

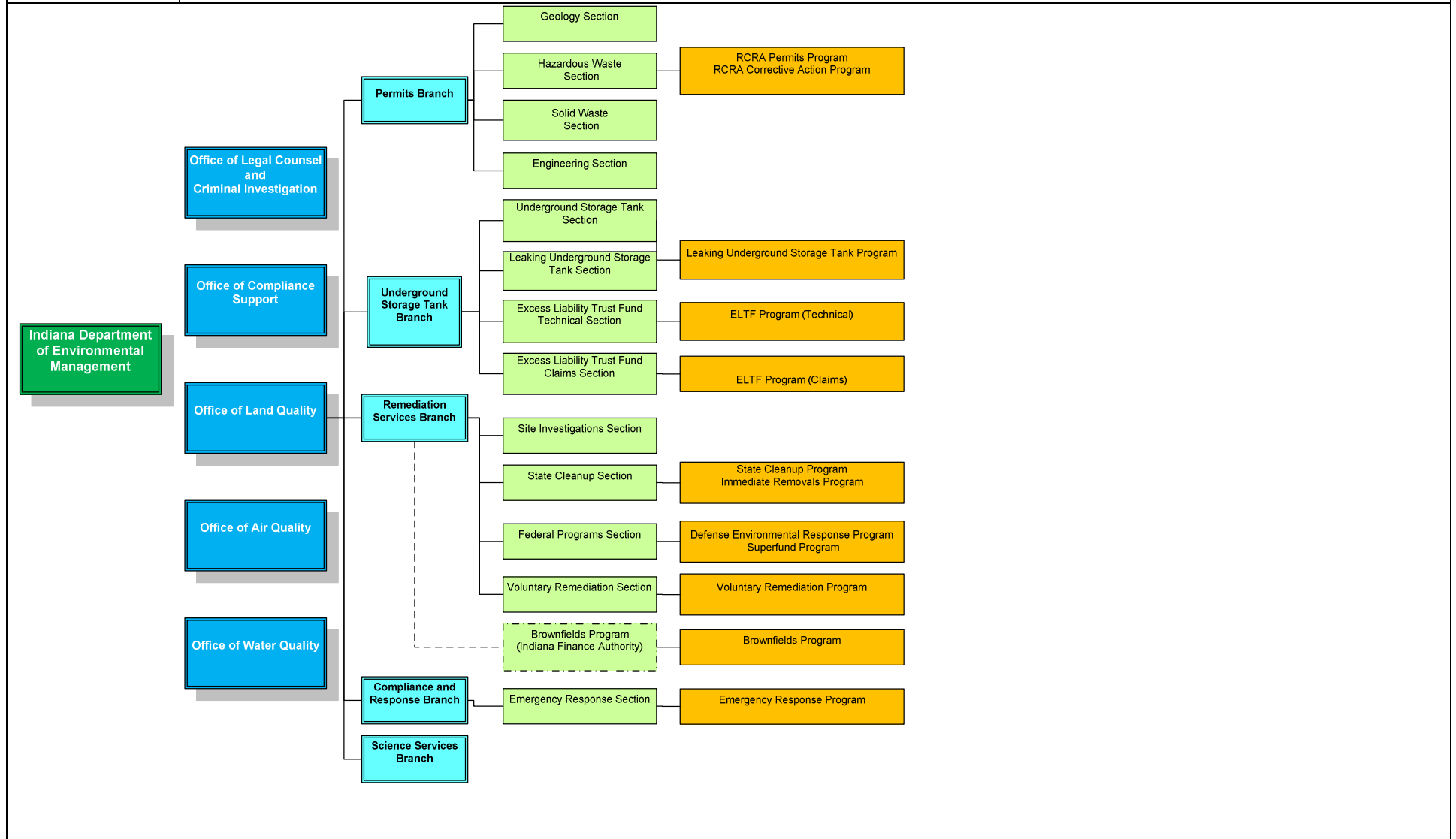
REVISIONS TO REMEDIATION PROGRAM GUIDE

(September 2011 version, posted for public view and comment from October 4, 2011, until November 18, 2011)

