



Department of Energy & Environmental Protection
Remediation Division
Roundtable
Q&A Newsletter
Vol. 22 ~ June 21, 2016

Presented below are the Department's responses to verbal comments made at the Remediation Roundtable held on March 15, 2016. The comments and responses may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE MARCH 15, 2016 ROUNDTABLE:

Volatilization Fate and Transport Discussion Document

Comment: It was noted that sampling protocols matter when it comes to getting a vapor sample. Will that be addressed in the Discussion Document?

Response: The primary purpose of this Discussion Document is to provide options for updating the Volatilization Criteria to reflect updated understanding of the vapor intrusion pathway. Addressing vapor sampling protocols would be something that the Department might look to do in future guidance.

Comment: Will verified sites be re-opened with potential changes to the volatilization criteria?

Response: *No, that is not the Department's intent.*

Comment: Will the proposed changes outlined in the Discussion Document for volatilization criteria be incorporated into the Wave 2 Amendments?

Response: *It is possible that changes could be incorporated within the Wave 2 Amendments. We will decide that after reviewing feedback on the document. [Note: the Department requested feedback on the document by June 3, 2016.]*

Background Workgroup report Out: Current State RSR Guidance

Comment: Can we use literature sources to define background?

Response: *Multiple lines of evidence are required, so use of literature cannot stand on its own.*

Wave 2 RSR Rollout Process

Comment: Is there enough time in the process (in May and June) for DEEP to consider public feedback on the concept language RSR revisions?

Response: *Yes. There was an informal 30 day feedback period after the Conceptual Document was published in April. DEEP will be utilizing May and June to review/incorporate the feedback that was provided. The formal public process for adopting revisions to the RSRs, which is estimated to start in August, will also provide an opportunity for public comment and a public hearing process.*

Alternative Groundwater Protection Criteria

Comment: Alternate Groundwater Protection Criteria is not included as a discussion topic on the slide in the Roundtable presentation; was that topic removed from the Wave 2 Amendment proposal?

Response: *It is still included in Wave 2, but since it was discussed at previous Roundtables, it wasn't included in this presentation. DEEP has incorporated previous Discussion Document feedback into draft regulatory language.*

Alternative Surface Water Protection Criteria

Comment: Does the age of the release make a difference for this provision? If it is not recent can you still have a dilution factor of 5?

Response: *While the age of the release does not matter, a newer release may not be able to meet the qualifications to use this provision, since a requirement will be to show that the plume is in a diminishing state. This typically requires a body of characterization data to demonstrate.*

Comment: Will this provision be self-implementing?

Response: Yes.

Self-Implementing Engineered Controls

Comment: Is the financial assurance proposed in the self-implementing Engineered Control going to be tied to the same process as the RCRA Financial Assurance? There are Municipal clients who can't get through the RCRA process, so is this different?

Response: *It depends on whether it's a RCRA site. If it is not a RCRA site, then the Financial Assurance requirement is intended to have more flexibility than RCRA.*

Comment: Will the new public notice requirements be standardized?

Response: *Yes, that is the Department's intention. There will be an entire separate section that consolidates all public notice provisions.*

Comment: If you have a parking lot with 9 inches of gravel, with wear and tear, it will decrease. Will an operation and maintenance plan be a required part of a self-implementing engineered control?

Response: *Yes, in terms of ability of gravel parking lots to serve as a buffer, you would need to maintain the required specific thickness to have an appropriate engineered control. If it's decreased, you'll have to add more gravel. Therefore, it would be prudent that each site have a maintenance plan requirement.*

General Questions

Comment: How do the Wave 2 changes to RSRs dovetail with transformation concepts (released based program, exit ramps, and sunset transfer act, etc.)?

Response: *Some components are included, but not all. For example, many additional exit ramps, including self-implementing ones, are included. The "Alternative Criteria" provisions provide one such type of exit ramp. With these additional, more flexible options, we expect many sites will be able to be closed more easily.*

The release-based program transformation is not addressed in the proposed remediation regulation amendments, as it is based in statute and could only be changed in statute. We had heard from the regulated community that it was important to them to improve the exit ramps in the RSRs first. This is what the Wave 2 RSR amendments are largely about. We are also working on other regulatory improvements simultaneously, such as amending the EUR regulations. We are still considering how to create the framework for a more unified program.

Comment: Is it safe to assume DEEP will not move forward with legislation for a new program until RSR the Wave 2 process is completed?

Response: *There is no legislation proposed this year.*

Comment: Are the changes relative to pesticide application and agriculture still included in Wave 2?

Response: *Yes, we are drafting language consistent with what has been laid out in the December 2015 Roundtable presentation.*

Comment: Will the April 6 document be similar in structure to the RSRs? Do you anticipate reorganization of RSRs for the formal public process?

Response: *New language and concepts were released April 6, but are not final draft regulatory language. There is a plan to move things around in the final RSR package in order to help the regulations flow well, and headings will be added to make the RSRs easier to use.*

Comment: Will there be any new sections added to the final Draft going into the formal RSR process that will not be in the April 6th document?

Response: *The Department anticipates that all new concepts will be in the April 6th document with the exception of any potential changes made based upon the Volatilization Discussion Document and the ELUR /Deed Notices draft regulations which are currently being worked on. The intention is to provide the public with all concepts ahead of time so feedback can be provided before we start the formal process.*

Comment: Is the Department planning any statutory changes to the current AUL language?

Response: *The Department is currently working on regulations for AUL's, which may generate ideas for statutory amendments next session (2017) to expand its use.*

Comment: Will you redefine "residential use" to exclude certain uses?

Response: *Yes, the Department is proposing to amend language to exclude hospitals from residential criteria except for volatilization criteria, and would add college dormitories but exclude college parking lots. That draft language was included in the December 2015 Roundtable presentation. We are planning to defer to the proposed Science Advisory Panel/future Wave 3 RSR Amendment other exclusions such as recreational use (though, until then, a current recreational use may be a basis for an alternative criteria request).*

Comment: Has there been any progress in developing the Science Advisory Panel? Can people be nominated?

Response: *There have been internal discussions regarding how to structure the panel and whether DEEP would select a list of experts or use the Connecticut Academy of Science and Engineering (CASE). We are also waiting for the final outcome of the state budget process to help inform our consideration.*

SELECTED WRITTEN QUESTIONS

Comment: For new Vapor Intrusion guidance, the Department may want to add a statement in the introduction reminding that sampling needs to be representative of sub-slab soil vapor and to clearly describe measures taken during sampling to make sure sub-slab soil vapor samples are representative. An issue may arise when advection flux is from indoor air to soil vapor; soil vapor samples will not be representative and may underestimate sub-slab soil vapor concentrations and then you may underestimate potential for transport/impact to indoor air.

Response: *The Department will be sure to include information on how to get a representative sample in any future guidance documents that may be produced. To ensure that the sample is representative, the sampling point must be installed correctly and in the proper location. One method to verify that the sampling is representative is by applying a tracer (such as Helium gas) to the sampling equipment to make sure that the sample is not contaminated or diluted by air outside of the sampling point. Current guidance that can be referenced for additional information on this topic would be [NYS DOH Guidance for Evaluating Soil Vapor Intrusion](#) and [ITRC Vapor Intrusion Pathway Guidance](#).*