

CBIA e²Waste Task Force Summary

September 17, 2021

Harold Blinderman: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

Issue	Notes
DEEP: Release Reporting	<ul style="list-style-type: none"> • On March 11, 2021, DEEP posted a Notice of Intent (NOI) to adopt proposed Release Reporting Regulations. For a copy of the NOI, see: https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={10B22178-0000-C51D-B82E-4EF94B6273DB} • The comment period closed on May 10, 2021. • <i>Awaiting Hearing Officer Report and response to comments (new).</i> • For background over 15 comments were received including those from CBIA, Environmental Professionals Organization of CT (EPOC) Board of Directors, Eversource, Dominion Energy Services, Tradebe Environmental Services, AECOM, Luminant (Milford Power Company and Lake Road Generating Company), BYK USA, and South Central CT Regional Water Authority. <ul style="list-style-type: none"> ❖ For all comments, please see: https://eregulations.ct.gov/eRegsPortal/Search/ViewComments?CommentPeriod={D0B22178-0000-C05E-81BE-DEAD5B6E9854} ❖ Generally, commenters raised concerns that include: <ul style="list-style-type: none"> ▪ The proposed 1 hour reporting requirement. ▪ The definitions of release, reportable materials, chemical liquids, underground storage tanks system and underground stream. ▪ The reporting thresholds for: (1) releases of oil and petroleum; (2) releases of materials containing PCBs; (3) releases that contain a concentration of 30 percent or more by weight of any Material of Special Concern; and (4) releases to secondary containment systems. ▪ The proposed reporting exemptions for certain releases, which are contained and removed or otherwise properly mitigated within either 1 or 2 hours. ▪ The interplay between the various reporting provisions for oil and petroleum releases. ▪ The use of the term “catch basin” in the conditions that could trigger reporting obligations for releases of oil, petroleum and materials containing PCBs. ▪ The reporting requirement for any release, which poses a risk or potential risk to human health, public safety or the environment. ▪ The lack of a stated timeframe within which DEEP may request additional information on a

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DEEP: Release Reporting (continued)	<p>reported release via a follow-up report.</p> <ul style="list-style-type: none"> ▪ The penalties associated with failures to report within the required time frames and associated with conducting mitigation and/or remediation acts without a spill cleanup permit/license. ▪ The removal costs eligible for reimbursement. ▪ The reporting requirements for releases of oil and water mixtures.
DEEP: Released-Based Remediation Program Development	<ul style="list-style-type: none"> • Working Group continues to meet regularly. • Topical Subcommittees submitted position papers for the consideration of the Working Group on June 11, 2021. Reports submitted from: <ul style="list-style-type: none"> ❖ Discovery of Historical Releases ❖ Reporting Newly-Discovered Historical Releases ❖ Characterization of a Discovered Release ❖ Immediate Removal Actions ❖ Tiers • Transition Advisory Group report submitted on June 11, 2021 • Public comment period on Topical Subcommittee position papers closed on July 6. • The Topical Subcommittees' Concept Papers have been posted DEEP's Release-Based Cleanup Program Stakeholder Engagement webpage. See: https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Comprehensive-Evaluation-and-Transformation/Release-Based-Cleanup-Program-Stakeholder-Engagement • <i>Working Group meeting held on September 14, 2021 (new):</i> <ul style="list-style-type: none"> ❖ <i>Included a Q&A session with DEEP</i> ❖ <i>Two Ad Hoc Teams discussed recommendations and advice related to the concepts of historical fill, anthropogenic background and releases on residential. The two Ad Hoc Teams will continue dialog at the next Working Group Meeting, October 12th</i> ❖ <i>On October 26, 2021, the Working Group will discuss advice and recommendations from the Drafting Team</i>

