



**Department of Energy & Environmental Protection
Remediation Division
Roundtable
Q&A Newsletter
Vol. 16 ~ November 5, 2014**

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on August 26, 2014, as well as selected written comments received by the Remediation Roundtable Planning Committee. The comments and responses may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE AUGUST 26, 2014 ROUNDTABLE:

Acute Vapor Intrusion Health Effects of TCE

Comment: The target indoor air concentrations presented seem to coincide with information that has been distributed by Mass DEP, is that correct?

Response: *Yes. We are looking at how Massachusetts has handled the issue and are working with EPA and the CT Department of Health. This is a notice to let everyone know about the issue. More information is anticipated as the department develops a policy to address this issue.*

Verification Processing Update

Comment: The Notice of Administrative Deficiency (NOAD) appears to be a pre-audit step. If this step is in the process, can DEEP consider the no-audit letter as a final step to close out the site rather than waiting the 3 years?

Response: *The NOAD is not a pre-verification step. The NOAD is a notice that the administrative review of the verification package identified that the package is administratively incomplete. Any technical screening and/or audit of the verification is performed after an administratively complete verification package has been received. The NOAD is different from a Letter of No-Audit. These are two separate reviews.*

Comment: It would be beneficial if DEEP could determine closure at the time of verification, not wait for 3 years. Could the No Audit letter be changed to make it a final decision? If DEEP re-opens the case after the verification, the Responsible Party (RP) may not have funding to do the required work.

Response: *A verification rendered by an LEP is a written final opinion authorized by the Commissioner. Although the verification stands on its own merit, DEEP recognizes that stakeholders still need some level of assurance whether the verification will be selected for an audit. Therefore, DEEP strives to issue one of two response documents within 60 to 90 days of receipt of the verification. The response document will either be a Notice of Audit or a Letter of No-Audit.*

The Letter of No-Audit is not a final decision by the Commissioner regarding the adequacy of a verification. The letter does not state or imply that the Commissioner agrees with or approves of the verification. The letter only states that the Commissioner has decided not to audit the technical validity of the verification.

Upon issuance of the Letter of No-Audit, the verification is filed. The Department has no intention to pick it back up on our own initiative. However, if the Commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification or that misrepresentations were made in connection with the submittal of the verification, or if the Commissioner becomes aware that there has been a violation of law or that the remediation may have failed to prevent a substantial threat to public health or the environment, he may initiate an audit – even after three years has elapsed.

Comment: How can an RP be confident when DEEP has issued a no further Audit letter that an audit will not occur over the next three years?

Response: *As prefaced above, the Commissioner expects that all stakeholders should have the expectation that all LEPs will abide by the Standard of Care, and that stakeholders should have that level of comfort in a verification.*

To date, DEEP has not reversed a decision not to audit a verification. We have been notified, in accordance with the LEP regulations, of a condition that became known subsequent to the verification; however, the situations were addressed outside of an audit.

Risk Evaluation Report Update

Comment: Does the CDM Smith report contain recommendations for Legislation?

Response: *Yes, there are suggestions for both policy and Legislative changes. The Department will need to research and analyze these comments before making further legislative changes. The [Evaluation of Risk Based Decision Making](#) report by CDM Smith has been published on the DEEP Website.*

Comment: What is the process going forward?

Response: *A Public Forum occurred on September 10th where CDM Smith presented their findings and recommendations. DEEP then sought public input on the findings and suggestions contained in the report until September 30, 2014. Those [comments and suggestions](#) can be found posted on the DEEP website. DEEP Staff continues to evaluate the report and public comments received. Further steps have not been established at this time.*

Transformation Roadmap

Comment: Will there be an opportunity for comment on the DEEP response and recommendations from the Risk Evaluation Report before it goes to legislature?

Response: *Since there is a very short turnaround, (November), the DEEP response report will not be provided to the public for comment before it is given to the Legislature and the public. However, there will continue to be ample time for comment after the report is released and before any type of legislative changes are proposed.*

Comment: For current projects that may follow the guidelines set forth in a particular Discussion Document, can LEPs just proceed with the project or does an approval from DEEP required?

Response: *Until RSR Amendments are adopted through the regulation adoption process, current regulations still apply. Therefore, Commissioner Approvals that may be required under the current RSRs will still be required, rather than any self-implementing provisions being recommended in the Wave 2 Discussion Documents.*

Groundwater Technical Impracticability Overview

Comment: Will the long-term obligation include a financial assurance and monitoring requirement for all sites?

Response: *Yes, you should assume that most sites will have long-term obligations.*

Comment: Do you require a legal document for long-term obligations?

Response: *Yes, we are working on that now and are evaluating the Stewardship Permit concept.*

Comment: If we complete treatment in the source area, can we apply for a TI if the plume cannot be treated?

Response: *The applicant would need to show us that they have tried to treat the plume and/or perform a feasibility study to show treatment is not possible. The Department would not approve a TI if the applicant simply just removed the source and nothing further. ITRC have several guideline documents about the treatment feasibility.*

Critical Aspects of Laboratory Testing

Comment: Are labs that are certified by Connecticut also certified for toxicity testing?

