



**Department of Energy & Environmental Protection
Remediation Division
Roundtable
Q&A Newsletter
Vol. 12 ~ September 30, 2013**

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on August 13, 2013. The comments and responses may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE AUGUST 13, 2013 ROUNDTABLE:

Comprehensive Evaluation and Transformation

Comment: When will the Request for Proposal (RFP) for the Risk Assessment Evaluation required by recent legislation (Public Act 13-308) be posted? What type of companies will be eligible to bid?

Response: *The Department is working to post the RFP on the website. Any company is eligible to bid on this state contract. This is expected to be a nation-wide search effort. We are open to and would encourage multi-disciplinary teams to join together to form partnerships among different companies as well as academic organizations.*

Comment: Will there be opportunity for the public to participate in the Risk Assessment Evaluation and provide comment? Do you anticipate the use of Work Groups?

Response: *The Department has chosen Cheryl Chase, the Director of the Inland Water Resources Division, to coordinate the project. The process continues to develop, but the public will certainly be involved as they have been throughout the transformation process. Work Groups are not presently anticipated. At this point the focus is on developing the scope of work so that can be put out for bids.*

Comment: Is the Scope of Work you are developing for the RFP going to deal with the proposed changes to the groundwater quality assessment as well?

Response: *Not directly, the Risk Assessment Evaluation will deal with our risk assessment and risk management decision making process. It will inform DEEP as we look forward to any and all changes we are proposing to the program. Concurrently, DEEP will introduce a protocol for the reclassification of groundwater quality*

areas. That protocol looks to work with municipalities to align future groundwater classifications with current information on groundwater quality and current and future groundwater uses.

Comment: How will diverse types of sites, such as those reported as spills, be transitioned into the new Unified Reporting Program that is envisioned in the transformation report?

Response: *The new program will reach across different types of sites. Those details are still being developed and improved. It is a continuous work in progress. The transition will most likely depend upon how the property or release came into a program to begin with as well as the current status of the response actions.*

Comment: Does the Department envision changes to the LEP Regulations as well?

Response: *That is a possibility, but any specific changes will depend on how the program transforms. If changes are needed, DEEP will work with stakeholders to propose appropriate changes.*

Future Transformation RSR Amendments: Wave 2

Comment: When discussing modeling for Monitored Natural Attenuation, are you looking for us to show that the endpoint will be achieved?

Response: *Yes, we would expect to see a model showing that your proposed remedy will work. We do not presently have any specific modeling programs in mind, but are open to suggestions on which should be further evaluated.*

Comment: Can comments on Wave 2 be sent to the Roundtable email box?

Response: *Yes, you may send questions in to the [Roundtable mailbox](#) or the [Transformation mailbox](#).*

Comment: How would Monitored Natural Attenuation be folded into the Technical Impracticability (TI) guidance that is currently being worked on?

Response: *These would be two separate and distinct options. If modeling shows you are not going to make the 20-year timeframe, we would expect that you would first reassess the site characterization to ensure that the source has been, in fact,*

removed or otherwise addressed to the maximum extent prudent. Then, if there are no threats to human health a TI could potentially be an option.

Comment: Will changes to the criteria be coming after the Risk Assessment Evaluation is completed?

Response: *The Wave 2 transformation of the RSRs and then eventually the statutes will be independent of any criteria changes. Depending on the outcome of the Risk Assessment Evaluation, it may be fitting to change criteria as well.*

Comment: Will the Risk Assessment Evaluation be limited to developing a process to evaluate risk?

Response: *The Risk Assessment Evaluation will be all encompassing, including all risk management decisions in which the Department would be involved, in addition to whether Risk Assessment can be used as a tool to meet the RSRs.*

Comment: Was the Risk Assessment Evaluation something the Department was considering or was it put in as a mandate from Legislation?

Response: *The Department was considering the option before it was put into the legislation.*

RSR Amendments: Effective June 27, 2013 (Wave 1)

Comment: Is the provision for allowing sampling results which exceed two times the remedial criteria in a 95% UCL calculation self-implementing under the new Wave 1 changes to the RSRs?

