

P.A. 20-9 Working Group on Release-Based Cleanup Regulations

Fourth Meeting

March 9, 2021
1 PM
via Zoom



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Agenda Overview

- I. Remarks by Agencies
- II. Remarks by Legislators
- III. Subcommittees
 - Report Outs
 - Reporting & Communication
- IV. Report Out by Transition Advisory Group
- V. Action Items
- VI. Public Comments



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I. Remarks by Agencies



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II. Remarks by Legislators



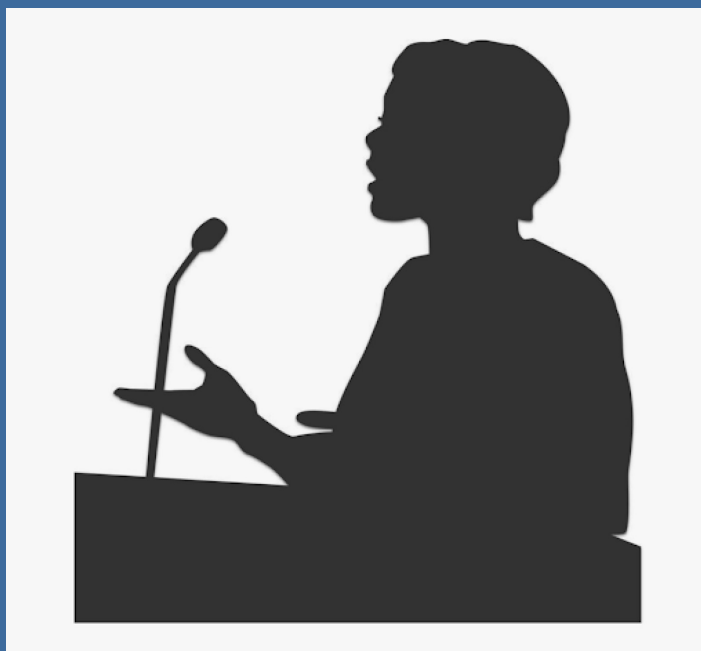
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Subcommittee Report Outs

Subcommittee 1 - Discovery of Historical Releases



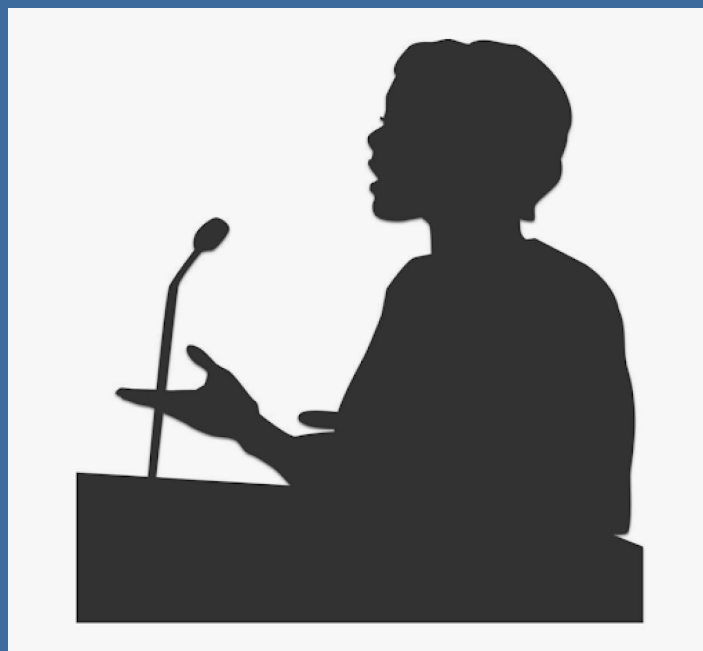
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Subcommittee Report Outs

- Subcommittee 2 - Reporting Newly-Discovered Historical Releases



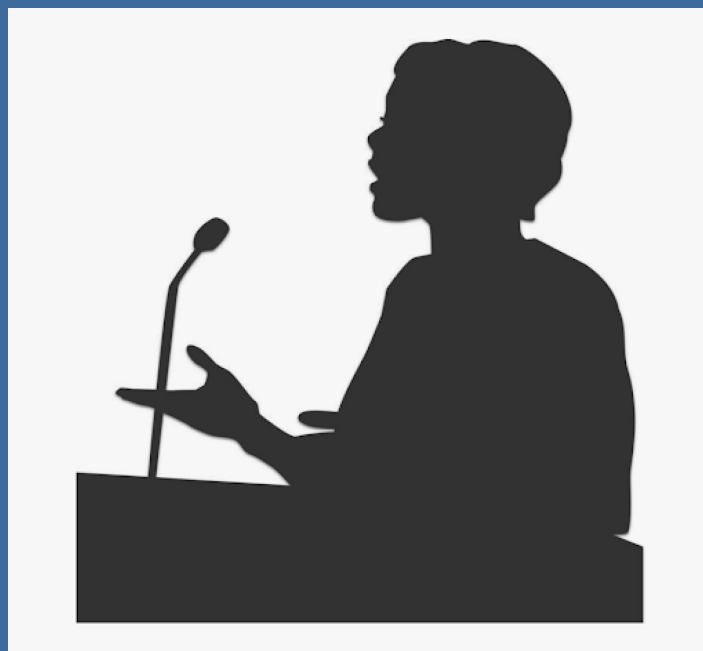
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Subcommittee Report Outs

