


Indiana Department of Environmental Management	Status Effective	Policy Number Waste-0077-NPD	
Agency Nonrule Policy Document	Authorized Brian C. Rockensuess, Commissioner		
	Supersedes Waste-0060-NPD	Issuing Office Office of Land Quality, Remediation Services Branch	
	Originally Effective December 9, 2022	Renewed or Revised Not applicable	
Subject Voluntary Remediation Program Guide			

Disclaimer: This nonrule policy document is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

1.0 PURPOSE

The nonrule policy document (NPD) provides information about administrative processes involved in the investigation, remedy selection, and closure of hazardous substances and petroleum sites in the Voluntary Remediation Program of the Office of Land Quality (OLQ) Remediation Services Branch. It serves as a supplement to the [Risk-based Closure Guide \(WASTE-0046-R2\)](#).

2.0 SCOPE

This NPD applies to the OLQ Voluntary Remediation Program (VRP).

3.0 SUMMARY

The VRP provides a process for property owners, operators, potential purchasers, and third parties with access to the site to voluntarily address property containing an actual or threatened release. This NPD provides an overview of the process from when hazardous substances and petroleum sites apply to the Voluntary Remediation Program to closure. This NPD provides information regarding:

- 3.1 Introduction to the purpose and scope of the Voluntary Remediation Program
- 3.2 Rules and laws
- 3.3 Process overview
- 3.4 How a site enters the program
- 3.5 How the public is involved and notified
- 3.6 Annual progress reports
- 3.7 Investigations
- 3.8 Remedy decisions
- 3.9 Remedial actions
- 3.10 Closure
- 3.11 Conditions Subsequent
- 3.12 When issues arise
- 3.13 Document and electronic data file submittal guidelines
- 3.14 Forms and checklists

4.0 DEFINITIONS

- 4.1 "Agency" – The Indiana Department of Environmental Management (IDEM).
- 4.2 "Analytical data" – Analytical results, and quality assurance and quality control documentation provided by an analytical laboratory.
- 4.3 "Applicant" – The individual, agency, political subdivision, corporation, limited liability company, partnership, association, or other entity applying to IDEM for a decision, a permit, or other approval to conduct a proposed activity.
- 4.4 "Approval" – Written concurrence from the Indiana Department of Environmental Management.
- 4.5 "Attorney General (AG)" – The elected official representing the state in litigation. The AG or various Deputy AGs (DAGs) litigate in state court on behalf of IDEM.
- 4.6 "Certificate of Completion" – A document indicating an applicant has successfully completed a voluntary remediation work plan issued by the commissioner, as defined by IC 13-25-5-16.
- 4.7 "Clean-up operation (29 CFR 1910.120(3))" – An operation where hazardous substances are removed, contained, incinerated, neutralized, destabilized, cleared-up, or in any other manner processed or handled with the ultimate goal of making the site safer for people or the environment.
- 4.8 "Closure" – IDEM's written recognition a party has demonstrated attainment of remediation objectives in an area.
- 4.9 "Code of Federal Regulations (CFR)" – A codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.
- 4.10 "Comment letter" – A letter issued to applicants identifying issues or deficiencies in environmental investigations or remediations which need to be addressed and next steps to achieve closure of the site.
- 4.11 "Comment period" – The time allowed from the date a notice is published within which criticisms on or suggestions regarding an agency action or decision may be received. A comment period must be at least 30 days.
- 4.12 "Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)" – 1980 Legislation which established the Federal Superfund for response to uncontrolled releases of hazardous substances to the environment.
- 4.13 "Cost recovery" – Action taken by the Indiana Department of Environmental Management (IDEM) to collect from the applicant the past and future costs incurred in response to actions taken to mitigate or remediate the release, or threat of release, of contaminants into the environment.
- 4.14 "Covenant Not to Sue (CNTS)" - A document limiting liability issued by the governor, as defined by IC 13-25-5-18. Final closure document issued to a VRP applicant following the successful completion of site remediation through the VRP. Provides assurance the remediated areas will not become the subject of future Indiana Department of Environmental Management (IDEM) enforcement action.
- 4.15 "Data" – A collection of facts from which conclusions may be drawn. (Data can be alpha, numeric or both.)
- 4.16 "Days" – Calendar days including weekends and holidays.
- 4.17 "Delineation" – The act of determining the extents of a chemical release.
- 4.18 "Document" – (1) Electronic or printed text which records a public, or stakeholder request for an agency action, an agency action taken, staff deliberation or supporting information regarding such a request or action. (2) A tangible item subject to public disclosure under IC 5-

