Proposed Revisions to the Connecticut Remediation Standard Regulations
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RSRs - Background

- CGS §22a-133k directed DEEP to develop standards for the remediation of contaminated sites that:
  - Fully protect health, public welfare and the environment
  - Give preference to permanent remedies
  - Are less stringent for industrial land use

- The Remediation Standard Regulations (RSRs)
  - §22a-133k-1 through 133k-3 of the RCSA - 1996, 2013

- Environmental Use Restrictions (EURs)
  - RSCA §22a-133q-1 (ELURs) - 1996, 2013
  - CGS §22a-133o (NAULs) - 2013

Remediation Division
RSRs - Applicability

RSRs allow for:

- Site cleanups to proceed with a defined remedial goal
- Sites to address cleanup goals without direct DEEP oversight – CT Licensed Environmental Professional (LEP) Program (CGS §22a-133v)

RSRs apply to:

- Remediation of polluted soil and groundwater
- Cleanup of release areas
- Remedial actions required by regulation, statute or order of the Commissioner
RSRs - Compliance Structure

Compliance Point (exits)
- Meet Default Criteria
  - Appendices
- LEP Implementation
  - Formulaic
  - Lower risk
- Commissioner Approval
  - Complex
  - Higher risk

DEEP Involvement Increases

Remediation Division
Why RSR Revision Now?

- Key part of the overall DEEP “Transformation” process
  - Unify and streamline the State’s remediation programs

- Property Transfer sites have an 8 year deadline to finish or substantially complete cleanup
  - First deadline: October 2017

- Great public interest and expectation
Why RSR Revision Now?

Transformation is Progressing

Transformation Work Groups
- EUR Wave 1 Amendments
- SEHN Amendments
- Municipal Relief
- Statute to Expand Institutional Controls
- Risk Evaluation
- GW Reclass Evaluation

COMPLETE
- RSR Wave 1 Amendments
- Wave 2 Guidance
- ECO Guidance
- GW Classification Improvements

ONGOING
- RSR Wave 2 Amendments
- EUR Wave 2 Amendments

UPCOMING
- Release Reporting Regulations
- Data/Web Information Management
- Electronic Documentation
- Soil Reuse Regulations
- Science Advisory Panel
- Historical Releases

FUTURE
- Wave 3 Amendments
- Unified Program Elements

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Big Picture – Goals for Revisions

➤ **Greater certainty**
➤ Clearer requirement details help build certainty for planning and redevelopment

➤ **Enhance economic growth**
➤ Lower remedial cost while maintaining protection
➤ Increase brownfield redevelopment

Since 2012 CT Brownfield Program has:
- Invested **147 million** in grants and loans
- Funded **157 projects**
- Remediated **2,240 acres**
Big Picture - Goals for Revisions

- Promote faster cleanups
  - Increased compliance exits
  - Allow for more release-specific remedies

- Optimize resources
  - Less DEEP involvement on lower-risk scenarios
  - New LEP-implemented options
  - Conduct appropriate remediation for site conditions

- Continue to protect public health and the environment
Extensive outreach over the last 7 years:

- **7 workgroups** - regulated community and other constituent groups assisted DEEP in crafting the revision ideas
- **11 Public discussion papers** - Posted online for public feedback
- **2 iterations of detailed conceptual language** - Published online for public feedback in April 2016 and August 2016
- **2 public information/discussion sessions** - April 2016 concept draft discussed in Hartford and Derby
- **13 Remediation Roundtable** (informational forums) - Presented and discussed publicly proposed RSR revision concepts
- **4 constituent groups** - In 2015 and 2016 presented proposed RSR changes to stakeholder organizations who have a direct connection with the small business community
  - Connecticut Business & Industry Association - CBIA
  - Connecticut Environmental Form - CEF
  - Environmental Professionals’ Organization of Connecticut – EPOC
  - Connecticut Bar Association - CBA
- **4 state agencies** - Briefed DECD, DPH, DOT, and AG during RSR drafting
RSR Revision Timeline

**2010**
- Transformation Begins: DEEP + Stakeholder Workgroups
- RSR Revisions Adopted (Wave 1) (7 major concepts)

**2013**
- Substantial Public Outreach 2013-2016:
  - Public Discussion Documents
  - Stakeholder Organizations
  - State Agencies
  - Remediation Roundtable
  - Website / Technical Training

