



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

Comprehensive Evaluation and Transformation of Connecticut's Cleanup Laws

Evaluation Workgroup Discussion Summary Report

August 16, 2011

Introduction

As is required by [Public Act No. 11-141](#), the Department of Energy and Environmental Protection (DEEP) is required to conduct a comprehensive evaluation of the Connecticut property remediation programs and provisions of the general statutes that affect property remediation. On or before December 15, 2011, DEEP must issue a comprehensive report on this evaluation to the Governor and to the Environment and Commerce Committees of the General Assembly. Along with this report, DEEP will be submitting our recommended legislative changes to the general statutes. This legislative proposal will be based on the overall vision of an excellent remediation program offered by stakeholders, and it will be based on information, data, and suggestions presented in workgroup reports submitted to the DEEP. The additional steps to come in this evaluation and transformation process will further assist DEEP in developing the legislative proposal and supporting information that meets the needs of all stakeholders and creates a more streamlined and efficient remediation process in Connecticut.

On August 9, 2011, DEEP hosted a public meeting to solicit stakeholder support in identifying workgroup topics that will help DEEP form workgroups. These workgroups will collect information and data and suggest improvements that will inform the transformation. The presentation from this meeting is available on the [Transformation webpage](#) on the Stakeholder Input and Public Participation webpage. At this meeting, DEEP identified four workgroup topics that spring from the evaluation requirements of Public Act No. 11-141 and stakeholders identified an additional twenty-five (25) topics for consideration. The twenty-nine (29) total workgroup topics identified are listed below with the goal of each topic in no particular order.

	Workgroup Topic Idea	Goal
1	Evaluate factors that Influence Timing under CT Remediation Programs *	Using baseline program statistics, determine factors and suggest ideas that may influence inv/remediation timing
2	LEP Program Performance and Utilization *	Determine baseline and suggest ideas to expedite investigation and cleanup using LEPs
3	Single Remediation Program Evaluation *	Compile info and evaluate single remediation programs and compare to current Programs
4	Evaluate CT's Current Liability Relief Statutes *	Evaluate existing liability relief provisions
5	Defining and Measuring Success (ensuing success can be measured)	Creating goals and guiding principles for the Remediation Program
6	Case Studies – What went wrong?	Analyze several cases that did not go smoothly to help identify potential solutions
7	Addressing current vs. historical issues (50-100+ yrs old)	Evaluate how current versus historical contamination should be addressed

	Workgroup Topic Idea	Goal
8	Entries Points into Current CT Remediation Programs	What are best entry points for each (business transaction/discovery/on-going releases) Program
9	Widespread contamination issues – urban fill and pesticides	Evaluate and suggest a uniform, fair, practical, and protective approaches
10	Soil and GW characterization and cleanup objectives	Evaluate cleanup objectives in light of types of site, setting and receptors, and evaluate use of GIS system to generate site-specific standards
11	What is the “finish line” and how is it defined in different Programs?	Evaluate the finish line in Programs for consistency and clarity
12	Evaluate the best practices with other state cleanup programs	Evaluate the general framework and suggest processes that would benefit CT
13	Review process for approval of site-specific cleanup criteria	Evaluate and suggest a timely process
14	Development of criteria – base assumptions for criteria	Evaluate the assumptions used in the development of criteria
15	Standards or guidance for residential or non-applicable sites (not in program)	Establishing guidance for dealing with sites not in program and suggesting how sites can use current tools
16	Release Registry	Evaluate a new mechanism to report releases detected and mechanisms to address releases
17	Transition and phase out/transfer from existing to new programs	Evaluate mechanisms by which parties can and/or must transition out of existing Programs and into any new Programs suggested
18	Prioritization of sites by risk – human health	Have appropriate level of effort based on risk posed by site conditions and receptors
19	Defining responsibility for pollution – taking into account historical contamination scenarios	Explore polluter pays when the actual polluter does not exist or is no longer viable
20	Streamlining resolution of potable and other public health WQ issue problems	Evaluate ways that resolution for potable water and community septic systems problems can be streamlined
21	Streamline institution and engineered control process	Evaluate ways by which to expedite these processes
22	Clarification of existing Transfer Act entry points	Evaluate ways to clarify and provide for more consistency given the many confusing exemptions to entry into the Transfer Act
23	Issues of uniformity within existing Transfer Act (differing requirements)	Evaluate issues posed by having multiple requirements within the Transfer Act and recommend solutions
24	Issues of federal/state overlap	Evaluate areas of investigation and cleanup that have state and federal overlap of authority and suggest streamlining improvements
25	Self-implementing vs. DEEP approval	Evaluate approval roles for DEEP and LEPs to determine what should be self-implementing, what can be approved by LEP, and what DEEP must approve

	Workgroup Topic Idea	Goal
26	Looking to eliminate overlap within existing programs	Evaluate programs that have overlap of authority and suggest streamlining improvements
27	Groundwater monitoring requirements	Evaluate groundwater monitoring requirements and suggest streamlining improvements
28	Consistency of any new program and existing program with established goals	Evaluate existing programs and any new program with yet to be established goals and principles
29	Evaluation of various program models	Evaluate forms of transformation: keep existing programs and modify, consolidate existing programs, or consolidate into single program
* Required per Public Act No. 11-141		