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Permit Concierge Service (DEEP)	<ul style="list-style-type: none"> • Permit Concierge Service <ul style="list-style-type: none"> ❖ <i>The Concierge Permit Assistance Advisory Committee held meetings/webinars on June 22, July 20, August 17 and on September 14 (new).</i> • See, https://portal.ct.gov/DEEP/Permits-and-Licenses/Client-Concierge-Permit-Assistance
DEEP: Revisions to Remediation Standard Regulations and Environmental Use Restrictions	<ul style="list-style-type: none"> • RSR Wave 2 Proposed Regulations/Environmental Use Restriction (EUR) Proposed Revisions: <ul style="list-style-type: none"> ❖ Both sets of regulations became effective on February 16, 2021 ❖ Recent Developments: <ul style="list-style-type: none"> ▪ <i>The new EUR Application forms are available on DEEP's EUR webpage(new). See https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Environmental-Use-Restrictions/Environmental-Use-Restrictions</i> <ul style="list-style-type: none"> ○ DEEP has indicated that there will be a presentation on the new EUR forms at its October 5 Remediation Roundtable meeting. ▪ Previously Environmental Use Restriction (EUR) Annual Inspection Form; Fact Sheet; Fee Form; Form for Allowable Disturbance, Release or Termination; and Temporary Release for Recurring Activities Template posted on DEEP website. See: https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Environmental-Use-Restrictions/Environmental-Use-Restrictions <ul style="list-style-type: none"> ○ Owners of property subject to an EUR are responsible for complying with Annual and Five Year Comprehensive Inspections. Beginning in 2021, Annual Inspections are to be completed every year between April 1st and July 31st, except in a year when a Five Year Comprehensive Inspection is required. The first Five Year Comprehensive Inspection will occur in 2025, where such inspection must be completed between April 1st and September 30th. Within 30 days of any inspection, an inspection report, using the form prescribed by DEEP, must be completed. ○ Owners of property subject to an EUR are responsible for ensuring that an EUR Factsheet is maintained either on the property or with the person responsible for maintenance or operation of the property. The EUR Factsheet must be maintained until the EUR is permanently released or terminated in whole. For properties where an EUR was recorded before February 16, 2021, the EUR Factsheet must be completed and complied with by April 17, 2021. ▪ Revised RSR FAQs and new EUR FAQs are posted on the DEEPs website. See https://portal.ct.gov/

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DEEP: Revisions to Remediation Standard Regulations and Environmental Use Restrictions (continued)	<p>/media/DEEP/site_clean_up/remediation_regulations/Revised-RSR-FAQs.pdf and https://portal.ct.gov/-/media/DEEP/site_clean_up/EUR/EUR-FAQs.pdf</p> <ul style="list-style-type: none"> ▪ Revised Verification forms (Verification Addendum, Revised Form III Verification (Property)) are posted on DEEP's website. See https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Licensed-Environmental-Professional-Program/LEP-Verifications ❖ The EUR regulations replace the existing ELUR regulations, and while the revisions retain the Environmental Land Use Restriction (ELUR) mechanism, they also prescribe rules for the implementation of new Notice of Activity and Use Limitations (NAULs). <ul style="list-style-type: none"> ▪ As DEEP implements these changes, the regulated community should be aware of the following based on informal guidance from DEEP: <ul style="list-style-type: none"> ○ Verifications and ELURs finalized prior to February 16 are not affected. ○ For ELUR applications submitted to DEEP before February 16 but not yet finalized, DEEP will distinguish between applications that were administratively "complete" on or before the effective date of the regulations and those either submitted after the effective date of the EUR regulations or not deemed complete prior to the effective date of the EUR regulations. <ul style="list-style-type: none"> • ELUR applications for which DEEP, on or before February 16, issued a Notice of Administrative Completeness (NOAC), or communicated to the applicant that the application is administratively complete and that DEEP will be issuing an NOAC, will be reviewed under the 'old' regulations. • For ELUR applications that were not 'complete' by February 16, the new regulations will apply.
New DEEP Document on the Affirmative Responsibility to Clean-up Pollution (new)	<ul style="list-style-type: none"> • On September 7, DEEP posted a document on the affirmative responsibility to clean-up pollution, which discusses "when one's liability to the state for pollution is fully discharged." • See, https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_regulations/Affirmative-Responsibility-to-Clean-up-Pollution-in-Connecticut.pdf • More to follow.

