



REMEDIATION ROUNDTABLE

November 13, 2012



www.ct.gov/deep/remediationroundtable

AGENDA

Updates:

- RSR Legislative Process

Short Presentations with Q&A:

- UST Petroleum Clean-up Program Changes
- Cleanup Transformation Details
 - Breakout Discussion Session



ANNOUNCEMENTS

Web Updates:

- **NEW Verification Forms** for
 - Form III
 - Form III Interim
 - Form III Portion
 - Form IV (supporting)
 - 133x Voluntary Program
- Remainder to be revised by early 2013



ANNOUNCEMENTS

Web Updates:

➤ **NEW In-Situ Chemical Oxidation Draft General Permit**

- Informal feedback accepted through November 16
- Comments will be incorporated
- GP will be posted for formal public comment within permit adoption process December 2012



UPDATE

RSR Legislative Process

JAN CZECZOTKA
ASSISTANT DIRECTOR
REMEDIATION DIVISION



Connecticut Department of Energy and Environmental Protection

PROPOSED RSRs - STATUS

- Regulation process follows procedures of CGS 4-168 through 4-172
- Will post progress (dates) on website



PROPOSED RSRs – NEXT STEPS

1. Public “Notice of Intent to Amend Regulations and hold a Public Hearing” published in the CT Law Journal – *Completed 08/21/12*
2. DEEP informational meetings – *Completed 9/20/12 and 9/26/12*
3. Public Hearing - oral and written testimony accepted on RSR amendments; Record Closed – *Completed 10/25/12*
4. Hearing Report - final proposed regulations and fiscal note prepared by DEEP - *In Process*



PROPOSED RSRs – NEXT STEPS

5. Final proposed Regulations and associated documents submitted to Commissioner for approval
6. DEEP notifies all interested parties (Hearing commenters) of decision to take action on regulations and availability of final wording
7. DEEP submits final regulations to Attorney General for “Legal Sufficiency” approval per CGS 4-169



PROPOSED RSRs – NEXT STEPS

8. DEEP submits final regulations to Office of Fiscal Analysis and Comm. of Cognizance (Environment Committee)
9. DEEP submits final regulations for approval to LRRC per CGS 4-170
10. Regulations filed with Secretary of State Office per CGS 4-172 (Regulations final upon Filing)
11. Publication of Regulations in the CT Law Journal



RSR COMMENTS

Post all
comments on
website

**Provide DEEP
response to
each
commenter**

Post DEEP
response to
comments on
web



IMPROVING THE RSRs

In-house LEAN (Kaizen) event:

- 3 days / DEEP staff from MMCA and WPLR
- Event was designed to identify future RSR changes that would provide the highest degree of support for the Transformed Remediation Program
- Staff were challenged to identify more self-implementing options



KEY SUBJECT AREAS

- Definitions and Applicability
- Soil Evaluation
 - Additional Compliance Options
- GW Evaluation
 - Additional Compliance Options
- NAPL
- Sediment/Risk Assessment
- Miscellaneous



RSR LEAN

- Many similarities between what DEEP staff came up with and Transformation Workgroup ideas
- Next Steps-
 - Incorporate Transformation RSR Workgroup ideas to avoid duplicating effort
 - Use RSR LEAN process to support and further enhance Transformation Process



RSRs

Questions / Comments

Please state your name and
speak loudly.

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UST Petroleum Cleanup Program Changes

