



**Department of Energy and Environmental Protection  
Remediation Division  
Roundtable  
Q&A Newsletter  
Vol. 5 ~ October 27, 2011**

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on September 13, 2011 and selected written comments received by the Remediation Roundtable Committee during December 2010 through October 2011. The comments and responses may have been edited for clarification purposes.

**SELECTED VERBAL COMMENTS FROM THE SEPTEMBER 13, 2011  
ROUNDTABLE:**

**Commissioner Daniel Esty**

**Comment:**

Is there a marketing strategy in place for the development of Brownfields directed toward developers, lenders and insurers?

**Response:**

*The website for the Connecticut [Office of Brownfield Remediation and Development \(OBRD\)](#), the official State of Connecticut Brownfield Office, is a resource for Brownfield programs and services the State can offer. Such programs include gap financing, seed capital programs, corporate tax credits and an environmental liability insurance program. OBRD works with the Environmental Protection Agency (EPA), the Connecticut Department of Energy & Environmental Protection (DEEP), the Department of Economic and Community Development (DECD), the Connecticut Brownfields Redevelopment Authority (CBRA), and other organizations. While the [new Brownfield website](#) is one element, more outreach is needed. Development of a marketing strategy is a good suggestion.*

**Comment:**

Are you aware whether Brownfields will be part of Obama's job campaign and thus allow the state to get additional federal funding?

**Response:**

*While we would like it to be on the federal agenda, we cannot rely on that in the current political atmosphere. However, Connecticut is motivated to move the Brownfield program forward for the good of our state, despite what may or may not happen federally.*

**Comment:**

What is your take on the receptiveness of the legislature this year in terms of making changes to the Remediation Division and legislation?

**Response:**

*There is a great bipartisan commitment from the legislature to work with DEEP through these changes in order to improve our programs.*

**Comment:**

Is it possible to make provisions within the legislative package so that the legislation can be revisited and revised as appropriate on a regular basis?

**Response:**

*DEEP is committed to revisiting legislation regularly to fix what doesn't work, but the goal is to get the package substantially correct the first time around. The hope is that financiers and developers will stick with us and be able to have confidence to make decisions based on strong legislation that may have minimal changes over the life of a project.*

**Comment:**

Brownfield projects are often defeated by uncertainty of costs, not necessarily the costs themselves. Does DEEP have a way to achieve better certainty?

**Response:**

*Our goal is to narrow that zone of uncertainty and tailor the remedies based upon the economics of the different communities where the Brownfields are located while taking into account the health risks associated with each site. We want to give particular attention to "upside down" sites (those that have remedial costs or mortgages in excess of the value of the property) and those that have remained unused for great periods of time where the economic possibilities of redevelopment are great.*

**Comment:**

There are smaller sites where the property value (\$300,000 - \$800,000) does not command the cost of cleanup. A tailored approach is needed .Will those sites be considered?

**Response:**

*Yes. Those sites will be kept in mind as legislation is developed. One lower cost tool already developed is the [Targeted Brownfield Remedy](#). The goal is to balance health risks with the economic costs to remediate.*

**Comment:**

How often does DEEP talk to other states to find out what works for them?

**Response:**

*DEEP staff is in contact with other states on a regular basis through the Transformation project and through attendance at nationwide conferences. We encourage others outside the agency to be in contact with other states as well, as they may get a different perspective. We are not only looking for feedback as to what works in other states but also what doesn't work and why.*

**Comprehensive Evaluation and Transformation**

**Comment:**

When do you expect to see a proposed result? Will there be an opportunity to provide comments?

**Response:**

*We do not have a specific date at this time. It will depend on the completion of the internal review process. We do anticipate having a public review and comment period. The legislative process will also provide time for public comment. The Department will report to the Governor and Committees having cognizance over commerce and environment on the outcome of this evaluation and provide proposals for transformation by December 15, 2011.*

**Comment:**

Does DEEP have a specific format for public comment?

**Response:**

*There is no specific format that is required; comments may be submitted in any format – e-mail, letters, etc. The Department encourages you to submit your comments via [e-mail](#).*

*If you are interested in staying involved and up-to-date, please ensure that you are signed up for Remediation [e-alerts](#), so you are informed when we post additional information on these pages.*

**List of Contaminated Sites Work Group Report Out**

**Comment:**

Is the list of contaminated sites delivered publically as a PDF document?

**Response:**

*Yes. The list is delivered to each Town on a quarterly basis.*

**Comment:**

How many of the fields in the PDF file are populated? Ten percent?

