



# WORKING GROUP ON RELEASE-BASED CLEANUP REGULATIONS

## 30<sup>TH</sup> MEETING

Presented by: **Graham J. Stevens, DEEP**  
**May 9, 2023**

# AGENDA

I. Remarks by Agencies

II. Remarks by Legislators

III. Subcommittee Concept Papers

- **Tiers Checklist**
- **Subcommittee 9 Concept Paper**
- **Subcommittee 10 Concept Paper**
- **Next Steps**

IV. Action Items

V. Public Comments



# REMARKS BY AGENCIES



# REMARKS BY LEGISLATORS



# SUBSTANTIVE CONVERSATION: TIERS CHECKLIST

- 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





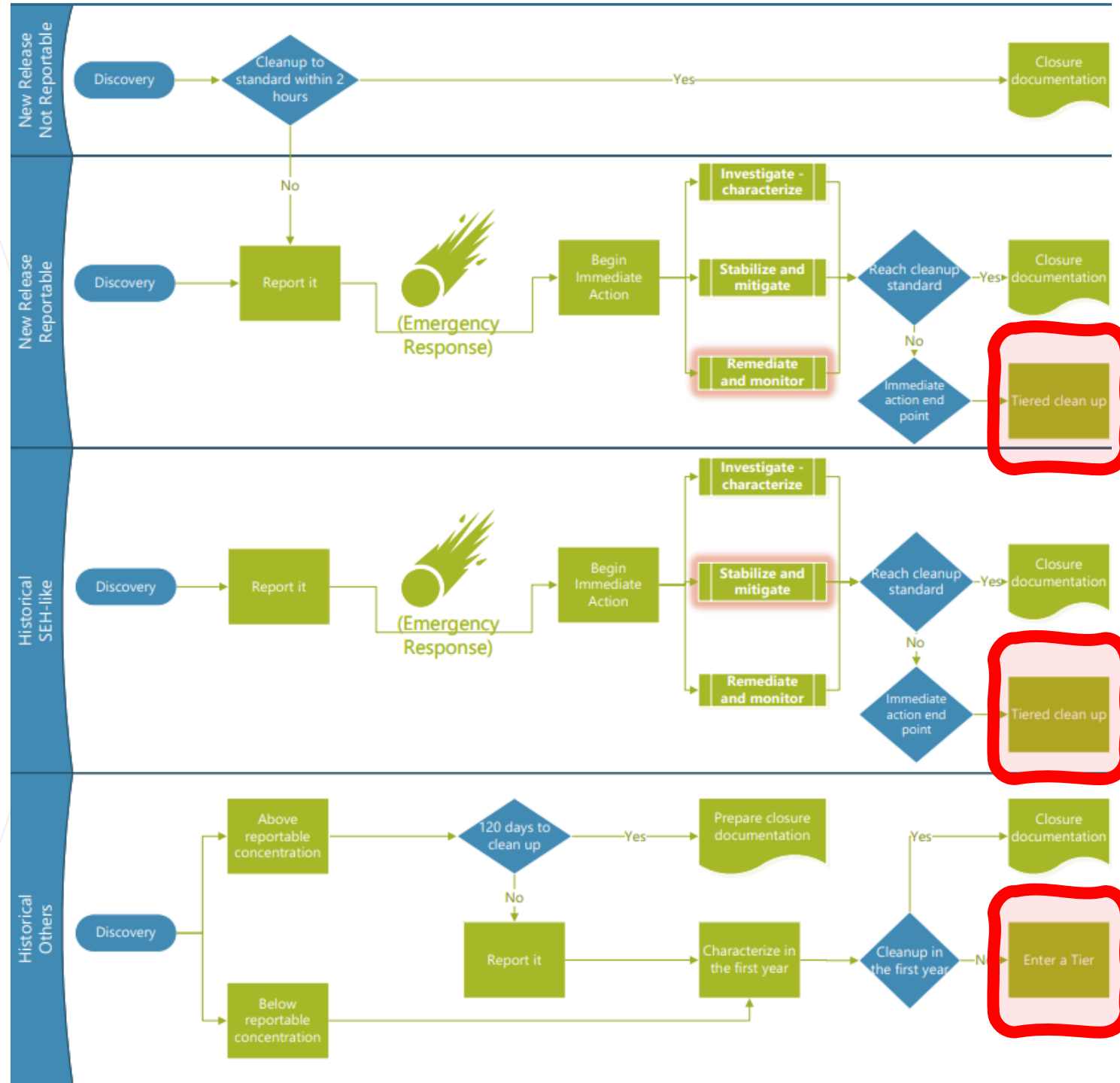
# TIERS CHECKLIST

Presented by: Camille Fontanella, Gary Trombly, Kevin Neary, Kevin Vanderveer,  
Monica Meschiatti, Peter Zaidel  
May 9<sup>th</sup>, 2023 Release Based Working Group

# FIRST YEAR ROADMAP

**Tiering is AFTER first year!**

If you have submitted a Release Closure Report that documents compliance, you would not need to Tier.





