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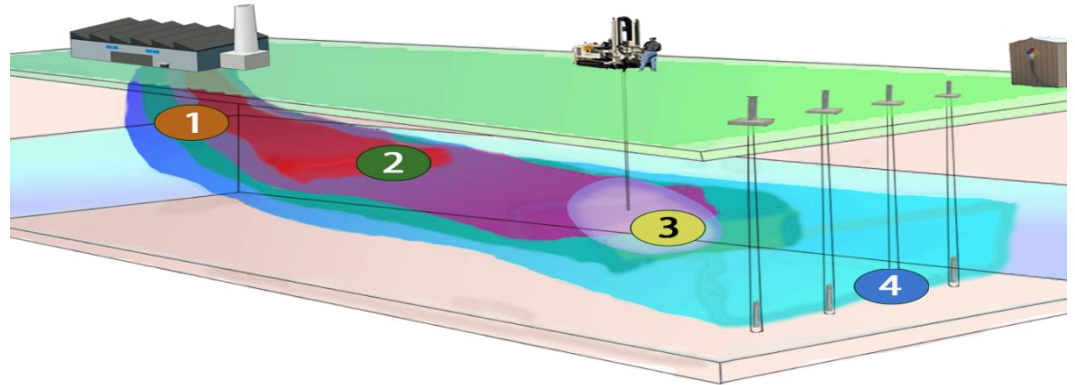
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## The Groundwater Protection Act and the VRP

Groundwater quality is regulated in WV by the Groundwater Protection Act (W. Va. Code §§ 20-12). The Office of Environmental Remediation (OER) has always taken the position that language in Section 4 of the GPA, "...every reasonable effort shall be made to ... strive where practical to reduce the level of contamination over time to support drinking water use" requires that any VRP site where a groundwater exceedance is present, employ a remedy to reduce the level of contamination over time to support drinking water use. The GPA uses the terms "reasonable effort" and "where practical", so it is not practical to achieve drinking water standards at all sites using reasonable effort. However, it is practical to address impacts from most common contaminants, and natural attenuation is a very reasonable level of effort.

Institutional controls are used to prevent unacceptable exposure to contaminants, but they do not, without an associated remedy, reduce the level of contamination over time. We recognize that all OER Project Managers have not consistently held all VRP Applicants to this standard. However, that interpretation of the GPA has consistently been the position of OER management, even if they did not successfully communicate their vision to the project managers or hold project managers accountable for consistent implementation of policy. In fact, that lack of communication and consistency was one of the primary complaints received by DEP leadership regarding the VRP. The current leadership at OER is committed to consistency across the program and to a high level of internal and external communication.

# COMBINING VRP DOCUMENTS TO REDUCE PAPERWORK AND SHORTEN PROJECT SCHEDULES



Several LRSs have asked if VRP documents can be combined to save time in the process. One of the most common suggestions is combining the Remedial Action Completion Report and the Final Report. Nothing in Section 11 of the VRP rule indicates that these two documents can't be combined. In fact, the rule says, "The final report shall include or incorporate by reference all data and information needed to document and verify that the site meets all applicable standards and that the applicant has completed all activities specified in the Voluntary Remediation Agreement." We ask that previously approved work plans and reports are incorporated by reference, rather than resubmitting these with the final report. But it is reasonable to include the Remedial Action Completion Report as an attachment the Final Report. From a practical standpoint the OER has 60 days to review and comment on a Final Report, versus the 30 days allowed for other submittals, so there is no issue with meeting schedules.

In cases where the only remedy required to meet the applicable remediation standards is a Land Use Covenant, the OER also encourages the Remedial Action Work Plan be submitted as an attachment to the Risk Assessment. This does not apply where the remedy includes active treatment, natural attenuation, or an engineering control.

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## VAPOR INTRUSION ASSESSMENT:

### VISL ISN'T ALWAYS THE ANSWER

When EPA announced that the Johnson & Ettinger model should not be used to evaluate vapor intrusion from soil sources and introduced the VISL model, the routine for assessing vapor intrusion shifted to a groundwater-focused orientation. However, a situation which arose recently at a UECA site pointed out why VISL isn't always the right answer. At this site, groundwater is deep and there were no significant impacts from the release. Also, the release occurred from piping, resulting in a near-surface soil source. Although the LRS screened COPC concentrations in groundwater against VISL values and concluded that vapor intrusion from a groundwater source was not significant, they also installed soil vapor points adjacent to the station building. Samples from both vapor points contained benzene and ethylbenzene concentrations above residential screening values and at less than one-half magnitude below commercial values. LRSs and OER Project Managers need to remember that deep groundwater and surface sources may lead to a negative VISL screening value but still result in a significant exposure that requires a remedy.

