific meaning under the Clean Water Act that includes any “discrete conveyance.” Diffuse sources that may be conveyed in a ditch or other discrete conveyance can easily be the kinds of sources that are not readily controlled and make up part of the overall background levels in an area. Also, using the terms “diffuse nonpoint sources” together implies that any diffuse sources that are conveyed through a point source should be taken out of any calculation of Regional Background (“RB”).</p> <p>For example, samples used to determine RB are not to include those taken in the depositional area adjacent to a stormwater discharge outfall, or otherwise be in an area disproportionately influenced by such an outfall. However the contaminants contained in the stormwater may well be part of RB and make up a small portion of what’s detected in sediments at further afield locations. The provision as written gives the impression that any contamination that came out of a point source outfall should be backed out of all RB calculations, leaving only contamination that came from “diffuse nonpoint sources” such as atmospheric deposition. I don’t believe that is Ecology’s intent, so the words should be adjusted to ensure that RB is calculated using samples that are not strongly influenced by individual outfalls, but do reflect what is generally present in that region’s sediment.</p> <p>Edit to line 392: Delete “or equal to” so that sentence says that RB is “generally expected to be greater than or equal to natural background, and less than area background...” It is certainly true that RB will “generally” be greater than natural background, as the whole concept (as presented to the various advisory committees) is that it provides some relief from the stringency of the MTCA natural background requirement, but does not go all the way to area background.</p> <p>The qualifier “generally” is still there, so if Ecology is calculating RB in a relatively pristine area (which would not be what Ecology would “generally” be doing), and comes up with a RB that = natural background, that will not appear to be contrary to the regulations, even if “or equal to” is deleted. As written, it leaves the impression that RB, even in urban areas, may not necessarily be greater than natural background. This is clearly not Ecology’s intention and not what was discussed with the advisory committees.</p>
36	430 - 434	<p>The definition of “sediment quality standard” is fine, but now does not match up with Part III of the regulations, which also appear to define what the SQS are, and also include human health criteria. No changes to Part III are proposed, which is surprising given that the framework for human health sediment criteria is currently located in that Part.</p>

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		<p>For instance, WAC 173-204-300 states that the SQS include “human health criteria” and “correspond to no significant risk to humans.” Another example is section 320(a), which definitively states that the SQS “shall correspond to a sediment quality that will result in no adverse effects, including no acute or chronic adverse effects on biological resources and no significant health risk to humans.”</p> <p>Provisions of this type, which unequivocally say that the Part III SQS are protective of human health, will now be matched up with a new Part which also addresses human health criteria. If the text currently in Part III is not changed, this will create a logical inconsistency within the regulations where one portion of the regulations says that the Part III standards address human health concerns, but the new sections also address human health concerns using an entirely separate framework. Part III of the regulations needs to be amended so that it is clearly limited to ecological criteria, or Ecology will be leaving itself open to an argument that the regulations are so internally inconsistent as to be arbitrary. That would delay implementation of needed changes.</p> <p>Alternatively, the rules could be simplified by retaining the current structure and moving the human health criteria into the current framework. This would avoid the proliferation of new acronyms that the draft regulations creates. Rather than a human health “sediment cleanup objective,” the SQS would simply be the lower of the calculated human health criterion or the eco criterion. Those could be referred to as the human health SQS and the ecological SQS, but the actual SQS would simply be the lower value and the current structure and terminology (that we all understand) would be retained.</p>
xcv	1494 - 1499	<p>My experience is that “expectations” sections in Ecology regulations morph over time into something very close to firm requirements that are unnecessarily used to limit the range of solutions to a problem. Regulations should regulate. Expectations and Ecology statements about what “generally” should happen are usually better suited for guidance documents because those statements of expectations are in actuality guidelines rather than regulations.</p> <p>In the case of sediment cleanup units, however, promulgating Ecology expectations in the regulations is necessary because Ecology lacks the authority in MTCA to state definitively how and when settlements with PLPs will be agreed to. That is the province of the Attorney General, not Ecology. Because the Attorney General’s office has at times interpreted MTCA in an unnecessarily constrained fashion when it comes to settling with a PLP for a smaller area than an entire “site,” establishing Ecology expectations for how settlements will occur for “sediment cleanup units” should be beneficial.</p> <p>So, for once, stating expectations in the regulations seems appropriate. However, I have concerns with some of the expectations that are presented in this section of the</p>

