

CBIA e²Waste Task Force Summary

October 15, 2021

Harold Blinderman: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

Issue	Notes
DEEP: Release Reporting	<p><i>Breaking News:</i></p> <ul style="list-style-type: none"> On October 13th, DEEP posted the Hearing Officer Report, which responds to the public comments received on the proposed Release Reporting Regulations. <ul style="list-style-type: none"> ❖ For a copy of the Hearing Officer's Report, see: https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={30917A7C-0000-CD10-A4A9-A7D2CC6195C9}. <p><i>For Background:</i></p> <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. 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.

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DEEP: Release Reporting (continued)	<ul style="list-style-type: none"> ▪ 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 reported release via a follow-up report. ▪ 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"> • Topical Subcommittees submitted position papers on: <ul style="list-style-type: none"> ❖ Discovery of Historical Releases ❖ Reporting Newly-Discovered Historical Releases ❖ Characterization of a Discovered Release ❖ Immediate Removal Actions ❖ Tiers • The Topical Subcommittees’ Concept Papers have been posted. See: https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Comprehensive-Evaluation-and-Transformation/Release-Based-Cleanup-Program-Stakeholder-Engagement • Working Group meeting held on September 14, 2021: <ul style="list-style-type: none"> ❖ Included a Q&A session with DEEP ❖ Two Ad Hoc Teams discussed recommendations and advice related to the concepts of historical fill, anthropogenic background and releases on residential • <i>Working Group meeting held on October 12, 2021 (new):</i> <ul style="list-style-type: none"> ❖ <i>The Two Ad Hoc Teams continue discussion on recommendations and advice related to the concepts of historical fill, anthropogenic background and releases on residential.</i> • On October 26th, the Working Group will discuss advice and recommendations from the Drafting Team and transmit Concept Papers with the recommendations, advice and questions on key components of such concepts.

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Permit Concierge Service (DEEP)	<ul style="list-style-type: none"> • Permit Concierge Service <ul style="list-style-type: none"> ❖ The Concierge Permit Assistance Advisory Committee (CPAAC) held meetings/webinars on June 22, July 20, August 17 and on September 14 ❖ DEEP is working on implementing CPAAC suggestions, including a flow chart for air permitting process and Environmental Justice map, amongst others (new). ❖ Next Meeting January 18, 2022 at 2:00pm (new). • 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"> ▪ The new EUR Application forms are available on DEEP's EUR webpage. See https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Environmental-Use-Restrictions/Environmental-Use-Restrictions <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

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<p>DEEP: Revisions to Remediation Standard Regulations and Environmental Use Restrictions (continued)</p>	<p>before February 16, 2021, the EUR Factsheet must be completed and complied with by April 17, 2021.</p> <ul style="list-style-type: none"> ▪ Revised RSR FAQs and new EUR FAQs are posted on the DEEPs website. See https://portal.ct.gov/-/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 ▪ 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 <p>❖ 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).</p> <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. • New regulations apply to ELUR applications that were not 'complete' by February 16. <p>❖ <i>During the October 5th Remediation Roundtable meeting, DEEP presented on the Wave 2 RSRs (Slides 56 – 70) and the new EUR Regulations (Slides 71 – 90) (new). See: https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_roundtable/Roundtablepresent-10_05_2021vfinal.pdf.</i></p> <p>❖ <i>On October 1st, DEEP posted a "Wave 2 RSRs & EUR Regulations Q&A" on its RSRs webpage (new). See: https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_regulations/Wave-2-RSRs--EUR-Regulations-QA.pdf.</i></p>

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New DEEP Guidance Document on the Affirmative Responsibility to Clean-up Pollution	<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
DEEP Additional Updates (Remediation Roundtable, PFAS, USTs, Beneficial Use, Environmental Justice)	<ul style="list-style-type: none"> <i>Remediation Roundtable meeting held on October 5, 2021, (new). See: https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_roundtable/Roundtablepresent-10_05_2021vfinal.pdf. Next meeting scheduled on March 22, 2022.</i> <ul style="list-style-type: none"> <i>❖ Welcomed new DEEP staff members, Abigail Plungis (Southwest District), Katherine Nee (Southcentral District), Normandy Avery (Eastern District) and Carly Saindon (student Intern)</i> <i>❖ MaryAnne Danyluk, Environmental Analyst Remediation Division, reviewed the new landfill monitoring forms</i> <i>❖ Diane Duva, Director of Emergency Response Planning and Support Office, MMCA, highlighted updated Stewardship Permit application instructions and forms</i> <i>❖ Reported on the status of the proposed Release Reporting Regulations and the Release-Based Clean Up Program Regulation Development, and reviewed 2021 PFAS legislation, ongoing PFAS projects, common Wave 2 RSRs questions and EUR processes</i> 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

