

State of Connecticut  
Regulation of  
Department of Energy and Environmental Protection  
Concerning  
Environmental Use Restrictions

Section 22a-133q-1 of the Regulations of Connecticut State Agencies is amended as follows:

**Sec. 22a-133q-1. [Environmental Land Use Restrictions] Definitions**

**[(a) Definitions.]**

For the purpose of this section, the definitions of the terms shall be the same as the definitions of terms in section 22a-133k-1 of the Regulations of Connecticut State Agencies. In addition, the following definitions shall apply:

“Class A-2 survey” means a first survey or independent re-survey which conforms to the “Recommended Standards for Surveys and Maps in the State of Connecticut Adopted on September 24, 1992, effective January 1, 1993 by the Connecticut Association of Land Surveyors, Inc. ” and which has been prepared by a land surveyor licensed in the State of Connecticut; complies with the minimum detail requirements for urban land title surveys adopted by the American Land Title Association and American Congress on Surveying and Maps (such requirements shall include all optional items on Table A thereof, exclusive of Items #1 (Monumentation), #5 (Contours in Elevation), #7b-2 (Other Data), and #12; and specifically shows (1) the boundaries of the Property by course and distance, together with the metes and bounds description corresponding to such survey; (2) the location of all improvements; (3) the location and width of all easements, utility lines, rights of way and building setback lines, with references to the book and page numbers for the instruments granting the same; (4) the location of all encroachments and restrictions, if any affecting the property; (5) the location of the portion of the parcel which is the subject of the proposed environmental land use restriction and (6) the latitude and longitude of the center of the subject property.

“Environmental land use restriction” means a declaration of environmental land use restriction in the application form set forth in Appendix 1 to section 22a-133q-1 of the Regulations of Connecticut State Agencies.

“Licensed environmental professional” means an environmental professional licensed in accordance with section 22a-133v of the General Statutes.

**(b) Applicability.**

This section shall govern the execution and recording of environmental land use restrictions in accordance with section 22a-133n to 22a-133s, inclusive, of the General Statutes. Except as otherwise provided by section 22a-133o of the General Statutes, no environmental land use restriction shall be effective unless and until it has (1) been submitted to the Commissioner for his review and approved by him as evidenced by his signature on the original of the instrument setting forth such restriction; and (2) been recorded on the land records in the municipality in which the subject parcel is located.

**(c) Publishing Notice of an Environmental Land Use Restriction.**

(1) The owner of the parcel which is the subject of a proposed environmental land use restriction shall, except as specified in subdivision (1) of this subsection, publish in at least one newspaper of general circulation in the area affected by the proposed environmental land use restriction, notice of intent to record an environmental land use restriction. Such notice shall include the name and address

of such owner, the address of the parcel or a brief description of its location, a brief description of the purpose of the proposed environmental land use restriction, the name and address of an individual from whom interested persons may obtain a copy of the proposed use restriction, and a statement that public comments on the proposed environmental land use restriction may be submitted in writing to the Commissioner of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106 for thirty days after the date of publication of the notice.

(2) Notice of a proposed environmental land use restriction need not be published if (A) such restriction provides solely that the use of the subject parcel or portion thereof is restricted to industrial or commercial activities, and (B) the municipal zoning of such parcel limits the parcel to such use.

**(d) Proposing an Environmental Land Use Restriction.**

When submitting a proposed environmental land use restriction to the Commissioner for his review and approval, the owner of the affected parcel of land shall simultaneously submit a completed application form furnished by the Commissioner and the following documents:

(1) a draft declaration of environmental land use restriction in the form set forth in Appendix 1 to section 22a-133q-1 of the Regulations of Connecticut State Agencies;

(2) a Class A-2 survey of the parcel or portion thereof which is the subject of the proposed environmental land use restriction;

(3) a proposed decision document in accordance with subsection (f) of this section; and

(4) a certified copy of the notice required by subsection (c) of this section, as such notice appeared in the newspaper or newspapers.

**(e) Approval of an Environmental Land Use Restriction by the Commissioner.**

After the close of the public comment period, the Commissioner shall decide whether to approve an environmental land use restriction. When making such decision the Commissioner shall consider: (1) all comments submitted; (2) whether such restriction will adequately protect human health and the environment from pollution at or emanating from the subject release area; and (3) whether such restriction conforms in all respects to the requirements of this section and sections 22a-133n through 22a-133s of the General Statutes.

**(f) Decision Document.**

Any environmental land use restriction approved pursuant to this section shall include a decision document prepared in accordance with this section. The decision document shall contain a detailed written description of:

(1) the type and location of pollutants present in soil or ground water on or underlying the parcel or portion thereof which is the subject of the environmental land use restriction;

(2) the provisions of the environmental land use restriction, including any limitations on the use of such parcel or portion thereof; and

(3) description of the reason for the environmental land use restriction, including an explanation why such restriction is consistent with sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies.

The decision document shall also contain a summary of all comments on the proposed environmental land use restriction received following the publication of notice in accordance with subsection (c) of this section and a brief response to each comment. The decision document shall be signed by the Commissioner or, in the case of a restriction approved pursuant to section 22a-133y of the General Statutes, a licensed environmental professional to indicate approval of the decision document.

**(g) Approval of an Environmental Land Use Restriction by a Licensed Environmental Professional.**

When an environmental land use restriction is to be approved by a licensed environmental professional in accordance with section 22a-133y of the General Statutes, the licensed environmental

professional shall review the documents listed in subsection (d) of this section and evaluate the proposed environmental land use restriction in accordance with subsection (e) of this section, prepare a written approval of such restriction, and shall retain documentation of all documents reviewed by him. A licensed environmental professional shall not approve any environmental land use restriction unless it is consistent with sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies.

**(h) Subordination Agreements.**

Whether the Commissioner or a licensed environmental professional approves an environmental land use restriction, not later than seven (7) days after receipt of such approval, the owner of the subject parcel shall submit to the Commissioner, as required under section 22a-133o of the General Statutes, a certificate of title indicating that each person holding an interest in such parcel or any part thereof, including without limitation, each mortgagee, lessee, lienor and encumbrancer, has irrevocably subordinated such interest to the environmental land use restriction.

**(i) Recording an Environmental Land Use Restriction.**

After the Commissioner or a licensed environmental professional, as applicable, has approved an environmental land use restriction in accordance with this section, the owner of the subject parcel shall record such restriction in accordance with this section and all other applicable law.

**(j) Mailing Notice of an Environmental Land Use Restriction.**

After an environmental land use restriction has been recorded, the owner of the subject parcel shall send, by certified mail, return receipt requested, a copy of such environmental land use restriction to (1) the chief administrative officer in the town where the parcel is located; (2) the chairman of the municipal planning, zoning or planning and zoning commission; (3) the local director of health; and (4) any person who submitted comments on such environmental use restriction.

**(k) Release.**

The owner of any parcel which is subject to an environmental land use restriction recorded in accordance with this section may request that the Commissioner release such parcel, in whole or in part, from the limitations of such restriction. If the Commissioner grants such request, the owner of such parcel shall, in accordance with law, record such release on the land records in the municipality where such parcel is located. No release of an environmental land use restriction shall be effective unless and until it has been submitted to the Commissioner for his review and approved by him as evidenced by his signature on the original of the instrument setting forth such release, and has been recorded on the land records of the municipality in which such parcel is located.

**(l) Effect of Court Ruling on Environmental Land Use Restriction.**

In the event that a court of competent jurisdiction rules that any portion of an environmental land use restriction recorded pursuant to this section is invalid, the owner of the subject parcel shall submit a copy of such restriction and such ruling to the Commissioner. The Commissioner shall review such restriction, and if he determines that such restriction would not have been approved without the invalid portion, he shall give notice that the environmental land use restriction is terminated as evidenced by his signature on in instrument setting forth such termination, and shall record such instrument on the land records of the municipality where such parcel is located. Promptly thereafter, the owner of the subject parcel shall take actions consistent with sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies to remediate the subject parcel or portion thereof. If the Commissioner determines in writing that the environmental land use restriction would have been approved without the invalid portion, the valid portion of the environmental land use restriction shall remain in full force and effect.

Appendix 1 to Section 22a-133q-1 of the Regulations of Connecticut State Agencies Application  
Form of Environmental Land Use Restriction for Commissioner's Approval or Licensed  
Environmental Professional's Approval

Instructions: Any environmental land use restriction pursuant to R.C.S.A. section 22a-133q-1 shall be in the following application form. This form shall be used for environmental land use restrictions approved by the Commissioner or a Licensed Environmental Professional pursuant to the Regulations of Connecticut State Agencies section 22a-133q-1. The appropriate information shall be inserted into the parentheses “{}”.

## DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION AND GRANT OF EASEMENT

This Declaration of Environmental land use restriction and Grant of Easement is made this {day} day of {month}, {year}, between {Grantor’s legal name} (the “Grantor”) and the Commissioner of Energy and Environmental Protection of the State of Connecticut (the “Grantee”).

### WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of certain real property (the “Property”) described below:

Street address: {Street address of property}

City/Town: {City and Town of property}

State: Connecticut

Assessor’s Map {insert Map designation} Block {insert Block designation} Lot {insert Lot designation}

And/or Assessors’ Account Number {insert Assessors’ Account Number}

Volume and Page of Deed: {Volume and Page of Deed }

A description of the property is attached hereto as Exhibit A, and which is made a part hereof; and

WHEREAS, the Grantee has the authority to enter into this declaration of environmental land use restriction pursuant to sections 22a-5, 22a-6, and 22a-133o *et seq.* of the General Statutes; and  
INSTRUCTIONS - Select one of the two choices below by checking the applicable check box.

**If the Commissioner of Energy and Environmental Protection signs the environmental land use restriction:**

WHEREAS, the Grantee has determined that the environmental land use restriction set forth below is consistent with regulations adopted pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Grantee has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee’s written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

**If a Licensed Environmental Professional signs the environmental land use restriction pursuant to section 22a-133y of the General Statutes:**

WHEREAS, remediation of the property has been conducted in accordance with section 22a-133y of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that the environmental land use restriction set forth below is consistent with regulations adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

WHEREAS, the property or portion thereof identified in the class A-2 survey ("the Subject Area") which survey is attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to or migration of such pollutants and to abate hazards to human health and the environment, and in accordance with the Decision Document, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this environmental land use restriction to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and enforceable against Grantor and Grantor's successors and assigns;

NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the Decision Document, the purpose of this environmental land use restriction is to assure that the use and activity at the property and the Subject Area is restricted in accordance with the requirements of the Decision Document attached hereto as Exhibit B.

2. Restrictions Applicable to the Subject Area: In furtherance of the purposes of this environmental land use restriction, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are restricted in accordance with the requirements of the Decision Document, attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.

3. Except as provided in Paragraph 4 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:

- i. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or
- ii. Result in a disturbance of the structural integrity of any engineering controls designed or utilized at the Property to contain pollutants or limit human exposure to pollutants.

4. Emergencies. In the event of an emergency which presents a significant risk to human health or the environment, the application of Paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said Paragraphs and the Grantor:

- i. Immediately notifies the Grantee of the emergency;
- ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
- iv. After the emergency is abated, implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive, or restored to its condition prior to such emergency.

5. Release of Restriction; Alterations of the Subject Area. Grantor shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of the Subject Area inconsistent with this environmental land use restriction until a release has been approved by the Commissioner and such release is either recorded on the land records in the municipality where such parcel is located or the requirement to record such a release is waived by the Commissioner pursuant to section 22a-133o of the General Statutes. The Grantee shall not approve any permanent release of the Property from the provisions of this environmental land use restriction unless the Grantor demonstrates to the Grantee's satisfaction that Grantor has remediated the Subject Area in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive.



6. Grant of Easement to the Grantee. Grantor hereby grants and conveys to the Grantee, the Grantee's agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the "Easement") over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, the Grantee's agents, contractors, and employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:

- i. Ensuring that use, occupancy, and activities of and at the Property are consistent with this environmental land use restriction;
- ii. Ensuring that any remediation implemented complies with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive;
- iii. Performing any additional investigations or remediation necessary to protect human health and the environment;
- iv. Ensuring the structural integrity of any engineering controls described in Exhibit B of this environmental land use restriction and Grant of Easement and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.

7. Notice and Time of Entry onto Property. Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.

8. Notice to Lessees and Other Holders of Interests in the Property. Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this environmental land use restriction and Grant of Easement. The failure to include such provision shall not affect the validity or applicability to the Property of this environmental land use restriction and Grant of Easement.

9. Persons Entitled to Enforce Restrictions. The restrictions in this environmental land use restriction on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the General Statutes.

10. Severability and Termination. If any court of competent jurisdiction determines that any provision of this environmental land use restriction or Grant of Easement is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the Judgment of the Court to the Grantee in accordance with R.C.S.A. section 22a-133q-1(1). This environmental land use restriction shall be terminated if the Grantee provides notification pursuant to R.C.S.A. section 22a-133q-1(1).

11. Binding Effect. All of the terms, covenants and conditions of this environmental land use restriction and grant of easement shall run with the land and shall be binding on the Grantor, the Grantor's successors and assigns, and each owner and any other party entitled to possession or use of the Property during such period of ownership or possession.

12. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this environmental land use restriction.

## Signature Page Follows

In witness whereof, the undersigned has/have executed this Environmental Land Use Restriction this {Day} day of {Month}, {Year}.

{Insert Applicable Signature Block, for example:

**If for an individual:**

Witnessed by:

{Insert signature of witness 1}

{Insert printed or typed name of witness 1}

{Insert signature of witness 2}

{Insert printed or typed name of witness 2}

{Insert signature of Grantor}

{Insert printed or typed name of Grantor}

**If for an entity:**

Witnessed by:

{Insert signature of witness 1}

{Insert printed or typed name of witness 1}

{Insert signature of witness 2}

{Insert printed or typed name of witness 2}}

{Insert Grantor's Name}

By:

\_\_\_\_\_  
{Insert printed or typed name of the authorized signatory for the entity}

Its duly authorized {insert title of the authorized signatory for the entity}

MAILING Address:

Street Address: {Insert Street Address}

City/Town: {Insert City or Town}

State and Zip Code {Insert State and Zip Code}

**INSTRUCTIONS Notarization Language for GRANTOR Acknowledgement - select appropriate notarization language from one of the choices below by checking the applicable check box and providing the information required.**

**If the Grantor is an individual:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {insert date} day of {insert month}, {insert year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {insert date}

OR

**If the Grantor is a Corporation:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {insert date} day of {insert month}, {insert year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself /herself to be the {insert title of officer} of {insert name of corporation}, a corporation, and that he/she, as such {insert title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as {insert title of officer}.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {insert date}

OR



**If the Grantor is a Limited Liability Company:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {insert date} day of {insert month}, {insert year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself/herself to be the {insert title of officer} of {insert name of limited liability company}, a (member managed or manager managed) limited liability company, and that he/she, as such {insert title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as {insert title of officer}.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {insert date}

OR



**If the Grantor is any other type of entity, provide appropriate language for the Grantor Entity below:**

{insert appropriate certification language for an Acknowledgement as specified in Section 1-34 of the General Statutes}

**Instructions – Grantee Signature Block - Select one of the two choices below, as applicable;**



**This choice is used for all environmental land use restrictions except those approved pursuant to section 22a-133y of the General Statutes.**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection or by the Commissioner's duly designated agent, {Insert name and title.}

By: {insert signature of the Grantee or duly authorized agent for Grantee}

Date: {insert date of signature}

Name: {insert printed or typed name of duly authorized agent for Grantee}

Its Duly Authorized: {insert title of duly authorized agent for Grantee}

MAILING Address: {Bureau of Water Protection and Land Reuse

Connecticut Department of Energy and

Environmental Protection

79 Elm Street

Hartford, CT 06106}





**This choice is used solely for environmental land use restrictions approved pursuant to section 22a-133y of the General Statutes.**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection, by the undersigned Licensed Environmental Professional authorized as a duly designated agent pursuant to section 22a-133y of the Connecticut General Statutes.

