

Maine DEP Proposes Major Changes to Remedial Action Guidelines

Monday, February 20, 2012

The perennial question — “How Clean is Clean?” — has an ever-changing answer. Changes in cleanup standards are not unusual, given advances in the science and art of risk assessment, as more toxicological information is available and as agencies gain practical experience with cleanup.

Maine DEP just announced important proposed changes in its approach to Remedial Action Guidelines (RAGs), which were last revised in 2010. These state guidelines are used in a variety of cleanup programs, including the state’s Voluntary Response Action Program, covering hazardous substances, petroleum products, and hazardous wastes. DEP has invited comment on or before February 27, 2012. These changes are not the subject of rulemaking.

Among the major proposed changes are:

- Expansion of soil guidelines to include indoor air exposures, including proposed changes to the DEP’s 2010 Indoor Air Guidance;
- Additional information on background levels of metals in soils and PAHs;
- Shift to “single contaminant” risk levels, rather than more stringent “multiple contaminant” levels;
- Revised modeling inputs and assumptions, including different volatilization factors affecting construction workers, coupled with an assumed longer exposure period;
- Updated toxicity factors for a number of chemicals, including hexavalent chromium; and
- Acknowledgement of the importance of technical and practicability waivers (consistent with EPA Superfund policy).

Unfortunately, DEP has provided a short comment period, but it is possible that this period may be extended. Although the RAGs are guidelines and not rules, DEP hopes to publish the revised RAGs as guidance by April 1, 2012.

If you would like a copy of the proposed RAGs revisions or are curious about how the revisions may affect cleanup (or the necessity for cleanup) at particular properties, please contact Ken Gray (207.791.1212 or kgray@pierceatwood.com) or Thomas Doyle (207.791.1214 or tdoyle@pierceatwood.com).