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## DEP Proposes Wave 2 Revisions to Cleanup Regulations

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The Massachusetts Department of Environmental Protection (DEP) will soon present its Wave 2 revisions to the Massachusetts Contingency Plan (MCP) for public comment. This article outlines the status of the pre-public comment draft as of the beginning of the year.

In early 1999, DEP's Bureau of Waste Site Cleanup (BWSC) published the results of a full review of its cleanup program in a Final Generic Impact Report. The BWSC recommendations received mixed reviews from the regulated community. Rather than trying to implement all of its proposed changes at one time, BWSC has addressed them in waves. The Wave 1 revisions became effective in November 1999. The Wave 2 regulations are the subject of the current proposal. The Wave 3 revisions are slotted for 2003.

Some of DEP's proposed revisions will streamline aspects of the cleanup program, resulting in cost savings to the regulated community; other changes, however, will impose additional burdens and result in added costs. Members of the regulated community should participate in the review process and determine how the proposed revisions may affect their projects.

### **Front End and Construction Response Action Proposals**

#### ***Eliminate 21-Day Presumptive Approval Process for Most RAM Plan***

#### ***Modifications***

DEP proposes to streamline the Release Abatement Measure (RAM)

modification process by replacing the 21-day presumptive approval process with a documentation requirement for most RAM plan modifications. The MCP currently requires a 21-day presumptive approval process for RAM plan modifications. RAM plan modifications that would still be subject to the 21-day presumptive approval process include those modifications that are implemented before tier classification resulting from either: 1) contaminants or conditions discovered after the original RAM was implemented that significantly change the degree or type of exposure to nearby receptors, or 2) proposed on-site remedial actions that require a significant variation in the treatment system or technology used.

### ***Added Reporting***

DEP proposes to add reporting obligations through a standardized Remedial System Monitoring Report (RSMR). DEP has proposed two options.

Option 1 would require submission of a RSMR every six months, and monthly for systems addressing an Imminent Hazard or a Condition of Substantial Release Migration. Option 2 would require a RSMR every three months, and monthly for systems addressing an Imminent Hazard or a Condition of Substantial Release Migration. Both options also would allow DEP to specify a different schedule.

### ***Limiting Construction Over Contaminated Soil Under a RAM and Restricting the Scope of LRA***

Asserting they are clarifications, DEP proposes to require focused response actions before constructing a permanent building over or adjacent to contaminated soil. The MCP now prohibits construction that would interfere with response actions. This revision would codify DEP's current Construction Policy. The proposal similarly would prohibit managing contaminated groundwater and excavating, treating or disposing of soil above target thresholds under a Limited Remedial Actions (LRA).

### **Public Involvement**

DEP is proposing revisions to a number of public notice provisions, the

majority of which will impose additional requirements on the regulated community. These revisions include, but are not limited to:

- Eliminating public notices for Tier 1 sites in the Environmental Monitor;
- Requiring that local officials be sent a copy of the release notification form that clearly describes the site location;
- Requiring notice to property owners of the right to the results of sampling on their property;
- Requiring notice to owners and occupants of properties affected by remedial actions addressing imminent hazards or a critical exposure pathways;
- Requiring written notice to owners of property within site boundaries; and
- Clarifying that local officials must be notified of RAMs that are approved orally as continuations of LRAs.

### **Risk Characterization and Numerical Standards**

Proposed numerical standards revisions would result in both benefits and burdens to the regulated community. DEP is proposing changes to the reportable concentrations (RCs) for some chemical groupings. In soil, the RCs for BTEX, MTBE, fuel oil, chlorinated solvents, PAHs and metals (not including lead) would decrease. In groundwater, RCs for BTEX, chlorinated solvents, PAHs, lead, and other metals would decrease. However, proposed RCs for some compounds in soil and groundwater would increase.

DEP is also proposing to lower 22 GW-1 standards and to raise 35 GW-2 and 56 S-1 standards. Upper Concentration Limits (UCLs) would increase for chlorinated solvents in soil, decrease for BTEX, fuel oil, and metals (not including lead) in soil, and decrease for PAHs and lead in groundwater.

Lowering UCLs in soil and groundwater would impact those sites that use Method 3 Risk Characterizations and Activity Use Limitations (AUL) to address UCLs.

### **Post Response Action Outcome (RAO) Response Actions**

DEP proposes to amend requirements for conducting post-RAO response actions, resulting in additional burdens for certain sites. The costs associated with these additional requirements will vary depending on the specific nature of the site. Work within AUL areas would proceed as a RAM or a LRA-type response action, depending on the applicable types and volumes

of contaminated media. Property use inconsistent with the RAO would require amendment or termination of the AUL and submission of a new RAO.

This article is based on [DEP's pre-public hearing draft of its proposed MCP revisions](#) dated December 20, 2001.

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