

December 29, 2023

Dear Working Group Members:

The Connecticut Department of Energy and Environmental Protection (DEEP) is pleased to share a draft of the Release Based Cleanup Regulations (RBCRs). This draft is the result of many hundreds of hours spent by working group members on subcommittees, ad hoc teams, and drafting teams. Throughout this process, the working group asked important questions, challenged the status quo, provided comprehensive written advice and feedback, and brought to the discussion approaches successfully used in other states. The draft also represents thousands of hours of time spent by DEEP staff from across the agency, reviewing and adopting concepts developed by the working group, responding to questions, and incorporating feedback.

DEEP would like to take a moment to thank staff within the Remediation Division, the Water Planning and Management Division, the Emergency Response and Spill Prevention Division, the Office of Innovative Partnerships and Planning, and the Office of Legal Counsel for their work on these draft regulations. DEEP looks forward to continuing the transition to a release-based cleanup program that delivers better economic and environmental value for Connecticut.

Lastly, DEEP also extends a note of gratitude to our colleagues at the Connecticut Department of Public Health (DPH), who assisted in developing toxicity values used to calculate the managed multifamily residential and passive recreation direct exposure criteria. Criteria for and application of these new exposure scenarios can be found in sections 22a-134tt-app11 and 22a-134tt-app12 of the RBCRs. Without DPH's significant efforts and commitment, DEEP would not have been able to offer these valuable changes to the cleanup standards.

Today, we are sharing with you:

- Draft text of the entire RBCRs;
- A series of supplemental regulatory changes to the Release Reporting Regulations, Remediation Standards Regulations, and an administrative civil penalty schedule to be adopted in regulations adopted pursuant to Conn. Gen. Stat. § 22a-6b;
- A document offering technical descriptions of calculators DEEP intends to prepare and make available, including a calculator for LEP-implemented, risk-based direct exposure criteria needed to implement language found in section 22a-134tt-9 of the RBCRs; and

- A technical support document providing background on the derivation of criteria and equations for the proposed new exposure scenarios (managed multifamily residential and passive recreation found at sections 22a-134tt-App11 and 22a-134tt-App12 of the RBCRs, respectively).

For those who have regularly participated in the working group, you will find much of the RBCRs familiar. The RBCRs generally follow the process set out in the [first year roadmap](#) and tiers checklist (found at Appendix 1 of the draft RBCRs). The text of the RBCRs is based on the [subcommittee concept papers](#). For example, in section 22a-134tt-2 of the RBCRs (“Discovery of Releases”), the concepts of actual and constructive knowledge are taken directly from the [Subcommittee 1 concept paper](#), as is much of the language of those provisions for section 22a-134tt-2 of the RBCRs. This model of building the regulations upon the foundation set by the concept papers runs through most sections of the RBCRs.

A few other notes and points of emphasis:

- The current Remediation Standards Regulations (RSRs) are incorporated into the RBCRs. Section 22a-133k-1 of the RSRs is divided between sections 22a-134tt-1 and 22a-134tt-7 of the RBCRs. Certain provisions applicable to the entire body of new regulation are found in section 22a-134tt-1, certain provisions applicable only to the “cleanup standards sections” – sections 22a-134tt-7 to 22a-134tt-10, inclusive of the RBCRs – are found in section 22a-134tt-7. There are some tweaks to the RSRs language, including additional definitions and adjustments to public notice provisions.
- Section 22a-133k-2 of the RSRs (standards for soil remediation) and 22a-133k-3 of the RSRs (standards for groundwater remediation) are found at sections 22a-134tt-9 and 22a-134tt-10 of the RBCRs, respectively. These sections are shown in track changes to make comparison to the existing RSRs easy. You will note that no RSR provisions have been deleted, but significant additions have been made to section 22a-134tt-9 of the RBCRs to incorporate the new, more flexible approaches requested by and previously discussed with the working group.
- Section 22a-134tt-3(d) of the RBCRs allows for certain existing releases discovered on Transfer Act sites after the RBCRs are adopted to be remediated as a part of the site’s Transfer Act cleanup, provided an enforceable commitment to do so is made at the time of reporting. This approach is not mandatory and is being offered as a flexible option for certifying parties or parcel owners that would prefer to close all releases under one administrative framework.

We also want to address the timing of our process moving forward. As you know, Conn. Gen. Stat. § 22a-134tt requires DEEP to provide this draft to the working group not less than 60 days before posting a notice of intent to adopt the RBCRs, to accept written advice and feedback on

this draft for 30 days, to hold a monthly working group not less than 15 days before posting a notice of intent, and to provide a revised draft prior to posting a notice of intent. To ensure that everyone has sufficient time to read, consider, and react to the proposed RBCRs, DEEP intends to:

- Accept written comments until **February 6, 2024**;
- Discuss these comments at two monthly working group meetings held on **February 13 and March 12, 2024**; and
- Post a notice of intent to adopt the RBCRs no earlier than April 1, 2024.

At the January 9, 2024, monthly working group meeting, DEEP looks forward to more fully discussing the process to be used for accepting, discussing, and considering written advice and feedback on the proposed RBCRs. We will also use that meeting to discuss the other work that lies in front of us; in particular, the process for drafting and revising forms and guidance to support the new program.

As you know, DEEP will continue to meet monthly until these regulations are adopted. DEEP will also be looking for opportunities to ensure that our shared work is clearly articulated to various stakeholders that may not have been engaged during the working group process, as has been suggested by the working group. Please share with others DEEP's desire to speak at meetings on this regulatory proposal. In addition to individual meetings, DEEP will also be hosting informational sessions on this regulatory proposal in early 2024. Information and dates for presentations held by DEEP, or at which DEEP will discuss this regulatory proposal, will be listed soon on our release-based cleanup program regulation development webpage [here](#).

We are proud of the work all of us – DEEP staff, working group members, those who volunteered for subcommittees, and others who have provided feedback along the way – have done on the RBCRs. We believe that these proposed regulations provide a workable path forward for both environmental and economic objectives, and we are excited to share them with you. We look forward to launching this next phase of our work together.

Best regards,

Graham J. Stevens & Brendan Schain