Release-Based Cleanup Regulations Frequently Asked Questions

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Components of Release-Based Cleanup Regulations

What are the RBCRs?

The RBCRs combine process and administrative steps with the standards to which pollution must be remediated. The Remediation Standard Regulations (RSRs) were moved to the cleanup standards sections of the RBCRs with updates that add new approaches to streamline cleanups, reduce cleanup costs, timeframes, and burdens, and set a series of lower bounds, below which action is not required.

What are the major components of the RBCRs?

- **Within the First Year (after release is discovered):** Major categories of the process are: Discovery, Reporting, Characterization, and Immediate Actions. The first three categories are focused on determining the nature and extent of the release. Immediate Actions are necessary for those releases that present an immediate threat to human health or the environment and are designed to mitigate the risk quickly and to break receptor exposure pathways. The RBCRs incentivize clean up within the first year.
- **One year after the release is discovered:** If the release is not cleaned up within the first year, the release must enter a Tier. This is a risk-based system for categorizing releases that haven't been cleaned up within the first year and includes a fee proportionate with the level of risk.
- **Cleanup Standards:** RBCRs incorporate existing cleanup standards known as the RSRs. Additions to the cleanup standards include two new Direct Exposure Criteria categories, additional methods of achieving compliance, and special pathways for releases of home heating oil, PFAS, and road salt.
- **Release Closure (Cleanup Completion):** When compliance with the cleanup standards is achieved, a Release Remediation Closure Report that has been verified or certified must be submitted.
- **Auditing:** The Department reviews completed work to ensure that the requirements of the RBCRs have been met.

Do the RBCRs apply to residential properties?

For newly discovered releases at residential properties that are reportable under the 22a-450, the RBCRs do apply. For releases of home heating oil, there is a special pathway to streamline the cleanup process for releases a homeowner is responsible for (not when a contractor or fuel delivery personnel cause the release) at a parcel with not more than 4 dwelling units. The biggest change is that there will now be a clear path to obtaining resolution when cleanup of a release at a residential property occurs.

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Is my release regulated as an existing release, emergent reportable release, or not regulated under the RBCRs?

Releases that are required to be reported to DEEP Dispatch are described in RCSA 22a-450 and summarized in this flow chart. Emergent reportable releases (ERRs) are all releases that are reportable under RCSA 22a-450 that are not exempted from the release based regulations.

The following types of releases are deemed not to be releases to the land and waters of the state and are not subject to the RBCRs:

- A release to air
- A release to secondary containment entirely within a structure or outside a structure where the secondary containment system does not contact soil.
- The release occurs entirely to the inside of a structure, does not come into contact with soil, and is substantially removed within 2 hours.

The definition of an ERR specifically exempts these releases from being an ERR, although they are still required to be cleaned up:

- A release required to be reported pursuant to section 22a-450-2(a)(2) or 22a-450 2(a)(3) (Oil or Petroleum) of the Regulations of Connecticut State Agencies if the quantity of the release is less than 10 gallons; and
- A release required to be reported pursuant to section 22a-450-2(b)(2) or 22a-450 2(b)(3) (A Reportable Material Other than Oil or Petroleum) of the Regulations of Connecticut State Agencies if the quantity of the release is less than 20 pounds or 3 gallons

The following types of releases are exempt from discovery under the RBCRs, but other regulations may apply:

- Naturally occurring substances
- Application of fertilizer or pesticides consistent with their labeling
- Incidental releases due to operation of motor vehicles (does not include refueling, repair or maintenance)
- Releases from regulated Underground Storage Tanks (these UST system release cleanups are regulated under the UST regulations, see RCSA 22a-449(d)-1 and 22a-449(d)-101 to 113). These include commercial USTs, which includes USTs servicing 5 or more residential units.
- Normal paving and maintenance of bituminous concrete surfaces and roadways
- Substances emanating from utility poles or timbers that are serving their original intended use
- Automotive exhaust

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- Trihalomethanes in groundwater attributed to leakage from a public water supply system

Existing releases are releases discovered through laboratory data or multiple lines of evidence that are not reportable under RCSA 22a-450 and do not fall under one of the above exemptions or the exemptions listed in 22a-134tt-1(i).