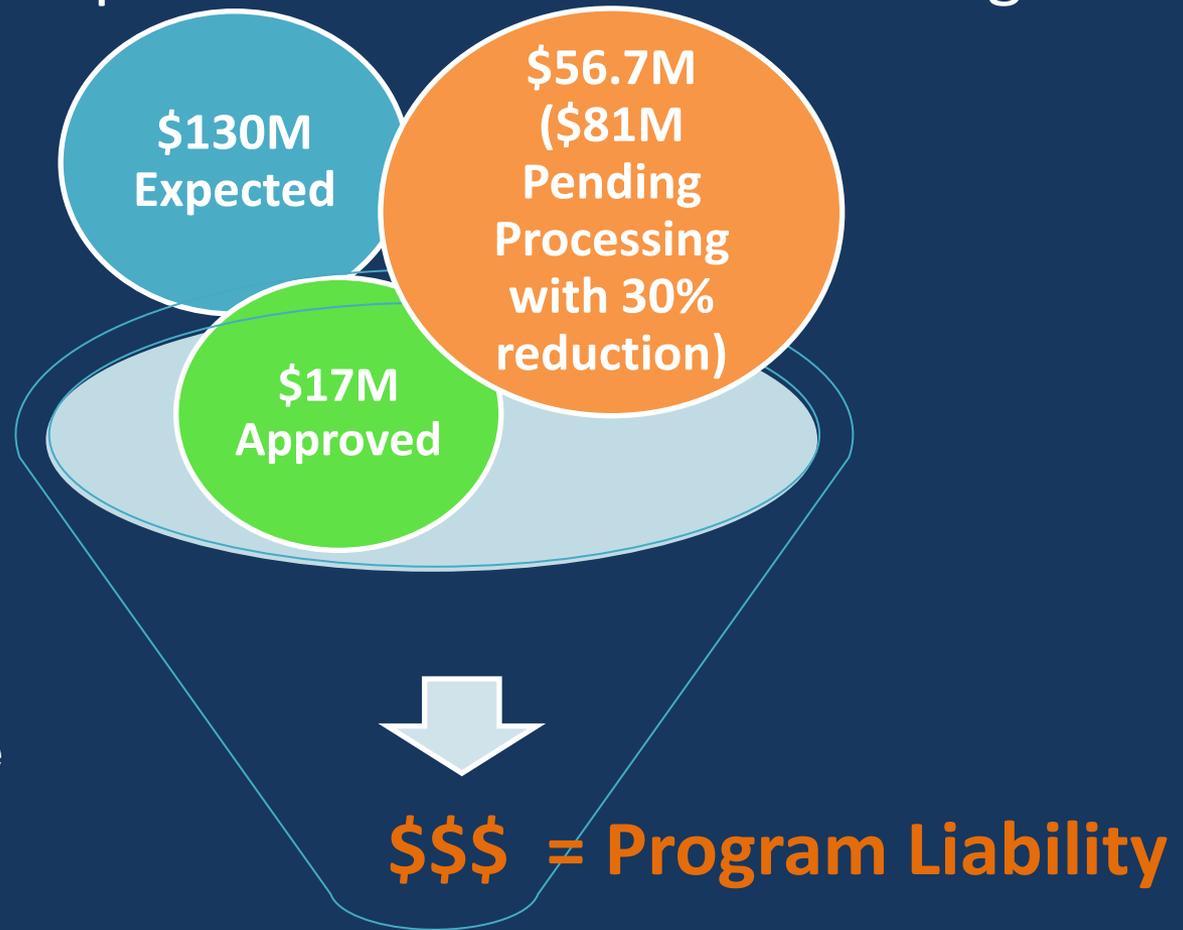
JACQUES GILBERT
SUPERVISING ENVIRONMENTAL ANALYST
REMEDIATION DIVISION



Connecticut Department of Energy and Environmental Protection

CURRENT PROGRAM LIABILITY STATUS

Rate of Funding Inadequate to Maintain Present Program



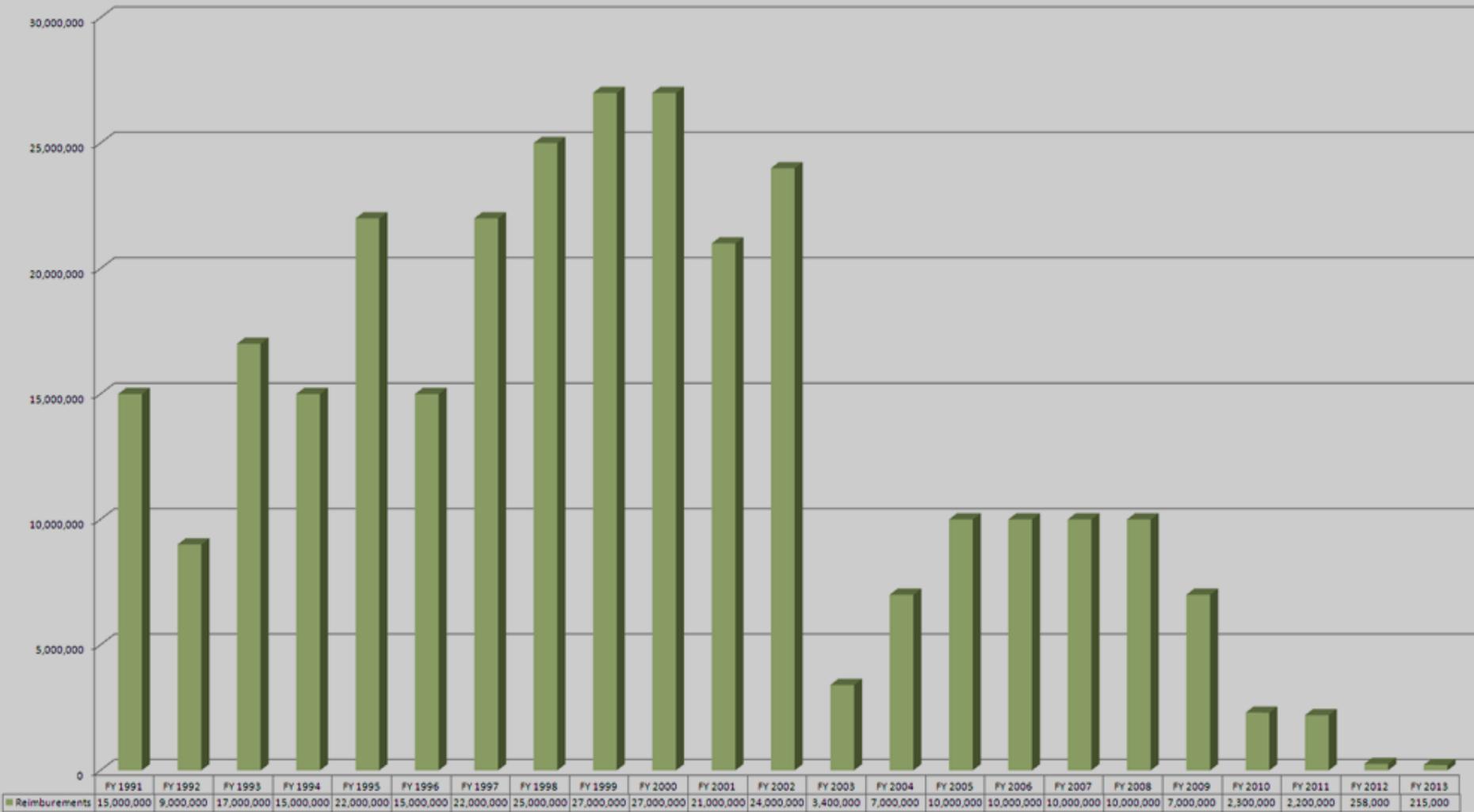
No Eligibility Differential
between Small and Large
Station Applicants



