



NEWS AND UPDATES

LRS TRAINING

OER provided a two-hour training session on September 5th, as a part of the 2018 WV Brownfields Conference. Environmental Toxicologist Ross Brittain presented an overview of human health and ecological risk assessment procedures and expectations, and Brownfield Program Managers Erin Brittain and John Meeks presented an overview of the VRP process. Both presentations were intended to facilitate more consistent and complete VRP submittals, and to encourage better communication between the OER and the LRS community.

NEW VOLUNTARY REMEDIATION AGREEMENT TEMPLATE

As of July 24, 2018, the Voluntary Remediation Agreement (VRA) template has been revised to be more user-friendly, and to more accurately reflect the requirements of 60CSR3. The revised VRA template is available for download from the template section of the OER webpage. The previous template will no longer be accepted for use.

REMEDICATION STANDARDS FOR RECREATIONAL LAND USE

Several communities and stakeholders throughout the state have approached OER with questions and concerns about assessment and remediation of rails-to-trails and other recreational sites. Many are dealing with obtaining abandoned railways from CSX Transportation. CSX requires all purchasers to adhere to their “Exhibit B – Minimum Sampling, Soil Management, and Capping Requirements for Rails-to-Trails Conversion of Rail Corridors”. Many communities find these requirements burdensome, but CSX mandates this. According to CSX, the only alternative to the Exhibit B requirements is assessment and remediation through a state voluntary cleanup program. However, since our VRP considers recreational properties to be a residential land use for purposes of de minimis standards, many WV communities



find these requirements burdensome as well. In response, OER is currently developing default exposure values for rail-to-trail risk assessments (and many other common recreational uses). This will allow applicants to calculate uniform standards for common rail-trail contaminants such as arsenic, lead, and PAH compounds, and will provide some relief from the default residential de minimis values. In the long-term, OER will consider promulgating de minimis recreational values for rails-to-trails and other recreational uses that present a lower degree of exposure than the residential scenario.

VOLUNTARY REMEDIATION PROGRAM FLOW CHART/OUTLINE

A process flow chart and written outline that describe the steps of the VRP have been developed and will be available very soon for download from the OER Website (<https://dep.wv.gov/dlr/oer/brownfieldsection/technicalguidanceandtemplates/Pages/default.aspx>) and also will be incorporated into the VRP Guidance Manual. Our goal in developing these communication tools is to ensure that the OER Project Manager and the LRS are always “on the same page”, with regarding the steps required to bring a site through the VRP.

PROGRAM HIGHLIGHTS

USING INFORMATION FROM MULTIPLE SITE ASSESSMENTS

To complete site assessment, the VRP rule requires that the LRS ... *collect and analyze a sufficient number of samples of sufficient quality for the contaminants reasonably anticipated to be present, considering site operations, from media reasonably anticipated to have been impacted, to provide a reasonable characterization of the nature and distribution of site contaminants, and to calculate exposure point concentrations* (60CSR3, Section 8.2). Oftentimes, significant information has been collected and analytical data has been generated at a property before it enters the VRP. When the LRS chooses to use existing information and analytical data as a part of their Site Assessment Report, the information from these sources must be consolidated into a single, comprehensive document. The OER Project Manager and members of the public must have access to all applicable information used in characterizing a VRP site in a stand-alone report, without reviewing multiple documents (sometimes prepared by multiple persons) to confirm that site assessment is complete.

DATA VALIDATION REQUIREMENTS

The purpose of data validation in the VRP is to ensure that data used to estimate risks to human health and ecological receptors is accurate and meets the necessary quality objectives. Data used in risk assessment is subject to the highest level of scrutiny. The Risk Protocol section of the VRP rule (60CSR3, Section 8) requires that at least 10% of the data to be used is validated in accordance with EPA protocols. Currently, the applicable protocol is: EPA 540-R-08-005, Guidance for Labeling Externally Validated Laboratory Analytical Data for Superfund Use, January 13, 2009. As a general guideline, data subject to this requirement is data utilized to determine exposure point concentrations for comparison with de minimis, uniform, or site-specific remediation standards. Preliminary data used in defining the extent of contamination or used to site monitoring wells, etc., and not used to determine

compliance with a remediation standard is not subject to validation.

CHANGING DE MINIMIS STANDARDS

If de minimis standards change between the time the risk assessment is completed and the time the Final Report/COC Request is submitted, the Final Report must include an appendix for purposes of screening all site-related COPCs against the most current de minimis standards. The contaminants of concern identified through this updated screening must then be listed in Appendix C of the draft Certificate of Completion.

CONSTRUCTION WORKER EXPOSURE PATHWAY

OER has historically considered 8 ft. to be the minimum soil depth to consider when evaluating construction worker exposure. However, this default minimum value should be modified if site-specific information indicates that deeper or more shallow values are appropriate (e.g., known presence of deeper utilities, or shallow bedrock that prevents installation of utility lines below a certain depth).

ESTABLISHING A LICENSED REMEDIATION SPECIALISTS BOARD

If you are an LRS who is also a registered professional geologist, engineer, or surveyor, you are familiar with the concept of a professional licensing board made up of your peers that oversees individuals who practice in your profession. Currently, OER is considering establishing a workgroup comprised of members of the LRS community and the WVDEP to amend 60CSR3, Section 5, to allow the Secretary of the WVDEP to establish an LRS Board that would serve many of the same functions of the professional boards noted above. If you are interested in serving on this workgroup, please reply to the DEPLRSProgram@wv.gov email and let us know. This will be a multi-year process, and we will continue to provide information if and when this initiative moves forward.

Questions? ~ Comments? ~ Ideas for an Article?

Please contact us at DEPLRSProgram@wv.gov at any time.

We need your input to meet our goal of continuous improvement!