



# WORKING GROUP ON RELEASE-BASED CLEANUP REGULATIONS

## 31<sup>TH</sup> MEETING

Presented by: **Graham J. Stevens, DEEP**  
**June 13, 2023**

# AGENDA

I. Remarks by Agencies

II. Remarks by Legislators

III. Subcommittee Concept Papers

- **Tiers Checklist Written Feedback and Next Steps**
- **FAQs from Public Comments**

IV. Action Items

V. Public Comments



# REMARKS BY AGENCIES



# REMARKS BY LEGISLATORS



# TIERS CHECKLIST: WRITTEN FEEDBACK AND NEXT STEPS

- Several comments were received after our last meeting on the Tiers Checklist
  - All comments will be considered when further developing regulatory approach
  - Comments will be posted on the website
- From review of the comments, there appears to be some confusion as to:
  - The Department's intent when allocating releases to specific tiers
  - Timing of characterization and tiering

# TIERS CHECKLIST: AD HOC TEAM

- Recommend and ad hoc team be created to do a deeper dive on these issues
- The ad hoc team will:
  - Consist of 5 members of this working group and DEEP staff resources
  - Report back at the August 14<sup>th</sup> working group meeting
  - Evaluate the Tiers Checklist and the written comments received to date
  - Email requesting volunteers will come out later today – responses due COB Friday. *Preference given to those who served on Characterization or Tiers Subcommittees.*

# TIERS CHECKLIST: AD HOC TEAM CHARGE

- Answer the following questions:

1. Identify at least three representative release scenarios to test the outcomes generated by the tiers checklist. These release scenarios should include, but may not be limited to:
  - a) a release discovered shortly after it occurred that persistently impacts groundwater after source removal;
  - b) a Significant Existing Release for which immediate action was required; and
  - c) a release that occurred at some undetermined point in the past resulting in contamination at greater than 2x RSRs numeric criteria but less than 10x RSRs numeric criteria.
2. Review and discuss comments received from the working group and the public on the Tiers Checklist and provide a response to any comments where a response may be informative to the working group.
3. Based on the work done in response to items 1 and 2 of this charge, provide any recommend adjustments to the Tiers Checklist to the Department and the Working Group.

# SUBSTANTIVE CONVERSATION: FAQs FROM PUBLIC COMMENTS

- Substantive Conversations (30 minutes)
  - DEEP to reserve ½ hour of each meeting to brief the Working Group on an issue, a regulatory challenge, a new approach, or regulatory language
  - 10 minutes of briefing and 15 minutes of discussion
  - Receive written feedback until next Working Group meeting





# RESPONSES TO REGULATORY CONCEPT FEEDBACK 6/13/2023

Presented by:

Brendan Schain, Legal Office Director for Environmental Quality

John Gallalee, Staff Attorney

# **1. Why did DEEP choose 2x RSRs criteria as the threshold at which reporting is required?**



# 1. Why did DEEP choose 2x RSRs criteria as the threshold at which reporting is required?

- In determining this threshold, DEEP weighed the risk to human health and the environment against Departmental resources and based its decision on the following:
- Releases below 2X RSRs criteria need to be cleaned up but generally do not pose an immediate threat to human or environmental health and are more likely to be easier to clean up.
- DEEP desires this program to be self-implementing where possible so that it can direct its resources to handling the releases most likely to impact human health or the environment.
- The RSRs criteria (both numeric and calculated) are a proven and familiar tool. Using those standards as a baseline for this purpose avoids confusion and creates a program that is both simple for the Department to administer and easy for the regulated community to use.
- This standard was discussed in concept in 2013 during the Remediation Transformation.
- DEEP received feedback that this threshold could result in both under and overreporting, indicating that it is indeed a good compromise.

## **2. Won't a 2x RSRs criteria reporting threshold lead to underreporting? Overreporting?**

## 2. Won't a 2x RSRs criteria reporting threshold lead to underreporting?

### Overreporting?

- In response to the working group's concerns about the enforceability of cleaning up releases which do not meet the reporting criteria, ***all releases will eventually have to be reported*** if not cleaned up within a specified time frame.
- If a release is above RSRs criteria but under the 2x reporting threshold, it must be reported within 365 days of discovery if not remediated to the cleanup standards in that time.
- If a release is cleaned up within the first year, no reporting will be required. The submission of other information (i.e., closure documents, requests for commissioner approval to use certain cleanup provisions) may be necessary.



# Reporting deadlines

- “Imminent hazard” SERs  
-reporting required within 2 hours of discovery
- Other SERs  
-reporting required within 72 hours of discovery
- Existing Releases over 2X RSRs criteria  
-Reporting or closure required within 120 days
- Existing Releases under 2X RSRs criteria  
-Reporting required within 365 days, if not cleaned up and closed
- Timelines in the 22a-450 Regulations will apply to Emergent Reportable Releases (as they do in the current state)

### **3. What will the process be for reporting when there is no applicable numeric criterion in the RSRs?**

### 3. What will the process be for reporting when there is no applicable numeric criterion in the RSRs?

- The “2X values” will be calculated using known toxicity references.
- Reporting will be required for the detection of any compound with no toxicity reference.

## 4. SERs?

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- Who reports SERs?

- The creator or maintainer is ultimately responsible for reporting an SER to DEEP. Other potential discoverers of a release are obligated to report the release to the creator or maintainer.

- Is any substance above laboratory reporting limits within 500 feet of a drinking water well an SER?

- No. SER is limited to the detection of a substance for which a groundwater protection criteria has been specified that has caused or is causing contamination of groundwater within 500 feet of a private or public drinking water well at a concentration equal to or greater than the groundwater protection criteria.

- When does an SER cease to exist?

- An SER ceases to exist when it has been cleaned up to a defined SER endpoint as part of an immediate action, or to a cleanup standard.



## **5. Will the SER framework proposed result in “over regulation”?**

## 5. Will the SER framework proposed result in “overregulation”?

- No. The goal of this program is to protect the people and environment of the state of Connecticut. Cleanup standards will be unified – the goal for an “SER” will be the same as all other releases.
- Under the new framework, releases will be required to be reported, investigated, and remediated regardless of status as an SER.
- Status as an SER will impact the timeline for reporting, require immediate action, and may impact tiering if appropriate steps aren’t taken.

## **6. Who will cleanup releases? (other than LEPs)**

## 6. Who will cleanup releases? (other than LEPs)

- Cleanups will be performed by largely the same group as they are currently performed by, those holding § 22a-454 permits.
- LEPs will always be able to verify that cleanups are complete.
- Certain “Permitted Environmental Professionals” (or “PEPs”) may certify that cleanups of certain types of releases are complete.
- PEPs will require § 22a-454 permits to certify that cleanups are complete, and DEEP intends to expand the universe of permittees to include those with the appropriate experience and expertise.

# PUBLIC COMMENTS



Additional feedback can also be sent to:  
[DEEP.Cleanup.Transform@ct.gov](mailto:DEEP.Cleanup.Transform@ct.gov)