

Soil Remediation Standards Stakeholder Meeting Notes

November 12, 2014

1:30 pm in PHR

Opening

- Terry Sugihara (TS) welcomed the audience of 11 DEP personnel and 20 external stakeholders (SH)- (attendee lists attached). He stated that the October minutes cannot be finalized as comments from the LSRPA are expected to be received. Additional amendments should be sent to TS. He asked that the SH group provide meeting minutes for this meeting and introduced Scott Drew to run the meeting.

Scott Drew (SD) did the following:

- SD reviewed agenda
- SD informed all intention of no meeting in December if topics were covered.

ARS Process

John Donohue (JD) led discussion on ARS Process and Language.

- If screening levels become standards and the new standards are not appropriate for a site, ARS will be required.
- The process for developing ARS in not known.
- A lot of high quality LSRPs operating – However relying only on lookup tables and by the book approach.
- How does the market look at an ARS (property transactions, etc.)?
- ARS process needs to be changed and streamlined.
- Liability issues for party responsible for conducting the remediation / LSRP? Impacts of current Guidance?

Questions / Comments

- Barry Frasco (BF) commented that he did not understand the tone of the presentation which represented the ARS process as “bad”. He stated that ARSs are protective of

human health and the environment and needed to be promulgated under current law. George Tyler (GT) – ARS is a necessary process, but burdensome to average remediator.

- BF: the liability issue is the same whether you comply with a standard or obtain an ARS
- Rodger Ferguson (RAF) – most LSRPs are ok with ARSs; the bigger issue is always going to ARSs, and questions in court later...it extends the process of cleanup and this creates apprehension. LSRPs should apply professional judgment.
- GT – changing the status of the numbers has legal impact DEP changing status of numbers because of enforcement concerns; this will impact legal and contractual aspects with respect to expected result of remediation. DEP should demonstrate why they are changing or need to change.
- BF – DEP does not want ARS process to be burdensome, but it should be simple review and approval unless complex models are used. The ARS language will be presented at upcoming SRS meeting.
- Lisa Voyce (LV): Issues for LSRPs: Business owners may not understand ARS issues. Smaller customers who are less sophisticated may end up with more restrictive cleanups than larger RPs.
- JD – Yes this is an issue. Concerns from business community. We want to voice concerns early on with respect to a restrictive process.
- Lisa Campe (LC) – agrees that ARS is protective if done properly. Caution against using “less protective, say “appropriately protective” in considering site specific conditions consistent with EPA.
- Nick DeRose (NDR) - If MGW become standards, then ARS process will have to be more flexible and reflect site-specific variability; worried about flexibility in rule vs guidance BF – Agree with NDR 100%. MGW most complex, but change to standard does not change process. The Brownfields and Contaminated Site Remediation Act allows for ARS. Guidance remains in place. Rule needs expansion looking at additional guidance. Surprised that people think guidance will be removed. When new standards in place, (NJDEP) looking at additional procedures to make it easier.
- TS – He understands confusion regarding process. DEP will roll out with education.
- Elizabeth George-Cheniara (EGC) – Affirms that ARS is a valuable tool, but the process and time delays in review is a concern. Education is important component.

EPH

JD led discussion and presentation on EPH.

- Need to look at EPH process in totality

- Why did Category 2 Non-Residential standard increase and Residential did not?
- Residual and Free product are not standards.
- Professional Judgment by LSRP???

Questions / Comments

- John Ruhl (JR): Category 1 Residential = 5100 & Non-residential = 75,000 (increased from current NR of 54,000). 3 Factors changed in the calculation: 1.) Body weight increased from 70 to 80 kg 2.) 0.2 to 0.12 skin adherence factor, 3.) 3300 cm squared to 3470 cm squared for skin surface area exposure. The Category 2 calculator will produce sample specific standards - wide variety. LNAPL is not yet being re-evaluated now.
- JD: The requirement to clean-up residual/free product is a Tech Rule requirement. The protocol is not part of the Standards Rule, but it should be considered. We want standards to be consistent with guidance and all recent information. Fix everything at the same time.
- Rayna Laiosa (RL): When would LNAPL be re-opened? There is a disconnect and it should be done sooner rather than later (now).
- Carrie McGowan (CM): 8000 LNAPL is driving remediation and is not necessarily a good indicator of free/residual product. Need to fix this problem now.
- NDR: Concern about EPH free/residual product becoming a Standard. Depending on the type of product, may not see an impact to groundwater.
- TS: Don't disagree that we need guidance to be updated. EPH was done pre-LSRP and needs to be revisited. Don't know the schedule for revision of EPH Guidance. Need to get the Standards Process through first since many of the same personnel are working on both.
- CM: Is there a potential for Department Policy Statement on the issue?
- TS: Maybe interim FAQs can be used to address issue

Inhalation of Ambient Air Pathway

- Lisa Campe led this discussion.
- Key points:

Soil inhalation standards based on 24 hrs/day, 365 days per year, 26 years for VOC and particulates.

