

STRAWMAN: Conceptual Approach to Revising the NRS, Tier Classification and Permits in the MCP

March 20, 2012

This document provides a broad overview of proposed changes to the NRS, Tier Classification and Permits, based on the discussions to date.

- The purpose of Phase 1 is to gather sufficient site information to Tier Classify the site and develop a preliminary Conceptual Site Model (CSM) to guide the Phase II Comprehensive Site Assessment.
- The preliminary CSM will be a required component of the Phase I Report. An updated CSM will be a required part of the Phase II Report.

Numerical Ranking System

- Subpart O will be deleted
- The Numerical Ranking Scoresheet (BWSC107A) will be replaced with a streamlined “Tier Classification Criteria Form” (“TCCF”, or “*Ticcif*”) that requires specific site information used to Tier Classify the site. The criteria will reflect the issues and concerns that currently lead to MassDEP assigning staff for direct oversight. Such criteria would include the current Tier I inclusionary criteria. Examples of such criteria may include:
 - i. Groundwater greater than RCGW-1 within a Zone II or IWPA
 - ii. Presence of an Imminent Hazard
 - iii. Open IRA?
 - iv. CEP?
 - v. Persistent chemicals?
 - vi. Out-of-compliance?
 - vii. *Etc...*
- The requirement to provide this information will be inserted into Subpart E.
- The TCCF could be included as part of subsequent submittals as well, which would provide insight into how site conditions are changing over time.

Tier Classification

- The Tier Classification Transmittal Form (BWSC 107) is retained but simplified.
- The Tier Classification is primarily a communication tool and does not itself determine the level of MassDEP oversight, although it should reflect DEP concerns and thus how the Department allocates staff resources.
- Sites would be classified into a simpler Tier I/Tier II system.
 - Tiers IA, IB and IC are eliminated – subsumed into a broader Tier I category.
 - The Tier ID category would be retained for Default sites.
 - Tier II would be retained.

- The MassDEP computer system will assign the Tier Classification based upon a combination of factors from the TCCF. The LSP would not recommend or determine Tier Classification.
- As subsequent TCCFs (after each Phase? at timeline extensions? at RAO?) are submitted, sites can be automatically reclassified as appropriate. (Sites would also be automatically reclassify sites based on the certain criteria, such as the presence/absence of an Imminent Hazard.)

Permits

- There will be no substantive/procedural difference between Tier I and Tier II sites – the paperwork will resemble the current requirements for Tier II sites, including establishing who is responsible for doing the work, transfer of that responsibility, extensions, etc.
- Need to make sure DEP is informed if when others want to conduct Response Actions, including post-RAO.
- Retain/revise “White Knight” provisions (310 CMR 40.0570) as needed. (Also fix missing line at 40.0570(8))
- Neither Tier I nor Tier II sites will require a permit - Tier I Permits will be eliminated.
- Subpart G will be eliminated
- “Comprehensive Response Action Extensions” (formerly Tier II extensions and Tier I Permit Extensions) will be a standard 2 years unless otherwise specified by DEP.
- Special Project Designation Permits → Special Project Designation
- Possible addition of permits for active exposure mitigation systems discussed elsewhere.

Miscellaneous

- Subpart F – Transition Provisions – will be eliminated. It’s about time.
- Deadline for submitting Phase II/Phase III would be 3 years from Tier Classification.
- Require PRP to specify expected timeframe for achieving a Permanent Solution for each remedy evaluated in Phase III – creating a baseline to evaluate progress of chosen remedy.

Fees

- No Permits = No Permit Fees
- Several options for modifying the Annual Compliance Fee structure are under consideration to cover MassDEP oversight costs (including auditing) as described in c.21E. Options could include:
 - i. Phase-based fees
 - ii. Submittal-based fees
 - iii. Tier-based fees
 - iv. Fees on sites with ongoing obligations