SECTION 1: INTRODUCTION

The Tiers Subgroup is pleased to present our recommendations and suggestions related to classification of releases into Tiers that reflect the risks posed by the release to public health and the environment. We believe the release-based cleanup program that ultimately matures from the work of our subgroup and others must encompass a program that is flexible, clear, transparent and predictable. To that end, we envision that releases placed into tiers, as further discussed below, are those releases that require some time to remediate. The reasons for such time will be from a variety of factors, including, but not limited to, remaining soil and/or groundwater contamination above applicable standards, the scale of existing impacts, or ongoing operations making remediation more difficult, among other potential reasons.

We see tiers as designations to allow the public to quickly gain some understanding of the significance of the potential risk posed by the release and as references for the appropriate actions and timeframes to be applied for the release to either be "closed" in compliance with applicable criteria or controlled such that a lower tier designation is appropriate and protective. Ultimately, we believe the goal of the release-based cleanup program is for releases to be remediated sufficiently to exit the program, but we also recognize that releases will have disparate environmental impacts and some releases, albeit stabilized, may require longer term monitoring or are in a holding pattern awaiting future development. The following sections outline our assumptions and recommendations regarding tiering procedures, tier classifications, and administration of releases within tiers.

SECTION 2: GENERAL ASSUMPTIONS

A. We assume that there is some "release" that has been "discovered."
   1. This may be either a contemporaneous release (i.e., a spill) or a historical release that has been "discovered" as defined in the release-based regulations that will be developed.
   2. We assume that the recently proposed spill reporting regulations will address contemporaneous releases and that to-be-developed regulations will address discovery and reporting of historical releases.
   3. We assume that reportable quantities and/or reportable concentrations will be developed to identify reportable releases.
   4. We understand that the Release Discovery Subcommittee is developing recommendations on these topics.

B. We assume that some discovered releases must be reported to CTDEEP while others will not need to be reported.
   1. We assume that when there are no constituents of concern detected above regulatory levels at an area (characterized to the extent recommended by the Characterization subcommittee), no action will need to be taken.
   2. We are uncertain as to whether a de minimis spill (e.g., tablespoon of gasoline while filling lawnmower) will constitute a "release" but we assume that such event need not be reported. We assume the spill reporting regulations will cover which contemporaneous releases are reportable.
   3. We assume the Reporting subcommittee will develop recommendations on what should be considered a reportable historic release based on data from an "adequate investigation" defined by the Characterization subgroup.
   4. We assume each reportable release will be assigned a unique release identification number or release tracking number (RIN/RTN) (and that there will be a mechanism for combining releases under a single RIN/RTN as an option to enhance efficiency).
   5. **We strongly recommend that CTDEEP have a robust, up to date online system to track RIN/RTNs and submittals related to RIN/RTNs that is searchable by the public.**

C. We assume that some period of time will elapse between discovery and reporting.

1. As noted above, we assume that some discovered releases will not need to be reported. This may be because the release does not meet one of the to-be-determined thresholds or types for reporting, or potentially because the release has been sufficiently addressed before the relevant reporting deadline.
2. We assume that the interval between discovery and reporting will allow for preliminary evaluation that would inform whether the release is even reportable.
3. We are uncertain as to whether releases that can be fully remediated before the reporting deadline will be reportable, though we note that in Massachusetts certain otherwise-reportable releases are not reportable if cleaned up before the reporting deadline.
4. If there is no pre-tier period, we recommend that a "Holding Tier" or "Tier Naught" be established. Remediated releases in such a Holding Tier would have an early exit before moving to Tier I, Tier 2 or Tier 3.

D. We assume that characterization and remediation may begin immediately and need not wait for reporting or tier classification.
   1. We assume that remedial work, including site characterization, can (as appropriate) begin before tier classification and that the Immediate Response Actions (IRA) subcommittee will address the specifics for how those actions could lead to resolution of the release.
   2. We assume that IRAs will include those actions that **must** be taken (to address immanent hazards/ significant environmental hazards) and those that **can** be taken (to proactively address releases), the results of which may result in acceptable outcomes for early exit from the program before tiering occurs. Residual contamination following IRAs may require the release to be placed in a Tier if the contamination is above applicable remedial standards.
   3. We assume that the IRA subcommittee will address what documentation will be necessary to "close" (verify, certify or other) a release so as to avoid the need for Tier Classification.
   4. We assume that some "incentives" will be provided to remediate releases quickly to avoid moving into a Tier.
   5. We assume that pre-tiering cleanups will be guided by work to be done by other subcommittees and may be allowed to be overseen by persons other than Licensed Environmental Professionals (LEPs).

E. We recommend that some period of time be allowed between reporting and placement into one of the core tiers discussed below.
   1. We suggest that reportable releases be assigned to pre-tier "holding" or "waiting room" between discovery and tier classification. The "waiting room" would allow a researcher and the general public to quickly understand that a release has not reached its Tier Classification deadline. As noted above, if assignment to a tier must occur before one year has elapsed since reporting, we recommend that the initial tier assignment be to a "tier naught" to permit one year of work before assignment to a core tier.
   2. A majority of the Subcommittee members suggest that the tier classification deadline to place a release into a tier be one year from the date of reporting. Other group members suggest alternative deadlines ranging from six months to two years. There was also discussion of an ability to seek to extend the deadline.

