

August 8, 2023

Graham Stevens  
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79 Elm St.  
Hartford, CT 06106  
By email: [Graham.Stevens@ct.gov](mailto:Graham.Stevens@ct.gov)

**RE: Comments on PEP Draft Regulatory Language, Subcommittee 6**

Dear Graham,

This letter has been prepared by the undersigned members of Subcommittee 6 (Modifications of Clean-Up Standards for Lower-Risk Releases). We thank the Department for its continuing efforts to incorporate the feedback of the various subcommittees into the release-based remediation program as it takes shape. We are particularly appreciative of the opportunity to comment on draft regulatory language concerning Permitted Environmental Professionals (PEPs), as discussed at the July 11 Working Group Meeting.

In its Concept Paper, Subcommittee 6 recommended (among other things) that DEEP develop:

- 1) Closure for the lowest-risk contemporaneous releases without laboratory analytical data, and
- 2) Closure permitting a “trained professional” to determine that a release has been adequately characterized and addressed with limited post-remediation sampling.<sup>1</sup>

Given that Subcommittee 6 was meeting at the same time as Subcommittee 7 (LEP-implemented, Risk-Based Alternate Cleanup Standards), Subcommittee 6 focused its efforts on non-LEPs.<sup>2</sup>

While Subcommittee 6 did not reach a consensus definition of “lower-risk releases” we were able to proceed with discussions by focusing on the lowest-risk releases. Subcommittee 6 classified releases into four categories for the purposes of its discussions:

- Category 1 releases – Close without laboratory analysis. This category was meant to include the most minor releases, with suggested requirements including: not an immediate risk to human health or the environment; not a subsurface release from an underground storage tank system; released material is a known substance that does not contain PCBs, halogenated solvents, or more than 30% concentration of materials identified in Appendix A of the Release Reporting Regulations (§§ 22a-450-1—22a-450-6); release is contemporaneous and meets specified volume limits and removal and/or remedial deadlines.
  - Examples include small surface spills onto asphalt and or other impervious surfaces, releases to secondary containment.
- Category 2 releases – Close with limited laboratory analysis. Releases closed with limited sampling by a non-LEP trained professional and subject to suggested

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<sup>1</sup> Subcommittee 6 Concept Paper, at 2.

<sup>2</sup> *Id.* at 3.

requirements including thresholds on the amount of volume released and/or amount of impacted soil (100 cubic yards for petroleum-impacted soil, 20 cubic yards for soil impacted by a different substance). Most such releases would be contemporaneous, but some members suggested that a subset of well-understood historical releases could be closed with limited sampling.

- Examples include release of viscous substance like asphalt with soil removal; small release of substance that hardens and does not migrate in soil.
- Category 3 releases – LEP-self implementing pathways. Releases closed by LEPs through the existing self-implementing means, and/or through new pathways developed pursuant to Subcommittee 7's recommendations.
- Category 4 releases – use of a risk assessment. Subject to further development, including through the ad hoc team convened to discuss risk assessments.

While Subcommittee 6 did not discuss the role of non-LEP professionals in detail (see the work of Subcommittee 10) we note that our suggestions for streamlined pathways and non-LEPs (either regular civilians or trained professionals) contemplated limitations on the substance released and the volume of the release and/or impacted materials. We urge DEEP to include similar limits on the releases subject to Certification by Permitted Environmental Professionals.

We assume that the RSRs will be amended to include 1) means of documenting that a release to an impervious and/or interior surface has been adequately addressed, and 2) means of documenting that very small releases to soil have been adequately remediated, short of soil sampling. We assume that one or both of those mechanisms might be utilized by PEPs, for example to demonstrate that all soil impacted by a release has been removed and properly disposed of. Once these and other concepts are further developed, we reserve the right to comment further, including comments on related sections like PEPs.

Thank you for your consideration.

Members of Subcommittee 6:

Scott Burrus

Sam Haydock

Marilee Gonzalez

Emilee Scott

George Gurney

Tim Whiting

Matt Hackman

David Williams