

Proposed Amendments to the Connecticut Remediation Standard Regulations

CBIA Meeting
July 19, 2019



DISCLAIMER: This presentation will not become part of the regulation-making record. The materials contained in this presentation are for informational purposes only. If the information presented herein is in conflict with the formal proposed amendments to the RSRs on the eRegulations website, the eRegulations version shall take precedence.



RSRs - Background

- CGS §22a-133k directed DEEP to develop standards for the remediation of contaminated sites that:
 - Fully protect health, public welfare, and the environment
 - Give preference to permanent remedies
 - Are less stringent for industrial land use

- The Remediation Standard Regulations (RSRs)
 - §22a-133k-1 to 133k-3, inclusive of the RCSA - 1996, 2013

- Environmental Use Restrictions (EURs)
 - RSCA §22a-133q-1 (ELURs) - 1996, 2013
 - CGS §22a-133o (NAULs) - 2013

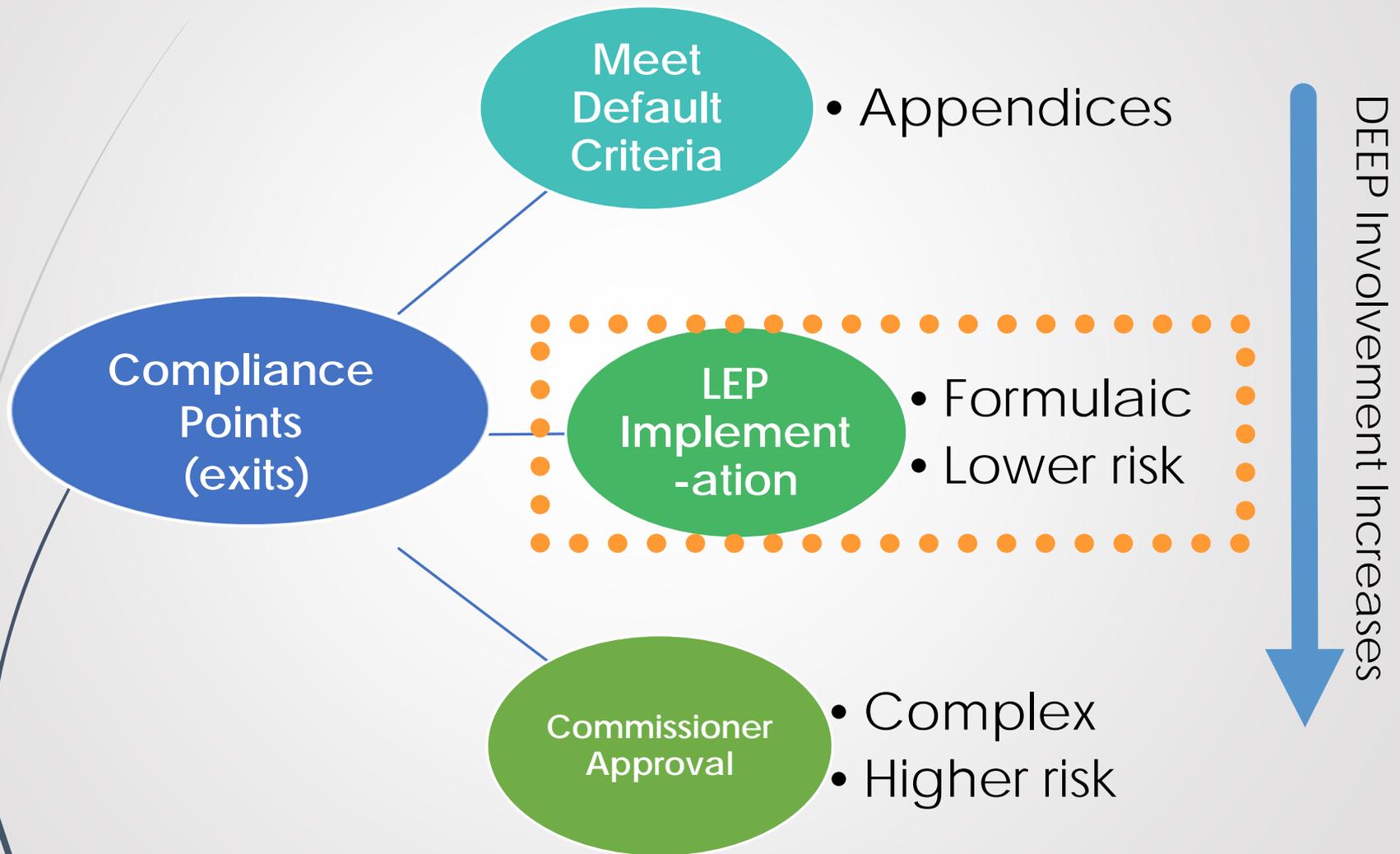


RSRs - Applicability

- RSRs allow for:
 - Site cleanups to proceed with a defined remedial goal
 - Sites to address cleanup goals without direct DEEP oversight – CT Licensed Environmental Professional (LEP) Program (CGS §22a-133v)
- RSRs apply to:
 - Remediation of polluted soil and groundwater
 - Clean up of release areas
 - Remedial actions required by regulation, statute, or order of the Commissioner



RSRs – Compliance Structure



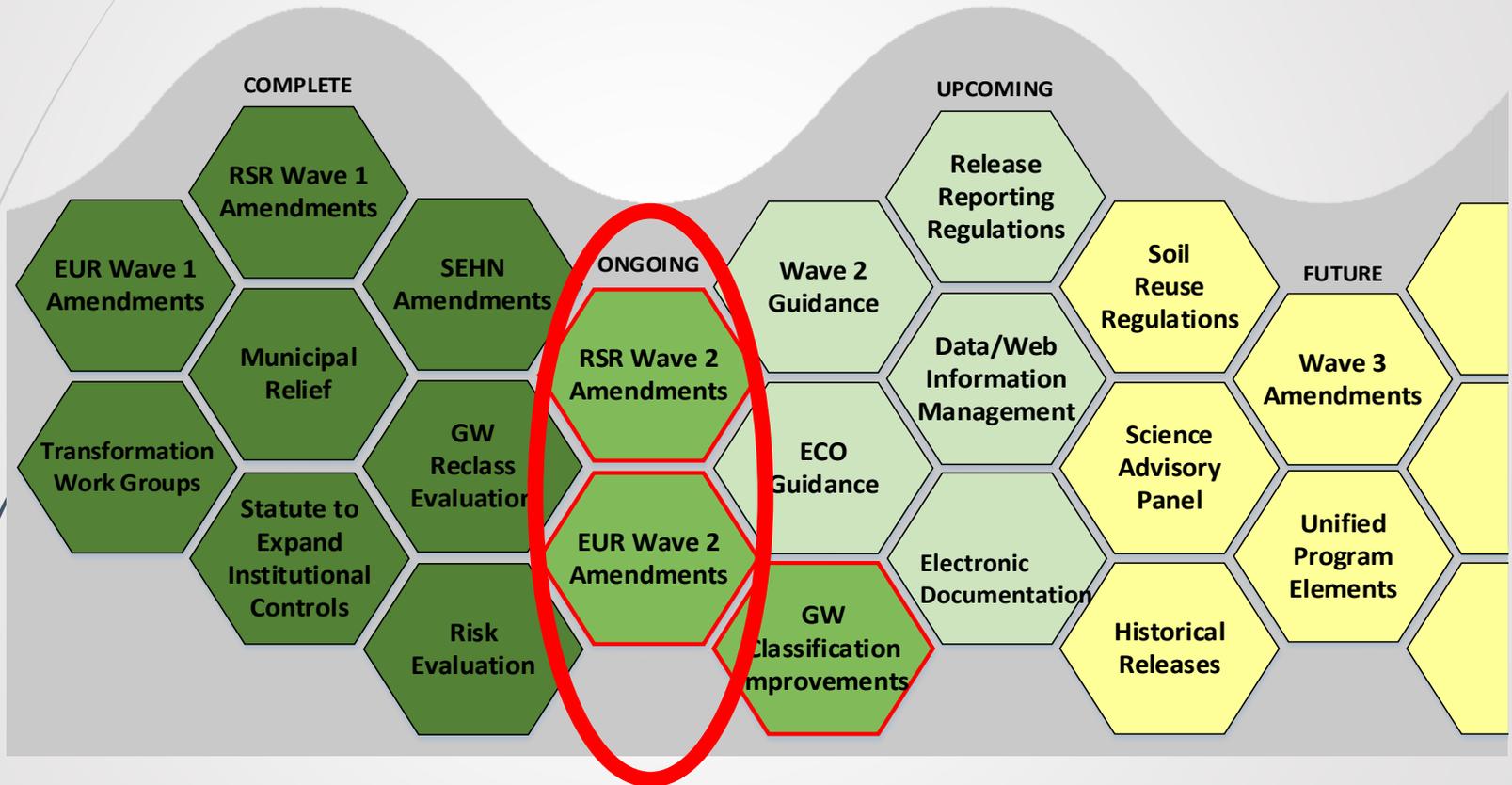
Why RSR Revisions Now?