**Response:**

*It depends on the site and the remediation program or programs that each site has been involved with over time. The list draws data from several different data sources throughout the agency. Those data sources may not have the same fields and the databases that they are pulled from do not “speak” to one another. Many of the fields on the list are blank simply because that field is not applicable to that particular site and/or program.*

**Comment:**

If there is success in transforming the current statutes, will the workgroup meet again to adjust the fields in order to align with the changes?

**Response:**

*If statutes are modified requiring changes to the list, the list will be modified to reflect such changes.*

**Comment:**

Does DEEP have funding available to keep this project moving forward?

**Response:**

*At this time the short-term changes would not be an expensive endeavor and thus current funding would be sufficient. As the project moves toward the web-based changes, those may have more of a financial impact and will have to be evaluated to determine whether funds are sufficient.*

**Comment:**

Is there a mechanism in place for quality control of the data?

**Response:**

*An e-mail address will be available for those who wish to alert DEEP of incorrect information. The information entered into the database is done by an Environmental Analyst or Processing Technician as it is received, so the information is of high quality. Any incorrect information can be brought to their attention for review and correction.*

**Comment:**

How will spill reports be addressed in the updated list? There is confusion about the status of spill reports that are noted as “closed” and whether the release or the site has been fully remediated.

**Response:**

*At this time spills that are referred to Remediation are added to the list. The “closed” designation under the Oil and Chemical Spills Division indicates that the emergency response actions have been concluded and that the Spills Division is no longer the lead for the particular case. The term “closed” under Remediation Division programs signifies that investigation and remediation has been completed in accordance with prevailing standards and guidelines and the RSRs.*

**Urban Fill Work Group Report Out**

(includes both verbal and written comments submitted to the workgroup)

**Comment:**

Will PCBs be included in the definition?

**Response:**

*No. The definition we are working with includes primarily metals and PAHs.*

**Comments:**

- Would coal ash placed 50 years ago or more as a result of homes and businesses be considered a release?
- Please consider incorporating provision(s) in the definition or approaches to urban fill so that this approach could be universally used to address material with constituents above RSR criteria that exist on Brownfield or redevelopment sites. As a suggestion, perhaps change the description from "urban fill" to "urban material" or some other expression that would encompass all these materials regardless of whether the material was placed as the result of historic filling operations or other activities.
- The Working Definition of Urban Fill includes a provision that requires "Contaminants present above RSR criteria in the fill are not the result of any specific release." From an environmental protection standpoint, it shouldn't matter whether the material was brought on-site as part of historic filling activities or was just spread on the ground by site occupants.
- Should groundwater monitoring be performed to determine if groundwater has been impacted by the fill?

**Response:**

*The work group has been deliberating on these issues and will take your suggestions under advisement as they are all useful topics for us to consider. We are considering among other things whether urban fill needs to be “urban” and if it needs to be “fill”, as well as the age of the material. The workgroup does not anticipate including recent and on-going releases as part of what would be defined as urban fill.*

**Comments:**

- What modifications can be made as to how urban fill is handled before changes are made to regulations and statutes?
- Will risk assessments be an option or will strict DEC compliance under the RSRs be required?
- How can changes be adopted in a guidance document if changes to statutes are not made?
- Would characterization of urban fill and how to define it be changed under the RSRs?

**Response:**

*The consensus of the workgroup is that the definition of urban fill needs to be more detailed in a guidance document, with alternative approaches for adequate characterization of urban fill in context of the SCGD. We also think that a self implementing or pre-approved technology can be developed as a remedial strategy. In the near term, we need to develop a guidance document that would address how to deal with urban fill under the current framework that requires compliance with DEC and look at expedited review of options available under the existing RSRs.*

**Comment:**

Do we need to characterize urban fill in accordance with the Site Characterization Guidance Document?

**Response:**

*See response above.*

**Comment:**

Usually, compliance with DEC is the problem with historic urban fill sites as leaching ended years ago. Therefore, an Engineered Control “Lite” is often used as the remedy. It is beneficial to consolidate the fill and then pave over the site. However, this requires a Solid Waste Permit. Because there are a few remedies which are used most often such as an engineered control, paving over, or consolidating fill and then paving over, this scenario would lend itself to the creation of a self-implementing remedy list. Is that a possibility?

**Response:**

*That is a possibility. Under the RSRs, engineered controls are not self implementing; however, one option being considered is a list of standardized engineered controls to facilitate expedited approvals. In most cases reworking of urban fill on site would not constitute a solid waste disruption and so no permit would be needed. The workgroup will be coordinating with Solid Waste staff to provide further guidance.*

**Comment:**

Is urban fill defined based upon type of fill, not on area?