## Save The Date!!

The 2020 West Virginia Brownfields Conference will be held at the Huntington Civic Center in Huntington, WV, from September 15 through 17. LRS Training will take place from 8:00 AM through 3:00 PM on Tuesday, September 15, 2020.

## **BROWNFIELD REVOLOVING LOAN PROGRAM**

The OER has received approval from EPA to begin offering low-interest loans to governments, nonprofits, and private sector businesses to cleanup properties contaminated with petroleum or hazardous substances. The Brownfields Revolving Fund (BRF) can fund remediation of VRP sites through favorable interest rates and repayment terms. Rates for governments and non-profits are 1.5% and are 3% for private sector businesses. Repayment terms of up to 10 years can be negotiated.

Loans can be used to perform risk assessment, prepare remedial action work plans, complete passive or active remediation, perform confirmation sampling and analysis, and to pay LRS and OER review fees. Funds cannot be used to perform any pre-remediation site assessment, including Phase I and Phase II ESAs.

# TRAINING TRAINING TRAINING



Are you frustrated by lengthy comment letters regarding your VRP project submittals? On February 27, the OER will provide a five-hour “Deep Dive” into the new VRP Guidance Manual at the Flatwoods Days Inn Conference Center. This training came about from questions and discussion that arose during the two-hour session presented on September 10 at the WV Brownfields Conference. The session is free to all VRP stakeholders and will qualify for 5 of the 12 required professional development hours for LRSs. Enrollment was expanded from the original 80 seats to 100 seats to accommodate overflowing demand. Register soon if you haven’t already done so! Although the training will

focus on the new VRP GM, the OER welcomes questions on any topic and hopes for a wide-ranging discussion. Over the past two years the OER has tried to increase communication through this newsletter, educational sessions at the WV Brownfields Conference, the new VRP GM, and encouraging LRSs to call their OER Project Manager, Program Manager, or Toxicologist with questions before submitting work plans and reports. The OER sees a VRP project as a team effort, with contributions from the Applicant, the LRS and the OER. Our role is to provide guidance and ensure that projects follow the VRP rule and VRP GM.

## On-Line Training and Testing is Coming!

The proposed amendments to the VRP rule include a requirement that each LRS earn one professional development hour each year by completing specific training conducted by the OER. One hour of on-line mandatory training will be provided each year that can be accessed from your personal workstation. This training is specifically designed to help members of the LRS community remain aware of current VRP regulations, guidance, and processes, as well as any new developments in assessment or remediation technology. After completing the one-hour on-line training session, you will be prompted to take a test to document your knowledge of the material. Failure to pass the test will require the student to retake the applicable sections of the training. We currently plan to make the annual training and associated test mandatory for all LRSs and OER PMs, beginning in the fourth quarter of 2020. New training sessions will become available during the fourth quarter of each year.



## Tell Us What

## You Think...

The goal of this newsletter is to keep the lines of communication open and flowing at capacity.

Please let us know if there are topics you want to know more about, or just tell us what you think about the newsletter.

The best way to reach us is by sending an email to the address below.



Office of Environmental  
Remediation

[DEPLRSPprogram@wv.gov](mailto:DEPLRSPprogram@wv.gov)

## News Feed

- **New VRP Rule is at the Legislature!**

The OER proposed amendments to the VRP rule that are currently working their way through the 2020 WV Legislature. The number of changes is large, but the only significant change is to amend the rule regarding Migration to Groundwater Standard, move the default values from the De Minimis Table to the VRP GM, and to provide a method for calculating site-specific MTG values in the VRP GM. You can download the proposed amendments from the WV Secretary of State Website ([apps.sos.wv.gov/adlaw/csr/](https://apps.sos.wv.gov/adlaw/csr/)).

- **Always Use OER Website Templates!**

OER templates are updated occasionally based on input from LRSs and OER PMs. In particular, the Land Use Covenant, Land Use Covenant Inspection Form, and the associated instructions pages are most frequently updated to make them easier to use. Please go to the OER Technical Guidance and Templates webpage each time you require a template. It may have changed since the last time you completed one.

## New Faces

- OER welcomes **William “Matt” Gadd** as our new Project Manager in the Wheeling office. Matt has extensive experience in the environmental field, working on numerous EPA assessment projects across the region as an employee of TechLaw. Matt is a graduate of WVU and was a member of the nationally ranked WVU Riflery Team.