How is a historic release discovered under the RBCRs?

As of March 1, 2026, "discovery" of a release to the environment is based on information or observations of non-aqueous phase liquid, laboratory results of environmental samples, or multiple lines of evidence demonstrating that a release occurred. Generally, discovery occurs when an owner initiates some form of investigation into the conditions of its property. Reviewing past environmental data alone does not constitute discovery.

When must a Significant Existing Release (SER) be reported?

- Within 24 hours of discovery:
  - Significant Existing Release (SER) impacting a drinking water well
- Within 72 hours of discovery:
  - All other SERs

When must other historical releases be reported?

- Within 120 days of discovery (if not remediated to cleanup standards by that time):
  - Releases other than an SER or ERR
  - Substance in soil or groundwater ≥ 2x applicable cleanup standards
  - Oil or petroleum volume ≥ 2 cubic yards
  - NAPL thickness ≥ 1/8 inch
- Within 1 year of discovery – Pollution < 2x the applicable cleanup standards (if not remediated to cleanup standards by that time).

What are the fees unique to the RBCRs?

Fee Type	Fee	Due Date
Assignment to Tier 1A	$3,000	One year from discovery – unless closed before
Assignment to Tier 1B	$1,500	One year from discovery – unless closed before
Assignment to Tier 2	$1,000	One year from discovery – unless closed before
Assignment to Tier 3	$500	One year from discovery – unless closed before

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Annual Fee for Tier 1A	Calculated*	Annually after tier assignment date until re-tiered or closed
Annual Fee for Tier 1B	Calculated*	Annually after tier assignment date until re-tiered or closed
Annual Fee for Tier 2	Calculated*	Annually after tier assignment date until re-tiered or closed
Annual Fee for Tier 3	Calculated*	Annually after tier assignment date until closed
Expedited Audit Request	$500	Service fee – as requested

* Fee calculation equation is: [FEE] + (.1[FEE]x[number of years since tier assignment date]) = annual fee due, where FEE is the base annual fee for that tier.

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What happens when PFAS and/or road salt are discovered in a private drinking water supply?

The well owner/operator must report the discovery to DEEP within 3 days, and if they do so, it is **not** considered a significant existing release and immediate action is **not** required. The well owner/operator is **not** required to take further action or pay any RBCR fees unless DEEP determines that the well owner/operator created or is maintaining the *source* of the road salt or PFAS.

What is an Immediate Action?

An immediate action is taken upon discovery of a release, to prevent harm to human health or the environment, including:

- Removing the release from the land and waters of the state
- Implementing measures to prevent migration of the release, such as active remediation techniques, the use of physical barriers, or appropriate treatment systems
- Identifying and eliminating the source of the release
- Preventing human exposure to the release

What are Tiers?

Tiers are used when a release has **not** been cleaned up within **one year after discovery**. Tierscategorize releases based on the level of risk.

- Tier 1A, DEEP Oversight:
  - Highest Risk Releases
  - 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 must still be addressed or scoping/screening ecological risk assessment is incomplete
  - 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 only
  - Complete closure or reevaluate effectiveness of MNA 6 years after discovery

How does a release get into a Tier?

An LEP completes the Tier Checklist in the REACT portal within one year after the release.

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What is the role of a PEP? LEP? How will those change under the RBCRs?

Permitted Environmental Professionals (PEPs), many of whom are individuals who already clean up new emergent releases, are a new category of environmental professional under the RBCRs. PEPs supervise and sign off on the resolution of most releases that have not reached the groundwater and to formally document those efforts with certification of and release remediation closure report showing how the cleanup criteria are achieved.

Licensed Environmental Professionals (LEPs), licensed under RCSA 22a-133v, may resolve all releases that PEPs can address, as well as releases that impact groundwater, require Tiering or variances, permits by rule, and other alternate remedy measures in the RBCRs.