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<p>DEEP Additional Updates (Remediation Roundtable, PFAS, USTs, Beneficial Use, Environmental Justice continued)</p>	<p>January 2022)</p> <ul style="list-style-type: none"> ▪ 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>❖ P.A. 21-191: AN ACT CONCERNING THE USE OF PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES IN CLASS B FIREFIGHTING FOAM.</p> <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 <p>❖ <i>At the October 5th Remediation Roundtable, DEEP advised that it's currently developing Surface Water Protection Criteria for PFAS, and that its next steps in connection with PFAS will involve developing discharge permit monitoring and limits, landfill monitoring, and supplemental bid for PFAS lab analysis, (new).</i></p> <ul style="list-style-type: none"> • USTs <ul style="list-style-type: none"> ❖ 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. For a copy of the Hearing Officer's Report, see: https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7b00033D79-0000-C21F-AA4B-67C9C39F7701%7d. ❖ 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.

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DEEP Additional Updates (USTs, Beneficial Use, Environmental Justice continued)	<p>https://www.cqa.ct.gov/2021/rrdata/ca/pdf/2021CA-01026-R001100RR-CA.pdf.</p> <ul style="list-style-type: none"> • 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 • <i>Environmental Justice (EJ) (new)</i> <ul style="list-style-type: none"> ❖ DEEP has updated the EJ webpage with revised Environmental Justice Public Participation Plan Form, Fact Sheet and Permit Checklist; and map displaying the affecting facilities in EJ communities and towns that contain EJ communities as census block groups. See: https://portal.ct.gov/DEEP/Environmental-Justice/Environmental-Justice.
EPA Proposed New Reporting and Recordkeeping Rule for PFAS	<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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<p>Mergers & Acquisitions</p>	<ul style="list-style-type: none"> • Investors approve sale of Covanta, Inc. (NYSE:CVA) to EQT Infrastructure Asset Group <ul style="list-style-type: none"> ❖ purchase valued at \$5.3 billion, including the assumption of Covanta's net debt obligations. • Clean Harbors") (NYSE: CLH) announced acquisition of HydroChemPSC ("HPC") <ul style="list-style-type: none"> ❖ Clean Harbors purchased HPC from an affiliate of Littlejohn & Co., LLC, for \$1.25 billion ❖ With more than 5,000 employees and 240 service locations throughout the country, HPC serves a broad range of end markets including refining, chemical and utilities ❖ HPC estimated revenues of approximately \$744 million, with adjusted EBITDA of approximately \$115 million • LRS, the Midwest's leading independent waste diversion, recycling and portable services provider to purchase assets from Vaughn, ON-based GFL Environmental, Inc. (see below) • GFL Environmental Inc. (NYSE:GFL) (TSX:GFL) has completed 16 acquisitions since July 2021, for a total of 31 acquisitions year-to-date <ul style="list-style-type: none"> ❖ GFL acquired the solid waste management and recycling business of Peoria Disposal Company and affiliates on October 1, 2021, with a vertically integrated network of assets in Central Illinois and Eastern Missouri providing residential, commercial and industrial solid waste hauling and recycling services ❖ Operations include three active landfills, two strategically located transfer stations, one material recovery facility and a wastewater treatment plant. ❖ On October 1, 2021, GFL also closed the acquisition of Alabama Dumpster group of companies, which provides commercial and roll-off solid waste and recycling services and landfill operations.
<p>International ewaste day October 14, 2021</p>	<ul style="list-style-type: none"> • Total amount of waste electronics accumulated in 2021 estimated to be 57.4 million tonnes, increasing by 3.8 million tonnes from 2019 estimates (equivalent to throwing away 1,000 laptops every second) <ul style="list-style-type: none"> ❖ 11 of 72 electronics items of within the average household are either no longer in use or not working, according to European estimates ❖ Another 4 to 5 kg of waste electronics is stored by each European citizen before being discarded ❖ Carmen Ene, CEO of 3stepIT (https://www.3stepit.com/ & BNP Paribas) said <i>"Electronic waste represents a global sustainability crisis of severe proportions. Businesses need more IT than ever to ensure they are resilient and flexible, but we need to shift away from the cycle of 'buy, use, buy, repeat', towards a model that supports better outcomes for businesses and the environment. Buying new IT doesn't need to be a choice between accessing cutting edge technology and meeting sustainability goals. That's why we're launching our Stop Buying IT pledge, a call to arms for organisations to transition to more sustainable IT procurement solutions to help save our environment from the crippling effects of e-waste."</i>