

Technical Memo No. 1 – Transition Issues

DATE: August 25, 2003
TO: UST Stakeholders
FROM: MDNR, Hazardous Waste Program, Tanks Section
SUBJECT: Technical Memo No. 1
Transition Issues

As the MDNR transitions toward the risk-based management of UST sites, several issues regarding RBCA implementation require clarification. This memo discusses the relevant implementation issues identified thus far.

1. Tank Removal Projects: It is MDNR's intent to revise and update the tank closure guidance to make it consistent with the MRBCA process. Until the revised final guidance is made available, owners and their consultants may continue to use the current Closure Guidance Document. Until new guidance is made available, No Further Action (NFA) will be granted based on the existing "matrix" cleanup standards.
2. Sites in Corrective Action Phase: For sites that are currently in the corrective action phase, MDNR will not require that the owner/operator change from the old cleanup standards to the new risk-based standards. However, PSTIF, in consultation with MDNR, may require the owner/operator to conduct a risk-based evaluation and develop Tier 2 site-specific target levels, if PSTIF determines that doing so is the most cost-effective approach. In such cases, the collection of additional site-specific data will be necessary to conduct the Tier 2 evaluation.
3. Sites Ready for Corrective Action: The same considerations will apply as for item No. 2 above.
4. New Release Sites: Sites that are starting characterization activities will follow the RBCA guidelines provided in Chapter 7.0. Under some limited circumstances and with the prior concurrence of MDNR and PSTIF, the owner/consultant may use the old (existing) guidance. However, use of the old guidance at new release sites is anticipated to occur in rare cases and only during a brief (3 to 6 month) transition period.

Examples of new sites include sites where the results of a Phase I/II investigation of a tank site have just been reported to MDNR for the first time and sites where a release from an active UST system has just occurred.

5. Sites Already in Characterization: Any work plan/cost estimates for site characterization submitted between September 1 and December 31, 2003 shall follow the guidelines provided in the draft Chapter 7.0. The only exceptions are sites where site characterization is almost complete and the collection of minimal additional data will likely result in MDNR's issuance of a NFA under the old guidance or the additional data is all that is needed to facilitate evaluation of the site under RBCA (for the time being, in such cases MDNR will not require that such sites be resampled for COCs not previously looked for) and those where MDNR, PSTIF, and the owner/operator decide not to follow Chapter 7.0 guidelines. The latter will be determined on a case-by-case basis and only prior to MDNR's release of the full RBCA guidance document.

The application of Chapter 7.0 may require the analysis of soil and groundwater samples for analytes not previously considered (e.g. EDB and EDC, certain oxygenates). When COC data from a representative set of sites has been collected, MDNR and PSTIF will evaluate the data to determine which chemicals currently listed in Table 7-1 of Chapter 7 should be retained as Chemicals of Concern.

6. Groundwater Deferral Sites: These sites will be evaluated only when the MRBCA guidance and associated tools (software, training) are complete and ready. It is expected that these tools will be distributed in early December.
7. Sites Previously Issued NFA: MDNR does not intend to re-open sites that have already been granted NFA status unless new information about a site becomes available that warrants a re-evaluation of the site. This is existing policy that will not change due to the transition to RBCA.

It is important for all stakeholders to realize that, during this transition period, there will be multiple routes by which the end point (i.e., site closure) can be achieved. To achieve the end point, in all cases, PSTIF intends to pay for the most cost-effective route that is adequately protective of human health and the environment and will require owners/consultants to assist in identifying that route.