

Good morning,

The Department remains hard at work reviewing, considering, and drafting changes, as appropriate, all of the comments received. We are working hard on this task, as we believe appropriately addressing public comments is critical to creating a balanced regulatory package.

In addition to the regulatory package that is underway, we have a few other items that are under discussion with the Working Group. We intend to discuss the following two topics further on Tuesday.

1. **Statutory Changes.** There are a few statutory changes that have been discussed with the Working Group. These changes will aid in the consistency, clarity and efficiency of the cleanup program and helps streamline the broader cleanup provision.
2. **PEP Qualification and Credentials.** We are sharing a PDF, titled “ERP Qualifications and Credentials.” This document was created in 2014 by the agency when we were looking at requirements for ERPs – now known as PEPs.

Other non-regulatory items under discussion include the [General Permit to Act as a Contractor to Contain or Remove or Otherwise Mitigate the Effects of Certain Releases](#), which is open for public comments until December 14, 2024 and the online reporting and tracking system that is under construction. We will be talking further with the Working Group on these additional topics at an upcoming meeting.

We look forward to the meeting later today.

Best,  
Emma

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*Conserving, improving, and protecting our natural resources and environment;  
Ensuring a clean, affordable, reliable, and sustainable energy supply.*

## ERP Qualifications and Credentials

<b>Experience</b>	<b>10 years</b> (unless education substitution below) In order to be admitted to the ERP course, must have 10 years of experience (within the past 20 years) in responding to hazardous materials incidents, including mitigation and/or remediation activities.
<b>Education</b>	<b>Substitution up to 4 years</b> Up to four years of the experience may be substituted with a degree in a relevant subject of study (biology, chemistry, earth science, geology/hydrogeology, environmental science, or other environmental field)
<b>Training</b>	<ul style="list-style-type: none"> <li>• <b>ERP Training Course</b> (on-line or in person to be developed by DEEP or 3<sup>rd</sup> party with DEEP review; offered by 3<sup>rd</sup> parties similar to UST Operator Training with certificate at the end) – 16hr.</li> <li>• <b>ICS 100, 200, &amp; 700</b> (incident command system) – 20hr. (avail. Online)</li> <li>• <b>OSHA 1910.120</b> – 40 hour Site Worker</li> <li>• <b>OSHA 30</b> (incl. trench, confined space, lock-out/tag-out, etc.) – 30hr.</li> </ul>
<b>Exam</b>	<b>Passing Score</b> (part of the 3 <sup>rd</sup> party training course similar to UST model)
<b>Duration</b>	<b>3-year certificate renewal cycle</b> (similar to UST model)
<b>Continuing Ed.</b>	<ul style="list-style-type: none"> <li>◆ <b>3-year refresher</b></li> <li>◆ <b>Maintain OSHA compliance</b></li> <li>◆ <b>Other?</b></li> </ul>

Duties to be performed by an ERP:

- 1) Perform investigative activities for the purpose of determination of the presence and extent of contamination from release. If a “significant environmental hazard” exists, the ERP must inform the responsible party and or property owner of their statutory obligation to report.
- 2) See options document for other possible duties.
- 3) In a situation where an early exit is not achieved, the ERP must inform the responsible party and or property owner of the requirements of the regulations to continue addressing release.

Section 1. Subsection (a) of section 22a-134rr of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person who creates or maintains a release to the land and waters of the state on or after the date when regulations are first [effective after being](#) adopted pursuant to section 22a-134tt shall, upon discovery of such release: (1) Report the release, if such a report is required by the regulations adopted pursuant to section 22a-134tt, and (2) remediate any release to the standards identified in regulations adopted pursuant to section 22a-134tt. If any person fails to comply with the provisions of this section and section 22a-134tt, such person shall be liable for any costs incurred by the commissioner in accordance with section 22a-451, or costs incurred by any other person who contains or removes or otherwise mitigates the effects of such release in accordance with section 22a-452.