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DEEP Additional Updates (Remediation Roundtable, PFAS, USTs, Beneficial Use)	<ul style="list-style-type: none"> • Remediation Roundtable meeting held on June 22, 2021. See: https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_roundtable/Roundtablepresent-06-22-2021.pdf. Next meeting scheduled on October 5, 2021. • PFAS: <ul style="list-style-type: none"> ❖ P.A. 21-111: AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES, ESTABLISHING THE COMMUNITY INVESTMENT FUND 2030 BOARD, AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS AND MAKING REVISIONS TO THE SCHOOL BUILDING PROJECT STATUTES. <ul style="list-style-type: none"> ▪ \$1.15 million per year in bond allocations for FY 2022 and FY 2023 for PFAS funding: Grants-in-aid to municipalities including provision of potable water and assessment and remedial action to address PFAS ❖ P.A. 21-121: AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES. <ul style="list-style-type: none"> ▪ Requires annual PFAS testing by water bottlers that utilize DPH-approved sources (beginning by January 2022) ▪ Authorizes DPH to prohibit use of bottled water sources with PFAS levels above DPH Action Level until it no longer poses an unacceptable health or safety risk to consumers. ❖ P.A. 21-191: AN ACT CONCERNING THE USE OF PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES IN CLASS B FIREFIGHTING FOAM. <ul style="list-style-type: none"> ▪ Prohibits, upon passage, any person, local government, or state agency from using class B firefighting foam with intentionally added PFAS in any amount for training purposes or testing purposes. ▪ Beginning October 1, 2021, it also prohibits anyone from using this foam for vapor suppression or firefighting purposes, unless the fire is flammable liquid-based and DEEP does not identify an alternative to the foam ▪ Directs DEEP to develop or identify take-back program for municipally owned Class B firefighting foam ▪ Bans in-state sale of PFAS-containing food packaging by manufacturers/distributors beginning January 2024 • Hartford Courant reports the state will inspect more than 2,400 sites for PFAS <ul style="list-style-type: none"> ❖ Killingworth was contacted by state officials in March and informed that water samples would be pulled from wells that supplied town hall, the volunteer fire station and a nearby public works garage.

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**DEEP Additional Updates
(Remediation Roundtable, PFAS,
USTs, Beneficial Use, continued)**

Similar testing at a neighborhood less than a half-mile to the north showed signs of PFAS contamination; water samples taken from town buildings contained concentrations above the recommended health limit established by the state.

- State officials later sampled wells at another 70 nearby homes to test drinking water.
- Roughly 34 of those private wells contained lesser amounts of PFAS, and 15 of the wells exceeded the DPH health limit.

- ❖ DEEP & DPH agencies plan to expand their search for PFAS, testing soil, streams, fish, groundwater and drinking water sources for PFAS
 - DPH/DEEP developed a map of more than 2,400 locations in Connecticut where PFAS may have been used or released in the past, including airports, landfills, industrial facilities, manufacturing locations, sewage treatment plants, fire stations and firefighter training areas.
 - The new map is not yet available to the public, and was one of several recommendations that came out of a 2019 task force on PFAS established by the Governor.
- ❖ Connecticut preparing to hire five new employees who will oversee the state's sampling for PFAS in drinking water; roughly \$500,000 allocated to purchase lab equipment.
- ❖ Legislators voted in June to spend \$2.3 million over the next two years to pay for testing and treatment of drinking water that is shown to be contaminated.
- ❖ Studies have found "probable links" between the chemicals and health issues such as high cholesterol, ulcerative colitis, thyroid disease, testicular cancer, kidney cancer and pregnancy-induced hypertension.
- ❖ DPH is concerned about the state's smaller water systems and some of the more than 322,000 private drinking water wells in Connecticut.
 - State officials installed water filtration systems on the 15 homes in Killingworth that tested positive for elevated levels of PFAS.

- USTs

- ❖ On May 5, 2021, DEEP posted a Notice of Intent (NOI) to adopt minor revisions to the UST Regulations. The proposed UST Regulation revisions are in response to a final rule published by the EPA which made revisions to the federal UST regulations, which require Connecticut to make additional changes to its UST Regulations to ensure the Connecticut UST program is no less stringent than the federal program. For a copy of the NOI, see: <https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={10B22178-0000-C51D-B82E-4EF94B6273DB}>
- ❖ The comment period closed on June 7, 2021. The Hearing Officer prepared report and response to comments.

