

PART F

GUIDANCE SECTION 5: COMMUNITY OUTREACH

F.1 TOPIC: General comments on Section 5 of the guidance

Comment F.1.1 (paraphrased, 1 commenter, 1 comment):

Section 5 describes the community outreach that should accompany vapor intrusion investigations. We agree with the recommendations and plans detailed in this section.

Response F.1.1:

Comment noted.

Comment F.1.2:

We commend the department for its development of the community outreach protocols. By establishing requirements for Fact Sheets and public meetings, this section will ensure that residents near a site that is undergoing a vapor intrusion investigation or remediation are kept up to date on exactly what is being done, and what the next steps will be. The need for transparency and public outreach cannot be overstated. If the public is not informed there is an increased likelihood that a project may face opposition.

Response F.1.2:

Comment noted.

F.2 TOPIC: Outreach requirements

Comment F.2.1:

In general, we expect that most vapor intrusion investigation/abatement projects will be undertaken under statutory programs, either state superfund (Title 13), the brownfield act (Title 14), RCRA corrective actions, and/or the Navigation Law's oil spill program. Title 13 and Title 14, and related regulations, contain specific requirements regarding citizen participation, and the Department has issued citizen participation guidance specific to those programs. This vapor intrusion policy should make clear that where existing statutory and regulatory requirements exist for remediation programs, those CP [citizen participation] requirements apply.

Response F.2.1:

Agreed. As stated in Section 5 of the guidance, "the type, or types, of techniques selected for a site will vary depending upon the community's needs, site-specific conditions and program-specific requirements." To clarify this point we have revised the guidance to say "...*remedial* program-specific requirements."

Comment F.2.2:

Community outreach should consider Brownfield sites as a separate category. The community outreach program should be implemented in a manner equivalent to the magnitude and knowledge of the threat. Efforts should be made to control sensationalism and direct energies to providing understanding of the problem and measures that can be implemented to protect those exposed to the intruded vapors as well as ambient levels of any other chemicals detected during the monitoring.

Response F.2.2:

The guidance presents strategies to evaluate the soil vapor intrusion pathway and determines the likely source(s) of volatile contamination. Under this approach, the nature and extent of action, if taken, is determined on a site-specific basis, with an understanding of the site data and particular site considerations. At all sites, community outreach efforts are tailored to the specific needs of the site and surrounding community, as well as to remedial program-specific requirements.

Comment F.2.3 (paraphrased, 2 commenters, 4 comments):

The level of community outreach needed by the guidance will be burdensome to implement. Furthermore, it would create unnecessary risk of litigation from the community.

Response F.2.3:

The intent of Section 5 of the guidance is to provide an overview of the types of communication tools that are commonly used during a soil vapor intrusion evaluation, not to provide a list of all tools required at all sites. The level of community outreach implemented at a site will vary depending upon the community's needs, site-specific conditions and remedial program-specific requirements. Community outreach is an essential component of the investigation and remediation of any site. The goal of outreach efforts is to keep the community informed and involved through the process, not to promote litigation.

Comment F.2.4 (paraphrased, 1 commenter, 1 comment):

There should be no requirement to notify building residents or the public [about sampling or the results] until there is conclusive evidence of actual vapor intrusion into a building and the need for an active system.

Response F.2.4:

We have found that informing building occupants of the potential for exposure leads to a more positive relationship between building occupants, building owners and regulatory agencies. Keeping building occupants informed from the beginning of the investigative process provides the foundation for a working relationship based on mutual understanding and full disclosure.

Comment F.2.5 (paraphrased, 1 commenter, 1 comment)

As NYSDOH is likely aware, potential health effects and environmental easements tied to the mitigation of vapor intrusion issues can have a very negative effect on the value and cash flow of a commercial building. In particular, the easement would affect the financial viability of the building, the owner's ability to continue operations, and to install and operate protective measures. When an owner is notified, what are their responsibilities for notifying the tenants and workers in the building? What other issues and unintended consequences may arise from the indoor air monitoring?

Response F.2.5:

When an owner or manager of a building is provided with sampling results, we recommend that these results be provided to tenants and workers in the building.

