

# Proposed Revisions to the Connecticut Remediation Standard Regulations June 11, 2019



## RSR Revision Team:

Kevin Neary  
Camille Fontanella  
Carl Gruszczak  
Amy Richardson  
Jan Czeczotka  
Ray Frigon

# RSRs - Background

- CGS §22a-133k directed DEEP to develop standards for the remediation of contaminated sites that:
  - Fully protect health, public welfare and the environment
  - Give preference to permanent remedies
  - Are less stringent for industrial land use
- The Remediation Standard Regulations (RSRs)
  - §22a-133k-1 through 133k-3 of the RCSA - 1996, 2013
- Environmental Use Restrictions (EURs)
  - RCSA §22a-133q-1 (ELURs) - 1996, 2013
  - CGS §22a-133o (NAULs) - 2013



# RSRs - Applicability

## ➤ RSRs allow for:

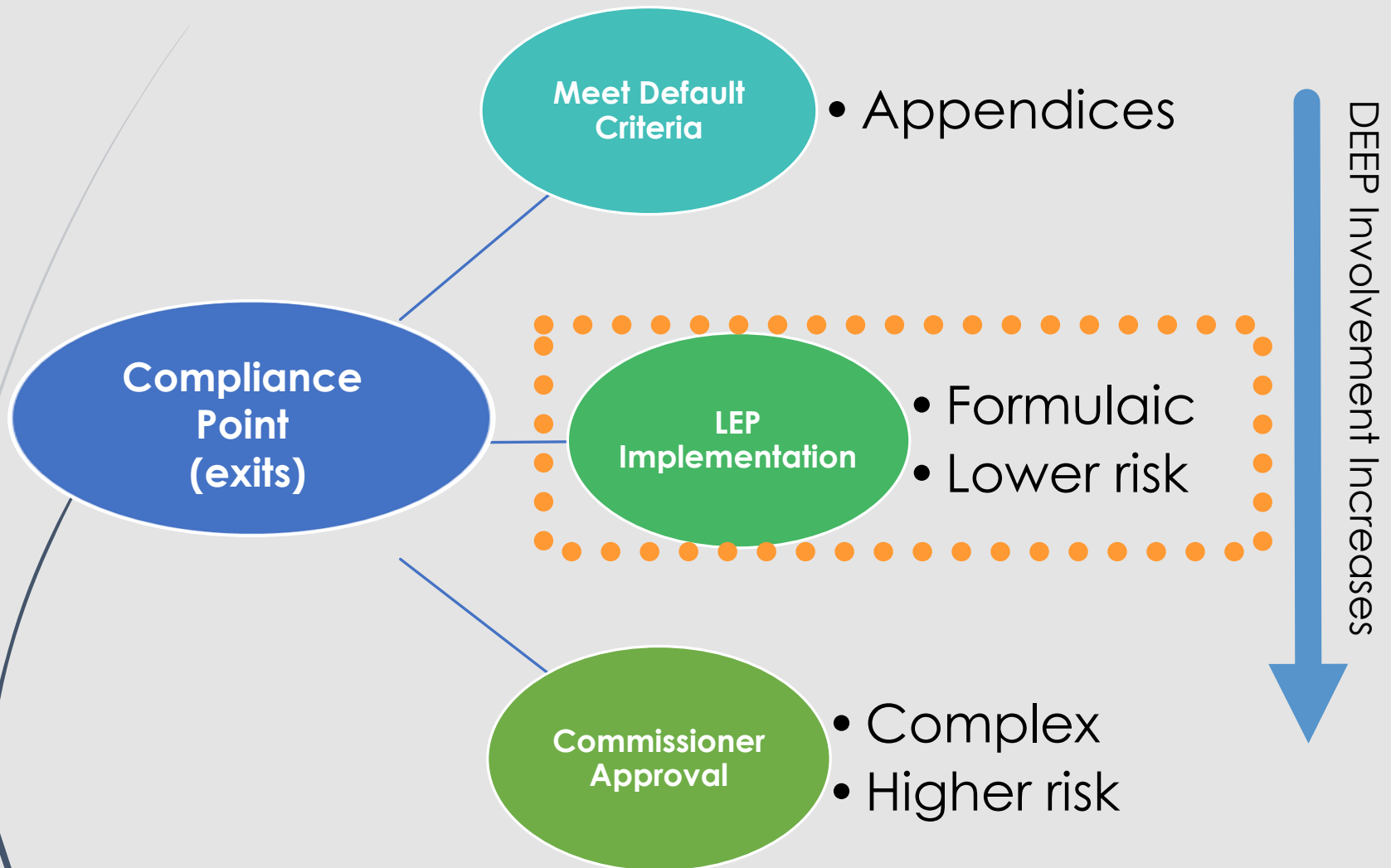
- Site cleanups to proceed with a defined remedial goal
- Sites to address cleanup goals without direct DEEP oversight – CT Licensed Environmental Professional (LEP) Program (CGS §22a-133v)