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<p>DEEP Additional Updates (Remediation Roundtable, PFAS, USTs, Beneficial Use, continued)</p>	<p>For a copy of the Hearing Officer's Report, see: https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7b00033D79-0000-C21F-AA4B-67C9C39F7701%7d.</p> <ul style="list-style-type: none"> ❖ On July 9, 2021, DEEP posted its notice of decision to move forward with the proposed regulation and filed the UST Regulation revisions to the AG's Office for a legal sufficiency determination. ❖ On July 29, 2021, DEEP received the AG's Certification of Legal Sufficiency. ❖ <i>On August 3, 2021, DEEP submitted the UST Regulation Revisions to the Connecticut General Assembly's Legislative Regulation Review Committee ("LRRC") (new). See, https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={20230C7B-0000-C518-B470-D28DF896073F}.</i> ❖ <i>The UST Regulation Revisions are on the LRRC's September 28th meeting agenda and the LRRC will have until October 7 to act on the proposed UST Regulation Revisions (new). See, https://www.cga.ct.gov/2021/rrdata/ca/pdf/2021CA-00928-R001100RR-CA.pdf.</i> • Soils – HB 6496 H.B. 6496, An Act Concerning Certain Soil-Related Initiatives (Public Act 21-88) <ul style="list-style-type: none"> ❖ establishes a pilot program to beneficially use reclaimed materials that have de minimis amounts of solid waste ❖ inert asphalt, brick, concrete (including concrete with pyrrhotite if the DEEP commissioner provides written permission to use it), ceramic materials ❖ waste sand from metal casting ❖ crushed recycled glass; and ❖ street sweepings/ catch basin materials
<p>EPA Proposed New Reporting and Recordkeeping Rule for PFAS</p>	<ul style="list-style-type: none"> • On June 28, 2021, EPA proposed a new reporting and recordkeeping rule for per- and polyfluoroalkyl substances (PFAS) pursuant to Section 8(a)(7) of the Toxic Substances Control Act (TSCA), as amended by the National Defense Authorization Act. • The proposed rule applies to PFAS manufacturers and importers, including small manufactures and manufacturers who produce PFAS as a byproduct. If finalized, the rule would require certain persons that manufactured or imported PFAS in any year since January 1, 2011, to report information related to chemical identity, categories of use, volumes manufactured and processed, byproducts, environmental and health effects, worker exposure, and disposal. Affected entities will have one year from the effective date of the final rule to submit their required disclosures to EPA. In addition to reporting, the proposed rule would require records documenting any information reported to EPA to be retained for a period of five years.

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Mergers & Acquisitions	<ul style="list-style-type: none"> • EQT Infrastructure Asset Group signs letter of intent to purchase Covanta, Inc. (NYSE:CVA) <ul style="list-style-type: none"> ❖ shareholders will receive \$20.25 per share of Covanta's common stock (37% premium over share price as of date of agreement) ❖ purchase valued at \$5.3 billion, including the assumption of Covanta's net debt obligations. • Casella Waste Systems, Inc. (NASDAQ: CWST) acquired Willimantic Waste Paper Co., Inc. ("Willimantic") on July 26, 2021. <ul style="list-style-type: none"> ❖ Willimantic provides residential, commercial and roll-off collection services in eastern Connecticut and serves over 30,000 customers. ❖ Assets include rail-served construction & demolition processing and waste transfer facility, a waste transfer station, a single stream recycling facility, and several other recycling operations. ❖ Casella expects to generate approximately \$62 million of annualized revenues from the acquisition. • Waste Connections, Inc. (NYSE: WCN) acquired E.L. Harvey & Sons Inc. ("Harvey") <ul style="list-style-type: none"> ❖ 110-year history dating back four generations, Harvey is the largest family-owned and operated solid waste services company in Massachusetts ❖ Estimated revenue of approximately \$110 million ❖ Territory includes Central and Eastern Massachusetts and Southern New Hampshire.
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