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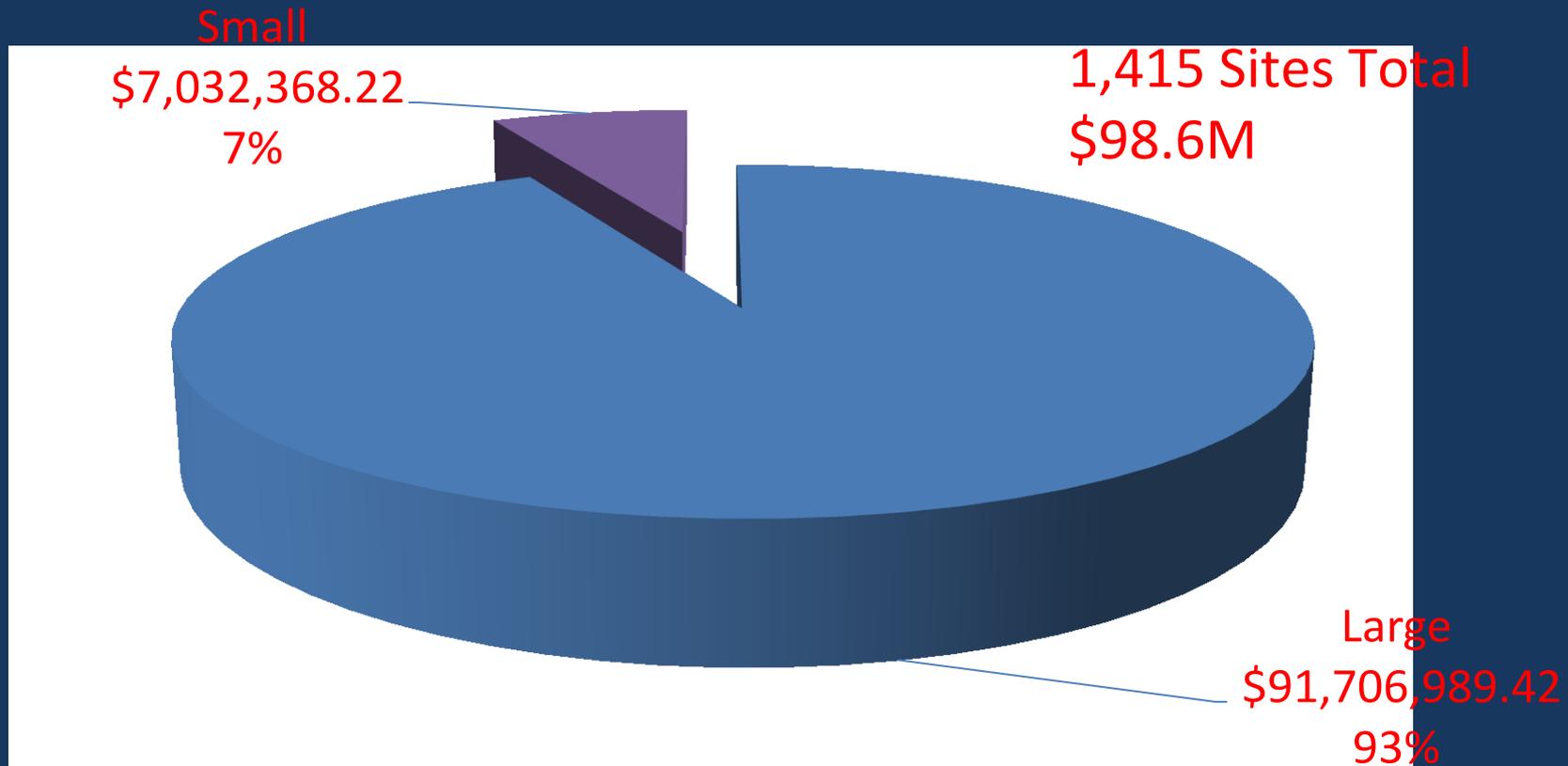
PROGRAM FUNDING HISTORY (FY1991 – FY2013)



