

CBIA e²Waste Task Force Summary **May 20, 2022**

Harold Blinder: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

Issue	Notes
DEEP: Release Reporting	<p>Update:</p> <ul style="list-style-type: none"> • DEEP posted “<i>Guidance for Addressing Releases of Less than the Applicable Reportable Quantity</i>”.(NEW) <ul style="list-style-type: none"> ❖ This guidance identifies steps that can be taken to determine whether the quantity and source of the spill is reportable, recommended steps that can be taken at facilities today to prepare for a release event as well as during release events to mitigate potential impacts, and provides DEEP’s position on what constitutes a “properly mitigated” spill. ❖ To review the guidance, see: https://portal.ct.gov/-/media/DEEP/emergency_response_spill_prevention/Mitigation-Guidance---Final.pdf. <p>Recap:</p> <ul style="list-style-type: none"> • The Release Reporting Regulations, RCSA Sections 22a-450-1 through 22a-450-6, became effective on March 4, 2022. <ul style="list-style-type: none"> ❖ For a copy of the published regulations, see: https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={30AC567F-0000-CC1E-84C2-2C3A8426BAE9}. ❖ Under the adopted Release Reporting Regulations, there are three general categories of release thresholds that will trigger reporting requirements (with exceptions): <ol style="list-style-type: none"> 1. Releases of 5 gallons or more of oil and petroleum; 2. Any quantity of certain high-risk releases and releases of materials of special concern as outlined in Appendix A of the Release Reporting Regulations; and 3. Releases of 1.5 gallons or 10 pounds or more of all other reportable materials not covered by (1) or (2). • DEEP posted a flow chart that summarizes when to and when not to report under the new Release Reporting Regulations, and has announced that it plans to engage in additional public outreach. To review the flowchart, see: https://portal.ct.gov/-/media/DEEP/underground_storage_tanks/Flow-Chart-FINAL_2_25_22.pdf.



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DEEP: Released-Based Remediation Program Development	<p><u>Update:</u></p> <ul style="list-style-type: none">• <i>The Phase 2 Topical Subcommittees' Concept Papers (the "Phase 2 Concept Papers") and DEEP's initial feedback on same have been posted on DEEP's Release-Based Cleanup Program Stakeholder Engagement and Recommendations webpage for review and comment.</i> (New)<ul style="list-style-type: none">❖ Comments must be submitted to DEEP via email at DEEP.Cleanup.Transform@ct.gov by close of business on Monday, May 9, 2022.❖ To access the Phase 2 Subcommittee Concept Papers, see: https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Comprehensive-Evaluation-and-Transformation/Release-Based-Cleanup-Program-Stakeholder-Engagement?utm_medium=email&utm_campaign=2nd%20concept%20papers&utm_content=2nd%20concept%20papers+CID_65eae763a0a7e5b856c99d58563171aa&utm_source=DEEP%20Campaign%20Monitor&utm_term=Stakeholder%20Engagement%20Advice%20and%20Recommendations.❖ For a copy of DEEP's initial feedback on Second Phase Subcommittee Concept Papers, see: https://portal.ct.gov/-/media/DEEP/site_clean_up/comprehensive_evaluation/Release-Based/DEEP-Response_2nd-Phase-Concept-Papers.pdf.• <i>The Working Group met on May 10, 2022.</i> (New)<ul style="list-style-type: none">❖ Subcommittees 6, 7 and 8 reviewed their respective concept papers and answered questions on same.❖ Review charge of the Working Group's Review and Drafting Team including noticed a Survey to be circulated for soliciting participation on such team.❖ Review of the passing of HB 5124, which requires: (a) DEEP to provide a draft of the release-based regulations to the Working Group 60 days before going to notice; (b) the Working Group to provide advice and feedback on the draft within 30 days of receipt; (c) at least one meeting between DEEP and the Working Group following the Working Group's receipt of the draft regulations; and (d) DEEP is to provide a revised draft to the Working Group prior to going to notice.• <i>DEEP's Updated Proposed Schedule</i> (New):<ul style="list-style-type: none">❖ Individuals selected to take part on the Working Group's Review and Drafting Team to be notified of their participation on May 17, 2022. (New)❖ The Working Group's Review and Drafting Team held their first meeting on May 18, at 9AM, via Zoom. (New)