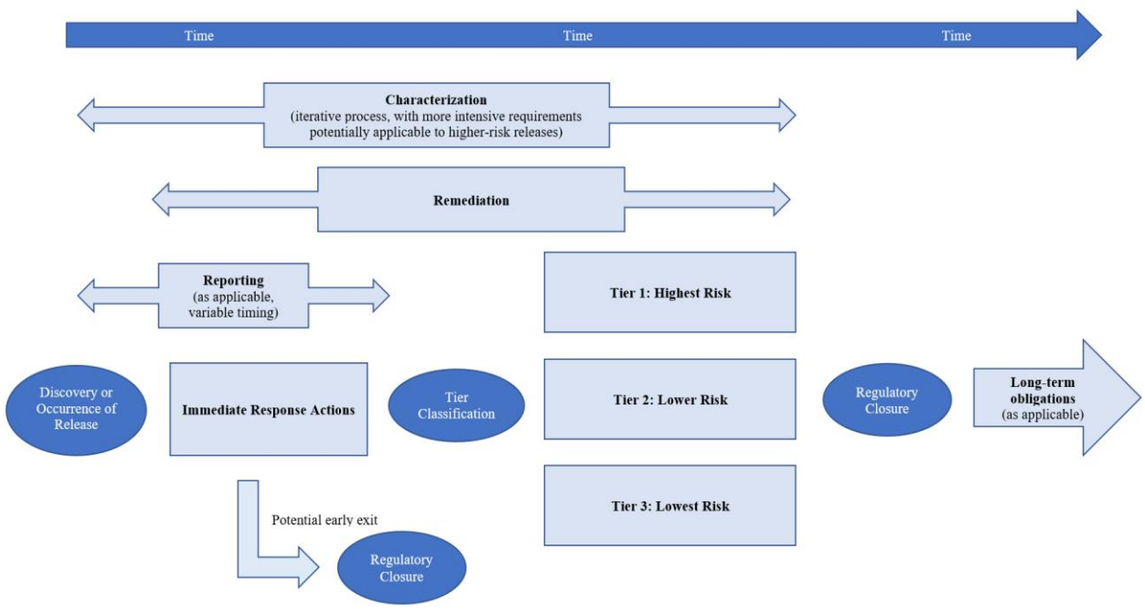
F. We assume that, consistent with the statute, responsibility for reporting with rest with the creator or maintainer of the condition, i.e., a responsible party or "RP". We assume that if a RP fails to take action required by the new regulations (e.g., fails to report, fails to characterize, fails to remediate) then they would be subject to enforcement by CTDEEP. We recommend that any enforcement efforts be focused on Tier 1 releases since they pose the most direct risk to human health and the environment.

G. It is the majority opinion of the Tiers Subgroup that newly discovered historic releases (primary release) on parcels or in areas of parcels that contain polluted historic fill/anthropogenic background should not be subject to additional or more onerous requirements to reach closure based on the presence of these materials. The tiering and response to the primary release should be limited to the risk posed by the primary release

and the presence of polluted historic fill/anthropogenic background should not create additional obstacles or delays to the reuse of properties by requiring the owner to address the historic fill on the full parcel or larger portions of the parcel beyond the primary release area for the newly discovered historic release. Most Subgroup members believe anthropogenic background/historical fill needs special consideration – NOT as a release, unless the fill poses an imminent threat.

1. Some Subgroup members do not agree that anthropogenic background/historical fill containing substances above applicable remedial criteria should be treated differently from other releases.
2. All Subgroup members agree that this issue is larger than whether such material should be tiered and strongly recommend that an Ad Hoc committee be established to explore this issue in greater detail to provide recommendations covering all aspects of release reporting, characterization, remediation and related processes.

The graphic below outlines the Subgroup's vision of the general timeline under which releases will be investigated and remediated.



SECTION 3: TIERING PROCEDURES

A. "Tiers" include Tier 1A[1], Tier 1B, Tier 2 and Tier 3. These tiers are used to classify the significance of releases and oversight responsibility as they are being investigated / remediated or have been stabilized and deferred for specific reasons such as more efficient remediation during redevelopment. Whether or not releases are assigned to a pre-tier category before or post-tier category after they move through the Tiers, these before and after status categories will not be considered "Tiers."

