



Senate

General Assembly

File No. 488

January Session, 2025

Senate Bill No. 1404

Senate, April 3, 2025

The Committee on Commerce reported through SEN. HARTLEY of the 15th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING CONFORMING ADJUSTMENTS TO SUPPORT
THE TRANSITION TO A RELEASED-BASED CLEANUP PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 22a-134rr of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) Any person who creates or maintains a release to the land and
5 waters of the state on or after the date when regulations are [first
6 adopted] effective after adoption pursuant to section 22a-134tt shall,
7 upon discovery of such release: (1) Report the release, if such a report is
8 required by the regulations adopted pursuant to section 22a-134tt, and
9 (2) remediate any release to the standards identified in regulations
10 adopted pursuant to section 22a-134tt. If any person fails to comply with
11 the provisions of this section and section 22a-134tt, such person shall be
12 liable for any costs incurred by the commissioner in accordance with
13 section 22a-451, or costs incurred by any other person who contains or
14 removes or otherwise mitigates the effects of such release in accordance

15 with section 22a-452.

16 Sec. 2. Subdivision (1) of section 22a-134 of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective from*
18 *passage*):

19 (1) "Transfer of establishment" means any transaction or proceeding,
20 on or before the effective date of regulations [are] adopted pursuant to
21 section 22a-134tt, through which an establishment undergoes a change
22 in ownership, but does not mean:

23 (A) Conveyance or extinguishment of an easement;

24 (B) Conveyance of an establishment through (i) a foreclosure, as
25 defined in subsection (b) of section 22a-452f, (ii) foreclosure of a
26 municipal tax lien pursuant to section 12-181, (iii) a tax warrant sale
27 pursuant to section 12-157, (iv) a transfer of title to a municipality by
28 deed in lieu of foreclosure, (v) an exercise of eminent domain by a
29 municipality or pursuant to section 8-128, 8-169e or 8-193 or by
30 condemnation pursuant to section 32-224 or purchase pursuant to a
31 resolution by the legislative body of a municipality authorizing the
32 acquisition through eminent domain for establishments that also meet
33 the definition of a brownfield, as defined in section 32-760, or (vi) a
34 subsequent transfer by such municipality that has acquired the property
35 pursuant to any mechanism described in subparagraphs (B)(i) to (B)(iii),
36 inclusive, of this subdivision or pursuant to the remedial action and
37 redevelopment municipal grant program established in section 32-763,
38 provided (I) the party acquiring the property from the municipality did
39 not establish, create or contribute to the contamination at the
40 establishment and is not affiliated with any person who established,
41 created or contributed to such contamination or with any person who is
42 or was an owner or certifying party for the establishment, and (II) on or
43 before the date the party acquires the property from the municipality,
44 such party or municipality enters and subsequently remains in the
45 voluntary remediation program administered by the commissioner
46 pursuant to section 22a-133x and remains in compliance with schedules
47 and approvals issued by the commissioner. For purposes of this

48 subparagraph, subsequent transfer by a municipality includes any
49 transfer to, from or between a municipality, municipal economic
50 development agency or entity created or operating under chapter 130 or
51 132, a nonprofit economic development corporation formed to promote
52 the common good, general welfare and economic development of a
53 municipality that is funded, either directly or through in-kind services,
54 in part by a municipality, a nonstock corporation or limited liability
55 company controlled or established by a municipality, municipal
56 economic development agency or entity created or operating under
57 chapter 130 or 132, or a Connecticut brownfield land bank;

58 (C) Conveyance of a deed in lieu of foreclosure to a lender, as defined
59 in and that qualifies for the secured lender exemption pursuant to
60 subsection (b) of section 22a-452f;

61 (D) Conveyance of a security interest, as defined in subdivision (7) of
62 subsection (b) of section 22a-452f;