- 14-3 (3) A compilation of information describing, defining, specifying, reporting, certifying, requiring, or providing data or results pertaining to environmental programs.
- 4.19 “Emergency” – A situation posing an imminent threat to life or property, or a situation of an emergency nature.
- 4.20 “Environment” – The complex of physical, chemical, and biologic factors which include land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other similar natural resources, as defined in IC 13-11-2-137, acting upon an organism or ecological community.
- 4.21 “Environmental Restrictive Covenant (ERC)” – Any deed restriction, restrictive covenant, environmental covenant, environmental notice, or other restriction or obligation with respect to the land, as defined in IC 13-11-2-193.5, that:
- 1) Is executed before July 1, 2009, and:
 - (A) Limits the use of the land or the activities which may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment.
 - (B) By its terms is intended to run with the land and be binding on successors.
 - (C) Is recorded with the county recorder’s office in the county in which the land is located. and
 - (D) Explains how it can be modified or terminated. or
 - 2) Is executed after June 30, 2009, and:
 - (A) Limits the use of the land or the activities which may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment.
 - (B) By its terms is intended to run with the land and be binding on successors.
 - (C) Is recorded with the county recorder’s office in the county in which the land is located.
 - (D) Explains how it can be modified or terminated.
 - (E) Grants the department access to the land.
 - (F) Requires notice to a transferee of:
 - (i) the land or
 - (ii) an interest in the landof the existence of the restrictive covenant. and
 - (G) Identifies the means by which the environmental files at the department which apply to the land can be located.
- 4.22 “Environmental restrictive ordinance IC 13-11-2-71.2” – Any ordinance with respect to land, that:
- (1) Is adopted by a municipal corporation, as defined in IC 36-1-2-10. and
 - (2) Seeks to control the use of groundwater in a manner and to a degree which protects human health and the environment against unacceptable exposure to a release of hazardous substances, petroleum, or both.
- 4.23 “Groundwater” – Has the meaning set forth in IC 25-39-2-10.
- 4.24 “Hazardous substance” – any substance referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601(14)), including but not limited to any substance designated at 40 CFR 302.4. See also IC 13-11-2-98.
- 4.25 “Hazardous waste” – Has the meaning set forth in 40 CFR 261 subpart B.
- 4.26 “Indiana Code (IC)” – The codification of laws enacted by the Indiana General Assembly maintained by the Indiana Legislative Council.
- 4.27 “Indiana Department of Environmental Management (IDEM)” – An agency of Indiana State Government whose mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial, and government activities vital to a prosperous economy.
- 4.28 “Institutional controls” – Administratively or legally enforceable measures that limit human exposure to release-related chemicals that exceed unconditional remediation objectives.