- Subcommittee 3 - Characterization of a Discovered Release



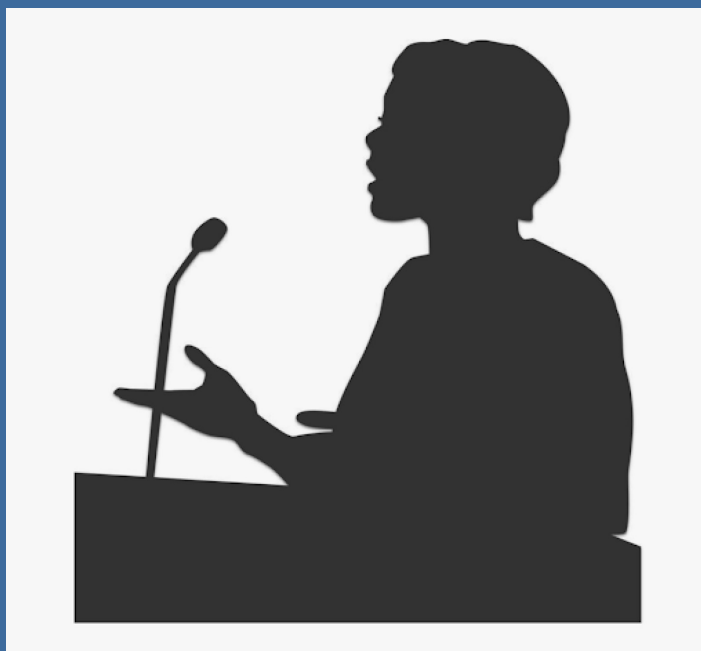
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Subcommittee Report Outs

- Subcommittee 4 - Immediate Removal Actions



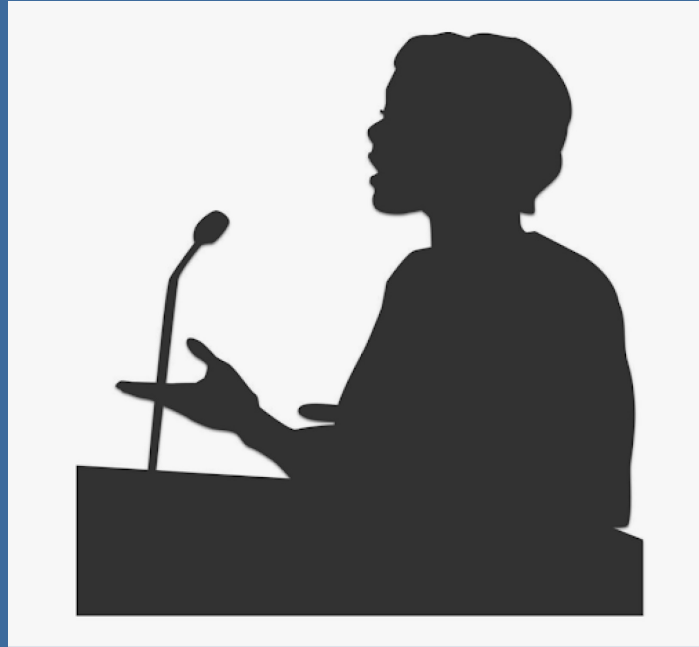
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Subcommittee Report Outs

- Subcommittee 5 - Tiers



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III. Subcommittees – Reporting & Communication

- a. Schedule for submittal of First Phase Subcommittee Concept Papers to the Working Group is June 11, 2021
- b. Subcommittee Tracking Form was sent to Subcommittee Co-chairs on 2/23/21 and forms were due to DEEP on 3/4/21, as discussed in our last meeting
 - As we hear more feedback on the form, it may be modified
 - In the future, we hope to send forms out to Working Group members in advance to aid dialog



Subcommittee Tracking Form

Release-Based Regulation Topical Subcommittee Notes

Select Subcommittee

Version Date

Assumptions Used (running list):

Click or tap here to enter text.