63 (E) Termination of a lease and conveyance, assignment or execution
64 of a lease for a period less than ninety-nine years including conveyance,
65 assignment or execution of a lease with options or similar terms that will
66 extend the period of the leasehold to ninety-nine years, or from the
67 commencement of the leasehold, ninety-nine years, including
68 conveyance, assignment or execution of a lease with options or similar
69 terms that will extend the period of the leasehold to ninety-nine years,
70 or from the commencement of the leasehold;

71 (F) Any change in ownership approved by the Probate Court;

72 (G) Devolution of title to a surviving joint tenant, or to a trustee,
73 executor or administrator under the terms of a testamentary trust or
74 will, or by intestate succession;

75 (H) Corporate reorganization not substantially affecting the
76 ownership of the establishment;

77 (I) The issuance of stock or other securities of an entity which owns
78 or operates an establishment;

79 (J) The transfer of stock, securities or other ownership interests
80 representing fifty per cent or less of the ownership of the entity that
81 owns or operates the establishment;

82 (K) Any conveyance of an interest in an establishment where the
83 transferor is the sibling, spouse, child, parent, grandparent, child of a
84 sibling or sibling of a parent of the transferee;

85 (L) Conveyance of an interest in an establishment to a trustee of an
86 inter vivos trust created by the transferor solely for the benefit of one or
87 more siblings, spouses, children, parents, grandchildren, children of a
88 sibling or siblings of a parent of the transferor;

89 (M) Any conveyance of a portion of a parcel upon which portion no
90 establishment is or has been located and upon which there has not
91 occurred a discharge, spillage, uncontrolled loss, seepage or filtration of
92 hazardous waste, provided either the area of such portion is not greater
93 than fifty per cent of the area of such parcel or written notice of such
94 proposed conveyance and an environmental condition assessment form
95 for such parcel is provided to the commissioner sixty days prior to such
96 conveyance;

97 (N) Conveyance of a service station, as defined in subdivision (5) of
98 this section;

99 (O) Any conveyance of an establishment which, prior to July 1, 1997,
100 had been developed solely for residential use and such use has not
101 changed;

102 (P) Any conveyance of an establishment to any entity created or
103 operating under chapter 130 or 132, or to an urban rehabilitation agency,
104 as defined in section 8-292, or to a municipality under section 32-224, or
105 to Connecticut Innovations, Incorporated or any subsidiary of the
106 corporation;

107 (Q) Any conveyance of a parcel in connection with the acquisition of
108 properties to effectuate the development of the overall project, as
109 defined in section 32-651;

110 (R) The conversion of a general or limited partnership to a limited
111 liability company;

112 (S) The transfer of general partnership property held in the names of
113 all of its general partners to a general partnership which includes as
114 general partners immediately after the transfer all of the same persons
115 as were general partners immediately prior to the transfer;

116 (T) The transfer of general partnership property held in the names of
117 all of its general partners to a limited liability company which includes
118 as members immediately after the transfer all of the same persons as
119 were general partners immediately prior to the transfer;

120 (U) Acquisition of an establishment by any governmental or quasi-
121 governmental condemning authority;

122 (V) Conveyance of a unit in a residential common interest
123 community;

124 (W) Acquisition and all subsequent transfers of an establishment (i)
125 that is in the abandoned brownfield cleanup program established
126 pursuant to section 32-768 or the brownfield remediation and
127 revitalization program established pursuant to section 32-769, provided
128 such establishment is in compliance with any applicable provisions of
129 the general statutes, or (ii) by a Connecticut brownfield land bank,
130 provided such establishment was entered into a remediation or liability
131 relief program under section 22a-133x, 22a-133y, as amended by this act,
132 32-768 or 32-769 and the transferor of such establishment is in
133 compliance with such program at the time of transfer of such
134 establishment or has completed the requirements of such program;

135 (X) Any transfer of title from a municipality to a nonprofit
136 organization or from any entity to a nonprofit organization, as ordered
137 or approved by a bankruptcy court;

138 (Y) Conveyance from the Department of Transportation to the
139 Connecticut Airport Authority of any properties comprising (i) Bradley
140 International Airport and all related improvements and facilities now in