Licensed Environmental Professional as Duly Authorized Agent for Grantee, the Commissioner of Energy and Environmental Protection:

By: {insert signature of the Licensed Environmental Professional

Date: {insert date of signature}

Name: {insert printed or typed name of Licensed Environmental Professional }

Its Duly Authorized Agent: Licensed Environmental Professional authorized pursuant to section 22a-133y of the Connecticut General Statutes

Grantee MAILING Address: {Bureau of Water Protection and Land Reuse

Connecticut Department of Energy and

Environmental Protection

79 Elm Street

Hartford, CT 06106}

Information for Duly Authorized Agent for Grantee (Licensed Environmental Professional): Name: {Insert name of Licensed Environmental Professional

License Number {insert License Number}

Title, if applicable {insert title}

Company, if applicable {insert name of Company}

Mailing Address: Street Address: {insert street address}

City/Town, State, Zip Code: {insert City/Town, State, and Zip Code}

Witnesses:

{Signature }

Signature

{Printed/typed name }

Printed/typed name

{Signature }

Signature

{Printed/typed name }

Printed/typed name

**INSTRUCTIONS Notarization Language for Duly Authorized Agent for Grantee (Licensed Environmental Professional):**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {insert date} day of {insert month}, {insert year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court}

Date Commission Expires {insert date}]

(a) As used in this section and sections 22a-133q-2 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Commissioner” means the Commissioner of Energy and Environmental Protection or the commissioner’s designee;

(2) “Engineered control” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(3) “Environmental land use restriction” or “ELUR” means a type of environmental use restriction that complies with the requirements of section 22a-133o of the Connecticut General Statutes, the EUR regulations, and the RSRs, in which the commissioner acquires an interest in the parcel, or portion thereof, that is subject to such restriction;

(4) “Environmental use restriction” or “EUR” means an ELUR or a NAUL;

(5) “EUR factsheet” means a statement that explains the restrictions and affirmative obligations imposed by an EUR, describes each subject area on a parcel, and includes the information necessary to protect the health and safety of those who may be exposed to pollution if work is conducted in each such subject area;

(6) “EUR regulations” means sections 22a-133q-1 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies;

(7) “EUR opinion” means a document that complies with section 22a-133q-5 of the EUR regulations, signed and sealed by an LEP and recorded on the land records as part of an EUR;

(8) “Inaccessible soil” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(9) “Industrial/commercial activity” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(10) “Interest” means all or part of a legal or equitable claim to a right in a parcel, including but not limited to, an easement, lease, life estate, mortgage, or lien;

(11) “Laboratory reporting limit” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(12) “Licensed environmental professional” or “LEP” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(13) “Notice of activity and use limitation” or “NAUL” means a type of environmental use restriction that complies with the requirements of section 22a-133o of the Connecticut General Statutes, the EUR regulations, and the RSRs, which does not create an interest in, nor require transfer to the commissioner of an interest in, the parcel, or portion thereof, that is subject to such restriction;

(14) “Owner” means the person or persons with sufficient right in the whole of a parcel, which is or which will be subject to an EUR, to convey an interest in such parcel to another.

(15) “Parcel” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(16) “PCBs” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(17) “Permanent release” means an instrument, prescribed by the commissioner and approved by the commissioner pursuant to section 22a-133q-7 of the EUR regulations, that permanently discharges the obligation to comply with the requirements of an ELUR;

(18) “Pollution” has the same meaning as provided in section 22a-423 of the Connecticut General Statutes;

(19) “Polluted soil” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(20) “Record” means to commit to the clerk of the municipality in which a parcel is located a document or instrument for placement in the municipal land records, as provided for in section 7-24

of the Connecticut General Statutes;

(21) “Remediation standard regulations” or “RSRs” has the same meaning as provided in section 22a-133k-1 of the Regulations of Connecticut State Agencies;

(22) “Residential activity” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(23) “Soil” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(24) “Substance” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(25) “Subject areas” has the same meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies;

(26) “Subordination agreement” means a document, signed by persons holding an existing interest in a parcel, that irrevocably subjects that otherwise senior interest to a lower rank, class, or position in the chain of title than a later recorded ELUR recorded for the same parcel;

(27) “Temporary allowable disturbance” means an activity on, or disturbance to, a subject area that is otherwise prohibited by an EUR, but is specifically authorized by section 22a-133q-6 of the EUR regulations;

(28) “Temporary release” means relief from the restrictions imposed by an EUR for the purposes of conducting specific activities within a subject area, for a limited time or for recurring activity of a specific duration, as authorized by the commissioner or an LEP pursuant to section 22a-133q-7 of the EUR regulations;

(29) “Termination” means an instrument, approved pursuant to section 22a-133q-7 of the EUR regulations and recorded on the land records, that permanently discharges the obligation to comply with the requirements of a NAUL or discontinues the authorization to do work pursuant to a temporary release;

(30) “Transfer of an interest” means the voluntary disposition of, or involuntary separation from, any interest in a parcel or a portion of a parcel, including direct or indirect and absolute or conditional transfers; and

(b) Any term not defined in the EUR regulations, that is defined in the RSRs, shall have the meaning as provided in section 22a-133k-1(a) of the Regulations of Connecticut State Agencies.

The Regulations of Connecticut State Agencies are amended by adding sections Section 22a-133q-2 to 22a-133q-9, inclusive, as follows:

**(NEW) Sec. 22a-133q-2. ELURs**

**(a) General**

No person shall execute and record an ELUR, pursuant to the RSRs and sections 22a-133n to 22a-133s, inclusive, of the Connecticut General Statutes, that does not comply with the requirements of this section.

**(b) Requesting an ELUR**

The owner of a parcel seeking to execute and record an ELUR shall submit a request to the commissioner. Unless otherwise specified by this section, any such request, including the items identified in each subdivision of this subsection, shall be submitted on a form prescribed by the commissioner and shall include:

- (1) A proposed declaration of ELUR as specified in Appendix 1 of the EUR regulations;
- (2) A proposed EUR factsheet;

(3) A survey, sealed not more than 90 days prior to its submittal, that complies with section 22a-133q-4 of the EUR regulations;

(4) A title search for the parcel on which the proposed ELUR is located, performed no more than 90 days prior to its submittal to the commissioner. This title search shall include a listing and description of all recorded interests in the chain of title;

(5) A report by an attorney with a current and valid license to practice law in any state in the United States. The report shall:

(A) Be signed and certified to as accurate by the attorney undertaking it;

(B) Contain a description, review and evaluation of each recorded interest identified in the title search performed pursuant to subdivision (4) of this subsection and indicate whether each such interest will be:

(i) Subordinated to the ELUR; or

(ii) The subject of a waiver request, pursuant to section 22a-133o(b)(1) of the Connecticut General Statutes. For interests that will be the subject of such a waiver request, the report shall contain a detailed explanation of why the interest:

(I) Is so minor as to be unaffected by the ELUR; or

(II) When acted upon, is not capable of creating a condition contrary to the purpose of the ELUR.

(6) For each interest to be subordinated to the ELUR, include a proposed, unexecuted, irrevocable subordination agreement, and a statement, signed by the holder of each interest to be subordinated, certifying that the holder of each interest agrees to execute the proposed subordination agreement so that it may be recorded at the same time as the ELUR. The proposed subordination agreements do not need to be prepared using a form prescribed by the commissioner;

(7) An affidavit executed by the owner of the parcel that:

(A) Identifies and describes:

(i) All current or planned residential activities on the parcel, and any other use of the parcel potentially in conflict with the restrictions proposed by the ELUR;

(ii) All unrecorded leases, licenses or other authorizations or rights regarding the parcel;

(iii) All unrecorded interests in the parcel;

(iv) All claims to the parcel, or to an interest in the parcel, by persons other than the owner; and

(v) Any condominium by-laws or regulations potentially in conflict with the restrictions of a proposed ELUR; and

(B) Attests, based on the owner's personal inquiry of the surveyor who prepared the survey required by this subdivision (3) of this subsection, the attorney who prepared the title evaluation required by subdivision (5) of this subsection, and the LEP who prepared the EUR opinion required by subdivision (8) of this subsection, that the proposed ELUR does not conflict with items required to be specified in the affidavit by subparagraph (A) of this subdivision;

(8) A proposed EUR opinion that complies with section 22a-133q-5 of the EUR regulations;

(9) Documents demonstrating compliance with subsection 22a-133k-1(d) of the RSRs;

(10) A non-refundable fee of \$5,000 dollars, payable in a manner prescribed by the commissioner; and

(11) Any other information specified by the commissioner.

**(c) Commissioner's Review**

(1) The commissioner shall not accept an ELUR, unless and until the commissioner, in the commissioner's sole discretion, determines that:

(A) All of the information necessary to make a determination of whether or not to accept the ELUR, including, but not limited to the information required to be prepared and submitted pursuant to subsection (b) of this section, has been submitted to the commissioner on forms prescribed by the commissioner;

(B) All holders of interests in the parcel have agreed to irrevocably subordinate such interest to the ELUR, and all proposed subordination agreements have been provided to the commissioner, pursuant to subsection (b)(6) of this section, except where, pursuant to section 22a-133o(b)(1) the commissioner has determined to waive this requirement;

(C) The ELUR complies with all applicable legal requirements, including, but not limited to, the ELUR regulations and the RSRs; and

(D) The ELUR is protective of human health and the environment.

(2) (A) The commissioner shall not review a request to approve an ELUR without the required fee and may, at any time, disapprove a request for an ELUR based on any determination made in accordance with subdivision (1) of this subsection. If the commissioner does not approve the request for an ELUR, the commissioner shall send written notice of such disapproval to the owner of the parcel on which the ELUR would have been placed and state the reasons for such disapproval. If the notice sent by the commissioner indicates that the request for an ELUR was not approved because:

(i) Information required by subsection (b) of this section was not provided, or that the commissioner needs additional information to review the proposed ELUR, the owner requesting the ELUR shall have 90 days from the date of the commissioner's notice to provide the commissioner with the information identified in the notice. The commissioner may grant, in the commissioner's sole discretion, a single 90 day extension of time to provide any such information; or

(ii) A request to waive the requirement to subordinate an interest in the parcel to the ELUR was rejected by the commissioner, pursuant to subparagraph (1)(B) of this subsection, the owner requesting the ELUR shall have 180 days from the date of the commissioner's notice to obtain and submit to the commissioner a proposed subordination agreement and certification of the interest holder as required by subsection (b)(4) of this section.

(B) Any response to the notice sent by the commissioner, submitted pursuant to subparagraphs (A)(i) or (A)(ii) of this subdivision, shall along with the original request for an ELUR, be reviewed pursuant to subdivision (1) of this subsection. If the deadlines in subparagraphs (A)(i) or (A)(ii) of this subdivision are not met, the commissioner's disapproval of the request for an ELUR shall, without the need for any further action by the commissioner, be deemed final and the proposed ELUR shall not be executed or recorded.

(3) An owner whose request for an ELUR has been disapproved pursuant to this subsection may submit a new request for approval of such ELUR. Any such request shall be treated as a new request and shall be resubmitted in its entirety in compliance with the requirements of subsection (b) of this section

**(d) Changes or Omissions**

If, at any time prior to acceptance of an ELUR by the commissioner, the information submitted pursuant to subsection (b) of this section has materially changed or if a material omission regarding the information submitted is discovered, the owner shall immediately notify the commissioner in writing and include any changed or omitted information.

**(e) Recording an ELUR and Post-Recording Submittals**

(1) If the commissioner determines to accept an ELUR the commissioner shall send an unsigned copy of the accepted ELUR to the owner.

(2) Not more than 14 days after receiving the unsigned copy of the ELUR accepted by the commissioner, the owner shall submit to the commissioner:

(A) The accepted ELUR signed by the owner;

(B) A copy of the survey, accepted by the commissioner as it is to be recorded, revised to omit the term "proposed" where it appears, signed and sealed by the surveyor; and

(C) An affidavit, on a form prescribed by the commissioner, signed by the owner, in which the owner attests to the following:



- (i) There has been no change to the information provided in the most recent owner's affidavit submitted pursuant to subsection (b)(7) of this section;
  - (ii) The ELUR signed by the owner is identical in all respects to the ELUR sent to the owner by the commissioner pursuant to subdivision (1) of this subsection; and
  - (iii) There has been no material change to and no omission in any other information provided to the commissioner pursuant to this section, and that if the commissioner signs the ELUR, within 7 days after receipt of the signed ELUR, the owner shall ensure that no alterations of any kind are made and will record the ELUR, the survey accepted by the commissioner, and all fully executed subordination agreements, in the form provided to and accepted by the commissioner.
- (3) Provided the commissioner finds that the information submitted pursuant to subdivision (2) of this subsection satisfactory, the commissioner shall sign the ELUR and return it to the owner for recording.
- (4) Within 7 days after receipt of the ELUR signed by the commissioner the owner shall:
- (A) Record the following on the municipal land records in the form provided to and accepted by the commissioner:
    - (i) The ELUR signed by the commissioner;
    - (ii) The survey of the parcel on which the ELUR is being placed;
    - (iii) All fully executed subordination agreements, and any approved waivers of the requirement to subordinate; and
    - (iv) Any other information sent to the owner by the commissioner for recording; and
  - (B) Submit to the commissioner, on a form prescribed by the commissioner, a certificate of title regarding the parcel on which the ELUR has been placed, prepared by an attorney with a current and valid license in the State of Connecticut.
- (5) (A) Except for the 7 day recording requirements in subparagraph (4)(A) of this subsection, if due to unforeseen or unusual circumstances an owner is not able to comply with one or more deadlines specified in this subsection, upon written request from the owner explaining such unforeseen or unusual circumstances, the commissioner may, in writing, extend the deadlines. The commissioner shall specify the length of any extension, which in no event shall exceed 30 days, unless the unforeseen or unusual circumstances requires the attainment of a subordination agreement, in which case any extension shall not exceed 90 days. In connection with any request for such an extension, the commissioner may impose conditions, require that the ELUR be re-executed, or require the submission of additional information, including, but not limited to, information regarding subsections (b)(4), (b)(5), (b)(6) and (b)(7) of this section.
- (B) If due to unforeseen or unusual circumstances, an ELUR signed by the commissioner is not recorded within 7 days after receipt by the owner, as required by subparagraph (4)(A) of this subsection, upon written request from the owner explaining such unforeseen or unusual circumstances the commissioner may provide for the ELUR to be re-executed in accordance with subsections (e)(3) and (e)(4) of this section. In making such determination, the commissioner may impose conditions, or require the submission of additional information, including, but not limited to, information regarding subsections (b)(4), (b)(5), (b)(6) and (b)(7) of this section. If the commissioner determines not to provide for the ELUR to be re-executed, a new request for approval of such ELUR may be submitted pursuant to subdivision (6) of this subsection.
- (C) If the ELUR sought by the owner has not yet been recorded, and the owner fails to comply with one or more deadlines specified in this subsection, including, but not limited to, an extended deadline or condition imposed by the commissioner, the ELUR is now deemed disapproved, despite the commissioner's previous acceptance of the ELUR, and the ELUR shall not be recorded.
- (D) If the ELUR sought by the owner has been recorded notwithstanding the failure to comply with any deadlines specified in this subdivision, including, but not limited to, an extended deadline or

condition imposed by the commissioner, the ELUR recorded by such owner shall be subject to subsection (g) of this section.

(6) An owner, whose request for an ELUR is deemed disapproved pursuant to subdivision (5) of this subsection, may submit a new request for approval of such ELUR. Any such request shall be treated as a new request and shall be resubmitted in its entirety in compliance with the requirements of this section.

**(f) ELUR on a Parcel Undergoing Voluntary Remediation**

Notwithstanding subsection (c) of this section, the following shall apply only to an ELUR on a parcel undergoing voluntary remediation, pursuant to section 22a-133y of the Connecticut General Statutes.

