



Q&A

Draft Release-Based Cleanup Regulations

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AGENDA

1. Opening Remarks – Agencies and Legislative
2. Discussion of Purpose of Q&A Session
3. Q&A Session
4. Public Comments

PURPOSE OF Q&A SESSION

- Question and Answer session set up to help Working Group members best frame your comments on the draft regulations
- Many thoughtful comments, questions, and ideas received
- DEEP reviewed all of your thoughtful submittals and saw many common themes

Next Steps:

- Written Comments due: February 29th
 - **We hope this discussion will be helpful to hone what you have already submitted**
- DEEP will review your comments and submit a new draft of these regulations to the Working Group
- Formal regulatory process (typical first touchpoint) to follow

Q&A - Themes

- ❖ Maintainer
- ❖ Releases reportable under 22a-450 that require action under RBCRs
- ❖ Characterization
- ❖ Grouping releases, consolidating notices, streamlining fees
- ❖ 22a-454 permits for PEPs
- ❖ Residential
- ❖ Emerging Contaminants
- ❖ Transportation & Utilities

Maintainer

- ❖ Discussion on maintainer/maintenance as used in the RBCRs

Question:

- ❖ I assume the present site owner would constitute the person “maintaining” the release during their period of ownership. Suppose the owner discovers a condition they did not cause, reports it, initiates remediation timely, and otherwise does everything right during their ownership period. Now suppose there is a sale. Is the new owner now the maintainer of the previously-reported release? Does the former owner bear any responsibility (following the sale) for the release they discovered and reported but did not create?

Releases reportable under 22a-450 that require action under RBCRs

- ❖ Discussion on what is reportable under Release Reporting Regulations (22a-450) and what triggers an obligation under the RBCRs

Question:

- ❖ Are releases to indoor floors that are cleaned up then required to be investigated and cleaned up under the release-based cleanup regulations? What about releases to secondary containment?

Characterization

- ❖ Discussion on characterization – guidance documents, tier characterization, and full characterization

Questions:

- ❖ When with the draft release characterization guidance document be developed? Will a draft be developed before the regulations go to public notice?
- ❖ Has the Department considered further the need for “full characterization?”

Grouping releases, consolidating notices, streamlining fees

- ❖ Discussion on a new site-wide characterization and cleanup approach for cleanups not in one of the formal Brownfield cleanup programs

Questions:

- ❖ Some remediation projects may have a lot of individual releases. Will the department create a mechanism to bundle releases to avoid or reduce the need to pay multiple fees for one property? Bundling releases would also allow for consolidation of submittals and communication.
- ❖ How would the RBCRs handle a situation where a due diligence Phase I/II/III was completed for a prospective purchase/sale, and say 25 release areas of a variety of flavors were identified in the process? Would each one follow an individual track according to its flavor, or is there a way to combine/group the follow-on characterization and remediation work for all the release areas of the same flavor? Or for example, could the owner enter the site in a VRP and do a site-wide characterization and remediation, similar to a PTA site?

22a-454 Permits for PEPs

- ❖ Discussion on 22a-454 Permits for PEPs in addition to 22a-454 Permits for companies.

Questions:

- ❖ Why does DEEP propose to allow PEPs to certify release that have any impact to groundwater, assuming such impact is not persistent? Will PEPs be adequately trained to determine that groundwater impacts are not persistent? How will the Department expect PEPs to determine where to place the well “immediately downgradient” of the release? Will PEPs have the level of training and experience to identify the appropriate location immediately downgradient?
- ❖ Can the CTDEEP please clarify if businesses that are already permitted for collecting, storing, treating, or disposing of the listed waste types in CGS Section 22a-454 will be considered “PEPs”? And can a business that employs a PEP or LEP serve in that role for releases under the new program.
- ❖ Will there be any minor or incidental releases that do not require PEP or LEP review and signoff? Are there any requirements for new releases that are not considered an “emergent reportable release”?

Residential

- ❖ Discussion on how program relates to residential properties

Questions:

- ❖ Approximately how many spills are currently reported and remediated from single family homes? Approximately how many spills will be anticipated to be reported and remediated from single family homes under the new program?
- ❖ Connecticut is currently in a housing crisis and we have seen inward migration patterns from our neighboring states like New York, why were residential properties included in the regulations? What sort of impact do you estimate that these regulations will have on homebuyers? On homeowners?

Emerging Contaminants

- ❖ Discussion on how program would address emerging contaminants like salt and PFAS

Questions:

- ❖ Do salt or other materials used to make roads safe and passable during snow and ice events that cause contamination in a public or private drinking well constitute a release? A Significant Existing Release? One that requires closure through the RBCR's and not just the restoration of a potable water supply?
- ❖ Road salt is a legitimate concern in parts of the State. Would the owner of a home or business, under the draft language as written, have actual knowledge of a release if they applied road salt to their property? Are road salts an incidental source required for the maintenance of roadways and use of vehicles and therefore not subject to discovery or reporting?
- ❖ What would be required under the RBCRs for PFAS detection in a drinking water well and if a cleanup is required to what level?

Transportation & Utilities

- ❖ Discussion on how program relates to utility or transportation projects, especially on properties not owned by a utility company or in the public right of way

Questions:

- ❖ Will entities that maintain (control) public roadways and railways be responsible for immediate actions and characterization resulting from releases from the traveling public? Large releases (tankers)? Motor vehicle collisions?
- ❖ Can all instances of “parcel” that occur within the regulations be reviewed to see if it should be amended to say “parcel or public roadway”? Public roadways do not neatly fit in the regulation’s definition of parcel. For example, the industrial/commercial exception provided in the definition of “Tier Characterization” would seemingly only apply to parcels and not roadways.



Discussion