

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 25-6—SB 1404
Commerce Committee

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

SUMMARY: This act 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 prior law, the release-based approach took effect when the Department of Energy and Environmental Protection (DEEP) commissioner adopted regulations for the program (release-based clean-up regulations or RBCRs). The act makes the release-based approach effective when the RBCRs take effect, rather than on their adoption date. (The regulations were approved by the Regulation Review Committee on April 22, 2025, and received by the secretary of the state on May 6, 2025. They take effect on March 1, 2026.) The act 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 act sunsets the state’s voluntary remediation program and replaces it with a new “voluntary parcel-wide remediation program.” The prior voluntary remediation program was a way for property owners to expedite the remediation of eligible contaminated properties. The new program is similar but incorporates specified requirements of the release-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 act exempts from these notification requirements releases that are subject to the release-based cleanup law, as of the date the RBCRs take effect (March 1, 2026). Under the act, 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

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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 notification 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 existing voluntary remediation program, the act 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 act 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 prior 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 act additionally allows them to do so as they may under an existing law (presumably, the law that sets conditions under which an LEP may enter a property without liability to assess or investigate it).

The act does not affect anyone's ability 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 act, 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 act requires any immediate actions the RBCRs require to be completed within the manner and timeframe specified for the parcel to be eligible.

Timeline and Procedure for Entering the Program

Under the act, the releases identified by these parcel-wide Phase II assessments, either through “multiple lines of evidence” or a laboratory analysis of land and water samples, are considered discovered for purposes of the release-based cleanup law and the RBCRs. (Under the RBCRs, “multiple lines of evidence” are two or more types of observable facts that 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

Under the act, 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 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). Under the act, 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 act 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 further investigation or characterization is not timely completed.

Grouping Releases for Tier Assignment. Under the act, 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 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 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 act extends by one year any remediation deadline set under the RBCRs for these grouped releases.

Covenant Not to Sue

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

BACKGROUND

Related Act

PA 25-54 makes various other changes related to the state’s transition to a release-based approach to property remediation including (1) establishing conditions under which a property covered by the Transfer Act may be remediated under the RBCRs’ requirements and (2) exempting release data available or created before the RBCRs take effect on March 1, 2026, from triggering the release-based requirements.