## ➤ RSRs apply to:

- Remediation of polluted soil and groundwater
- Clean up of release areas
- Remedial actions required by regulation, statute or order of the Commissioner



# RSRs – Compliance Structure



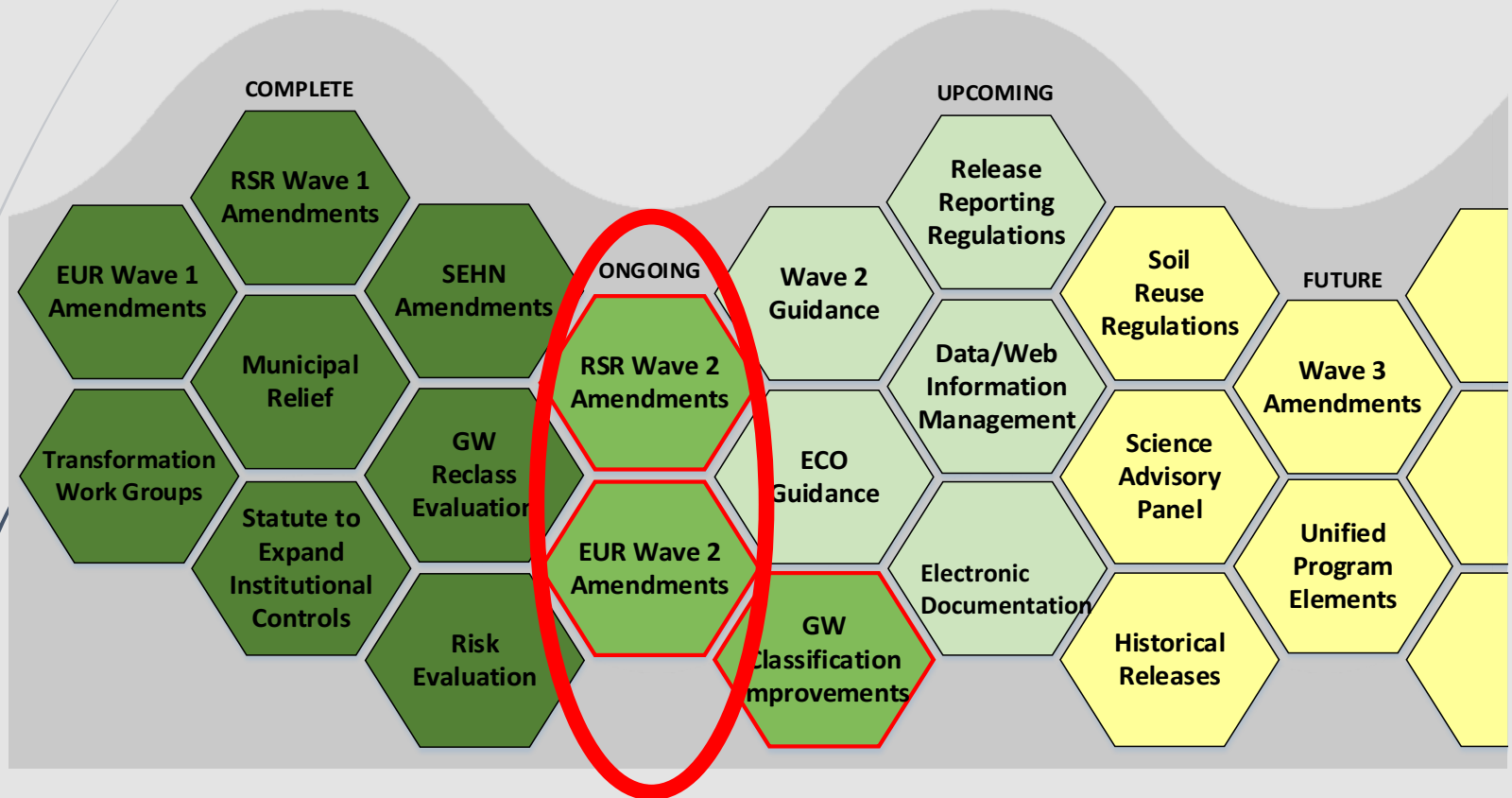
# Why RSR Revision Now?