**2016**
- RSR Revisions Adoption (Wave 2) (25 major concepts)
- Legal Review: 2016-2018:
  - Worked with DEEP Legal counsel to:
    - Strengthen language, finalize concepts, increase consistency between sections, eliminate duplication, and reorganize

**2019**
- 2019

**2020**
- Wave 2 adoption
- 2020
Benefits of Wave 1 Amendments

Verifications per year

Pre-2013
54 Verifications per year

Post-2013 (Wave 1)
109 Verifications per year

Remediation Division
<table>
<thead>
<tr>
<th>Wave 2 Added or Modified Provisions</th>
<th>Flexibility</th>
<th>Certainty</th>
<th>Cost Savings</th>
<th>Faster Cleanups</th>
<th>Clarity</th>
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Example of Benefits

- **New LEP-Implemented Options**
  - Alternative PMC calculation
  - Widespread polluted fill - coastal boundary areas
  - Pre-designed Engineered Control for DEC exceedances
  - Alternative GWPC
  - Alternative SWPC - New Alternative SWPC Calculations
  - Specific Environmental Use Restrictions (NAULs)

- **Added process for ECs and TIs**

- **New exemption for polluted soil containing pesticides**
  - Eliminates the removal of high-quality agricultural soil offsite; or
  - Allows for the disposal of pesticide impacted high-quality top soil on agricultural land
New Exit - Alternative GWPC

- More flexibility in achieving groundwater compliance in areas with no current or future drinking water use
- Decreases time and monitoring cost associated with achieving groundwater compliance

Big potential impact
- Alt GWPC Area covers 8%
- 15% of Property Transfer sites
Financial Surety and Public Notice Improvements

- Refine Financial Assurance
  - Simplifies calculating financial assurance
  - More financial predictability
  - Exempt if total surety is less than $10,000

- Clarify Public Notice Requirements
  - Consolidate directions for posting
  - Reduces notice period from 45 days to 30 days
  - Improved public notice process to better reach target audience
Polluted Soil Reuse

- Added since 2016 conceptual language:
  - Detail to the reuse of polluted soil provision for clarity

- Three reuse types:
  - On-site (LEP-Implemented)
  - Onsite or Offsite Adjacent Property (When EUR needed)
    - Added flexibly for large releases or adjacent properties with similar releases
  - Offsite (Commissioner Approval)

- Placement still:
  - Can’t be placed below the water table
  - Can’t be placed in an area subject to erosion
  - Can’t be placed to be inconsistent with anti-degradation policy
New Requirements

- Establishes long-term variance obligations

- Adds Environmental Use Restrictions to certain provisions (Vapor Mitigation System)

- Modifies the volatilization criteria for Chlorinated VOCs based on new scientific understanding of fate and transport

- Requires the protection of receptors when using the upgradient groundwater plume provision

- Supplemental public notice if change to remedial action or remediation not initiated within two years of notice
EURs Revision

- EUR are required when pollution remain on a parcel above default cleanup criteria

- EUR are designed to:
  - Restrict further use of a parcel
  - Impose certain affirmative obligations upon owner

EUR Types

- ELUR – Environmental Land Use Restriction (Commissioner Approval)
  - Conveys an interest in the parcel to the state
  - Used on “higher risk” parcels

- NAUL – Notice of Activity and Use Limitation (LEP-Implemented)
  - New tool that is only available for certain restrictions specified in statute
  - Binds future owners obligation to maintain restriction
EURs Revisions

- **Goals**
  - Permit the use of NAULs
  - Greater detail on:
    - Implementation process
    - Completion of survey
  - Allow for minor disturbances without commissioner approval
  - Impose certain fees
  - Require annual inspections every 5 years

- **Benefits**
  - More efficient application
  - Greater long-term certainty of restriction
  - Cost savings due to allowing LEP-Implemented NAULs
Next Steps

- Start public notice process (Early July)
  - Duration 90 days
- Kickoff Meeting (Early July)
- Q/A sessions and meet with various stakeholders (Late July – Early September)
- Evaluate public comments (make any necessary adjustments)
  - Generate Response to Comment Document
- Final review – Legislative Regulation Review Committee