



COUNCIL ON ENVIRONMENTAL QUALITY

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Executive Director

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To: DEEP Release Reporting Regulations <DEEP.ReleaseRegs@ct.gov>

From: Peter Hearn, Executive Director

The Department of Energy and Environmental Protection (DEEP) intends to propose a revision of the current spill reporting regulations in the fall of 2020. Until such regulations are adopted, current law requires that all releases be reported, regardless of the quantity. DEEP anticipates that the new regulations will reduce its administrative load and lessen the compliance burden on regulated entities.

As described in CEQ's 2019 report, *Fuel for Thought*, more than 30% of CT residents rely on wells for drinking water. The effectiveness of the new regulations in removing potential threats to the State's water and wildlife resources will depend on the honesty of parties responsible for spills, on their accuracy in estimating the volume of spilled material and on their ability to respond quickly.

It would be reassuring to the populace if, with the release of the new regulations, DEEP provides supporting documentation from other jurisdictions to establish that the elimination of some reporting requirements will not have an adverse effect on public health, environmental health and public safety. Similarly, documentation of the capacity of responsible parties to accurately measure quantities of released reportable substances would allow public evaluation of risk vs. benefit of the proposed regulations.

A draft of the new regulations has not been published, but a [summary](#) of proposed changes has been. When the draft regulations are available in the fall, the Council on Environmental Quality may have comments and suggestions. Until then, I offer the following questions for consideration as the new regulations are drafted.

1. The PFAS family of chemicals has played prominently in the headlines of the past year. PFAS and PFOS are not listed in "Section 1.iii" as chemicals for which any released quantity requires reporting. If it is expected that PFAS and related chemicals will be addressed, via Appendix A of the proposed regulations, they are not now in EPA's "List of Lists", or in the Department of Public Health's (DPH) list of legislatively mandated toxic chemicals, so they would have to be added to Appendix A.

Question: How will spills of PFAS and related chemicals be addressed in the new regulations? Given the uncertainty regarding the level at which they

are toxic, how can they be addressed in “Category 1 v. Release or imminent release posing a risk or potential risk to human health, public safety, or the environment”?

2. There will inevitably be a spill of a hazardous chemical that is not currently known to be hazardous or does not appear in Appendix A of the regulations.

Question: Will the regulations contain a provision to allow the Commissioner to add to the list of chemicals that are not included in the documents referenced in Appendix A, without need for a new regulation?

3. The correct assessment of the quantity of a spill or of the percent of a chemical of concern within a spilled substance will be an essential skill for a responsible party to have.

Question: Will DEEP provide materials to assist with estimation of a spilled liquid volume or a solid’s weight?

4. As indicated in “Category 1. vi.”, a spill could contain only a percentage of a potentially harmful component within a mixture of other inert or harmless chemicals. If the percentage of a substance, listed in Appendix A, exceeds 30% the spill must be reported.

Question: Will DEEP provide materials to assist with estimation of the components of a spill?

Do not hesitate to contact me if there are any questions about these questions and suggestions.

Sincerely,

A handwritten signature in cursive script that reads "Peter Hearn". The signature is written in black ink and is positioned below the word "Sincerely,".