



Environmental Professionals Organization of Connecticut

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To: CT DEEP – Release-Based Cleanup Program Working Group

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The Environmental Professionals Organization of CT (EPOC) is pleased to submit these comments on the third phase of Topical Subcommittee Concept papers released for public comment on March 15, 2023. This document provides our overall comments to the two concept papers as follows (links provided to posted papers):

- Topical Subcommittee 9: [Cumulative Risk and Risk-Based Alternative Approaches](#)
- Topical Subcommittee 10: [Role and Qualifications of Non-LEP Environmental Professionals](#)

General Comments:

We recognize and applaud the efforts of the subcommittee members who worked on these papers over the past several months. We acknowledge the difficult task each workgroup undertook in a brief period to address the multitude of complex issues that must be evaluated as we embark on a transition to a new release-based cleanup program in CT.

Comments on Papers:

Topical Subcommittee 9: Cumulative Risk and Risk-Based Alternative Approaches

EPOC agrees that a cumulative risk and risk-based alternative should be included in the new regulations. Cumulative risk assessment is a well-established process for understanding the risk posed by environmental contamination to human and environmental receptors. These processes have been successfully implemented as part of the federal program and have been used in several states. EPOC specifically supports the following concepts presented in the Concept Paper:

- The cumulative risk assessment approach should be a self-implementing option for Licensed Environmental Professionals (LEPs);
- The cumulative risk approach can be used to both document that a condition of no significant risk exists at a release site post-remediation and to assess risk pre-remediation to allow subsequent remedial actions to target the risk drivers at a release site;
- The Department, in coordination with the Department of Health, should adopt the following cumulative risk standards:
 - A cumulative excess lifetime cancer risk (ELCR) of 1×10^{-6} for exposure to an individual carcinogen and an ELCR of 1×10^{-5} for multiple carcinogens.
 - A non-cancer hazard index of 1 (allowing for summation of non-cancer risk by target organ);

- The new regulations should include a provision for the use of Short Form risk calculators for assessing cumulative risk in Connecticut; and
- The incorporation into the new regulations of the other components necessary to complete an evaluation of risk posed by contamination at a release including provisions for assessing ecological risk and the incorporation of maximum allowable contaminant levels.

The experience of our members who practice in other states or under the federal program indicates that cumulative risk assessment is an effective tool for addressing complex, contaminated sites.

Topical Subcommittee 10: Role and Qualifications of Non-LEP Environmental Professionals

EPOC agrees that there can be another group of professionals that sign-off on low volume, low toxicity contemporaneous releases (having occurred in a period not longer than 24 hours) where no impact to environmental media has occurred. EPOC would also be willing to entertain sign-off of low volume, low toxicity contemporaneous releases (having occurred in a period not longer than 24 hours) by non LEPs in instances where the only environmental medium impacted is soil. The Department will need to determine the meaning of low risk and low toxicity and the standard of care to be used to demonstrate that only soil has been impacted by a release.

Clean-up of spills routinely requires that professional judgement and experience be exercised. Therefore, we agree with the white paper that non-LEPs should:

- Have relevant experience and training;
- Be required to document activities so that the spill response actions and closure determinations can be easily understood in the future;
- Be subject to Department review and, when deficiencies are found, required to complete additional work or retain an LEP to close out the incident; and,
- Be subject to additional consequences if Department reviews identify deficiencies on several occasions for a single individual.

With regard to LEP closures, EPOC strongly believes that any release that has the potential to or impacts groundwater needs to be addressed and closed by an LEP. Similarly, due to the requirement to use professional judgement and the conceptual modeling process, nearly all historical releases should also be addressed and closed by an LEP, with a possible exception for low volume, low toxicity releases that just impact soil.

With regard to the Subcommittee 10 deliberations, it became clear that there are currently two standards of care in Connecticut to close releases. The conservative LEP verification process which requires proof of no impact and/or compliance, monitoring, use of administrative and

engineering controls, approval of additional polluting substances, etc. In contrast, spill and UST closures are typically not as well documented and typically do not result in RSR compliance, as these releases are often addressed only to the point that an imminent hazard does not remain but are not taken all the way through the process such as recording administrative restrictions, applying for additional polluting substance clean up criteria, or performing compliance groundwater monitoring. Public Act 20-9 requires that the new Release Based Program address all releases equally.

We also note that nearly every work group has discussed this concept and that none have been able to reach a consensus. As DEEP is the ultimate decision maker, we conclude that DEEP needs to revise the RSRs and/or the 22a-450 spill regulations to develop clean-up procedures and/or standards for lower volume, lower toxicity releases that don't reach the environment. With this information in hand, but likely not until then, a determination of the types of lower-risk releases and non LEP professionals that can close them will be appropriate and obtainable.

EPOC continues to support the Department's effort to move towards a release-based program. Ten subcommittees, two Ad hoc groups and two drafting teams have completed their work. EPOC concludes that it is now time for DEEP to begin writing and sharing portions of the regulations for Task Force advice and feedback.

We welcome the opportunity to continue to participate in the development of the Release-Based Remediation Program.