Essentially, the role of these individuals will not change, but procedures and requirements regarding closure of releases are new for PEPs and remain largely the same for LEPs.

How is certification of a release different from verification?

Certifications are allowed to be made by PEPs for new releases that solely impact soil, with no persistent impacts to groundwater. Only LEPs licensed through the State Board of Examiners of Environmental Professionals can provide Verifications (as defined in CGS 22a-133v) for existing releases or any release that impacts groundwater.

- A PEP will be able to render a certification, through submittal of Immediate Action Reports and Release Remediation Closure Reports, for new releases to soil that have not persistently affected groundwater (sometimes the act of excavating soil briefly contaminates groundwater).
- An LEP can verify Immediate Action Reports, Release Remediation Closure Reports, and Tier assignments for all releases, as well as variances and Notices of Activity and Use Limitations, and other compliance measures in the RBCRs.

What is the purpose of a Release Remediation Closure Report?

A release remediation closure report demonstrates:

- that the cleanup performance standards have been satisfied through compliance with default numeric criteria or alternate remedy solutions
- that the extent and degree of a release has been defined and describes how it was cleaned up
- the location of the release on a property and all locations from which samples were collected
- that no further action to clean up the release is required, which is accompanied by a verification or certification, or approved in writing by the commissioner
- that a release has not caused a persistent impact to groundwater and that soil conditions meet applicable criteria, as certified by a PEP
- that analytical results of both soil and groundwater samples meet criteria; which variances and compliance measures, if applicable, were used to achieve compliance; and, that appropriate institutional controls (such as ELURs or NAULs) have been recorded, if applicable and supported by a verification

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What Release-Based records can DEEP audit and when?

Any record of a release response (any documentation of compliance with a requirement of the RCBRs certified by a PEP or verified by an LEP) can be audited. There are three types of audit:

- **A screening audit** may be conducted on any release record and must be completed within 180 days of submission to DEEP. A screening audit may lead to a focused or full audit.
- **A focused audit** may be conducted on any release record. It must be initiated within 180 days of submission to DEEP and completed within 18 months. A focused audit of a Release Remediation Closure Report may lead to a full audit.
- **A full audit** may be conducted only on a release remediation closure record, either an LEP verification or a PEP certification. The full audit must be initiated within 180 days of a Release Remediation Closure Report submission to DEEP or prior to conclusion of a focused audit. A full audit must be concluded within 2 years of submittal of the Release Remediation Closure Report to DEEP. A full audit may be conducted without a screening or focused audit.

What are the possible outcomes of an audit?

The verification or certification will either be accepted or rejected following an audit. If a certification is rejected, a verification will be needed to close the release.

Why does DEEP conduct audits?

DEEP conducts audits, as required under CGS 22a-134uu, as a way to ensure that releases are cleaned up as required without DEEP having to be engaged with every cleanup and at every step of the investigation and cleanup process.

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Technical Changes to Streamline Cleanups

How do I demonstrate that the concentration of metals in an environmental sample is indicative of a naturally occurring source?

There are 5 options to demonstrate that a metal detected in soil is naturally occurring:

1. **Single Sample Direct Comparison to Connecticut Baseline Low Values** - If the analytical result is less than or equal to the low value in the table provided in section 22a-134tt-2(f)(2)(C), it is a naturally occurring concentration.
2. **3-Sample Comparison to Connecticut Baseline High Values** – If analytic results from at least 3 soil samples from an area **not** impacted by site activity and from the same geologic unit as the detection in question are all less than or equal to the high value in the table in 22a-134tt-2(f)(2)(C), the highest of those 3 detections can be considered a naturally occurring concentration.
3. **5-Sample Evaluation Below Residential Direct Exposure Criteria** - If analytic results from at least 5 soil samples from an area **not** impacted by site activity and in the same geologic unit as the detection in question and from which outliers have been removed based on an outlier analysis are less than the Residential Direct Exposure Criteria, the highest of those 5 detections can be considered a naturally occurring concentration.
4. **7-Sample Evaluation Above Residential Direct Exposure Criteria with Commissioner Approval** - If analytic results from at least 7 soil samples from an area **not** impacted by site activity and in the same geologic unit as the detection in question and from which outlier sample data has been removed based on an outlier analysis are greater than the Residential Direct Exposure Criteria, the Commissioner's approval may be sought to consider such detection as naturally occurring.
5. **Any Other Method Requires Commissioner Written Approval**

What are the new criteria?