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CURRENT PROGRAM APPLICANT UNIVERSE



*Top Five Largest Applicants @ 71%

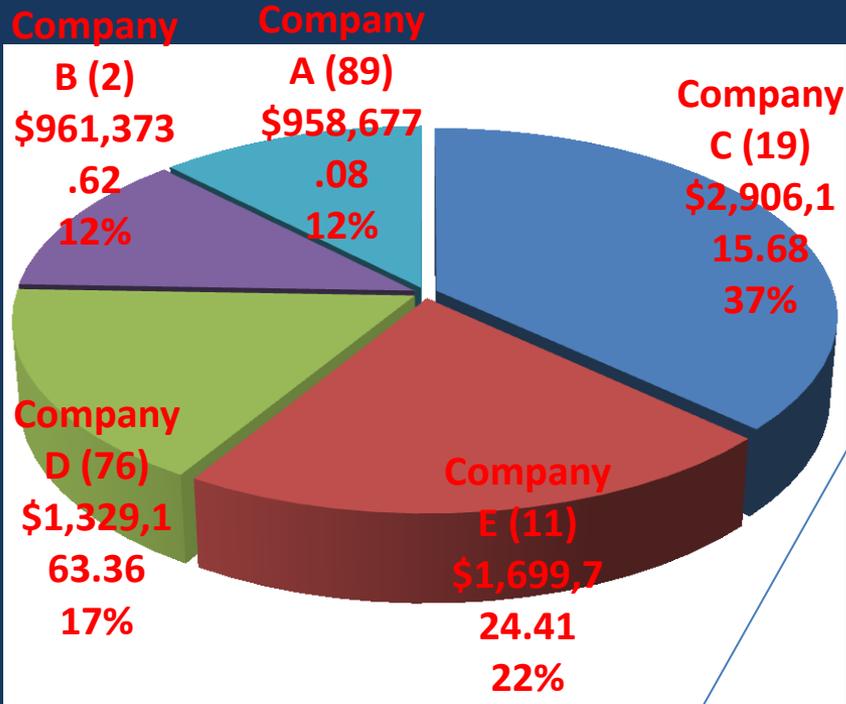


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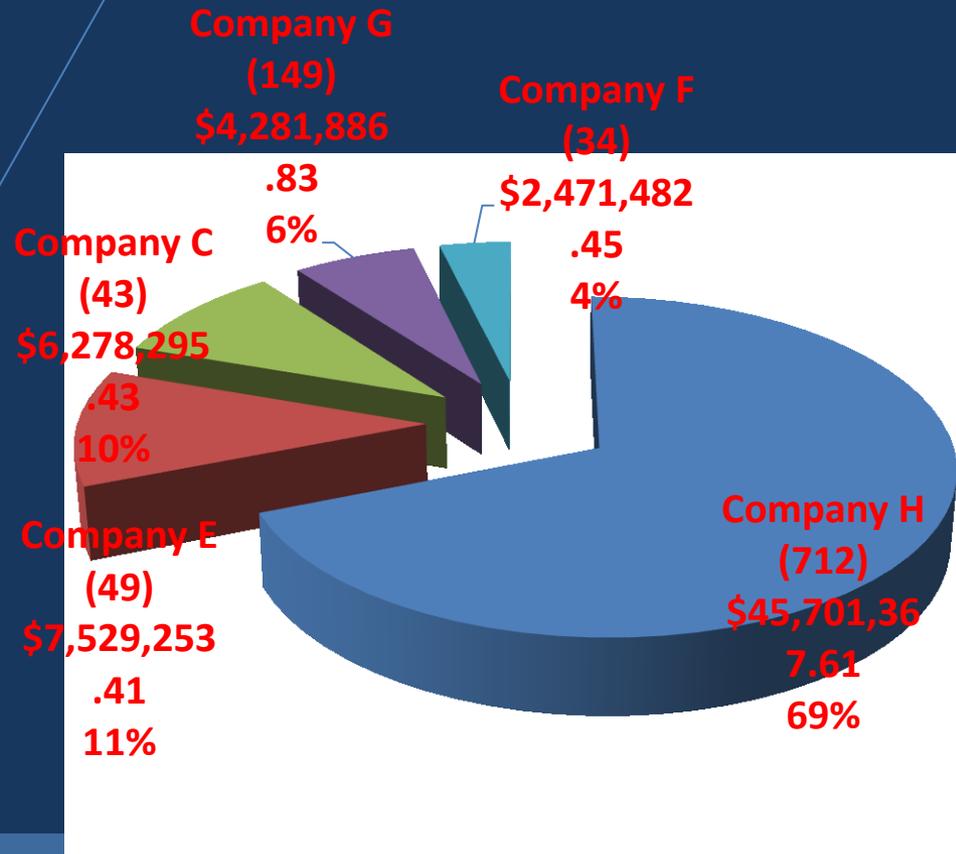
JACQUES GILBERT