# SUBCOMMITTEE 5 CHARGE

- After a release has been characterized, if Immediate Action has not fully remediated a release, such release will be placed into a tier. Placement into a tier should include:
  - Who will supervise a clean-up (i.e., trained employee, spill contractor, LEP, or the Commissioner)
  - Risks to public health and the environment
  - Impact to groundwater and other natural resources
  - Degree of removal of pollution
  - Form of demonstration that remediation is complete
  - Timeframe to complete clean-up
- The subcommittee shall evaluate what factors should be used to determine into which tier a release should be placed and whether there are different factors due to the timing of the release.

**[Release-Based Cleanup Program Topical Subcommittees \(ct.gov\)](#)**



# SUBCOMMITTEE 5 CONCEPT PAPER TIER TAKE AWAYS

- Tier assignment after one year for releases requiring longer to achieve cleanup standards. Tier classification is the responsibility of the LEP.
- Characterization of the release to occur within first year.
- Tiers Identified:
  - 1A - DEEP lead, highest risk releases with open exposure pathways
  - 1B - LEP lead, highest risk, emerging contaminants
  - 2 - Default Tier, LEP lead, requiring remediation
  - 3 - Release is stable, closure not yet possible due to MNA, EURs pending

# SUBCOMMITTEE 5 CONCEPT PAPER TIER TAKE AWAYS

- Each release should be assigned a tier.
  - One property may have more than one release, with each release being in a different tier.
  - For co-mingled releases the highest-risk release will dictate the tier.
- Reclassification - Release can be moved to higher risk or lower risk tier after initial classification, based on exposure pathway, level of cleanup, discovery of new receptors, etc.
- Documentation – Tiering/re-tiering form, status report, RAP, public notice, Exit Form (verification).

**[Tiers-Subgroup-Concept-Paper-611-2021-FINAL.pdf \(ct.gov\)](#)**

# OTHER SUBCOMMITTEE CONNECTIONS

## Subcommittee 3 – Characterization

- Risk from a release may need to be re-evaluated at multiple points (need to revisit tiers)

## Subcommittee 4 – Immediate Removal Actions

- Complete IRA within 365 days to avoid placement in tier
- Tier classification should be based on most recent conditions prior to tiering
- Tier placement should consider:
  - Who will supervisor cleanup – Commissioner, LEP, other
  - Impact to groundwater
  - Degree of removal of pollution



# PURPOSE OF THE TIERS CHECKLIST

- Checklist is a decision tree for evaluating work that has been done **within the first year** and for subsequent tiering reevaluations.
- Tiering should be a rapid process.
- Tiering is objective, clear cut, **Yes or No**.

# THINGS TO KNOW ABOUT THE TIERS CHECKLIST

- Tiers Checklist will be a “form prescribed by Commissioner.”
- LEPs must determine and verify the Tier.
- Appropriate, supporting documentation should accompany the checklist.

# THINGS TO KNOW ABOUT THE TIERS CHECKLIST

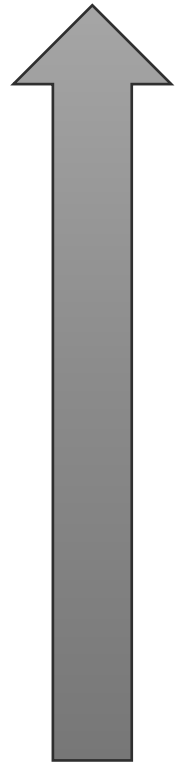
- One checklist per release.
  - Release Definition – 22a-134pp. (6) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or onto the land and waters of the state, not authorized under this title, of oil or petroleum or chemical liquids or solids, liquid or gaseous products or hazardous waste as defined in section 22a-448. “Release” does not include automotive exhaust or the application of fertilizer or pesticides consistent with their labeling.
- Can submit multiple checklists for multiple releases together under one Location ID.
- One source = one release. Combined remedy for co-mingled releases in soil or groundwater in one location → most stringent Tier would prevail.
- DEEP Oversight means LEP work is overseen by DEEP, as is the case now.



# TIERING SYSTEM

**REMINDER: Tiering is AFTER first year**

Increased  
Risk



Tier 1A.  
DEEP Oversight

- Highest-risk releases. DEEP lead. FEWEST cases.
- Unknown risks to receptors; programmatic noncompliance.
- Complete closure or re-tier 2 years after Discovery.