- ▶ Key part of the overall DEEP “Transformation” process
 - Unify and streamline the State’s remediation programs
- ▶ Promote achievement of Property Transfer 8 year deadline to finish or substantially complete cleanup
- ▶ Transparency - Great public interest and expectation

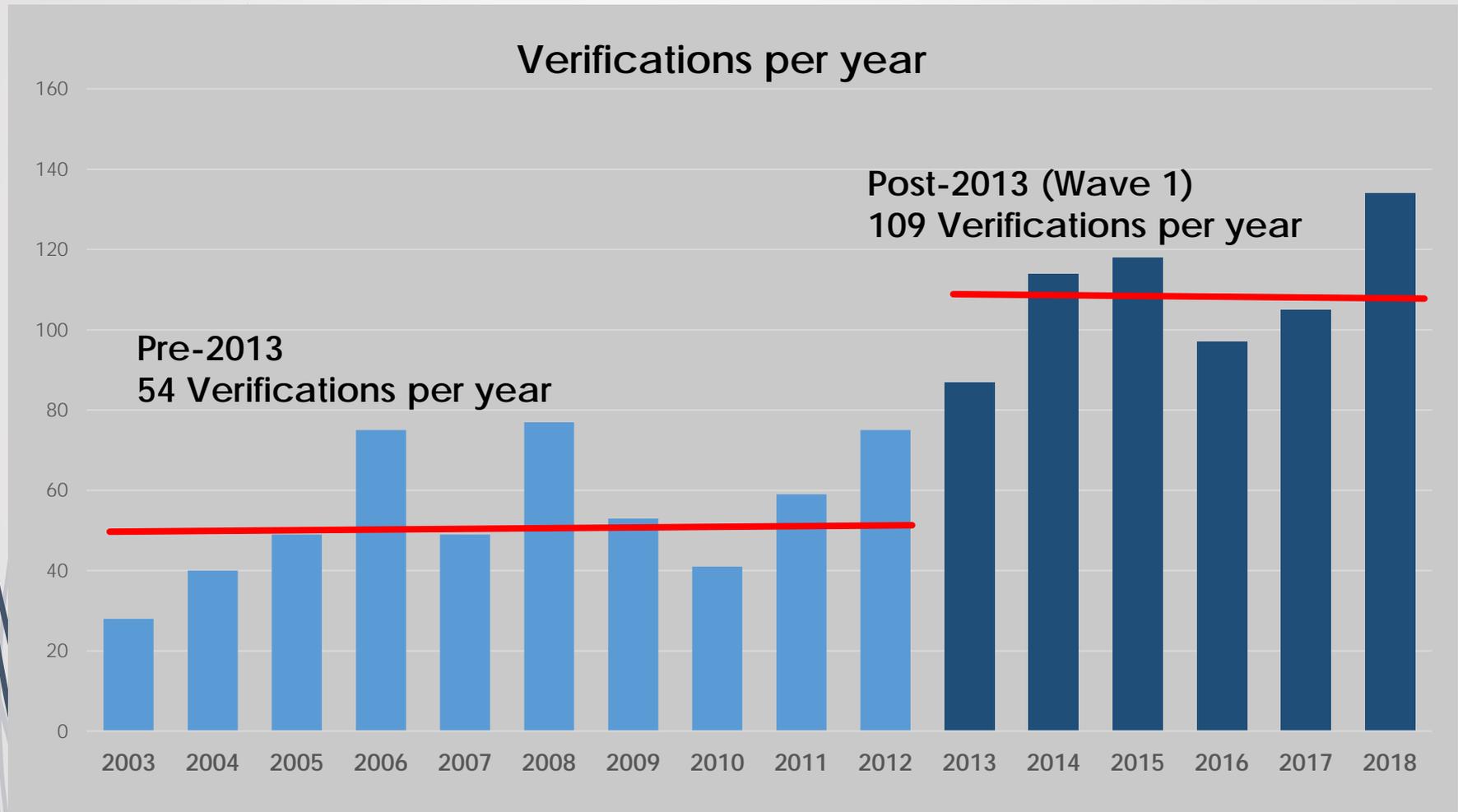


Why RSR Revisions Now?

Transformation is Progressing



Benefit of 2013 RSR Amendments



Big Picture – Goals for Revisions



➤ Greater certainty

- Clearer requirement details help build certainty for planning and redevelopment

➤ Enhance economic growth

- Lower remedial cost while maintaining protection
- Increase brownfield redevelopment

➤ Limit Business impact

- Little to no negative impact on large or small businesses

Since 2012 CT Brownfield Program has:

- Invested **206 million** in grants and loans
- Funded **234 projects**
- Remediated **3,062 acres**



Big Picture – Goals for Revisions

- ▶ Promote faster cleanups
 - ▶ Increased compliance exits
 - ▶ Allow for more release-specific remedies
- ▶ Optimize resources
 - ▶ Less DEEP involvement on lower-risk scenarios
 - ▶ New LEP-implemented options
