



DEPARTMENT OF NATURAL RESOURCES

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MEMORANDUM

DATE: February 18, 2005

TO: Risk-Based Remediation Rule Workgroup (Workgroup)

FROM: Robert Geller, Interim Director (*Original signed by Robert Geller*)
Hazardous Waste Program
Air and Land Protection Division

SUBJECT: Draft "Departmental Missouri Risk-Based Corrective Action (MRBCA)
Technical Guidance:" Review and Comment

I am pleased to present the draft "Departmental MRBCA Technical Guidance" for your review and comment. We have all worked very hard to get this far, and this guidance reflects the hard work and discussions of the Workgroup. We thank you for your past efforts and look forward to a continuing dialogue on this draft.

Review and Comment Procedures

The department has been asked to provide review and comment procedures. We hope that the procedures outlined below will address the need for a final review and comment period by the Workgroup before this draft guidance is released to the larger public. We trust that continuing dialogue will improve and refine this guidance. Our common goal in these dialogues is to provide a framework for remediation decisions that facilitates the constructive use of contaminated sites by protecting human health and the environment in the context of current and future site use.

1. The deadline to return comments for department consideration and response is **March 28, 2005**.
2. Please return comments in written form so that the department will be able to give them appropriate consideration and response. If possible, please propose alternative language for the guidance where the desired change is not obvious in the comment.
3. Comments can be sent either by letter or by e-mail. If sent via e-mail, please include your name and address. We cannot respond to comments without a name and address.
4. All comments by letter should be addressed to Ms. Linda Vogt at the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176.
5. All e-mail comments should be sent to linda.vogt@dnr.mo.gov.



6. If you have questions or wish to discuss your comments before finalizing them, please feel free to contact Ms. Vogt at (573) 751-2747.
7. By **April 29, 2005**, the department will have reviewed the comments, responded to them to the extent possible, and identified a preliminary "Punch List" of issues to discuss with the Workgroup during a meeting that will be scheduled the first week in May. (Please refer to the attached timeline for further deadlines.)

Guidance Issues

The department wishes to inform the Workgroup members of the following significant changes and additions to the guidance.

Ecological Risk Assessment, Checklist B: In Appendix F, Ecological Risk Assessment, Level 1, during the departmental review, it was noted that questions 7b and 7 on Checklist B appear to require professional expertise to answer. The Geologist Registration Act, specifically Section 256.456.1 RSMo, states "Except as provided in section 256.471, no person, firm, or corporation shall engage in the practice of geology affecting public health, safety and welfare unless the work is performed by or under the supervision of a registered geologist." Section 256.471.3 exempts the work of engineers and other licensed professionals from this prohibition. The checklists have been changed to make this a requirement for those questions. This requirement goes beyond what was discussed in the Workgroup, which was that a "reasonable person" could complete the checklist. We bring this change to reviewers' attention and specifically solicit comments on it.

Land Use: The Institutional Controls Subgroup used the phrase, "current or reasonable future use." We have removed the phrase "reasonable" when describing future land use because it is vague and, more importantly, so that the management of future land use through institutional or other controls is recognized in the document. (This was also discussed at our meeting in St. Louis on June 9, 2004.) We bring this to your attention to review and comment on this change.

Ecological Risk Assessment at Default Target Level: The issue of including an ecological risk assessment at the Default Target Level (DTL), needed to conform with Water Quality Standards, was discussed in several Workgroup meetings. In order to move forward, we decided to develop the methodology that was discussed in our meetings and include it in the draft guidance. Sections 5 and 6 contain the bulk of the guidance on handling this issue. We bring this to your attention to review and comment on this addition.

Section 11, Long Term Stewardship: This section provides guidance on activity and use limitations, contents of any Letter of Completion, ordinances and Memoranda of Agreement, and general long-term stewardship issues. This is the first time that most Workgroup members will see this section, and several issues were still outstanding as we developed it. Therefore, within the section itself, it refers to several questions and seeks review and comment on specific parts. We bring this to your attention to review and comment on this section.

