

March 11, 2022

## New Connecticut Spill Reporting Regulations, Effective March 4

As of March 4, the Release Reporting Regulations, Sections 22a-450-1 through 22a-450-6 of the Regulations of Connecticut State Agencies (hereinafter referred to as the Spill Reporting Regulations), are in effect.

As reviewed in a [prior alert](#), the Spill Reporting Regulations define when and how releases of oil or petroleum; chemical liquids; solid, liquid or gaseous products; or hazardous waste (collectively, referred to as reportable materials) must be reported to the Connecticut Department of Energy and Environmental Protection (DEEP), and they also define what information must be included in any report. There are three categories of release thresholds that will trigger reporting requirements: (1) releases of 5 gallons or more of oil and petroleum; (2) any quantity of certain high-risk releases (i.e., releases that enter the waters of the state, a wetland or a storm sewer, etc.) and releases of materials of special concern as outlined in Appendix A of the Spill 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). A [flowchart](#) available on DEEP's website illustrates when reporting of a release of reportable materials is required.

The Spill Reporting Regulations were adopted following DEEP's resolution of concerns of the Connecticut General Assembly's Legislative Regulation Review Committee (LRRC) with earlier iterations of the proposed regulations. By way of background, on December 21, 2021, the LRRC rejected DEEP's initial submission of the regulations, based on the concerns set forth in the Legislative Commissioners' Office's (LCO) [2021 Spill Reporting Regulations Memorandum](#), which listed five substantive concerns and 25 technical corrections. The substantive concerns the LCO identified related to claimed subjective and unclear language. The LCO noted that this language was problematic because the purpose of the proposed Spill Reporting Regulations is to give the regulated community more certainty, with clear thresholds that create a uniform understanding of when and by whom a release is required to be reported. The LCO requested that the language at issue be clarified, defined or not utilized. On January 26, DEEP submitted its response to the 2021 Spill Reporting Regulations Memorandum to the LRRC (the [2022 Spill Reporting Regulations Submittal](#)), addressing the LRRC's directive to remove and/or replace the subjective and unclear language.

On February 22, consistent with the LCO's recommendation, the LRRC approved, with technical corrections, the Spill Reporting Regulations as proposed in the 2022 Spill Reporting Regulations Submittal. DEEP then quickly turned around a final version of the Spill Reporting Regulations and, on February 25, filed this final version with the Office of the Secretary of State. The as-published regulations are available [here](#).

As DEEP implements the Spill Reporting Regulations, the regulated community may benefit from review of DEEP's responses to the comments received during the public comment period. These public comments, along with DEEP's responses, are incorporated into the [hearing officer's report](#). DEEP's responses shed light on how DEEP interprets and will likely implement the regulations. The hearing officer's report provides DEEP's responses to requests for clarification and DEEP's rationale for rejecting certain suggestions raised in the public comments.

DEEP's responses to requests for clarification address the following topics:

- Under what circumstances PCB-, lead-, asbestos- and PFAS-containing building materials and maintenance products constitute reportable releases.
- The scope of reportable releases pursuant to the proposed Sec. 22a-450-2(c), which requires a report of imminent or actual releases that pose "an actual or potential threat to human health, public safety or the environment."
- The situations considered to be a release from an underground storage tank system.
- The circumstances under which releases of reportable materials identified in Appendix A are exempt.
- The implications of a request by DEEP to provide a follow-up report on "closeout."
- Whether and when releases inside a building are reportable.
- The person, or persons, responsible for reporting a reportable release, and when someone's reporting obligation is satisfied.
- How and when a release is considered properly mitigated.

Some noteworthy rejected suggestions include those relating to the expansion of reporting time frames, the broadening of the "secondary containment" definition to include building interiors with impervious floors, and the addition of a time frame within which DEEP may request additional information or a follow-up report.

DEEP has announced that it plans to engage in public outreach on the Spill Reporting Regulations over the next several months. Day Pitney will continue to track and report on the implementation of the Spill Reporting Regulations. If you have any questions regarding the Spill Reporting Regulations, please contact any of the attorneys listed in the sidebar.

## Authors



**Brianna E. Tibett**

**Associate**

Hartford, CT | (860) 275-0141

[btibett@daypitney.com](mailto:btibett@daypitney.com)



**Elizabeth C. Barton**

**Of Counsel**

Hartford, CT | (860) 275-0371

[ecbarton@daypitney.com](mailto:ecbarton@daypitney.com)



**Harold M. Blinderman**

**Partner**

Hartford, CT | (860) 275-0357

[hmbinderman@daypitney.com](mailto:hmbinderman@daypitney.com)