- ▶ Key part of the overall DEEP “Transformation” process
  - Unify and streamline the State’s remediation programs
- ▶ Property Transfer sites have an 8 year deadline to finish or substantially complete cleanup
  - First deadline: October 2017
- ▶ Great public interest and expectation



# Why RSR Revision Now?

## Transformation is Progressing



# Big Picture – Goals for Revisions

## ➤ Greater certainty

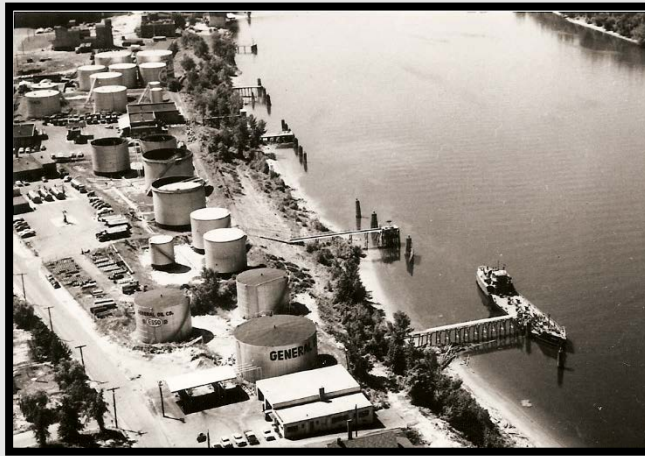
- Clearer requirement details help build certainty for planning and redevelopment

## ➤ Enhance economic growth

- Lower remedial cost while maintaining protection
- Increase brownfield redevelopment

Since 2012 CT Brownfield Program has:

- Invested **147 million** in grants and loans
- Funded **157 projects**
- Remediated **2,240 acres**



# Big Picture – Goals for Revisions

- ▶ Promote faster cleanups
  - ▶ Increased compliance exits
  - ▶ Allow for more release-specific remedies
- ▶ Optimize resources
  - ▶ Less DEEP involvement on lower-risk scenarios
  - ▶ New LEP-implemented options
  - ▶ Conduct appropriate remediation for site conditions
- ▶ Continue to protect public health and the environment





# Transparency

- Extensive outreach over the last 7 years:
  - **7 workgroups** - regulated community and other constituent groups assisted DEEP in crafting the revision ideas
  - **11 Public discussion papers** - Posted online for public feedback
  - **2 iterations of detailed conceptual language** - Published online for public feedback in April 2016 and August 2016
  - **2 public information/discussion sessions** - April 2016 concept draft discussed in Hartford and Derby
  - **13 Remediation Roundtable** (informational forums) – Presented and discussed publicly proposed RSR revision concepts
  - **4 constituent groups** – In 2015 and 2016 presented proposed RSR changes to stakeholder organizations who have a direct connection with the small business community
    - Connecticut Business & Industry Association – CBIA
    - Connecticut Environmental Forum – CEF
    - Environmental Professionals' Organization of Connecticut – EPOC
    - Connecticut Bar Association - CBA
  - **4 state agencies** - Briefed DECD, DPH, DOT, and AG during RSR drafting

# RSR Revision Timeline

Substantial Public Outreach 2013-2016:

Public Discussion Documents  
Stakeholder Organizations  
State Agencies  
Remediation Roundtable  
Website / Technical Training

