

ITMEIZED LIST OF REVISIONS  
TITLE 60, SERIES 3: VOLUNTARY REMEDIATION AND REDEVELOPMENT RULE

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§60-3-2. Definitions

1. Added the terms Conceptual Site Model, Contaminant of Potential Concern, and Contaminant of Concern, which were not previously defined in the rule
2. Deleted the terms Gross Remediation Costs and Site Assessment Costs, not otherwise used in the rule or guidance manual

§60-3-3. Eligibility – No changes

§60-3-4. Application to Participate in Voluntary Remediation Program

1. Update mapping accuracy standards to reflect currently available technology and practice
2. Specified a 60-day timeframe for the VRP applicant to submit a corrected application when the VRP Application is returned to the applicant for corrections

§60-3-5. Licensed Remediation Specialists

1. Clarified the process for providing evidence of minimum education requirements
2. Clarified that reference books, calculators, etc. are not permitted during the examination
3. Added previously-applied passing score for LRS examination to the rule (70%)
4. Removed never-utilized interstate reciprocity provisions
5. Added process for documenting continuing education requirements
6. Added “dishonesty” and “gross incompetence” to other bases for suspension/revocation of license

§60-3-6. Voluntary Remediation Agreement (VRA)

1. Removed requirement to list “...the technical standards as provided in the Voluntary Remediation Program Guidance Manual to be applied in evaluating the site assessment...” (Subsection 6.1.g)
2. Removed requirement to list remediation standards, institutional controls, and engineering controls in VRA (at beginning of project) and moved these to be listed in the Certificate of Completion (at end of project: §60-3-12)
3. Added provision for VRP applicant and DEP to mutually agree to reopen VRA. This is in addition to other “reopener provisions” set forth in the statute.

§60-3-7. Public Involvement/Public Notification

1. Clarified language describing locations for public availability of VRP application, and added provision to remove the VRP application from the public repository after the Certificate(s) of Completion for the site is/are issued

§60-3-8. Risk Protocol – In general, clarified/expanded language to better communicate requirements, and updated language to reflect current standard of risk assessment practice.

1. Added health hazards (non-cancer risks), in addition to cancer risks, to General Requirements for Risk Assessments
2. Updated sources of ecological toxicity data
3. Clarified that data validation is only required for data used in risk characterization calculations (as opposed to more general characterization data that is not used to calculate exposure point concentrations)
4. Added language to reserved subsection 8.3 to describe process used for “Quantification of cumulative risks posed by multiple exposure pathways”. Language reflects risk assessment standard practice and U.S. EPA protocol.
5. Added language clarifying that institutional/engineering controls can be considered in performing the exposure assessment, to eliminate the requirement for site specific risk characterization (8.4.b.3.B).
6. Expanded language in several locations to more clearly describe the requirements and reflect the current standard of practice for risk assessment

§60-3-9. Remediation Standards – As above, clarified/expanded language to better communicate requirements, and updated language to reflect current standard of practice.

1. Added language to clarify that institutional/engineering controls may be considered in the determination of remediation standards
2. Clarified that free-phase contaminants can remain in groundwater if removed to the extent practicable as defined by the VRP Guidance Manual
3. Added the term Conceptual Site Model to the rule (also defined in Section 2) and clarified its use to evaluate exposure pathways and institutional/engineering controls to minimize the need for site specific risk characterization calculations when exposure pathways are eliminated by controls.
4. Removed the De Minimis Migration to Groundwater (MTG) Standard (previously considered a De Minimis Soil Standard) and moved the evaluation of MTG to the guidance manual. The need for remediation or controls to protect groundwater quality is disconnected from direct-contact risk-based soil standards.
5. Added the concept of Vapor Inhalation Pathway to the rule, explained that this pathway is not considered in the De Minimis Soil Standards, and stated that it must be evaluated using procedures in the guidance document.
6. Clarified that risk-based standards are to be developed for surface water in cases where a contaminant of concern is not listed in the Surface Water Quality Standards (47CSR2).
7. Corrected the rule and clarified the language regarding application of the cumulative hazard index (in both Section 9.3 - Uniform Standards and Section 9.4 - Site Specific Standards). The rule previously allowed a higher hazard index (relaxed standard) when target organ information is not available. Standard practice is to allow a relaxed standard when this information is known. Suspect this was simply an error that went unrecognized.
8. Removed language regarding well placement in Natural Attenuation requirements (Section 9.9.g).

§60-3-10. Work Plan

1. Removed duplicate language regarding the ability of the applicant and WVDEP to extend the time for review of work plans or reports.

§60-3-11. Final Report

1. Clarified the opportunity for the applicant to incorporate information by reference rather than including copies in the Final Report
2. Corrected the language describing information to be submitted with legal description
3. Corrected punctuation to clarify the persons who can certify the accuracy of the Final Report

§60-3-12. Certificate of Completion

1. Added a requirement to provide a reference to the deed book, page number, and tax parcel identification number of the property subject to the certificate
2. Added a requirement to list the applicable remediation standards (moved this from §60-3-6. Voluntary Remediation Agreement)

§60-3-13. Land Use Covenants

1. Clarified that notification for building permits is only required where the work may affect the contamination subject to the land use covenant
2. Updated mapping accuracy to reflect current standards

§60-3-14, 15, and 16 – No changes

APPENDIX 60-3A. West Virginia Voluntary Remediation Agreement (VRA) for No Further Action Investigation Activities

1. General clean-up of repetitive/unnecessary language
2. Removed reference to Brownfield Locations (added a VRA template specific to Brownfield Locations: APPENDIX 60-3C)
3. Removed requirement to attach site map to the VRA
4. Added fill-in-the-blank tables to list remediation standards
5. Added other potentially applicable WV Code Sections to the list of statutes and rules for which compliance is mandated

#### APPENDIX 60-3B. VRA for Investigation and Remediation Activities

1. Same changes as APPENDIX 60-3A above
2. Removed requirement to provide copy of VRA to all contractors, subcontractors, laboratories, etc.
3. Removed requirement to list remediation standards and moved these to Certificate of Completion (APPENDIX 60-3D)
4. Added fill-in-the-blanks table for listing of submittals and due dates
5. Extended time for notification of change in LRS from 72 hours to 14 days.
6. Specified time for applicant to provide notice of sampling and analysis (from “reasonable notice” to 7 days)
7. Changed provision for WVDEP termination of VRA upon disapproval of work plan from “shall terminate” to “may choose to terminate”

#### APPENDIX 60-3C VRA FOR BROWNFIELDS REVOLVING FUND APPLICANTS

1. New appendix to provide VRA template specific to Brownfield Locations
2. Content tracks APPENDIX 60-3B

#### APPENDIX 60-3D (previously 3C). Certificate of Completion and Covenant

1. Added requirement to list remediation standards (moved from APPENDIX 60-3B – VRA)

#### APPENDIX 60-3E (previously 3D). Land Use Covenant (LUC)

1. Generally, revised content to reflect revised requirements of the rule, and revised language to be more specific and clearer in describing the content of the LUC.
2. Made template more user-friendly by offering more drop-down choices and fill-in-the-blank sections.
3. Removed requirement to provide a “brief narrative description” of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure and the location and extent of the contamination

#### TABLE 60-3A. Licensed Remediation Specialist Fees

1. Increased fees for application, renewal, and examination.

#### Table 60-3B. De Minimis Standards

1. Removed Migration to Groundwater De Minimis Standard