

# Proposed Revisions to the Connecticut Remediation Standard Regulations June 11, 2019



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# 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 through 133k-3 of the RCSA - 1996, 2013
  
- ▶ Environmental Use Restrictions (EURs)
  - RSCA §22a-133q-1 (ELURs) - 1996, 2013
  - CGS §22a-133o (NAULs) - 2013

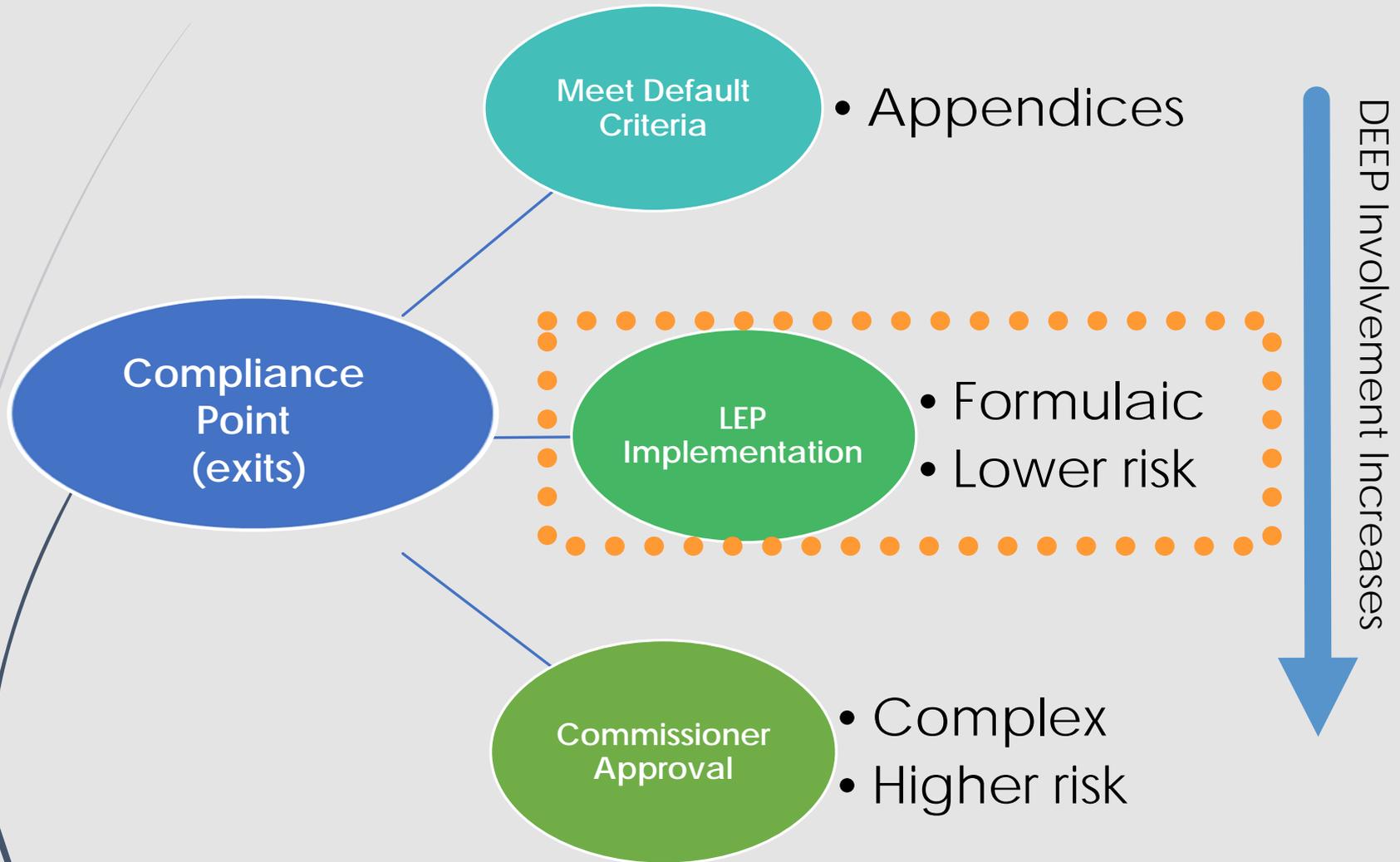


# RSRs - Applicability

- ▶ 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



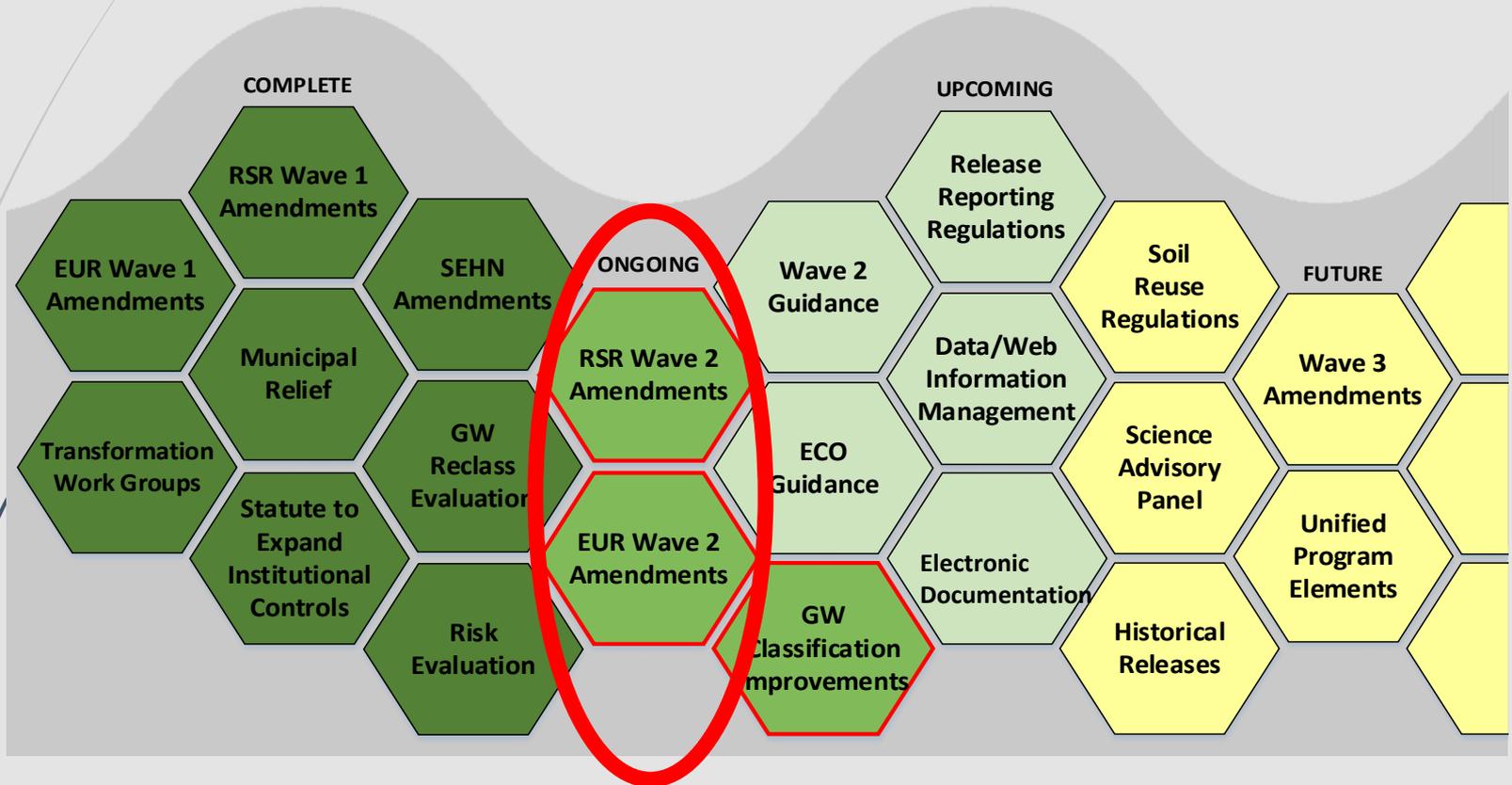
# Why RSR Revision Now?