B. We assume that Tiers are for "long-term" releases that will take time to remediate and for releases that could be cleaned up quickly (prior to tier classification) but are not remediated for any one of a variety of reasons (e.g., future redevelopment properties).
   1. As discussed below, releases will be assigned to tiers based on risk, and some amount of time and level of characterization is required to develop the knowledge necessary to support tier classification.
   2. Consistent with PA 20-9, we suggest that each release be assigned to a Tier based on the risk presented by such release, and that each tier will correspond to a different level of

[1] A few team members suggest a combined Tier 1 rather than subdividing Tier 1 to Tier 1A and Tier 1B.

oversight and allowable timeframe for completion of response actions, as further discussed in Sections 3 and 4.

a. Each release should be assigned to a tier and one property may have multiple releases in more than one tier. For commingled releases, the procedures applicable to the highest-risk release should control within the footprint of the higher tier release area.
b. We recommend that the tier classification be the responsibility of the entity responsible for undertaking the cleanup (i.e., the RP) [2].
c. Subject to the assumptions above, we suggest that tier classification be accomplished by LEP signature on a form developed by the commissioner. Since tier classification is based on a technical assessment of risk presented that must rely on some level of characterization, such assessment (certification) should be made by an LEP. Tier classifications should be auditable by the CTDEEP.
    1. We recognize that there may be many qualified technical environmental professionals that could adequately assess risk and assign releases to appropriate tiers, however, within Connecticut an LEP is "pre-qualified" based on appropriate training, licensure and continuing education requirements.

C. We believe that the tier framework should be a mechanism for describing the risks presented, level of oversight necessary, and allowable timeframe to address a release <u>while it is actually being remediated</u> (whether actively or passively).

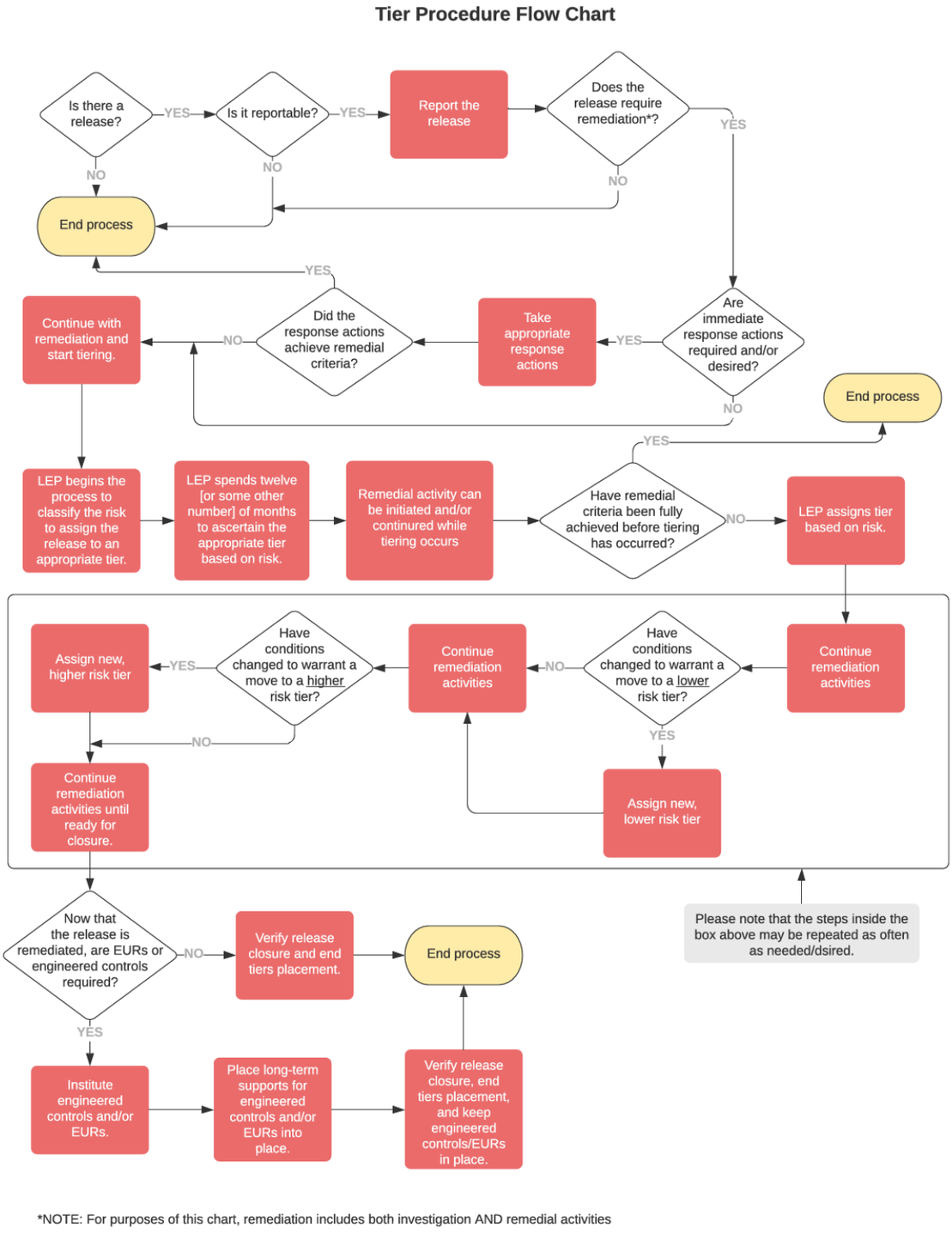
D. Since tier classification is based on the risk presented by the release, as identified by "open" or "controlled" exposure pathways identified by the LEP, there should be an opportunity to change a release's tier classification when the risk profile materially changes.
    1. For example, suppose a Tier 1 release is so classified because of actual/potential impacts to drinking water. Once those impacts are controlled or the exposure pathway is eliminated or otherwise sufficiently addressed, there should be an opportunity to assign the release to a lower tier. Conversely, if a new exposure pathway that would potentially impact drinking water is uncovered after initial tiering has occurred, reassigning the release to a higher tier would be appropriate.
    2. Tier reclassification can be initiated by CTDEEP or the LEP. If initiated by CTDEEP, the RP will have an opportunity to present information supporting its view of the appropriate tier.