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DEEP: Released-Based Remediation Program Development (<i>continued</i>)	<ul style="list-style-type: none">❖ During the June 14, 2022 Working Group Meeting to hold a DEEP Q&A Session, and a continuation of the review of the Phase 2 Concept Papers.❖ A Special Meeting of the Working Group to be held on June 30, 2022, wherein the Working Group will discuss and adopt the final advice and recommendations from the Drafting Team and transmit Phase 2 Concept Papers with the recommendations and advice on key components of such concepts, and questions or suggestions.
DEEP: Revisions to Remediation Standard Regulations and Environmental Use Restrictions	<p><u>Update:</u></p> <ul style="list-style-type: none">• <i>On April 1, 2022, the annual inspection period for Environmental Use Restrictions (EURs) commenced. Owners of property subject to an EUR have until July 31, 2022 to ensure their property is inspected, and within 30 days of such inspection to complete and sign an Annual Inspection Form.</i> (New)<ul style="list-style-type: none">❖ The Inspection Report must contain: (1) a physical inspection of the EUR subject areas, (2) review of relevant records kept on site, and (3) a review of the EUR Fact Sheet.❖ For a copy of the Annual Inspection Form, see: https://portal.ct.gov/-/media/DEEP/site_clean_up/EUR/EUR-Annual-Inspection-Form.docx.• <i>DEEP provides that prior to making a filing confirm that forms utilized are the most current provided on the RSR and EUR webpages; DEEP continues to re-work and issue updated forms.</i>

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DEEP: Additional Updates (Remediation Roundtable)	<ul style="list-style-type: none">• Presentation materials from the March 22, 2022 Roundtable have been posted.<ul style="list-style-type: none">❖ There are presentation materials available here: https://portal.ct.gov/-/media/DEEP/site_clean_up/remediation_roundtable/Roundtablepresent-03_22_2022.pdf• Next Remediation Roundtable meeting scheduled for June 21, 2022.



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EPA & DEEP: PFAS Updates DEEP: PFAS Updates (continued)	<p>EPA: PFAS Updates</p> <ul style="list-style-type: none">• EPA Updates NPDES guidance on PFAS. (New)<ul style="list-style-type: none">❖ On April 28, 2022, EPA issued a memorandum addressing EPA's revised guidance for addressing per- and polyfluoroalkyl substances ("PFAS") in National Pollutant Discharge Elimination System ("NPDES") permits where EPA is the permit issuer and control authority. Through its latest memorandum, EPA continues its efforts outlined in the October 2021 PFAS Strategic Roadmap by leveraging NPDES permitting to reduce PFAS discharges to waterways.❖ As forecast in the Strategic Roadmap, the memorandum relies on draft analytical method 1633 to recommend monitoring of 40 detectable PFAS parameters at least quarterly for industrial dischargers. Monitoring requirements are also recommended for publicly owned treatment works ("POTWs"), and POTWs are required to update their industrial user data for pretreatment control evaluation to include PFAS considerations.❖ In addition, the April 28 memorandum makes recommendations for permit conditions including best management practices (BMPs) based on pollution prevention and source reduction.❖ For a copy of the memorandum, see: https://www.epa.gov/system/files/documents/2022-04/npdes_pfas-memo.pdf. <p>DEEP: PFAS Updates</p> <ul style="list-style-type: none">• CTDEEP POTW testing, cleanout of fire-fighting apparatus still in progress<ul style="list-style-type: none">❖ Second round of PFAS sampling at about 1/3 of POTWs (35) was completed during the week of March 21, 2022.<ul style="list-style-type: none">▪ The media tested in this second round included:<ul style="list-style-type: none">○ Influent, effluent, sludge at all 35 POTWs; and○ Scrubber water at 4 POTWs with incinerators▪ DEEP indicated during the March 22, 2022 Remediation Roundtable Meeting that the final report will likely be available in late Spring of 2022• March 16, 2022: Town of Weston announces low levels of PFAS found in drinking water, public meeting held March 28; supply interrupted at schools, Senior Center, Board of Education Administrative Office, Town Hall, Library, Police Department, Fire Station, Public Works Department.
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CBIA Energy & Environment Council

