



# CBIA QUESTION & ANSWER RELEASE-BASED CLEANUP REGS

Presented by: Graham Stevens, Water Protection and Land Reuse Bureau Chief & Brendan Schain, Environmental Quality Legal Office Director

# Agenda

- Give overview of questions received
- Answer questions
- Read scenario received
- Answer questions about the scenario

# OUTREACH TO DATE

Organization	Location	Date	Time
<u>Workshop 1:</u> <u>Introduction to the</u> <u>RBCRs</u> <u>Zoom recording</u>	Gina McCarthy Auditorium, 79 Elm St., Hartford and Zoom	August 6, 2024	10:30 a.m.
<u>Workshop 2: Discovery</u> <u>&amp; Reporting</u> <u>Zoom recording</u>	Gina McCarthy Auditorium, 79 Elm St., Hartford and Zoom	August 15, 2024	1:00 p.m.
<u>Workshop 3: New</u> <u>Releases, Significant</u> <u>Existing Releases, &amp;</u> <u>Immediate Actions</u> <u>Zoom recording</u>	Gina McCarthy Auditorium, 79 Elm St., Hartford and Zoom	September 9, 2024	9:30 a.m.

# OUTREACH TO DATE (CONT.)

**Workshop 4:  
Cleanup Standards, Clo  
sure Documentation,  
& Audits  
Zoom recording**

Gina McCarthy  
Auditorium, 79 Elm St.,  
Hartford and Zoom

September 16, 2024

9:30 a.m.

Connecticut Business  
& Industry  
Association Question &  
Answer Session

**Teams Meeting Link**

September 19, 2024

9:00 a.m.

Connecticut  
Bar Association  
Question & Answer  
Session

**Zoom Registration Link**

September 23, 2024

Public Hearing

Gina McCarthy  
Auditorium, 79 Elm St.,  
Hartford

October 10, 2024

9:30

# Questions

1. How did DEEP determine the fee structure?
2. Can you please describe what the fee structure would like for following scenarios:
  - There was a release less than 2x the standard and it was remediated within the one-year time frame
  - Company A discovers an existing release and is able to remediate within 120 days.
  - Company A discovers multiple (3) historic releases that are above the standard and cannot be remediated within 120 days
3. Will the department notify companies of whether their current filings with DEEP will be dealt with under the Transfer Act or new Reg?
4. Does DEEP have enough staff to deal with the increased reports?
5. In the definition of (80) managed multifamily residential activity, why did the department choose a four-unit threshold?
6. Can you please clarify the difference between certification and verification?
7. What are the qualifications of a PEP? When would I use a PEP versus a LEP? What level of oversight will DEEP have over PEPs?
8. During a real estate transaction, if the buyer finds lines of evidence of a release combined with laboratory testing, does the buyer have an obligation to share that information with the seller (who would presumably be the creator/maintainer of the release)?

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# Scenario

As part of **property refinancing** application with a local bank that holds a commercial mortgage on a property, the bank requires the property to complete a **Phase I ESA**.

The property is occupied by **six tenants**.

A **dry cleaner** is present on the property and handles dry cleaning solvent.

The dry-cleaning area has a **dry-cleaning machine** (REC-1), **waste storage area** (REC-2) and **refuse dumpster** (REC-3) outside the rear door.

**Staining** of the concrete floor is observed at the rear of the machine. A chemical **odor** is also evident in this area. The worker at the facility says the machine is serviced every three months through a maintenance contract with **XYZ Commercial** and that the staining is due to their **change out of the solvent**.

They were last at the site approximately **three weeks ago**.

No staining or other **evidence of a release** is observed at the interior waste storage area or around the dumpster.

The report is provided to the bank who is the client of the **environmental consultant**.

# Questions

1. Please confirm that the identification of the waste storage area and dumpster as RECs **due to the potential for releases** does not constitute multiple lines of evidence or knowledge of a release?



2. At the machine area, please confirm that there are **multiple lines of evidence** including: known use of solvents, staining and odors.





3. Who is a **creator**? The owner of the dry clearer?  
The owner of XYZ Commercial? Both?



4. Neither of these parties (owner of dry cleaner, owner of XYZ Commercial) are present at the time of the site inspection and will not receive a copy of the Phase I ESA, so they do not have **knowledge**, please confirm? Except that the worker was asked about the staining during the Phase I ESA. If the worker points the staining out to the owner, does the owner now have **knowledge**?



5. Or does the phrase “when taking into account any specialized knowledge or training, becomes aware of multiple lines of evidence that would indicate to a reasonable person, with similar knowledge, experience, or training, exercising a reasonable degree of care that a reasonable person would exercise in the same or similar circumstances” support that they do not have knowledge if the staining has **always been there** and is **not out of the ordinary**?



6. Who is a **maintainer** besides the property owner? The owner of the dry cleaner, any of the five other tenants at the site, the Bank who has the existing mortgage and “has the right to possess a parcel of land” through foreclosure?



7. Does the environmental consultant have any **duty to tell** any of the potential creator/maintainers that there are multiple lines of evidence that constitutes knowledge of a release?



8. Does the LEP, who reviewed the report, and has a duty to hold human health and the environment paramount, have any **obligation** to notify any of the creators or maintainers?



9. Does the Bank that retained the consultant have any **obligation to notify** any of the creators or maintainers? If they are considered a maintainer and they report the condition to the owner and the owner reports it, have they discharged their **liability** to the State and the RBCRs?





**We are happy to take questions. More information on how to submit comments and for links to past info sessions, see here:**

**<https://portal.ct.gov/deep/remediation--site-clean-up/comprehensive-evaluation-and-transformation/release-based-cleanup-regulations-formal-regulation-adoption>**

**Question can be directed here:  
[DEEP.cleanup.transform@ct.gov](mailto:DEEP.cleanup.transform@ct.gov)**