For VOCs, primary exposure is inhalation inside building (VI)

Soil Standards should be based on Reasonable Maximum Exposure (RME)

Questions / Comments

- TS: Inclusion of new data will be taken under advisement; Difference of opinion with respect to RMEs. DEP reached out to Monica Olsen (EPA) on recommended use of 24/7 and told to stick with 24 hr exposure based on the current equation.
- LC: Screening level vs Standard –that’s ok if used as a screening level, but ignores site-specifics; if we can use an ARS to come off 24 hrs, then ok.

Age Adjusted Factors / Chronic & Sub-chronic

- Lisa Voyce led this discussion.

Questions / Comments

- Linda Cullen (LC2): Asked for examples where an ARS for residential direct contact would be developed. DEP can’t envision where you would do this / use this? (1/3 difference)
- LV: None come to mind, but Kevin Long may have examples. Underlying site specific conditions would drive.
- LC2: DEP struggles to justify their methodologies with MRE. DEP places emphasis on protection of children based on behavior and physiological differences. Used child only exposure scenario based on SAB recommendations post 1993. EPA now uses child, teen, and adult scenarios. Need examples of ARS in order to consider.
- LV: will talk to Kevin Long re: examples, but we want to have professional judgment
- TS: thanks for presenting for Kevin Long. We’ll expect to get additional information/examples from him

MGW SSLs

- Steve Posten led this discussion.

Questions/Comments

- Swati Toppin (ST): In regards to the SAB report, the model involves time and averaging and DEP does not allow for an exceedance of a GWQS to be used for any length of time. Discussed with the Commissioner and explained why mass limiting cannot be used. Already have an ARS model available-SESOIL. Mass limits are already used in some

models, but they do not yield walkaway numbers. DEP does not want to allow mass limiting option for the standards.

- SP: still thinks it worthwhile to look at the derivation of equations and that options need to be looked at for time and averaging.
- BF: This approach is an option for ARS. We can explore this now but we'll need site-specific info and won't get a generic number
- NDR: For VOCs in particular –SESOIL and AT123 Model did include averaging. What is the policy behind not allowing (70 year) averaging? Particularly if no impact to a receptor?
- ST: Consideration of receptors is site specific and needed for an ARS. Mass Limiting cannot be used for a generic standard which is a walkaway number.
- RL: Confused by ST regarding statement about can't use for generic number versus can use for ARS.
- ST: ARS has site-specific conditions- the presentation discusses the use of site specific data for ARS, not for the generic standards.
- TS: Clarified that generic standard will not use mass limit, but site specific ARS can use mass limit.
- RAF: DEP doesn't allow exceedances but does allow averaging (Compliance attainment guidance)
- ST: Can't allow averaging over 70 years as a walk-away.
- BF: must look at difference in scenarios. Difference between already impacted versus. groundwater that isn't impacted or may become impacted over 70 years and allow exposure i.e. don't want clean to become contaminated
- RF: For SESOIL, if you work backwards from the number, you can see short term exceedance. If the model shows slight impact that can be averaged, is that ok?
- BF: Might be acceptable, but also might be fixed by a small remedial action.
- Ashley Bell (AB): (to TS) confused by TS vs ST statements: Clarification-under certain conditions, ARS would be acceptable if engineering or institutional controls are in place.
- BF: Can't make a default thickness for a generic standard. Key is generic number needs site specific info that we don't have
- AB: can you come up with a remedy with no institutional control?
- ST: yes
- ST/BF: ARS may not require institutional control/ use restriction/limited access.
- NDR: Request that use of mass limit as an ARS via rule making and/or guidance.
- SP – Intent was to make ARS approach similar to others
- ST: no problem as an ARS option
- TS: asked if any further issues

- SD replied , No, all topics have been covered and there is no need to meet again.

Meeting adjourned at 4:10PM. December 9 meeting canceled

Attendees:

Group	Name	Company
LSRPA	Lisa Campe	Woodard & Curran
	Nick DeRose	Langan Engineering & Environmental Services
	Scott Drew	Geosyntec Consultants, Inc.
	Rodger Ferguson	Pennjersey Environmental Consulting
	Laurie Gneiding	AMEC Environment & Infrastructure, Inc.
	Carrie McGowan	EHS Support, LLC
	Steve Posten	AMEC Environment & Infrastructure, Inc.
	Lisa Voyce	HDR, Inc.
AEG	Theodoros Toskos	AMEC Environment & Infrastructure, Inc.
	Niall Henshaw	Parsons
SRIN	Rayna Laiosa	PSEG
	Ashley Bell	Atlantic Richfield
	Robin Austermann	Shell
CIANJ	John Brennan	Brennan Environmental
	Rose DeLorenzo	Matrix New World Engineering
NJBIA	Sara Bluhm	
	George Tyler	
NJBA	Neil Rivers	Langan
	Elizabeth George-Cheniara	
Fuel Merchants NJ	John F Donohue	