



Department of Energy and Environmental Protection Remediation Division

Roundtable

Q&A Newsletter

Vol. 9 ~ October 22, 2012

www.ct.gov/deep/remediationroundtable

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on August 14, 2012 and 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 14, 2012 ROUNDTABLE:

95% UCL Workgroup Report Out

Comment: Is DEEP comfortable with the way that EPA's free software "Pro-UCL" handles "non-detect" results in calculations?

Response: *Pro-UCL has various ways to assign a value in the calculation to represent samples which were below the detection limit (BDL), such as log regression on order statistics (Log ROS) and Kaplan-Meier bootstrap methods. The 95% UCL Workgroup feels that these approaches are better than the use of one-half the detection limit (DL/2) in the calculation, which has historically been recommended. Pro-UCL still includes the use of DL/2 for historic reasons and the use of DL/2 could still be acceptable although it is no longer a recommended method.*

New General Permit for In-Situ Chemical Oxidation and Temporary Authorization Statute Changes

Comment: As part of the new Temporary Authorization application package for chemical oxidants, will there be instructions associated with the permit for specific chemicals to be injected and will those be provided by chemical name or also by trade name?

Response: *There is an appendix listing the various chemicals that, based on the Department's experience, are commonly in use. Where available, trade names will also be included in the appendix to represent the specific combination of oxidants and activators in each patented product. But the permit is not limited to those trade names. For those chemicals not in the appendix, we expect you to provide supplemental information to support the use of that specific approach.*

Remediation Comprehensive Evaluation and Transformation Details

Comment: Will there be draft legislation included in the Transformation report being submitted to the legislature on January 1st? We are uncomfortable with the concept of letting the legislature write this bill.

Response: *At a minimum, the legislative and regulatory proposal will be outlined in the report. DEEP will be drafting the initial legislative and regulatory language, as is our practice for DEEP proposals.*

Comment: What is the timeline for the regulation that will go along with the legislation?

Response: *The legislation and regulations will be developed hand-in-hand. DEEP understands that public support of the statutory changes will be dependent on an understanding of the accompanying changes to the regulations.*

Comment: Will site characterization be part of the regulations, since that is a major cost component of any environmental clean-up?

Response: *While site characterization will remain an important aspect of the cleanup program, DEEP has no plans to develop prescriptive site characterization regulations. Current guidance on site characterization may be refined to improve its usefulness as an aid for those in the new cleanup program.*

Comment: Will the public get to see it?

Response: *DEEP will not finalize any language without public input in each phase of the process.*

Comment: What is the basic concept of the discovery process? Will it be limited to third party complaints and transfers?

Response: *The basic concept is outlined in the December 2011 report. The basic proposal is that discovery of a release results in reporting. Based on the feedback from many stakeholders, DEEP has not proposed to consider unsubstantiated complaints as a trigger.*

Audit Program: Process, Metrics and Considerations

Comment: Is DEEP Staff seeing verifications coming in with conceptual site models that include discussions of multiple hypotheses?

Response: *Yes, DEEP has received this information within reports, and we would continue to expect that a verification package will include a validated conceptual site model that has evaluated various hypotheses and is supported by knowledge of the site.*

Comment: If presently 85% of verifications are in good standing, does that show that there has been improvement over time?

Response: *Yes. That percentage represents all of the verifications DEEP has received. Recent filings would show an even higher percentage than that.*

Comment What percentage of Form IV filings has previously had Form III filings?

Response: *Approximately 49 Form IVs have been filed for sites that had a previous Form III on file, which is roughly close to 50% of all Form IVs.*

Financial Assurance Part 1: RCRA

Comment: How often has DEEP had to enforce failure to post or maintain financial assurance?

Response: *There have been over a dozen cases in the RCRA Program that have had some enforcement action.*

Comment: Has DEEP ever cashed in a financial assurance?

Response: *Yes, with the help of the Attorney General's office, over a half dozen have been pursued, including two of them that were over one million dollars.*

Potable Water Program Overview

Comment: DEEP formerly restricted the funding provided for water main construction grants if the size of pipe was proposed to be expanded beyond the minimum size needed for the project being funded. By regulation there is a penalty associated with upgrades for improved fire protection. Is the DEEP planning to revise that law?