141 existence and as hereafter acquired, added, extended, improved and
142 equipped, including any property or facilities purchased with funds of,
143 or revenues derived from, Bradley International Airport, and any other
144 property or facilities allocated by the state, the Connecticut Airport
145 Authority or otherwise to Bradley International Airport, (ii) the state-
146 owned and operated general aviation airports, including Danielson
147 Airport, Groton/New London Airport, Hartford Brainard Airport,
148 Waterbury-Oxford Airport and Windham Airport and any such other
149 airport as may be owned, operated or managed by the Connecticut
150 Airport Authority and designated as general aviation airports, (iii) any
151 other airport as may be owned, operated or managed by the Connecticut
152 Airport Authority, and (iv) any airport site or any part thereof,
153 including, but not limited to, any restricted landing areas and any air
154 navigation facilities; or

155 (Z) The change in the name of a limited liability company as an
156 amendment to such company's certificate of organization, pursuant to
157 section 34-247a.

158 Sec. 3. Section 22a-6u of the general statutes is amended by adding
159 subsection (p) as follows (*Effective October 1, 2025*):

160 (NEW) (p) On and after the effective date of regulations adopted
161 pursuant to section 22a-134tt, the requirements of this section shall
162 apply only to releases that, pursuant to subsections (c) and (d) of section
163 22a-134rr, are not subject to the requirements of sections 22a-134qq to
164 22a-134xx, inclusive, and any hazard required to be reported by a
165 municipality or Connecticut brownfield land bank pursuant to
166 subsection (b) of section 22a-133dd.

167 Sec. 4. Section 22a-133y of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective from passage*):

169 (a) [On and after January 1, 1996] Before the effective date of
170 regulations adopted pursuant to section 22a-134tt, any licensed
171 environmental professional licensed by the State Board of Examiners of
172 Environmental Professionals pursuant to section 22a-133v may,

173 pursuant to a voluntary site remediation conducted in accordance with
174 subsections (a) to (e), inclusive, of this section, conduct a Phase II
175 environmental site assessment or a Phase III investigation, prepare a
176 Phase III remedial action plan, supervise remediation or submit a final
177 remedial action report to the Commissioner of Energy and
178 Environmental Protection in accordance with the standards provided
179 for remediation in the regulations adopted by the commissioner under
180 section 22a-133k for any real property which has been subject to a spill
181 and which meets the following criteria: (1) Such property is located in
182 an area classified as GB or GC under the standards adopted by the
183 commissioner for classification of groundwater contamination; and (2)
184 such property is not the subject of any order issued by the commissioner
185 regarding such spill, consent order or stipulated judgment regarding
186 such spill. Any such professional employed by a municipality may
187 enter, without liability, upon any property within such municipality for
188 the purpose of performing an environmental site assessment or
189 investigation if the owner of such property is unknown or such property
190 is encumbered by a lien for taxes due to such municipality. Nothing in
191 this subsection shall affect the ability of any person, firm or corporation
192 to provide any of the services enumerated in this subsection in
193 connection with the remediation of contaminated real property other
194 than as provided for a voluntary site remediation conducted pursuant
195 to this section.

196 (b) Following any Phase II environmental site assessment or a Phase
197 III investigation for any such property, any Phase III remedial action
198 plan prepared for purposes of a voluntary site remediation under
199 subsections (a) to (e), inclusive, of this section shall be prepared by a
200 licensed environmental professional in accordance with the standards
201 for such property adopted by the commissioner under section 22a-133k.
202 Prior to commencement of remedial action taken pursuant to such plan,
203 the owner of the property shall submit such plan to the commissioner
204 and shall: (1) Publish notice of the remedial action in a newspaper
205 having a substantial circulation in the town where the property is
206 located; (2) notify the director of health of the municipality where the
207 parcel is located; and (3) either (A) erect and maintain for at least thirty

