

**CTDEP Remediation Division
Roundtable
Q&A Newsletter**

**Vol. 2
March 23, 2011**

Presented below are CTDEP responses to selected written comments received by the Remediation Roundtable Committee during December 2010 through February 2011 and verbal comments presented at the Remediation Roundtable held on February 8, 2011. The comments below may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE 2/08/2011 ROUNDTABLE:

Updates on Engineered Control (EC) Guidance Document

Comment:

If a property is sold after an EC is approved by DEP and is constructed, who is responsible for the financial assurance requirements? Does the obligation remain with the seller, or transfer to the buyer?

Response:

The RSRs require that financial assurance remains in place. The business transaction between the buyer and seller will need to determine which party will take on that role. DEP will retain the financial assurance currently in place unless and until an equivalent financial assurance is substituted.

Comment:

Is there a list of ECs available to the public? If we have recently completed, or are in the process of completing an EC, will we need to update it according to the new guidance?

Response:

There is currently no list of ECs available. CTDEP is working on a list that will be representative of approvable ECs, but it will not be an all inclusive list. If you have been working on an EC under the guidance document, you may continue under either the prior guidance or the revised guidance.

Q&A Newsletter

Comment:

Rather than creating the newsletter in a word document, would it be more user-friendly to create a spreadsheet that can be queried?

Response:

The Q&A Newsletter is still a work in progress. CTDEP is also considering adding the information from the Roundtable Q&A Newsletter to the FAQs on the Remediation Division web page.

Comment:

Does DEP have plans to organize the Roundtable agenda topics better so that attendees do not attend in anticipation that a specific topic is covered, but the topic does not fit into the time restraints?

Response:

CTDEP is still working on prioritizing and developing agendas based on the feedback we get from you. We regret that prior agendas have been overly ambitious and that all agenda topics were not covered in the first two Roundtable meetings. One of the ways we are trying to ensure that we get to each agenda item is to have a less ambitious agenda.

CTDEP will post the agenda topics on the webpage prior to the meeting and make every effort to address those topics during the Roundtable. If time constraints do not allow CTDEP to cover all topics scheduled, this topic will be moved to the agenda for a subsequent Roundtable. You may submit suggestions for agenda topics to Camille Fontanella at DEP.remediationroundtable@ct.gov.

Electronic Servers

Comment:

When setting up the topics in SurveyMonkey.com, will there be adequate information so that we are clear about what we are voting for? Has DEP considered utilizing other websites such as LinkedIn?

Response:

CTDEP will make every effort to include adequate details to allow the user to understand what topic they are voting for. At this time, LinkedIn and other social networking websites are not accessible to CTDEP employees.

List Serve

Comment:

Will the List Serve provide information on weather delays and cancellations?

Response:

Yes, CTDEP will send notice for Roundtable delays and/or cancellation. You should also visit the CT Department of Emergency Management and Homeland Security website to view statewide delays and cancellations.

Status of Legislature's Brownfield Working Group

Comment:

Does DEP have a timeline for the evaluation of Remediation Division programs and related statutes? Also, have you contacted environmental committees of the legislature to request additional resources for the evaluation, as this will be a large task? Will there be opportunity for public participation?

Response:

CTDEP's goal is to complete both the evaluation and provide recommendations by the end of 2011 so that this evaluation and recommendations can go to the Legislature in time for the 2012 legislative session. However, we realize this may be an aggressive goal. As an example, New Jersey completed a similar task in approximately two years, but that included the introduction of a program similar to the LEP program.

CTDEP has not requested additional resources from the Legislature to conduct this review. We will be relying on existing staff resources from within the Remediation Division and others throughout CTDEP to complete this task. There will be numerous opportunities for the public, stakeholders, and the regulated community to participate during this evaluation.

Comment:

How successful have the DEP and LEPs been at closing sites in the current framework?

Response:

Out of the approximately 3,800 sites in the Property Transfer Program (PTP) about 400 have been closed. Many are nearly done but are more difficult to identify because the law doesn't provide for an interim verification milestone for Form III's filed prior to October 2009. Going forward, with the 2009 changes in the PTP, a verification or interim verification will allow identification of additional milestones such as sites where cleanup is complete except for long-

term groundwater monitoring commitments. On average, approximately 200 PTP sites open per year and 40 are closed per year.

For the Voluntary Remediation Program (VRP), 34 of approximately 450 sites have closed.

Comment:

Is DEP using transmittal forms to track milestones in a database? Can this information be made available to the public?

Response:

CTDEP is currently tracking some of the information submitted with a transmittal form. This information will be used to populate our contaminated sites list that is available on the CTDEP website. The timing of these improvements will depend on obtaining IT support for the project.

Comment:

How often is the Significant Environmental Hazard Notification (SEHN) list updated? Is the date of the SEHN submittal included on the list?

Response:

CTDEP updates the SEHN list monthly, and the date of the notification is included on the list. If you are looking for a specific SEHN on the list and it is not there, it should be there the following month, depending on the timing of notification and the publication of the updated list.