**Response:**

*Yes, that is correct. We are working on a list of constituents that would be included under this definition and evaluating the concept of geographical locations.*

**Comment:**

The Massachusetts DEP allows use of an average, not limited to a 95% UCL, this makes the exposure point concentration determination more realistic. Resulting exposure point concentrations are used to evaluate hotspots.

**Response:**

*Characterization of urban fill may identify hot spots (above DEC but within the evolving urban fill definition). In light of the fact that characterization of urban fill would include fewer samples than a standard release area characterization, there are certain statistical analyses that are no longer appropriate.*

*If you are using the urban fill characterization approach, you are most likely committing to implement some type of engineering or institutional controls at the site. Further discussion is needed to determine whether the level of characterization needed to support a presumed remedy of a cap at a site would be sufficient to also conclude that the urban fill does not exceed any RSR criteria.*

*We will also evaluate other alternatives to the present statistical approaches allowed under the RSRs.*

## **SELECTED WRITTEN COMMENTS**

### **Comment (8/12/2011):**

For inorganics (and PCB/SVOCs/Pesticides) in a GA area, can you use both the 20x rule (to predict a maximum SPLP concentration from a total concentration) and the 10x rule (as laid out in the RSRs to compare a SPLP concentration to the GWPC) for the same sample? Would this be acceptable for demonstrating compliance?

### **Response:**

*There is no provision in the RSRs, [Sections 22a-133k-1 through 22a-133k-3](#) of the Regulations of Connecticut State Agencies (RCSA), to use the 20x rule to demonstrate compliance with the pollutant mobility criteria (PMC). It is a conservative rule of thumb, a screening tool, and an informal approach.*

### **Comment (12/14/2010):**

What are the Remediation Division's requirements/expectations for sites not under order, not subject to CT Transfer Act, and not subject to RSRs?

### **Response:**

*For site/projects that do not specifically require remediation pursuant to the RSRs where contamination has been detected such that the contamination is causing an environmental hazard, [Section 22a-6u of the Connecticut General Statutes](#) (CGS) describes actions required for Significant Environmental Hazards. 22a-6u states that the owner of property which is the source of pollution causing the environmental hazard must notify the Department after they become aware of such conditions and that they must take steps to abate the hazard condition, as necessary. Please visit the Remediation website to read about the [types of significant environmental hazards](#) that must be reported to the Remediation Division.*

*Also, for sites or projects that do not specifically require remediation pursuant to the RSRs where contamination has been detected in soil/groundwater at concentrations equal to or above the RSRs criteria and there is the potential for such contamination to constitute a health risk, the Department expects that appropriate steps be taken to mitigate any risk to public health and the environment as a result of such contamination. However, such sites/projects are not required to demonstrate compliance with RSRs.*

**Comment (6/14/2011):**

Does the Department have a clear written policy statement that articulates how to demonstrate compliance with the SWPC in a Class GB area when you have a petroleum release for which ETPH is a constituent of concern?

**Response:**

*Although there is currently no written policy, the Department recommends that if a site has a contaminant for which no 1996 SWPC criteria exists, as is the case with ETPH, you may generate an APS criteria for DEEP approval or use the default of background. You may also request criteria that have been developed for EPH and VPH analysis, as well as alternatively using PAH/SVOC analysis, as appropriate. The goal is protection of human health and the environment.*

**Comment (6/14/2011):**

If a prior owner is still around and refuses to clean up via an order, can a new entity enter into the Brownfield Remediation and Revitalization program?

**Response:**

*Redeveloping brownfields and getting the land back into productive use is a state priority and has recently led to the passage of Section 17 of Public Act No. 11-141 (Brownfield Remediation and Revitalization Program). The program requires that an eligible applicant must meet the definition of a bona fide prospective purchaser, contiguous property owner or innocent landowner and among other requirements, must certify that the property is not currently the subject of an enforcement action by DEEP or the USEPA. As such, any property subject to an active, final consent order or administrative order is not eligible under the program. Any person considering acquiring such a property, that has any such Order, should nonetheless talk to Remediation Division personnel to evaluate other options at the property.*

**Comment (12/14/2010):**

Would it be possible for the Department to provide improved and expanded access by the public/professionals to sortable data including; notices of violation, orders, sampling data, ECAFS, ELURs, Transfer Act Filings, permits, licenses, etc.?

**Response:**

*The List of Contaminated Sites Workgroup has convened in order to address many of these issues. The goal of the group is to expand upon the existing List of Contaminated Sites and to provide a more useful/sortable database including much of the requested information.*