



CENTER FOR PUBLIC ENVIRONMENTAL OVERSIGHT

A project of the Pacific Studies Center

278-A Hope Street, Mountain View, CA 94041

Voice: 650-961-8918 or 650-969-1545 Fax: 650-961-8918 <[lsiegel@cpeo.org](mailto:lsiegel@cpeo.org)>

<http://www.cpeo.org>

July 12, 2013

Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency

Dear Sirs/Mmes:

I realize that it is beyond the deadline for submitting comments on the April 11, 2013 External Review Draft of the “OSWER Final Guidance for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Sources to Indoor Air,” but for the record I would like to add one additional comment to our comments of June 21.

People have been asking me why I did not question the language in Section 7.4, “Where the aggregated carcinogenic risk to an individual based upon a reasonable maximum exposure condition for both current and future land use is less than one per ten thousand (i.e.,  $10^{-4}$  or one hundred per million) and the noncancer HI is less than 1, response action is generally not warranted for vapor intrusion.”

Frankly, I missed a minor language change with significant and unacceptable implications. The unofficial November 2012 draft contained language describing a risk range between  $10^{-4}$  and  $10^{-6}$ , which is what we usually hear from EPA. The April 22, 1991 EPA Memo on Baseline Risk Assessment, from which the external review draft language is apparently taken, is more nuanced. According to that memo and the National Contingency Plan—a duly approved regulation—EPA applies a risk range. Further, in many states state law provides for the more stringent  $10^{-6}$  goal.

Impacted communities across the country do not accept the uniform application of the  $10^{-4}$  threshold. For jurisdictions using the current EPA residential inhalation Regional Screening Level for tetrachloroethylene (PCE), this would mean a standard of  $940 \mu\text{g}/\text{m}^3$ , or *no action—ever*. This is unacceptable!

EPA should return to language, based upon the National Contingency Plan, that provides more flexibility in the establishment of risk goals for vapor intrusion.

Sincerely,

A handwritten signature in black ink that reads "Lenny Siegel". The signature is written in a cursive, flowing style.

Lenny Siegel  
Executive Director