E. The Tiers Subgroup strongly recommends that releases placed into Tiers 1 and 2 should default to the oversight of LEPs. CTDEEP may affirmatively choose to assume oversight of highest risk releases with notice to the RP, until the highest risk is abated, after which the release may be "turned over" to LEP oversight until completion. The Subgroup is of mixed opinion as to whether Tier 3 releases require LEP oversight or could be performed by other qualified environmental professionals (QEPs), but the majority agree that final closure would require LEP documentation of regulatory compliance.
    1. We suggest that CTDEEP have an opportunity to take on oversight of only Tier 1 releases. To the extent that CTDEEP feels the need to take on oversight of a Tier 2 release, it would need to be re-designated to Tier 1 as part of the process.
    2. LEP oversight tiers include Tier 1B and Tier 2 as further described below. If CTDEEP takes on an oversight position (reviewing and approving all aspects of investigation / remediation), the release would be assigned to Tier IA (DEEP oversight). Tier 1A releases should be a significant minority of those releases reported.
    3. Releases would be placed in Tier 3 after "interim verification" by an LEP (Tiers 1B, 2) or approval by CTDEEP (Tier 1A). Tier 3 releases that are in a "maintenance mode" (e.g., on-going monitored natural attenuation) may be adequately monitored by QEPs.[3] However, absent regulatory changes, any final closure requiring a demonstration of compliance with applicable remediation standards should be overseen by an LEP.

[2] Consistent with PA 20-9, the responsible party is "any person who creates or maintains a release".
[3] The Tier s subgroup suggests QEPs be identified based on credentials, say 6 years of similar experience.

F. We recommend that once a release has achieved regulatory closure, it should exit the tier framework.
   1. Finality and certainty are overriding objectives of PA 20-9 and remaining in a tier after regulatory closure would cut against the goal of finality.
   2. We recognize that some methods of regulatory closure have associated long-term obligations (e.g., EURs, engineered controls). To the extent that the chosen regulatory closure method has associated long-term obligations, those obligations should be managed outside the tier framework and under the requirements specific to that endpoint (e.g., EUR regs).
   3. We recognize that documentation supporting a "closure" sufficient to exit the tiers classification framework will be needed. Recognizing that a later subgroup will address release "closure", we provide preliminary recommendations below for consideration.
   4. We acknowledge that PA 20-9 directs that tier classification should depend, among other factors, on "the extent to which the proposed remediation will not remove the release, in its entirety, from the land and waters of the state but will instead leave behind pollutants to be managed using a risk mitigation approach authorized by regulations adopted pursuant to this section." PA 20-9 § 19(d)(4).
      a. We anticipate that some may interpret this statutory language as directing that releases should remain in a tier past regulatory closure if some pollutants are "left behind" under a closure mechanism like an EUR. We disagree with this interpretation and think that regulatory closure should mean **closure** (and exit from the tier framework/release-based remediation program) for all regulatory closure options.
      b. Constituents present under RSR criteria or managed subject to an engineered control or EUR should not be managed under a tier.
      c. Remediation does not necessarily "remove the release, **in its entirety**, from the land and waters of the state" (emphasis added), even when RSR standards are achieved. This is consistent with the fact that the RSRs provide many instances for contaminants to remain in place under certain conditions.
      d. We believe that this statutory directive can be satisfied by differentiating quick and complete remedial actions (e.g., in a situation with impacts to soil and no impacts to groundwater) and providing opportunities for early exits, while requiring that more time-consuming strategies be placed in a tier.

The following graphic outlines our recommendations for tiering procedures.



*NOTE: For purposes of this chart, remediation includes both investigation AND remedial activities

SECTION 4: TIER DESIGNATION FACTORS

The table below proposes alternatives and the factors for tier classification. A majority of the subcommittee members favor Alternative A:

Under Tier Alternative A - All Tier 1 releases are initially set at Tier 1B (i.e., led by a Licensed Environmental Professional [LEP]) unless the Department of Energy and Environmental Protection (DEEP) decides to retain oversight authority similar in concept to LEP authorization scheme under the Connecticut Transfer Act (CTA) presently. Tier 1A is CTDEEP-oversight and is intended to be limited to as small a subset of releases as practicable and within CTDEEP resources.

