



SCREENING OF HAZARDOUS SUBSTANCES

TYPE OF PROPOSAL – REGULATORY/POLICY/LEGISLATIVE

BACKGROUND

The VPLE program requires an approved site investigation beyond the requirements of the Wis. Admin. Code ch. NR 700. The VPLE Subcommittee believes that the VPLE program's requirement for an "approved investigation" provides significant value to VPLE applicants, successor property owners and municipalities and is expected to result in a potentially more favorable underwriting process should the applicant need coverage under programmatic insurance or wish to pursue private insurance. See Value of VPLE Program and Benefits to VPLE Program within this report. It is the opinion of the VPLE Subcommittee that the existing concept of an "approved investigation" of the property, focusing on all constituents of concern, be retained.

The VPLE approved investigation requirement has in practice involved environmental sampling for all hazardous substances of concern identified through the Phase I and Phase II site assessment process. In some instances, however, the pre-sampling site assessment process results does not identify certain hazardous substances as being constituents of concern for that particular property (e.g., this can happen with mercury). A Department-approved screening tool could be used to support that a particular hazardous substance is not likely associated with the Property and, thus, to not require sampling for that hazardous substance. There may also be situations now or in the future where it is desirable to first determine whether sampling is necessary in the context of a potentially large suite of related contaminants (e.g., emerging contaminants). It may be impracticable or financially infeasible to perform environmental sampling for numerous, related individual hazardous substances absent evidence that the category of hazardous substances is actually present. In such case, it may be possible to utilize a sampling protocol to document the unlikelihood that a given hazardous substance is present or to sample for the category of substances to determine whether more refined sampling for individual hazardous substances is necessary or useful. Sampling for emerging contaminants in particular, should always be required in the VPLE program if historical use and/or site conditions warrant.

The use of Department-approved screening tools and protocols could reduce the uncertainties concerning the time and expense of pursuing an investigation and remediation within the VPLE program. This approach would provide that all known hazardous substances, including emerging contaminants, are addressed as part of an approved investigation at a VPLE Property through either screening or sampling.

PROPOSAL

1. *Retain the existing concept of an "approved investigation" of the property, focusing on all constituents of concern; however, revise either VPLE policy documents or regulations applicable to investigation under VPLE to specify that sampling would not be required for a VPLE Property if Department screening supports a conclusion that a given hazardous substance or category of hazardous substances are not likely present. The use of and type of screening should be at the Department's discretion.*

COMMENTS

[Insert]