Response: *This provision which formerly required the Commissioner's approval for allowing sample results which exceed two times the remedial criteria, was removed from the latest version of the regulation. Therefore, such sample results may be used the same as all others, with no special approval or notification, when performing 95% UCL calculations to meet RSRs criteria. However, the 95%UCL calculation tends to be self-limiting when elevated results are input, due to the nature of the calculation. Note, the 95% UCL is not permitted for the volatilization criteria or soil vapor criteria.*

Comment: Under the self-implementing PMC exemptions, can pavement be included as part of the 80% of a site that is subject to infiltration?

Response: *No, a hard surface would not be considered as part of the 80% of a site that would need to be subject to infiltration for this exemption to be used. Therefore, this exemption would not apply for an area covered by pavement. A Fact Sheet is being developed on this topic and will be posted on the Remediation web site.*

Comment: When indicating that all remediation needs to be completed before groundwater compliance monitoring can be performed, is that release-based or site-wide?

Response: *The RSRs are release-based, so compliance monitoring relates to individual releases, rather than an entire site.*

Comment: Can compliance of groundwater be demonstrated in phases as a site is cleaned up, or does all remediation need to be completed before any monitoring wells can demonstrate compliance? Does this allow you to “close out” monitoring wells on the periphery of the plume as a plume shrinks over time? Or do we have to wait until the entire plume meets criteria?

Response: *The RSRs are release-based, so compliance monitoring relates to individual releases, and not necessarily to the whole site. Therefore, compliance with groundwater criteria on a site can be achieved in phases as various Release Areas (RA) are addressed separately over time.*

*The entire plume from a RA must achieve compliance. However, the number and location of monitoring wells used to **demonstrate compliance** may not be the same as the number and location of wells used to **investigate and characterize** the plume. It may be appropriate to remove a well from the sampling plan if the data collected from the well no longer provides any value to the CSM, if the data is not usable (for whatever reason), or if the collection of further data is considered irrelevant to demonstrate compliance.*

Except for those sites where DEEP has maintained the lead in reviewing and approving work at a site, decisions regarding which monitoring wells are necessary to demonstrate groundwater compliance is the responsibility of the LEP.

Comment: Can the old RSRs be used or do properties have to abide by new RSRs immediately?

Response: *The new RSRs are currently in effect with no transition period, except as otherwise specified in the RSRs. However, the Commissioner still maintains the authority to approve alternative approaches on a case-by-case basis if that is deemed necessary.*

Environmental Land Use Restriction Amendments

Comment: The slide presentation states that the Commissioner or LEP can sign an ELUR. In what instance can a LEP sign the ELUR?

Response: *The LEP can only sign the ELUR when a site is enrolled in the Voluntary Remediation Program pursuant to 22a-133y of the CGS.*

Comment: Why is the Department releasing an interim Declaration and Decision Document Template before the new ELUR Application Form is released?

Response: *The ELUR Regulation Amendments made changes to the declaration language which were effective upon passage which the called for the Department to modify the forms right away. This new language is [now available on the web](#). The DEEP anticipates publishing the new ELUR Application Forms on or around October 1, 2013.*

Comment: Will the applicant be required to transfer old information over to the new forms?

Response: *No, if older forms are used between now and December 31, 2013, DEEP staff will convert the Declaration and Decision Documents into the new format. After January 1, 2014 the applicant will need to submit information on the new forms.*

Comment: When will the Notice of Activity and Use Limitation be made available for use?

Response: *Public Act 13-308 authorizes the development of regulations for Notice of Activity and Use Limitations. The Department anticipates including these regulations in the Wave 2 RSR amendments which are anticipated to be formally proposed for public hearing after the conclusion of the risk evaluation. Prior to then, the Department will release public discussion drafts of proposals for feedback.*

General Questions

Comment: Will there be anything in the Wave 2 changes to the RSRs regarding how we deal with pesticides in soil?

Response: *Pesticides have been discussed at length; however, the Department has not determined where that will be appropriately addressed; either through statute changes or RSRs.*