Under Tier Alternative B - Alternative B was proposed for simplicity and combines Tiers 1A and 1B under an umbrella category of Tier 1.

Assumptions/Options for Tiering:

A. Tier 3 is a placeholder for stabilized releases on a deferral status (such as groundwater monitored natural attenuation or a pending EUR) with periodic reporting on release or institutional control status.
B. Tier classification can be changed to a higher or lower tier at any time after initial classification and following a prescribed regulatory procedure based on the then existing exposure pathways (new discovery of open pathway or closure of a pathway) in connection with the release.
C. A majority of the subcommittee members appear to favor having LEPs or CTDEEP oversee any release that makes it to a "core tier". However, the subcommittee discussed using "LEP's-to-be" or other qualified environmental professionals to handle some of the load for releases that don't require LEP involvement (no EURs, engineered controls or for Tier 3 "maintenance" releases prior to final closure, for example) and ideally better manage costs to the RP.
D. The Tiers Subgroup has developed recommendations for time frames for completion of remediation, as incorporated below and discussed in Section 6.

Tier Class	Criteria	Evaluation Factors	Notes
"0"	**N/A**	• Pre-tier period (1 year – TBD by preceding Subcommittees) where immediate removal actions or timely remediation to achieve closure can be implemented prior to need to assign a tier classification.	
1A	**Releases posing the highest risk to human health and/or ecological receptors ALONG with Identified open exposure pathways or pathways that have a very high likelihood of being open based on the available information.** **Tier 1B releases with insufficient progress to resolution or high risk/high impact to receptors**	Examples/factors the CTDEEP **<u>may</u>** use to choose to retain oversight of a release may include: • Significant Environmental Hazards (SEH) releases to which the RP has not yet adequately responded. • Contamination of a Public Water Supply Well or System above drinking water standards. • Complete (open) exposure pathway(s) to sensitive receptors remain after pre-tier period (1 year?) • Bio accumulators or other materials with increased toxicity to certain populations A few Subgroup members also believe the following should be considered for Tier 1A status: • Contamination (at any level) of a Public Water Supply Well or System by emerging contaminants for which standards have not yet been established. • Sites with high public visibility or large degree of public involvement. • Potentially any ecological receptor site since the RSRs do not cover remediation of sediments, surface waters, or other ecological impacts.	• DEEP enforcement may place a release in Tier 1A or 1 depending on Tier Alternative. • This category to be tightly limited to the releases with the highest risk that also recognizes the limited resources of the CTDEEP • Removal/closure of identified exposure pathways would allow drop to Tier 2. • DEEP can reassign a release to LEP oversight (1B, 2, or 3)
1B	**Releases that exhibit SEH conditions or releases posing the highest risk to human and/or ecological receptors ALONG with Identified Open Exposure**	• Public or private drinking water supply wells with detected pollution (above or below the Groundwater Protection Criteria).	• Need definition of short-term, significant risk to aquatic life (as a multiplier of Surface Water Protection Criteria