(1) An ELUR shall not be approved by an LEP nor recorded on such a parcel, unless:

(A) The parcel:

(i) Is designated on a map prepared pursuant to section 22a-426 of the Connecticut General Statutes, as GB or GC for groundwater; and

(ii) Is not the subject of an order issued by the commissioner or a stipulated judgment issued by a court regarding the spill or pollution being remediated;

(B) The LEP who is to sign the ELUR affirmatively determines, in writing, that:

(i) The parcel in question satisfies the requirements of subdivision (1) of this subsection;

(ii) The proposed ELUR:

(I) Except for waivers approved by the commissioner pursuant to subparagraph (E) of this subdivision, complies with all applicable legal requirements, including, but not limited to, the EUR regulations and the RSRs; and

(II) Is protective of human health and the environment;

(C) All materials required by subsection (b) of this section have been prepared and are complete;

(D) An attorney licensed in the State of Connecticut has prepared an opinion stating that:

(i) No recorded interest in the title search and attorney's report referred to in subdivisions (4) and (5) of subsection (b) of this section and no item identified in the owner's affidavit referred to in subdivision (7) of subsection (b) of this section allows an activity to be conducted that could or does interfere with the restrictions or obligations of the ELUR; or

(ii) The holder of any recorded interest which allows activity that could or does interfere with the ELUR has agreed to irrevocably subordinate that interest to the ELUR pursuant to subsection (b)(6) of this section; and

(E) If waivers of the requirement to obtain subordination agreements are requested, the materials prepared pursuant to subsections (b)(3), (b)(4), and (b)(5) of this section, along with a fee of \$2,500.00, have been submitted to the commissioner. If a waiver request has been submitted to the commissioner, an LEP shall not sign an ELUR, until the commissioner has approved, in writing, all such waiver requests.

(2) If the LEP who is to sign the ELUR affirmatively determines, in writing, that the requirements for an ELUR on a parcel undergoing voluntary remediation have been satisfied, including, but not limited to, the requirements of this subsection, the LEP may sign the EUR opinion and the declaration of ELUR. Any such ELUR shall be recorded pursuant to the procedure set out in subsection (e) of this section, except that the LEP's signature shall substitute for the commissioner's signature whenever mentioned in subsection (e) of this section.

**(g) Correction of Non-Compliance/Determination of Invalidity**

(1) If at anytime the commissioner determines that any ELUR does not comply with applicable requirements or was not recorded in compliance with the requirements of this section, including, but not limited to, recordation without the commissioner's authorization, the commissioner may record, or may require the owner to record, a release of the ELUR, which release contains a statement that

the ELUR was invalidly recorded and is therefore released, and that the obligation to record an ELUR, if such an obligation exists, has not been satisfied. An invalidly recorded ELUR shall not satisfy any requirement of any statute or regulation requiring such ELUR. If the commissioner releases an ELUR pursuant to this subsection, the commissioner shall notify the owner of the parcel.

(2) Any action taken by the commissioner pursuant to this subsection shall be in addition to and shall not affect the authority of the commissioner under any other statute or regulation, including but not limited to the authority to seek civil or criminal penalties or issue any order to prevent or abate pollution.

**(h) Application to Pending ELUR Requests**

Requests for ELURs submitted to the commissioner on or before *{insert the effective date of the regulations}* shall be subject to the following requirements:

(1) If after the *{effective date of these regulations}* the commissioner provides notice that:

(A) Additional Information is required to approve the ELUR or that the commissioner needs additional information to review the proposed ELUR, the owner requesting the ELUR shall have until 120 days after receipt of such notice to provide the commissioner with the information identified in the notice. The commissioner may grant, in the commissioner's sole discretion, a single 60 day extension of time to provide any such information; and

(B) Required subordination agreements have not been submitted, the owner requesting the ELUR shall have until 180 days after receipt of such notice to obtain and submit to the commissioner such signed subordination agreements. The commissioner may grant, in the commissioner's sole discretion, a single 60 day extension of time to submit any such agreements.

(2) If the deadlines in subparagraphs (A) or (B) of this subdivision are not met, the request for an ELUR shall, without the need for any further action by the commissioner, be deemed disapproved and the proposed ELUR shall not be executed or recorded.

(3) An owner whose request for an ELUR has been disapproved pursuant to this subsection may submit a new request for approval of such ELUR. Any such request shall be treated as a new request and shall be resubmitted in its entirety in compliance with the requirements of subsection (b) of this section.

**(NEW) Sec. 22a-133q-3. NAULs**

**(a) General**

No person shall execute and record a NAUL, pursuant to the RSRs and sections 22a-133n to 22a-133s, inclusive, of the Connecticut General Statutes, that does not comply with the requirements of this section.

**(b) Requesting a NAUL**

The owner of a parcel seeking to execute and record a NAUL shall submit a request to the commissioner or LEP, as applicable. Unless otherwise specified by this section, any such request, including the items identified in this each subdivision of this subsection, shall be submitted on a form prescribed by the commissioner and shall include:

(1) A proposed declaration of NAUL as specified in Appendix 2 of the EUR regulations;

(2) A proposed EUR factsheet;

(3) A survey that complies with section 22a-133q-4 of the EUR regulations that is sealed not more than 90 days prior to the request to the commissioner or LEP, as applicable, for a NAUL;

(4) A title search for the parcel on which the proposed NAUL is located, completed not more than 90 days prior to the request to the commissioner or LEP, as applicable, for a NAUL. This title search shall include a listing and description of all recorded interests in the chain of title;

(5) A report by an attorney with a current and valid license to practice law in any state in the United States. The report shall:

- (A) Be signed and certified to as accurate by the attorney undertaking it;
- (B) Contain a description, review and evaluation of each recorded interest identified in the title search performed pursuant to subdivision (4) of this subsection and for each such interest indicate whether:
  - (i) The interest does not allow for conduct of an activity that interferes with the restrictions and affirmative obligations of the NAUL; or
  - (ii) The owner of such interest that does allow for conduct of an activity that interferes with the restrictions and affirmative obligations of the NAUL has agreed to sign the NAUL, pursuant to section 22a-133o(c)(6) of the Connecticut General Statutes.
- (6) An affidavit executed by the owner of the parcel that:
  - (A) Identifies and describes:
    - (i) All current or planned residential activities on the parcel, and any other use of the parcel potentially in conflict with the restrictions proposed by the NAUL;
    - (ii) All unrecorded leases, licenses or other authorizations or rights regarding the parcel;
    - (iii) All unrecorded interests in the parcel;
    - (iv) All claims to the parcel, or to an interest in the parcel, by persons other than the owner; and
    - (v) Any condominium by-laws or regulations potentially in conflict with the restrictions of a proposed NAUL; and
  - (B) Based on the owner's personal inquiry of the surveyor who prepared the survey required by this subdivision (3) of this subsection, the attorney who prepared the title evaluation required by subdivision (5) of this subsection, and the LEP who prepared the EUR opinion required by subdivision (7) of this subsection, affirms that the proposed NAUL does not conflict with items required to be specified in the affidavit by subparagraph (A) of this subdivision;
- (7) A proposed EUR Opinion that complies with section 22a-133q-5 of the EUR regulations;
- (8) Documents demonstrating:
  - (A) Compliance with subsection 22a-133k-1(d) of the RSRs; and
  - (B) That the owner of each interest in the parcel identified in the title search contained in subdivision (4) of this subsection has been notified of the proposed NAUL in compliance with the requirements specified in section 22a-133o(c)(2) of the Connecticut General Statutes;
- (9) If the NAUL is to be recorded less than 60 days after providing notice to those who hold an interest in the parcel, written waivers of the 60 day review period signed by the interest holders pursuant to section 22a-133o(c)(2) of the Connecticut General Statutes; and
- (10) Any other information specified by the commissioner.

**(c) Review of a NAUL**

A proposed NAUL shall be approved by the commissioner or by an LEP pursuant to this subsection.

- (1) Commissioner review of a NAUL
  - (A) The commissioner shall not accept a NAUL, unless and until the commissioner, in the commissioner's sole discretion, determines that:
    - (i) All of the information necessary to make a determination of whether or not to accept the NAUL, including, but not limited to, the information required to be prepared and submitted pursuant to subsection (b) of this section, has been submitted to the commissioner on forms prescribed by the commissioner;
    - (ii) For all interests in the parcel that allow for conduct of an activity that interferes with the restrictions and affirmative obligations of the NAUL, the owner of such interests has agreed to sign the NAUL pursuant to section 22a-133o(c)(6) of the Connecticut General Statutes;
    - (iii) The NAUL complies with all applicable legal requirements, including, but not limited to, the EUR regulations and the RSRs;



- (iv) The NAUL is protective of human health and the environment; and
  - (v) A non-refundable fee of \$5,000, payable in a manner prescribed by the commissioner has been submitted with the request for the commissioner's approval of the NAUL.
- (B) The commissioner shall not review a request to approve a NAUL without the required fee and may, at any time, disapprove a request for a NAUL based on any determination made in accordance with subparagraph (a) of this subdivision. If the commissioner does not approve the request for a NAUL, the commissioner shall send a written notice, to the owner of the parcel on which the NAUL would have been placed and state the reasons for such disapproval. If the notice sent by the commissioner indicates that the request for a NAUL was not approved because:
- (i) Information required by subsection (b) of this section was not provided, or that the commissioner needs additional information to review the proposed NAUL, the owner requesting the NAUL shall have 90 days from the date of the commissioner's notice to provide the commissioner with the information identified in the notice. The commissioner may grant, in the commissioner's sole discretion, a single 90 day extension of time to provide any such information; or
  - (ii) For all holders of interests in the parcel with an interest that allows the conduct of an activity that interferes with the restrictions or affirmative obligations of the NAUL, if compliance with the requirements of section 22a-133o(c)(6) of the Connecticut General Statutes has not been achieved, the owner requesting the NAUL shall have 180 days from the date of the commissioner's notice to demonstrate compliance with such section.
- (C) Any response to the notice sent by the commissioner, submitted pursuant to subparagraphs (B)(i) or (B)(ii) of this subdivision, shall along with the original request for a NAUL, be reviewed pursuant to subdivision (1) of this subsection. If the deadlines in subparagraphs (B)(i) or (B)(ii) of this subdivision are not met, the commissioner's disapproval of a request for a NAUL shall, without the need for any further action by the commissioner, be deemed final and the proposed NAUL shall not be executed or recorded.
- (D) An owner whose request for a NAUL has been disapproved pursuant to this subsection may submit a new request for approval of such NAUL. Any such request shall be treated as a new request and shall be resubmitted in its entirety in compliance with the requirements of subsection (b) of this section.
- (E) If the commissioner determines to approve the proposed NAUL, the commissioner shall sign the proposed NAUL and the approved NAUL shall be recorded in accordance with the requirements of subsection (e) of this section.
- (2) Review of a NAUL by an LEP
- (A) In order for an LEP to approve a proposed NAUL, the LEP who will sign and seal the NAUL shall, before such approval, affirmatively determine, in writing, that:
- (i) All of the information necessary to make a determination of whether or not to accept the NAUL, including, but not limited to documents demonstrating compliance with subsection (b) of this section have been prepared;
  - (ii) An attorney licensed in the State of Connecticut has prepared an opinion stating that each recorded interest in the parcel identified in subdivision (4) of subsection (b) of this section and each item identified in the owner's affidavit in subdivision (6) of subsection (b) of this section either:
    - (I) Allows only activities that do not interfere with the restrictions or affirmative obligations in the proposed NAUL; or
    - (II) Allows activities that do interfere with the restrictions and affirmative obligations of the proposed NAUL, but the owner of each such interest has agreed to sign the NAUL pursuant to section 22a-133o(c)(6) of the Connecticut General Statutes;
  - (iii) The proposed NAUL complies with all applicable legal requirements, including, but not limited to, the EUR regulations and the RSRs; and



(iv) The proposed NAUL is protective of human health and the environment.

(B) If an LEP makes the affirmative determination required by subparagraph (A) of this subdivision, the LEP may approve and shall sign the NAUL to indicate such approval. The approved NAUL signed by the LEP shall be recorded in accordance with the requirements of subsection (e) of this section.

(C) If an LEP cannot make the affirmative determination required by subparagraph (A) of this subdivision, the LEP shall not approve and shall decline to sign the proposed NAUL.

**(d) Changes or Omissions**

If, any time before the commissioner or an LEP approves a NAUL, the information prepared pursuant to subsection (b) of this section has materially changed or a material omission regarding the information submitted is discovered, the owner shall immediately notify the commissioner or LEP, as applicable, in writing, and include any changed or omitted information.

**(e) Recording a NAUL and Post-Recording Submittals**

(1) Not more than 7 days after receipt of the NAUL signed by the commissioner the owner shall:

(A) Sign the NAUL approved by the commissioner;

(B) Ensure that a surveyor, licensed in Connecticut, signs and seals the survey prepared pursuant to subsection (b) of this section, for recording, omitting the term “proposed” where it appears; and

(C) Record the NAUL, including the survey, the EUR opinion and other documents, if any, necessary to record the NAUL.

(2) Not more than 30 days after recording the NAUL pursuant to subdivision (1) of this subsection, the owner shall submit the following to the commissioner:

(A) A copy of the recorded NAUL, indicating the volume and page of the land records at which it was recorded;

(B) A copy of the survey recorded with the NAUL;

(C) A title search as required by subsection (b)(4) of this section, updated to include any interest in the parcel listed on the land records at the time the NAUL was recorded; and

(D) A statement by the owner of the parcel on which the NAUL has been placed, on a form prescribed by the commissioner, in which the owner attests that there has been no change to the information provided in the most recent owner’s affidavit submitted to the commissioner pursuant to subsection (b)(6) of this section.

(3) When a NAUL has been approved by an LEP:

(A) The LEP shall sign the NAUL and send or provide the signed NAUL to the owner of the parcel on which the NAUL will be placed.

(B) Not more than 7 days from the date that the LEP sends or provides the signed NAUL to the owner, the owner shall:

(i) Sign the NAUL approved by the LEP;

(ii) Ensure that a surveyor, licensed in Connecticut, signs and seals the survey prepared pursuant to subsection (b) of this section, for recording, omitting the term “proposed” where it appears; and

(iii) Record the NAUL, including the survey, and the EUR opinion and other documents, if any, necessary to record the NAUL.

(C) Not more than 30 days after recording the NAUL pursuant to subparagraph (B) of this subdivision, the owner shall submit the following to the commissioner:

(i) A copy of the NAUL request form prepared pursuant to subsection (b) of this section and submitted to the LEP;

(ii) A copy of the recorded NAUL, indicating the volume and page of the land records at which it was recorded;

(iii) A copy of the survey recorded with the NAUL;

(iv) A title search as required by subsection (b)(4) of this section, updated to include any interest

in the parcel listed on the land records at the time the NAUL was recorded;

(v) A copy of the report prepared pursuant to subsection (b)(5) of this section and the attorney's opinion prepared pursuant subsection (c)(2)(A)(ii) of this section;

(vi) An executed owner's affidavit, as required by subsection (b)(7) of this section, along with a statement, on a form prescribed by the commissioner, in which the owner attests that there has been no change to the information provided in the owner's affidavit in the time between its execution and the recording of the NAUL;

(vii) The EUR opinion signed and sealed by the LEP approving the NAUL; and

(viii) The documents required by subsection (b)(8) of this section and if the NAUL is recorded less than 60 days after providing notice to those who hold an interest in the parcel, waivers of the 60 day review period signed by the interest holders, pursuant to subsection (b)(9) of this section; and

(ix) A non-refundable fee of \$1,500.00 payable in a manner prescribed by the commissioner.

**(f) Correction of Non-Compliance/Determination of Invalidity**

(1) If at anytime the commissioner determines that any NAUL does not comply with applicable requirements or was not recorded or was not recorded in compliance with the requirements of this section, the commissioner may record, or may require the owner to record, a termination of the NAUL, which termination contains a statement that the NAUL was invalidly recorded and is therefore terminated, and that the obligation to record a NAUL, if such an obligation exists, has not been satisfied. An invalidly recorded NAUL shall not satisfy any requirement of any statute or regulation requiring such NAUL. If the commissioner terminates a NAUL pursuant to this subsection, the commissioner shall notify the owner of the parcel.

(2) Any action taken by the commissioner pursuant to this subsection shall be in addition to and shall not affect the authority of the commissioner under any other statute or regulation, including but not limited to the authority to seek civil or criminal penalties or issue any order to prevent or abate pollution.