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		<p>draft regulations. Those concerns primarily revolve around the basic reason why sediment cleanup units are a good idea – PLPs and project proponents need to be able to perform a cleanup of a portion of a larger site and then be done. If that option is seen as realistically available, significantly more sediment cleanups will happen. To the extent “unit” cleanups become nearly as onerous as large area cleanups in terms of process and long-term involvement, PLPs and project proponents will not step forward and many fewer sediment cleanups will move forward.</p> <p>A specific example is the set of requirements in -500(4)(b) related to the recontamination that will probably occur at nearly all urban cleanup units. These requirements are too onerous and will disincentivize sediment unit cleanups while providing little additional environmental value at the few that would occur.</p> <p>Subsection -500(4)(b) correctly states that recontamination of cleaned up units may occur. In urban areas, such recontamination is a virtual certainty, as “regional background” will be calculated based on samples from areas that are not as affected by the discharges and movement of sediments that occur at the shoreline in urban areas, and the near-shore sediments near their facilities are what PLPs will be most motivated to clean up as a unit. PLPs should be expected to clean up the identified unit and to control the discharges over which they have authority in compliance with applicable regulations.</p> <p>To the extent PLPs are required to do a great deal more source control than they would for their normal CWA permitting requirements, they will be buying into potentially-extraordinary water collection and treatment expenditures, among additional new requirements, by doing a sediment cleanup. They will realize that whether or not they collect and actively treat their stormwater (for example), their unit will probably recontaminate above regional background anyway. The huge additional expenditures involved with collecting and treating stormwater (again, for example) will make little difference in the sediment unit itself unless the facility involved is huge. And if it is huge, the expenditures to fully control stormwater-based contributions to recontamination above regional background levels would be commensurately huge. In other words, cleaning up the unit will not be an attractive option if it also means they must perpetually do more to control their stormwater or other discharges than they would have to do under applicable regulatory programs. That is, if they’re required to now do more than their neighbors and competitors are required to do.</p> <p>The current (4)(b) text in lines 1497-99 should be changed to read “...when the person(s) can demonstrate <u>compliance with all applicable regulatory requirements for discharges that could affect sediment quality, or can demonstrate that any violations were not likely to have contributed significantly to recontamination of</u></p>

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		<p><u>the unit.</u>”</p> <p>As currently written, the burden is on the party carrying out the cleanup to show why recontamination is occurring. It is, in effect, a requirement to prove a negative – to show that the party’s own discharges were not responsible for the recontamination. This could be an endless scientific exercise. The PLP should be able to count on peace with respect to a sediment cleanup unit if he or she cleans up the unit and then complies with all regulatory requirements with respect to their ongoing operations. To the extent CWA requirements do not match up well with MTCA cleanup levels, the burden of that disconnection should not be placed squarely on the shoulders of the very parties Ecology is trying to incentivize to actually get sediment cleanups moving.</p>
xcv	1500 - 1507	-500(4)(c) should be deleted. PLPs have huge cost incentives to complete the active phase of a cleanup in one construction season if that is possible. Mobilization costs and the difficulties of getting cleanup equipment such as large dredges into the NW for our short in-water construction season provide all the motivation that is needed without needing an Ecology expectation written into the regulations. Also, this section is written as if all smaller cleanups should be carried out with 100% dredging or capping, or other active measures. This is an inappropriate weighting of priorities for how to do sediment cleanups, as active sediment cleanup is not necessarily preferable from an environmental perspective. This is discussed further in comments in comments below on how to address the MTCA preference for permanence requirement in sediment cleanups.
xcvi	1508 - 1511	If sediment recovery zones are a requirement elsewhere in the regulations, they should not be written in as an “expectation.” Section (4)(d) is essentially saying that Ecology expects that it will comply with its own regulations with respect to establishing sediment recovery zones when they are required by section -590. Are there sections of the regulations that Ecology expects to ignore or otherwise not comply with? If so, putting those forward would provide new information. Saying that Ecology expects to comply with its own regulations adds nothing. (4)(d) should be deleted.