2010

**Transformation  
Begins:  
DEEP + Stakeholder  
Workgroups**

2013

**RSR Revisions  
Adopted (Wave 1)  
(7 major concepts)**

2016

2019

**RSR Revisions  
Adoption (Wave 2)  
(25 major concepts)**

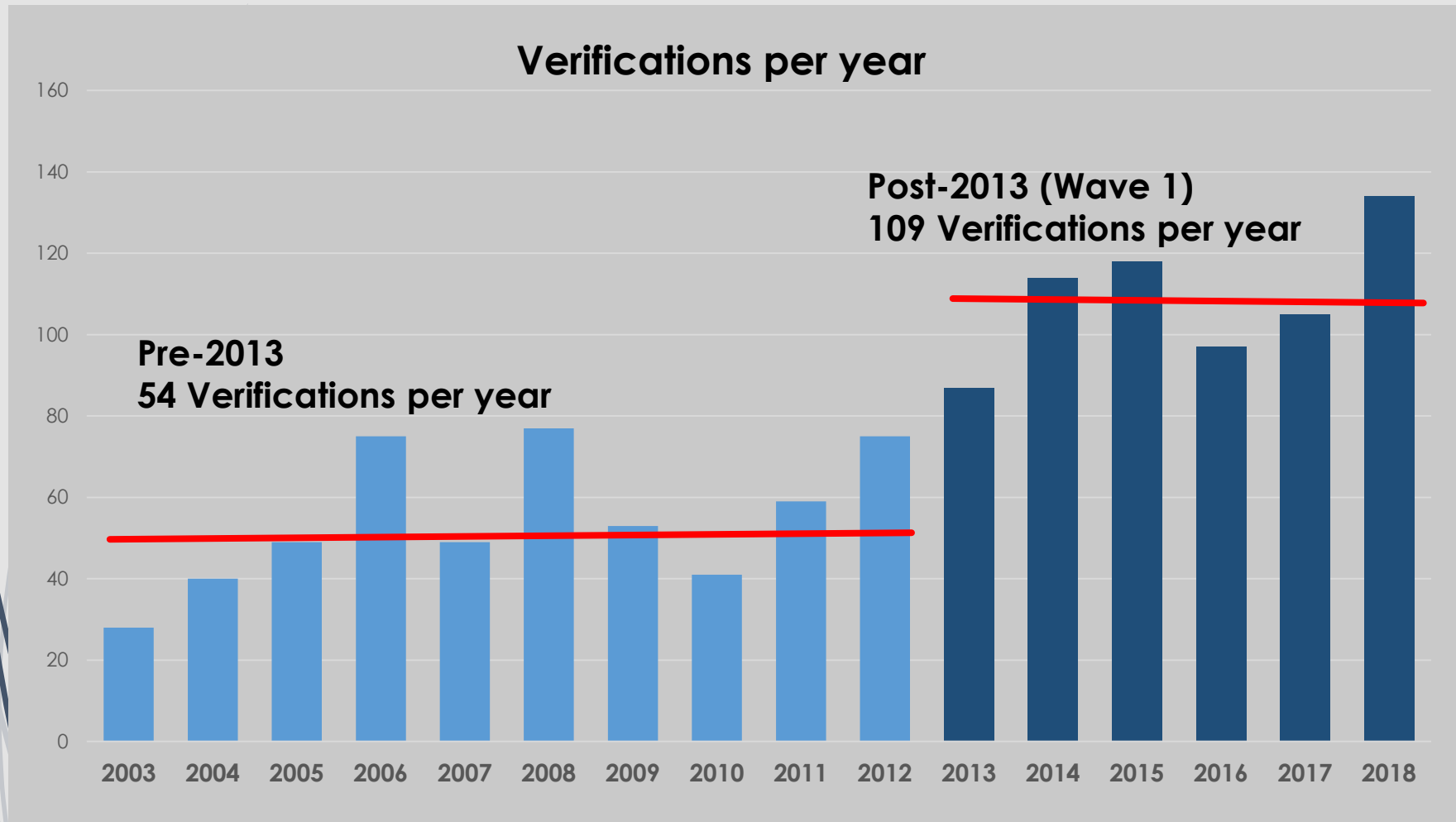
2020

**Wave 2  
adoption**

Legal Review: 2016- 2018:  
Worked with DEEP Legal counsel  
to:  
strengthen language, finalize  
concepts, increase consistency  
between sections, eliminate  
duplication, and reorganize