**(NEW) Sec. 22a-133q-4. Surveys**

**(a) General standards and requirements for surveys**

The survey of a parcel prepared pursuant to this section shall:

(1) Be performed by a surveyor with a current and effective license issued by the Commissioner of Consumer Protection;

(2) For survey maps and plans, comply with Map Drafting Standards in section 20-300b-18 of the Regulations of Connecticut State Agencies;

(3) Include a vicinity map showing the approximate location and configuration of the parcel in reference to nearby highways or major street intersections;

(4) Depict the latitude and longitude of a point on the parcel, plotted and labeled in decimal degrees, referenced to the Connecticut Coordinate System of 1983, as defined in section 13a-255 of the Connecticut General Statutes, with an accuracy within 5 meters;

(5) Include a description of the parcel under the heading "Parcel Description" that shall be a metes and bounds description if the property boundaries are required to be surveyed pursuant to this section or, if portions of the boundary are not required to be surveyed, a metes and bounds description if found on the land records in the chain of title for the parcel;

(6) Depict adjoining properties identified by most recently recorded owners' names (N/F, now or formerly) or by subdivision map and lot numbers;

(7) Depict the boundaries of each proposed subject area by metes and bounds;

(8) Fix each proposed subject area to a parcel boundary to the Horizontal Accuracy Class A-2 standard specified in section 20-300b-11(b) of the Regulations of Connecticut State Agencies;

(9) For each subject area with the characteristics specified in this subdivision, locate such subject

area pursuant to sections 20-300b-12 to 20-300b-14, inclusive, of the Regulations of Connecticut State Agencies:

(A) A subject area that does not have at least one contiguous boundary with the boundary of the parcel;

(B) A subject area that does not share a point in common with a structure or feature located on the parcel; or

(C) A subject area that an LEP, surveyor, or the commissioner, deems appropriate to be located pursuant to the method specified in this subdivision;

(10) Label each subject area as “Proposed ELUR Subject Area” or “Proposed NAUL Subject Area” as applicable, and if there is more than one subject area, identify each subject area alphabetically, e.g., as “Proposed ELUR Subject Area A”, “Proposed ELUR Subject Area B”, “Proposed ELUR Subject Area C”; or “Proposed NAUL Subject Area A”, “Proposed NAUL Subject Area B”, “Proposed NAUL Subject Area C” and indicate by note each restriction imposed by the proposed EUR for each subject area;

(11) For each subject area labeled under subdivision (10) of this subsection, include a metes and bounds description under the heading “Proposed ELUR Subject Area [insert subject area(s) label] Description” or “Proposed NAUL Subject Area [insert subject area(s) label] Description;”

(12) Indicate by note all recorded interests, including, but not limited to, easements. For all such interests specify the volume and page in the municipal land records of the instrument granting the same, and label each as either plottable or non-plottable;

(13) Indicate by note all of the current zoning classifications of the parcel, a short description of the uses permitted in each zone, and the revision date of the zoning regulations in effect at the time of the survey;

(14) Indicate by note the standards to which the survey was prepared. If a dependent resurvey is conducted, identify by note each map referenced;

(15) Include in the title block: “Proposed Declaration of Environmental Land Use Restriction and Grant of Easement, Exhibit C” or “Proposed Notice of Activity and Use Limitation, Exhibit C”, the name of the parcel owner, the parcel address, the type of survey, the scale of the survey, and survey date;

(16) Be signed and sealed in accordance with section 20-300b-20 of the Regulations of Connecticut State Agencies;

(17) Include a simplified survey prepared in accordance with subsection (e) of this section; and

(18) Any other information specified by the commissioner.

**(b) Specific standards and requirements for surveys for certain EURs when the aggregate size of all subject areas is fifty percent to one hundred percent (50% to 100%) of the parcel**

(1) This subsection shall apply to surveys for a proposed EUR:

(A) That imposes restrictions or affirmative obligations other than or in addition to a residential activity restriction; and

(B) Where the proposed subject areas in aggregate comprise fifty percent or more of the parcel on which an EUR is to be placed.

(2) In addition to the requirements of subsection (a) of this section, a survey subject to this subsection, as specified in subdivision (1), shall:

(A) Comply with the requirements for a Property Survey in section 20-300b-2 of the Regulations of Connecticut State Agencies;

(B) Depict the boundaries of the parcel by metes and bounds;

(C) Depict any conflicts with record deed descriptions and maps affecting the parcel, and indicate by note such conflicts;

(D) Depict the location of encroachments and restrictions affecting the parcel, and indicate by note

such encroachments and restrictions;

(E) Depict parcel ingress and egress, both of record and apparent;

(F) Depict apparent improvements and features on the parcel, including, but not limited to:

(i) Grass, landscaped areas, fields, wooded and other undeveloped areas, structures, roadways, driveways, parking lots, sidewalks, and other bituminous concrete and concrete areas;

(ii) Monitoring wells and remediation equipment or facilities;

(iii) Fences, walls, hedges, watercourses as defined in section 22a-38(16) of the Connecticut General Statutes; and

(iv) Any other evidence of repeated use of the parcel;

(G) Include spot elevations taken at the major corners of each subject area, tied to a known datum.

Where an engineered control has been implemented pursuant to section 22a-133k-2(f)(2) of the Regulations of Connecticut State Agencies, the spot elevations depicted on the as-built drawings submitted with the Final Engineered Control Completion Statement, prepared pursuant to section 22a-133k-2(f)(2)(D)(i) of the Regulations of Connecticut State Agencies, shall be included. Where polluted soil is subject to the conditional exemption for inaccessible soil in accordance with section 22a-133k-2(b)(3) or section 22a-133k-2(b)(4) of the Regulations of Connecticut State Agencies, all spot elevations measured on the parcel shall be included. All spot elevations specified in this subdivision, shall be supplemented with contour lines for the portions of the parcel within each subject area depicted to the T-D standard of survey accuracy in section 20-300b-11(d) of the Regulations of Connecticut State Agencies. The source of the information used to prepare the contour lines shall be indicated by note. When spot elevations are indicated, a benchmark on the same datum as the spot elevations shall be depicted and appropriately noted and described;

(H) Depict the location and width of each plottable, recorded interest and any observed evidence of use. Indicate by note whether each interest as plotted is located inside a subject area and if so, identify the subject area;

(I) Depict any observed evidence of current earth moving work or building construction on the parcel;

(J) Depict the location of utilities existing on or serving the parcel. At a minimum, this shall be determined by: observations or information indicated on plans obtained from utility companies, or from the owner, user or occupant of the parcel; markings by utility companies; and any other sources. If the information, observations or sources differ, depict all and indicate by note the source of such information; and

(K) Include any other information specified by the commissioner.

**(c) Specific standards and requirements for surveys for certain EURs when the subject area size is less than fifty percent (< 50%) of the parcel**

(1) This subsection shall apply to surveys for a proposed EUR:

(A) That imposes restrictions or affirmative obligations other than or in addition to a residential activity restriction; and

(B) Where the proposed subject areas in aggregate comprise less than fifty percent of the parcel on which an EUR is to be placed.

(2) In addition to the requirements of subsection (a) of this section, a survey subject to this subsection, as specified in subdivision (1), shall:

(A) Comply with the requirements in section 20-300b-2(a) of the Regulations of Connecticut State Agencies for each subject area and for 100 feet beyond such area, or to the boundary of the parcel, whichever is closer;

(B) Depict the limits of the surveyed portion of the parcel, including any parcel boundaries;

(C) Depict any conflicts with record deed descriptions and maps affecting the surveyed portion of the parcel, and indicate by note such conflicts;



- (D) Depict the location of encroachments and restrictions affecting the surveyed portion of the parcel, and indicate by note such encroachments and restrictions;
- (E) Depict parcel ingress and egress, both of record and apparent. If located on the surveyed portion of the parcel, ingress and egress should be located and depicted to the Horizontal Accuracy Class A-2 standard. If located outside the surveyed portion of the parcel, locate and depict ingress and egress with reasonable accuracy and indicate by note that the location of such ingress and egress has not been located to the Horizontal Accuracy Class A-2 standard;
- (F) Depict apparent improvements and features on the surveyed portion of the parcel, including, but not limited to:
- (i) Grass, landscaped areas, fields, wooded and other undeveloped areas, structures, roadways, driveways, parking lots, sidewalks, and other bituminous concrete and concrete areas;
  - (ii) Monitoring wells and remediation equipment or facilities;
  - (iii) Fences, walls, hedges, and watercourses as defined in section 22a-38(16) of the Connecticut General Statutes; and
  - (iv) Any other evidence of repeated use of the parcel;
- (G) Include spot elevations taken at the major corners of each subject area, tied to a known datum. Where an engineered control has been implemented pursuant to section 22a-133k-2(f)(2) of the Regulations of Connecticut State Agencies, the spot elevations depicted on the as-built drawings submitted with the Final Engineered Control Completion Statement, prepared pursuant to section 22a-133k-2(f)(2)(D)(i) of the Regulations of Connecticut State Agencies, shall be included. Where polluted soil is subject to the conditional exemption for inaccessible soil in accordance with section 22a-133k-2(b)(3) or section 22a-133k-2(b)(4) of the Regulations of Connecticut State Agencies, all spot elevations measured on the parcel shall be included. All spot elevations specified in this subdivision, shall be supplemented with contour lines for the portions of the parcel within each subject area depicted to the T-D standard of survey accuracy in section 20-300b-11(d) of the Regulations of Connecticut State Agencies. The source of the information used to prepare the contour lines shall be indicated by note. When spot elevations are indicated, a benchmark on the same datum as the spot elevations shall be depicted and appropriately noted and described;
- (H) Depict the location and width of each plottable, recorded interest and any observed evidence of use in the surveyed portion of the parcel. Indicate by note whether each interest as plotted is located inside a subject area, and if so, identify the subject area;
- (I) Depict any observed evidence of current earth moving work or building construction within the surveyed portion of the parcel;
- (J) Depict, for the surveyed portion of the parcel, the location of utilities existing on or serving the parcel. At a minimum, this shall be determined by: observations or information indicated on plans obtained from utility companies, or from the owner, user or occupant of the parcel; markings by utility companies; and any other sources. If the information, observations or sources differ, depict all and indicate by note the source of such information;
- (K) Depict any boundaries of the parcel not surveyed based on deed or other available information in the format of a General Location Survey or Compilation Plan pursuant to sections 20-300b-6 and 20-300b-8, respectively, of the Regulations of Connecticut State Agencies; and
- (L) Include any other information specified by the commissioner.
- (d) Specific standards and requirements for surveys when residential activity is the sole restriction**

This subsection shall apply to surveys for a proposed EUR that imposes only a residential activity restriction or affirmative obligation. In addition to the requirements of subsection (a) of this section, a survey subject to this subsection shall:

- (1) Comply with the requirements in section 20-300b-2(a) of the Regulations of Connecticut State



Agencies for each subject area and 100 feet beyond such area, or to the boundary of the parcel, whichever is closer;

- (2) Depict the limits of the surveyed portion of the parcel, including any parcel boundaries;
- (3) Depict any conflicts with record deed descriptions and maps affecting the surveyed portion of the parcel, and indicate by note such conflicts;
- (4) Depict the location of encroachments and restrictions affecting the surveyed portion of the parcel, and indicate by note such encroachments and restrictions;
- (5) Depict parcel ingress and egress, both of record and apparent. If located on the surveyed portion of the parcel, ingress and egress should be located and depicted to the Horizontal Accuracy Class A-2 standard. If located outside the surveyed portion of the parcel, locate and depict ingress and egress with reasonable accuracy and indicate by note that the location of such ingress and egress has not been located to the Horizontal Accuracy Class A-2 standard;
- (6) Depict prominent improvements and features on the surveyed portion of the parcel for informational and orientation purposes, including buildings, structures, roadways, parking lots, watercourses as defined in section 22a-38(16) of the Connecticut General Statutes, and any other evidence of residential activity on the surveyed portion of the parcel;
- (7) Depict any boundaries of the parcel not surveyed based on deed or other available information in the format of a General Location Survey or Compilation Plan pursuant to sections 20-300b-6 and 20-300b-8, respectively, of the Regulations of Connecticut State Agencies; and
- (8) Include any other information specified by the commissioner.

(e) **Simplified Survey**

A simplified survey shall:

- (1) Be performed by a surveyor with a current and effective license issued by the Commissioner of Consumer Protection;
- (2) For survey maps and plans, comply with the Map Drafting Standards in section 20-300b-18 of the Regulations of Connecticut State Agencies;
- (3) For boundary or feature required to be located or depicted under this subsection:
  - (A) If such boundary or feature is also required to be located or depicted by subsection (a) of this section, locate such boundary or feature on the simplified survey to the standard identified therein; and
  - (B) Determine whether the EUR proposed on the parcel requires a survey subject to the requirements of subsection (b), (c), or (d) of this section. If such boundary or feature is also required to be located or depicted by subsection (b), (c), or (d) of this section, as applicable, locate such boundary or feature on the simplified survey to the standard identified therein;
- (4) Depict, by metes and bounds, the portions of the boundary of the parcel required to be surveyed by this section. Depict any boundaries of the parcel not required to be surveyed by this section based on deed or other available information in the format of a General Location Survey or Compilation Plan, pursuant to sections 20-330b-6 and 20-300b-9, respectively, of the Regulations of Connecticut State Agencies;
- (5) If less than the entire parcel was required to be surveyed pursuant to this section, depict the limits of the portion of the parcel that was surveyed;
- (6) Depict apparent improvements and features on the parcel or surveyed portion of the parcel required to be surveyed by subsection (b)(2)(F), (c)(2)(F) or (d)(6) of this section;
- (7) Depict parcel ingress and egress, both of record and apparent;
- (8) Depict the boundaries of each proposed subject area by metes and bounds;
- (9) Fix each proposed subject area to a parcel boundary to the Horizontal Accuracy Class A-2 standard specified in section 20-300b-11(b) of the Regulations of Connecticut State Agencies;
- (10) For each subject area with the characteristics specified in this subdivision, locate such subject

area pursuant to sections 20-300b-12 to 20-300b-14, inclusive, of the Regulations of Connecticut State Agencies:

(A) A subject area that does not have at least one contiguous boundary with the boundary of the parcel;

(B) A subject area that does not share a point in common with a structure or feature located on the parcel; or

(C) A subject area that an LEP, surveyor, or the commissioner deems appropriate to be located pursuant to the method specified in this subdivision;

(11) Label each subject area as “Proposed ELUR Subject Area” or “Proposed NAUL Subject Area” as applicable, and if there is more than one subject area, identify each subject area alphabetically, e.g., as “Proposed ELUR Subject Area A”, “Proposed ELUR Subject Area B”, “Proposed ELUR Subject Area C”; or “Proposed NAUL Subject Area A”, “Proposed NAUL Subject Area B”, “Proposed NAUL Subject Area C” and indicate by note each restriction imposed by the proposed EUR for each subject area;

(12) When restrictions other than a prohibition on residential activity are proposed, include spot elevations taken at the major corners of each subject area; tied to a known datum. Where an engineered control has been implemented pursuant to section 22a-133k-2(f)(2) of the Regulations of Connecticut State Agencies, the spot elevations depicted on the as-built drawings submitted with the Final Engineered Control Completion Statement, prepared pursuant to section 22a-133k-2(f)(2)(D)(i) of the Regulations of Connecticut State Agencies, shall be included. Where polluted soil is subject to the conditional exemption for inaccessible soil, in accordance with section 22a-133k-2(b)(3) or section 22a-133k-2(b)(4) of the Regulations of Connecticut State Agencies, all spot elevations measured on the parcel shall be included. When spot elevations are indicated, a benchmark on the same datum as the spot elevations shall be depicted and appropriately noted and described;

(13) Indicate by note the standards to which the survey was prepared. If a dependent resurvey is conducted, identify by note each map referenced;

(14) Include in the title block: “Simplified Survey - Proposed Declaration of Environmental Land Use Restriction and Grant of Easement, Exhibit C” or “Simplified Survey - Proposed Notice of Activity and Use Limitation, Exhibit C”, the name of the parcel owner, the parcel address, the type of survey, the scale of the survey, and survey date;

(15) Be signed and sealed in accordance with section 20-300b-20 of the Regulations of Connecticut State Agencies; and

(16) Include any other information specified by the commissioner.

