



Environmental Professionals Organization of Connecticut

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Graham Stevens, Bureau Chief

Bureau of Water Protection and Land Reuse

CT DEEP

Sent via Email to: DEEP.Cleanup.Transform@ct.gov, graham.stevens@ct.gov

Dear Graham,

EPOC is pleased to submit the following comments on the discussion of *Thresholds for Reporting Historical Releases* for the proposed Release-Based Remediation Program presented by DEEP staff during the monthly meeting of the Release-based Working Group on November 8, 2022.

Based on the information presented, here are our initial comments:

- **Conceptual Quantitative Reporting Threshold of 2x Cleanup Standards (RSR Criteria):**
We have serious concerns with the proposal to establish quantitative reporting thresholds of two times the RSR cleanup criteria. We are not aware of a scientific basis for establishing this multiplier. Additionally, we are concerned that implementation of these quantitative reporting thresholds will create significant uncertainties and confusion in the regulated community and the general public regarding what the cleanup obligations will be for constituents from a historical release which are above the RSR criteria, but less than the 2x multiplier. Our belief is that the new regulations should establish clearly defined rules and standards, and this proposal does not achieve that goal.
- The concept paper as prepared by Subcommittee 2 – Reporting Newly-Discovered Historical Releases dated June 11, 2021, included recommendations regarding using the framework from the Massachusetts Contingency Plan (MCP) for reporting newly discovered historical releases. We support this proposal and recommend that it be considered. The report states in part:

The Massachusetts Contingency Plan (MCP) provides a useful framework for reporting NDHRs and should be relied upon as a framework for developing the release-based reporting program to be created pursuant to PA 20-9, in part because there are benefits to developing a system similar to that of a neighboring state in order to provide for regional consistency and competitive balance with respect to economic development. In addition, the MCP contains elements that are consistent with Connecticut's current approach to identifying and addressing environmental risks.

Quantitative reporting criteria should be developed using appropriate risk assessment and risk management processes that are consistent with the U.S. EPA approaches to human and ecological risk assessment. These criteria may not necessarily be the same as the default numeric criteria in the Connecticut Remediation Standard Regulations, RCSA §§ 22a-133k-1 et seq., (the "RSRs") or any future remedial endpoint/criteria to be established as part of the RSRs or otherwise.

Adopting the Massachusetts List of Reportable Quantities and Concentrations, included in the Massachusetts Contingency Plan at 310 CMR 40.1600, will also alleviate the need for over-reporting of constituents for which there are no current Department of Health approved toxicity references, which we understand under your current proposal would require reporting at any detection. The Massachusetts list includes reporting concentrations for thousands of chemicals for exposure scenarios that are very similar to those incorporated into the RSRs. The development of a single list of threshold concentrations that, if exceeded, would constitute a historical release that would need to be addressed under the Release Based Regulations, would provide significant clarity to the general public, the regulated community and the environmental professional community.

- It is difficult to provide further comments on this topic without the knowledge of how other parts of the proposed regulations will fit together (for example: will the regulations incorporate a period of time between the discovery of a historical release and regulatory reporting to allow responsible parties to remediate smaller releases prior to reporting?). Accordingly, we reserve further comments until such time as details become available.
- Because many of these topics are complicated, it would also be helpful to review the regulation/statute language that is being drafted as part of these reviews.
- We hope that all received comments are posted on the DEEP website and that there will be time allotted for future discussion at subsequent workgroup meetings.

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