



CONNECTICUT'S TRANSITION TO RELEASE-BASED CLEANUP

Presented by: [Graham Stevens](#), Chief of Bureau of Water Protection and Land Reuse

[Brendan Schain](#), Legal Director for Environmental Quality Branch

Benefits of Replacing Transfer Act



Private Market Drives Investigations

Banks and buyers want to know environmental conditions of properties



New Program Applicable to All Releases

Transfer Act only applied to certain business operations



Multi-Tier Cleanup System

Lower risk releases addressed quickly / DEEP can focus on highest risks and Brownfields

TRANSFER ACT – STALLED CLEANUPS AND COMMUNITY BURDEN

Total number of
sites (approx.)

3,000

Average years to
clean up (approx.)

7

(completed sites,
otherwise unlimited)

Number of completed
cleanup (approx.)

300

Average NEW sites
per year (approx.)

200

Entered Cleanup Program 1986



Former Fleisher Finishing Mill Street

Waterbury



**Entered Cleanup
Program 1993**

Former Cooper Industries Brooklyn



Entered Cleanup
Program 1986



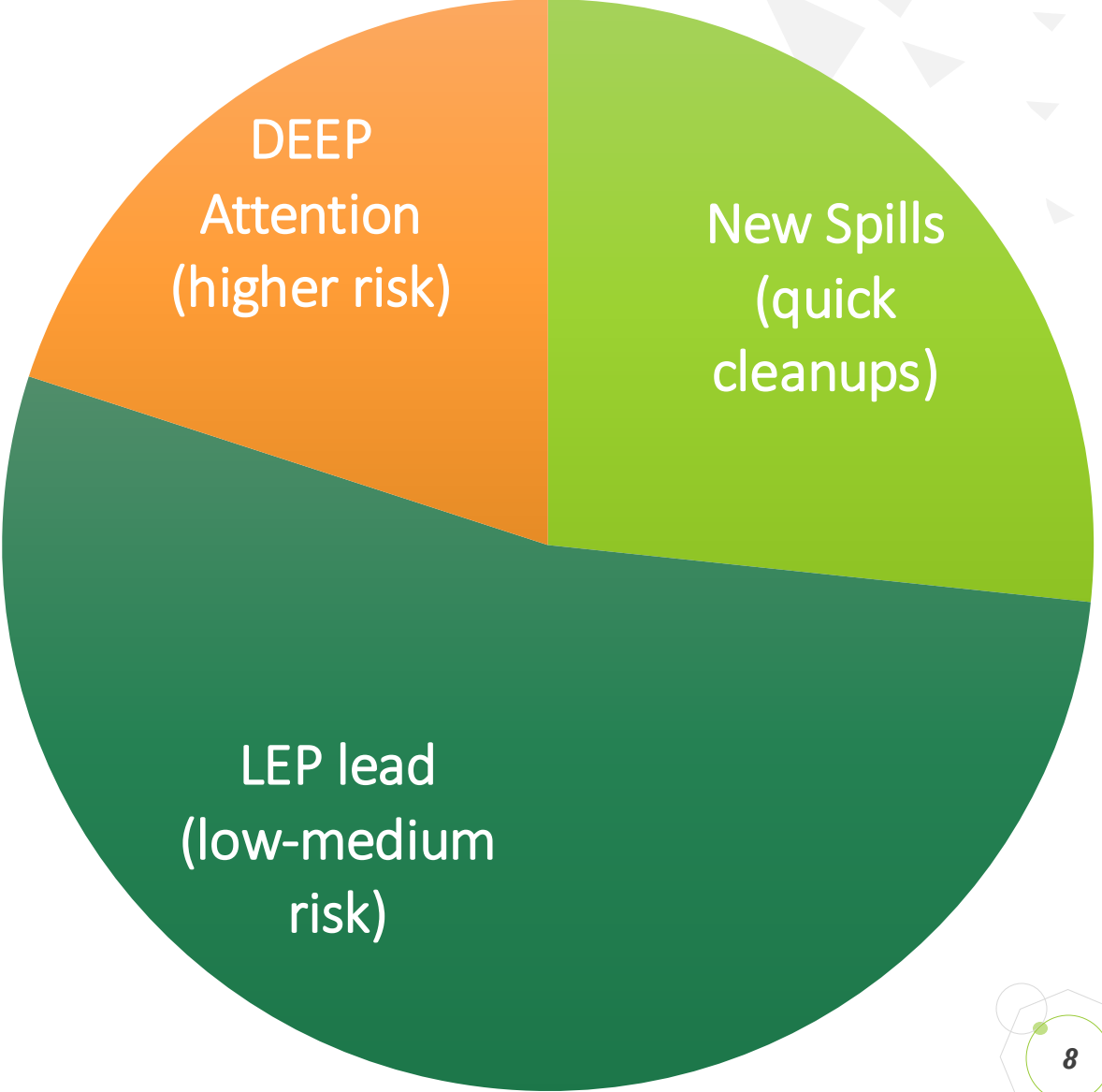
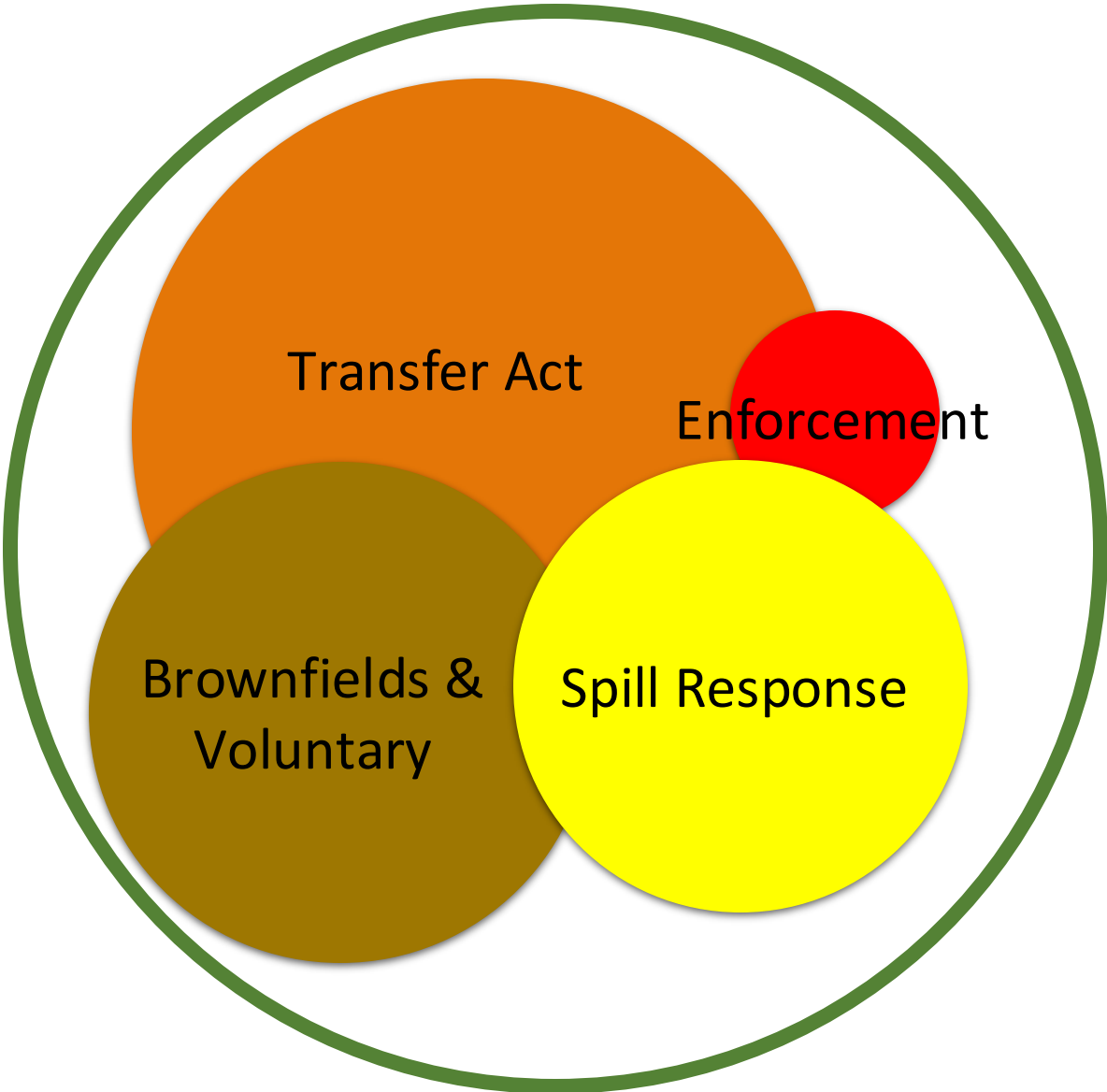
Former Bristol Babcock Company Waterbury