- ▶ Key part of the overall DEEP “Transformation” process
  - Unify and streamline the State’s remediation programs
- ▶ Property Transfer sites have an 8 year deadline to finish or substantially complete cleanup
  - First deadline: October 2017
- ▶ Great public interest and expectation



# Why RSR Revision Now?

Transformation is Progressing



# 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

Since 2012 CT Brownfield Program has:

- Invested **147 million** in grants and loans
- Funded **157 projects**
- Remediated **2,240 acres**



# Big Picture – Goals for Revisions

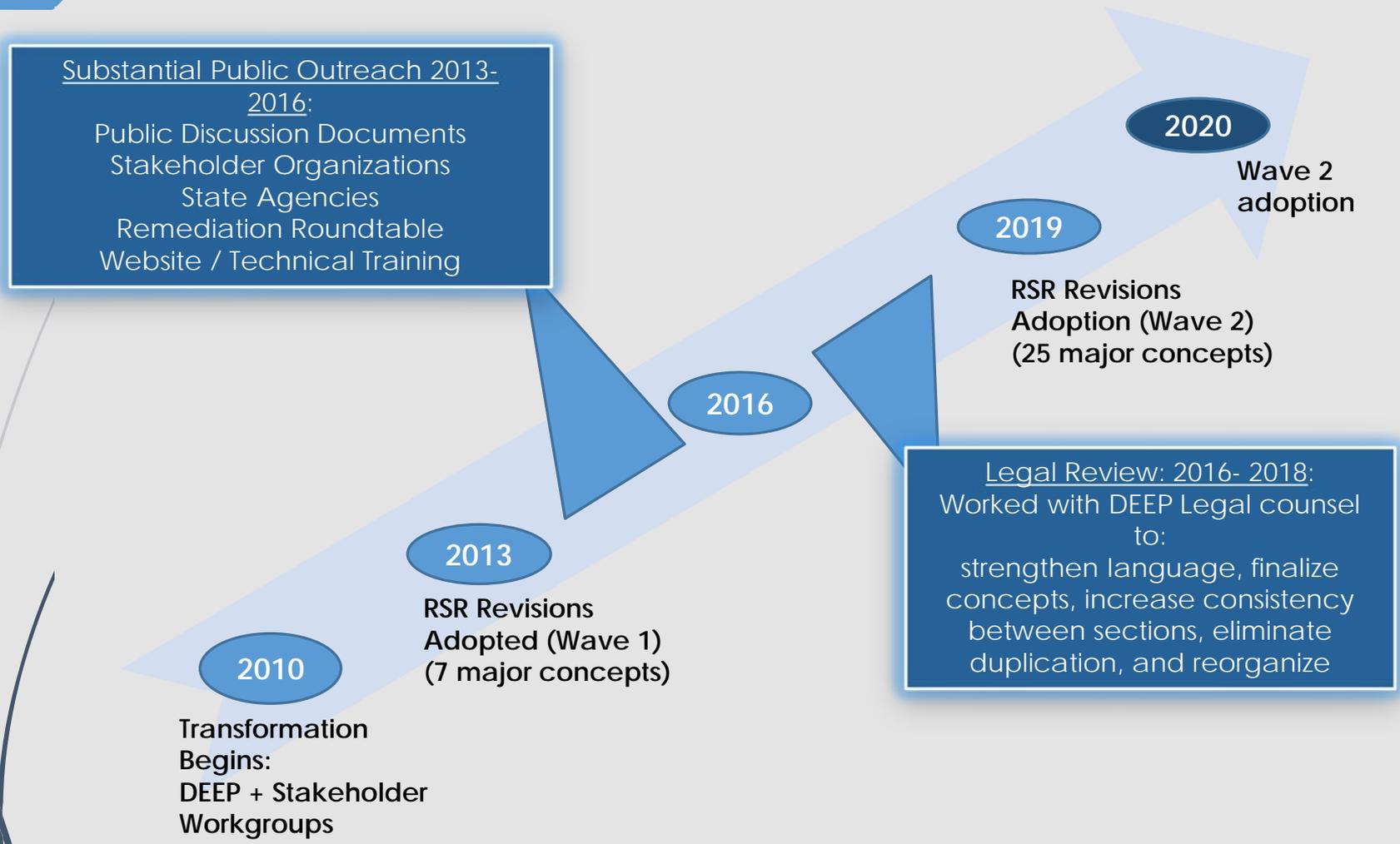
- ▶ Promote faster cleanups
  - ▶ Increased compliance exits
  - ▶ Allow for more release-specific remedies
- ▶ Optimize resources
  - ▶ Less DEEP involvement on lower-risk scenarios
  - ▶ New LEP-implemented options
  - ▶ Conduct appropriate remediation for site conditions
- ▶ Continue to protect public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