- 4.29 "Invoice" – A bill requesting payment from customers to the agency for financial obligations.
- 4.30 "Legal counsel" – (1) Attorneys within the Office Legal Counsel assigned to assist agency staff with legal matters.
- 4.31 "National Priorities List (NPL)" – Under the Superfund Program, the list of releases and potential releases of hazardous substances pollutants, and contaminants which appear to pose the greatest threat to public health, welfare, and the environment.
- 4.32 "Non-aqueous phase liquid (NAPL)" – A NAPL is one of two types: A.1) DNAPL (dense non-aqueous phase liquid) has a specific gravity greater than water; or 2) LNAPL (light non-aqueous phase liquid) with a specific gravity less than water.
- 4.33 "Nonrule policy" – The term assigned by the Indiana Department of Environmental Management (IDEM) to those policies identified in IC 13-14-1-11.5 as any policy which:
- A. Interprets, supplements, or implements a statute or rule.
 - B. Has not been adopted in compliance with IC 4-22-2.
 - C. Is not intended by IDEM to have the effect of law. and
 - D. Does not apply solely to the internal IDEM organization (is not an administrative policy).
- 4.34 "Notice" – Announcements to the public about pending and completed actions or decisions of the agency.
- 4.35 "Person IC 13-11-2-158" – A legal entity and includes, but is not limited to an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.
- 4.36 "Plan" – A document describing how a task is to be performed or implemented e.g., sampling plan.
- 4.37 "Procedure" – A specified set of guidelines detailing how to perform an activity.
- 4.38 "Project manager" – Agency staff designated as responsible to coordinate or implement activities associated with a site or project specific quality assurance project plan, especially with respect to collecting, using, and reporting environmental data.
- 4.39 "Public notice" – Information directed to citizens regarding government-related activities. Public notices are published in local newspapers, or other common sources for community information.
- 4.40 "Public record" – Any writing, paper, report, study, map, photograph, book, card, tape recording or other material created, received, retained, maintained, or filed by or with the agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics (IC 5-14-3-2(n)). A public record may include e-mail, attachments to e-mail, Outlook calendar, telephone records, and other electronic records.
- 4.41 "Published level" – A concentration published by IDEM for a chemical in a particular medium which is acceptable for a particular exposure scenario.
- 4.42 "Quality assurance project plan (QAPP)" – A document describing in comprehensive detail the necessary quality assurance, quality control, and other technical activities to ensure the results of the work performed will satisfy the stated performance criteria. Quality assurance project plans (QAPPs) apply to data gathering activities associated with projects and lab procedures. QAPPs are commonly needed for laboratory operations, remediation projects, and mitigation projects. QAPPs may contain one or more standard operating procedures. A QAPP is valid for a period up to five years from the official publication date (approval date).
- 4.43 "Release" – Has the applicable meaning set forth in IC 13-11-2-184.
- 4.44 "Release-related chemical" – A substance placed on the land or in the subsurface which is, by virtue of its nature or quantity, subject to regulation by IDEM's Office of Land Quality. The term also includes regulated breakdown products.