#### **(NEW) Sec. 22a-133q-5. EUR Opinion**

##### **(a) Preparation of the EUR Opinion**

For purposes of the EUR regulations, an EUR opinion shall be prepared using a form prescribed by the commissioner and shall:

(1) Identify historic industrial/commercial activity on the parcel and include a brief narrative summarizing the type and location of pollutants in the soil, groundwater, sediments, or soil vapor at concentrations greater than the applicable criteria set forth in or approved pursuant to the RSRs and identified during the investigation and characterization of the parcel;

(2) Include a table, that lists:

(A) Each proposed ELUR or NAUL subject area identified on a survey that complies with section 22a-133q-4 of the EUR regulations;

(B) The pollutants present in soil, sediments, groundwater or soil vapor on or underlying that subject area that are present in concentrations greater than the criteria set forth in, or approved pursuant to, the RSRs, their concentration, and horizontal and vertical extent; and

- (C) The restrictions or affirmative obligations to be imposed by the EUR;
- (3) Describe each restriction or affirmative obligations to be imposed by the EUR and all requirements to implement such EUR;
- (4) For each restriction or affirmative obligation, as applicable, to be imposed by the EUR, indicate:
- (A) Why the restriction or affirmative obligation was chosen for the conditions present at the subject area;
- (B) That the current condition of the subject area is in compliance with the restriction proposed;
- (C) That the current condition of the subject area allows for compliance with all affirmative obligations; and
- (D) How compliance with each restriction and affirmative obligation, as proposed, will ensure compliance with the RSRs;
- (5) For parcels subject to a NAUL only, describe any activities and uses permitted and inconsistent with maintaining compliance with such NAUL;
- (6) Include the signature and seal of an LEP, or, when the parcel upon which the EUR will be placed is in the custody and control of the Department, the signature of either the commissioner or an LEP, certifying that:
- (A) The contents of the EUR opinion are accurate and complete; and,
- (B) Each restriction and affirmative obligation to be imposed by the EUR is consistent with the RSRs and is protective of human health and the environment; and
- (7) Include any other information specified by the commissioner.

**(b) Compliance with Notice of Activity and Use Limitation Decision Document**

An EUR opinion completed in accordance with subsection (a) of this section shall satisfy the requirement to prepare a Notice of Activity and Use Limitation Decision Document specified in section 22a-133o(c)(5)(B) of the Connecticut General Statutes.

**(NEW) Sec. 22a-133q-6. Allowable Disturbances**

Notwithstanding the restrictions in an EUR regarding digging, excavating, disturbing or exposing soil, a person may temporarily conduct activities otherwise prohibited by such restrictions, provided such person complies with the requirements of this section.

**(a) Temporary Allowable Disturbances**

A temporary allowable disturbance authorized under this section shall:

- (1) Comprise a discrete singular project, minimized to the greatest extent practicable and not be one phase of a multi-phased project or a continuous or on-going project;
- (2) Be supervised by an LEP. If the subject area is on property under the custody and control of the Department, either an LEP or the commissioner may supervise such activities;
- (3) Not exceed 90 days, no new allowable disturbance in the same subject area may commence until 90 days has passed since the completion of activities performed pursuant to a previous allowable disturbance;
- (4) Not result in the excavation of more than 250 cubic yards of soil, other excavated material or debris;
- (5) Not exceed 500 square feet of disturbance at any one time;
- (6) Not result in the disturbance of any subject area containing PCBs;
- (7) Be conducted in compliance with any restrictions or affirmative obligations of the EUR other than restrictions regarding digging, excavating, disturbing or exposing soil; and
- (8) Be conducted in compliance with all other requirements of the EUR regulations and other applicable legal requirements.

**(b) Temporary Allowable Disturbance Plan and Initial Notification**

Prior to commencing any activities authorized under subsection (a) of this section, any person seeking to conduct such activities shall ensure that:

(1) A plan is prepared using a form prescribed by the commissioner and signed and sealed by an LEP, that describes the activities associated with the proposed allowable disturbance, the conditions expected to be encountered during the work performed, and how such activities will be completed in accordance with this section; and

(2) Not less than 14 days prior to commencing any allowable disturbance pursuant to this subsection, send notice of the proposed allowable disturbance to the commissioner on a form prescribed by the commissioner.

**(c) Unexpected Conditions Notification**

In the event that during implementation of allowable disturbance activities, unexpected conditions or pollutants or conditions other than those identified in the EUR are encountered, the person authorized to conduct activities under this subsection shall notify the commissioner, in writing, on a form prescribed by the commissioner, within 72 hours of discovering such conditions or pollutants. The person authorized to conduct activities pursuant to this section shall comply with any comments or conditions from the commissioner regarding any notification submitted under this subsection, including, but limited to, any action to take in response to unexpected pollutants or conditions.

**(d) Excavated soils and stockpiles**

Soils, other excavated material, or debris excavated as part of an allowable disturbance shall be managed in accordance with all applicable laws and the following:

(1) Stockpiles of soil, other excavated material, or debris shall be either located on polyethylene or similar sheeting material, stored in drums or roll-off containers or on concrete or bituminous concrete. Where such soil, other excavated material, or debris has been placed in drums or roll-off containers, such drums or containers shall be in good condition (i.e, not rusting, no apparent structural defects or incapable of holding the stored materials) that shall always remain closed, except when soil, other excavated material, or debris is being added or removed. Soil, other excavated material, or debris stored on polyethylene or similar sheeting material, or on concrete or bituminous concrete, shall be covered except when such soil, other excavated material, or debris is being added or removed from storage;

(2) All soil, other excavated material, or debris stored shall be compatible with anything stored with such soil, other excavated material, or debris so as to not produce any the following effects: heat or pressure; fire or explosion; violent reaction; toxic dusts, mists, fumes or gases; or flammable fumes or gases;

(3) Soil, other excavated material, or debris subject to section 22a-133k-2(b)(3), section 22a-133k-2(b)(4) or section 22a-133k-2(f)(2) of the Regulations of Connecticut State Agencies shall be sorted, separated, and stockpiled in isolation from all other soil, other excavated material, and debris;

(4) Polluted soils, other excavated materials, or debris shall be stockpiled separately from soil, excavated material or debris that is not polluted. All stockpiles of soil, other excavated material, or debris that is polluted shall be managed in a stockpile storage area that:

(A) Prevents access by the general public through fencing or other similar means;

(B) Is located more than 25 feet from public roads and sidewalks; and

(C) Is identified by a sign that is visible from a distance of at least 25 feet, posted at each stockpile storage area entrance, identifying, at a minimum, the name of the person authorized to conduct activities under this subsection, a contact name and phone number, the hours of operation, includes the phrase “Keep Out” and, in text visible for a distance of 5 feet, includes the phrase “Polluted Soil;”

(5) Dust controls shall be implemented and maintained according to best practices. Wind erosion and dust transport from the stockpiles and the travel areas of the staging, transfer and temporary storage area shall be minimized. Anti-tracking measures, including, but not limited to, vehicle skid



pads, shall be implemented to prevent tracking outside of the parcel; and

(6) Soil, other excavated material, or debris that is or contains hazardous waste, as defined by section 22a-448 of the Connecticut General Statutes shall be sorted, separated, and stockpiled in isolation from all other soil, other excavated material, and debris and shall be managed in compliance with the requirements of sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, of the Regulations of Connecticut State Agencies.

**(e) Restoration**

Restoration of impacts from allowable disturbance activities, including, but not limited to, restoration of the area where allowable disturbance activities were conducted, shall be conducted in accordance with the following requirements:

(1) The area where allowable disturbance activities were conducted shall be restored to the condition described in the EUR;

(2) Soils, other excavated materials, or debris, excavated as part of an allowable disturbance:

(A) Provided it is returned to the location and depth from which it was excavated, may be returned without the need for analytical testing;

(B) Not returned to the same location and depth from which it was excavated shall be tested to determine the concentration of pollutants in such soil, other excavated materials, or debris. The analytical results of testing, shall be taken into account and such soil, other excavated material, or debris shall be either reused in compliance with section 22a-133k-2(h) of the Regulations of Connecticut State Agencies, or disposed of at a facility authorized to accept such soil, other excavated material, or debris, provided any such reuse of disposal complies with all other applicable requirements; or

(C) That constitutes or contains a hazardous waste, as defined by section 22a-448 of the Connecticut General Statutes, shall, in addition to subparagraphs (A) and (B) of this subdivision, be managed in compliance with the requirements of sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, of the Regulations of Connecticut State Agencies;

(3) If soil, other excavated material, or debris is stockpiled on concrete or bituminous concrete, following the removal of the stockpile, the area below the stockpile shall be swept to remove any remaining stockpiled soil excavated material or debris;

(4) (A) Soil sampling shall be conducted in the area below and in the vicinity of where soil, other excavated material, or debris was stored whenever:

(i) Soil, other excavated material, or debris is removed from polyethylene or similar sheeting material; or

(ii) The commissioner or an LEP determines that soil, other excavated material, or debris was not managed pursuant to the requirements of this subsection following the removal of such soil, other excavated material, or debris;

(B) An LEP shall oversee the collection of soil samples required by this subdivision. Such samples shall be analyzed for each of the pollutants known or reasonably expected to be present in the excavated soil, other excavated material, or debris and all pollutants identified in the EUR. All laboratory analysis shall be performed by a laboratory certified by the Department of Public Health for the chemical testing performed. When such analytical results are greater than the applicable RSR criteria, the soil, other excavated material, or debris below and in the vicinity of the soil stockpile shall be subject to the requirements of the RSRs; and

(5) Any pollution resulting from a temporary allowable disturbance shall be remediated to the satisfaction of the commissioner.

**(f) Record of Activities**

The person authorized to conduct activities under this subsection shall maintain an up-to-date record of operating activities on the parcel, as they are occurring, for the duration of the allowable



disturbance activities. At a minimum, such record shall include:

- (1) A summary of the contaminants of concern;
- (2) The depth and location from which soil, excavated materials, or debris were excavated;
- (3) For each stockpile storage area:
  - (A) The date soil, excavated materials, or debris were received at such area(s);
  - (B) Each date soil, excavated materials, or debris were transported from the area, and the date of and final disposition of such soil, excavated materials, or debris; and
  - (C) An accounting of the total volume of soil, excavated material and debris managed at such area;
- (4) The total volume of soil, excavated material, or debris that were returned to the same location where it was originally excavated;
- (5) Each receiving site where excavated soil, excavated materials, or debris were reused or disposed of, including the facility name, location, and address and the amount of soil, excavated material, or debris brought to such facility, with copies of the accompanying bills of lading or waste manifests;
- (6) If soil samples were collected and analyzed, all laboratory analytical results and results tables, with a map showing where the samples were collected; and
- (7) Any other information specified by the commissioner.

(g) **Completion report**

Not more than 60 days after the completion of allowable disturbance activities authorized pursuant to this section, a completion report, on a form prescribed by the commissioner, shall be prepared and submitted to the commissioner. The completion report shall include:

- (1) A summary of the work performed, including the dates activities were initiated and completed;
  - (2) Time dated photographs of the activities conducted under this section while in progress and after completion, unless the taking of such photographs is prohibited by law;
  - (3) Records or waste manifests documenting the final disposition of excavated soils, materials and debris;
  - (4) Where there has been disturbance of inaccessible soils or an engineered control, records documenting, as applicable, how post-restoration polluted soils meet the requirements for inaccessible soils, or how an engineered control and warning layers, if any, were repaired or replaced;
  - (5) The results of any laboratory analysis conducted, and an explanation of the need for such analysis, as well as a laboratory data quality assessment and usability evaluation that complies with the requirements in section 22a-133k-1(h)(1) of the Regulations of Connecticut State Agencies;
  - (6) Include an explanation of how, after completion of the allowable disturbance, the subject area meets the requirements of the EUR as recorded;
  - (7) Include an as-built map, prepared using the survey or simplified survey required by section 22a-133q-4 of the EUR regulations as a base map, documenting conditions in the subject area after completion of the work authorized by the allowable disturbance;
  - (8) A statement signed and sealed by the LEP supervising the allowable disturbance indicating that the area upon which the work was performed is in compliance with the EUR and the RSRs, or that additional work is necessary for the area upon which the work was performed to comply with the EUR and the RSRs, in which case the statement shall include a detailed description of the work to be performed, an explanation of why such additional work is needed and a schedule to perform such activities. The commissioner's receipt of any such report noting that additional work is necessary shall not excuse any non-compliance with this section and shall not prevent the commissioner from taking any action authorized by law regarding such non-compliance; and
  - (9) Any other information prescribed by the commissioner.
- (h) **Requirement to Provide Owner with Records**

If the person authorized to conduct activities under this section is not the owner of the parcel, not more than 60 days after the completion of allowable disturbance activities, such person shall provide the owner with a copy of all documents, records or reports, required under this section.

**(i) Correction of Non-Compliance**

(1) If at anytime the commissioner determines that temporary allowable disturbance activities were conducted in manner that does not comply with the requirements of this section, including, but not limited to, activities not authorized by this section, or that the area where work was performed is in violation of the EUR and the RSRs, the commissioner may require that the parcel be restored to the conditions described by the EUR by a date certain, or may take any other action authorized by law.

(2) Nothing in this section shall affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to seek civil or criminal penalties or issue any order to prevent or abate pollution.

**(NEW) Sec. 22a-133q-7. Releases and Terminations**

The restrictions and affirmative obligations in an EUR shall only be temporarily or permanently released, or the restrictions and affirmative obligations in a NAUL terminated, in compliance with the requirements of this section. No person shall execute and record a temporary or permanent release of an EUR or termination of a NAUL that does not comply with the requirements of this section.

**(a) Temporary Releases**

(1) A temporary release approved under this section shall be recorded using a format prescribed by the commissioner and shall specify the termination date for such release.

(2) The extent and duration of a temporary release approved under this section shall be limited to the minimum that is reasonably necessary to conduct the proposed activities.

(3) The activities undertaken pursuant to any temporary release approved under this section shall:

(A) Be supervised by an LEP, unless the subject area is on property under the custody and control the Department, in which case either an LEP or the commissioner may supervise such activities;

(B) Be conducted in compliance with any restrictions or affirmative obligations of the EUR that are not in direct conflict with the activities conducted pursuant to the temporary release; and

(C) Be conducted in compliance with all other requirements of the EUR regulations and other applicable legal requirements.

**(b) Documents Required for Approval of a Temporary Release**

No temporary release under this section shall be approved, and no activities proposed under any such release shall be conducted, until the documents required by this subsection have been prepared. The following documents shall be prepared on a form prescribed by the commissioner:

(1) A summary of the proposed activities to be conducted pursuant to the temporary release; and

(2) A temporary release work plan which shall:

(A) Describe the activities to be performed and how the extent and duration of such activities is limited to the minimum that is reasonably necessary to conduct the proposed activities;

(B) Identify by name and license number the LEP that will supervise the activities to be conducted during the proposed release or indicate that the LEP who will supervise the activities will be identified by name and license number on a notice filed each time proposed recurring activities are to be conducted;

(C) Include a schedule for the completion of the proposed specific activities;

(D) Depict, to scale, the location of the proposed activities and the location of any planned stockpiling of soil, excavated material or debris, on a copy of the most recent survey and simplified survey prepared pursuant to section 22a-133q-4 of the EUR regulations depicting the approved EUR subject area(s);

(E) Indicate where inaccessible soils or engineered controls are to be disturbed;

(F) Include a soil management plan containing provisions to manage soils, excavated materials or debris generated during the proposed activities and the restoration of the area which plan shall, at a minimum, satisfy the requirements set out in subsections (d) and (e) of section 22a-133q-6 of the EUR regulations;

(G) Include provisions to document work progress and completion using time dated photographs, unless the taking of such photographs is prohibited by law;

(H) Include the signature of the owner of the parcel for which a temporary release is being sought and be signed and sealed by an LEP; and

(I) Include any other information prescribed by the commissioner.

**(c) Review and Approval of a Temporary Release from an EUR by the Commissioner**

(1) The commissioner shall not approve a temporary release from the restrictions and affirmative obligations of an EUR unless and until the commissioner, in the commissioner's sole discretion, determines that:

(A) All of the information necessary to make a determination of whether or not to approve a temporary release, including, but not limited to, the documents required by subsection (b) of this section, has been submitted and contains the information necessary for the commissioner to determine whether or not to grant the requested temporary release;

(B) A non-refundable fee of \$1,000.00, payable in the manner prescribed by the commissioner, has been submitted to the commissioner; and

(C) The temporary release work plan required by subsection (b) of this section demonstrates that the proposed activities, if conducted in accordance with such plan will:

(i) Be protective of human health and the environment; and

(ii) Comply with all applicable legal requirements, including, but not limited to, the EUR regulations and the RSRs.

(2) (A) The commissioner shall not review a request for a temporary release of an EUR without the required fee and may, at any time, disapprove of any such request based on any determination made in accordance with subdivision (1) of this subsection. If the commissioner does not approve the request for a temporary release, the commissioner shall send written notice of such disapproval to the person requesting the release and state the reasons for such disapproval. If the notice sent by the commissioner indicates that the request was not approved because information required by subsection (b) of this section was not provided, or that the commissioner needs additional information to review the request, the person requesting the temporary release shall have 30 days from the date of the commissioner's notice to provide the commissioner with the information identified in the notice. The commissioner may grant, in the commissioner's sole discretion, a single 60 day extension of time to provide any such information.

