



COUNCIL ON ENVIRONMENTAL QUALITY

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RE: Release Reporting Regulations

The Council understands that decreased staff at the Department of Energy and Environmental Protection (DEEP) and the high frequency of spill reports for relatively small releases has necessitated this adjustment in the quantity of a release that is subject to reporting. The Council has reviewed the Draft Release Reporting Regulations and offers the following comments.

**(NEW) Sec. 22a-450-2(a) and Sec. 22a-450-2(b)
Releases Subject to Reporting**

The Draft Regulations include provisions that require the reporting of releases at the following specified thresholds for time and quantity:

- (a) Oil or Petroleum
 - (2) The release of five (5) gallons or more of oil or petroleum if released within any period of twenty-four (24) hours.

- (b) A Reportable Material Other than Oil or Petroleum
 - (2) The release of either ten (10) pounds or more or one and a half (1.5) gallons or more, of a reportable material other than oil or petroleum, if released within any period of twenty-four (24) hours.

It is the Council's understanding that the wording in both sections above is intended to establish thresholds that address the slow leaks and occasional spills which can occur over time as part of normal activities. Despite the intent, the wording, Sec. 22a-450-2 allows for the ignoring of small releases that could become problematic over time. As an example, the release of 120-gallons that occurs over a month (4 gallons a day) would not be reportable unless it is covered under Section (1) (A)-(K). If that release continued for many months or years it could leave a legacy of pollution that could become a problem for future use of the site – which is exactly what DEEP is addressing presently in its development of a release-based approach to remediation.

The Council recommends a modification of the Draft Regulation to specify that even “slow”, “intermittent” or “inadvertent” releases that continue for more than a specified time can become reportable if allowed to continue unaddressed.

(NEW) Sec. 22a-450-3. Releases Exempt from Reporting

The Council notes that there is similar wording for the exemption of domestic sewage. The current wording states that the reporting of a release of domestic

sewage is exempt provided “(i) The amount released does not exceed one hundred (100) gallons in any period of twenty-four (24) hours; and (ii) The release, and any material contaminated by any such release, has not reached the waters of the state, a wetland or a catch basin.” Again, a possible interpretation of the draft wording could suggest that a release of 90 gallons of domestic sewage every day over a week or longer, would be exempt from reporting provided it didn’t meet the threshold identified in (ii). The Council recommends that the Draft Regulations be modified to specify that small releases that occur over a long time are not acceptable and that any significant release of domestic sewage is reportable.

(NEW) Sec. 22a-450-4. Reporting Requirements

The Draft Regulations include provisions that an “initial report to the commissioner required by this subsection shall be made by telephone or by any other method specified by the commissioner”. In addition, a “follow-up report”, “if requested by the commissioner, verbally or in writing, including electronically, a person required to report a release shall prepare and submit a follow-up report, containing the information required by this subsection, to the commissioner within the timeframe specified in such request, or if no timeframe is specified in such request, not later than sixty (60) days after such request.” The “follow-up report” shall be submitted “in a manner and on a form prescribed by the commissioner, including, but not limited to, electronic filing”.

The Council recognizes that it is important for DEEP to receive an initial report of a release as quickly as possible and that the use of telephones, email, and or messaging provides the most expedient forms of communication. However, the Council is concerned that the information reported in the “initial report” may not be made available to the public. Consequently, the Council recommends that all releases that result in an initial report also be required to submit a “follow-up report” electronically as soon as possible. Electronic reporting to DEEP’s website would ensure that the information is available to DEEP staff and the public quickly, without creating an administrative burden for DEEP staff.

Definitions and Appendix

The list of Materials of Special Concern in the Appendix is not inclusive of all the materials that appear in the U.S. Environmental Protection Agency’s list of Extremely Hazardous Substances. Inclusion by reference to EPA’s list should be added to the Draft Regulations to allow for automatic updating of hazardous materials that are as yet unknown or unrecognized as hazardous. This addition could appear as part of the Appendix or included in the definition of “reportable material” in the “definitions” section of the Draft Regulations.

Thank you for consideration of these comments.

Sincerely,



Peter Hearn
Executive Director