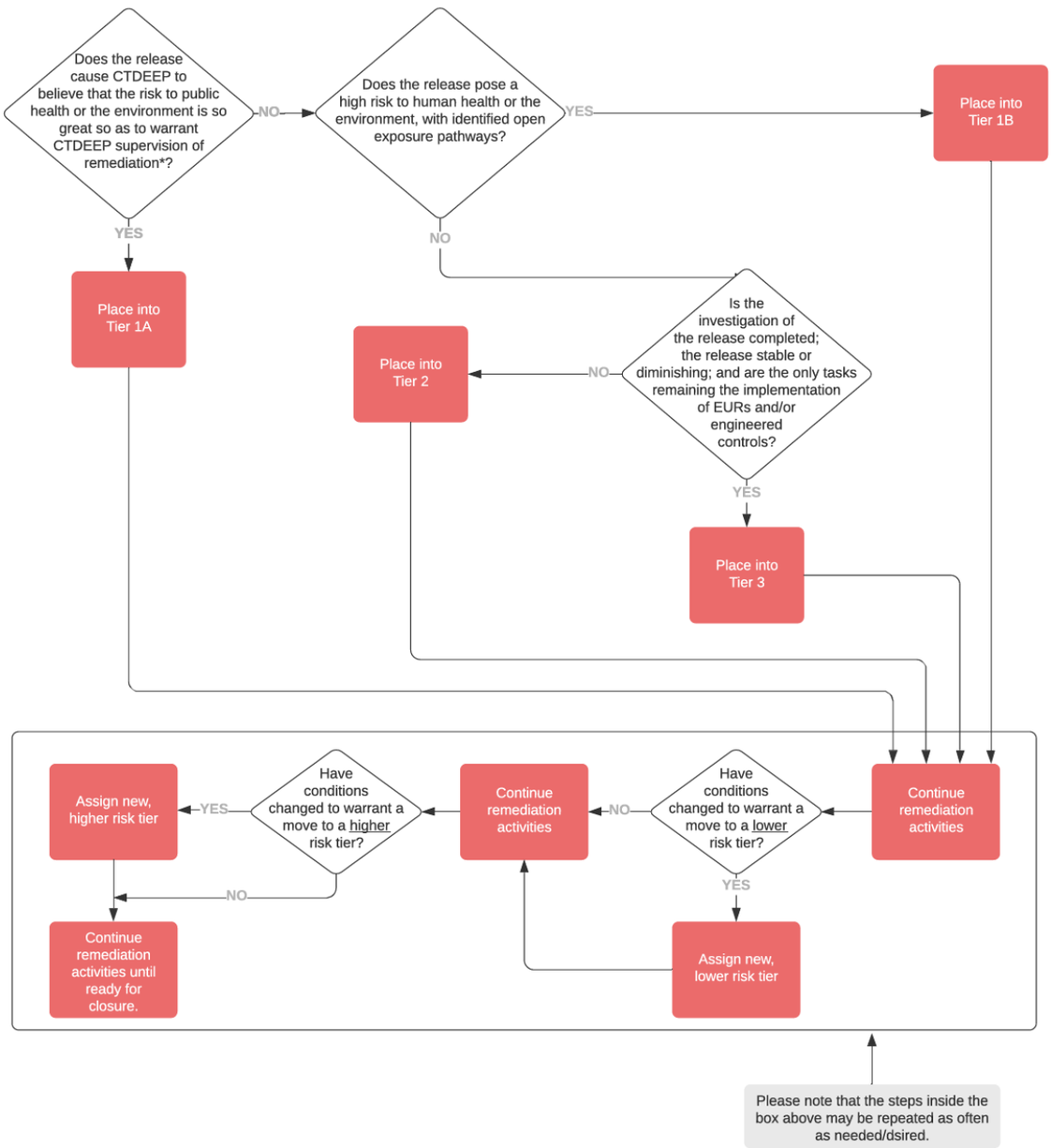
	Pathways or Pathways that have a very high likelihood of being open based on the available information **Releases of "Emerging Contaminants" with exposure pathway(s) that have not been removed or interrupted.**	• Polluted groundwater 500 feet upgradient of or within 200 feet in any direction of a drinking water supply well with pollution detected above the Groundwater Protection Criteria. • Polluted groundwater above site-specific surface water protection criteria, discharging to a surface water body with the potential to pose a short-term, significant risk to aquatic life. • Polluted soil present within two feet of the surface with the potential to pose a short-term direct contact risk to humans. • The presence of vapors from polluted soil, groundwater and/or residual free product which poses a vapor intrusion risk.[4]. • A COC contaminant plume in GW groundwater is identified but not fully delineated with potential complete receptor pathways.	(SWPC) and Water Quality Standards (WQS)?] • Sediment impacts (aquatic life issues / shellfish beds, recreational exposures, etc.) considered but the lack of criteria (other than those based on SWPC and WQS) makes this problematic. • Implementation of mitigation measures (for example - point of use water filters or installation of a subslab vapor mitigation system or equivalent mechanisms) would allow reduction to Tier 2. • Use of SEH criteria provides familiarity with existing CTDEEP program, integrates SEH with release-based program. • Completion of investigation COI and demonstration that exposure risk is mitigated allows reduction to Tier 2 or Tier 3, as appropriate. • Tier 1 releases must be remediated or reclassified to Tier 2 or 3 within three years after the release is reported.
2	**Default Tier for release, unless the release meets the thresholds for classification for Tier 1 or Tier 3.**	• Releases that will require the application of Remediation Standard Regulation (RSR) measures or other adopted remediation requirements that are self-implementing by an LEP or require CTDEEP approval of variances or alternatives applied for by the LEP. • Contamination exists above RSRs or other applicable criteria, but no open exposure pathway(s) exist to human receptors. • Remediation required to achieve compliance with the RSRs and to remove sources of groundwater impacts to address risks to ecological receptors (compliance with the applicable surface water protection criteria). • Remedial Action Plan (RAP) prepared by LEP.	• Tier 2 releases must be remediated within six years after the release is reported with an option for extension by the LEP.

[4] Releases on properties used for residential purposes warrant special consideration for conservative risk comparisons that are protective but sensitive to economic impacts to the RP (particularly homeowners).

3	**Stabilized and Deferred-Closure Releases**	• Completion of investigation in-place and release is stable with stable or diminishing state groundwater plume (if groundwater is impacted) and/or soil vapor mitigation in place (if soil vapor is impacted). • EUR pending for release closure.	• Tier 3 releases are not subject to the 6-year remediation deadline, but after year six, 5-year reviews must be provided to explain why continued Tier 3 status is appropriate.

A Tier selection flow chart is graphically depicted below.

Tier Selection Flow Chart



*NOTE: For purposes of this chart, remediation includes both investigation AND remedial activities

SECTION 5: ADMINISTRATION

Below the Tiers Subgroup provides recommendations for the communications, including forms, to be utilized subsequent to a release and throughout its characterization, remediation, and closure.

