

DRAFT 4/6/01

The Waste Site Remediation Task Force met on March 22, 2001, in Room 300, in 235 Promenade Street, Providence from 8:30 –10:00 AM. The attendance at the meeting is as follows: J. Reitsma, K. Beaver, S. Cadarette, S. Courtemouche, T. Gray, J. Hamilton, J. Hartley, I. Hellested, R. Hittinger, T. Regan, T. Wright, S. Dundon, A. Karpick, R. Main, J. Sherman, A. Southgate, G. Waldeck, D. Elston and T. Getz.

The first meeting of the Waste / Site Remediation Task Force focused on developing the issues of concern of the Task Force members. DEM subsequently reviewed these issues and further characterized them into three general areas, i.e., Brownfields, Arsenic and Administrative and Regulatory issues. Separately, DEM OWM staff was requested to suggest other issues of concern. Their suggestions were added to the material discussed at the Task Force Meeting (See Attachment 1). Task Force members at the meeting did not have any new concerns to add to the list, but were requested to contact Tom Getz if they wanted other issues to be addressed.

Tom Getz explained how the Task Force process was to proceed. The working groups would begin to evaluate the concerns listed in Attachment A and will report their findings back to the Task Force according to the following dates: June-Brownfields Report; July-Administrative / Regulatory recommendations.

The recommendations from all the working groups should be available to be discussed at the July meeting. The recommendations should be broken up into regulatory, policy and administrative categories. The August meeting was then cancelled and it was indicated that a final draft report would be written and distributed prior to the September meeting.

DEM will report back to the Task Force in May on their experience with the interim arsenic policy, will review other state's arsenic policies and will make recommendations for program change. This report will be distributed to the Task Force prior to the May meeting and will be the basis for discussing this issue. If there is not a consensus on the recommendations, an Arsenic Work Group will be started. Leo Hellested mentioned there is an existing stakeholder group working on this issue. Members of this group will be merged with the Task Force members who are interested in working on this issue.

There are currently discussions on the Brownfields program between DEM, Grow Smart RI and the Economic Development Corporation. There are ongoing outreach to municipalities and an enhanced web presence. These topics will also be discussed with the Brownfields Working Group as they are developed.

There was a brief discussion to break up the Regulatory and Administrative Working Group into two groups. It was agreed that the group will remain as suggested for now, but could be broken up if this was warranted in the future. DEM staff was also tasked by the Director to respond to the administrative issues. This could be used as a basis for future discussions of this working group. The group also suggested that we include the three issues that involve simple sites be included in both the Regulatory and Administrative and Brownfields Working Groups.

Task Force members were then asked to work on the three Working Groups. John Hartley volunteered to lead the Regulatory and Administrative Working Group. Leo Hellested will lead the Arsenic Working Group, and Terry Gray will lead the Brownfields Working Group.

Attachment B is a roster of the three Working Groups.

At this point the Task Force started to discuss possible program streamlining ideas.

1. Streamlining Issues

A. Site Investigation Report and the Remediation Plan

Some suggestions discussed included:

- Combine the Site Investigation Report (SIR) and the Remedial Action Work Plan (RAWP). This would streamline the process and DEM could act on one submission.
- Submit a draft RAWP with the SIR.
- Discuss the remedial objectives in the SIR.

B. Capping Sites

There is a perception that DEM's evaluation of remedies that include capping sites varies from site to site and outcomes are not always predictable. Therefore, the Working Group should recommend criteria for determining which sites could be capped and how caps should be designed. This may take the form of a decision tree that explains the reasons for why and how decisions concerning capping will be made.

2. Public Notice / Equity

The question of public notification was then raised. According to the existing regulations, notice is given prior to site investigation activities, after the site investigation is completed and prior to the issuance of a Remedial Decision Letter. The second notice reports on the findings of the RAWP and the proposed remedial alternatives.

If DEM did streamline the process, the appropriate level of public notice needs to be determined. The Director mentioned that Massachusetts' public notice requires the agency to notify the public that the site will be reviewed using a streamlined process. We would need to set up criteria for determining when a streamlined process will be used.

A general discussion on public notice arrived at a consensus that the current system is working. The public is interested in knowing the general status of a site investigation, but they provide very little input on the remedy selection process itself. There are not a lot of calls generated by the notice requirement and we should keep the existing notification requirements that are in place.

The discussion of how we notify the public on site clean-ups raised the issue of how can DEM address the issue of Environmental Equity. A number of the urban sites that need to be remediated are in neighborhoods where these concerns may be raised and we need to be sensitive to these issues. DEM will brief the Task Force on this policy, perhaps at the Brownfields Working Group level to insure this policy is addressed in this effort.