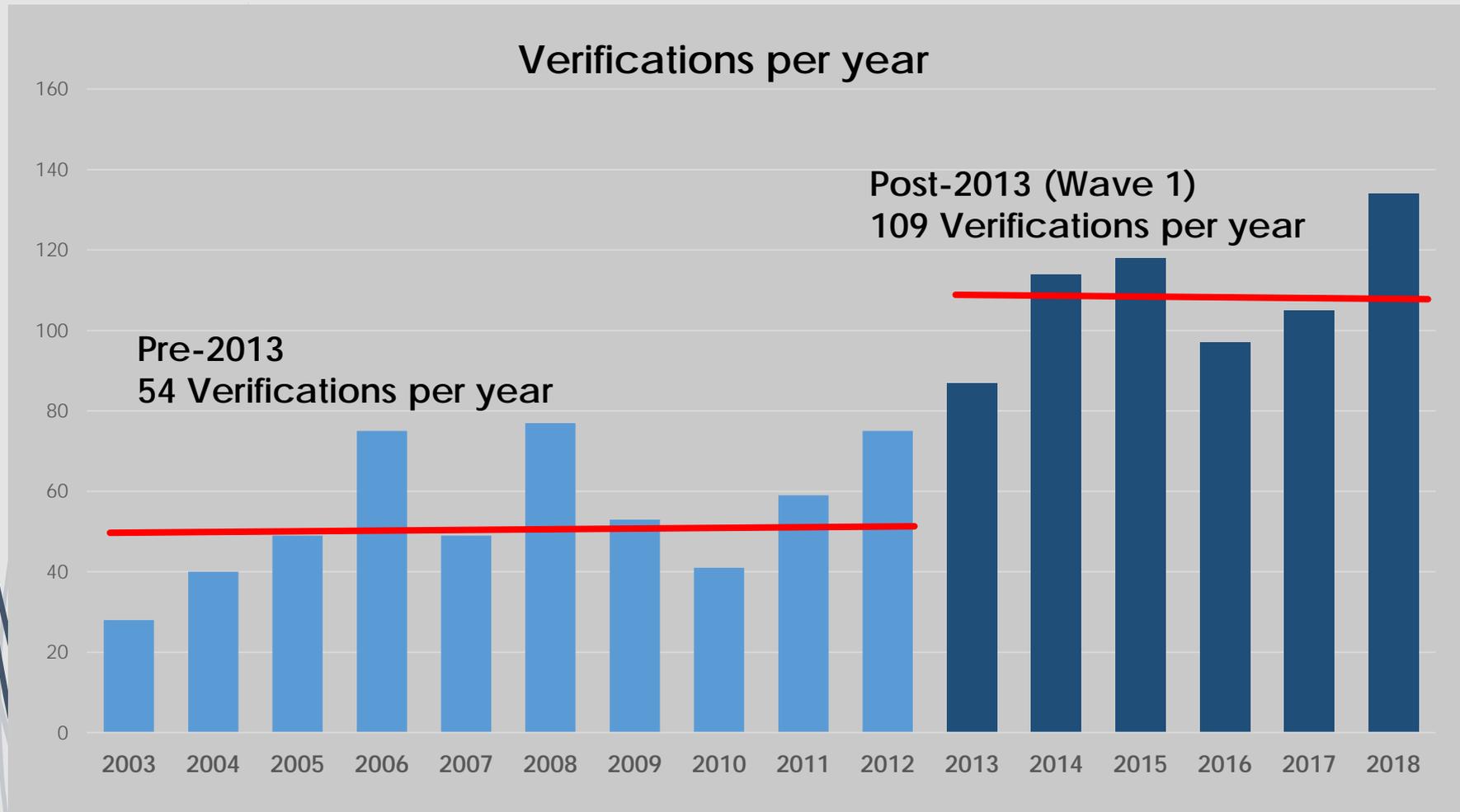
# Transparency

- ▶ Extensive outreach over the last 7 years:
  - ▶ **7 workgroups** - regulated community and other constituent groups assisted DEEP in crafting the revision ideas
  - ▶ **11 Public discussion papers** - Posted online for public feedback
  - ▶ **2 iterations of detailed conceptual language** - Published online for public feedback in April 2016 and August 2016
  - ▶ **2 public information/discussion sessions** - April 2016 concept draft discussed in Hartford and Derby
  - ▶ **13 Remediation Roundtable** (informational forums) – Presented and discussed publicly proposed RSR revision concepts
  - ▶ **4 constituent groups** – In 2015 and 2016 presented proposed RSR changes to stakeholder organizations who have a direct connection with the small business community
    - ▶ Connecticut Business & Industry Association – CBIA
    - ▶ Connecticut Environmental Forum – CEF
    - ▶ Environmental Professionals’ Organization of Connecticut – EPOC
    - ▶ Connecticut Bar Association - CBA
  - ▶ **4 state agencies** - Briefed DECD, DPH, DOT, and AG during RSR drafting

