



## **MEMORANDUM**

TO: Emily Boedecker, Commissioner, and Lynda Provencher, VT Department of Environmental Conservation  
FROM: Chittenden County Regional Planning Commission Board of Directors  
DATE: 4/19/2017  
RE: Draft Investigation and Remediation of Contaminated Properties Rule (I-Rule)

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Thank you for the opportunity to comment on the Draft Investigation and Remediation of Contaminated Properties Rule. We very much appreciate the improvements that have been made between the current rule and this draft, including **XX**. However, the draft Rule is still unworkable, and counter to the State's and our smart growth goals. We ask that you draft another revision to address the following comments, and to ensure the intent of the legislation is met.

### **DEC's rules are orders of magnitude more stringent than Vermont's neighbors and lack the scientific basis to justify that divergence.**

- For example, as the table in Appendix A makes clear, the rules would regulate PAHs for residential projects at amounts 1/200th the regulatory limit of Massachusetts, but do not claim that Massachusetts regulations are creating public health or environmental concerns that justify such an approach.

### **DEC's rules fail to meet the unambiguous intent of the legislation directing the promulgation of these regulations to allow for thoughtful development in Vermont's downtowns, and instead DEC's rules will have the unintended consequence of encouraging sprawling development at the expense of Vermont's green fields and forests.**

- The draft rules fail to meet the intent of the legislation by proposing to put in place regulations that not only discourage downtown development, but could erode our environment by encouraging sprawl and bear no relation to the existing regulations of any of our neighboring states.
- As a result, these rules will dramatically increase the cost of downtown development – with no discernable environmental or public health benefit – thus encouraging development outside of our downtowns and villages at a substantial environmental and social cost.
- These proposed rules are directly in contradiction with the thoughtful policies that Vermonters have pursued for years to preserve our green spaces, to encourage smart growth, and to help create opportunities for all our citizens in our downtowns and villages.
- These rules would also have a direct and serious negative impact on organizations like Champlain Housing Trust that seek to develop affordable housing and expand opportunities for some of our most vulnerable residents.

### **DEC's rules waste valuable Vermont taxpayer dollars and private funds for no public benefit.**

- The proposed rules have already had a disheartening impact on important community projects and organizations, unnecessarily costing taxpayers hundreds of thousands of dollars, slowing projects down, and discouraging future projects.
- Green Mountain Transit (formerly CCTA) was required to expend more than \$376,000 to move soils off-site that posed no meaningful public risk.
- Similarly, the Committee on Temporary Shelter, Champlain College, the Community Sailing Center, and the City of Burlington have all struggled with the implications of these new regulations as they have increased project costs.

# Soils Information Packet for Land Use Policy Group

April 5, 2017

## Context

This memo outlines opportunities to comment on the proposed draft rules and provides some relevant points to consider or include in your comments at your discretion. Please feel free to contact Brian Lowe at [brian@burlingtonvt.gov](mailto:brian@burlingtonvt.gov) or Katie Vane at [katie@burlingtonvt.gov](mailto:katie@burlingtonvt.gov) should you have any questions.

## Comment Period

The Secretary of State's office has posted the draft Investigation and Remediation of Contaminated Properties Rule (I-Rule) for public comment. The document is available for review on the Waste Management & Prevention Division website: <http://dec.vermont.gov/waste-management>  
The comment period is open from March 1, 2017 to April 19, 2017.

A meeting to receive public comments will be held on:

1. **April 5, 2017 at 1:00 pm in the Montpelier Room located at 1 National Life Drive, Montpelier, Vermont.**
2. **April 6, 2017 at 6:00 pm in the Cherry A/B/C Conference Rooms, 2<sup>nd</sup> Floor, at the Waterbury State Office Complex located on South Main Street in Waterbury, Vermont.**

To ensure that there is enough space in the meeting locations, please RSVP as to which meeting you plan on attending. For planning purposes, please be aware that the Waterbury location holds more people and has easier access to parking than the Montpelier location.

**Written comments on the draft must be submitted no later than April 19, 2017 to [lynda.provencher@vermont.gov](mailto:lynda.provencher@vermont.gov).**

## Summary Points to Consider:

**DEC's rules are orders of magnitude more stringent than Vermont's neighbors and lack the scientific basis to justify that divergence.**

- For example, as the chart in Appendix A makes clear, the rules would regulate PAHs for residential projects at amounts 1/200<sup>th</sup> the regulatory limit of Massachusetts, but do not claim that Massachusetts regulations are creating public health or environmental concerns that justify such an approach.

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## **APPENDIX A**

### **Residential Use Soil Cleanup Standards (ppm)**

<b>Contaminant</b>	<b>CT</b>	<b>ME</b>	<b>MA</b>	<b>NH</b>	<b>NJ</b>	<b>NY</b>	<b>RI</b>	<b>VT</b>
Lead	500	375	300	400	400	400	150	400
Arsenic	10	5.375	20	11	19	16	7	0.68
PAHs (expressed as Benzo-a-pyrene)	1	1.1	2	0.7	0.2	1	0.4	0.01

### **Commercial/Industrial Use Soil Cleanup Standards (ppm)**

<b>Contaminant</b>	<b>CT</b>	<b>ME</b>	<b>MA</b>	<b>NH</b>	<b>NJ</b>	<b>NY</b>	<b>RI</b>	<b>VT</b>
Lead	1000	SS	300	400	800	1000	500	800
Arsenic	10	SS	20	11	19	16	7	3
PAHs (expressed as Benzo-a-pyrene)	1	SS	4	5	0.2	1	0.8	0.29

SS - Site-specific