3. Development of a streamlined process for “Simple Sites”

Remediation of sites where schools are to be sited was suggested as a simple site category. DEM did not agree with this suggestion because even though the contamination of the site may not be a major issue, there is a need to balance the sensitivity of the proposed use of the property and associated public notice and involvement with proper remediation.

Dave Hazebrouck suggested that we start to develop criteria on what constitutes a simple site. The following site criteria was suggested:

- There are a limited number of contaminants present at the site
- The property is located in an area zoned industrial and the proposed future use is industrial
- The site is located in a GB groundwater designation
- There are no sensitive receptors impacted by the site

Rich Hittinger suggested that applicants certify a site as being a simple site and submit appropriate SIRs and RAWPs. The applicant will assume the risk that DEM will agree the site is simple, and will benefit by a more streamlined process. The director suggested that DEM could respond by approving the SIR and RAP, either one or denying both.

John Hartley suggested that streamlining could take the form of a simplified review process or to have consultants certify the sites are simple.

4. Brownfields Issues

It was suggested that the DEM personnel working on Brownfields projects should be separated from the other parts of the site remediation program, including enforcement. One person from the program should be the coordinator or advocate of Brownfields projects to make sure these projects move along. There should be a different philosophy for cleaning up the Brownfields that stress development and reuse of the property. DEM should not treat these sites like we do compliance or enforcement cases. Another view was expressed that suggested both voluntary clean-ups and enforcement cases should work under the same philosophy, i.e., all sites need to be cleaned up.

The Director mentioned that the Department needs to walk a fine line between enforcement and customer assistance. He also suggested that the Office of Customer and Technical Assistance could be used to coordinate projects that cross program boundaries. Terry Gray indicated that DEM staff and consultants should work as a collective team, within the confines of their respective roles, to see that all sites are properly cleaned up.

5. Other Issues

It was suggested that Brownfields projects could be designated projects of Critical Economic Concern. However, the Economic Development Corporation's policy for prioritizing projects that have a critical economic concern should be fine-tuned. It was felt that other criteria should be developed to clarify the process. Adrienne Southgate from the ECD mentioned that the existing system was being evaluated and she may be able to report back to the group on this issue at a later date.

The meeting was adjourned and the next meeting is scheduled for April 26, 2001 in Room 300 in 235 Promenade Street Providence from 8:30-10 AM.

Attachment 1

Key: A =Administrative Recommendations, P =Policy Recommendations, R =Regulatory Recommendations
DEM= DEM Staff Recommendations

Brownfields Issues

No.	Issue
1 A	Brownfields projects should be handled by a separate staff / process.
2 A	There should be better coordination of the Brownfields program between DEM and the local governments.
3 A	More work should be done to build an inventory of Brownfields sites throughout the state. The comprehensive plans could be used as a tool to build this inventory.
4 A	Is the DEM regulatory culture conducive to goals of the Brownfields program?
5 A	The process should be an efficient process; sites approved quickly, but environmental and public health concerns should not be compromised.
6 A	Review the Grow smart recommendations for possible implementation.
7 A	DEM should conduct a public outreach program that explains the goals of the program.
8 P	DEM should develop a model Settlement Agreement.
9 P	Develop a policy on urban fill that allows remediation to occur in an expedited manner. Policy should encourage site reuse and discourage urban sprawl.
10 P	Develop a policy / regulatory objective for the remediation of distressed properties.
11 P	Develop an alliance with impacted constituencies of distressed properties i.e. bankruptcy attorneys, trustees, banks, receivers, etc. that will encourage the remediation of these sites.
12 P	Increase the capacity of local governments to handle Brownfields issues.
13 P	Review the public notification process to determine the appropriate level of public involvement, i.e. public hearing vs. public notice.
14 R	Shift some of the work of the Brownfields program to local governments after local capacity has been enhanced.

Arsenic

No.	Issue
1 P	Review the epidemiological assumptions for setting the risk level for arsenic. The data from India should be reviewed.
2 P	Review the standard set for residential, commercial and industrial use.
3 P	Clarify / review the data on background arsenic levels.
4 P	Review the role of DEM and DOH and reporting requirements in instances where high arsenic background levels are not caused by releases.
5 P	Provide more guidance concerning how to determine background levels of arsenic.
6 P	Examine DEM's and DOH's respective roles in regulating public health concerns through the site remediation regulations.