# RSR Revision Timeline



# Benefits of Wave 1 Amendments



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
<b>Conditional Exemptions</b>					
Polluted Material		X	X	X	X
Widespread Polluted Fill	X		X		X
Pesticides		X	X	X	
<b>LEP-Implemented</b>					
Notice Activity Use Limitation	X		X	X	
Engineered Controls	X		X	X	
Widespread Polluted Fill	X		X	X	

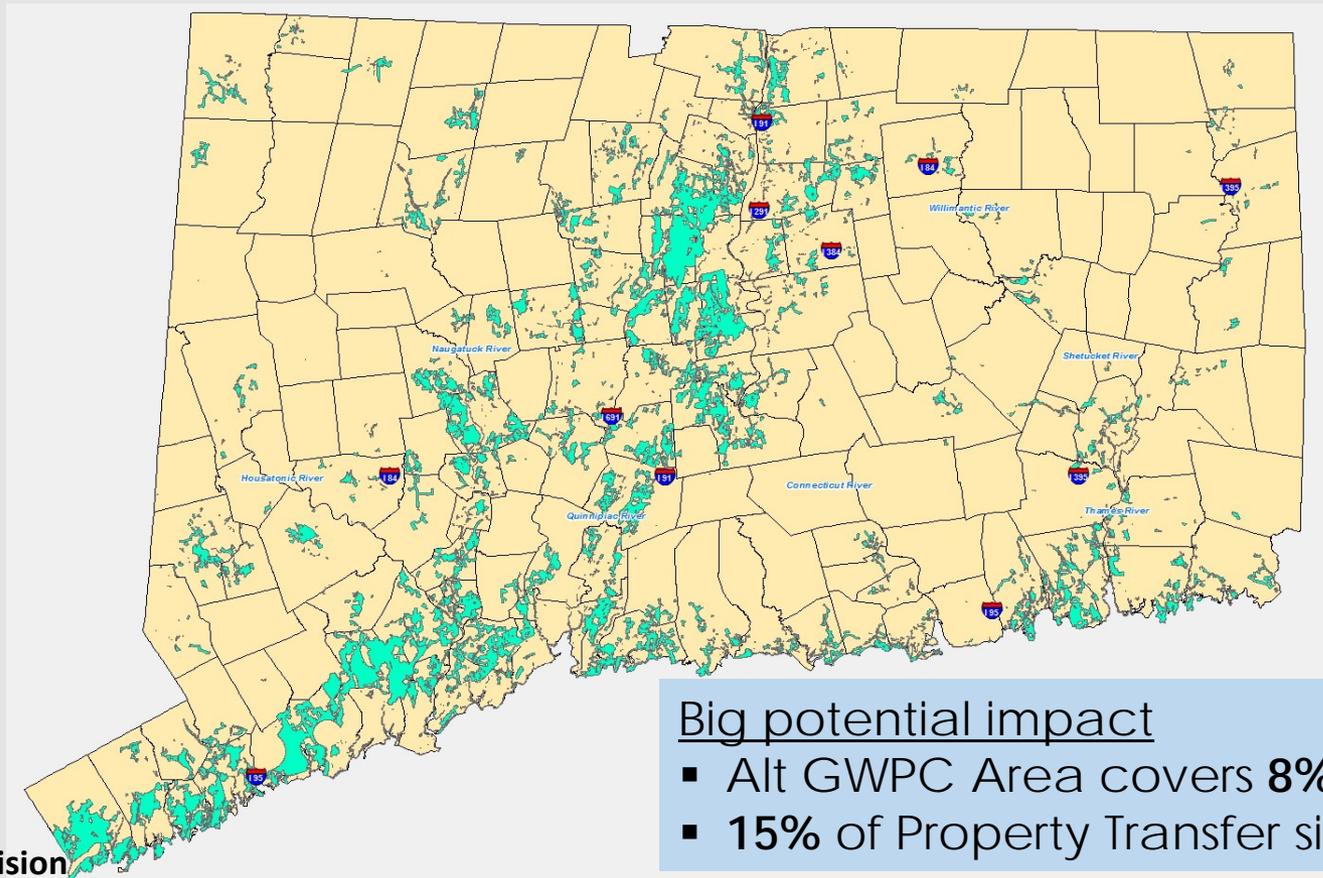
# Example of Benefits

- ▶ **New LEP-Implemented Options**
  - ▶ Alternative PMC calculation
  - ▶ Widespread polluted fill - coastal boundary areas
  - ▶ Pre-designed Engineered Control for DEC exceedances
  - ▶ Alternative GWPC
  - ▶ Alternative SWPC - New Alternative SWPC Calculations
  - ▶ Specific Environmental Use Restrictions (NAULs)
- ▶ **Added process for ECs and TIs**
- ▶ **New exemption for polluted soil containing pesticides**
  - ▶ Eliminates the removal of high-quality agricultural soil offsite; or
  - ▶ Allows for the disposal of pesticide impacted high-quality top soil on agricultural land



# New Exit - Alternative GWPC

- ▶ More flexibility in achieving groundwater compliance in areas with no current or future drinking water use
- ▶ Decreases time and monitoring cost associated with achieving groundwater compliance



## Big potential impact

- Alt GWPC Area covers **8%**
- **15%** of Property Transfer sites



# Financial Surety and Public Notice Improvements

- ▶ Refine Financial Assurance
  - ▶ Simplifies calculating financial assurance
  - ▶ More financial predictability
  - ▶ Exempt if total surety is less than \$10,000
- ▶ Clarify Public Notice Requirements
  - ▶ Consolidate directions for posting
  - ▶ Reduces notice period from 45 days to 30 days
  - ▶ Improved public notice process to better reach target audience



# Polluted Soil Reuse

- ▶ **Added since 2016 conceptual language:**
  - ▶ Detail to the reuse of polluted soil provision for clarity
- ▶ **Three reuse types:**
  - ▶ On-site (LEP-Implemented)
  - ▶ Onsite or Offsite Adjacent Property (When EUR needed)
    - ▶ Added flexibly for large releases or adjacent properties with similar releases
