



PRESENTATION TO

Stakeholder Feedback Session

Workgroup 6

RSR Evaluation – Groundwater and NAPL

November 7, 2012

Workgroup 6 – Groundwater and NAPL

- **New legislation would provide entry into the new Cleanup Program, then the RSRs would provide pathways for an exit from the new program.**
- **Consequently, the RSRs must be “fixed” before the legislation is proposed.**

Options and Mechanisms for Change

- ❑ What can be addressed with existing RSRs
- ❑ Minor RSR revisions
- ❑ What can be addressed with existing RSRs
- ❑ Major RSR revisions, including revisiting the numerical criteria
- ❑ Changes to other statutes / regulations critical to the RSRs— e.g. WQS, ELUR
- ❑ New legislation

Workgroup 6 – Groundwater and NAPL

Options For Closure

- **Use default criteria specified in modified RSRs**
 - ▣ Meet established numerical criteria through prescribed options.
 - ▣ Need to increase the number of options/scenarios and default criteria – e.g. increased number of categories of standards (GW1, GW2, GW3, etc.)
 - ▣ Need more options for use of ELUR- or AUL-type solutions
 - ▣ Need more self-implementing, prescribed alternatives acceptable under the RSRs.

- **Technical Impracticability**
 - ▣ Focus is on **no risk to receptors** and protection of human health and the environment.
 - ▣ TI workgroup -- Topics under discussion include use of Engineered Controls for groundwater, TI for volatilization criteria, pesticides in groundwater, Monitored Natural Attenuation vs. TI.

Workgroup 6 – Groundwater and NAPL

Options For Closure

□ Site-Specific

Before

- Need ability to use site-specific options under specified conditions, with LEP approval that site-specific conditions have been met.
- Elements of site-specific options, including risk characterization and risk assessment, have to be developed or enhanced, including:
 - effective audit program
 - decision tree
 - permanence of assumptions
 - transferability of satisfaction of closure requirements

Key issues for success – Increased options to closure under the default criteria; Self-implementing option allowed for both TI and site-specific scenarios.

If every option requires DEEP approval, program will be no different than today.

What is Not Working Well - Topics of Concern

Insufficient Process for Risk-based Exits

- 1) Ground Water Monitoring requirements based on very low criteria, especially compliance and post-remediation monitoring
- 2) Criteria based on out-dated science
- 3) Current tiered approach (GA, GB) is too limiting and not sufficient
- 4) Recalcitrant plumes – no way to get to closure
- 5) Limitations on risk-based analysis and closure, especially when no pathway and receptors
- 6) MNA – if it is working how much monitoring is required
- 7) Opinion of “No Significant Risk” as option for LEPs

Prescriptive Nature of RSRs - Issues

- 8) Requirement for full GW assessment and/or compliance/post-remediation monitoring for shallow releases well above the water table
- 9) PMC impact but no GW impact
- 10) Clarification regarding what is upgradient, especially if the regulations become more release-based
- 11) Alternative SWPC not allowed for stagnant (lakes, ponds) or tidal water
- 12) Release-based investigation and remediation issues, especially overlapping plumes
- 13) Too rigid and inflexible – create a Response Action Performance Standard or need more exposure scenarios (GW1, GW2, GW3, etc.)

Workgroup 6 – Groundwater and NAPL

What is Not Working Well - Topics of Concern

LNAPL and TI Issues

- 14) Definition of NAPL needs to be revisited
- 15) Cost Considerations
- 16) Incorporate ITRC science and knowledge of LNAPL
- 17) Decouple from Federal and define Impracticable
- 18) NAPL migration issues.
- 19) Can existing TI language work with better guidance
- 20) Can't close sites with NAPL

Other

- 21) Secondary pollution caused by primary releases
- 22) Deed restrictions for plumes that stay on-site
- 23) Stringent SWPC for PCBs and other COCs
- 24) Need for Compliance Assistance from DEEP
- 25) Consistency with Other Regulations – e.g. WQS

Workgroup 6 – Groundwater and NAPL

Identification of Priorities

- Current tiered approach (GA, GB) is too limiting and not sufficient
- Recalcitrant plumes – no way to get to closure, MNA, and very low criteria for monitoring requirements
- Limitations on risk-based analysis and closure, especially when no pathway and receptors
- Requirement for full GW assessment and/or compliance/post-remediation monitoring for shallow releases well above the water table
- PMC impact, but no GW impact
- Too rigid and inflexible – create a Response Action Performance Standard, need more exposure scenarios (GW1, GW2, GW3, etc.)
- NAPL issues -- definition, mobility, etc.

Need for flexibility, especially default and self-implementing flexibility, within all three options for closure!

Over-arching Concepts

- Concepts outside groundwater provisions of RSRs, but considered important as part of the overall transformation
 - Response Action Performance Standard (RAPS)
 - Concept of No Significant Risk
 - Robust, consistent Audit Program
 - Compliance Assistance

Key Issues for Success

Need for flexibility and more self-implementing options

- ▣ Increased options to closure under default criteria
- ▣ Self-implementing options allowed for both TI and site-specific scenarios
- ▣ If every option requires DEEP approval, program will be no different than today

Importance of revisions to the numerical criteria
(even 'though not part of workgroup's charge)