- 4.45 “Remediation objective” – Per IC 13-25-5-8.5(c), either (1) a concentration of a substance equal to the naturally occurring concentration of that substance on the site, or (2) an environmental concentration of a substance which; given the conditions, uses, and restrictions prevailing on the site; is protective of human health and the environment. For the purposes of this document, a remediation objective may be a conditional or an unconditional remediation objective.
- 4.46 “Remediation work plan” – Document submitted for a Voluntary Remediation Program project providing a comprehensive summary of site conditions and the remedy proposed to remediate a site.
- 4.47 “Remedy” – A means of reducing risk arising from a release-related chemical. Remedies either reduce the concentration of a release-related chemical, reduce exposure to that chemical, or both. An adequate remedy will, either by itself or in concert with one or more other remedies, reduce risk from release-related chemicals to an acceptable level.
- 4.48 “Rule” – The whole or any part of an agency statement of general applicability that: (1) has or is designed to have the effect of law; and (2) implements, interprets, or prescribes: (A) law or policy; or (B) the organization, procedure, or practice requirements of an agency.
- 4.49 “Safe Drinking Water Act (SDWA)” – The act originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The law was amended in 1986 and 1996 and requires many actions to protect drinking water and its sources, such as rivers, lakes, reservoirs, springs, and groundwater wells.
- 4.50 “Send” – Communicate, either electronically or in hard copy.
- 4.51 “Site” – (1) The geographical area where environmental chemical of concern evaluation is desired. The site may consist of an entire facility and surrounding property or a single area of concern within a facility or property, depending upon the applicable regulatory program. (2) For the purposes of IC 13-25-5, site means a parcel of real property for which an application has been submitted under IC 13-25-5-2. (3) The geographical area being inspected. The site may consist of an entire facility or a single area of concern within the facility or property.
- 4.52 “Source area” – Where release-related chemicals are present in one phase at concentrations high enough to enable them to readily transfer to a different phase at concentrations which require a remedy.
- 4.53 “Unconditional remediation objective” – A remediation objective which permits unrestricted use of a property. Examples include IDEM’s published levels for residential exposure scenarios, naturally occurring background levels, or project-specific residential levels.
- 4.54 “U.S. Environmental Protection Agency (U.S. EPA)” – An agency of the federal government charged with protecting human health and with safeguarding the natural environment: air, water, and land.
- 4.55 “Virtual File Cabinet (VFC)” – The agency’s electronic document management repository. This repository has all the functionality necessary to capture, store, file, index, redact, reassemble, and securely access electronic documents of all types both received by and created by the various programs within the agency and allows the public viewing, searching, and printing capabilities.
- 4.56 “Work plan” – A site-specific document which includes project description, project objective, site history, and rationale for sampling locations, chemical analysis request, quality assurance, quality control and may include the health and safety plan. The work plan format may vary programmatically, and may also be referred to by other names such as quality assurance project plan (QAPP), sampling and analysis plan, etc.

5.0 ROLES

- 5.1 The consultant shall:
 - A. Represent the applicant.
 - B. Prepare work plans or other documents for a site on behalf of the applicant.
 - C. Coordinate activities with the IDEM VRP Project Manager to achieve closure of a site.
 - D. Submit plans, data, and documents as requested by the VRP Project Manager.
 - E. Perform investigatory or remediation work as described in the work plans or other documents.
- 5.2 The IDEM attorney shall:
 - A. Draft or review legal documents, other project related documents, and correspondence, as needed.
 - B. Advise IDEM OLQ project managers and IDEM management.
 - C. Refer cases to the Indiana Attorney General, when necessary.
- 5.3 The IDEM Remediation Services Branch Chief shall:
 - A. Approve documents such as letters to, and agreements with, applicants.
 - B. Assist VRP section chief in the resolution of issues which arise relative to a site, as needed.
- 5.4 The IDEM Science Services Branch staff shall:
 - A. Provide expertise and services to the VRP Project Managers in the fields of, but not limited to, chemistry, geology, geological information systems, engineering, and risk assessment.
 - B. Review work plans and reports.
 - C. Perform field oversight of investigation or remediation activities, as needed.
 - D. Provide sampling expertise.
 - E. Evaluate the quality of the environmental data.
 - F. Develop and maintain electronic databases.
 - G. Participate in meetings and discussions with applicants, consultants, or the public, as needed.
- 5.5 The IDEM VRP section chief shall:
 - A. Supervise program staff (IDEM OLQ Project Managers and Science Services Branch staff).
 - B. Approve documents such as letters to applicants and agreements with applicants.
 - C. Assist in the resolution of issues which arise relative to a site, as needed
- 5.6 The IDEM VRP project manager shall:
 - A. Coordinate and implement remediation activities with the applicant and the consultant.
 - B. Receive, evaluate, and provide comments on documents associated with the investigation, remediation, and closure of a site.
 - C. Prepare correspondence to the applicant and consultant communicating the status of the remediation project.
 - D. Request technical staff review of remediation documents and incorporate the technical staff suggestions and comments into the correspondence to the applicant and the consultant.
 - E. Conduct internal team meetings with technical staff to discuss the site.
 - F. Conduct meetings with the applicant or the consultant to discuss approaches to the remediation or closure of a site.
 - G. Make decisions on the appropriate use of technology or remediation techniques at the site.
 - H. Conduct site visits as requested or necessary to view the nuances of the site.