# Benefits of Wave 1 Amendments



Wave 2 Added or Modified Provisions	Flexibility	Certainty	Cost Savings	Faster Cleanups	Clarity
Alternative PMC	X		X	X	
Alternative SWPC	X		X	X	
Alternative GWPC	X		X	X	
Public Notice		X			X
Financial Assurance	X	X	X		X
Environmental Use Restrictions	X	X	X	X	
Residential Definition		X	X		
Analytical Data		X			X
PCBs		X			X
NAPL	X	X	X	X	
Reuse of Polluted Soil		X			X
Reuse of Pesticide Impacted Soil			X		
Public Roadway Variance	X	X	X		
Vapor Migration		X			X
Upgradient Groundwater Plume	X	X	X		X
Technical Impracticability	X	X	X		X
Conditional Exemptions					
Polluted Material		X	X	X	X
Widespread Polluted Fill	X		X		X
Pesticides		X	X	X	
LEP-Implemented					
Notice Activity Use Limitation	X		X	X	
Engineered Controls	X		X	X	
Widespread Polluted Fill	X		X	X	

# Example of Benefits

## ➤ **New LEP-Implemented Options**

- Alternative PMC calculation
- Widespread polluted fill - coastal boundary areas
- Pre-designed Engineered Control for DEC exceedances
- Alternative GWPC
- Alternative SWPC - New Alternative SWPC Calculations
- Specific Environmental Use Restrictions (NAULs)

## ➤ **Added process for ECs and TIs**

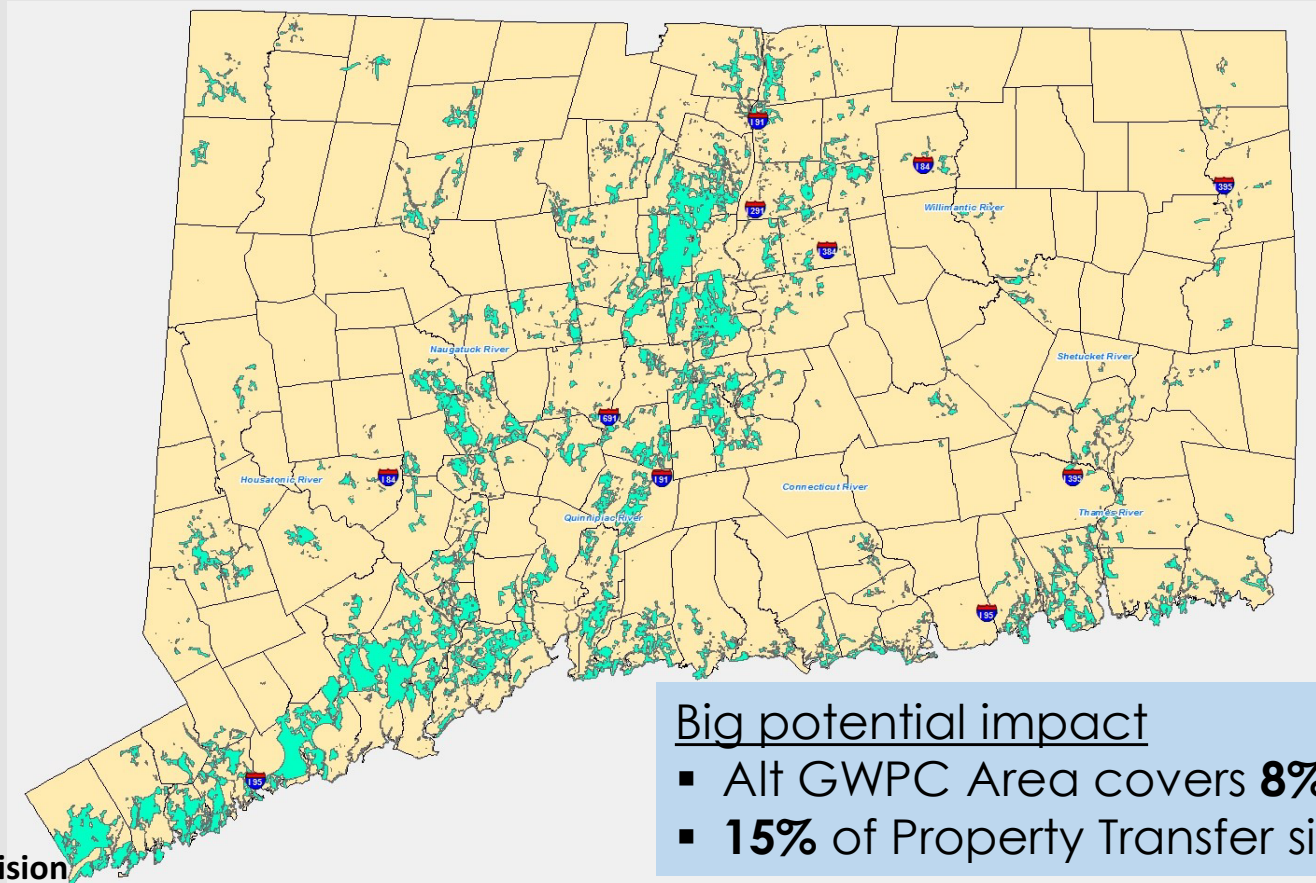
## ➤ **New exemption for polluted soil containing pesticides**

