



**Department of Energy and Environmental Protection
Remediation Division
Roundtable
Q&A Newsletter
Vol. 7 ~ April 20, 2012**

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on February 14, 2012 and selected written comments received by the Remediation Roundtable Committee from December 2010 through February 2012. The comments and responses may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE FEBRUARY 14, 2012 ROUNDTABLE:

Comprehensive Evaluation and Transformation

Comment: Regarding the issue of the role of auditing, is there any sense within DEEP of what you would consider to be a successful auditing program, in terms of percentages of sites or submittals audited? Would it be an evolving process?

Response: *If we implement a new program, there would probably be more auditing in the beginning. This would be part of the education process, so the LEPs will know how the process works and the regulated community will know what to expect. Although many aspects of the program will be self-implementing with known milestones, there will be more checkpoints along the way.*

Comment: Are there other states with similar programs?

Response: *The transformation workgroups looked at other states, and all the groups came up with ideas similar to the program Massachusetts developed 20 years ago or what New Jersey implemented a few years ago. We are not proposing to adopt another state's program, but we are informed by their successes and failures.*

Comment: Regarding the economic aspect of the bill, how many new sites will move through the program, and what kind of economic impact will it generate?

Response: *We are looking at that. Right now in Connecticut, if you have pollution, you have to notify DEEP and clean it up immediately, but that's not really what happens. We are trying to clarify those obligations and be aware of the fact that some people haven't thought they had to do this in the past. It will have an impact in that cleanup will be release-based and not site-based.*

Comment: For people who have to counsel clients as to what regulatory requirements will look like in the future, are you saying the transformation process will not be complete until the legislation has passed and the regulations are changed? Would you say that would be complete by about January 2015?

Response: *Hopefully before that, but it will take time to get legislation passed, regulations amended, and put a new program into place. People will also need time to come up to speed on the changes.*

Comment: Is DEEP trying to incorporate the concept of on-going revision/updating of the program into the statutory framework?

Response: *DEEP has embraced the concept of continual self-improvement, but we also don't want to be changing everything every year because it creates uncertainty for the regulated community. We want to make changes at appropriate times.*

Remediation Criteria including Petroleum Hydrocarbons

Comment: Were constituents of concern that still have no established criteria looked at in the Lean process?

Response: *Yes, we evaluated that during the LEAN process. Many people are using the 2008 proposed criteria for sites upon request. We are also working with DPH to update the 2008 toxicological information for all substances on the APS list and additional constituents so that there is a much faster and easier approval process. Once the toxicological values are approved by DPH, we can recalculate criteria. We will have a formal, but easy process in which you can request use of our pre-calculated numbers by checking them off on a form and requesting approval. You can still generate your own criteria if you choose by using the equations in the RSRs, but soon a form with updated criteria will be available that will be easier to use. Please contact Craig Bobrowiecki at craig.bobrowiecki@ct.gov if you need further information regarding submitting a request to use an APS for which DEEP has developed draft numbers.*

Comment: Can the draft 2009 Water Quality Standards (WQS) be used?

Response: *If you need APS Surface Water Protection Criteria (SWPC), the chronic aquatic life criteria from the 2009 draft WQS can be used; however, these criteria still need to come into DEEP for review and approval.*

Comment: Can we submit an APS request with the proposed criteria before the proposed RSRs are adopted?

Response: *Yes, however, we recommend you wait to read the supporting documentation when it is posted on the website before submitting such a request.*

Comment: DEEP stated that the package is not coming out until the formal hearing process, but then stated the criteria and technical information will be available on the website. What is the additional information that will be in the regulations package?

Response: *The petroleum hydrocarbon draft criteria and technical information that will be posted on the website in the near future is informal; this information will be formalized in the regulatory package to be released at a later date. Right now there is no set time for the release of the regulatory package. If we get feedback or identify any errors before the formal release, we have time to make changes.*

Comment: When can laboratories start using the 250 µg/L reporting limit for water analyses?

Response: *DEEP is currently accepting a reporting limit of 250 µg/L for analysis of water by the Extractable Total Petroleum Hydrocarbon method.*

Comment: I noticed the Pollutant Mobility Criteria for the Volatile Petroleum Hydrocarbon (VPH) and Extractable Petroleum Hydrocarbon (EPH) analytical methods were significantly lower than the Direct Exposure Criteria for the VPH and EPH methods. Can the Synthetic Precipitation Leaching Procedure EPA Method 1312 (SPLP) and Toxicity Characteristic Leaching Procedure EPA Method 1311 (TCLP) be used with the VPH and EPH methods?