208 days in a legible condition a sign not less than six feet by four feet on the
209 property, which sign shall be clearly visible from the public highway,
210 and shall include the words "ENVIRONMENTAL CLEAN-UP IN
211 PROGRESS AT THIS SITE. FOR FURTHER INFORMATION
212 CONTACT:" and include a telephone number for an office from which
213 any interested person may obtain additional information about the
214 remedial action; or (B) mail notice of the remedial action to each owner
215 of record of property which abuts such property, at the address on the
216 last-completed grand list of the relevant town. The commissioner may
217 review such plan and may advise such owner as to the adequacy of such
218 plan. The remedial action shall be conducted under the supervision of a
219 licensed environmental professional. The commissioner shall expedite
220 the process for issuing any permits required under this title for such
221 action. The final remedial action report shall be submitted by a licensed
222 environmental professional. In preparing such report, the licensed
223 environmental professional shall render an opinion, in accordance with
224 the standard of care provided for in subsection (c) of section 22a-133w,
225 that the action taken to contain, remove or mitigate the spill is in
226 accordance with the remediation standards for such property adopted
227 by the commissioner under section 22a-133k. The owner of the property
228 shall maintain all records relating to such remedial action for a period
229 of not less than ten years and shall make such records available to the
230 commissioner at any time upon his request.

231 (c) Any final remedial action report submitted to the commissioner
232 for such a property by a licensed environmental professional shall be
233 deemed approved unless, within sixty days of such submittal, the
234 commissioner determines, in his sole discretion, that an audit of such
235 remedial action is necessary to assess whether remedial action beyond
236 that which is indicated in such report is necessary for the protection of
237 human health or the environment. Such an audit shall be conducted
238 within six months of such determination. After completing such audit,
239 the commissioner may disapprove the report provided he shall give his
240 reasons therefor in writing and further provided such owner may
241 appeal such disapproval to the superior court in accordance with the
242 provisions of section 4-183. Prior to approving a final remedial action

243 report, the commissioner may enter into a memorandum of
244 understanding with the owner of such property with regard to any
245 further remedial action or monitoring activities on or at such property
246 which the commissioner deems necessary for the protection of human
247 health or the environment.

248 (d) Upon the approval of such report, the owner of the property shall
249 execute and record an environmental use restriction in accordance with
250 the provisions of section 22a-133o, unless a licensed environmental
251 professional presents evidence, satisfactory to the commissioner, that
252 the remediation has achieved a standard sufficient to render such a
253 restriction unnecessary and the commissioner issues a written finding
254 that such restriction is not necessary. Approval of a final remedial action
255 report pursuant to subsections (a) to (e), inclusive, of this section shall
256 be sufficient to support the filing of a Form II, as defined in section 22a-
257 134, as amended by this act.

258 (e) Nothing in this section shall relieve any person of any obligation
259 to comply with sections 22a-134 to 22a-134e, inclusive, as amended by
260 this act.

261 (f) On or after the effective date of regulations adopted pursuant to
262 section 22a-134tt, any licensed environmental professional licensed by
263 the State Board of Examiners of Environmental Professionals pursuant
264 to section 22a-133v may, pursuant to prevailing standards and
265 guidelines, conduct a parcel-wide Phase II environmental site
266 assessment and a parcel-wide Phase III investigation, for any parcel of
267 real property which has, or which may have been, subject to a release,
268 as defined in section 22a-134pp, for the purposes of entering such parcel
269 into a voluntary parcel-wide remediation program pursuant to
270 subsections (f) to (k), inclusive, of this section, except as provided by
271 subsection (g) of this section. Any such professional employed by a
272 municipality may enter, without liability, upon any property within
273 such municipality for the purpose of performing an environmental site
274 assessment or investigation if the owner of such property is unknown
275 or such property is encumbered by a lien for taxes due to such

276 municipality, or as otherwise provided for pursuant to section 22a-133e.
277 Nothing in subsections (f) to (k), inclusive, of this section shall affect the
278 ability of any person, firm or corporation to provide any of the services
279 described in this subsection in connection with the remediation of
280 contaminated real property other than as provided for a voluntary
281 parcel-wide remediation conducted pursuant to subsections (f) to (k),
282 inclusive, of this section.