Sec 2. Subdivision (1) of section 22a-134 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For the purposes of this section and sections 22a-134a to 22a-134e, inclusive, and sections 22a-134h and 22a-134i:

(1) “Transfer of establishment” means any transaction or proceeding, on or before the [effective date of](#) regulations **[are]** adopted pursuant to section 22a-134tt, through which an establishment undergoes a change in ownership, but does not mean:

(A) Conveyance or extinguishment of an easement;

(B) Conveyance of an establishment through (i) a foreclosure, as defined in subsection (b) of section 22a-452f, (ii) foreclosure of a municipal tax lien pursuant to section 12-181, (iii) a tax warrant sale pursuant to section 12-157, (iv) a transfer of title to a municipality by deed in lieu of foreclosure, (v) an exercise of eminent domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section 32-760, or (vi) a subsequent transfer by such municipality that has acquired the property pursuant to any mechanism described in subparagraphs (B)(i) to (B)(iii), inclusive, of this subdivision or pursuant to the remedial action and redevelopment municipal grant program established in section 32-763, provided (I) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (II) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner pursuant to section 22a-133x and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, or a Connecticut brownfield land bank;

(C) Conveyance of a deed in lieu of foreclosure to a lender, as defined in and that qualifies for the secured lender exemption pursuant to subsection (b) of section 22a-452f;

(D) Conveyance of a security interest, as defined in subdivision (7) of subsection (b) of section 22a-452f;

(E) Termination of a lease and conveyance, assignment or execution of a lease for a period less than ninety-nine years including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold, ninety-nine years, including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold;

(F) Any change in ownership approved by the Probate Court;

(G) Devolution of title to a surviving joint tenant, or to a trustee, executor or administrator under the terms of a testamentary trust or will, or by intestate succession;

(H) Corporate reorganization not substantially affecting the ownership of the establishment;

(I) The issuance of stock or other securities of an entity which owns or operates an establishment;

(J) The transfer of stock, securities or other ownership interests representing fifty per cent or less of the ownership of the entity that owns or operates the establishment;

(K) Any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee;

(L) Conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the benefit of one or more siblings, spouses, children, parents, grandchildren, children of a sibling or siblings of a parent of the transferor;

(M) Any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty days prior to such conveyance;

(N) Conveyance of a service station, as defined in subdivision (5) of this section;

(O) Any conveyance of an establishment which, prior to July 1, 1997, had been developed solely for residential use and such use has not changed;

(P) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;

(Q) Any conveyance of a parcel in connection with the acquisition of properties to effectuate the development of the overall project, as defined in section 32-651;

(R) The conversion of a general or limited partnership to a limited liability company;

(S) The transfer of general partnership property held in the names of all of its general partners to a general partnership which includes as general partners immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(T) The transfer of general partnership property held in the names of all of its general partners to a limited liability company which includes as members immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(U) Acquisition of an establishment by any governmental or quasi-governmental condemning authority;

(V) Conveyance of a unit in a residential common interest community;

(W) Acquisition and all subsequent transfers of an establishment (i) that is in the abandoned brownfield cleanup program established pursuant to section 32-768 or the brownfield remediation and revitalization program established pursuant to section 32-769, provided such establishment is in compliance with any applicable provisions of the general statutes, or (ii) by a Connecticut brownfield land bank, provided such establishment was entered into a remediation or liability relief program under section 22a-133x, 22a-133y, 32-768 or 32-769 and the transferor of such establishment is in compliance with such program at the time of transfer of such establishment or has completed the requirements of such program;

(X) Any transfer of title from a municipality to a nonprofit organization or from any entity to a nonprofit organization, as ordered or approved by a bankruptcy court;

(Y) Conveyance from the Department of Transportation to the Connecticut Airport Authority of any properties comprising (i) Bradley International Airport and all related improvements and facilities now in existence and as hereafter acquired, added, extended, improved and equipped, including any property or facilities purchased with funds of, or revenues derived from, Bradley International Airport, and any other property or facilities allocated by the state, the Connecticut Airport Authority or otherwise to Bradley International Airport, (ii) the state-owned and operated general aviation airports, including Danielson Airport, Groton/New London Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and Windham Airport and any such other airport as may be owned, operated or managed by the Connecticut Airport Authority and designated as general aviation airports, (iii) any other airport as may be owned, operated or managed by the Connecticut Airport Authority, and (iv) any airport site or any part thereof, including, but not limited to, any restricted landing areas and any air navigation facilities; or

(Z) The change in the name of a limited liability company as an amendment to such company's certificate of organization, pursuant to section 34-247a.

Sec. 3. Section 22a-6u of the general statutes is amended by adding subsection (p) as follows (*Effective October 1, 2025*):

(NEW) (p) On and after the effective date of regulations adopted pursuant to section 22a-134tt, the requirements of this section shall apply only to releases that, pursuant to subsections (c) and (d) of section 22a-134rr, are not subject to the requirements of 22a-134qq to 22a-134xx, inclusive and any hazard required to be reported by a municipality or Connecticut brownfield land bank pursuant to subsection (b) of section 22a-133dd.