Workgroup Topic Discussion

At the August 9, 2011 meeting, DEEP explained that these identified workgroup topic ideas were not necessarily the actual scope for a workgroup. It was explained that one identified topic could be refined to develop the scope for a workgroup or several identified topics could be combined to comprise the scope for a workgroup. In order to gauge interest in the identified workgroup topic ideas, there was a discussion on the identified ideas. The discussion resulted in similar ideas being refined into more comprehensive or more concise workgroup topic ideas. Still, several of the workgroup topic ideas shared common themes.

While there was consensus on the value of most of the identified workgroup topic ideas, not all identified topic ideas received broad support from meeting participants, including topic ideas stemming from Public Act No. 11-141 and offered by DEEP. There were several identified workgroup topic ideas that received support, but for which there was no consensus. As stated by DEEP in the meeting, all identified workgroup topic ideas are worthy of evaluation, but it is important that topics most critical to assisting DEEP meet the statutory time frame and charge of Public Act No. 11-141 receive early attention. Some identified topic ideas will need to be evaluated but may be most appropriate to be evaluated after other information and data is compiled and presented. It was discussed in the meeting that there are certain workgroup topic ideas that would be valuable to evaluate regardless of the direction that the transformation takes.

A discussion also ensued on the value of identified topic ideas that relate to revising the cleanup regulations (the Remediation Standard Regulations or RSRs). The RSRs affect cleanup of many sites and releases in Connecticut. It was suggested by some that a workgroup or workgroups should evaluate the cleanup objectives and certain specific provisions of the RSRs. Others suggested that DEEP should utilize information compiled during a multiyear stakeholder

process that attempted to rewrite these regulations. In 2009, DEEP chose not to continue the RSR revisions that were the result of this process, as there was no consensus reached by stakeholders on the complete regulation revision package. DEEP has learned from this process and will be looking to pursue incremental changes to the RSRs, particularly where there is consensus, in the near future. Certain meeting participants suggested that each workgroup should consider in their evaluation any issues related to the RSRs, others cleanup tools, or policies that influence the topics being evaluated by their workgroup.

Meeting participants worked to refine the identified topics further to ten workgroup topics that represent a broad cross-section of the ideas discussed during the stakeholder session on August 9, 2011. Some topics were refined from several of twenty-nine (29) identified workgroup topic ideas, while others were carried over without much refinement. While consensus was not reached on all of the ten workgroup topics, DEEP asked stakeholders to identify what they believed were the most critical five topics to be evaluated at this stage of the comprehensive evaluation and transformation of Connecticut’s cleanup laws. The ten topics are shown below in order of most interest expressed through voting. (For tallying the vote, a first priority vote received five points down to one point for the fifth priority.) The table below also shows the percentage of 1st priority votes each topic received from the voting stakeholders.

Rank and Percent of 1st Priority Votes	Workgroup Topics
1 (33%)	What is the finish line? How does risk influence the finish line and factors that influence closure?
2 (17%)	Entries Points into Current Connecticut Remediation Programs
3 (8%)	Defining and Measuring Success (ensuing success can be measured)
4 (10%)	Evaluation of Various Cleanup Program Models
5 (0%)	LEP Program Performance and Utilization
6 (2%)	Defining Responsibility for Pollution – Taking into Account Historical Contamination Scenarios
7 (6%)	Evaluate Factors Influencing Current Remediation Program Timing
8 (13%)	Single Remediation Program Evaluation
9 (8%)	Evaluate the Best Practices With Other State Cleanup Programs
10 (2%)	Evaluate Connecticut’s Liability Relief Provisions

Evaluation Workgroups

As discussed in the August 9, 2011 meeting, DEEP has taken the twenty-nine (29) identified workgroup topic ideas, the refined ten workgroup topics, and the stakeholder voting results and further distilled these concepts into workgroups with a specific scope and deliverable. This has resulted in the selection of six evaluation workgroups that represent the most critical topics requiring evaluation at this stage of the comprehensive evaluation and transformation of Connecticut's cleanup laws.

