

**SUGGESTED CHANGES TO THE LEGISLATION THAT IS THE SUBJECT OF THIS PUBLIC HEARING**  
**(Submitted by CBIA)**

As an overarching comment, particularly because each provision states that it is effective upon passage, each provision should include the clause, “From the effective date of the regulations adopted as required by this Act ...”.

- 1. Ensuring that existing regulations and especially new regulations currently being proposed (RSR, EUR, Spills) “fit” together and do not create conflicts, confusion, inconsistencies. The goal being a single, unified system of environmental reporting and cleanup.**

Proposed language to address:

Add new subsection 10(e):

(e) In adopting the regulation under this subsection, the Commissioner shall incorporate the requirements of other cleanup statutes to assure consistency in the application of the remediation regulations and to minimize the number of different remediation regulations [reference Section 22a-133k??], or may modify existing remediation regulations. This provision shall also allow for revising or eliminating existing regulations to eliminate unnecessary duplication of or confusion regarding how to achieve compliance.

~~(e)~~ (f) The regulations adopted pursuant to subsection (a) of this section regarding audits shall:

- 2. Ensure the statute contemplates the opportunity for streamlined, risk-based cleanups**

Proposed language to address:

Sec. 10. (NEW) (*Effective from passage*) (a) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the provisions of this section and sections 6 to 9, inclusive, of this act. Such regulations shall include, but need not be limited to, provisions regarding (1) requirements for reporting releases (2) requirements and deadlines for investigating and delineating the extent of different categories of releases, (3) procedures and deadlines for remediation, including public participation; (4) standards for remediation for any release to the land and waters of the state, including provisions for environmental use restrictions as defined in section 22a-133n, et seq., and in accordance with section 22a-133k (4) guidelines for self-implementing risk assessments performed under the direction of Licensed Environmental Professionals to evaluate risk and develop alternate remediation standards where appropriate, ~~(4)~~ (5) verification and commissioner's audit of remediation; ~~(5)~~ (6) supervision of investigation and remediation based on pollutant type, concentration or volume, or based on the imminence of harm to public health; and ~~(6)~~ (7) fees.

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**3. Ensure the LEPs have autonomy to make cleanup decisions without unreasonable risks of being exposed to potential liability**

Proposed language to address:

Sec. 7. (NEW) (*Effective from passage*) From the effective date of the regulations adopted as required by these sections, no person shall create or maintain a release to the land and waters of the state in violation of any provision of this section and sections 8 to 12, inclusive, of this act. Investigation, monitoring and/or remediation of a release within the scope of a person's professional license shall not create or maintain a release to the land and waters of the state. A municipality whose actions are within the scope of section 22a-133dd or section 22a-133ff, except as provided therein, are not creating or maintaining a release under this section. [Need to exclude lender, fiduciary, innocent purchaser, certain tenants, etc. Which Massachusetts does. Regarding fiduciary responsibility, very important in wake of Connecticut's passage of the Uniform Trust Code, effective January 1, 2020.]

**4. Ensure the legislation provides direction as to the criteria regarding what has to be reported and cleaned up**

Proposed language to address: Modify the definition of "Report" as follows:

Sec. 6 (7) "Report" means to notify the commissioner of a release of substances in amounts or concentrations greater than reportable quantities or reportable concentrations to be defined in regulations, in accordance with the provisions of sections 7 to 10, inclusive, of this act and as may be further specified in the regulations adopted; and

Sec. 8. (NEW) (*Effective from passage*) From the effective date of the regulations adopted as required by these sections, (a) any person who created or maintains a release to the land or waters of the state on or after the date when regulations are first adopted pursuant to section 10 of this act shall, upon discovery of such release: (1) report the release, if the release exceeds the reportable quantities or the reportable concentrations and if such a report is required by regulations adopted pursuant to section 10 of this act, and (2) remediate any release to the standards identified in regulations adopted pursuant to section 10 of this act. If any person fails to comply with the provisions of this section and section 10 of this act, such person shall be liable for any costs incurred by the commissioner in accordance with section 22a-451 of the general statutes, or the reasonable costs incurred by any other person for containment, removal or mitigation of the effects of such release as provided in section 22a-452 of the general statutes.

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Sec. 10. (NEW) (*Effective from passage*) (a) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the provisions of this section and sections 6 to 9, inclusive, of this act. Such regulations shall include, but need not be limited to, provisions regarding (1) requirements for reporting releases when those releases are reportable based on reportable quantities and reportable concentrations with timeframes for reporting based on the likely risk reasonably associated with a release,

(Continue with the remained or Sec. 10 (a), subject to other proposed revisions herein).

5. **Ensure that the definition of “person” is consistent with the definition elsewhere in Title 22a (including in section 22a-2(b), the Transfer Act (see Section 1 of this Act), the ELUR statutes, the UST statutes, the Significant Environmental Hazard program, the spill statute, and other provisions throughout Title 22a. [As referenced under Item 3 above, this definition should also expressly exclude those who are not subject to even some portion of this Act, i.e., lenders, fiduciaries, innocent purchasers, certain tenants, etc. “Any officer or governing or managing body of any partnership, association, firm or corporation or any member or manager of a limited liability company” should not be deemed in violation of this Act. Not as it is in other states.]**

Proposed language to address:

(4) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, nonstock corporation, limited liability company, metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes or make charges for its authorized function, agency or political or administrative subdivision of the state, or other legal entity of any kind ;

6. **Ensure the definition of “release” does not include releases already permitted or regulated elsewhere**

Proposed language to address:

(5) "Release" means any discharge, spillage, uncontrolled loss, seepage or filtration into or onto the land and waters of the state, not authorized under the general statutes, of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes as defined in section 22a-134(4) of the general statutes which poses a potential threat to human health or the

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environment. "Release" does not include engine exhaust emissions, a release regulated by the Nuclear Regulatory Commission under 42 USC Sec. 2210, the normal application of fertilizer or the application of pesticides consistent with their labeling;

7. The legislation should create the workgroup that will develop the regulations and define what stakeholder interests (groups) will be represented on the working group

Proposed language to address:

Sec. 10. (NEW) (*Effective from passage*) (a) The chairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to commerce and the environment shall convene a working group to develop recommendations for regulations to be adopted by ~~The commissioner shall adopt regulations,~~ in accordance with the provisions of chapter 54 of the general statutes, ~~that the commissioner deems necessary for~~ implementation, administration and enforcement of this section and sections 6 to 9, inclusive, of this act. The working group shall be comprised of: (1) the chairpersons of said joint standing committees, or the chairpersons' designees, (2) the ranking members of said joint standing committees, or the ranking members' designees (3) the Commissioner, or the commissioner's designee, (4) the Commissioner of Economic and Community Development, or the commissioner's designee, (5) environmental transaction attorneys, (6) commercial real estate brokers, (7) licensed environmental professionals, (8) environmental advocates, (9) municipal representatives, and (10) representatives from the Brownfield Working Group established under section \_\_\_\_ of the General Statutes. The working group may also include members of said joint standing committees. The chairpersons of such joint standing committees shall select the individuals representing the communities specified in subdivisions (5) thru (10) of subsection 10 of this section, and may designate the Commissioner and the Commissioner of Economic Development, or their designees, to cochair the working group.

(Continue with remainder of section 10(a) subject to further proposed revisions herein)

8. **Ensure that existing brownfield programs are protected and in effect, separate.**

Proposed language to address:

We have not been able to assemble proposed language to address this concern at this time.