



ANSWERS TO QUESTIONS ON IA ENDPOINTS

QUESTIONS ON PEPS

1. Will staff have to register under 454 or will having a PEP sign off on their work suffice?
2. Are there volume restrictions on releases that PEPs can certify?
3. Will PEPs be able to use all of the alternatives to the baseline numeric clean up criteria in the RSRs that do not specifically require LEPs?

QUESTIONS ON TERMS

1. Will “emergency” or “exigent circumstances” be defined?
2. Why use the term “immediate action endpoint” when it will more often be like a checkpoint or intermediary stage in a longer cleanup?
3. Can you elaborate on calling ERR’s an “observed change in condition”?
4. What does “maximum extent practicable” mean?

QUESTIONS ON THE RELATIONSHIP OF IAS TO TIERING

1. How will the IA report and Tier Checklist be integrated for sites that have had IAs completed but where there is more cleaning up to do and the site will be subject to tiering?
2. Why is a not fully remediated release to groundwater tiered in Tier 1A if the wells in the specified area are sampled and clean?
3. If you reach a year and need to tier, why do you still need to do an IA report?
4. Why would you replace a well in the areas of the state in which public water service is not available?
5. Why was 9 consecutive months chosen for soil vapor SERs?
6. How do you propose to address background conditions associated with VOCs from everyday products used in buildings and residences?



HISTORICALLY IMPACTED MATERIAL Q & A

HISTORICALLY IMPACTED MATERIAL

Question

Have environmental justice implications been considered?

Additional Context

- Large areas of Hartford and other urban areas could be covered.

HISTORICALLY IMPACTED MATERIAL

Question

When is historically impacted material considered to be discovered?

Related Questions

- Is discovery based on observation or lab analysis? If based on lab analysis, will this discourage sampling?
- Will there be a release-based characterization guidance document?
- Would the Department consider including release-based characterization guidance in the regulations rather than as a separate document?

HISTORICALLY IMPACTED MATERIAL

Question

Has the Department considered how historically impacted fill is addressed in other New England States and whether this approach is consistent with those states?

HISTORICALLY IMPACTED MATERIAL

Question

How will the Tier Checklist address historically impacted fill and the proposed exemption from characterization in one year?

Additional Context

- Can the Department provide an exemption in Tier Characterization Definition?
- Can the Department provide an updated Tier checklist and updated definition of tier characterization for evaluation?

Question

How will it be determined if historically impacted material is prudent to remediate?

Related Questions

- Will “prudent” be defined in guidance?
- Will there be consideration of climate, and other, impacts associated with excavating and hauling material to disposal locations?
- The “Characterization Extension” slide stated that it must be shown why removal of the fill would not be “prudent.” Is removal the default remedy? Could compliance be achieved by a remedy other than removal?

HISTORICALLY IMPACTED MATERIAL

Question

What level of characterization is required to determine if an SER exists in historically impacted material?

Additional Context

- To what extent is it necessary to try to prove a negative?

Question

What is the temporal sequence of the Permit by Rule?

Additional Context

- Year 1 – Does determining whether remediation is prudent apply to the whole site or part?
 - What would remain to be done [at the end of year 1]?
- Year 2 – Would SER identification be in a location different from the area where remediation was determined not to be needed?
- SER mitigation – At this stage is everything done through permit by rule?

Question

The exemption for historically impacted material will apply only to industrial/commercial sites. How will residential be defined (as opposed to commercial) under the permit by rule?

Related Questions

- Why is residential not included?
- Can the Department clarify any grey areas surrounding multi-family and multi-use properties?
- Will the permit by rule exemption be applied to:
 - Multi-family properties / apartment complexes (# units that would be applicable)?
 - Dormitory-like settings either on a separate property or part of a campus?
 - Mixed use commercial/residential properties (e.g., apartments with retail establishments on-site)?
- What about passive recreation land use?

General Permit by Rule Questions

- Can the department provide the permit text that will be part of the regulation?
- What type of information will the notification require?
- Will a title search and notice to interests be required?
- Will there be a fee for notification?
- Will five-year inspections need to be reported to DEEP?

More Permit by Rule Questions

- The DEEP website says that permit by rule is for relatively minor problems. Do these sites need to be further assessed for major/minor issues?
- Is there any difference in the end-point remediation and quality standards under permit by rule from an individual permit?

General Affidavit of Facts Questions

- Are there other states that use the “affidavit of facts” option? Which ones?
- What type of information will the Affidavit of Facts will require?
- Is the “Affidavit of Facts” pursuant to CGS 47-12a (which doesn’t appear to contemplate this type of information)?
 - If not, will statutory change be required/advisable to memorialize the scope/effect of such an affidavit?
- How will historically impacted fill be handled in transportation rights-of-way or other State and municipal owned properties where the filing of an affidavit on the land records is not possible?

Questions Regarding Implications of Implementation

- If a town wants to allow rental units in a commercial district, is this a change of use, and what are the implications?
- “Historically impacted material cannot be relocated to a different parcel.” Does this include adjacent parcels with the same owner and affected by same historical conditions?
- If historically impacted material is verified under the Property Transfer Law, will any further action be needed when such material is encountered while investigating a new release under the release-based program?

Question

How does permit by rule lighten the Department's regulatory and enforcement obligations?

Additional Context

- It is likely that many of the parcels present in our urban areas and suburban centers will ultimately have to address historically impacted fill at some point. Is the Department prepared to handle and manage the number of notifications that it will receive?
- Given that the permit by rule requires a notification only (no approval), does DEEP plan to “audit” all such notices to confirm that use of the permit was appropriate?

HISTORICALLY IMPACTED MATERIAL

Question

Has DEEP given any thought to opening this pathway to other DEC exceedances on industrial/commercial land?

A stylized landscape illustration. The top right corner features a bright yellow sun. Below it is a large green hill with a dark blue outline. The bottom of the image shows a light blue area representing water, also outlined in dark blue. The text "THANK YOU!" is centered on the green hill.

THANK YOU!