xcvi	1516	(4)(e) should be changed to provide more information on when “more intense discharge monitoring” will be required. If Ecology does not have a reason to believe that a facility is a significant source of a recontamination chemical of concern, then surface water discharge testing beyond normal CWA requirements should not be required of parties doing unit cleanups. The temptation is to require those doing cleanups to do full suite testing of their stormwater or other effluent for all hazardous substances. This is vastly more expensive than routine CWA effluent testing and will be a significant disincentive to doing unit cleanups, as discussed above. If there is a reason to suspect a particular contaminant may be in an effluent

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		stream at unusually high levels (e.g., source tracing results, contaminated soils on upland property or the nature of facility operations), then additional testing can be warranted. Simply saying that Ecology expects that it may require more intense testing than is needed to comply with discharge permits is too open-ended and will scare away the very parties who can provide the desired cleanup benefits.
xcvii	1537 - 1547	<p>The definition of “sediment cleanup levels” should be adjusted to allow for consideration of costs and practicability in determining those levels, just as it is in the current Sediment Management Standards. The text beginning in middle of the sentence on lines 1540 – 1543 should be revised to read “... and shall be adjusted upward as required based on <u>consideration of net environmental effects, cost and technical feasibility</u>.” This language maintains the sensible approach currently provided for in -500(4). Changing that approach to one based on what is “technically possible” will have adverse consequences on the willingness and ability of PLPs to carry out sediment cleanups and will result in fewer such cleanups occurring.</p> <p>“Technically possible” is defined as essentially anything that can actually be done, regardless of cost. Cleaning up even relatively large areas of sediment to below natural background levels is generally technically possible, even at relatively large sites. Isolating sediments from the surrounding environment with sheet pile or by other techniques, then dredging and capping back with clean sediments, could reliably produce a very clean sediment surface, albeit at costs that might rival the national debt. Of course, that sediment surface would soon be recontaminated back up to background levels based on the composition of the sediment that continues to accumulate at that location.</p> <p>In the urban areas where sediment cleanups are most desired, starting with the premise that cleanup should occur to natural background because it is technically possible to achieve that result for at least a brief period of time, will mean that cleanups will never be complete. Cost can be taken into account in remedy selection, but the consequence of defining a cleanup level that cannot be maintained will be that any PLP that carries out a cleanup will be left with 5 year reviews, sediment recovery zones, and the possibility of having to do more work for the indefinite future.</p> <p>Ecology’s desire to have cleanup levels and remedy selection mirror the MTCA approach (costs taken into account only in remedy selection, not in setting cleanup levels) is understandable. Consistency can be a good thing, after all. However, sediment cleanups are fundamentally different than the upland soil and groundwater cleanups for which MTCA was designed. An upland cleanup can be performed with an extremely stringent cleanup standard that is met at a point of compliance and is maintained through institutional controls that limit exposures (e.g., to</p>

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		<p>subsurface soils that may contain hazardous substance concentrations far in excess of the cleanup level). This approach does not work for sediment cleanups, as extremely stringent cleanup levels are exceeded by what is deposited out of the water column and cannot feasibly be controlled by the party carrying out the cleanup. It is as if you did an upland soil cleanup involving removal or isolation of contamination and instituted institutional controls, but new contaminated soil rained down out of the sky onto the site every day putting you out of compliance at the point of compliance. Given this fundamental difference between sediment sites and upland soil and groundwater sites, a different approach to setting cleanup levels is warranted.</p> <p>The current regulations provide for costs to be taken into account when setting sediment cleanup levels, and that is a sensible approach that needs to be maintained. Ecology will be sliding backwards into a regulatory approach to sediment cleanups that will make the current slow pace of cleanup even worse if the current ability to consider costs is not maintained in the amended regulations.</p>
xcviii	1565 - 1569	<p>-500(5)(b) should be amended to account for interim sediment cleanup actions. The second sentence of that section (beginning on line 1566) should begin as follows: “<u>Final</u> cleanup actions must achieve sediment cleanup standards....” Interim MTCA actions are not required to comply with all ARARs, so the sentence should reflect the fact that some interim cleanups may not achieve cleanup standards throughout an entire unit or site.</p> <p>The last sentence of that section should be changed to reflect the fact that source control measures required of a settling party for a cleanup should be those measures that are reasonably within the control of the settling party. The sentence beginning on 1568 should read: “At sites where there are <u>significant</u> ongoing sources <u>within the control of the party carrying out the cleanup action</u>, the cleanup actions will usually also include source control measures.” This change will make it clear that settling parties that are not responsible for discharges that contribute significantly to recontamination of the site or unit will not generally be required to undertake source control measures.</p>