Entered
Cleanup
Program 1987



Scope of Cleanup Universe – Before and After



What is Included in New Program

- New spills or releases – such as spilled drums of waste that impact paved areas or come into contact with soil
- Newly-discovered historical pollution in the environment – such as soil, groundwater, or surface water pollution found through collecting samples and analyzing for pollution



Is Everything a release?

- No. The following are not releases:
 - Atmospheric deposition from automotive exhaust
 - Pesticides or fertilizer applied in accordance with instructions on their label
 - Naturally occurring substances
 - Section 22a-134tt-2(f) provides a process and standards for determining if metals identified in sampling are background
 - Both “walk away” numbers and abbreviated site specific process provided

HOW ARE THE RBCRS ORGANIZED?

Sections fit into 4 general categories:

First Year

- Discovery
- Reporting
- Characterization
- Immediate Action

Longer Term

- Tiers

Cleanup Standards

- General
- Soil
- Groundwater

Administrative

- Verifications & Certifications
- Closure documents
- Audits

DISCOVERY OF AN EXISTING RELEASE

- The Transfer Act chooses which properties will carry a responsible to conduct an investigation and cleanup of discovered pollution, based on past uses of the property
 - **Obligation starts when property or business is SOLD**

- The Release-Based Cleanup Program applies to all new releases and newly-discovered historical releases
 - **Obligation starts when release occurs or is discovered**

A stylized, colorful landscape illustration. The top right corner features a bright yellow sun. Below it is a large green hill with a dark blue outline. The bottom of the image shows a light blue body of water, also outlined in dark blue. The word "Reporting" is centered in white text on the green hill.

Reporting

TWO REQUIREMENTS FOR REPORTING



REPORTING EXISTING RELEASES

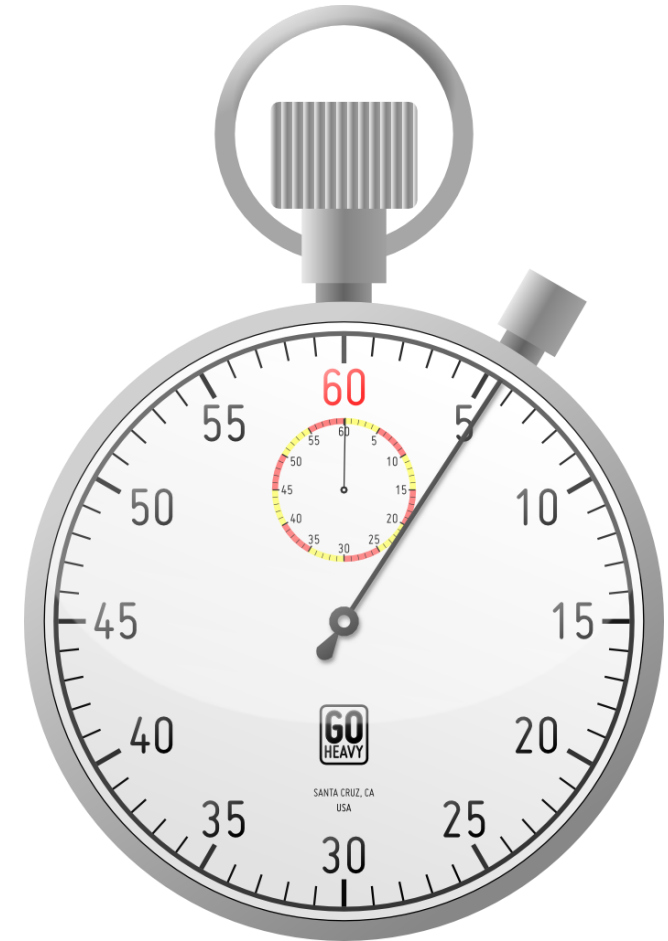
Time to report varies based on concentrations present:

- 72 hours – Significant Existing Releases (24 hours for SERs in drinking water supply well)
- 120 days – greater than 2x the cleanup standards, not an SER
- 365 days – less than 2x the cleanup standards

Cleanups completed before the 120 or 365 day deadlines don't require reporting, but closure records must be maintained for 10 years

REPORTING A SIGNIFICANT EXISTING RELEASE

- Significant Existing Releases must be reported, even if discovered by someone other than the creator or owner
 - **These are the releases that may pose an exposure risk to those that use the site**
 - **Examples – pollution in the surface soil, pollution that is in or near drinking water wells, pollution that poses indoor air risks**
- Significant Existing Releases must undergo Immediate Action to eliminate the potential risks of exposure



A stylized, colorful landscape illustration. The top right corner features a bright yellow sun. Below it is a large green hill with a dark blue outline. The bottom portion of the image is a light blue area representing water, also outlined in dark blue. The text "Cleanup Standards" is centered in the green hill area.

Cleanup Standards

CLEANUP STANDARDS

- The new program incorporates the state's cleanup standards (first developed in 1996 and most recently revised in 2020, commonly known as the RSRs) as the backbone for conducting cleanups
- These regulations provide detailed guidance and standards that must be used to determine whether, and the degree to which, cleanup of contamination is needed to protect health and the environment
- The proposed regulations specify criteria for the remediation of soil, groundwater, surface water, and vapors that can impact indoor air
- All cleanups must achieve the criteria for these environmental media
- Factors that may affect the degree of cleanup include the groundwater quality classification of the site, the land use of the site, and proximity of sensitive receptors to the contamination

PUBLIC NOTICES

- Public notice is required by the cleanup standards
 - **Must occur more than 30 days before cleanup is scheduled to begin and cleanup must be substantially initiated within three years of the notice, or additional public notice is required**
 - **Additional public notice must be conducted if there has been a substantial change to the remedial action previously noticed**
- Public notice must be provided to:
 - **Chief municipal officer, Health Director**
 - **Newspaper having general circulation**
 - **Either**
 - Mailing notice to all abutting property owners, or
 - Erecting a 6' by 4' sign for at least 30 days that is visible from the public road

ADDITIONS TO THE SOIL CLEANUP STANDARDS

Managed Multifamily Residential Direct Exposure Criteria

Determines exposure risk based on more limited access to soil in multifamily settings

A release may qualify if the parcel on which it is located has more than 4 residential units and is managed by an association or professional property management company

Will require an EUR prohibiting the disturbance of soil by residents and active recreation without impervious cover

Passive Recreation Residential Direct Exposure Criteria

Can be cleaned up to the passive recreation DEC if it is:

- (1) subjected to an EUR or
- (2) has a passive recreation conservation easement

Examples of passive recreation include: hiking trails, bike paths, horse trails

USE OF PERMITS BY RULE

HISTORICALLY IMPACTED MATERIAL

Applicability

- Industrial/commercial sites only with confirmed presence of historically impacted material

Notification

- A form prescribed by the Commissioner to notify the Department an owner is seeking cover under the permit by rule

Requirements

- Maintain Industrial/Commercial use
- Cannot relocate historically impacted material parcel except as allowed by cleanup standards
- Notify any new owner or interest holder of the permit by rule
- Record an affidavit of facts on the land records
- Submit a closure report
- Conduct inspections every 5 years to demonstrate compliance

MANAGING SOIL BENEATH PARKING LOTS, ROADS AND BUILDINGS

Inaccessible soil at a release area is not required to be remediated to the direct exposure criteria if the soil is located beneath concrete or bituminous concrete used for parking or vehicle travel or below a building foundation.