Response: *The SPLP and TCLP may be performed in conjunction with VPH and EPH analysis to evaluate the pollutant mobility criteria. To evaluate the results, an APS GWPC may be requested for the VPH and EPH methods.*

Targeted Brownfield Remedy

Comment: Have you thought about how the TBR will interface with the Transformation and the concept of multiple exits? Would TBR be considered a Class IIB exit?

Response: *The TBR has not been evaluated in that level of detail relative to the Transformation, but it should interface well. One of the positive aspects of the TBR approach is that it is not in regulation or statute, though it is consistent with the laws that exist. We are starting to roll out the TBR approach conservatively because this is the first time DEEP is accepting less data to characterize a site at the outset. If people use this approach and DEEP sees some results, we can align it closely with the transformed Remediation Program.*

Brownfield Remediation and Revitalization Program (BRRP) (Section 17)

Comment: The process for reviewing applications for the program is quick and expedited, correct?

Response: *Yes. DECD is responsible for posting the announcement dates, submittal deadlines and review/award dates for applications received under the Section 17 program. These dates are posted on-line at DECD's Office of Brownfield Remediation and Redevelopment website. The length of time to complete a review and announce the outcome is generally two weeks following the submittal deadline, but varies if the application is deemed incomplete and additional information and/or clarification is requested.*

Groundwater Filtering Technical Memorandum

Comment: Does the guidance specify what size filters should be used, for example, 10 micron filters?

Response: *The size of the filter that is appropriate will be determined by the environmental professional, based on his/her professional judgment. The technical memorandum does not specify what size filters may be appropriate, but addresses the appropriateness of the use of filters in general.*

Comment: In the past, you needed to request approval to filter groundwater samples. Is this going to be self-implementing once this guidance document is published?

Response: *Special approval will not be required; however, it is incumbent upon the LEP to provide rationale for the use of filters in a verification report.*

SELECTED WRITTEN COMMENTS

Comment: (2/14/12) How will DEEP handle a site for which use of ETPH as an APS has been approved and served as the basis for remediation (after implementation of new criteria in the RSRs)?

Response: *If a site has already received written approval for requested criteria, those criteria can still be used to establish compliance. If a consultant would like to apply for criteria other than the criteria that has already been approved for use at that site, that option is always available.*

Comment: (12/14/10) PAHs impacts to soil from asphalt fragments need to be regulated a different way, not within the RSRs. It has been accepted as "clean fill" historically and should not come within the purview of the RSRs.

Response: Section 22a-109-1 of the Regulations of Connecticut State Agencies defines “Clean fill” to include “asphalt paving fragments which are virtually inert and pose neither a pollution threat to ground water or surface water...” The language in the Clean Fill definition clearly does not suggest that all asphalt fragments are inert under all circumstances. In some circumstances, they do have the potential to pose unacceptable risk to human health and the environment.

At the same time however, it is recognized that the use of asphalt pavement is widespread in society and therefore the probability of encountering asphalt paving fragments during environmental investigations is high. Asphalt fragments of various sizes are commonly allowed to be disposed of as Clean Fill, as well as being authorized for various methods of reuse such as pavement sub-base. Therefore, an approach that addresses concerns for protection of human health and the environment without unduly burdening the process of cleaning up and redeveloping polluted properties in Connecticut must be developed.

Presently, in situations where asphalt fragments are being beneficially reused, it is reasonable to consider them to not have been released to the environment. Similarly, in situations where larger pieces of asphalt have been disposed as clean fill, the conditions of the asphalt are comparable to how it would be found as normal pavement and so it is reasonable to consider them to not have been released to the environment.

DEEP has included in our current proposed amendments to R.C.S.A. Section 22a-133k-1 through 22a-133k-3 (RSRs) language that addresses incidental pollution that is the result of normal paving and maintenance of consolidated bituminous concrete. The proposal also includes the ability to render fill polluted with semi-volatile compounds and petroleum hydrocarbons inaccessible by using bituminous concrete in direct contact with the polluted soil. Currently, soils polluted with asphalt can be used in asphalt batching or as sub base for roads or parking lots thus limiting the cost of disposal.