  - ▶ Offsite (Commissioner Approval)
- ▶ **Placement still:**
  - ▶ Can't be placed below the water table
  - ▶ Can't be placed in an area subject to erosion
  - ▶ Can't be placed to be inconsistent with anti-degradation policy



# New Requirements

- ▶ Establishes long-term variance obligations
- ▶ Adds Environmental Use Restrictions to certain provisions (Vapor Mitigation System)
- ▶ Modifies the volatilization criteria for Chlorinated VOCs based on new scientific understanding of fate and transport
- ▶ Requires the protection of receptors when using the upgradient groundwater plume provision
- ▶ Supplemental public notice if change to remedial action or remediation not initiated within two years of notice



# EURs Revision

- ▶ EUR are required when pollution remain on a parcel above default cleanup criteria
- ▶ EUR are designed to:
  - ▶ Restrict further use of a parcel
  - ▶ Impose certain affirmative obligations upon owner

## EUR Types

- ▶ ELUR – Environmental Land Use Restriction (Commissioner Approval)
  - ▶ Conveys an interest in the parcel to the state
  - ▶ Used on “higher risk” parcels
- ▶ NAUL – Notice of Activity and Use Limitation (LEP-Implemented)
  - ▶ New tool that is only available for certain restrictions specified in statute
  - ▶ Binds future owners obligation to maintain restriction



# EURs Revisions

## ► Goals

- Permit the use of NAULs
- Greater detail on:
  - Implementation process
  - Completion of survey
- Allow for minor disturbances without commissioner approval
- Impose certain fees
- Require annual inspections every 5 years

## ► Benefits

- More efficient application
- Greater long-term certainty of restriction
- Cost savings due to allowing LEP-Implemented NAULs



# Next Steps

- ▶ Start public notice process (Early July)
  - ▶ Duration 90 day
- ▶ Kickoff Meeting (Early July)
- ▶ Q/A sessions and meet with various stakeholders (Late July – Early September)
- ▶ Evaluate public comments (make any necessary adjustments)
  - ▶ Generate Response to Comment Document
- ▶ Final review – Legislative Regulation Review Committee