Tier 1B.  
LEP Oversight  
Receptor Risk

- Known risk to receptors (drinking water, vapor) must still be addressed or scoping/screening eco not completed
- RAP not completed
- Complete closure or re-tier 3 years after Discovery

Tier 2.  
LEP Oversight  
Controlled Risk

- Controlled risk, no receptor pathways
- Complete closure or re-tier 5 years after Discovery

Tier 3.  
Monitoring Oversight

- Monitored Natural Attenuation (MNA) only
- Complete closure or re-evaluate effectiveness of MNA 6 years after Discovery

# CHECKLIST PRESENTATION



## Tier Checklist

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION  
BUREAU OF WATER PROTECTION AND LAND REUSE  
REMEDIATION DIVISION [www.ct.gov/deep/remediation](http://www.ct.gov/deep/remediation)

79 Elm St., Hartford, CT 06106-5127

Please fill out this form from the beginning each time tiering is conducted. If this is a re-tiering, please include a copy of the last approved Tier Checklist. If the release complies with the cleanup standards, tiering may not be necessary, and closure documentation should be submitted. Refer to the Tiering Checklist Instructions for more information on how to fill out and submit this form properly. The address in the headers will automatically update upon printing (including printing to pdf) or print-previewing.

### Part I: General Information

Placeholder for Site address, contact information, and date of release discovery.

### Part II: Certifications

Placeholder for signatories/certifications.

### Part III: Tier Determination

# CHECKLIST TEST DRIVE HOMEWORK

- Complete the checklist using a test release
- When commenting, please type comments directly on the pdf or specify the tier and item number to which your comment applies.
- Please submit your comments to [DEEP.Cleanup.Transform@ct.gov](mailto:DEEP.Cleanup.Transform@ct.gov)





**Questions?**

**Thank you!**

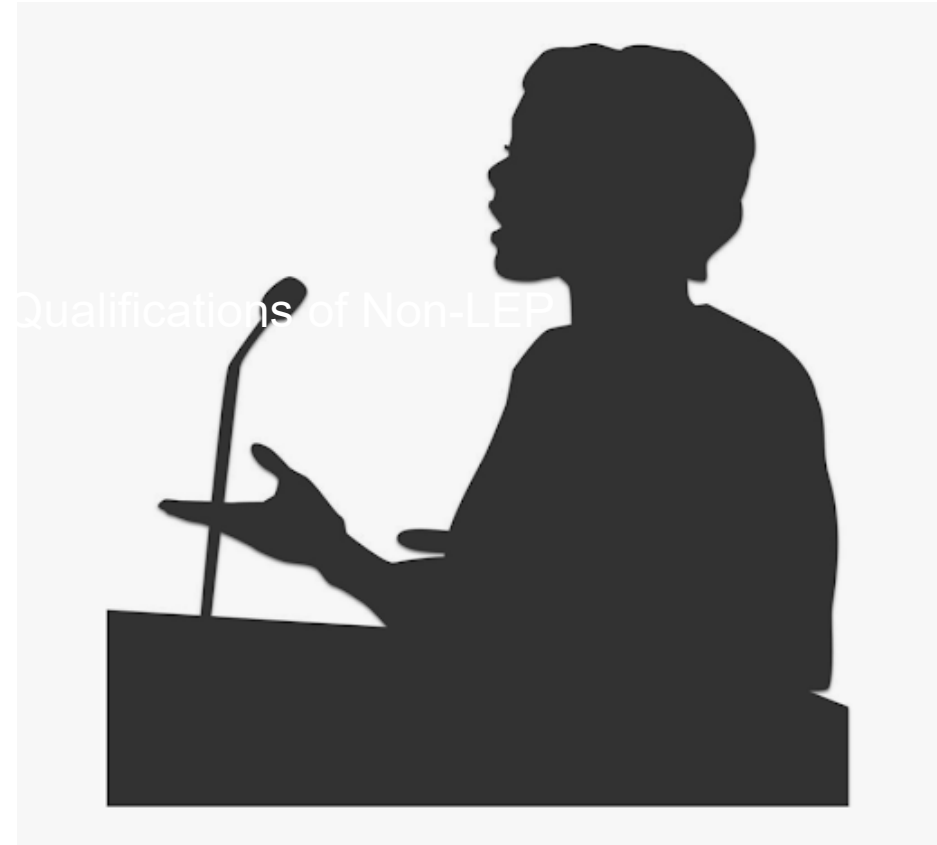
# SUBCOMMITTEE – FINAL DISCUSSION/PAPER ACCEPTANCE

- Subcommittee 9 –  
Cumulative Risk and Risk-  
Based Alternative  
Approaches



# SUBCOMMITTEE – FINAL DISCUSSION/PAPER ACCEPTANCE

- Subcommittee 10 – Role and Qualifications of Non-LEP Environmental Professionals



# NEXT STEPS

- ~~DEEP will post concept papers for public comment~~
- ~~Comments from Working Group members to Subcommittees~~
- ~~DEEP is working on comments on Concept Papers~~
  - ~~Written feedback to Working Group in advance of Working Group~~
- ~~April 11<sup>th</sup> Working Group Meeting: Question and Answer Sessions on the Concept Papers~~
  - ~~Q&A – Subcommittee Chairs~~
  - ~~Q&A – DEEP~~
- ~~Subcommittees meet once to respond to all comments: Working Group, DEEP, public~~
  - ~~Submit response to comments to the Working Group in advance of May Working Meeting~~
- **May Working Group Meeting: Finalize/Approve Concept Papers as Advice and Recommendations**

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# PUBLIC COMMENTS



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