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Nation's Environmental Stewardship Since 1974

March 19, 2024

U.S. Environmental Protection Agency
Office of Superfund Remediation and Technology Innovation
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

via regulations.gov

Re: Docket ID No. EPA-HQ-OLEM-2023-0664

Dear Sir or Madam:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Board of Directors (Board) appreciates the opportunity to provide comments on the implementation of the U.S. Environmental Protection Agency's (EPA) Updated Residential Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities, published on the EPA website on January 17, 2024. These comments have been reviewed by the ASTSWMO Board. In addition, individual State or Territorial waste programs may also provide comments directly to EPA based on their own State perspectives and experiences.

ASTSWMO is an association representing the waste management and remediation programs of the fifty (50) States, five (5) Territories and the District of Columbia (States). Our membership includes State waste program experts in the management and regulation of solid and hazardous waste.

The Board appreciates EPA undertaking this guidance to update Residential Lead Screening Levels (RSL). The Board has identified the following questions and comments on the implementation of the new guidance:

Questions:

- Does EPA have a communication and rollout plan that could be shared with States? States would like information in a format that can be shared with the public and regulated community.
- What criteria should be evaluated to determine when the 100 mg/kg screening level should be used instead of the 200 mg/kg?
- In non-attainment areas for air quality standards, is the guidance referring to an average annual lead level, or a percentage of days per year of exceedance, or some other mechanism for determining the use of the 100 mg/kg standard?
- Will the EPA identify regions where a lower RSL is appropriate? If EPA identifies regions with appropriate RSLs will these become mandated? States must have an opportunity to provide input on regional identification. States should have input into how RSLs are used in their State.
- Will there be additional guidance issued regarding industrial/commercial and construction worker screening levels?
- Are other models, in addition to IEUBK, being considered to evaluate lead? Are there other models that can reliably evaluate risks with blood levels less than 5 µg/dL?

- The guidance indicates the screening levels may not be relied upon and used in litigation. How does this conflict with Stipulation and Consent Orders or RCRA Permits where a specific limit is specified?
- Is the use of an average lead level still valid as the exposure point of concentration?
- What are the criteria for determining prioritization for reevaluation of sites for the various EPA programs?
- For sites currently being remediated how will the new RSLs apply? If a site is currently being remediated under CERCLA with the cleanup level identified in the Record of Decision (ROD), States must be a part of the reassessment to confirm the protectiveness of the cleanup levels in the ROD prior to the completion of the cleanup.
- Will there be guidance for re-evaluating protectiveness related to lead levels during a 5-year review?

Comments:

- States want to be included in decision making as the new policy is implemented.
- ASTSWMO understands the RSL tables will be updated in spring 2024 to reflect the new, lower values. States have concerns with how it will be documented to minimize confusion between the two standards, 100 and 200 mg/kg.
- The lack of implementation details available when EPA announced the update to the guidance has caused some confusion. Resources similar to the PFAS Roadmap with a more defined plan would be helpful and States must be partners in developing the timelines for implementation.
- The applicable universe of sites is unknown. There is a need for consistency in the criteria used to determine when re-evaluation is required. There is also a need for consistency in the site re-evaluation process. States must be included in the development of the criteria and the prioritization of sites for reevaluation.
- Footnote 6 references post-remedy review authorities for RCRA cleanups and specifically mentions permits. Not all sites undergoing RCRA cleanup have permits. Some sites have other enforcement orders or agreements where reopening may be more complicated. Actions at non-permitted facilities should be considered.
- EPA staff has said they are developing a GIS tool to help determine whether the 100/200 ppm screening level is appropriate. Collaboration and coordination between EPA and the States is crucial in the development of the tool.
- Disposal capacity is a significant concern for many States and thus this remains a high priority issue for ASTSWMO. The increase in the quantity of material requiring management as a result of the changed screening level will increase challenges related to disposal capacity. Disposal capacity should be considered as implementation protocols related to the updated screening levels are developed.
- The guidance indicates these are screening levels not cleanup standards. However, the language in the guidance indicates the screening levels are intended to be cleanup standards. Clarification on implementation of the guidance is required for this issue.
- The lower lead numbers may make delineation difficult in urban settings. Some discussion and examples regarding the use of 'speciation' analysis on lead soils would be valuable to assist with differentiating between 'on-site' and 'off-site' or 'background' lead sources.
- The 2017 update to the Adult Lead Model (ALM) and the 2019 updates to the IEUBK (child lead model) were not accompanied with updated training that could be found. States will need to rely on these models to develop site specific numbers that may change in response to the lowering of the recommended blood levels. The lack of training is an issue as following the old examples will not give the same results in the updated models, and thus it is difficult to know if it is being done correctly. It would be helpful if caveats in using the models were incorporated into more concise descriptions of the

models to accompany the longer technical support documents as a starting point for people learning the models.

- More information is needed on how to choose an appropriate NHanes data set for the adult lead model and appropriate time frames for multiple source time weighted averages for lead concentration inputs (i.e., is hourly appropriate for the ALM, etc.). The descriptions exist in multiple places, but it would be helpful to have recommendations accompanying the model guidance.
- The All-Ages Lead model (a 3rd model) is posted on the EPA web page, but it appears that it may not be ready for public use. It looks like it will be extremely helpful for site specific screening/closure levels particularly for recreational scenarios. Transparency in the time frames for finalizing this model would be appreciated.

Thank you for your consideration of the Board's comments. If you have any questions, please contact me at Amy.Brittain@deq.ok.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Brittain". The signature is written in a cursive style with a large initial "A" and "B".

Amy Brittain (OK),
ASTSWMO President