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	<ul style="list-style-type: none">• During the March 22, 2022 Remediation Roundtable Meeting, DEEP reported that 23 facilities were granted an extension for compliance with the October 1, 2021 AFFF ban provided under C.G.S. Sec. 22a-903a. This extension is allowed for certain chemical plants, oil refineries and terminals.• Recently initiated a requirement for PFAS sampling at landfills that have Stewardship Permits up for renewal<ul style="list-style-type: none">❖ goal is to evaluate PFAS in environmental media immediately surrounding landfills❖ Soon to initiate a requirement for inactive landfills to test for PFAS, with priority focus on those landfills with drinking water receptors in close proximity



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New DOJ Environmental Justice Initiative	<p><i>On May 5, 2022, the U.S. Department of Justice ("USDOJ") announced the launch of a new comprehensive environmental justice ("EJ") strategy.</i> (New)</p> <ul style="list-style-type: none">• The three-prong strategy, as laid out by the U.S. Attorney General in an internal memorandum, includes:<ul style="list-style-type: none">❖ The creation of The Office of Environmental Justice under the Environmental Natural Resources Division within the USDOJ, which will "serve as the central hub" in this new strategy.❖ The issuance of the Comprehensive Environmental Justice Enforcement Strategy memorandum to "guide the work of the Justice Department's litigators, investigators, and United States Attorneys' offices nationwide to advance the cause of environmental justice through the enforcement of federal laws."❖ The issuance of an Interim Final Rule restoring the use of Supplemental Environmental Projects which will be subject the Guidelines and Limitations for Settlement Agreements Involving Payments to Non-Governmental Third Parties as set forth in the memorandum issued in accompaniment of the Interim Final Rule. Supplemental Environmental Projects ("SEPs") are projects that are undertaken by an alleged violator as part of a settlement agreement to resolve an enforcement action. SEPs "provide tangible environmental or public health benefits to the affected community or environment, that is closely related to the violation being resolved, but goes beyond what is required under federal, state or local laws."• To review the USDOJ press release, see: https://www.justice.gov/opa/pr/justice-department-launches-comprehensive-environmental-justice-strategy.
EJ New Haven	<ul style="list-style-type: none">• <i>New Haven Register reports community efforts to address odor, noise, other complaints related to operations at volume reduction facility (Materials Recovery, natural gas fueling station).</i> (New)<ul style="list-style-type: none">❖ April Public Hearing reconvened May 5 to consider compliance, permit renewal, and evaluation prepared by City's consultant Blackledge



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CT Materials & Innovation Authority (MIRA)	<ul style="list-style-type: none">• <i>WNPR reports 26 towns leaving the project, leading to the export of more than 200,000 tons per year exported to out of state landfills.</i> (New)• <i>Ancillary impact – increase in traffic incidents.</i> (New)<ul style="list-style-type: none">❖ National Highway Transportation Safety Administration (NHTSA) reports national traffic fatalities approached 43,000 in 2021, year over year increase of 10.5% (Connecticut reported 10.8% increase statewide)❖ During the COVID-19 pandemic, national fatalities and the fatality rate per 100 million vehicle miles traveled (VMT) increased compared to 2020, and continued into the first quarter of 2021, decreased in the second, third, and fourth quarters of 2021 (compared to 2020)
Recycling	<ul style="list-style-type: none">• <i>May 2022 - officials in Kentucky, Mississippi, South Carolina and West Virginia have recently joined 14 other states promoting “chemical recycling” of plastics.</i> (New)<ul style="list-style-type: none">❖ Estimated <10% of plastics recycled in the U.S.❖ Environmental advocates question the technology and promote prohibitions single-use plastics.❖ Concerns include energy consumption, pollution from these processes• Industry works to classifying chemical recycling as manufacturing, not a solid waste process.