Location (In September 2011 Version)	Change	Details
Page 9, last paragraph	Removed footnote, put information in the text.	IDEM will evaluate proposed remediation work plans and remediation objectives (<i>including substantive additions or amendments to previously approved remediation work plans or remediation objectives</i>) based on the laws, rules, guidance, and prior agreements in effect at the time of each proposal. To the extent that NPDs may become outdated due to amendments to statutes or rules, IDEM must follow state law, unless the site is governed by an agreement such as a Voluntary Remediation Agreement or Agreed Order, or an order such as a Commissioner’s Order
Page 10, Voluntary Remediation Program bullet	Changed Voluntary Remediation milestone. Specified that all submittals are to IDEM.	<ul style="list-style-type: none"> • Resource Conservation and Recovery Act (RCRA) permitting - a closure plan has been submitted <u>to IDEM</u> • RCRA Corrective Action - a facility investigation work plan has been submitted <u>to IDEM</u> • Leaking Underground Storage Tank Program and Excess Liability Trust Fund Program - a Corrective Action Plan (CAP) has been submitted <u>to IDEM</u> • State Cleanup Program – a Remediation Work Plan has been submitted <u>to IDEM</u> • Voluntary Remediation Program – a Voluntary Remediation Agreement-Work Plan (VRWPA) <u>has been approved by IDEM and executed by the program participant before the transition period ends-submitted to IDEM</u>
Page 10, last paragraph	Eliminated the use of the word “grandfathered.”	For example, if the party(s) has an approved remediation plan that references an old default closure level (<i>or even an entire table of old default values</i>) or a calculated nondefault value which was based on the toxicity information that was current at the time it was approved, they are “grandfathered” under that approval, and may proceed with the project under the terms of that approved remediation plan even as policy and science changes after that (<i>except if a hazardous substance or petroleum becomes an imminent and substantial threat to human health or the environment</i>).
Page 11, first full paragraph	Clarified that decisions will be reopened based on changes to remediation objectives, as opposed to any change to a remediation work plan.	<p>Approved remediation work plans and site remediation objectives will not be re-opened merely because they utilize “outdated” guidance or closure tables. If, however, the party(s) decides at some later date to change or recalculate a remediation objective and present a new remediation objective for IDEM to approve, the party(s) will need to base their proposal and calculations on science information and toxicity data that is current at the time that they request that approval.</p> <p>Approved remediation work plans and site remediation objectives will not be re-opened merely because they utilize “outdated” guidance or closure tables. If a party(s) does not complete a remediation project consistent with the terms and conditions of the Remediation Work Plan (<i>or agreement</i>), or if a hazardous substance or petroleum contaminant becomes an imminent and substantial threat to human health or the environment, then IDEM may withdraw its prior approval of the work plan.</p>

Location (In September 2011 Version)	Change	Details
-----------------------------------------	--------	---------

Page 12, Figure 1.1 Revised figure to reflect changes in OLQ organization, addition of Underground Storage Tank Branch.



Location (In September 2011 Version)	Change	Details
Page 55, Section 3.1.3	Adjusted addresses for ELTF Technical and ELTF Claims Sections.	<p>67-02 Indiana Department of Environmental Management Office of Land Quality Excess Liability Trust Fund Technical Section 100 N. Senate Avenue, Room 1101 Indianapolis, Indiana 46204-2251</p> <p><u>67-02</u> <u>Indiana Department of Environmental Management</u> <u>Office of Land Quality</u> <u>Excess Liability Trust Fund Claims Section</u> <u>100 N. Senate Avenue, Room 1101</u> <u>Indianapolis, Indiana 46204-2251</u></p>
Page 55, last paragraph	Changed references for LUST and UST Sections to LUST and UST Programs.	<i>Underground Storage Tank (UST) Program</i> – The UST Program is responsible for registration (<i>notification</i>), fee assessment, compliance inspections, and closure oversight of regulated USTs. The LUST Section-Program often works closely with the UST Section-Program regarding suspected release investigations and response.
Page 120 paragraph 1	Added language to paragraph 1 to clarify EPA Role.	IDEM has an authorized hazardous waste management program that operates in lieu of, and under the oversight of, the U.S. EPA for delegated portions of the program, using U.S. EPA’s guidance documents. IDEM’s authorized RCRA program issues permits to facilities that store, treat, or dispose of hazardous wastes to:
Page 120, paragraph 2	Added “hazardous” before “constituents.”	Those facilities are required to investigate and remediate contamination resulting from any activity at the facility. TSD facilities are required to implement corrective action for all releases of hazardous waste or hazardous constituents that may cause a threat to human health or the environment. Corrective action also can be required for releases of hazardous waste or hazardous constituents that have migrated beyond the owner or operator’s property boundary.
Page 120 paragraph 2	Added language to end of paragraph to clarify EPA role.	While IDEM has the authority to require corrective action through enforcement orders under IC 13-22-13, EPA did not delegate their corrective action enforcement authority to any state agency. Therefore, EPA may compel corrective action through their federal enforcement authority under sections 7003 (emergency orders) or 3008(h) (corrective action orders) of RCRA at any time. EPA will generally confer with IDEM prior to filing a federal order pursuant to the 2004 RCRA MOU. The 2004 MOU sets out both the conditions facilities must meet to be protected by it (the corrective action objectives), and the conditions under which U.S. EPA may overfile.