TOP FIVE APPLICANTS

\$17M Approved



\$81M Pending Processing



PROGRAM TRANSITION

FROM 	TO
No distinction (large vs. small station applicants)	Distinction (small, municipality, off-site 3 rd party = faster payment and longer access to fund)
Payment (oldest awards paid first)	Option to obtain faster payment with reduced payment
No funding plan	\$36M of funding for next 4 years
No future change	Program phased out with sunset dates



NO DISTINCTION TO CLEAR DISTINCTION

Municipalities, Third Parties, Small Station
Applicants distinct from Mid-size and Large Station
Applicants concerning eligibility and payment

- Distinction determined by number of UST sites owned/operated
 - Small Station applicant = five or less owned/operated UST sites at the time of their first application to Program



NEW PAYMENT PRIORITIZATION

- First Come First Serve for Municipalities, Small & Off-site 3rd Parties
- Mid-size and Large Station Applicants - Annual Competitive Bid Process For All Future Payments
 - DEEP developing payment election auction process = faster payment for applicants electing reduced payment



PROGRAM SUNSET DATES

- Applications must be submitted before:
 - Oct. 1, 2012 for Large Station Applicants
 - Oct. 1, 2013 for Mid-size Station Applicants for releases reported before Oct. 1, 2012
 - Oct. 1, 2014 for Small Station, Municipal, and Other Applicants for releases reported before Oct. 1, 2013



PROGRAM SUNSET DATES

- Program expires as a financial responsibility mechanism on:
 - Oct. 1, 2012 for owners/operators with USTs on more than 5 separate parcels of property
 - Oct 1, 2013 for everyone else
- An applicant's size category is not utilized concerning this sunset provision



APPLICANT CATEGORY DETERMINATION

- Commissioner can not order payment to an applicant without receipt of form and completing category determination
- DEEP has sent prefilled category determination forms to applicants that have pending payment and/or applications
- Form requests information to determine applicant's category (small, mid-size, or large station applicant)
- Commissioner sends category determination response letter to applicant



PAYMENT REDUCTION ELECTION

- DEEP-approved payment reduction election form to be sent to Mid-size and Large Station Applicants
- Applicant makes an annual payment reduction election
- Option to obtain faster payment with reduced payment
- Cannot change a reduced payment election except with lower payments



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JACQUES GILBERT

APPROVAL OF APPLICATIONS

**DEEP Commissioner
administers program in lieu of
UST Review Board**

Staff to approve
applications and
consent items on
weekly or bi-weekly
basis

Management
considers contested
applications/
applicant has
opportunity to meet
with management

Approved
applications go
directly into queue
for payment



WHERE TO GET MORE INFORMATION

- To view the relevant sections of Public Act 12-1 of the June 12 Special Session (Sections 251 through 263), forms, mailings, FAQ please go to <http://www.ct.gov/deep/remediation>
- If you have questions, you may also submit an email to jacques.gilbert@ct.gov or call 860-424-3370



UST CLEANUP PROGRAM

Questions / Comments

Please state your name and
speak loudly.

www.ct.gov/deep/remediationroundtable



Connecticut Department of Energy and Environmental Protection

JACQUES GILBERT

Comprehensive Evaluation and Transformation: Details

GRAHAM STEVENS
OFFICE DIRECTOR
CONSTITUENT AFFAIRS AND LAND MANAGEMENT /
BROWNFIELDS COORDINATOR



Connecticut Department of Energy and Environmental Protection

CLEANUP TRANSFORMATION

- Public Act No. 12-196 requires DEEP to submit a report to the Governor and Legislature by January 1, 2013
- Report will address statutory and regulatory changes and/or new frameworks
- Stakeholder process will continue to be active