Sec. 4 Section 22a-133y of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2025):

(a) [On and after January 1, 1996,] Before the effective date of regulations adopted pursuant to section 22a-134tt, any licensed environmental professional licensed by the State Board of Examiners of Environmental Professionals pursuant to section 22a-133v may, pursuant to a voluntary site remediation conducted in accordance with subsections (a) to (e) of this section, conduct a Phase II environmental site assessment or a Phase III investigation, prepare a Phase III remedial action plan, supervise remediation or submit a final remedial action report to the Commissioner of Energy and Environmental Protection in accordance with the standards provided for remediation in the regulations adopted by the commissioner under section 22a-133k for any real property which has been subject to a spill and which meets the following criteria: (1) Such property is located in an area classified as GB or GC under the standards adopted by the commissioner for classification of groundwater contamination; and (2) such property is not the subject of any order issued by the commissioner regarding such spill, consent order or stipulated judgment regarding such spill. Any such professional employed by a municipality may enter, without liability, upon any property within such municipality for the purpose of performing an environmental site assessment or investigation if the owner of such property is unknown or such property is encumbered by a lien for taxes due to such municipality. Nothing in this subsection shall affect the ability of any person, firm or corporation to provide any of the services enumerated in this subsection in connection with the remediation of contaminated real property other than as provided for a voluntary site remediation conducted pursuant to subsections (a) to (e) of this section.

(b) Following any Phase II environmental site assessment or a Phase III investigation for any such property, any Phase III remedial action plan prepared for purposes of a voluntary site remediation under subsections (a) to (e) of this section shall be prepared by a licensed environmental professional in accordance with the standards for such property adopted by the commissioner under section 22a-133k. Prior to commencement of remedial action taken pursuant to such plan, the owner of the property shall submit such plan to the commissioner and shall: (1) Publish notice of the remedial action in a newspaper having a substantial circulation in the town where the property is located; (2) notify the director of health of the municipality where the parcel is located; and (3) either (A) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the property, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remedial action; or (B) mail notice of the remedial action to each owner of record of property which abuts such property, at the address on the last-completed grand list of the relevant town. The commissioner may review such plan and may advise such owner as to the adequacy of such plan. The remedial action shall be conducted under the supervision of a licensed environmental professional. The commissioner shall expedite the process for issuing any permits required under this title for such action. The final remedial action report shall be submitted by a licensed environmental professional. In preparing such report, the licensed environmental professional shall render an opinion, in accordance with the standard of care provided for in subsection (c) of section 22a-133w, that the action taken to contain, remove or mitigate the spill is in accordance with the remediation standards for such property adopted by the commissioner under section 22a-133k. The owner of the property shall maintain all records relating to such remedial action for a period of not less than ten years and shall make such records available to the commissioner at any time upon his request.

(c) Any final remedial action report submitted to the commissioner for such a property by a licensed environmental professional shall be deemed approved unless, within sixty days of such submittal, the commissioner determines, in his sole discretion, that an audit of such remedial action is necessary to assess

whether remedial action beyond that which is indicated in such report is necessary for the protection of human health or the environment. Such an audit shall be conducted within six months of such determination. After completing such audit, the commissioner may disapprove the report provided he shall give his reasons therefor in writing and further provided such owner may appeal such disapproval to the superior court in accordance with the provisions of section 4-183. Prior to approving a final remedial action report, the commissioner may enter into a memorandum of understanding with the owner of such property with regard to any further remedial action or monitoring activities on or at such property which the commissioner deems necessary for the protection of human health or the environment.

(d) Upon the approval of such report, the owner of the property shall execute and record an environmental use restriction in accordance with the provisions of section 22a-133o, unless a licensed environmental professional presents evidence, satisfactory to the commissioner, that the remediation has achieved a standard sufficient to render such a restriction unnecessary and the commissioner issues a written finding that such restriction is not necessary. Approval of a final remedial action report pursuant to [subsections \(a\) to \(e\) of](#) this section shall be sufficient to support the filing of a Form II, as defined in section 22a-134.

(e) Nothing in this section shall relieve any person of any obligation to comply with sections 22a-134 to 22a-134e, inclusive.

