

Note: This presentation was prepared by Brownfields Study Group members and does not represent Department of Natural Resources guidance or policy.

Brownfield Study Group

VPLE SUBCOMMITTEE MEETING

JUNE 5, 2019

VPLE SUBCOMMITTEE

Status of Legislative Efforts/Timing to Address VPLE Scope Issues

- Quick turn-a-round on legislation - August deadline for Scope of Coverage
- Two meetings
- DNR Proposals for consideration
- Insurance status
- Long-term Solution VPLE
- BSG process for final recommendations

VPLE SUBCOMMITTEE - Recap

JULY 25, 2018 – DEVELOPED LIST OF TOPICS TO ADDRESS AS PART OF REVIEW

- WHY IS VPLE USED/NOT USED
- VPLE ELIGIBILITY AND PROCESS
- FUTURE RISK – INSURANCE (will be integrated into other discussions)
- SCOPE OF COC AND LIABILITY EXEMPTION

VPLE SUBCOMMITTEE - Recap

MARCH 8, 2019 MEETING

USE OF VPLE

- RESIDENTIAL/COMMERCIAL USE
- NATIONAL DEBT/EQUITY FINANCING – MITIGATE RISK
- OUT OF STATE, NATIONAL/MULTI-NATIONAL COMPANIES
- MUNICIPALITIES
- HEAVILY CONTAMINATED SITES
- POLICY DECISION IN FAVOR OF DEVELOPMENT
- ADDRESSED RISKS OF CHANGED REGULATIONS, MORE EXTENSIVE CONTAMINATION, REMEDY FAILURE (KNOWN CONTAMINANTS)

VPLE SUBCOMMITTEE- Recap

MARCH 8, 2019 MEETING

NOT USE VPLE

- TIME AND COSTS (INCREASE IN BOTH OVER TIME AND UNCERTAINTIES IN FIXING)
- REGULATORY PROCESS
- UNCERTAINTIES WITH IMPORTED FILL
- WI-COMFORT WITH CLOSURE LETTERS
- MUNICIPALITIES POSSIBLY LESS USE THAN IN PAST
- PROJECTS WITH SHORT TIMELINES

VPLE SUBCOMMITTEE-Recap

MARCH 8, 2019 MEETING

CHALLENGES TO MUNICIPALITIES

- Less staff to learn regulations/coordinate efforts
- Economic benefits to communities from development extend beyond projects, e.g., tax base
- Costs in the absence of redevelopment - gangs, fires, fencing, health and safety, negative impacts to property values
- Being asked to take risk of development project
- Is cost-benefit a valid way to look at redevelopment?
- Informal municipal poll

VPLE SUBCOMMITTEE-Recap

MARCH 8, 2019 MEETING

AREAS OF UNCERTAINTY

- Vapor (Off-site and O&M)
- Insurance
- Known contaminants without standards
- Unknown contaminants
- Length of time to complete VPLE
- Costs (how to fix on front end)
- Unknown future regulations/standards
- Sediments
- Older COCs (written without clear legal descriptions)

VPLE PROPOSALS (see Issue Paper)

OPTION 1 –

Cover Emerging Contaminants with Insurance

OPTION 2 –

Liability Exemption for all Substances on a State List – whether or not sampled (IL and MN Voluntary Cleanups)

DNR VPLE ISSUES FOR CONSIDERATION

- Timing of Site Investigation and Certificate of Completion
- Insurance and COC for Sites with GW contamination for substances without Enforcement Standard
- Sediment VPLE law changes to clarify cleanup requirements

VPLE SUBCOMMITTEE

Status of Insurance

- Coverage for Unknown versus Known Contaminants
- Impact on DNR Proposals
- Impact of final use
- Risk allocation between DNR/Applicant

VPLE SUBCOMMITTEE – Long Term Solution – Scope Issues

- Full coverage (current legislation) versus Limited (substance specific)
- What risks assumed by State/Applicant/Municipalities
- What will be Insurance's roll?
- Who gets liability exemption – innocent, causer, property owner?
- Impact of final use – residential/commercial versus manufacturing
- Scope of protection (changed regulations, more extensive contamination, remedy failure)?
- Policy issues

NEXT STEPS

- Next meeting of subgroup
- Future action to develop and evaluate options
- Prepare recommendation for next Study Group meeting