Response: *There are no current plans.*

Comment: Is DEEP coming out with guidance on how to address naturally-occurring elevated levels, such as arsenic in the groundwater, and will there be a regional component to it?

Response: *DEEP intends to provide guidance to help assess whether or not constituents such as manganese, arsenic, sodium, and nitrates are naturally occurring. The focus of that guidance will be to describe under what conditions the State will consider these pollutants subject to CT's potable water law, 22a-471, and whether a short or long term supply of drinking water needs to be provided to impacted well owners. However, a time frame for its completion is not yet available.*

Update on the Proposed RSR Regulation Revisions

Comment: Once the public hearing on the currently proposed changes to the RSRs has occurred, what is the timeframe for it to be enacted?

Response: *All comments generated in the hearing process will be considered by DEEP and included in a final package to be reviewed by the Attorney General's office and then a legislative review committee. This package will likely be delivered to the Attorney General's office around December 2012. Our best guess is that these changes to the regulations will be in place in the summer of 2013.*

Comment: What does the package of currently proposed changes to the RSRs consist of?

Response: *The package includes the things from the 2008 proposed changes to the RSRs which had received a broad consensus of support, along with some minor additional changes that were identified as being needed for the proper functioning of the RSRs. The proposed changes were outlined in the November 8, 2011 Roundtable presentation, which is posted on the [Remediation Roundtable website](#).*

Comment: If the Transformation process goes in a different direction than this package, what will happen to these proposed changes?

Response: *These changes are to make your day-to-day process easier in the interim. There should not be anything in them that would be inconsistent with the changes being made through the Transformation process; however, they can be modified in the future, if needed.*

Comment: When will the currently proposed changes to the RSRs be available on the web?

Response: *An overview of what is included was covered in the November 8, 2011 Remediation Roundtable. The slides of that presentation are available at http://www.ct.gov/dep/lib/dep/site_clean_up/remediation_roundtable/roundtablepresent11_8_11.pdf The draft proposed revisions to the RSRs are posted for public comment on the [RSRs webpage](#).*

SELECTED WRITTEN COMMENTS

Comment: An Additional Polluting Substance Surface Water Protection Criteria (SWPC) for Extractable Total Petroleum Hydrocarbons (ETPH) of 250 micrograms per liter ($\mu\text{g/L}$) was approved for a site. If the ETPH results are greater than 250 $\mu\text{g/l}$, can compliance with the SWPC be achieved using the results from an 8270 analysis and comparing the results for target compounds to the SWPC?

Response: *The results from an EPA Method 8270 analysis cannot be used to supersede the results of an ETPH analysis.*

Petroleum releases are made up of a complex mixture of hydrocarbons. The ETPH Method measures the C9 to C36 range of hydrocarbons as a single analytical result. Any combination of compounds in the C9 to C36 range of hydrocarbons could cause an exceedence of the 250 ug/l SWPC. The EPA 8270 Method does not measure all of the compounds present in the C9 to C36 hydrocarbon range but rather reports the results of a list of target compounds. Because of the differences in the results produced by these methods, the 8270 results are not directly comparable to the ETPH results and may be less representative than the ETPH of the release.

The risk-based ETPH Surface Water Protection Criteria has been selected as the lowest risk-based criteria from the three EPH fractions using the EPH/VPH/APH analytical methods. This risk-based criterion was adjusted to reflect the aqueous reporting limit of 250 ug/L for the ETPH Method, as discussed in the [Technical Support Documents](#) for the use of this criterion.

In situations where ETPH results are greater than the SWPC, further testing using risk-based methods such as the Extractable Petroleum Hydrocarbon (EPH) method may be prudent to further evaluate the release in relation to risk-based criteria.

Comment: Is a catch basin in a parking lot considered an Area of Concern (AOC) that must be investigated? How about a catch basin near a loading dock?

Response: *Generally absent specific information of a release from commercial/business operations, parking lots are not release areas, including catch basins in the parking lot. Catch basins at or near a loading dock require a site-specific assessment and determination as to whether they would be considered an AOC. For instance, if the loading dock's history of use is known to be solely for dry goods or for non hazardous materials and there is no information indicating a release may have occurred, then the LEP may reason that the catch basin is not an AOC.*