

What is the Role of a Permitted Environmental Professional (PEP) and Why do Contractors Need Them?

The RBCRs require that a release subject to the RBCRs be certified or verified as meeting an endpoint or standard (§ 22a-134tt-5(g)). The required immediate actions (IAs) for Emergent Reportable Releases (ERRs) are specified in § 22a-134tt-5(a) to (e) of the RBCRs. PEPs must meet the qualifications specified on the Department's website. The role of PEPs is outlined in § 22a-134tt-8 of the RBCRs. PEPs may certify that an ERR satisfies the RBCRs if:

1. the approximate volume of the release is known; and
2. the substance is known; and
3. the release is to surface water, the substance is not heavier than water; and
4. if the release consists only of oil or petroleum it has not caused an impact to groundwater that persists for greater than 24 hours; and
5. cleanup begins within 2 hours of discovery; and
6. all impacted soil is removed and properly disposed, or the cleanup meets the criteria for residential heating fuel releases in § 22a-134tt-8(b); and
7. the cleanup was responded to and directed by a PEP.

A release that does not meet the above criteria to be certified by a PEP must be verified by an LEP.

Background

Since March 4, 2022, pursuant to the Release Reporting Regulations (RCSA §§ 22a-450-1 to 22a-450-6) a reportable release is:

1. a release of oil or petroleum where the quantity released is 5 gallons or more or the quantity is unknown; or
2. a release of a reportable material other than oil or petroleum where the quantity released is 1.5 gallons or 10 pounds or more or the quantity is unknown; or
3. a release of any quantity where the release meets one of the special circumstances outlined in the regulation.

Nothing is changing with regard to Reportable Releases or responses to Reportable Releases unless the Reportable Release is also subject to the RBCRs and meets the definition of an ERR.

What is an ERR?

A certain subset of releases are considered ERRs under the new RBCRs. **ERRs are releases to land or water that meet the following:**

1. releases of oil or petroleum of 10 gallons or more; or
2. releases of reportable material other than oil or petroleum of 20 pounds or more or 3 gallons or more

Many reportable releases are not ERRs. **ERRs do not include:**

1. releases to air (gaseous releases); or
2. releases from regulated (commercial) USTs; or
3. releases to an impervious secondary containment system; or
4. releases within the interior of a structure that does not come into contact with soil (for example, if the floor has a crack and the spill area included the crack, the release becomes an ERR)

Even though these releases are not subject to the new RBCRs, they are still required to be reported under the Release Reporting Regulations and must be cleaned up as required under current practice.

Who Can be a PEP?

Someone who meets the qualifications outlined by DEEP is eligible to be listed as a PEP on a Spill Response Contractor's permit or the general permit pertaining to employing PEPs issued under CGS § 22a-454.