Location (In September 2011 Version)	Change	Details
Page 124, Section 4.6	Add reference to use of IDEM public notice web site.	IDEM notifies the public of permit actions in accordance with 329 IAC 3.1-13-10 (www.IN.gov/legislative/ic_iaa). Permit actions are often of interest to a broad segment of the public who may or may not live in the immediate area. IDEM prepares a Fact Sheet, sends notices to all interested parties, announces the public notice via radio broadcast, publishes the notice in the largest newspaper near the facility, and publishes the notice on the IDEM website (www.IN.gov/idem/5474.htm). In order to most effectively reach the interested audience, IDEM prefers to publish the notice in a daily newspaper of large circulation.
Page 124 “Investigation”	Corrections to description of process.	If, however, corrective measures are determined to be necessary, the facility must conduct a Corrective Measure Study (CMS) and submit the results in a CMS Report for IDEM approval. A facility may perform the investigation and any necessary remediation simultaneously through the RCRA Program and the Voluntary Remediation Program, or through an enforcement tool such as an Agreed Order. Investigations are tailored to unit or site circumstances, and should generally be conducted in accordance with the Remediation Closure Guide (Waste-0046-R1) (www.IN.gov/idem/4694.htm).
Page 124 “Remedy Decision”	Corrections to description of process.	After the investigation has been completed and public comment has been received, IDEM may approve or require revision of the CMS Report. IDEM will indicate its approval of the selected remedial option or combination of options by issuing a Final Decision and Response to Comments. If the RFI indicates no corrective measures are necessary, IDEM may public notice a Statement of Basis recommending “no further action”. Based on the administrative record and any public comments received, IDEM will make a Corrective Action Completion determination for the facility or a portion of the facility.
Page 124 “Remedial Action”	Corrections to terms used.	RCRA facilities carry out the approved remedy by performing Corrective Measures Implementation Plan (CMIP). A facility with RCRA permitted hazardous waste management units must conduct closure of those units in accordance with the approved closure plan. A facility must conduct RCRA corrective actions for releases to the environment from solid waste management units (SWMUs) or Areas of Concern (AOCs), in accordance with permit conditions, a Voluntary Corrective Action Agreement, or a Corrective Action Order.
Page 125, first paragraph, “Closure”	Clarified process regarding engineered or institutional controls.	A Corrective Action Complete determination will be issued to facilities that have investigated and addressed all contamination related to SWMUs and AOCs. Corrective Action Complete determinations may be made “With” or “Without” controls in place. The approved controls may be engineered controls and/or administrative controls. Engineered controls will require the use of an administrative control such as an environmental restrictive covenant to ensure that the engineered control remains protective over time.
Page 147	Corrected Figure.	Endpoint of Independent Closure Process, deleted second “letter.”

Location (In September 2011 Version)	Change	Details
Page 148, last paragraph	Clarified when priority rankings may change.	Priority ranking may change based upon additional site information or other relevant factors that become known to the SCP after site referral or release, or during site investigation.
Page 149	Replaced 329 IAC 7.1 language with reference to the rule.	“The specific criteria used to determine site priority may be found in the PRS rule (327 IAC 7.1).” On advice of OLC. Rule needs to be revised to replace references to RISC with references to the RCG. OLQ has met with representatives of OLC and the Rules Section to begin that process.
Page 149, first paragraph of Section 6.4.3	Changed to include medium priority petroleum sites in the ICP process.	SCP strives to ensure that its resources are utilized to manage sites that present the most significant risk to human health and the environment. To achieve this, SCP will only assign a project manager to sites designated by the SCP as high priority or medium priority sites contaminated with hazardous substances or a combination of hazardous substances and petroleum. Medium priority ies sites contaminated only with petroleum will not be assigned to an SCP project manager and RPs are expected to complete site investigation and cleanup with limited to no direct SCP oversight. RPs with medium priority sites contaminated with only petroleum may receive a letter from IDEM requesting that they proceed with their cleanup action under the Independent Closure Process (ICP) (see section 6.7.2). If an RP does not receive a request to proceed through the ICP or cannot remediate to the ICP cleanup objectives then the RP may apply to the IDEM VRP to receive direct IDEM oversight and obtain a timely closure review and approval. RPs for SCP-designated low priority sites will receive a letter requesting that they proceed with cleanup through the ICP or apply to the VRP. RPs who remain in SCP are required to perform the necessary site characterization and remediation activities regardless of the extent of oversight provided by the SCP. <u>If sites fail to progress and do not achieve a valid closure determination the SCP may remove the site from the ICP and may pursue legal actions if necessary to ensure the completion of these activities.</u> If sites fail to progress and do not achieve a valid closure determination the SCP will pursue any legal actions necessary to ensure the completion of these activities.
Page 152, end of introductory section	Changed to clarify levels to use for investigation and remediation.	At a low priority site utilizing the ICP, the nature and extent of contamination in soil must be delineated to the residential soil screening levels for each contaminant of concern. At a medium priority site, utilizing the ICP, the nature and extent of contamination in soil must be delineated to the residential soil and ground water screening levels for each contaminant of concern.
Page 152, Title of Section 6.7.1	Adjusted to include medium priority petroleum sites in the ICP process.	6.7.1 High Priority Sites and Medium Priority Sites Contaminated with Hazardous Substances