xcix	1571 - 1572	<p>The last sentence of this section, beginning at the end of line 1571, should be deleted (“Active cleanup actions are preferred over passive cleanup actions”). Active cleanup measures are not always preferable to passive cleanup actions in the sediment context. Differences between the sediment and upland contexts result in the possibility that an active cleanup measure could do more harm than a passive one. The cleanup measures that provide the most environmental benefit should be determined on a site-by-site basis</p>

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cxiv	1859 - 1861	<p>The draft amendments should not delete the designation of “voluntary cleanups” as one of the administrative options available for achieving sediment cleanups. The current regulations include voluntary cleanups at -540(3)(b), but the amended regulations do not list voluntary cleanups as an administrative option. Their exclusion could be interpreted as meaning that all sediment cleanups must be carried out by Ecology or under an Ecology or EPA order or decree. This is contrary to the MTCA policy of encouraging voluntary cleanups and is also contrary to the express statement in the current SMS regulations that Ecology “shall encourage voluntary cleanup actions whenever possible, and as early as possible, to meet the intent of this chapter.”</p> <p>In the various advisory committee meetings, Ecology appeared to recognize that voluntary cleanups are essential for meeting MTCA’s goals. Any in-water work must be performed under the terms of various state and federal permits that ensure that the work must be done in an environmentally beneficial fashion. There is no basis to conclude that voluntary option should be removed from consideration for sediment cleanups. Instead, Ecology should re-instate the current SMS voluntary cleanup language in section -540(3)(a).</p>
cxv	1883 - 1885	<p>The sentence stating that Ecology “shall consider all requirements in this chapter authorized under [MTCA] to be legally applicable requirements under [CERCLA]” should be deleted. 42 U.S.C. 9621(d)(2)(A)(ii) provides that only state requirements that are “more stringent than any Federal standard, requirement, criteria, or limitation” are to be considered as applicable or relevant and appropriate requirements for a CERCLA cleanup. As such, not all MTCA requirements are necessarily CERCLA ARARs. Ecology’s regulations should not include a blanket requirement that Ecology consider all MTCA requirements as ARARs when federal law does not require them to be considered ARARs. This provision could be extremely problematic if EPA validly does not consider a particular MTCA requirement as an ARAR, but Ecology is bound by rule to insist that it is. Ecology’s regulations should not be providing interpretations of federal law, especially when the interpretation is so broad as to be incorrect in some instances.</p>
cxvii - cxviii	1898- 1927	<p>There currently is flexibility in the SMS regulations concerning how a “cleanup study plan and report” can be produced to meet the intent of both MTCA and the CWA. This flexibility should be maintained, as at least some sediment cleanups may concern relatively small units where dredging and/or capping of the entire unit will take place. In these circumstances, every element of a full RI/FS should not be required.</p> <p>Text should be added in -550 clarifying that not all components of a standard MTCA RI/FS need to be provided for smaller cleanup units or simpler sites, at Ecology’s discretion. The following text should be added to the end of -550(2):</p>

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		“For cleanup units or smaller sites, a streamlined analysis of the nature and extent of contamination, applicable cleanup standards and potential cleanup options may be provided, upon approval of the department. The streamlined approach may not include all of the elements otherwise required by WAC 173-204-550(3) through (7).”
cxxxix	2196 - 2197	Upward adjustments from the sediment cleanup objective should be permitted based on the consideration of net environmental effects, cost and technical feasibility, as is permitted in the current regulations, for the reasons given in the comment above concerning page xcvi text. 560(2)(a)(i) should be amended to state: “Upward adjustments. The sediment cleanup level may be adjusted upward from the sediment cleanup objective based on <u>consideration of net environmental effects, cost and technical feasibility.</u> ” Subsections (A) and (B) for that section can then be deleted. If subsection 560(2)(a)(i)(B) is retained, it should be edited so that both short- and long-term positive and negative impacts and effects are considered. Currently it is written so that long-term positive effects are considered, but not long term negative effects, and short-term adverse impacts are considered, but not long-term adverse impacts. A cleanup action could have long-term adverse impacts or could have short term positive effects, and those should be considered as well. The language beginning on 2199 could be edited as follows: “...aquatic environment, taking into account the <u>short- and</u> long-term positive effects on natural resources and habitat restoration and enhancement and the short- <u>and long-</u> term adverse impacts on natural resources and habitat caused by cleanup actions.”