CURRENT SYSTEM



Casts a small net



Holds on to those in the system tightly

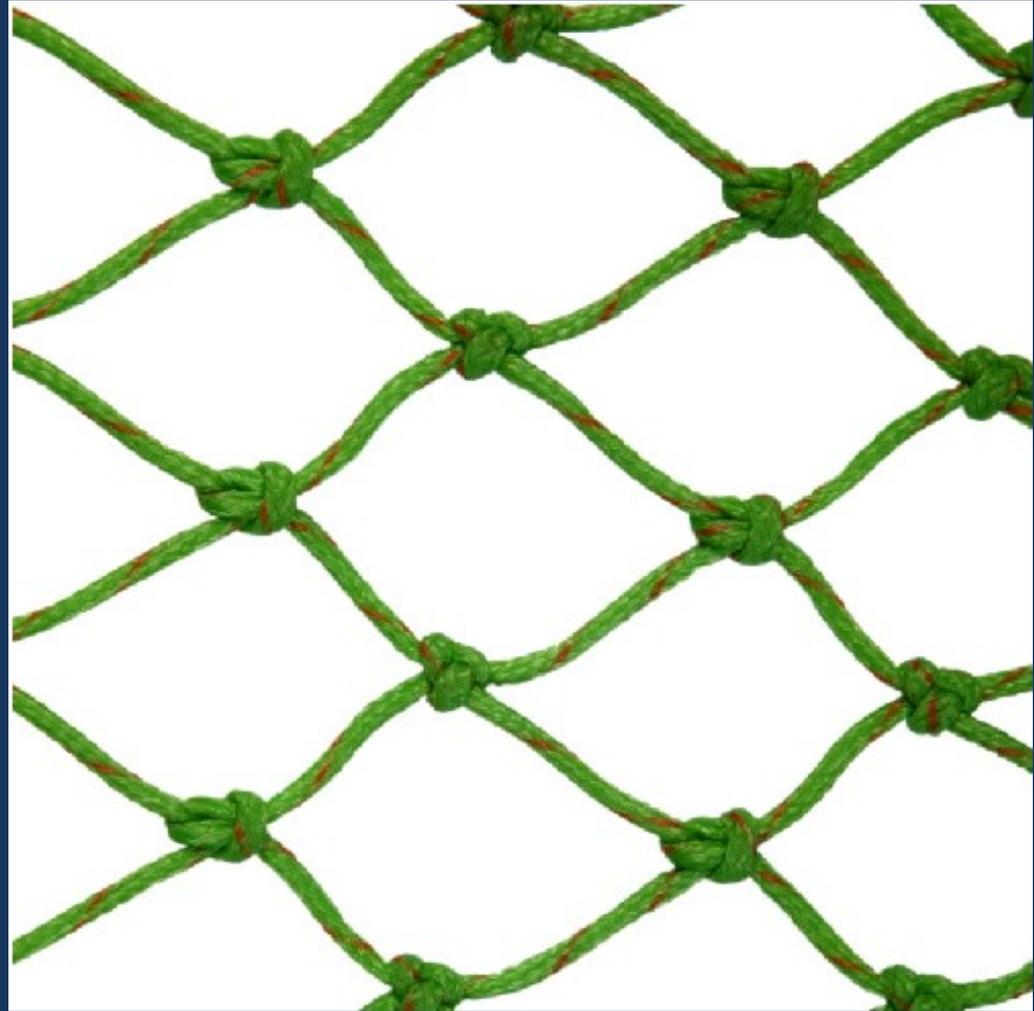
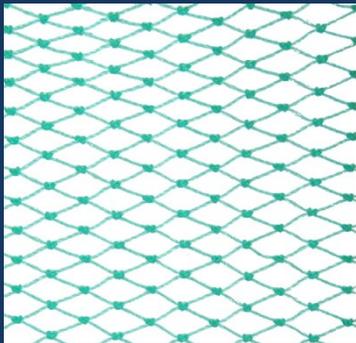
Low risk sites can be ensnared in the net



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GRAHAM STEVENS

TRANSFORMED SYSTEM



Connecticut Department of Energy and Environmental Protection

GRAHAM STEVENS

DRAFT PROPOSED PROGRAM OUTLINE

- DEEP released the Program Outline on 9/27/12
- External Transformation Workgroups formed 10/9/12 to help provide specific feedback to DEEP on six topics:
 1. Liability
 2. Reportable Releases
 3. Early Exits
 4. Transition
 5. RSRs Evaluation - Soil and Sediment
 6. RSRs Evaluation - Groundwater and NAPL