 - ▶ Conduct remediation appropriate for site conditions
- ▶ Continue to protect public health and the environment





Public Process

RSR Amendments

- ▶ Substantial Public Outreach:
 - ▶ Public Discussion Documents
 - ▶ Stakeholder Organizations
 - ▶ State Agencies
 - ▶ Remediation Roundtable
 - ▶ Website / Technical Training
- ▶ Worked to:
 - ▶ Strengthen language
 - ▶ Finalize concepts
 - ▶ Increase consistency between sections
 - ▶ Eliminate duplication
 - ▶ Organize

2019

Wave 2 RSR Amendments
(25 major concepts)



2020

Wave 2 RSR
adoption



eRegulations System

- Official Proposed RSR amendments
- Table of Contents
- Notice of Intent
- Fiscal Note
- Regulatory Flexibility Analysis

[eRegulations System](#)



Remediation Website Materials

- ▶ Additional information on the RSR webpage to assist in your review:

www.ct.gov/deep/rsr

- ▶ Red-Line/[Blue-Line] version of Proposed Revised Remediation Standard Regulations
- ▶ Summary Document
 - ▶ Companion to Red-Line/[Blue-Line]
 - ▶ Outlines modifications, new provisions, and reorganization
- ▶ Schedule and locations of Remediation outreach events
 - ▶ Link to Remediation Division Presentations