Managed Multifamily Residential Direct Exposure Criteria:

- Four or more residential units on the same parcel
- Managed by an association or a professional property management company
- Lease agreements, bylaws, or other enforceable documents:
    - prohibit residents from digging in soil
    - allow active recreation **only** on areas with impervious surfaces
- An Environmental Use Restriction [EUR] is in effect to prohibit residential activity other than managed multifamily residential activity

Passive Recreation Direct Exposure Criteria:

- Parcel is **only** used for passive recreation activity (e.g., hiking trails, bike paths, horse trails, cross-country ski trails)
- Either an EUR or a conservation easement granted to a local, state, or federal agency is in effect to prohibit residential activity other than passive recreation activity
- **Note:** passive recreation does **not** include sports fields, picnic grounds, playgrounds, campsites, etc., as human exposure to contaminants is much more likely at those locations.

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What is a Permit by Rule?

A permit by rule is a regulatory mechanism similar to a general permit that applies to certain parcels that meet certain eligibility criteria. A permit by rule is obtained by providing notice to DEEP and filing an Affidavit of Facts on the property land records.

What does the Permit by Rule for Historically Impacted Materials (HIM) require?

- The parcel is used for industrial/commercial purposes **only**
- Tier characterization has determined:
  - the presence of historically impacted material
  - that it is not prudent to remove such material
- Any significant existing releases have been identified (within two years of discovering HIM) and addressed within the time frame specified for Immediate Actions.
- All state and federal requirements regarding PCBs in such material have been satisfied.
- Affidavit of Facts describing the location of HIM is recorded on the land records by the parcel owner
- Every 5 years the parcel owner must certify to DEEP that the polluted fill has not been relocated and identify the current land use
- Parcel owner must notify DEEP if land use changes to a residential activity (RBCR definition includes dwellings, schools, playgrounds, hospitals, etc.). In such cases, cleanup to Residential Direct Exposure Criteria is then required
- Permit is transferable to new owners (owner must notify buyer)

What does the Permit by Rule for "Soil Located beneath Concrete or Bituminous Concrete" require?

- Affidavit of Facts describing the location of contaminated soil must be recorded on the land records by the parcel owner
- Inspect condition of concrete or bituminous concrete every 5 years
- Permit is transferable to new owners (owner must notify buyer)
- If concrete or bituminous concrete is removed, additional remediation is required

What is the "Conditional Exemption for Dredged Materials"?

- Requires Commissioner's approval through a Structures, Dredging, and Fill Permit (CGS section 22a-361) or a Dam Safety Permit (CGS section 22a-403)
- Not subject to Direct Exposure Criteria (DEC) if covered by one foot of crushed stone or another approved cover depth and material
- Not subject to Pollutant Mobility Criteria if reused at a location immediately upgradient of the water body from which the material was removed

What are the conditions for using the LEP-Calculated Alternative Risk-Based Direct Exposure Criteria?

- A parcel-wide investigation has been conducted
- All discovered releases will be remediated
- Alternative risk-based Direct Exposure Criteria ensures that the total site risk posed by such substances does not exceed:

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    - cumulative excess lifetime cancer risk of 10^{-5} for 2 or more carcinogenic substances
    - excess lifetime cancer risk of 10^{-6} for each individual carcinogenic substance
    - cumulative hazard index of 1 for non-carcinogenic substances with the same target organ
- Calculations are completed using a calculator (in Excel) prescribed by the commissioner
- **Cannot** be used for PCBs

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What will happen to current programs now that the Release-Based Cleanup Regulations are adopted?