Location (In September 2011 Version)	Change	Details
Page 153	Adjusted to include medium priority petroleum sites in the ICP process. Provided timeline for medium priority petroleum sites in ICP.	<p>IDEM will issue a specific letter requiring that site investigation and remediation be completed using the Independent Closure Process (ICP) (www.IN.gov/idem/6548.htm) for low priority sites. The RP is to complete site investigation under the ICP in a manner consistent with high and medium priority sites. The RP must generate and submit the same investigation documents to report the results of the investigation of nature and extent of contaminants. The SCP considers low priority sites and medium priority sites contaminated only with petroleum to be sites with lower risk potential. Because of the lower risk potential, these sites may progress through each step of the process at a pace established by the RP, but within an overall project timeline established by the SCP. The SCP is responsible for ensuring that low priority ICP sites progress to closure. Therefore, the SCP requires that the site investigation and remediation of a low priority site be completed within one year from the time the RP receives the letter from IDEM requiring completion of site investigation and remediation. For a medium priority site contaminated only with petroleum, the RP must complete investigation within one year of notification and remediation within three years of notification.</p> <p>The PRS (in 329 IAC 7.1-4-1) defines low priority sites as sites with contamination found only in soil. Therefore, the RP must investigate ground water to verify to the SCP that ground water has not been impacted by the release of the contaminants. Ground water investigation for petroleum-only contamination must include a minimum of three grab samples of ground water from soil borings located within the source area or within 100 feet directly down gradient from the source area. Ground water investigation for hazardous substance contamination must include a minimum of three permanent two-inch monitoring wells located within the source area or within 100 feet directly down gradient from the source area. If the minimum and scientifically sound ground water sampling is not performed on a low priority site, the RP will not be allowed to continue using the ICP for that site.</p>

Location (In September 2011 Version)	Change	Details
Page 154, Section 6.9.4	Adjusted as need to include medium priority petroleum sites in the ICP process. Incorporated use of RISC defaults industrial closure levels. Provided timeline for medium priority petroleum sites in ICP.	<p>(Deleted first sentence.) Remediation objectives for the ICP are expected to be based upon land use appropriate screening concentrations for each contaminant of concern. Residential screening levels for each contaminant of concern can be found in the <i>Remediation Closure Guide</i> (RCG) (<i>Waste-0046-R1</i>) (www.IN.gov/idem/4694.htm) and must be used as the remediation goal when the site is residential or may include residential use in the future. Industrial or commercial use sites must achieve industrial use remediation goals and record an appropriate ERC on the deed in order to qualify for closure. Because the RCG will not include industrial screening levels for the ground water ingestion pathway, the ICP closure goal for industrial or commercial use sites will be determined by using a safety multiplication factor of 10 times the contaminant specific residential screening level for the ground water ingestion pathway. The SCP ICP Guidance (www.IN.gov/idem/6548.htm) contains specific examples of how to use the industrial multiplier to determine appropriate industrial closure goals for industrial use ICP sites.</p> <p>Remediation objectives for the ICP are expected to be based upon land use appropriate screening concentrations for each contaminant of concern. Screening levels for each contaminant of concern can be found in the <i>Remediation Closure Guide</i> (RCG) (<i>Waste-0046-R1</i>) (www.IN.gov/idem/4694.htm) and must be used as the remediation goal when the site is residential or may include residential use in the future. Because the RCG will not include industrial default screening levels, the SCP has retained the industrial default closure levels from the former Risk Integrated System of Closure (RISC) Technical Guidance, to be used as the remediation goal for industrial use or reuse sites. The former RISC industrial default closure levels can be found as an appendix to the ICP Guidance (www.IN.gov/idem/6548.htm).</p> <p>For a low priority site, the RP must complete investigation (of contaminant nature and extent) and remediation within one year of notification by IDEM. For a medium priority site contaminated only with petroleum, the RP must complete investigation within one year of notification and remediation within three years of notification. If a site fails to progress through the ICP within the specified timelines the RP will not be allowed to continue using the ICP for that site.</p> <p>An ERC or other institutional control is generally necessary for impacted properties if contaminants remain at concentrations exceeding the residential screening levels. Documentation that the institutional control is in place should be submitted with the closure documentation.</p>
Page 156, Section 6.10.5, first sentence	Adjusted as need to include medium priority petroleum sites in the ICP process.	Replaced “Low priority sites” with “Sites”