We recommend that CTDEEP develop forms for these submissions, available upon the effective date of the regulations, and that the number of forms be kept small (possibly just one omni-form) by allowing them to be inclusive of many categories. We strongly also recommend that all filings be electronic.

A. Characterization/Tiering Timeline

The level of understanding of any given release is difficult to predict, changes over time, and is different for historical releases versus new ones. Thus, determining the proper credentials and qualifications for parties assuming responsibility for characterization and cleanup is difficult. For Tiered Releases, verification by an LEP or Commissioner approval should be required to close any

release requiring a demonstration of compliance with applicable remedial criteria. We recommend that:

- The RP has 1 year from the reporting of the release to submit the tier classification for the release. The tier classification documentation should be prepared by an LEP.
- Releases remediated before the 1-year deadline for tiering do not require a tiering to be submitted.
- Characterization of a release for Tier 1B, Tier 2 or Tier 3 does not require prior approval from CTDEEP. The Tiers Subgroup also recommends that CTDEEP approval requirements for characterization of Tier 1A releases be minimized.
- Tier 1 and Tier 2 releases should be either CTDEEP lead (Tier 1A) or LEP lead (Tier 1B & Tier 2), with the default being LEP lead.
- Tier 3 releases in "maintenance mode" (e.g., long term monitoring) could be led by a QEP. The definition of a QEP has not been agreed upon, but similar to the definition of Environmental Professional as defined in 40 CFR § 312.10. However, final closure demonstrating compliance with applicable criteria should be prepared by an LEP.
- The CTDEEP database for the tracking of releases should have the capability to allow the RP to upload information for the release throughout the characterization and remediation process.
- At the end of release characterization, a Release Characterization Form (RCF) should be submitted/uploaded to CTDEEP/database. The form must provide enough information to determine:
  - The presence of SEH conditions, particularly those that would require immediate action
  - The relative risk posed by the release (are there human receptors, is a threat to human receptors present, possible damage to important environmental assets, etc.); and
  - All appropriate support documentation would be appended (e.g., reports, tables, figures, reference).
- RCF should be completed by an LEP (Tier 1B or Tier 2) or an LEP with CTDEEP oversight (Tier 1A).

B. Remediation

- Tier 1 and Tier 2 releases should be either CTDEEP lead (Tier 1A) or LEP lead (Tier 1B & Tier 2);
- Tier 1A releases should be a small fraction of Tier 1 releases that CTDEEP actively designates as Tier 1A following an evaluation of the elevated risk factors per table above.
- Remedial Action Plan (and public notice) (RAP) is required for any Tiered release prior to undertaking remediation.
- RAP is uploaded/submitted electronically to CTDEEP database.
- RAP and remediation of Tier 1B or Tier 2 releases do not require approval from CTDEEP;
- An LEP must supervise the characterization and remediation of Tier 1A, Tier 1B and Tier 2 releases.

C. Changing Tiers

As remediation progresses the conceptual site model for a release may change, or it could become better understood. The Tier designation may need to change as well. If factors indicate that a higher Tier is warranted/mandated (for example from Tier 3 to Tier 2 or Tier 2 to Tier IB, a Tier Change Form (TCF) must be completed by an LEP and submitted to CTDEEP. Releases can also be moved to lower Tiers (e.g., Tier 1 to Tier 2 or Tier 3, Tier 2 to Tier 3), when appropriately characterized and risks mitigated using the same Form.

In order for a release to move to a higher or lower Tier, an LEP prepared report and the TCF Form will be required to document the rationale for the release to be placed in a different Tier. The report and Form will be uploaded to the CTDEEP database. The Tier reclassification should be

deemed acceptable unless CTDEEP requires additional information or objects to the release's reclassification within 90 days of submittal.

There is not a requirement that a release be moved to a lower Tier if release conditions improve as remediation progresses, however the RP may choose to do so and that will be allowed using this same process.

- *We recommend that the RP be afforded the flexibility to group releases together for administrative purposes or to address releases at the same parcel on different timelines and strategies.*

D. Status Reporting Requirements

After receiving a Tier designation, status reports will be sent to CTDEEP every year for Tier 1B and Tier 2 releases and every three years for Tier 3 releases. For Tier 1A releases, the reporting schedule will be at a frequency directed by CTDEEP. The reports should be minimal and consist primarily of data tables and figures as appropriate. Information should be uploaded to CTDEEP database and accessible to the public.

For Tier 3 releases we recommend that, after the 6th year, 5-year reviews be required to document that progress toward closure is occurring.

E. Exiting /Closure

It is not necessary to move a release to a different (lower) Tier in order to close it out and exit the program. Tier1B and Tier 2 releases will require an LEP verification report and a verification Form to be uploaded to the CTDEEP database to exit the program. Tier 1A releases will exit under the direction of CTDEEP, which will establish the reporting required.

For a release to exit the program, a verification by an LEP will be submitted to CTDEEP or CTDEEP will approve the closure. CTDEEP should have up to 90 days to audit an LEP verification. In cases where use of EUR is proposed, the EUR should be required to be placed on the land records prior to a final Verification submittal.