F.3 TOPIC: Fact sheetsComment F.3.1 (paraphrased, 3 commenters, 2 comments):

Commenters requested two new fact sheets. One regarding a list of common household products that could lead to elevated indoor air concentrations and one regarding a one-page flyer describing to home owners what they should/should not do before sampling and what will be involved with the IAQ Questionnaire and Building Inventory.

Response F.3.1:

The NYSDOH intends to develop fact sheets to supplement those provided in the Appendix H of the guidance. The recommendations provided by the commenters will be considered during this process. Once prepared, new fact sheets will be available from the NYSDOH's soil vapor intrusion web page:
http://www.health.state.ny.us/environmental/indoors/vapor_intrusion/.

Please note that information about household products and their ingredients are available on web sites, such as the National Institute of Health's site at <http://householdproducts.nlm.nih.gov>.

F.4 TOPIC: Risk communicationComment F.4.1:

We recommend that communications with the community include, to the extent possible, a discussion of relative risk including the possible exposure to the same types of substances in everyday life, such as in hairspray or nail polish, even where the Department feels constrained by the paucity of health effects data. This will aid in putting the risks associated with soil vapor intrusion into perspective.

Response F.4.1:

The NYSDOH has and will continue to communicate information pertaining to human exposures and health risks as clearly as possible and using relative risk comparisons, as appropriate. In addition, the NYSDOH will consider the commenter's recommendation when developing fact sheets to supplement those provided in the Appendix H of the guidance. [See also Response to Comment F.3.1.]

F.5 TOPIC: Involvement by the responsible partyComment F.5.1 (paraphrased, 1 commenter, 2 comments):

The principal responsible party (PRP) must be included on the "project team." The PRP should be allowed to review and comment on the site contact sheet and to receive copies of information packets for the medical community before these items are released to the public.

Response F.5.1:

As defined in Section 5.1 of the guidance, the PRP is an active member of the "project team." The extent of the PRP's involvement in various outreach activities is determined on a site-specific basis.

F.6 TOPIC: Letters transmitting results

Comment F.6.1 (paraphrased, 2 commenters, 1 comment):

The NYSDOH should be aware that developing definitive conclusions regarding a site or a particular home may take more than one round of sampling or a detailed evaluation considering data other than that collected from a home. As a result, we recommend providing results; however, caution should be used prior to also including conclusions and/or next steps.

Response F.6.1:

Transmittal letters should contain any and all relevant information that is available. Any conclusions should be based on the data, even if the "conclusion" recommends additional sampling.

Comment F.6.2 (paraphrased, 1 commenter, 1 comment):

When potentially responsible parties are carrying out indoor air sampling, it is common for access agreements to be executed between such a party and the property owner. Consequently, results transmittal letters should be sent to the property owner, and where feasible by prior arrangement with the property owner and/or tenant, with a copy to the tenant.

Response F.6.2:

Acknowledged. A discussion recognizing this situation has been added to Section 5.5 of the guidance.

Comment F.6.3:

Section 5.5, second paragraph: Suggested rewording the introductory language as follows: "It is recommended that the transmittal letter include the following elements (as applicable):"

Response F.6.3:

The text has been revised as follows: "A transmittal letter should include the following (as applicable):...."

F.7 TOPIC: Door-to-door visits

Comment F.7.1:

Section 5.8, first paragraph: last sentence, reword as follows: "Team members should be aware of the specifics..."

Response F.7.1:

The text has been revised as follows: "All team members should be aware of the specifics of the door-to-door visits (e.g., who will be conducting the visits, the reason, the dates, etc.)."

F.8 TOPIC: Community advisory groupsComment F.8.1:

Where there is sufficient community interest, the Guidance should recommend the formation of community advisory groups. Such groups build trust among the parties — affected residents, responsible parties, regulators, and other officials — and over a period of time they raise the level of understanding, even of highly technical issues, among regular community participants. Those participants, in turn, are able to explain technical issues to their neighbors as well as to bring neighborhood concerns to the attention of other parties.

Response F.8.1:

When there is sufficient community interest, our experience has shown that community groups form on their own initiative. We agree that such groups can be beneficial to the outreach effort. As discussed in Section 5.4 of the guidance, we acknowledge that community group meetings can be a useful avenue for exchanging information between project staff and the community.