

**Public Discussion Draft  
RSR Wave 2 - Potential Changes to RSRs  
Class B1 Cleanup  
DEC for Passive Recreation  
April 30, 2014**

The Department of Energy and Environmental Protection is developing “public discussion drafts” of ideas for potential future amendment to DEEP regulations, or new provisions for regulations, to address remediation of releases and sites where hazardous substances or oil have been released. Many of the subject matters for these drafts grew out of the Cleanup Transformation workgroup recommendations from November 2012. The purpose of the public discussion drafts is to provide more detail to the concepts set forth in the November 2012 Workgroup reports and the February 2013 Cleanup Transformation draft report. As a discussion draft, the language is not structured to read exactly as regulation language would, and does not attempt to propose section and subsection outline format. Also, this discussion draft is not a public hearing draft of a proposed regulation; DEEP will further shape and refine the discussion draft after considering public feedback, before proposing any formal proposed regulation for amendment/adoption and before initiating the formal regulation adoption process.

**Purpose:**

Since their adoption in 1996, the Remediation Standard Regulation (RSR) has relied on only two different direct exposure criteria (DEC) for the cleanup of polluted sites in Connecticut: Residential and Industrial/Commercial. Currently, to use an alternative exposure scenario, a party must apply for a site-specific approval of a variance to the existing default Residential or Industrial/Commercial DEC. Based upon stakeholder input, DEEP, together with the Department of Public Health, is considering the development of an additional DEC default exposure category and accompanying criteria for remediation projects in Connecticut. The additional default DEC would provide greater flexibility and allow for an additional self-implementing option which may be beneficial at certain sites undergoing remediation, while remaining protective.

The current approach to Direct Exposure Criteria within the Remediation Standard Regulations focuses on the protection of people who may be potentially exposed to site-related contaminants in either a residential or industrial/commercial setting. While the regulations provide the flexibility to request site-specific Direct Exposure Criteria based on different exposure scenarios for a site, the Department is exploring the possibility of establishing criteria for the **Passive Recreational Use** exposure setting. This would allow certain remediation sites an additional self-implementing option to refine remedial goals based on exposure assumptions more closely related to expected site conditions.

The additional direct exposure category would:

- have specific criteria added to the DEC Appendix A of the RSRs,
- be self-implementing, and
- require an Environmental Use Restriction (either ELUR or Deed Notice, to be determined).

### **Proposed Definition and Site Use Description for the DEC Cleanup Option:**

“Passive Recreation Use” means recreational activities where contact with polluted soil at the parcel, or portion thereof, is limited by the nature of the activity. Such activities could include, but not be limited to: hiking, wildlife viewing, observing and photographing nature, walking (walking trails), bird watching, bicycling, running/jogging, climbing, horseback riding or other activities. Passive recreation use does not include: camping, picnicking or other earth intrusive activities (e.g. planting, gardening), athletic fields for organized sport programs or those activities defined in subdivision (58) of this subsection (except to the extent “outdoor recreational area” is specifically modified by this proposal).

Criteria would be developed for Passive Recreational Use, through a public process, then adopted into regulations, to join with the existing Residential DEC and the Industrial/Commercial DEC. It would be presented in the RSR definition section as:

“Direct exposure criteria for passive recreation use” means the concentrations identified as direct exposure criteria in Appendix (A) to sections 22a-133k-1 through 22a-133k-3 of the Regulations of Connecticut State Agencies.

### **Consistency with Federal Regulations:**

Polychlorinated biphenyls (PCBs) are regulated at 40 Code of Federal Regulations part 761 pursuant to the Toxic Substances Control Act (TSCA) of 1976 which is not delegated to the states. The Wave 2 Revisions must be consistent with the requirements of TSCA. As identified in TSCA, requirements regarding types of activity (industrial, commercial and residential), low and high occupancy areas, and numeric criteria must be complied with, where PCBs are present.

## Draft Public Discussion Summary Table of Additional DEC for Passive Recreation

Category	Type of Change	RSR Provisions	Current type of EUR	Proposed Future Types of EUR	Description	Purpose(s)	Revisions to RSRs
<b>Designated Passive Recreation use</b>	New RSR DEC Cleanup Standard	Direct Exposure Criteria for Passive Recreation Areas	N/A	ELUR	Provides a self-implementing option for sites where exposures to site-related soil contamination is limited in frequency, duration and intensity. Residential or industrial/commercial exposure assumptions may not adequately describe exposures under a passive recreational scenario. Allows expansion of remedial options for public and private recreational use areas.	Allow for remediation to the proposed Passive Recreation Direct Exposure Criteria for property where that use is restricted to Passive Recreation activities.	Amend RSR definitions to include a definition for Passive Recreational Activity Include Passive Recreation Direct Exposure Criteria in Appendix (A) to sections 22a-133k-1 through 22a-133k-3 of the Regulations of Connecticut State Agencies
				DEED NOTICE			