283 (g) A parcel shall be eligible for voluntary parcel-wide remediation
284 pursuant to subsections (f) to (k), inclusive, of this section if such parcel
285 is not subject to sections 22a-134a to 22a-134e, inclusive, and sections
286 22a-134h and 22a-134i, the parcel is not the subject of any order issued
287 by the commissioner regarding one or more releases, or a consent order
288 or stipulated judgment regarding one or more releases, and a parcel-
289 wide Phase II environmental site assessment is initiated before the
290 discovery of a release on a parcel subject to the requirements of chapter
291 445b for which a release remediation closure report has not previously
292 been prepared, or not more than sixty days following the discovery of a
293 release on a parcel for which a release remediation closure report has
294 not previously been prepared, provided any immediate actions
295 otherwise required by the regulations adopted pursuant to section 22a-
296 134tt are completed within a time frame and in the manner required by
297 such regulations.

298 (h) Each release identified by a parcel-wide Phase II environmental
299 assessment conducted pursuant to subsection (g) of this section through
300 multiple lines of evidence or the laboratory analysis of samples taken
301 from the land and waters of the state shall be determined to be
302 discovered for the purposes of section 22a-134tt and any regulations
303 adopted pursuant to said section. Not later than the earliest deadline to
304 report any release discovered pursuant to subsection (g) of this section,
305 as established in regulations adopted pursuant to section 22a-134tt, the
306 environmental professional shall provide notice to the commissioner, on
307 a form prescribed by the commissioner, of the intent to enter the
308 voluntary parcel-wide cleanup program. Such form shall include, but
309 not be limited to, the date of the initiation of the Phase II environmental

310 site assessment, a description of the investigation conducted and the
311 identification each release discovered.

312 (i) Each release discovered pursuant to subsection (h) of this section
313 shall be subject to the requirements of chapter 445b and the regulations
314 adopted pursuant to section 22a-134tt, provided:

315 (1) For each release discovered pursuant to subsection (g) of this
316 section, any investigation or characterization required to assign the
317 release to a cleanup tier shall be completed and submitted to the
318 commissioner not more than two years after the initiation of the parcel-
319 wide Phase II environmental site assessment. The commissioner may
320 audit such submission and, if the commissioner determines that the
321 investigation or characterization is inadequate, may specify a schedule
322 for the completion of additional investigation or characterization. If
323 such additional investigation or characterization is not completed in
324 accordance with such schedule, the commissioner may subject each
325 release discovered pursuant to subsections (g) and (h) of this section to
326 the requirements of chapter 445b;

327 (2) Upon completion of tier characterization, each release discovered
328 pursuant to subsections (g) and (h) of this section shall be grouped
329 together for the purpose of assignment to cleanup tier in accordance
330 with regulations adopted pursuant to section 22a-134tt. Such releases
331 shall be assigned to the environmental professional supervised cleanup
332 tier with the longest timeline for remediation;

333 (3) To the extent each release discovered pursuant to subsections (g)
334 and (h) of this section is subject to any fee assessed by regulations
335 adopted pursuant to section 22a-134tt, releases grouped together
336 pursuant to subdivision (2) of this subsection shall be considered a
337 single release for the purpose of calculating the fee assessed; and

338 (4) Any deadline for remediation of releases grouped together
339 pursuant to subdivision (2) of this subsection that is established by
340 regulations adopted pursuant to section 22a-134tt shall be extended by
341 one year.

342 (j) Any parcel remediated pursuant to the requirements of
343 subsections (f) to (k), inclusive, of this section shall be eligible for a
344 covenant not to sue pursuant to section 22a-133aa, provided a detailed
345 written plan for remediation of the property, in accordance with
346 standards adopted by the commissioner pursuant to section 22a-134tt,
347 has been approved by the commissioner.