Attachment 1 (continued)	
Administrative Areas of Concern	
No.	Issue
	Staffing issues
1 A	There is insufficient staff to run the program.
2 A	Staff takes too long to review complex projects that are out of the ordinary.
3 A	DEM staff is not generally equipped to review complex risk assessments.
4 A	There is not a comfort level between staff and the regulated community and trust needs to be developed between these two groups.
5 A	There are many new employees in the program and as a result of their experience level, are being too conservative in their reviews.
6 A	Performance tracking is a good management tool, but there is concern that the goals may push DEM staff to issue deficiency letters to meet time goals, rather than working to make decisions on the submitted material.
	Application Quality / Training
7 A	In order to improve application quality, DEM should sponsor consultant-training courses, possibly using URI as a resource.
8 A	Stakeholders should support a training institute and push for training in this area.
9 A	DEM should conduct consultant training / workshops on DEM's expectations for site remediation submissions.
10 A	DEM should develop, publish and distribute guidance material and policy directives about the regulations using the DEM homepage and traditional outreach mechanisms.
11 A	DEM should develop an administrative completeness checklist that could be used as a guide by an applicant for site remediation submissions.
12 DEM	To ensure application completeness and standardize review, submissions need to address all requirements of section 7 (Site Investigation). If required, submissions should state if a particular specific rule is not applicable to a site.
13 DEM	Submissions should address section 7.04 (re: development of 3 proposed remedial alternatives) addressed specifically relative to cases involving proposed residential reuse of historic industrial properties.
14 DEM	Submittals need to better address ecological risk pathways (i.e.: sediments, surface water, etc.).
15 DEM	If a site investigation and remedial action work plan are submitted concurrently, the site investigation is complete.
16 DEM	Presumptive remedy options should be evaluated.

Attachment 1 (Continued)	
Regulatory Issues	
No.	Issue
1 R	Regulations need to be updated and better coordinated, especially the Oil Pollution Control and UST regulations.
2 R	The Site Investigation Report and the Remediation Plan should be combined into one process.
3 R	Review and clarify the site characterization and testing protocols to determine if the requirements are appropriate.
4 R	Modify the regulations (if necessary) after the policy issues concerning arsenic have been resolved.
5 R	The Site Remediation Rules are cumbersome and should be made more flexible.
6 R	Environmental Equity – Review the Site Remediation Regulations to ensure environmental equity issues are appropriately addressed.
7 P	Develop a policy / change regulations that encourages an expedited remediation process for “simpler sites”
8 P	Evaluate a limited LSP process for the “simpler sites. Look at the possibility of allowing third party certification of site conditions and an expedited review of Settlement Agreements and Remedial Action Plans.
9 P	Encourage the development of a public / private consortium that will help to get “simpler sites” remediated. Have this organization be responsible for developing a certification program that includes an independent audit function.
10 P	DEM should develop a model Settlement Agreement.
11 P	Site Remediation, LUST and UST regulations should have consistent remedial objectives.
13 DEM	To better fund and support the program, fees should better reflect the actual review time required for complex proposed remedies (i.e.: risk assessment reviews).
14 DEM	Options should be considered (including fees and funding sources) to allow the program to hire outside technical support as needed.
15 DEM	To encourage more use of innovative technology, and more permanent clean ups, the State should consider a fee structure for the use of ELUR’s to discourage their overuse.

Attachment 2		
Working Group Roster		
Brownfields Working Group	Arsenic Working Group	Regulatory & Administrative Working Group
Terry Gray - Team Leader	Leo Hellested – Team Leader	John Hartley - GZA Team Leader
Kendra Beaver - Save the Bay	Dave Hazebrouck- Fuss & O'Neil	Tim Regan - Northeast Engineers & Cons.
Jim Hamilton - CLF	Tim Regan Northeast Engineers & Cons.	Sue Courtemouche – ESS
Tim Regan -Northeast Engineers & Cons.	Jeff Kos - ECRI	Robin Main - Holland & Knight
Sue Courtemouche - ESS	OWM Participants	Kendra Beaver - Save the Bay
Rich Hittinger – Beta Group	Gary Ezovski – Lincoln Environmental	Tom Wright - DOA
Steve Cadarette – Lincoln Environmental	DEM (to be determined)	Leo Hellested – DEM leader Gary Waldeck Jeff Crawford
Alicia Karpick Sierra Club		Jeanne Boyle - City of East Providence
Robin Main - Holland & Knight		
Dave Hazebrouck - Fuss & O'Neil		
Adrienne Southgate Darrell Brown EDC		
Scott Wolf Sheila Brush Grow Smart RI		
Kelly Owens DEM		
Jane Sherman - The Providence Plan		
Jeanne Boyle - City of East Providence		