Dispute Resolution Process: Workgroup members requested that the department develop an informal dispute resolution process that could be used prior to a formal hearing before the Hazardous Waste Management Commission in order to resolve MRBCA issues in a timely and efficient manner. We have included this draft in Appendix D. We bring this to your attention to review and comment on this addition.

Chemicals of Concern: Because the departmental guidance contains over 300 chemicals that could be found at a site, we have developed guidance for eliminating chemicals of concern in Section 7. Reducing the need to carry forward all chemicals identified at a site into the risk analysis makes the process more efficient and cost-effective. We bring this to your attention to review and comment on this addition.

Data Quality Management: In order to maintain compliance with the department's Quality Management Plan, we have added language throughout the guidance that will require department review and approval of field data collection. This reflects the practices presently in place for many of the cleanup authorities. Additional information is contained in Appendix K. We bring this to your attention to review and comment on this language. For your information, we are posting a copy of the Quality Management Plan on our MRBCA website along with this guidance.

Default Target Levels and Risk-Based Target Levels (Appendix B): Values associated with chemicals that are common to both the departmental and tanks MRBCA (such as benzene) are being posted separately. However, when final, this information will be included in this guidance.

As you know, this draft guidance is being developed in concert with departmental rules. The Departmental MRBCA Rules Subgroup held its first meeting on October 26, 2004, to work on accompanying rules. We will continue to post information from the Rules Subgroup meetings on the department's MRBCA website, and those activities will resume based on this draft guidance. We look forward to completing this task and would expect that pertinent comments received on this guidance would also be considered in drafting the rules so that there is an internal consistency between the documents.

Thank you for your interest and time that you have contributed in the past to developing the MRBCA process. Thank you for your continuing interest and support, and we look forward to working with you to finalize the guidance and fully implement this process.

Please direct any questions regarding this guidance or procedures to Ms. Linda Vogt at the Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, MO 65102-0176 or by telephone at (573) 751-6998.

BG:lvj

Attachment

Timeline
Draft Departmental MRBCA Technical Guidance
February, 2005

<u>GUIDANCE</u>	<u><i>Start Date</i></u>	<u><i>End Date</i></u>
	<u>Thu 8/5/04</u>	<u>Aug. 22, 2005</u>
Risk-Based Remediation Rule Workgroup Meeting: Resolve - Eco Screening, Additivity of Risk, Toxicity Values	Thu 8/5/04	Thu 8/5/04
Vapor Pathway Subgroup: Resolve - Fate and Transport Default Parameters, Guidance On Soil Types	Wed 9/8/04	Wed 9/8/04
Workgroup meeting to resolve remaining issues	Wed 9/15/04	Wed 9/15/04
Draft sent to GSRAD, ESP, and WPP for comments	Nov. 22, 2004	Dec. 30, 2004
WPP comments resolved		Dec. 27, 2004
ESP Comments resolved		Feb. 15, 2005
GSRAD comments resolved	Dec. 12, 2004	Feb. 14, 2005
Draft Guidance posted for Workgroup	Feb. 18, 2005	Feb. 23, 2005
Workgroup develop Comments and return to MDNR	Feb. 23, 2005	Mar. 28, 2005
Respond to Comments and identify Punch List of Issues that require more discussion	Mar. 28, 2005	April 29, 2005
Workgroup meeting to discuss Punch List	May 2, 2005	May 6, 2005
Second meeting if needed	May 10, 2005	May 13, 2005
Draft final out to the Public	May 13, 2005	May 27, 2005
Public Comment Period	May 31, 2005	July 1, 2005
Respond to Public Comments	July 5, 2005	Aug. 5, 2005
Finalize first version of Guidance	Aug. 8, 2005	Aug. 19, 2005
Final Guidance available for use in proposed rule		Aug. 22, 2005
GUIDANCE TRAINING	Aug. 22, 2005	Sept. 23, 2005