ETPH and EPH/VPH Analysis

Comment:

Can we use the ETPH method as an additional polluting substance (APS) according to the RSRs for GWPC? Can we use the criteria that were posted on DEP's website in 1999 without a formal request?

Response:

RSRs section 22a-133k(3)(h) states that if the GWPC is not specified, DEP may approve one in writing.

Parties may apply to DEP for approval of additional polluting substances (APS) or alternative criteria, provided adequate back up information accompanies the request. The 1999 list you are referring to is not available for state-wide use. Other than criteria included in the RSRs, the RSRs do not allow use of APS without DEP approval unless and until the RSRs are amended to include criteria for those substances. There is new information about these substances since

1999 that should be considered. Therefore, consistent with the regulations, those pollutants that are not specified in the RSRs must be reviewed and approved by DEP as additional polluting substances. A mini-kaizen event to improve our process for approval of additional polluting substances and alternative criteria occurred this March to identify streamlining opportunities. DEP will provide an overview of this at one of the upcoming Roundtables.

Comment:

Is DEP moving towards EPH/VPH instead of ETPH?

Response

CTDEP does not have a bias towards either analysis. However, EPH and VPH are risk-based analyses and ETPH is not.

Comment:

If I were to submit verification today with ETPH, do I need to submit a request and backup information?

Response:

The regulations require submittal of an APS request for DEP approval. You do not need to submit backup information if you are proposing to use optional default numbers. These are numbers for which DEP and DPH already have backup information and which DEP will identify on its website as optional default numbers. (None are posted now, but ETPH and EPH/VPH will be posted on the website soon.) If you are requesting criteria other than the optional default numbers, you must submit backup information for your calculation.

Comment:

ETPH and TPH are all measuring total petroleum hydrocarbons, why do we need approval to use ETPH?

Response:

Although the methods are measuring petroleum products, the analytical method results are not comparable. Therefore, the ETPH results are APS. TPH method 418.1 is no longer an approved analytical method for CTDPH or EPA.

Technical Impracticability (TI)

Comment:

Has DEP looked at using TI for sites with steady state plumes?

Response:

CTDEP intends on looking at long term natural attenuation to see if a TI could apply.

Comment:

Has DEP looked at how other states handle TI? For example, Massachusetts allows contamination to remain “in a pocket” if it is proven to be in a steady state.

Response:

CTDEP is not familiar with the Massachusetts approach on TIs, but intends to review the application of TI in states, such as Massachusetts, with similar environmental conditions as the guidance is developed.

Comment:

What is the status of the alternative groundwater monitoring guidance document?

Response:

CTDEP began working on this guidance document over a year ago, but has postponed the work in order to address revisions to existing guidance. If this is a high priority, the Roundtable is a forum to express that to us and seek to prioritize it.

SELECTED WRITTEN COMMENTS

Comment - December 15, 2010:

My suggestion is that you request questions and statements to be submitted by a certain date before the next roundtable meeting. This will allow the DEP to:

- Post or respond to statements,
- Select certain yes/no questions that may be good for demonstration or example, or
- Choose “bigger questions” that can be addressed during the next roundtable.

Response:

CTDEP will be posting agenda topics on the Roundtable webpage prior to the meeting. You can send questions at any time to the e-mail address dep.remediationroundtable@ct.gov. It will be helpful to us if we receive questions via e-mail prior to the Roundtable so that we may prepare responses. You may also submit questions at the Roundtable meetings or participate in the public participation portion of the Roundtable. The Q&A Newsletter will be used to document the questions submitted and answers given. The “bigger questions” may be addressed at a future Roundtable.

Comment - February 9, 2011:

My thought is that I would really push for the creation of some smaller working sub-committees that would meet in smaller settings to discuss narrower issues. Those groups, which (in my opinion) should have non-CTDEP co-chairs, would report efforts and findings at the larger meetings.

Response:

The overall intention of the Roundtable is to share information, so DEP has chosen some topics for discussion at the outset of the meetings that appear to have generated some conversation. As the Roundtable evolves, we hope to include sub-committees/breakout groups as part of the way that communication is further established. We are open to hearing your ideas for suggestions on sub-committees.

You may submit suggestions for sub-committees including: how you envision the logistics of such breakout groups, the size of groups, frequency of meetings, and method of reporting back to the Roundtable. We agree that such groups will be an important tool for communication and the sharing of ideas.

Comment - December 14, 2010:

The EC financial surety section should state who the interest accrues to the Commissioner or certifying party.

Response:

The amount of the surety is predetermined for each EC. There are several financial instruments for establishing surety. If the instrument that is chosen accrues interest, this interest would typically be the property of the responsible party.

Comment - December 14, 2010:

There was poor sound quality and you will need to turn up the volume and ensure people speak into microphone.

Response:

DEP concurs. We will remind attendees and DEP staff to speak into the microphone. Please let us know if you cannot hear during the meetings so that we can adjust the volume. We will be using a wireless microphone for the next meeting and are trying to improve the microphone situation overall.

This newsletter is designed to answer general questions and provide basic information. You should refer to the appropriate statutes and regulations for the specific regulatory language pertaining to the different Remediation Programs. It is your responsibility to obtain and comply with all required statutes and regulations.