Selected Evaluation Workgroups
Evaluation of Connecticut's Cleanup Programs - Current State
<p><u>Scope:</u> Evaluate the current state of the Connecticut cleanup programs. Gather and evaluate information relative to these programs, such as the number of properties that have entered into each program, the rate by which properties enter the programs, the number of properties that have completed the requirements of each program, and determine factors that may influence the length of time to complete investigation and remediation under existing programs.</p> <p><u>Deliverable:</u> Present information from this evaluation and discuss factors that may influence the length of time it takes to complete an investigation and a remediation. Suggest potential mechanisms or programmatic approaches that could increase the speed of investigation and remediation.</p>
Evaluation Finish Lines and How Risk and Other Factors Influence Closure
<p><u>Scope:</u> Evaluate the current requirements for closure (where is the finish line) under the Connecticut cleanup programs. Document and evaluate the factors that influence the time needed to reach investigation and remediation closure, evaluate how risk and other factors influence when closure is achieved, and evaluate how interested parties rely on closure and whether current finish lines meet their needs or expectations.</p> <p><u>Deliverable:</u> Present information from this evaluation and discuss ways that closure could be obtained more quickly while meeting the needs and expectations of interested parties.</p>
Entries Points and Triggers into the Current Connecticut Cleanup Programs
<p><u>Scope:</u> Evaluate the trigger mechanisms and points of entry into the current Connecticut cleanup programs. Determine what situations would compel action under a cleanup program and under what circumstances could what parties voluntarily enter a cleanup program. Evaluate if triggers are capturing all high-risk sites or releases, and are low-risk sites or releases be unnecessarily entered into programs.</p> <p><u>Deliverable:</u> Present information from this evaluation and suggest general trigger types and entry points that would compel the highest risk sites or releases to enter a program and still allow parties to voluntarily enter when formal review and approval (including LEP verification) is sought.</p>
Evaluation of LEP Program Performance and Utilization
<p><u>Scope:</u> Evaluate the Connecticut Licensed Environmental Professional (LEP) program. Compile and evaluate data on the performance of the LEP program, including number and percentage of verifications that undergo the audit process, the frequency by which sites or releases are delegated to LEPs, roles that LEPs can serve and those that they cannot during the investigation and remediation processes, additional roles that similar licensed professionals serve in other states, and the authority of oversight boards in Connecticut compared to other states with similar licensed professional programs.</p> <p><u>Deliverable:</u> Present information from this evaluation and suggest how the audit process, utilization of the LEP, and the oversight board could be modified to expedite investigation and remediation.</p>

Selected Evaluation Workgroups
Evaluation Pollution Responsibility and Liability Relief Provisions
<p><u>Scope</u>: Evaluate what parties are responsible for the investigation and remediation of pollution under current Connecticut cleanup programs and liability relief provisions in law. Compare the Connecticut responsibility and liability relief structure to other state structures, distinguishing between types of potentially responsible parties (e.g., creators, successors to the creator, owners and operators, potential owners and developers).</p> <p><u>Deliverable</u>: Present information from this evaluation and suggest responsibility and liability relief structures that would help effectuate investigation, or remediation, or both of sites or releases.</p>
Evaluate Best Practices of Various State Cleanup Programs
<p><u>Scope</u>: Evaluate best practices of successful state cleanup programs and states with a single remediation program. Compare the best practices from state cleanup programs and the single remediation programs to the Connecticut cleanup programs, and determine how these best practices and program structures address the needs of all investigation and remediation stakeholders.</p> <p><u>Deliverable</u>: Present information from this evaluation and suggest which best practices and program structures appear to be the easiest to implement, have the clearest requirements, and meet the needs of all investigation and remediation stakeholders.</p>

Discussion

There are additional topics not covered by the six selected evaluation workgroups that are important to this evaluation and transformation of Connecticut’s cleanup laws. As mentioned earlier, certain topics would benefit from information that will be generated through this evaluation workgroup process. This includes the third and fourth ranked workgroup topics – based on stakeholder voting – Defining and Measuring Success (ensuing success can be measured) and Evaluation of Various Cleanup Program Models. The transformation process cannot be completed successfully without an evaluation of these concepts. They will, however, benefit from the information and data collected through the selected evaluation workgroups. Workgroups should ensure that their discussions and final report identify all issues that affect the scope of their workgroup. This includes the RSRs, governmental policies and practices, and other related factors.

Public Participation

To ensure the success of the workgroups DEEP requires broad stakeholder participation. Please fill out the **Workgroup Participation Request Form** located on the [Transformation webpage](#) on the Stakeholder Input and Public Participation webpage and submit the completed form to DEEP by [e-mail](#) no later August 24, 2011. Depending on stakeholder response, DEEP may have to cancel or modify the workgroups listed above. As discussed at the meeting, each workgroup will be co-lead by a DEEP staff person, and workgroups will be asked to select a co-lead from the workgroup members to help lead the workgroup. Ideally, DEEP will attempt to match

volunteers with one of their highest workgroup preference. However, DEEP will also try to ensure that workgroup members represent the broad array of stakeholders involved in this process, and DEEP will attempt to maintain reasonably-sized workgroups (10-15 participants).

Workgroup assignments will be made by e-mail no later than August 26, 2011. It is anticipated that the first workgroup meetings will be conducted at DEEP headquarters in Hartford, Connecticut during the week of August 29, 2011. The tentative deadline for workgroup reports is September 28, 2011.

DEEP thanks all stakeholders for their participation and continued cooperation in this comprehensive evaluation and transformation of the Connecticut's cleanup laws. This process is critical to creating a streamlined and efficient cleanup program that will address risk and increase economic development opportunities in Connecticut. If you have any comments or questions on this report or this process, please e-mail DEEP at DEP.cleanup.transform@ct.gov.