Response: *No. The testing done for toxicity is approved and overseen by the DEEP and the Environmental Laboratory Certification Program (ELCP) has historically not certified labs for this testing.*

Comment: How would you recommend the public deal with tentative identified compounds (TICs)?

Response: *Treat them as additional polluting substances when solid waste/soils testing is done and TICs are indicated on a final report. If TICs are noted in a drinking water or wastewater final report, it is best that the recipient discuss with the lab issuing the report to see what action, if any, should be taken.*

Comment: In general, are the labs you have inspected in compliance with your requirements?

Response: *Yes, most labs, in general, have met certification requirements. Through the last 15 years, only 2 to 3 labs have had serious deviations where the ELCP was required to revoke their certifications and shut down the labs.*

Comment: CT DEEP has the Reasonable Confidence Protocols (RCP) in place; does a lab need to meet RCP?

Response: *Although the RCP methods are based on the SW-846 methods and are also considered guidance documents, CT can specify which sections of each SW-846 method, that are written as an RCP method, should be conducted to meet RSR criteria. It has been helpful to labs to utilize the Appendix 1 tables of the RCP methods that outlines the quality control analyses CT has recommended be performed for a given RCP method.*

Comment: If a lab is certified by the State of CT does that mean that lab is in compliance with RCP?

Response: *Using the RCP methods only applies to solid waste/soils testing. If a lab is certified by the DPH for that matrix, then it needs to demonstrate that it can utilize the RCP methods in analysis.*

A lab can be certified by the DPH to perform drinking water or wastewater testing and laboratories will not use RCP methodology for analyzing these type of matrices.

CT Brownfield Program

Comment: Some of the programs in your presentation are underutilized. Have you done any research on why municipalities do not use these programs? Any outreach to municipalities?

Response: *The Department has made great efforts in recent years to let the cities and towns know these programs are available to them and we will continue to do outreach to cities, towns, and regional groups such as councils of government. If you know any towns and cities would like to use these programs, please let us know and please help us spread the word to people who are interested.*

SELECTED WRITTEN COMMENTS

Comments: Just a comment on the TCE target indoor air concentrations (TACs) being discussed for residential and occupational settings: They seem low and may be pushing the analytical capability of typically used equipment. It is understandable to set the goal to zero tolerance in a residential setting; however, in an industrial/commercial setting it may be hard to achieve the discussed concentrations, even where TCE has not been used for many years.

Response: *It should be made clear is that it is not necessarily intended that indoor air samples be collected to compare to the TACs being discussed. The current RSR volatilization criteria (VolC) for TCE (both groundwater and soil vapor) are based off a TAC of 5 µg/m³. The purpose of discussing TACs for the acute effects of TCE is so a comparison can be made to current criteria. For example, the acute TCE TAC is 8 µg/m³ in the occupational setting, so if you have concentrations below a building that exceed 1.6x the industrial/commercial VolC, there may be a risk of exceeding the acute TCE TAC in the building. In that situation, we would recommend taking measures to quickly reduce the concentrations in the environment or break the exposure pathway.*

Please note that, if indoor air monitoring is being conducted to demonstrate RSR compliance, DEEP approval is required prior to the implementation of any indoor air monitoring program. In addition, DEEP must consult with DPH to make sure that the sampling plan is appropriate.

Comment: For 2015 a goal was given for Statewide Reclassification of GW. In other words, the maps for the entire state will be updated. Will the process of reclassifying a site from GA to GB change? As you know, getting GW down to the GWPC for benzene or TCE can take a long time, even after remediation. For GA areas with public water a reclassification from GA to the “old” GB/GA while natural attenuation is working (i.e., temporary reclassification) may be a reasonable solution to allow more verifications.

Response: *DEEP is planning to complete a state-wide update of the groundwater classification maps in 2015 and has already begun the necessary analyses to do that update. The process for changing a site from Class GA to Class GB was statutorily modified in 2011. However, the criteria for reclassification to Class GB, which are spelled out in the Water Quality Standards, have not changed, and are not under consideration for change.*

Comment: Must a Completion of Investigation (COI) Report be submitted prior to recording an Environmental Land Use Restriction to restrict a property or portion of a property to industrial/commercial activity (aka residential activity restriction)?

Response: *There are no regulatory requirements for the submittal of a COI Report to the Department prior to recording an ELUR. However, it is important to note that the preparation and recordation of an ELUR can be a substantial, time consuming, and costly effort which for practical purposes, and in the majority of cases, it would be prudent to complete after the completion of investigation and remedial activities.*

Comment: Must a COI report be submitted before requesting the Commissioner's Approval for a request for exception from Volatilization Criteria due to zoning, for example, that prevents a structure from being constructed in the future?

Response: *It is expected that the entire plume be characterized before the Commissioner approves any variance/exemption. Furthermore, the Department will not rely solely on a local zoning regulation to ensure that no building can reasonably be constructed over polluted groundwater.*