[\(f\) On or after the effective date of regulations adopted pursuant to section 22a-134tt of the General Statutes, any licensed environmental professional licensed by the State Board of Examiners of Environmental Professionals pursuant to section 22a-133v may, pursuant to prevailing standards and guidelines, conduct a parcel-wide Phase II environmental site assessment and a parcel-wide Phase III investigation, for any parcel of real property which has, or which may have been, subject to a release as such term is defined in section 22a-134pp for the purposes of entering such parcel into a voluntary parcel-wide remediation program pursuant to subsections \(f\) to \(k\) of this section, except as provided by subsection \(g\) of this section. Any such professional employed by a municipality may enter, without liability, upon any property within such municipality for the purpose of performing an environmental site assessment or investigation if the owner of such property is unknown or such property is encumbered by a lien for taxes due to such municipality, or as otherwise provided for in section 22a-133e. Nothing in subsections \(f\) to \(k\) of this section shall affect the ability of any person, firm or corporation to provide any of the services enumerated in this subsection in connection with the remediation of contaminated real property other than as provided for a voluntary parcel-wide remediation conducted pursuant to subsections \(f\) to \(k\) of this section.](#)

[\(g\) A parcel shall be eligible for voluntary parcel-wide remediation pursuant to subsections \(f\) to \(k\) of this section if such parcel is not subject to sections 22a-134a to 22a-134e, inclusive, and sections 22a-134h and 22a-134i of the General Statutes; the parcel is not the subject of any order issued by the commissioner regarding one or more releases, or a consent order or stipulated judgement regarding one or more releases; and a parcel-wide Phase II environmental site assessment is initiated before the discovery of a release on a parcel subject to the requirements of chapter 445b for which a release remediation closure report has not previously been prepared, or not more than sixty days following the discovery of a release on a parcel for which a release closure report has not previously been prepared, provided any immediate actions otherwise required by the regulations adopted pursuant to section 22a-134tt are completed within a timeframe and in the manner required by such regulations.](#)

(h) Each release identified by a parcel-wide Phase II environmental assessment conducted pursuant to subsection (g) of this section through multiple lines of evidence or the laboratory analysis of samples taken from the land and waters of the state shall be determined to be discovered for the purposes of section 22a-134tt of the General Statutes, and any regulations adopted thereunder. Not later than the earliest deadline to report any release discovered pursuant to subsection (g) of this section set out in regulations adopted pursuant to section 22a-134tt of the General Statutes, the environmental professional shall provide notice to the commissioner, on a form prescribed by the commissioner, of the intent to enter the voluntary parcel wide cleanup program. Such form shall include, but not be limited to, the date of the initiation of the Phase II environmental site assessment, a description of the investigation conducted, and the identification each release discovered.

(i) Each release discovered pursuant to subsection (h) of this section shall be subject to the requirements of chapter 445b, and the regulations adopted pursuant to section 22a-134tt, provided that, notwithstanding the requirements of such regulations for each release for which immediate action is not required by regulations adopted pursuant to section 22a-134tt:

(1) For each release discovered pursuant to subsection (g) of this section, any investigation or characterization required to assign the release to a cleanup tier shall be completed and submitted to the commissioner not more than two years after the initiation of the parcel-wide Phase II environmental site assessment. The commissioner may audit such submission and, if the commissioner determines that the investigation or characterization is inadequate, may specify a schedule for the completion of additional investigation or characterization. If such additional investigation or characterization is not completed on such schedule, the commissioner may subject each release discovered pursuant to subsections (g) and (h) of this section to the requirements of chapter 445b;

(2) Upon completion of tier characterization, each release discovered pursuant to subsections (g) and (h) of this section shall be grouped together for the purposes of assignment to cleanup tier for the purposes of regulations adopted pursuant to section 22a-134tt. Such releases shall be assigned to the environmental professional supervised cleanup tier with the longest timeline for remediation;

(3) To the extent each release discovered pursuant to subsection (g) and (h) of this section is subject to any fee assessed by regulations adopted pursuant to section 22a-134tt, releases grouped together pursuant to subdivision (2) of this subsection shall be considered a single release for the purpose of calculating the fee assessed; and

(4) Any deadline for remediation of releases grouped together pursuant to subdivision (2) of this subsection imposed by regulations adopted pursuant to section 22a-134tt shall be extended by one year.

(j) Any parcel remediated pursuant to the requirements of subsections (f) to (k) of this section shall be eligible for a covenant not to sue pursuant to section 22a-133aa, provided a detailed written plan for remediation of the property, in accordance with standards adopted by said commissioner pursuant to section 22a-134tt, has been approved by the commissioner.

(k) The commissioner shall expedite the process for issuing any permits required under this title for parcel-wide remediation.