



Department of Energy & Environmental Protection
Remediation Division
Remediation Roundtable
Q&A Newsletter
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Presented below are the Department's responses to comments made at the Remediation Roundtable held on October 16, 2018. The comments and responses may have been edited for clarification purposes.

ANNOUNCEMENTS:

Comment: As far as the legislative session goes, from the Department, do we have any packages coming forward that you can share with me today?

Response: *No, there are no proposals from the Remediation Division at this time.*

Comment: Is there an estimated time for when revisions to the RSRs will be completed?

Response: *Public notice should be early next year. There will be adequate time for public comment, about 60-90 days. Then the timing depends on feedback, so there's a whole process that the regulations need to go through. An optimistic schedule is that new regulations could be adopted in 6 to 9 months after the comment period.*

30 YEARS OLD AND OUT: UST REMOVAL STATISTICS AND MORE

Comment: Is the Secure File Transfer (SFT) site, just for people uploading files to DEEP or available for public to view files, like they have for the PURA docket?

Response: *The ability for the public to view files is not available at this time. The first step will be making files available to the public through terminals in the public file room with the future goal to make it available through the internet. We do not have a timeline for those steps.*

ELUR CERTIFICATE OF TITLE AND VERIFICATIONS

Comment: What is an unrecorded interest? Can you please explain with examples? How are unrecorded interests relative to my ELUR or my property for which I am preparing an ELUR?

Response: *On certain parcels, there may be interests in the land that are not recorded on the land records. These unrecorded interests will not show up on the preliminary title search work per say, because they are not recorded. However, during research on the property for your title search and survey, you may come across evidence of them. The most common unrecorded interest encountered are leases, but there may be unrecorded easements, rights of way, or other interests. It is important that the property owner identify those who are known to hold unrecorded interests, and that surveyors look for evidence of use by others who may hold unrecorded interests. While unrecorded interests will ultimately be subject to the restrictions of the ELUR once it is recorded, there are two primary issues with unrecorded interests encountered during the ELUR approval process: 1) that a “race to the land records” could result in a previously unrecorded interest being recorded while an ELUR is under review, requiring a subordination or waiver late in the process after that interest is discovered; and 2) that holders of unrecorded interests be informed that their interest will now be subject to an ELUR so that they don’t exercise their interest in a manner that conflicts with the ELUR. For example, the Department may require you to provide notice to the holder of an unrecorded lease so that they do not engage in residential activities otherwise permitted by the lease after an ELUR prohibiting those activities is recorded.*

FLOOD MANAGEMENT ACT AND SITE REDEVELOPMENT

Comment: How often does FEMA update their flood maps?

Response: *FEMA does not have a regular schedule for updating flood maps. The initiation of mapping projects are normally driven by congressional appropriations and national mandates. In Connecticut, countywide flood map updates occurred in Fairfield, Hartford, Middlesex, New London, and New Haven Counties in 2008-2010. A coastal map update occurred in 2013 for all shoreline communities. Currently, FEMA is conducting flood map updates based on watersheds. The Quinnipiac River Watershed was completed in May 2017. There are mapping projects at various stages of completion in the following Connecticut watersheds: Farmington River Watershed, Quinnebaug River Watershed, Saugatuck River Watershed, Lower Connecticut River Watershed, Thames River Watershed, Housatonic River Watershed, Shetucket River Watershed, and Pawcatuck-Wood River Watershed. The Pawcatuck-Wood River Watershed is nearest to completion, with new maps scheduled for May 2019. Connecticut is part of FEMA Region I, covering the New England states. The FEMA Region I Risk Analysis Branch, within its Mitigation Division, is responsible for mapping activities and manages mapping projects in all the New England states. Visit FEMA’s Map Service Center, <https://msc.fema.gov/portal/home>, to find the most current flood map for a particular community. Historic flood maps can also be viewed on this website.*

Comment: What is involved in the permit exemption process?

Response: *The certifying agency must demonstrate why it cannot meet the standard that is set forth in the statute and/or regulation. The exemption request must also demonstrate that the project is in the public interest, will not injure persons or damage property, complies with the National Flood Insurance Program and in the case of a loan or grant, the recipient of the loan or grant is notified of any increase in flood insurance premiums as a result of the project. The Department will issue a notice of tentative determination with a 30 day comment period at the end of the review process, notifying the public on the intent to approve or deny the exemption request. Please note that the Department is required to hold a public hearing if the agency receives a petition from 25 or more persons.*

UPDATED FORMS FOR PROPERTY TRANSFER FILINGS

Comment: Is the Form III going to be changing as well, or will it stay the same?

Response: *Not much has changed about the Form III, except for required submittals that needed emphasis and updated formatting and logos.*

Comment: When you're ready to issue the Forms, can you give the regulated community a couple months' notice because with the regulated community sometimes forms are completed well before closing?

Response: *We will have a grace period in place, like we've have for other forms we've revised. You won't be expected to recreate all your forms that have been filled out but not submitted yet.*

Comment: Regarding reliance on a prior verification, is there any specific documentation required to show there hasn't been any relevant changes at the site since the last verification?

Response: *As we have put into the forms, we look for a Phase I at a minimum, and if there is an AOC present, we require a Phase II, and if there was a release, a Phase III.*

Comment: When filling out the Form I, there is a spot to check for a no audit letter issued, a review, or DEEP action on verification pending. I understand no audit letters are taking about 6 months, but sometimes with a verification the transfer is about a month later. So what do you expect us to check?

Response: *The last item, 'DEEP action on verification pending', should be checked off and if you know why you can write the reason, or perhaps just write "no response yet." You can also call and check on the status.*

Comment: The term "DEEP action" was used, what is meant by that?

Response: *Issuance of a no audit letter or a notice of audit are the actions the Department is referring to.*

Comment: If a property flips ownership twice on the same day, with one verification depending on the other, do you check the DEEP Action pending box?

Response: *If the Department will receive a verification closing out a previous filing and that same day you get a new Form III filing then yes, you can check that last box.*

Comment: Could the instructions clarify as to who the owner should be? The transferor or the transferee? Seeing as how the forms will be filled out prior to the transfer taking place. Is it the new owner or the old owner? The owner would be the transferor, right?

Response: *The Department will look at the forms and see if those instructions can be made clearer for the user.*

Comment: So what is DEEPs expectation? Owner prior to transfer or after?

Response: *The owner at the time the form is filled out, so the transferor. We will clarify that.*

Comment: Along those same lines, the reference to the property deed with the legal reference won't necessarily have been updated with the property transfer at that time – for the volume and page.

Response: *Please send the Department an email regarding these issues on the property transfer forms so that we can make sure all these issues are addressed properly.*