cxxxix	2204 - 2208	New subsection 540(2)(b) should be deleted. There is no need for Ecology to give itself open-ended authority to require sediment cleanup levels more stringent than what is determined to be applicable based on the procedures for adjustments between the CSL and the sediment cleanup objective. The procedures in place already provide enough discretion to Ecology to ensure that a protective cleanup level can be chosen.
cxxxv	2275 - 2279	A “regional background” definition is already included at lines 389 – 393. This new description of “regional background” is slightly different. Since the term is already defined, it should not be re-defined here. The first sentence of -560(5) should therefore be deleted, as it adds nothing. If it is retained, the definition provided should exactly match the definition at section -200(38) to avoid confusion and any possible differences in interpretation between the two definitions. If retained, the description of “regional background” should be changed as proposed in the above comments on the -200(38) definition.
cxxxvi -	2301 -	(6)(b) concerns the possible use of tissue analysis. It is unclear how tissue

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cxxxvii	2304	concentrations could be used “to evaluate compliance with sediment cleanup standards” that are numeric criteria for sediment quality. As such, the last portion of that sentence should be deleted: “...during the remedial investigation/feasibility study. and to evaluate compliance with sediment cleanup standards. ”
cxli	2389	The multiple carcinogen total lifetime cancer risk for a site upper bound limit should be one in ten thousand. The limit for single carcinogens has been lowered to one in one hundred thousand to provide for a risk range, but that will do little good at most sediment sites, as multiple contaminants are present at nearly all urban sediment cleanup sites. Because multiple carcinogens will almost always be present, creation of any actual gap between the CSL and the sediment cleanup objective requires lowering the multiple contaminant risk level in addition to the single contaminant level. This would still leave the risk range for multiple carcinogens at the same level as CERCLA and many other environmental programs.
clxxiv - clxxvii	2894 - 2938	<p>The MTCA requirement of using permanent solutions to the maximum extent practicable does not easily translate into sediment cleanups. As written, the draft regulations would unnecessarily constrain Ecology and would require selection of cleanup actions that are unreasonable and would sometimes provide no incremental environmental improvements for much greater expenditures. Significant changes are needed to -570(3).</p> <p>Because a truly “permanent solution” that meets sediment cleanup levels and maintains them indefinitely will often not be possible, the regulations should allow Ecology and PLPs a great deal of flexibility in determining the best way to derive a cleanup that meets that requirement “to the maximum extent practicable.” A cookie-cutter hierarchy of remedial technologies may make sense in the upland context, but it does not make sense for sediment cleanups.</p> <p>Specific suggestions to ensure there is adequate flexibility to deal with the vagaries of sediment cleanups follow.</p>
clxxv	2899 - 2900	<p>The default maximum reasonable restoration timeframes should not be changed to begin when the cleanup begins. It currently begins when active cleanup is completed. PLPs will not be incentivized to perform the cleanup any more quickly due to this change. There is already a tremendous cost incentive to complete the cleanup as quickly as possible once it begins due to the tremendous cost of mobilization and maintaining crews and equipment in the field. There is no valid reason for changing the current default of 10 years from the completion of active cleanup measures.</p> <p>The last portion of -570(3)(e) should be changed as follows: “...site or sediment cleanup unit within ten years from the <u>completion of the active cleanup measures</u>”</p>

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		shall be presumed to have a reasonable restoration time frame.”
