

EPH and Compliance Attainment

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(slides created upon request)

► Question:

Section 5.3 of the EPH Guidance states, “Because a sample-specific soil remediation criterion (SRC) for EPH is generated for each sample, none of the compliance averaging options described in the Department’s Technical Guidance for the Attainment of Remediation Standards and Site Specific Criteria can be used for Category 2 EPH.” I acknowledge the difficulty in applying a compliance averaging scheme for Category 2 EPH, which utilizes sample-specific standards. However, why couldn’t the 75%/10X option be used in such a case? If you conducted an excavation remedy, you would still be able to show point by point vertical and horizontal delineation based on the sample-specific standards and you could also demonstrate that less than 75% of the samples exceed their specific limits and none more than 10 times their standard. This would be especially relevant to the cleanup of a specific spill (as opposed to more diffuse contamination) where you would expect to find only one type of hydrocarbon contamination in the excavation area. Is there some other reason that would preclude the use of the 75%/10X option for Category 2 EPH?

► **Answer:**

LSRPs have the ability to exercise independent professional judgement and deviate from guidance through written rationale and justification. The above deviation (use of 75%/10X) may be acceptable accordingly. Therefore, the LSRP may propose such a deviation in the appropriate key document submittal. For instances where the LSRP may want to seek additional insight to the Department's general stance on site/AOC-specific deviations, prior to key document submission, the Technical Consultation process is afforded. The Department may revisit how compliance averaging may be applicable to Category 2 Petroleum Products, in Section 5.3 of the Evaluation of Extractable Petroleum Hydrocarbons in Soil Technical Guidance, in the next iteration of the guidance.

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Questions?