(B) Any response to the notice sent by the commissioner, submitted pursuant to subparagraph (A) of this subdivision, shall along with the original request for a temporary release, be reviewed pursuant to subdivision (1) of this subsection. If the deadlines in subparagraph (A) of this subdivision are not met, the commissioner's disapproval of the request for a temporary release shall, without the need for any further action by the commissioner, be deemed final and the proposed temporary release shall not be executed or recorded.

(3) A person whose request for a temporary release has been disapproved pursuant to this subsection may submit a new request for approval of such temporary release. Any such request shall be treated as a new request and shall be resubmitted in its entirety in compliance with the requirements of this section.

(4) If the commissioner approves a temporary release, the commissioner shall indicate such approval by signing and returning the release to the person who requested such release. In connection with any approval the commissioner may impose any conditions the commissioner deems

necessary, including, but not limited to, the posting of financial assurance to assure compliance with this section. Not more than 7 days after receipt of the temporary release signed by the commissioner, the person who requested such release shall ensure that no alterations of any kind are made and that the release is recorded in the land records of the municipality where the EUR is recorded and that the town clerk returns the original temporary release to the commissioner after recording.

(5) Any temporary release approved by the commissioner regarding recurring activities shall require that:

(A) Fourteen days before each recurring activity identified in the temporary release work plan is conducted, notice, on a form prescribed by the commissioner, shall be submitted to the commissioner; and

(B) Not more than 30 days after each time a recurring activity is completed, a completion report, containing the information required by subsection (e) of this section, shall be submitted to the commissioner.

**(d) Review and approval of a Temporary Release from a NAUL by an LEP**

(1) An LEP shall not and is not authorized to approve a temporary release from the restrictions and affirmative obligations of a NAUL unless:

(A) Not more than 180 days after the temporary release is recorded, any subject area disturbed by the activities authorized by the temporary release shall be returned to the condition described in the NAUL or if a new EUR is going to be placed on the subject area, to a condition that complies with the RSRs; and

(B) An LEP has not approved a temporary release authorizing activities within the same subject area within the previous two calendar years.

(2) (A) No LEP can approve a temporary release under this subsection, unless: not less than 14 days prior to any such approval, an LEP shall submit to the commissioner:

(i) Notice, on a form prescribed by the commissioner, that approval of a temporary release is proposed. Such release shall be prepared using a form prescribed by the commissioner; and

(ii) A statement signed by an LEP certifying that:

(I) The documents required under subsection (b) of this section have been prepared, are complete and satisfy the requirements of subsection (b) of this section; and

(II) The proposed temporary release is eligible for LEP approval pursuant to subdivision (1) of this subsection.

(B) After receipt of the information submitted pursuant to subparagraph (A) of this subdivision, the commissioner may request in writing that the temporary release work plan be provided to the commissioner for review. If the commissioner requests the temporary release work plan for review, a temporary release may not be approved until the commissioner's review is complete.

(C) The commissioner may determine that the proposed temporary release shall be approved by the commissioner pursuant to subsection (c) of this section and not by an LEP. If the commissioner makes this determination, the commissioner shall notify, in writing, the LEP, who made the submission pursuant to subparagraph (A) of this subdivision, of this determination, stating the reasons for the decision in which case the temporary release shall not be approved by an LEP.

(3) An LEP shall not sign a temporary release from the restrictions and affirmative obligations of a NAUL, indicating approval of such release, unless and until such LEP determines that:

(A) (i) The commissioner has indicated, in writing that approval by an LEP can proceed; or

(ii) More than 14 days has passed since the information specified in subdivision (2)(A) of this subsection was submitted to the commissioner and the commissioner has not requested that the temporary release work plan be submitted to the commissioner pursuant to subdivision (2)(B) of this subsection; and

(B) The requirements of this subsection have been satisfied, including, but not limited to, a



determination that the temporary release proposed is eligible for LEP approval pursuant to subdivision (1) of this subsection; and

(C) The temporary release work plan required by subsection (b) of this section demonstrates that the proposed activities, if conducted in accordance with such plan will:

(i) Be protective of human health and the environment; and

(ii) Comply with all applicable legal requirements, including, but not limited to, the EUR regulations and the RSRs.

(4) If an LEP approves a temporary release pursuant to this subsection the LEP shall indicate approval by signing and returning such release to the person who requested such release. Not more than 7 days after receipt of the temporary release signed by an LEP, the person who requested such release shall ensure that no alterations of any kind are made to such release and that the release is recorded in the land records of the municipality where the NAUL is recorded and that the town clerk returns the original temporary release to the commissioner after recording.

**(e) Termination of a Temporary Release**

(1) Not later than 30 days after activities specified in a temporary release work plan are completed or recurring activities described in a temporary release work plan are completed for the last time, a completion report shall be prepared and submitted to the commissioner. The completion report shall include:

(A) A summary of the work performed, including the dates activities were initiated and completed;

(B) Time-dated photographs of the activities conducted on site while in progress and after completion, unless the taking of such photographs is prohibited by law;

(C) Records or waste manifests documenting the final disposition of excavated soils, materials and debris;

(D) Where there has been disturbance of inaccessible soils or an engineered control, records documenting, as applicable, how post-restoration polluted soils meet the requirements for inaccessible soils, or how an engineered control and warning layers, if any, were repaired or replaced;

(E) The results of any laboratory analysis conducted, and an explanation of the need for such analysis, as well as a laboratory data quality assessment and usability evaluation that complies with the requirements in section 22a-133k-1(h)(1) of the Regulations of Connecticut State Agencies;

(F) An explanation of how, after completion of activities authorized by the temporary release, the subject area meets the requirements of the EUR as recorded or, alternatively if the EUR is going to be replaced, the RSRs;

(G) An as-built plan, prepared using the survey or simplified survey required by section 22a-133q-4 of the EUR regulations as a base map, documenting site conditions after completion of the activities authorized by the temporary release; and

(H) A statement signed and sealed by the LEP supervising the activities conducted under the temporary release indicating that the area upon which the work was performed is in compliance with the EUR and the RSRs, or that additional work is necessary for the area upon which the work was performed to comply with the EUR and the RSRs, in which case the statement shall include a detailed description of the work to be performed, an explanation of why such additional work is needed and a schedule to perform such activities. The commissioner's receipt of any such report noting that additional work is necessary shall not excuse any non-compliance with this section and shall not prevent the commissioner from taking any action authorized by law regarding such non-compliance;

(I) A statement, signed and sealed by an LEP, certifying that the completion report is true and accurate; and

(J) Any other information prescribed by the commissioner



(2) If a temporary release approved by the commissioner authorizes recurring activities and the activities authorized by such release have been conducted for the last time, following the receipt of a completion report as required by subdivision (1) of this subsection, the commissioner may prepare a termination of such temporary release. Not more than 7 days after receipt of such termination signed by the commissioner, the owner shall ensure that no alterations of any kind are made and that the termination of temporary release is recorded in the land records of the municipality where the EUR is recorded and that the town clerk returns the original temporary release to the commissioner after recording.

**(f) Requirement to Provide Owner with Records**

If the person conducting activities pursuant to a temporary release approved under this section is not the owner of the parcel, not more than 60 days after the completion of activities conducted under a temporary release, including completion reports for each recurring activity, such person shall provide the owner with a copy of all documents, records or reports, required under this section.

**(g) Permanent Release of an ELUR and Termination of a NAUL**

(1) An ELUR may be permanently released and a NAUL may be terminated only after the commissioner determines that the parcel has achieved compliance with the relevant standards imposed by the RSRs in such a manner that the restrictions imposed by the ELUR to be permanently released or the NAUL to be terminated, as applicable, are no longer required. No person shall record a permanent release of an ELUR or termination of a NAUL, unless such recording is authorized by the commissioner in compliance with the requirements of this subdivision.

(2) An owner seeking permanent release from an ELUR or termination of a NAUL shall, on forms prescribed by the commissioner, prepare and submit to the commissioner a request and a Permanent Release/Termination Documentation Report. The Permanent Release/Termination Documentation Report shall:

(A) Include any documentation necessary, including, but not limited to, maps and laboratory analytical results, to demonstrate that the subject area is in compliance with the applicable provisions of the RSRs;

(B) Include a proposed permanent release or termination, as applicable, on forms prescribed by the commissioner;

(C) Be signed and sealed by an LEP; and

(D) Include any other information prescribed by the commissioner.

(3) (A) If the commissioner determines that the parcel complies with the RSRs without need for the restrictions imposed by the EUR, the commissioner shall sign such release or termination, as applicable, and return it to the owner for recording. Not more than 7 days after receipt of such release or termination signed by the commissioner, the owner shall record such release or termination and not more than 14 days after such recording shall send a copy of the permanent release or termination, bearing the volume and page at which it was recorded, to the commissioner.

(B) If the commissioner determines that the requirements of this subsection have not been satisfied, the commissioner shall notify the owner in writing stating the reasons that the request for a permanent release of an ELUR or termination of a NAUL, as applicable, has not been approved.

(4) If in connection with a permanent release of an ELUR or termination of a NAUL a new EUR is to be placed on a parcel, the new EUR shall:

(A) Comply with all applicable requirements of the EUR regulations, including, but not limited to, any recording requirements; and

(B) Be recorded simultaneously with any permanent release or termination.

**(h) Correction of Non-Compliance/Determination of Invalidity**

(1) If at anytime the commissioner determines that work or activities conducted do not comply with the requirements of this section, including, but not limited to, the conduct of activities not

authorized by a temporary release, the commissioner shall consider any such work or activity unauthorized and may immediately terminate any such release, require that the parcel be restored to the conditions described by the EUR by a date certain, and take any other action authorized by law.

(2) If at anytime the commissioner determines that a temporary or permanent release of an EUR or termination of a NAUL was not recorded or was not recorded in compliance with the requirements of this section, the commissioner may record, or may require the owner to record, a termination of any temporary release or another temporary or permanent release of an EUR or termination of a NAUL, including a statement that any previously recorded release or termination was invalidly recorded and that the obligation to record any such release or termination has not been satisfied. An invalidly recorded temporary or permanent release of an EUR, or termination of NAUL shall not satisfy any requirement of any statute or regulation requiring such release or termination. If the commissioner records a termination of a temporary release or a statement pursuant to this subsection, the commissioner shall notify the owner of the parcel.

(3) Nothing in this section shall affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to seek civil or criminal penalties or issue any order to prevent or abate pollution.

**(NEW) Sec. 22a-133q-8. Post-recording Inspections and Corrective Actions**

This section shall apply to all EURs, regardless of whether such EUR was recorded before, on, or after *{insert date of regulations}*:

**(a) Inspections**

The owner shall comply with the following inspection requirements;

**(1) Annual Inspection**

Between April 1st and July 31st of each year, an annual inspection that complies with the requirements of this section, shall be conducted. Within 30 days of any such inspection, a report of such inspection, using a form prescribed by the commissioner, shall be completed and shall be signed by the owner of the parcel. An annual inspection is not required in the year when a five-year comprehensive inspection is conducted pursuant to subdivision (2) of this subsection.

**(2) Five Year Comprehensive Inspections**

Beginning in the year 2025, and every five years thereafter, between April 1st and September 30th, a comprehensive inspection that complies with the requirements of this section shall be conducted by an LEP. Within 30 days of any such inspection, a report of such inspection, using a form prescribed by the commissioner, shall be completed by the LEP conducting the inspection and shall be signed and sealed by such LEP and signed by the owner.

**(3) Commissioner Required Inspection**

In addition to any inspections required by this subsection, at any time, the commissioner may require, in writing, that a comprehensive inspection that complies with the requirements of subdivision (2) of this subsection be conducted within a time period specified by the commissioner. If the commissioner's fails to specify a time period, an inspection shall be conducted within 30 days of the commissioner notice that an inspection is required. Within 30 days of any such inspection, or such time specified by the commissioner, a report of such inspection, using a form prescribed by the commissioner, shall be completed by the LEP conducting the inspection and shall be signed and sealed by such LEP and signed by the owner.

**(4) Inspection Requirements**

Any inspection required by this subsection shall include:

(A) A physical inspection of the EUR subject areas to determine compliance with the restrictions and affirmative obligations of the EUR;

(B) A review of records, including analytical data, to verify compliance with the restrictions and

affirmative obligations of an EUR, including, but not limited to, compliance with recordkeeping requirements and any monitoring required by the EUR;

(C) A review of the EUR factsheet to determine if, for each subject area, the EUR factsheet contains the restrictions and affirmative obligations and the conditions regarding such subject area. If the information contained on the EUR factsheet does not reflect the restrictions and affirmative obligations or is otherwise incorrect, or incomplete, a revised EUR factsheet shall be prepared, included in the inspection report, and the new Factsheet shall replace the former Factsheet for any purpose for which an EUR factsheet is required by the EUR regulations; and

(D) Any other information prescribed by the commissioner.

**(b) Corrective Action**

(1) If the owner knows, or reasonably should have known, of conditions which do not comply with any restriction or affirmative obligations of an EUR, or when the results of the inspection required by subsection (a) of this section indicate non-compliance with the restrictions or affirmative obligations of an EUR, the owner shall:

(A) Correct any non-compliance as soon as practicable, but no later than 90 days from the date the owner knew or reasonably should have known of such non-compliance; or

(B) Submit to the commissioner, on a form prescribed by the commissioner, a plan and a schedule for correction of any non-compliance, if not more than 30 days after discovery of non-compliance, the owner determines that or reasonably should have determined that correction of the non-compliance cannot be completed within 90 days. The owner shall comply with any comments or conditions from the commissioner regarding any plan or schedule submitted pursuant to this subdivision.

(2) The commissioner's receipt of any plan or schedule under this subsection shall not excuse any non-compliance and shall not prevent the commissioner from taking any action authorized by law regarding such non-compliance.

(3) Nothing in this section shall affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to seek civil or criminal penalties or issue any order to prevent or abate pollution.

**(c) LEP Notification**

If an LEP knows, or reasonably should know, of non-compliance with any requirement regarding an EUR, including, but not limited to, as result of an inspection conducted pursuant to this subsection, the LEP shall immediately notify the owner in writing and upon notification and the owner shall comply with subsection (b) of this section. If requested by the commissioner, in writing, an LEP shall provide documentation of compliance with this requirement.

**(NEW) Sec. 22a-133q-9. Miscellaneous Requirements**

The owner of the parcel on which an EUR has been placed shall comply with the following requirements:

**(a) Posting**

If the parcel on which an EUR has been placed is occupied by persons, or in use, a copy of the EUR factsheet shall be posted in a conspicuous location where such factsheet can be seen by the general public. Any such factsheet shall be posted until the EUR is permanently released or terminated in whole. While this subsection shall apply to all EURs, regardless of when recorded, for EURs recorded before *{insert effective date of regulations}*, this subsection shall not take effect until *{insert date that is 60 days after the EUR regulations take effect}*.

**(b) Health and Safety Notification**

Effective *{insert effective date of EUR regulations}*, if work is being done on a parcel subject to an EUR, regardless of when the EUR was recorded, prior to any work being performed, a copy of the

EUR and EUR factsheet shall be provided to the person responsible for overseeing the health and safety of workers who may be exposed to pollution from such work.

**(c) Document Retention**

The current owner shall have and retain a copy of all records, documents and reports whose preparation is required by the EUR regulations. In addition, for an EUR recorded before *{insert date of regulations}*, the current owner shall have and retain a copy of all records, documents and reports in such owner's possession as of *{insert the effective date of regulations}* regarding an EUR, including but not limited to, any record, document or report that was required by law to be maintained when the EUR was recorded. Any record, document, or report specified in this subsection may be reviewed by and shall be provided to the commissioner upon request, within the time specified in any such request and if no timeframe is specified not more than 30 days after the receipt of a written request.

**(d) Transfer of an interest in a parcel subject to an EUR**

This section shall apply to the transfer of any interest in a parcel subject to an EUR after *{insert effective date of EUR regulations}*, regardless of when any such EUR was recorded.