- **Sites being remediated under the Property Transfer Program (PTP) and Brownfields Programs:** All of the new compliance measures in the RBCRs can be used at these sites, but the environmental investigation and verification process will remain under those specific site-wide programs. PA-25-54 Section 3 contains a provision for Property Transfer Certifying Parties' to transition their sites to the Release-Based Cleanup Program with a Release Catalogue Report documenting all onsite releases submitted to DEEP.

- **Significant Environmental Hazard Program**: This program will remain in place **only** for sites that have been: (1) accepted into a brownfields program and are owned by municipalities or land banks and (2) releases that are being cleaned up under the PTP. Similar releases on all other properties will be regulated under the RBCRs as Significant Existing Releases.

  Existing Significant Environmental Hazards that are in compliance with CGS 22a-6u will not be deemed discovered until two years after the effective date of the RBCRs.

- **RCRA Facilities Cleanup:** Sitewide remediation at RCRA hazardous waste management facilities will continue under that program, though all of the new performance standards in the RBCRs are available for use at those sites. RCRA facilities will continue to use Connecticut's performance standards to determine when remediation is complete, with or without long-term stewardship controls. Progress milestones achieved to complete RCRA cleanup counts toward cleanup in other programs and vice versa.

- **Voluntary Programs:** Sites currently in the 22a-133x Program can continue remediation, however, any sample analyses with contamination over reportable limits would require reporting the discovery of that release. If the site is not verified within a year or discovery of that release, tiering would occur. The site could be entered into the Voluntary Parcel-Wide Program.

- Under PA 25-6, the legacy 22a-133y Program ends on March 1, 2026 and the new Voluntary Parcel-Wide Program begins. If you are currently in 22aa-133y Program you are not automatically enrolled in the Voluntary Parcel Wide Program.

- **Underground Storage Tanks (UST)**: Releases from regulated USTs will continue to be cleaned up according to the UST regulations. The Release-Based Cleanup Regulations cleanup criteria apply.

What is the new parcel-wide program established in PA 25-6?

The Voluntary Parcel-Wide Cleanup Program promulgated under CGS 22a-133y allows property owners to cleanup and verify their whole site, rather than individual releases. A site is eligible if:

- There were no previous Release Remediation Closure Reports for a release at the site

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- Parcel is not be subject to the Property Transfer Program or under order or stipulated judgment to cleanup a release(s)
- Either a Phase II was performed before discovery of a release or a Phase II was performed within 60 days of discovering a release and all necessary Immediate Actions were performed
- LEP provides notice to enter the Voluntary Parcel-Wide Cleanup Program by the earliest reporting deadline
- An Environmental Condition Assessment Form and Phase II report documenting each release on the parcel is required to be submitted
- 2 years after initiation of the Phase II Investigation the site will enter a Tier
- Releases may be grouped for fees and deadlines

Property Transfer Program (PTP)

What will happen to the PTP upon the effective date of the Release-Based Cleanup Regulations?

PA 25-6 Section 2 changes the definition of transfer of establishment to transactions on or before March 1, 2026, the effective date of the RBCRs. Property Transfer Program Forms are only required for property transfers before March 1, 2026.

I have a property subject to cleanup under the PTP. How will the release-based regulations affect me?

Properties that have entered the PTP may continue remediation under that statutory framework until verification of remediation is achieved unless the site transitions to the RBCP per PA-25-54 Section 3 provisions. The new cleanup criteria and alternative compliance provisions of the RBCRs can be used at PTP sites. If a release is discovered at a PTP Site that was not previously identified in the completed Phase II Report, that release is subject to the RBCRs.

What other changes to the Property Transfer Program were included in PA 25-54?

Owners of parcels may submit Form III or Form IV Final verifications, even if they aren't the Certifying Party (see PA-25-54 Section 3).

My PTP property was verified as meeting the cleanup standards and I am now selling it. Will new PTP forms be required when I sell the property?

No.

How will releases at a PTP property that has been verified as cleaned up be regulated under the RBCRs?

Any future releases (or discoveries of prior releases) at those properties will fall under the RBCRs.

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