clxxv	2906 - 2910	<p>Subsection -570(3)(h) should be deleted as unnecessary and confusing, and because it will potentially result in large expenditures for little or no environmental gain. It is unclear what relying “primarily on monitored natural recovery or institutional controls” means. If it means more than 50% of the site should be addressed with active cleanup measures, this would have profound consequences at large sediment sites where large areas are over the sediment cleanup objective, but smaller “hotspot” areas contain much higher concentrations. Dealing with such sites on a case-by-case basis concerning the appropriate remedy technologies to be applied is the best approach. Having to argue about what constitutes relying primarily on MNR and institutional controls will not advance sediment cleanups. Further, this subsection again uses technical possibility as the basis for requiring more active cleanup. For the reasons stated in comments above, this is not a good approach to sediment cleanups.</p> <p>If the entire subsection is not deleted, it should be changed as follows: “Cleanup actions shall not rely <u>exclusively</u> on monitored natural recovery or institutional controls and monitoring where a more permanent cleanup action <u>that provides for greater net environmental benefits can practicably be implemented.</u>”</p>
clxxvi - clxxvii	2920 - 2938	<p>-570(4) should be substantially revised in recognition of the differences between sediment and upland cleanups. Unlike upland cleanups, attempting to completely remove contaminated sediments can result in significant environmental harm. There should be no presumption that certain technologies are more “permanent” than others. The hierarchy of (4)(a) through (k) should be deleted. Instead, each site should be reviewed on a case-by-case basis.</p> <p>The sentence beginning on 2924 should be changed as follows: “However, when assessing the relative degree of long-term effectiveness of cleanup action alternatives, <u>each alternative should be analyzed based on site-specific factors to determine which will provide greater permanence.</u>” The remainder of subsection 4 should be deleted, and no hierarchy should be provided for sediment sites.</p>
clxxviii	2962 - 2962	<p>The requirement for establishment of sediment recovery zones should be deleted. Unlike CERCLA, MTCA has no technical impracticability waiver. Sediment cleanup levels will be set at levels at many cleanup sites that the PLP will not be able to maintain, due to factors beyond the control of that PLP. For cleanups in urban areas, the regional background standard will not allow PLPs to maintain cleaned-up sediments at the required levels due to factors beyond the PLPs’ control. A requirement that a sediment recovery zone be established if any portion of the area addressed remains over the applicable sediment cleanup standard after 10 years means that those PLPs will be locked into a sediment recovery zone for an</p>

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		indefinite time period. That will present a tremendous impediment to parties moving forward with sediment cleanups.
clxxxii	3034 - 3035	-590(2)(d) should be deleted. Diffuse, nonpoint discharges are governed by the Clean Water Act, not MTCA. A PLP with a stormwater discharge permit should not be subject to an independent MTCA requirement that all of its discharges to a sediment area be handled in accordance with best management practices. The determination of requirements to be imposed on stormwater or other surface water discharges should be limited to CWA requirements to avoid duplicative and potentially varying requirements between the two programs. To the extent PLPs are subjected to multiple sets of ongoing requirements for stormwater by carrying out sediment cleanups, they will be less likely to come forward with a project that involves a sediment unit or site cleanup.
clxxxiii - clxxxiv	3051 - 3075	<p>The requirements related to determining the length of time a sediment recovery zone will be in place are too prescriptive. They are based on an assumption that sediment within the recovery zones will be recovering to meet applicable standards within a discernable period of time, not to exceed 10 years. For most urban sediments, this will not be the case. Standards based on regional background concentrations of bioaccumulative chemicals such as PCBs will be extremely difficult to maintain within shoreline urban areas where multiple outfalls are present. For many, if not most, urban sites and cleanup units, regional background concentrations will not be able to be maintained for the foreseeable future.</p> <p>For reasons given in comments above, sediment recovery zones should not be required for cleanups with lengthy restoration timeframes. If Ecology opts to include them, the criteria concerning evaluations and duration should not be prescriptive, due to the uncertainties and variability in circumstances present in the urban sediment context. As such, the specific requirements contained in -590(4) and (5) should be deleted and more generic requirements inserted.</p> <p>Above all, sediment recovery zones should not be required for every sediment cleanup that may not be able to maintain sediments at applicable cleanup levels over the long term. Once a cleanup unit or site is addressed, and the PLP(s) involved is in compliance with applicable discharge limitations, remaining efforts related to that cleanup unit or site should be the province of source control and discharge limitation efforts under the Clean Water Act. Otherwise, PLPs will not be interested in doing cleanups that would subject them to not only paying for a cleanup, but also being responsible for greater discharge evaluation and analysis (and likely treatment) requirements than would be applicable to them had they not carried out the sediment cleanup.</p>