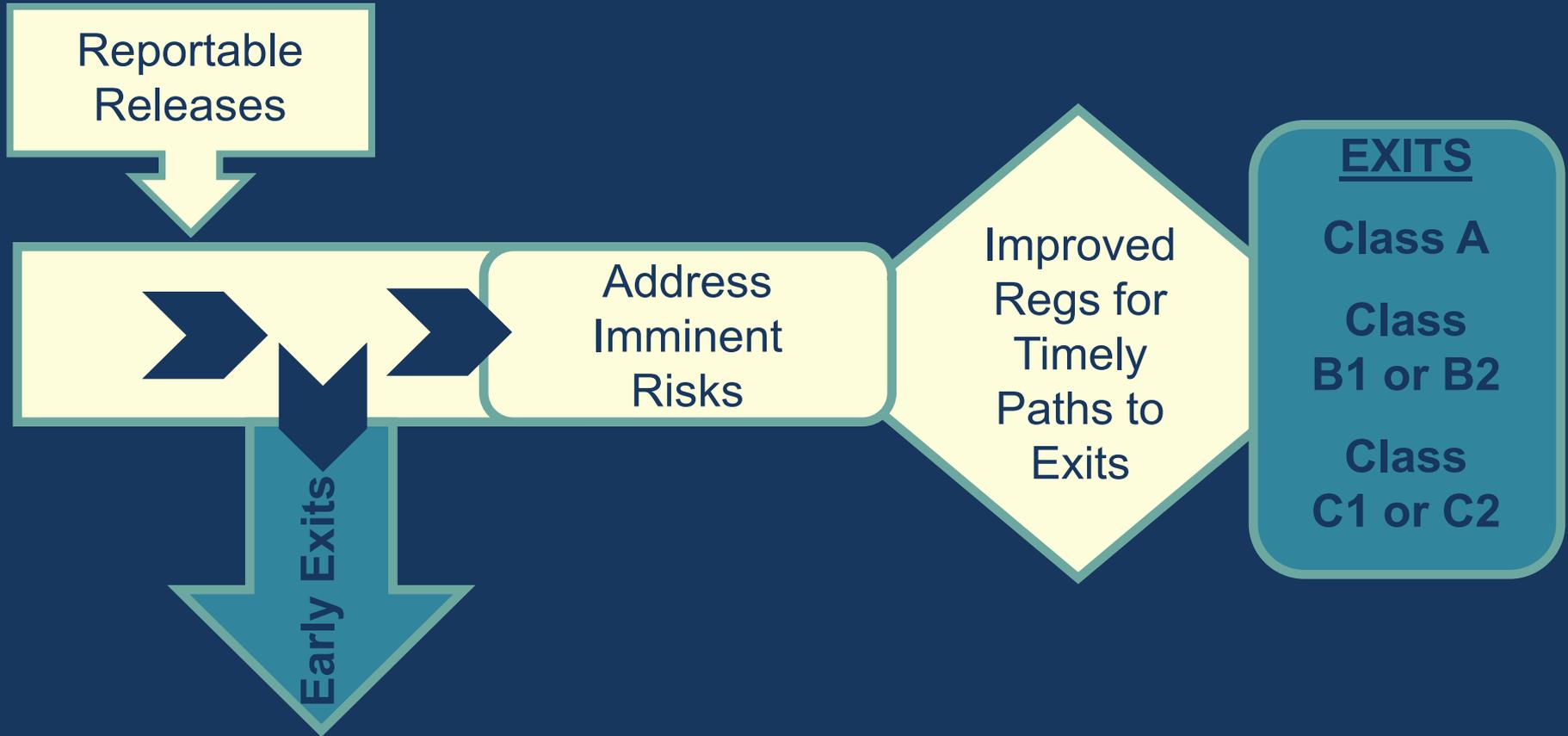


NEW PROGRAM – MAJOR COMPONENTS

- Release Reporting (who comes in)
- Early Exits (quick and easier compliance)
- Address imminent high risks (short-term risks)
- New Cleanup Exits (numerous self-implementing and timely paths to A/B/C Exits)



BASIC STRUCTURE OF PROPOSED SYSTEM



RELEASE REPORTING

- Reportable releases can either be new (spills) or old (historical releases)
 - Spills reported based on compound or substance-specific **Reportable Quantity** with risk-based exceptions
 - Historical releases reported based on a **Reportable Concentration** (taking into consideration current risk assumptions) or information of significant release where no lab data exists



EARLY EXITS

- Exit from the program can be achieved with less effort if cleanup is completed quickly
 - New releases that don't pose significant risk to receptors
 - Possibly certain historical releases
- Reduced or no groundwater monitoring
- Exit could be certified by a party other than LEP



IMPROVED REGULATIONS

- *Regulations must provide quick and self-implementable paths to reasonable exits*
- DEEP held RSRs LEAN event this August
- Two workgroups currently looking at RSRs
- Based on many years of experience – more comfort exists on what is not adding value and what is important



STAKEHOLDER FEEDBACK

- DEEP seeking public comment on Draft Program Outline document (released 9/27)
- 6 Transformation Workgroups compiling recommendations for DEEP (due 11/20)
 - Reports will be posted and DEEP will accept comments on these reports



LIABILITY WORKGROUP

Key Discussion Points

- Identify “responsibility”, not just liability
 - Who must report and to whom
 - Who must investigate and remediate or address risks
- Historical Releases different than New Spills
 - Responsible Parties and Property Owners need to complete cleanup
 - Innocent Property Owners – limited cleanup and liability relief
 - Retroactivity of historical reporting