348 (k) The commissioner shall expedite the process for issuing any
349 permits required under this title for parcel-wide remediation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-134rr(a)
Sec. 2	<i>from passage</i>	22a-134(1)
Sec. 3	<i>October 1, 2025</i>	22a-6u(p)
Sec. 4	<i>from passage</i>	22a-133y

CE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various technical and procedural changes to the released-based cleanup program, and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 1404*****AN ACT CONCERNING CONFORMING ADJUSTMENTS TO SUPPORT THE TRANSITION TO A RELEASE-BASED CLEANUP PROGRAM.*****SUMMARY**

This bill makes changes related to the state's transition from its transfer-based approach to property remediation (the Transfer Act) to a release-based approach.

Under current law, the release-based approach becomes effective when the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations for the program (release-based clean-up regulations or RBCRs; see BACKGROUND). The bill makes the release-based approach effective when the RBCRs take effect, rather than on their adoption date. It also exempts releases that are subject to the release-based cleanup law from having to meet the environmental hazards notification law's requirements once the RBCRs take effect.

Additionally, on the date the RBCRs take effect, the bill replaces the state's voluntary remediation program with a new "voluntary parcel-wide remediation program." The current voluntary remediation program is a way for property owners to expedite the remediation of eligible contaminated properties. The bill's program is similar, but incorporates specified requirements of the released-based cleanup laws and RBCRs. Among other things, it allows eligible properties to qualify for (1) additional time to complete certain investigation activities, (2) reduced fees under the RBCRs, and (3) increased liability protections.

EFFECTIVE DATE: Upon passage, except the environmental hazard notification provisions take effect October 1, 2025.

ENVIRONMENTAL HAZARD NOTIFICATION LAW

By law, Connecticut's environmental hazard notification law requires property owners to notify DEEP when they become aware of significant environmental hazards that pose a potential health risk to exposed individuals or the environment. It also requires technical environmental professionals to notify their clients and the property owners if they find contamination while investigating or remediating pollution. The law sets specific thresholds that trigger its notification requirements based on the nature and severity of the potential risk.

The bill exempts from this law's notification requirements releases that are subject to the release-based cleanup law, as of the date the RBCRs take effect. Under the bill, releases at properties that are exempt from the release-based cleanup law continue to be subject to the environmental hazard notification law. These include certain releases at properties that are part of an existing DEEP or Department of Economic and Community Development brownfields program (specifically, releases (1) discovered before the applicable brownfields program's remediation requirements are fully met or (2) that occurred before, but are discovered after, satisfying the brownfields program's remediation requirements).

The requirements also continue to apply to municipalities and Connecticut brownfield land banks that must report significant environmental hazards when performing an environmental site assessment or investigation under a specified liability protection program (the municipal access liability relief law).

VOLUNTARY PARCEL-WIDE CLEANUP PROGRAM

LEPs

Similar to the current voluntary remediation program, the bill authorizes state-licensed environmental professionals (LEPs) to conduct certain activities on property that was, or may have been, subject to a "release" under the release-based clean-up laws to enter the site into the voluntary parcel-wide cleanup program. (A release is generally an unauthorized spill or discharge of oil, petroleum, chemicals, or hazardous waste into water or on land.) Specifically, the bill allows

LEPs, according to prevailing standards and guidelines, to conduct a parcel-wide investigation to determine the:

1. presence or absence of a petroleum product, chemical, or hazardous waste spill at the parcel, including sampling soil and groundwater (“Phase II environmental site assessment”), and
2. extent of a spill on the parcel, including making a reasonable estimate of the remediation costs (“Phase III investigation”).

As under the current voluntary remediation program, LEPs employed by municipalities may, without liability, enter property to perform an environmental site assessment or investigation if the property owner is unknown or the property is subject to a tax lien. The bill additionally allows them to do so as the existing law on State Superfund Program remediation allows (however, it is unclear what authority LEPs have under the statute referenced).

