

Brownfields Advisory Committee

Monday, April 10, 2017; 3:00 p.m. - 4:00 p.m.;

CCRPC Main Conference Room, 110 West Canal St., Suite 202 Winooski, VT

Committee Members in Attendance		
Curt Carter, Chair - GBIC	Kirsten Merriman-Shapiro-CEDO	Justin Dextrateur – Redstone (via phone)
Peter Wernsdorfer – City of Winooski	Brett Long-DCED (via phone) <i>Ex-officio</i>	
Others in attendance:		
Kurt Mueller, Johnson Company (via phone)		
CCRPC Staff: Dan Albrecht; Regina Mahony; Emily Nosse-Leirer		

1. Call to Order, Introductions and Changes to the Agenda

The meeting was called to order at 3:03. No changes were made to the agenda.

2. Public comments on items not on the Agenda

No public comment.

3. Review and action on April 3, 2017 meeting summary

Dan Albrecht gave a brief summary of the April 3 meeting. *Kirsten Merriman-Shapiro made a motion to approve the minutes, and Peter Wernsdorfer seconded. The motion passed unanimously.*

4. Review and Action on draft Comment letter on Soils Rule

The Committee reviewed CCRPC’s draft letter on the Vermont DEC’s draft *Investigation and Remediation of Contaminated Properties Rule*. The letter provides comments to DEC regarding their draft rules on the remediation of contaminated properties (I-Rule).

Kirsten mentioned that she finds the following issues challenging:

- The definition of background: the legislation defines “background” levels of soil contamination as the amount of contamination naturally occurring in soils *without* human activities. While this may be appropriate for rural areas, it is not appropriate for urban areas. For example, driving gasoline cars and burning wood both contribute contaminants to urban soils and these contaminations build up to a level that goes above “background” as defined by the state. Therefore the levels for “background” are too low and will make urban development impractical due to remediation costs for soils in areas that are historically settled.
- The committee discussed that there is no such thing as a pristine soil sample that has not been impacted by human activity. The rural samples are “control” samples, not samples measuring “naturally occurring contaminants.”
 - This is a problem both in the rules and in Appendix B
- Kurt Mueller clarified that the difference between industrial and residential levels is based on the amount of exposure to humans, not based on past use.
- Kirsten expressed concerns that this process is moving extremely quickly, and that there are not enough opportunities for interested parties to submit comments. She suggested that the letter be revised to

include another opportunity for the public to submit comments. Curt Carter agreed that this would be nice, but he thinks that there is not much of a chance of this.

- Kurt raised concerns that the soil study completed by VT-DEC was not adequately incorporated into the rules. Additionally, the EPA recently determined that the main PAH contaminant (benzo-a-pyrene) is actually 7x less toxic than previously thought, but VT DOH still wants to regulate PAHs to a higher level. Kurt further is concerned that the scientific basis for this higher level of regulations is not explained here, and needs to be for a transparent process. It's also difficult to comment when the regulatory thresholds keep changing. The committee concurred.
- Kirsten reiterated the need to ensure that these decisions are being made in a way that balances competing public interests. We cannot let health issues like avoiding soil contamination completely trump health issues such as promoting smart growth. The committee concurred.
- Curt Carter asked if there were any negative consequences to delaying these rules that anyone on the committee was aware of. Kurt Mueller said that in his opinion, the only possible consequences would be having to use the VDH's older rules for PAHs, which are significantly more restrictive than newly recommended by the EPA, for longer.
- Kirsten suggested an addition to the I-Rule specifically discussing how to deal with urban/development soils, and Kurt agreed.
- Kirsten is concerned about the engineered soil cap required by the new rules. The rule requires too much of a cap and will be cost prohibitive and may be a problem for certain grade. The monitoring requirements are also very stringent. CCRPC's comments should reflect that each site is unique and while some may require 18" of cap and continuous monitoring, it may be unnecessary for many sites. Also, what happens when atmospheric deposition makes the "clean" cap no longer clean?
- Kurt also raised concerns about the prohibition of offsite stockpiling. Sometimes this is necessary and should be allowed as long as you have a plan for what you'll do with the stockpiled soil. Also, in these rules, the "site" is not defined by the legal property boundaries. This is an issue that still needs to be resolved.
- There also should be more support for people who have contaminated soils, especially if the thresholds remain so exceptionally low. These rules really just make the problem of contaminated soils worse.

The general consensus of Committee members present is that the rule needs more time for public comments and more explanation of what the scientific basis of the rules is. The rule is not ready for adoption. The committee agreed that staff will revise the letter and forward the letter to the full CCRPC Board for their consideration. Brett Long abstained from participating in the consensus statement and the direction to staff.

5. Adjourn

The meeting adjourned at 4:04pm.