



WORKING GROUP ON RELEASE-BASED CLEANUP REGULATIONS

Presented by: Graham J. Stevens, DEEP
July 11, 2023

AGENDA

- I. Remarks by Agencies
- II. Remarks by Legislators
- III. Subcommittee Concept Papers
 - **Ad Hoc Team Report Out**
 - **Non-LEP Professionals/PEPs**
- IV. Action Items
- V. Public Comments

REMARKS BY AGENCIES



REMARKS BY LEGISLATORS



TIERS CHECKLIST: AD HOC TEAM REPORT OUT

- Current status of discussion



- Report back at the August 14th working group meeting

SUBSTANTIVE CONVERSATION: NON-LEP PROFESSIONALS/PEPS

- 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



NON-LEP CLEAN-UP PROVISIONS

Presented by:

John Gallalee, Lori Saliby, Brendan Schain, Amber Trahan, and Gary Trombly

WHO CAN CERTIFY THAT A CLEAN-UP MEETS THE CLEAN-UP STANDARDS?



This discussion is not about who can do the actual work of cleaning up.



Instead, it is about which environmental professional can indicate that a clean-up complies with the relevant clean-up standards.



This presentation will address that question and set out a new clean-up approach that will be available for new releases cleaned-up quickly.

KEY POINTS

- “Verification” means the written opinion of a licensed environmental professional on a form prescribed by the commissioner that the remediation of a release satisfies the standards established in regulations adopted pursuant to section 22a-134tt.
-LEPs can verify the clean-up of all releases.
- “Certification” means the written opinion of a permitted environmental professional on a form prescribed by the commissioner that the remediation of a *certain prescribed set of releases* satisfies the standards established in regulations adopted pursuant to section 22a-134tt.
-PEPs can certify the clean-up of certain releases



WHAT DID THE SUBCOMMITTEES RECOMMEND? (4, 6, & 10)

PEPs should be able to respond and certify releases to interior spaces, pavement, and soil.

PEPs should be able to certify a clean-up if a release was captured by secondary containment.

PEPs should not be able to respond and certify releases to groundwater, surface water, nor other sensitive receptors.

Certification by PEP must have same dependability and legal weight as verification by an LEP.

PEPs must be equally accountable for their certifications as LEPs are for their verifications.

Floats the idea: other constraints on PEPs responding -- elapsed time from reporting to completion of clean-up and volume of release.

HOW IS DEEP INCORPORATING THESE RECOMMENDATIONS?

Subcommittee Recommendations	Adopted Recommendations
Respond and certify releases to interior spaces, pavement, soil	✓
Certify a clean-up if a release was captured by secondary containment	✓
Not respond and certify releases to groundwater, surface water, nor other sensitive receptors	✓
Certification by PEP must have dependability and legal weight as LEP	✓
PEPs need to be equally accountable as LEPs	✓

*The Department determined eligibility for these provisions by incorporating the subcommittees thoughts.

MAY CLEAN-UP BE CERTIFIED BY A PEP?

- **Yes, if:**

- (1) The location and volume of the release was known at the time of remediation
- (2) The substance or substances are known
- (3) The release:
 - (A) did not occur in or directly to a surface water body and has not migrated to surface water body; or
 - (B) occurred in or migrated to a surface water body, and each substance released is soluble or has a specific gravity of less than 1
- (4) The release:
 - (A) consists of a substance(s) other than oil or petroleum and has not contacted groundwater; or
 - (B) consists only of oil or petroleum, is not within 500 feet of a public or private drinking water well, and has not caused a persistent impact to groundwater
- (5) Remediation is commenced within the specified time, and all immediate actions required are completed in the specified time
- (6) Impacted soil is removed for proper disposal
- (7) A PEP certifies or an LEP verifies that each of the requirements above has been satisfied.

WHAT IS THE TIMELINE SPECIFIED FOR IMMEDIATE ACTION?

- For new releases that are required to be reported to the Department, remediation must commence:
 1. As soon as is practicable; and
 2. In no event more than 2 hours after discovery
- Depending on the type of release and receptors, additional deadlines may be specified for certain required actions



HAS A RELEASE CONTACTED GROUNDWATER?

Yes, if:

- Groundwater is encountered during excavating

-and -

- The substance is detected in a groundwater well immediately downgradient of the excavation



HAS A RELEASE OF OIL OR PETROLEUM PERSISTENTLY IMPACTED GROUNDWATER?

Yes, if:

- A visible sheen remains on groundwater after three attempts within 24 hours at removing the sheen

-or-

- The release is detected in a monitoring well immediately downgradient of the excavation



DID YOUR RELEASE REACH SURFACE WATER?

You can still use this provision
if:

- it floats and you scoop it up

-or-

- it's soluble





WAS THE RELEASE TO A SECONDARY CONTAINMENT SYSTEM?

Yes – then you do not have to further analyze surface or groundwater impacts if:

- The volume of the release is less than the volume the system was designed to contain

-and-

- The secondary containment system is not damaged



CREDENTIALS?

The Department plans to continue the discussions about the qualifications needed within the 454 permit.

- Training
- Experience
- Educations
- Other

WHAT AUTHORITY CAN BE USED TO ENFORCE AGAINST PEPs?

- **General enforcement authority** for anyone violating a permit (§ 22a-6)
- **Permit revocation/modification** § 22a-3a-5(d)(2) In addition to any other reason provided by statute or regulation, the Commissioner may revoke, suspend, or modify a license for any of the following reasons:
 - (A) The licensee has violated a statute, regulation, water quality standard, license or order administered or issued by the Commissioner, or has committed any other violation of law relevant to the licensed activity...
 - (C) The licensee or a person on his behalf misrepresented a relevant and material fact at any time, including, without limitation, in the application for the license or in a report or laboratory analysis submitted to the Department
- **Civil Penalties/AG referral** – 22a-134ss(c) Any person who violates any provision of sections 22a-134qq to 22a-134tt, inclusive, shall be liable for the penalties provided in section 22a-438



THANK YOU!

PUBLIC COMMENTS



Additional feedback can also be sent to:
DEEP.Cleanup.Transform@ct.gov