The bill does not affect the ability of anyone to provide services similar to LEP services on property that is not being remediated under the voluntary parcel-wide remediation program.

Eligible Properties

Under the bill, starting on the date the RBCRs take effect, a parcel is eligible for this program if:

1. it is not subject to the Transfer Act;
2. it is not subject to any DEEP order, consent order, or stipulated judgment regarding the parcel’s contamination; and
3. a parcel-wide Phase II environmental site assessment started either before the release’s discovery or within 60 days after its discovery, and a “release remediation closure report” (required under the proposed RBCRs) was not previously prepared for the parcel.

Additionally, the bill requires that any immediate actions the RBCRs

require be completed within the manner and timeframe specified for the parcel to be eligible.

Timeline and Procedure for Entering the Program

Under the bill, the releases identified by these parcel-wide Phase II assessments, either through “multiple lines of evidence” or laboratory analysis of land and water samples, are considered discovered for purposes of the release-based cleanup law and the RBCRs. (Under the proposed RBCRs, “multiple lines of evidence” means two or more types of observable facts which tend to show the truth of a matter asserted.)

The LEP must notify the commissioner about the intent to enter the voluntary parcel-wide cleanup program, on a DEEP-prescribed form, by the earliest deadline the RBCRs set for reporting these releases. The form must at least (1) include the date the Phase II assessment started, (2) describe the investigation involved, and (3) identify each release discovered.

Exceptions to the Release-Based Cleanup Law and RBCRs

Eligible releases that enter the voluntary parcel-wide remediation program qualify for specified exceptions to the release-based cleanup law and the RBCRs.

Cleanup Tier Characterization. The proposed RBCRs generally require releases to be assigned to a cleanup tier within one year after their discovery, with assignments based on the risk the releases pose to human health and the environment (§ 22a-134tt-6(a)). Under the bill, for the releases identified by the Phase II assessments described above, any investigation or characterization that must be done to assign them to a tier must be completed and submitted to the DEEP commissioner within two years after the assessment began.

The bill allows the commissioner to audit this submission and set a schedule for completing additional investigation or characterization if she determines the first was inadequate. She may subject releases to the release-based cleanup laws if the further investigation or characterization is not timely completed.

Grouping Releases for Tier Assignment. Under the bill, after this tier characterization ends, releases must be grouped and assigned to the environmental professional supervised cleanup tier with the longest remediation timeline. (Under the proposed RBCRs, only specified cleanup tiers are supervised by LEPs or other qualified professionals, as applicable.)

Fees. If releases are grouped, they must be considered a single release when calculating any fee assessed under the RBCRs. (The proposed RBCRs set (1) tier assignment fees and (2) annual fees that apply until a release is verified, with certain exceptions for specified properties.)

Remediation Deadlines. The bill extends by one year any remediation deadline set under the RBCRs for these grouped releases.

Covenant Not to Sue

The bill makes parcels remediated under this program eligible for a “covenant not to sue” allowed under existing law (CGS § 22a-133aa) if the DEEP commissioner approved a detailed written remediation plan for the property that meets the release-based cleanup law’s remediation standards.

This law establishes conditions under which DEEP and a prospective purchaser or owner of a contaminated property may enter into an agreement that DEEP will not require remediation of previously unknown contamination from a release that predates the covenant’s effective date and is found to exist after DEEP deems the remediation complete.

Expedited Permits

As under the current voluntary remediation program, the DEEP commissioner must expedite the process for issuing any permits required to remediate parcels under this program.

BACKGROUND

RBCRs

The proposed RBCRs are currently pending. The Regulations Review Committee rejected them without prejudice on March 25, 2025. Once approved, the regulations are scheduled to take effect on March 1, 2026.

Related Bill

sHB 7085, favorably reported by the Commerce Committee, requires the working group established to give advice and feedback on the proposed RBCRs to continue meeting after their adoption to (1) evaluate the program's implementation and efficacy and (2) offer related advice, feedback, and recommendations.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 20 Nay 0 (03/20/2025)