- I. Evaluate different proposals on their merit.
- 5.7 The applicant shall:
- A. Prepare, or hire a consultant on their behalf to prepare investigation reports, remediation work plans, and progress reports for presentation to the VRP project manager regarding the characterization and remediation of a site.
 - B. Respond to VRP project manager in a timely manner to all requests for information.
 - C. Provide data, maps, or records to the VRP project manager reflecting site conditions.

6.0 POLICY

- 6.1. Responses to all requests for information from IDEM shall be submitted in a timely manner.
- 6.2. Investigation reports, remediation work plans, and progress reports shall be prepared for presentation to VRP regarding the characterization and remediation of a site.
- 6.3. IDEM shall review work plans and reports.
- 6.4. Data, maps, or records shall be provided to the VRP reflecting site conditions.
- 6.5. Requested plans, data, and documents shall be submitted to IDEM.
- 6.6. IDEM shall receive, evaluate, and provide comments on documents associated with the investigation, remediation, and closure of a site
- 6.7. Investigatory or remediation work, as described in the work plans or other documents, shall be performed.
- 6.8. IDEM shall conduct site visits as requested or necessary to view the nuances of the site.
- 6.9. IDEM shall perform field oversight of investigation or remediation activities, as needed.
- 6.10. Activities shall be coordinated with VRP to achieve closure of a site.
- 6.11. IDEM shall make decisions on the appropriate use of technology or remediation techniques at the site.
- 6.12. IDEM shall coordinate and implement remediation activities with the applicant and the consultant.
- 6.13. IDEM shall provide sampling expertise.
- 6.14. IDEM shall meet with the applicant or the consultant to discuss approaches to the remediation or closure of a site.
- 6.15. IDEM shall draft or review legal documents, other project related documents, and correspondence, as needed.
- 6.16. IDEM shall approve documents such as letters to applicants and agreements with applicants.
- 6.17. IDEM shall communicate the status of the remediation project to the applicant and consultant.
- 6.18. IDEM shall participate in meetings and discussions with the public, as needed.
- 6.19. IDEM shall evaluate the quality of the environmental data.
- 6.20. IDEM shall resolve issues which arise relative to a site, as needed.
- 6.21. IDEM may refer cases to the Indiana Attorney General, when necessary.
- 6.22. The Voluntary Remediation Program Guide ([Effective NPD website](#)) provides additional detail.

7.0 REFERENCES

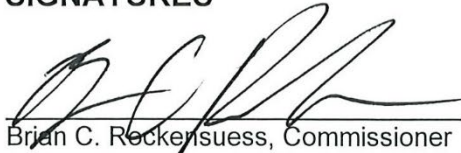
7.1. Indiana Statutes:

- A. [IC 13-25-5-8.5\(c\)](#) Environment, Hazardous Substances, Voluntary Remediation of Hazardous Substances and Petroleum, Voluntary remediation work plan objectives; additional action to protect human health and the environment not necessary under certain circumstances; risk-based remediation objectives and proposals.

7.2. Agency Policies:

- A. [Waste-0046-R2 Risk-based Closure Guide](#)
- B. [Waste-0065 Procedures for Gaining Access to Third Party Properties by Responsible Parties Performing Remediation](#)
- C. [Waste-0070 Community Involvement Plan](#)

8.0 SIGNATURES



Brian C. Reckensuess, Commissioner
Indiana Department of Environmental Management

10/24/22
Date



Peggy Dorsey, Assistant Commissioner
Office of Land Quality

10-12-22
Date



Nancy King, Assistant Commissioner
Office of Legal Counsel and Criminal Investigations

10/20/22
Date

This policy is consistent with Agency requirements.



James E. Bailey
Quality Assurance Program, Office of Program Support
Indiana Department of Environmental Management

24 Oct 2022
Date