REPORTABLE RELEASES WORKGROUP

Key Discussion Points

- Two options for reporting new spills
 1. Universal trigger quantity models (exceptions to a higher or lower trigger quantity based on risks)
 2. Chemical specific reportable quantities (exceptions for imminent threats to human health or the environment)
- Two options for reporting historical releases
 1. Modification of Significant Environmental Hazard reporting to consider additional circumstances/scenarios
 2. Adoption of reportable concentration system similar to Massachusetts MCP using RSR criteria



EARLY EXITS WORKGROUP

Key Discussion Points

- All new spills and certain historical releases could close obligations if remediated within 90 days
- Discussion on what makes a historical release qualified to use early exits and if should there be different rules
- Certifications of achieving early exits should be guided by flow charts and checklists
- Discussion on who can certify and what the training requirements would be
- Discussion on what DEEP would do with certifications



TRANSITION WORKGROUP

Key Discussion Points

- Identified numerous issues and questions with transitioning sites in current programs (Transfer Act, Voluntary Program, RCRA Corrective Action, USTs, Spills, Significant Environmental Hazards) to unified program
 - recommendations are being developed
- Discussion on “closed” spills and active Remediation sites being required to enter into the new program
- Discussion on certain past obligations continuing / limiting reporting obligations



RSRs SOIL/SEDIMENT WORKGROUP

Direct Exposure

- Default Exposure Criteria that fits between the RDEC and I/C DEC
- Self-implementing exposure controls (AULs) and risk-based, site-specific standards to fit site conditions
- Re-evaluate “inaccessible”

Pollutant Mobility

- Revisit derivation of PMC
- Re-evaluate implementation of PMC
- Expand self-implementing, site-specific performance evaluation based on property and groundwater use

Sediment

- Clarify applicability and develop criteria
- Provide guidance
- Design RSRs to be self-implementing, except on large-scale or complex sites or sites where public policy warrants
- Develop tiered end points – scoping, screening, site-specific LEP-lead off ramps



RSRs GROUNDWATER WORKGROUP

Key Discussion Points

- Modifications to increase compliance options through
 - Revising default criteria
 - Providing more compliance scenarios
 - Providing more ELUR options
 - Creating prescribed, self-implementing alternatives for site-specific use
- Improve TI to be risk-based
- Include risk assessment as part of site-specific evaluation
- Identification of what is not working well – Priority List
- Less DEEP approval



REMAINING STEPS – FRAMEWORK REPORT

- DEEP to release draft proposal for new and revised statutory and regulatory framework
 - Anticipated in December
- Draft Framework will be based on process to date with special attention given to stakeholder feedback on Program Outline and Workgroup Reports



REMAINING STEPS – DEEP REPORT

- Pursuant to Public Act No. 12-196 – DEEP to submit a report to the Governor and Legislature by January 1, 2013
- Report will address statutory and regulatory changes and/or new frameworks
- All public comments – regardless of the form – will be considered



DEEP REPORT – OUTREACH

- DEEP will host a public meeting to present and receive verbal feedback on the DEEP Report
 - Meeting will be held in advance of the Legislative hearing on any proposed Bill
- Public comments are always welcome through DEEP.Cleanup.Transform@ct.gov



Next Steps and Dates

Program Outline

- Feedback being accepted

Outline Workgroups

- Reports due to DEEP 11/20

Draft Framework Report

- December

Additional Workgroups

- Being contemplated & TBD

DEEP Report to Gov and Legislature

- January 1st



CLEANUP TRANSFORMATION

Questions / Comments

Please state your name and
speak loudly.

Submit comments to

DEEP.Cleanup.Transform@ct.gov

www.ct.gov/deep/remediationroundtable



BREAKOUT SESSION

 This is an opportunity to provide feedback on additional topics not addressed through the Workgroups. 

Topics

1. LEP Board
2. Verifications and Milestones
3. Audit Program
4. Unified Cleanup Program Metrics



BREAKOUT SESSION

How will this info be considered for the Transformation?

- Discussion points from each group will be comments submitted to the Transformation Process
 - **Handouts - submit additional comments by November 26** DEEP.cleanup.transform@ct.gov
- Information will be used to shape final report to Governor and Legislature



BREAKOUT DISCUSSION

- Form groups of 8 + DEEP Facilitator
 - Recorder
 - Reporter
- 30+ minutes to discuss topical questions
- 3 minute report out



BREAKOUT SESSION

GROUP	CONFERENCE ROOM
A (LEP Board)	Ensign
B (Verifications) and C (Audit Program)	Phoenix Stage
D (Metrics)	Pratt
E (LEP Board) through L (all other groups)	Phoenix Auditorium



BREAKOUT SESSION

REPORT OUT

Please state your name and
speak loudly.

Submit additional comments to
DEEP.Cleanup.Transform@ct.gov
by November 26, 2012



THANK YOU

Next meeting: **February 12, 2013**

Schedule and agenda on website
www.ct.gov/deep/remediationroundtable

Submit comments to Camille Fontanella at
DEEP.remедiationroundtable@ct.gov