CTDEEP can choose to close a Tier 1A release (allowing exit from the program) if the Department believes the release has been fully characterized and remediated, as documented by an LEP. If CTDEEP closes the release, it will provide closure documentation stating the release has been remediated to the satisfaction of the Department.

For a Tier 3 release that requires documentation that remedial standards have been achieved, an LEP will prepare such closure documentation. As noted earlier, a QEP can document on-going maintenance and monitoring activities but should not document final closure to remedial standards.

- *We understand that a future subcommittee will discuss closure documentation in detail.*

F. Timeframes for Closure

The Tiers Subgroup recommends the following time frames for completion of remediation, as noted on the table above and subject to extensions being requested.

1. Tier 1 releases to be remediated or reclassified to Tier 2 or 3 within three years after the release is reported;
2. Tier 2 releases to be remediated within six years after the release is reported with an option for extension by the LEP (documented on a form provided by CTDEEP);
3. Tier 3 releases are not subject to the 6-year remediation deadline, but after year 6, 5-year reviews must be provided to CTDEEP to report and explain why continued Tier 3 status is appropriate.

G. Forms

Tiers Subgroup recommends the following forms be developed:

- Release Notification Form to assign a unique release tracking or notification number (RTN / RFN)
- Release Characterization Form (RCF)
- Initial Tiering Form (ITF)
- Tier Reclassification Form (TRCF)
- Status Report Form (simple version)
- Status Report Form: Tier 3 - 5-year review form
- Remedial Action Plan/Public Notice Form (RAP/PN Form)
- Verification / Interim Verification Form (Tiers 1B, 2) a.k.a. Exit Form
- Tier 3 Exit Form

FEES

The Tiers Subgroup considered whether fees for the release-based remediation program should be considered. While we recognize some might consider that fees could provide an incentive to complete remediation sooner, our discussions centered on the punitive nature of fees and the hardships fee could cause to individuals and small businesses. Hence the Tiers Subgroup recommends that fees NOT be part of the regulations. If there are fees, we suggest they be limited to initial entry into a tier and vary by tier, be scaled to administrative cost, and be dedicated to the program. We believe annual fees are problematic. Incentives should be front-end loaded.

Additional Recommendations

Members of the Tiers Subgroup have observed that the cost of cleanup can be a significant barrier to an expeditious response by a property owner.

The Tiers Subgroup recommends that the legislature explore the possibility of establishing a low interest loan fund for commercial properties for which there is a responsible owner committed to maintaining the property for use by a viable commercial entity. Connecticut has created innovative financial approaches to accomplishing common goals in its creation of the Green Bank and of an insurance fund to deal with crumbling foundations. These are models to consider in designing a way to assist property owners who want to remediate a new or historic release before it creates a more serious hazard.

In the case of residences, to the extent residential properties will be addresses under the program, the Tiers Subgroup recommends consideration of an insurance rider for homes with underground oil tanks that will cover the cost of a release of liquid fuel provided that there is periodic inspection of liquid fuel storage and delivery systems at those homes.

SECTION 6: CONCLUSIONS

The Tiers Subgroup recognizes that this document is a beginning of a longer discussion, not the comprehensive establishment of a new regulatory paradigm. We also recognize that this document will need to be made part of a broader whole, and it will need to mesh with the other materials being prepared by other subgroups in order to make a comprehensive regulatory program to serve Connecticut and its environment. Finally, we would note that at times the members of the Subgroup entered into robust conversation on several topics, and for some of these topics, the members were not able to achieve a consensus on a path forward. We have identified certain of those issues in this document and will rely upon CTDEEP and the broader Working Group to address these and similar issues as a final program is developed.

In addition, the Subgroup notes that there are three areas that presented the group with difficulties in establishing tiers. Those subject matters were: 1) how to address sites that contain urban and/or historic fill; 2) issues surrounding releases that occur on residential property; and 3) how tiering should be accomplished where there are additional polluting substances and/or emerging contaminants for which there are no numerical standards. We anticipate that these three areas may impact the deliberations of other subgroups, and it is likely that one or more of these topics will be the subject of ad hoc committees in the near future. We believe that all three of these issue areas warrant further study and deliberation, and the tier selection process, and by extension this document, would benefit from such additional work.

That having been said, we believe that this document provides a straightforward path that will:

- Allow sites to be categorized appropriately based on risk;
- Provide for flexibility related to categorization in response to remedial activities or the acquisition of additional information regarding a release;
- Allow the public to have ready access to information related to the potential impacts of a given release area;
- Provide CTDEEP with the tools it needs to prioritize those sites that present the greatest risk to human health and the environment; and
- Incentivize the timely remediation of contemporaneous and historic releases.

We appreciate this opportunity to assist the Working Group as it continues to develop a 21st century remediation program for Connecticut. We look forward to further discussions with the Working Group and/or CT DEEP with respect to the materials contained in this document.

Respectfully submitted by the TIERS Subgroup

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