Similar administrative requirements as the historically impacted material permit by rule

- submit document to Commissioner that verifies compliance,
- record an affidavit of facts on the land records,
- inspect every 5 years and report to the Commissioner on condition of concrete

A stylized landscape illustration. The top right corner features a bright yellow sun. Below it is a large green hill with a dark blue outline. The bottom of the image shows a light blue body of water, also outlined in dark blue. The word "Oversight" is written in white text on the green hill.

Oversight

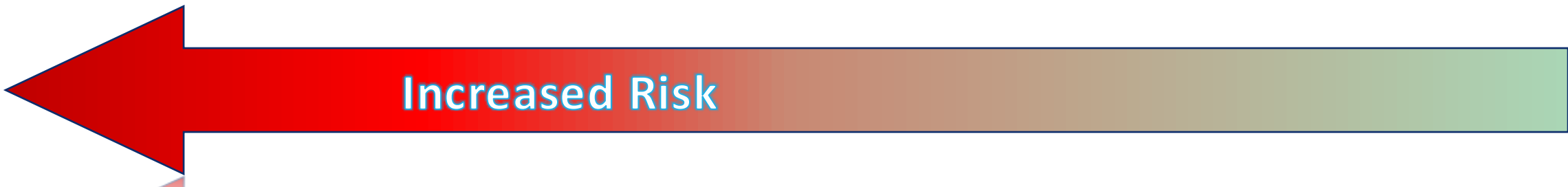
NEW SPILLS

- New Spills are called into DEEP and each spill or new release is evaluated for response by DEEP personnel
- Decisions are made based on the risk – what was released, what is the status of cleanup, what is the risk to the public and environment
- DEEP can take over a release response action at any time and will act if the party that caused the release is failing or refusing to act quickly
- The new program contemplates licensing certain, qualified spill response personnel to certify the cleanup of lower-risk spills or new releases

TIERS



Tier 1A. DEEP Oversight	Tier 1B. LEP Oversight Receptor Risk	Tier 2. LEP Oversight Controlled Risk	Tier 3. Monitoring Oversight
<p>Highest-risk releases. DEEP lead. FEWEST cases. Unknown risks to receptors; programmatic noncompliance. Complete closure or re- tier 2 years after Discovery.</p>	<p>Known risk to receptors (drinking water, vapor) must still be addressed or scoping/screening eco not completed RAP not completed Complete closure or re- tier 3 years after Discovery</p>	<p>Controlled risk, no receptor pathways Complete closure or re- tier 5 years after Discovery</p>	<p>Monitored Natural Attenuation (MNA) only Complete closure or reevaluate effectiveness of MNA 6 years after Discovery</p>



VERIFICATION AND CERTIFICATION

LEPs can verify

- Immediate Action reports
- Tier assignment
- Changes in tier assignment
- Release remediation closure reports, except for the limited universe where certification is specified

PEP can certify or LEP can verify

- Immediate Action reports generated as a result of an immediate action where certification is specified (RCSA § 22a-134tt-5(g))
- Release remediation closure report where certification is specified (RCSA § 22a-134tt-8)

WHAT CAN BE AUDITED?

Any release record can be audited

LEP Verified Records

- **IA reports**
- **Tier assignments (including tier changes)**
- **Release remediation closure reports**

PEP Certified Records


- **IA reports**
- **Release remediation closure reports**

TYPES OF AUDITS AND PROCESS

Type	What	Notice of Audit	Possible Outcomes	Timeline
Screening	Review of 1 release record	⊘	Accept (no written notice) Reject ↻ Focused audit ↻ Full audit*	Complete: 180 days
Focused	Review of 1 release record or issue identified during screening audit	☑	Accept Reject ↻ Full audit*	Initiate: 180 days Complete: 18 mo.
Full	Review of any or all release records AFTER submission of a closure report	☑	Accept Reject	Initiate: 180 days** Complete: 2 yrs.

**A full audit may be initiated only after closure documentation has been received*

***Unless continued from a focused audit*



We are happy to take your questions
<https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Comprehensive-Evaluation-and-Transformation/Release-Based-Clean-Up-Program-Regulation-Development>