(1) At least 30 days prior to the transfer of an interest in a parcel subject to an EUR by the owner, which is less than an ownership interest in the whole or part of a parcel, the owner shall provide to each person to whom an interest will be transferred a copy of the EUR and the EUR factsheet. Any such transferee shall retain a copy of all such documents in accordance with subsection (c) of this section.

(2) At least 30 days prior to the transfer of ownership of a parcel, or a portion of parcel subject to an EUR, the owner shall provide to the transferee a copy of all documents whose preparation is required by the EUR regulations, including, but not limited to, a copy of the EUR and the EUR factsheet, and copies of all annual and five-year inspection reports. Any such transferee shall retain a copy of all such documents in accordance with subsection (c) of this section.

(3) Not less than 30 days after the transfer of ownership of a parcel, or a portion of a parcel, subject to an EUR, the transferor or transferee shall provide written notice of such transfer to the commissioner on a form prescribed by the commissioner.

(4) Upon the transfer of an interest in, including, but not limited to, ownership of a parcel, subject to a NAUL, the transferor shall incorporate such NAUL, in full or by reference, into the instrument of transfer.

**(e) Review or Inspection of Records by Commissioner**

This section shall apply to all EURs, regardless of whether such EUR was recorded before, on, or after *{insert date of regulations}*:

(1) The commissioner may, at any time, request or review any record, document or report regarding an EUR, regardless of when such EUR was recorded. This includes, but is not limited to, a proposed or recorded EUR, any temporary or permanent release, termination, or any record, document or report related to a temporary allowable disturbance. The owner shall provide any such record, document or report to the commissioner upon request, within the time specified in any such request and if no timeframe is specified not more than 30 days after the receipt of a written request.

(2) The commissioner may inspect an EUR for compliance with the RSRs and this section and may also observe on-site any activities associated with a temporary release or a temporary allowable disturbance.

(3) Nothing in this section shall affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to request records or information, or conduct an inspection.

**(f) Exemption From Fees**

Notwithstanding any provisions of the EUR regulations, the following entities are exempt from



payment of any fee required by the EUR regulations:

- (1) The state or any political subdivision of the state;
- (2) Any nonprofit organizations recognized under section 501(c)(3) of the Internal Revenue Code;
- (3) Any municipal economic development agency or entity created or operating under chapter 130 or 132 of the Connecticut General Statutes; or
- (4) Any person receiving state, or municipal brownfields funding for investigation or remediation.

**(g) Court Ruling Regarding an EUR**

In the event that a court of competent jurisdiction rules that any portion of a recorded EUR is void or without effect, for any reason, no later than 45 days after any such ruling the owner of the subject parcel shall submit a copy of such restriction and such ruling to the commissioner. In this event, the owner shall comply with any schedule prescribed by the commissioner pursuant to section 22a-133r of the Connecticut General Statutes. “Ruling” for purposes of this section shall include a ruling by a court, even if such ruling is the subject of an appeal.

**(NEW) Sec. 22a-133q-app1. Appendix 1**

Appendix 1 to

Section 22a-133q-1 to Section 22a-133q-9 of the Regulations of Connecticut State Agencies  
 Application Form of Environmental Land Use Restriction (ELUR) for Commissioner Approval or  
 Licensed Environmental Professional’s (LEP’S) Approval

Instructions: Any ELUR pursuant to the Environmental Use Restriction Regulations (“EUR regulations”) shall be in the following form. This form shall be used for any ELUR approved by the Commissioner or a LEP pursuant to the EUR regulations. The appropriate information shall be inserted into the parentheses “{}”.  
 Instructions which are included in {parenthesis} and non-applicable options shall be deleted prior to signature.

**After Recording Return to:**

{Instructions- use current contact information -  
 Connecticut Department of Energy and Environmental Protection  
 Environmental Use Restriction Coordinator  
 Bureau of Water Protection and Land Reuse  
 Remediation Division  
 79 Elm Street  
 Hartford, Connecticut 06106-5127}  
 Re: {Remediation Division Identification Number}

**DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION AND GRANT OF  
 EASEMENT**

This Declaration of Environmental Land Use Restriction (“ELUR”) and Grant of Easement is made this {day} day of {month}, {year}, between {Grantor’s legal name} (the “Grantor”) and the Commissioner of the Department of Energy and Environmental Protection of the State of Connecticut (the “Grantee”).

**WITNESSETH:**

WHEREAS, Grantor is the Owner in fee simple of certain real property (the “Property”) described below:

Street address: {Street address of property}

City/Town: {City or Town of property}



State: Connecticut
Assessor's Map: {map designation or not applicable} And/or Assessors' Account Number {Assessors' Account Number or not applicable}
Volume and Page of Deed: {Volume and Page of Deed}

A description of the property is attached hereto as Exhibit A, which is made a part hereof; and  
WHEREAS, this Declaration of Environmental Land Use Restriction and Grant of Easement (“ELUR”) and associated exhibits identified herein, collectively represent the ELUR for the subject property, and

WHEREAS, the Grantee has the authority to enter into this ELUR pursuant to sections 22a-5, 22a-6, and 22a-133o et seq. of the Connecticut General Statutes and Section 22a-133q of the Regulations of Connecticut State Agencies; and

{Instructions: Select the language for Commissioner approval or for LEP approval, if eligible pursuant to section 22a-133y of the Connecticut General Statutes and 22a-133q-2(f) of the Regulations of Connecticut State Agencies, and delete the non-applicable option.}

{Language for Commissioner approval}

WHEREAS, the Grantee has determined that the ELUR set forth below is consistent with regulations adopted pursuant to section 22a-133k of the Connecticut General Statutes; and

WHEREAS, the Grantee has determined that this ELUR will effectively protect human health and the environment from the hazards of pollution on the property; and

WHEREAS, the Grantee's written acceptance of this ELUR is evidenced by the signature of the Commissioner or Commissioner's designee below.

{Language for LEP approval pursuant to section 22a-133y of the Connecticut General Statutes and 22a-133q-2(f) of the Regulations of Connecticut State Agencies}

WHEREAS, section 22a-133y of the Connecticut General Statutes includes provisions for the approval of an ELUR by a LEP;

WHEREAS, the LEP whose signature appears below has determined that the ELUR set forth below is consistent with the EUR regulations, section 22a-133q-1 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies, adopted pursuant to section 22a-133k and section 22a-133o of the Connecticut General Statutes; and

WHEREAS, the Grantee's written approval of this ELUR is evidenced by the signature and seal of the LEP below; and

WHEREAS, the LEP whose signature and seal appears below and in the EUR Opinion attached hereto as Exhibit B has determined that this ELUR will effectively protect human health and the environment from the hazards of pollution.

WHEREAS, the EUR Opinion attached hereto as Exhibit B which is made a part hereof, includes the information required by section 22a-133q-5 of the Regulations of Connecticut State Agencies.

WHEREAS, the Property or portion thereof that is subject to this ELUR (the “Subject Area”) and identified in the survey attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to, or migration of, such pollutants and to abate hazards to human health and the environment, and in accordance with the EUR Opinion, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this ELUR to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and

enforceable against Grantor and Grantor's successors and assigns;

NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the EUR Opinion, the purpose of this ELUR is to assure that the use and activity at the property and the Subject Area is restricted, obligations are carried out, and conditions maintained in accordance with the requirements of the EUR Opinion, attached hereto as Exhibit B.

2. Restrictions and Obligations Applicable to the Subject Area. In furtherance of the purposes of this ELUR, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are conducted in accordance with the EUR Opinion attached hereto as Exhibit B. The Grantor shall fulfill the obligations and maintain the conditions necessary to meet the objectives of the ELUR in accordance with the requirements of the EUR Opinion attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.

3. Except as provided in paragraphs 4 and 5 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:

- i. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or
- ii. Result in a disturbance of the integrity of any engineered controls or remedies designed or utilized at the Subject Area to contain pollutants or limit human exposure to pollutants.

4. Emergencies. In the event of an unforeseen combination of circumstances or the resulting state that calls for immediate action to prevent a significant risk to human health or the environment, the destruction of property, or the disruption of public utility service, the application of paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said paragraphs and the Grantor:

- i. Immediately notifies the Grantee of the emergency;
- ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
- iv. After the emergency is abated, implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies and restored to the condition described in the ELUR.

5. Release of ELUR; Temporary Allowable Disturbance. Except as provided in paragraph 4, the Owner shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of any Subject Area inconsistent with this ELUR unless and until, either:

- i. A Temporary Allowable Disturbance is implemented in accordance with section 22a-133q-6 of the Regulations of Connecticut State Agencies, or
- ii. A release has been approved by the Commissioner in accordance with section 22a-133q-7 of the Regulations of Connecticut State Agencies.

6. Grant of Easement to the Grantee. Grantor hereby grants and conveys to the Grantee, the Grantee's agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the "Easement") over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, the Grantee's agents, contractors, and

employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:

- i. Ensuring that use, occupancy, and activities of and at the Property are consistent with this ELUR;
- ii. Ensuring that any remediation implemented complies with sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies;
- iii. Performing any additional investigations or remediation necessary to protect human health and the environment;
- iv. Ensuring that the Owner is fulfilling the obligations of the ELUR and maintaining the conditions necessary to meet the purposes of the ELUR; and
- v. Ensuring the structural integrity of any engineered controls described in Exhibit B and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.

7. Notice and Time of Entry onto Property. Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.

8. Notice to Lessees and Other Holders of Interests in the Property. Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this ELUR. The failure to include such provision shall not affect the enforceability, validity or applicability to the Property of this ELUR.

9. At least 30 days prior to transferring an interest in the property, the Owner shall submit to the potential purchaser a complete copy of the EUR and copies of all documents required to be retained by the Owner pursuant to section 22a-133q-9 of the Regulations of Connecticut State Agencies.

10. Persons Entitled to Enforce Restrictions. The restrictions in this ELUR on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the Connecticut General Statutes.

11. Severability and Termination. If any court of competent jurisdiction determines that any provision of this ELUR is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the Judgment of the Court to the Grantee.

12. Binding Effect. All of the terms, covenants and conditions of this ELUR shall run with the land and shall be binding on the Grantor, the Grantor's successors and assigns, and each Owner and any other party entitled to possession or use of the Property during such period of ownership or possession.

13. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this ELUR.

14. Burden of Proof. With respect to any claim or cause of action asserted by the Commissioner against the Owner under this ELUR, the Owner shall bear the burden of proving that any activities at the subject area do not or will not violate the restrictions imposed by this ELUR, that the obligations of the ELUR have been carried out, and that conditions at the subject area have been maintained in accordance with the requirements of the EUR Opinion. The Owner, or its successors in interest, shall

be responsible for demonstrating that use on the property is in conformity with the ELUR.

15. Inspections. The Grantor or its successors and assigns shall perform or cause to be performed the inspections required by section 22a-133q-8. If the required inspection indicate non-compliance with the ELUR, the grantor or its successors and assigns shall take the action required by section 22a-133q-8 of the Regulations of Connecticut State Agencies.

16. Non-Waiver. No failure on the part of the Commissioner at any time to require performance of any term of this ELUR shall be taken or held to be a waiver of such term or in any way affect the Commissioner’s rights to enforce such term.

17. Nothing in this ELUR shall affect the Commissioner’s authority to institute any proceeding, or take any action to prevent or abate pollution, to recover costs and natural resource damages, and to impose penalties for violations of law or violations of this ELUR. If at any time the commissioner determines that the ELUR does not protect human health and the environment from the hazards of pollution, the commissioner may institute any proceeding, or take any action to require further investigation or further action to prevent or abate pollution. The approval of this ELUR relates only to pollution or contamination identified in the EUR Opinion attached hereto as Exhibit B of this ELUR.

18. The Owner shall retain copies of all documents related to this ELUR as required by section 22a-133q-9 of the Regulations of Connecticut State Agencies.

19. DEEP Contact Information. Any document required to be submitted to DEEP pursuant to this ELUR shall, unless otherwise specified in writing by DEEP, be directed to:

{Instructions- Use Current Contact Information}  
 {Connecticut Department of Energy and Environmental Protection  
 Environmental Use Restriction Coordinator  
 Bureau of Water Protection and Land Reuse  
 Remediation Division  
 79 Elm Street  
 Hartford, Connecticut 06106-5127  
 Re: {Remediation Division Identification Number}}

Signature Page Follows

By signing below the undersigned certifies that:

- i. He or she is fully authorized to sign this ELUR.
- ii. The Grantor has the power and authority to enter into this ELUR, to grant the restrictions, fulfill the obligations, and maintain the conditions necessary to meet the objectives of the ELUR in accordance with the requirements of the EUR Opinion attached hereto and made a part as Exhibit B.

In witness whereof, the undersigned has/have executed this ELUR this {Day} day of {Month}, {Year}.

{Select Applicable Signature Block, and delete the non-applicable signature blocks}

**If for an individual:**

Witnessed by:	
{Signature of witness 1}	{Signature of Grantor}
{Printed or typed name of witness 1}	{Printed or typed name of Grantor}
{Signature of witness 2}	
{Printed or typed name of witness 2}	

**If for an entity:**

Witnessed by:	{Grantor's Name}
{Signature of witness 1}	By: _____
{Printed or typed name of witness 1}	{Printed or typed name of the authorized signatory for the entity}
	Its duly authorized {Title of the authorized signatory for the entity}
{Signature of witness 2}	
{Printed or typed name of witness 2}	

Mailing Address:

Street Address: {Street Address}

City/Town: {City or Town}

State and Zip Code: {State and Zip Code}

{Notarization Language for Grantor Acknowledgement - select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.}

**If the Grantor is an individual:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Grantor is a Corporation:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself /herself to be the {title of officer} of {name of corporation}, a corporation, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR



**If the Grantor is a Limited Liability Company:**

State of {\_\_\_\_\_}  
 County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself/herself to be the {title of officer} of {name of limited liability company}, a (member managed or manager managed) limited liability company, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Grantor is any other type of entity, provide appropriate language for the Grantor Entity below:**

**{insert appropriate certification language for an Acknowledgement as specified in Section 1-34 of the Connecticut General Statutes }**

**{Grantee Signature Block - select one of the two choices below, as applicable and delete the non-applicable option.}**

**{This choice is used for all ELURs except those approved pursuant to section 22a-133y of the Connecticut General Statutes.}**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection or by the Commissioner's duly designated agent, {name and title.}

By: {signature of the Grantee or duly authorized agent for Grantee}

Date: {date of signature}

Name: {printed or typed name of duly authorized agent for Grantee}

Its Duly Authorized: {title of duly authorized agent for Grantee}

Mailing Address {use current contact information}:

{Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127

Re: {Remediation Division Identification Number}}

**{This choice is used solely for ELUR approved pursuant to section 22a-133y of the Connecticut General Statutes}**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection, by the undersigned LEP as authorized pursuant to section 22a-133y of the Connecticut General Statutes. LEP as Duly Authorized Agent for Grantee, the Commissioner of Energy and Environmental Protection:

By: {Signature of the LEP}

Date: {Date of signature}

Name: {Printed or typed name of LEP}

Its Duly Authorized Agent: LEP authorized pursuant to section 22a-133y of the Connecticut General Statutes

Grantee Mailing Address {use current contact information}:  
 {Connecticut Department of Energy and Environmental Protection  
 Environmental Use Restriction Coordinator  
 Bureau of Water Protection and Land Reuse  
 Remediation Division  
 79 Elm Street  
 Hartford, Connecticut 06106-5127  
 Re: {Remediation Division Identification Number}}  
 Information for Duly Authorized Agent for Grantee (LEP):  
 Name: {name of LEP}  
 License Number: {License Number}  
 Title, if applicable: {Title}  
 Company, if applicable: {Name of Company}  
 Mailing Address:  
 Street Address, City/Town, State, Zip Code: {Street Address, City/Town, State, and Zip Code}  
 Witnesses:  
 {Signature }  
 Signature  
 {Printed/typed name }  
 Printed/typed name  
 {Signature }  
 Signature  
 {Printed/typed name }  
 Printed/typed name

**Instructions Notarization Language for Duly Authorized Agent for Grantee (LEP):**  
 State of {\_\_\_\_\_}  
 County of {\_\_\_\_\_}  
 On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.  
 In witness whereof I hereunto set my hand.  
 {Choose Notary Public or Commissioner of the Superior Court}  
 Date Commission Expires {date}

**(NEW) Sec. 22a-133q-app2. Appendix 2**

Appendix 2 to

Section 22a-133q-1 to Section 22a-133q-9 of the Regulations of Connecticut State Agencies

Form of Notice of Activity and Land Use Restriction (NAUL)

For Commissioner’s or Licensed Environmental Professional’s (LEP’s) Approval

Instructions: Any NAUL pursuant to Environmental Use Restriction Regulations (“EUR

regulations”) shall be in the following application form. This form shall be used for any NAUL approved by the Commissioner or a LEP pursuant to the EUR regulations. The appropriate information shall be inserted into the parentheses “{}”.  
 Instructions which are included in {parenthesis} and non-applicable options shall be deleted prior to signature.