Public Comment Period

- ▶ 90-day public comment period from July 8th to 5:00 pm on October 7th, 2019
- ▶ Comments may be provided:
 - ▶ Written:
 - ▶ Submitted through the [eRegulations System](#)
 - ▶ Mailed to the attention of Brian Thompson at DEEP, Bureau of Water Protection and Land Reuse, Remediation Division, 2nd Floor, 79 Elm Street, Hartford, Connecticut 06106-5127
 - ▶ Emailed to DEEP.Cleanup.Transform@ct.gov
 - ▶ Verbal:
 - ▶ Public Hearing on September 25, 2019 at 1:00 p.m. at DEEP, 5th Floor, Gina McCarthy Auditorium, 79 Elm Street, Hartford, CT



Formal Regulation Adoption Process



Public Notice of Intent to Secretary of State, beginning the formal public comment period: **July 8, 2019**



- ▶ Public Hearing: **September 25, 2019**
- ▶ Close of public comment period: **5:00 pm, October 7, 2019**
- ▶ Hearing Officer's Report
- ▶ DEEP notification to all interested parties of availability of final wording
- ▶ Final proposed regulations to Attorney General for Legal Sufficiency approval
- ▶ Final proposed regulations to Office of Fiscal Analysis and Environment Committee
- ▶ Legislative Regulation Review Committee (LRRC) holds meeting on regulatory amendments per CGS section 4-170
- ▶ After approval of LRRC, regulations filed with Secretary of State per CGS section 4-172 (regulations become final upon filing)
- ▶ Publication of regulations on the Connecticut eRegulations System



3 Question & Answer Sessions

- **July 30, 2019** from 9:30 a.m. to 11:30 a.m. (ZOOM)
Gina McCarthy Auditorium, 5th Floor, Department of Energy and Environmental Protection
79 Elm Street, Hartford, CT
- **August 6, 2019** from 1:30 p.m. to 3:30 p.m.
Kellogg Environmental Center
500 Hawthorne Avenue, Derby, CT
- **September 11, 2019** from 5:00 p.m. to 7:00 p.m.
Sheraton Hartford South Hotel
100 Capital Boulevard, Rocky Hill, CT
- **Other Outreach Events** – EBC (6/11/19), CBIA (7/18/19), SWEP (Aug 2019), CEF (Sept 2019)

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RSR Amendments Technical Highlights

Wave 2 Goals – Economic Growth

- ▶ Promote Economic growth
 - Lower remedial cost while maintaining protection
 - Increase brownfield redevelopment
 - Increase flexibility and speed by having less DEEP involvement
- ▶ More exits and compliance options



Examples of Benefits

- ▶ New exemptions for polluted soil containing pesticides
 - ▶ Eliminates the removal of high-quality agricultural topsoil offsite
 - ▶ Allows for the reuse of pesticide-impacted high-quality top soil on agricultural land
- ▶ Simplification & Organization of Financial Assurance and Public Notice Requirements
- ▶ New LEP-Implemented Compliance Options
 - ▶ Alternative PMC Options
 - ▶ Alternative GWPC Option for achieving groundwater compliance where no current or future drinking water use
 - ▶ Alternative SWPC Options



Examples of Benefits

- ▶ Widespread Polluted Fill
 - ▶ New LEP-Implemented option for polluted fill in coastal boundary areas
 - ▶ Expanded Commissioner Approval
- ▶ Engineered Controls
 - ▶ LEP-Implemented designs for DEC soil exceedances
 - ▶ Improved application/approval process information
- ▶ Public Roadway Variance
- ▶ Technical Impracticability Variance
 - ▶ Improved application/approval process information
- ▶ Upgradient Groundwater Plume Policy Incorporated into RSRs