- Eliminates the removal of high-quality agricultural soil offsite; or
- Allows for the disposal of pesticide impacted high-quality top soil on agricultural land



# New Exit - Alternative GWPC

- More flexibility in achieving groundwater compliance in areas with no current or future drinking water use
- Decreases time and monitoring cost associated with achieving groundwater compliance



# Financial Surety and Public Notice Improvements

- Refine Financial Assurance
  - Simplifies calculating financial assurance
  - More financial predictability
  - Exempt if total surety is less than \$10,000
- Clarify Public Notice Requirements
  - Consolidate directions for posting
  - Reduces notice period from 45 days to 30 days
  - Improved public notice process to better reach target audience



# Polluted Soil Reuse

- **Added since 2016 conceptual language:**
  - Detail to the reuse of polluted soil provision for clarity
- **Three reuse types:**
  - On-site (LEP-Implemented)
  - Onsite or Offsite Adjacent Property (When EUR needed)
    - Added flexibly for large releases or adjacent properties with similar releases
  - Offsite (Commissioner Approval)
- **Placement still:**
  - Can't be placed below the water table
  - Can't be placed in an area subject to erosion
  - Can't be placed to be inconsistent with anti-degradation policy





# New Requirements

- Establishes long-term variance obligations
- Adds Environmental Use Restrictions to certain provisions (Vapor Mitigation System)
- Modifies the volatilization criteria for Chlorinated VOCs based on new scientific understanding of fate and transport
- Requires the protection of receptors when using the upgradient groundwater plume provision
- Supplemental public notice if change to remedial action or remediation not initiated within two years of notice



# EURs Revision

- ▶ EUR are required when pollution remain on a parcel above default cleanup criteria
- ▶ EUR are designed to:
  - ▶ Restrict further use of a parcel
  - ▶ Impose certain affirmative obligations upon owner

## EUR Types

- ▶ ELUR – Environmental Land Use Restriction (Commissioner Approval)
  - ▶ Conveys an interest in the parcel to the state
  - ▶ Used on “higher risk” parcels
- ▶ NAUL – Notice of Activity and Use Limitation (LEP-Implemented)
  - ▶ New tool that is only available for certain restrictions specified in statute
  - ▶ Binds future owners obligation to maintain restriction



# EURs Revisions

## ➤ Goals

- Permit the use of NAULs
- Greater detail on:
  - Implementation process
  - Completion of survey
- Allow for minor disturbances without commissioner approval
- Impose certain fees
- Require annual inspections every 5 years

## ➤ Benefits

- More efficient application
- Greater long-term certainty of restriction
- Cost savings due to allowing LEP-Implemented NAULs



# Next Steps

- ▶ Start public notice process (Early July)
  - ▶ Duration 90 day
- ▶ Kickoff Meeting (Early July)
- ▶ Q/A sessions and meet with various stakeholders (Late July – Early September)
- ▶ Evaluate public comments (make any necessary adjustments)
  - ▶ Generate Response to Comment Document
- ▶ Final review – Legislative Regulation Review Committee