After Recording Return to:

{Instructions- use current contact information -  
 Connecticut Department of Energy and Environmental Protection  
 Environmental Use Restriction Coordinator  
 Bureau of Water Protection and Land Reuse  
 Remediation Division  
 79 Elm Street  
 Hartford, Connecticut 06106-5127  
 Re: {Remediation Division Identification Number} }

#### DECLARATION OF NOTICE OF ACTIVITY AND USE LIMITATION

This Declaration of Notice of Activity and Use Limitation (“NAUL”) is made this {day} day of {month}, {year}, by {Owner’s legal name} (the “Owner”).

#### WITNESSETH:

WHEREAS, {Name of property Owner(s)}, is/are the Owner(s) in fee simple of certain real property (the “Property”) described below:

Street address: {Street address of property}
City/Town: {City or Town of property}
State: Connecticut
Assessor’s Map: {Map Designation or Not Applicable}
And/or Assessors’ Account Number {Assessors’ Account Number or Not Applicable}
Volume and Page of Deed: {Volume and Page of Deed}

A description of the Property is attached hereto as Exhibit A, and which is made a part hereof; and WHEREAS, the NAUL and associated exhibits identified herein, collectively represent the NAUL for the Property, and

WHEREAS, the LEP has the authority to sign and seal this NAUL pursuant to section 22a-133o of the Connecticut General Statutes and section 22a-133q-3 of the Regulations of Connecticut State Agencies; and the Commissioner has the authority to sign this NAUL pursuant to sections 22a-5, 22a-6, and 22a-133o of the Connecticut General Statutes; and

WHEREAS, remediation of the Property has been conducted in accordance with section 22a-133k of the Connecticut General Statutes; and

{Instructions: select the language for Commissioner approval or for LEP, as applicable and delete the non-applicable option}

{Language for Commissioner approval}

WHEREAS, the Commissioner has determined that the NAUL set forth below is consistent with regulations adopted pursuant to section 22a-133k of the Connecticut General Statutes; and WHEREAS, the Commissioner has determined that this NAUL will effectively protect human health and the environment from the hazards of pollution on the property; and

WHEREAS, the Commissioner’s written approval of this NAUL is evidenced by the signature of the Commissioner below.

{Language for LEP approval}

WHEREAS, the LEP whose signature appears below has determined that the NAUL set forth below is consistent with the EUR regulations, sections 22a-133a-1 to 22a-133q-9, inclusive, of the Regulations of Connecticut State Agencies adopted pursuant to section 22a-133k and section 22a-133o of the Connecticut General Statutes; and

WHEREAS, the written approval of this NAUL is evidenced by the signature and seal of the LEP below; and

WHEREAS, the LEP whose signature and seal appears below and in the EUR Opinion attached hereto as Exhibit B has determined that this NAUL will effectively protect human health and the environment from the hazards of pollution.

WHEREAS, the EUR Opinion attached hereto as Exhibit B which is made a part hereof, includes the information required by section 22a-133q-5 of the Regulations of Connecticut State Agencies.

WHEREAS, the Property or portion thereof that is subject to this NAUL (“the Subject Area”) and identified in the survey attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to, or migration of, such pollutants and to abate hazards to human health and the environment, and in accordance with the EUR Opinion, the Owner desires to implement a NAUL to provide notice of the presence of pollution at the subject areas; and

WHEREAS, as required by section 22a-133o of the Connecticut General Statutes, the Owner and subsequent Owners of interests in the property or those Owners of interests who have signed the NAUL, such Owners’ successors and assigns, and any person who has a license to use such Property or to conduct remediation on any portion of such Property shall adhere to the NAUL; and

NOW, THEREFORE, the Owner desires to implement this NAUL as follows:

1. Purpose. The provisions of this NAUL are set forth in the EUR Opinion, attached hereto as Exhibit B.
2. Restrictions and Obligations Applicable to the Subject Area. In furtherance of the purposes of this NAUL, the Owner shall assure that use, occupancy, and activity of and at the Subject Area are conducted in accordance with the requirements of the EUR Opinion, attached hereto as Exhibit B. The Owner shall fulfill the obligations and maintain the conditions necessary to meet the objectives of the NAUL in accordance with the requirements of the EUR Opinion, attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.
3. Except as provided in paragraphs 4 and 5 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:
  - i. Create a risk of migration of pollutants or potential hazard to human health or the environment; or
  - ii. Result in a disturbance of the integrity of any engineered controls or remedies designed or utilized at the Subject Area to contain pollutants or limit human exposure to pollutants.
4. Emergencies. In the event of an unforeseen combination of circumstances or the resulting state that calls for immediate action to prevent a significant risk to human health or the environment, the destruction of property, or the disruption of public utility service, the application of paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said paragraphs and the Owner:
  - i. Immediately notifies the Department of Energy and Environmental Protection (“DEEP”) of

the emergency;

- ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
- iv. After the emergency is abated, implements a plan approved in writing by a LEP or the Commissioner, on a schedule approved by the LEP or the Commissioner, to ensure that the Subject Area is remediated in accordance with sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies and restored to the condition described in the NAUL.

5. Release of NAUL; Temporary Allowable Disturbance. Except as provided in paragraph 4, the Owner shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of any Subject Area inconsistent with this NAUL unless and until, either:

- i. A temporary allowable disturbance is implemented in accordance with section 22a-133q-6 of the Regulations of Connecticut State Agencies, or
- ii. A release has been approved in accordance with section 22a-133q-7 of the Regulations of Connecticut State Agencies.

6. Commissioner's Right of Access. The Owner shall grant access to the Commissioner as authorized by law.

7. Notice and Time of Entry onto Property. Entry onto the property by the Commissioner shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Commissioner determines that immediate entry is necessary to protect human health or the environment.

8. Incorporation of NAUL in Other Documents. As required by section 22a-133o of the Connecticut General Statutes, upon transfer of any interest in or a right to use property, or a portion of property that is subject to a NAUL, the Owner of such land, any lessee of such land and any person who has the right to subdivide or sublease such property, shall incorporate such notice in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements and any other instrument of transfer provided the failure to incorporate such notice shall not affect the enforceability, validity or applicability of any such NAUL. Within 30 days of transfer of any interest in, or right to use the property, or portion of property subject to a NAUL, the Owner shall submit notice to the Commissioner on a form prescribed by the Commissioner.

9. At least 30 days prior to transferring an interest in the property, the Owner shall submit to the potential purchaser a complete copy of the EUR and copies of all documents required to be retained by the Owner pursuant to section 22a-133q-9 of the Regulations of Connecticut State Agencies.

10. Persons Entitled to Enforce Restrictions. The restrictions in this NAUL on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the Connecticut General Statutes.

11. Severability and Termination. If any court of competent jurisdiction determines that any provision of this NAUL is invalid or unenforceable, the provisions of section 22a-133q-3 of the Regulations of Connecticut State Agencies and section 22a-133r of the Connecticut General Statutes shall apply.

12. Binding Effect. All of the terms, covenants and conditions of NAUL shall be binding on those who are bound by the operation of section 22a-133o of the Connecticut General Statutes.

13. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this NAUL.

14. Burden of Proof. With respect to any claim or cause of action asserted by the Commissioner



against the Owner under this NAUL, the Owner shall bear the burden of proving that any activities at the subject area do not or will not violate the restrictions imposed by this NAUL, that the obligations of the NAUL have been carried out, and that conditions at the subject area have been maintained in accordance with the requirements of the EUR Opinion. The Owner, or its successors in interest, shall be responsible for demonstrating that use on the property is in conformity with the NAUL.

15. Inspections. The Owner or its successors and assigns shall perform or cause to be performed the inspections required by section 22a-133q-8 of the Regulations of Connecticut State Agencies. If the required inspection indicate non-compliance with the NAUL, the Owner or his successors and assigns shall take the action required by section 22a-133q-8 of the Regulations of Connecticut State Agencies.

16. Non-Waiver. No failure on the part of the Commissioner at any time to require performance of any term of this NAUL shall be taken or held to be a waiver of such term or in any way affect the Commissioner's rights to enforce such term.

17. Foreclosure of a Mortgage, Lien, or other Encumbrance. If a NAUL is extinguished by foreclosure of a mortgage, lien or other encumbrance, the requirement of section 22a-133o(c)(8) of the Connecticut General Statutes shall apply.

18. Nothing in this NAUL shall affect the Commissioner's authority to institute any proceeding, or take any action to prevent or abate pollution, to recover costs and natural resource damages, and to impose penalties for violations of law or violations of this NAUL. If at any time the Commissioner determines that the NAUL does not protect human health and the environment from the hazards of pollution, the Commissioner may institute any proceeding, or take any action to require further investigation or further action to prevent or abate pollution. The approval of this NAUL relates only to pollution or contamination identified in the EUR Opinion attached hereto as Exhibit B of this NAUL.

19. The Owner shall retain copies of all documents required by section 22a-133q-9 of the Regulations of Connecticut State Agencies.

20. DEEP Contact Information: Any document required to be submitted to DEEP pursuant to this NAUL shall, unless otherwise specified in writing by DEEP, be directed to:

{Instructions- use current contact information}

{Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127

Re: {Remediation Division Identification Number}

By signing below, the undersigned certifies that:

a. He or she is fully authorized to sign this NAUL;

b. The Owner has the power and authority to enter into this NAUL to grant the restrictions, fulfill the obligations, and maintain the conditions necessary to meet the objectives of the NAUL in accordance with the requirements of the EUR Opinion attached hereto and made a part as Exhibit B;

c. The Owner has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Owner's intention to enter into this NAUL in accordance with section 22a-133o of the Connecticut General Statutes;

In witness whereof, I/we, {Owner's name}, have hereunto set our hands this {day} day of {month}, {year}.

{Select Applicable Signature Block, and delete the non-applicable signature blocks}

**If for an individual:**

Witnessed by:	
{Signature of Witness 1}	{Signature of Owner}
{Printed or Typed Name of Witness 1}	{Printed or Typed Name of Owner}
{Signature of Witness 2}	
{Printed or Typed Name of Witness 2}	

**If for an entity:**

Witnessed by:	{Owner's Name}
	By: _____
{Signature of Witness 1}	{Printed or Typed Name of the Authorized Signatory for the Entity}
{Printed or Typed Name of Witness 1}	Its duly authorized {Title of the Authorized Signatory for the Entity}
{Signature of Witness 2}	
{Printed or Typed Name of Witness 2}	

Mailing Address:

Street Address: {Street Address}

City/Town: {City or Town}

State and Zip Code {State and Zip Code}

{Notarization Language for Owner Acknowledgement - select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.}

**If the Owner is an individual:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Owner is a Corporation:**

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself /herself to be the {title of officer} of {name of corporation}, a corporation, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Owner is a Limited Liability Company:**

State of {\_\_\_\_\_}  
County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself/herself to be the {title of officer} of {name of limited liability company}, a (member managed or manager managed) limited liability company, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**{If the Owner is any other type of entity, provide appropriate language for the Owner Entity below} {insert appropriate certification language for an Acknowledgement as specified in Section 1-34 of the Connecticut General Statutes}**

**{Instructions – DEEP Signature Block - Select one of the two choices below, as applicable and delete the non-applicable option.}**

**{This choice is used for NAULs approved by the Commissioner}**

**DEEP:** The Commissioner of Energy and Environmental Protection or by the Commissioner's duly designated agent

By: {signature of the Commissioner or duly authorized agent for the Commissioner}

Date: {date of signature}

Name: {printed or typed name}

Its Duly Authorized: {title}

Mailing Address {use current contact information}:

{Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127  
 Re: {Remediation Division Identification Number}}

**{This choice is used solely for NAULs approved by a LEP pursuant to section 133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies.}**

**DEEP:** The Commissioner of Energy and Environmental Protection, by the undersigned LEP pursuant to section 133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies.

LEP as Duly Authorized Agent for the Commissioner of Energy and Environmental Protection:

By: {signature of the LEP}

Date: {date of signature}

Name: {printed or typed name of LEP}

Its Duly Authorized Agent: LEP authorized pursuant to section 133o(c)(5)(B) of the Connecticut General Statutes and 22a-133q-3 of the Regulations of Connecticut State Agencies.

DEEP Mailing Address:

{Connecticut Department of Energy and Environmental Protection

Environmental Use Restriction Coordinator

Bureau of Water Protection and Land Reuse

Remediation Division

79 Elm Street

Hartford, Connecticut 06106-5127

Re: {Remediation Division Identification Number}}

Information for Duly Authorized Agent for LEP: Name: {name of LEP}

License Number: {License Number}

Title, if applicable: {title}

Company, if applicable: {name of Company}

Mailing Address:

Street Address, City/Town, State, Zip Code: {Street Address, City/Town, State, and Zip Code}

Witnesses:

{Signature }

Signature

{Printed/typed name }

Printed/typed name

{Signature }

Signature

{Printed/typed name }

Printed/typed name

Instructions Notarization Language for Duly Authorized Agent for LEP:

State of {\_\_\_\_\_}

County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {insert date}
---

**Owner of an Interest:**

**{Select the following signature block when an Owner of an interest signs a NAUL pursuant to section 22a-133o of the Connecticut General Statutes and section 22a-133q-3 of the Regulations of Connecticut State Agencies and delete the non-applicable signature blocks.}**

{Name of Owner} is the Owner of an interest which conflicts with the conditions or purposes of this notice, executed on {date} and recorded at {volume and page} of the {name of municipality} land records. By signing this NAUL, {Name of Owner} hereby agrees to subject such interest to the conditions or purposes described herein, pursuant to Conn. Gen. Stat. § 22a-133o(6).

By signing below, the undersigned certifies that he or she is fully authorized to sign this NAUL.

**If for an individual:**

Witnessed by:	
{Signature of Witness 1}	{Signature of Owner}
{Printed or Typed Name of Witness 1}	{Printed or Typed Name of Owner}
{Signature of Witness 2}	
{Printed or Typed Name of Witness 2}	

OR

**If for an entity:**

Witnessed by:	{Owner's Name}
{Signature of Witness 1}	By:
{Printed or Typed Name of Witness 1}	{Printed or Typed name of the Authorized Signatory for the Entity}
	Its Duly Authorized {Title of the Authorized Signatory for the Entity}
{Signature of Witness 2}	
{Printed or Typed Name of Witness 2}	

Mailing Address:

Street Address: {Street Address}

City/Town: {City or Town}

State and Zip Code: {State and Zip Code}

{Notarization Language for Owner Acknowledgement - select appropriate notarization language from one of the choices below and delete the non-applicable notarization language.}

**If the Owner is an individual:**



State of {\_\_\_\_\_}  
 County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court} the undersigned officer, personally appeared {name of individual or individuals}, known to me (or satisfactorily proven) to be the person(s) whose name(s) {choose is or are} subscribed to the within instrument and acknowledged that {he/she/they} executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Owner is a Corporation:**

State of {\_\_\_\_\_}  
 County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself/herself to be the {title of officer} of {name of corporation}, a corporation, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Owner is a Limited Liability Company:**

State of {\_\_\_\_\_}  
 County of {\_\_\_\_\_}

On this {date} day of {month}, {year} before me, {name of notary or Commissioner of the Superior Court}, the undersigned officer, personally appeared {name of officer}, who acknowledged himself/herself to be the {title of officer} of {name of limited liability company}, a (member managed or manager managed) limited liability company, and that he/she, as such {title of officer}, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as {title of officer}.

In witness whereof I hereunto set my hand.

{Choose Notary Public or Commissioner of the Superior Court} Date Commission Expires {date}

OR

**If the Owner is any other type of entity, provide appropriate language for the Owner Entity**

**below:**

**{insert appropriate certification language for an Acknowledgement as specified in Section 1-34 of the Connecticut General Statutes}**