Wave 2 Added or Modified Provisions	Flexibility	Certainty	Cost Savings	Faster Cleanups	Clarity
Alternative PMC	X		X	X	
Alternative SWPC	X		X	X	
Alternative GWPC	X		X	X	
Public Notice		X			X
Financial Assurance	X	X	X		X
Environmental Use Restrictions	X	X	X	X	
Residential Definition		X	X		
Analytical Data		X			X
PCBs		X			X
NAPL	X	X	X	X	
Reuse of Polluted Soil		X			X
Reuse of Pesticide Impacted Soil			X		
Public Roadway Variance	X	X	X		
Vapor Migration		X			X
Upgradient Groundwater Plume	X	X	X		X
Technical Impracticability	X	X	X		X
Conditional Exemptions					
Polluted Material		X	X	X	X
Widespread Polluted Fill	X		X		X
Pesticides		X	X	X	
LEP-Implemented					
Notice Activity Use Limitation	X		X	X	
Engineered Controls	X		X	X	
Widespread Polluted Fill	X		X	X	



Wave 2 Goals – Targeted Health Protections

- ▶ Vapor Migration:
 - ▶ Modifies the volatilization criteria for Chlorinated VOCs based on newer scientific understanding of fate and transport
 - ▶ Same as 2003 proposed criteria
- ▶ Continued Protections:
 - ▶ Establishes long-term variance obligations in regulation
 - ▶ Adds Environmental Use Restrictions to certain provisions



EUR Revisions (to be proposed in RCSA section 22a-133q)

- ▶ New usage of Notice Activity Use Limitations (NAULs) allowed by 2013 statutory change for LEP-implementation
- ▶ Cost savings (process improvements)
 - More efficient preparation of EUR Surveys through clarification of requirements
 - Survey allowed for portions of properties
 - Allow LEP oversight of limited disturbances of protective measures without need for release and reinstatement of EUR
 - Owner-implemented release of NAULs with LEP approval, oversight, and notification to DEEP





RSR Amendments Business Highlights

Total Number of Affected Businesses

- ▶ Approximately 7,400 properties currently subject to the RSRs
- ▶ About 4,300 of those properties are in the Property Transfer Program
 - ▶ Approximately 40% of those properties are Small Businesses
- ▶ On average, 230 filings for the Property Transfer Program each year
 - ▶ Average 109 verifications/year with 2013 revisions
 - ▶ Reminder: Multiple filings on one property, typically addressed through one verification



Business Impact

- ▶ Little to no negative impacts on large or small businesses
- ▶ Lowers costs associated with site remediation
- ▶ Gives more flexibility when deciding best remedial options (increasing exit choices)
- ▶ Clearer requirement details help build certainty for planning and redevelopment



Communication with Businesses

7

WORKGROUPS - regulated community and other constituent groups assisted DEEP in crafting the revision ideas

11

DISCUSSION PAPERS - posted online for public feedback

2

ITERATIONS OF DETAILED CONCEPTUAL LANGUAGE - posted online for public feedback (April and August 2016)

2

PUBLIC INFORMATION SESSIONS - April 2016 concept draft discussed in Hartford and Derby

13

REMEDIATION ROUNDTABLES - presented and discussed proposed RSR revision concepts

4

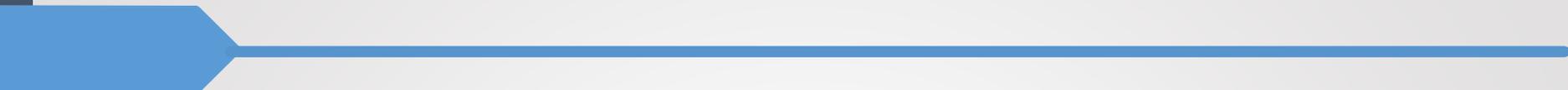
CONSTITUENT GROUPS - 2015 and 2016 presentations on proposed RSR changes to stakeholder organizations with direct connections to the small business community (CBIA, CEF, EPOC, CBA)

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STATE AGENCIES - briefed during drafting (DECD, DPH, DOT, AG)



Questions or Comments?



www.ct.gov/deep/rsr