Identify issues that intersect with other subcommittees:

Subcommittee: Select one Issue that intersects

Subcommittee: Select one Issue that intersects

Subcommittee: Select one Issue that intersects

Questions for Working Group, other subcommittees, DEEP, or DECD:

Question for: Select one Question

Question for: Select one Question

Question for: Select one Question

Aspects of other state programs to be considered (include statutory references):

Click or tap here to enter text.



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Discovery of Historical Releases Subcommittee Form

Questions for Working Group, other subcommittees, DEEP, or DECD:

Question for: Reporting Newly-Discovered Historical Releases is the only trigger for reporting numerical, or will other circumstances be taken into account

Question for: Characterization of a Discovered Release is this group only dealing with characterization after reporting, or to determine whether reporting thresholds have been achieved

Question for: Working Group Can there be a “release” without understanding the release mechanism (e.g. how it got there)?



Tiers

Subcommittee Form

Questions for Working Group, other subcommittees, DEEP, or DECD:

Question for: Characterization of a Discovered Release We understand you envision some characterization happening after the tier designation, depending on the tier to which the release is assigned. What level of characterization do you envision prior to entry into a tier in the first place?

Question for: Working Group Under what conditions would a release mandate significant CTDEEP involvement (beyond auditing & approvals for certain alternatives)? Should this be a separate tier?

Question for: Working Group Should there be mandated time frames for reporting, IMAs, characterization, etc.? Should there be penalties for not meeting deadlines?

Question for: Immediate Removal Actions What is your sense of what happens when the IRA has been completed? Does the release “graduate” from the program?

Question for: Reporting Newly-Discovered Historical Releases Are we correct in assuming that there will be some level of release that need not be reported upon discovery?



Working Group Discussion

Subcommittee Reporting to the Working Group

- Will this form be helpful?
- What else do we need from the subcommittees?



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IV. Report Out by Transition Advisory Group

- Volunteer Members of the Working Group:
 - Attorneys
 - Beth Barton
 - Ann Catino
 - Nancy Mendel
 - Franca DeRosa
 - LEP
 - Tim Whiting
 - DEEP
 - Graham Stevens



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Transfer Act Transition Advisory Group

Notes from February 17, 2021 Meeting

Initial Questions

Baseline Questions that Need CT DEEP Input/Decisions Regarding the Transfer Act:

1. When the Release-Based Program regulations are adopted will the RSRs remain in effect? Assuming they are in effect, will the RSRs continue to apply to sites already in the Transfer Act program? What is the process for sites in the Transfer Act program that are transferred before verification and after the Release-Based Program regulations are adopted? Will the RSRs be revised to accommodate the Release-Based Program? Will it be possible to close individual release areas under the RSRs?
2. Will the Conceptual Site Model be modified from a site-wide approach to a release-based site model approach? Will there be a new Characterization Guidance document specific to the Release-Based Program? Will the existing Conceptual Site Model and Site Characterization Guidance document be maintained for Transfer Act (and other sitewide programs)?
3. Will any “exit strategy” or “regulatory closure mechanism” permitted under the Release-Based Program, including as to specific releases, be available for sites already in the Transfer Act program?

For Transfer Act Sites/Real Estate Filings - Questions:

1. If a property is in the Transfer Act program and the verification date is earlier than the current date (for example, verification date is 2018 and the current date is 2021), how will subsequent releases (post 2018) be addressed? Will any subsequent releases be addressed through the Release-Based Program after the verification is issued for the site through 2018? It will be difficult to reconcile the applicability of the RSRs, the verification and the subsequent release without clear guidelines.
2. How do we address “gap” releases and how are these gap releases defined? Gap releases can include: (i) releases that occur prior to the Transfer Act verification that are only discovered after the verification is issued; (ii) releases that were not identified in the original Phase II Report that formed the basis for the verification; (iii) releases that occur after the Transfer Act filing but prior to the issuance of the verification? We would advocate that these “gap” releases be addressed through the Release-Based Program.
3. DEEP’s position and guidance on these issues may be inconsistent with existing environmental provisions and indemnities in Purchase and Sale Agreements, Merger Agreements, etc. Attorneys cannot “undo” deals but will need to consider implications of any CT DEEP guidance or determinations.

Beth Barton, Day Pitney; Ann Catino, Halloran Sage; Franca DeRosa, Brown Rudnick; Nancy Mendel, Winnick Ruben Hoffnung Peabody & Mendel; Tim Whiting, Ramboll

Action Items

Action Item	Owner(s)	Reportable	Due Date



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V. Public Comments

- Raise hand to speak



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