

Responses to the Legislative Commissioners' Office (LCO) Report on LRRC No. 2013-010

LCO Comment	Action Taken In Response
Substantive Concerns:	
<p>1. On page 3, in subdivision (17), the phrase "unless a different method is approved in writing by the Commissioner" is a substantive provision and should not appear in a definition. Rather, such provision should be made part of section 22a-133k-1 to 22a-133k-3 of the Regulations of Connecticut State Agencies and specify those circumstances under which a different method may be applied for by an applicant and approved by the commissioner.</p>	<p>Recommended revisions to the definition have been made. The provision "unless a different method is approved in writing by the Commissioner" has been deleted from the definition. In addressing other LCO Technical comments with DEEP's subsequent responses subdivision (17) is now identified as subdivision (20).</p>
<p>2. On pages 59, 64 and 71, for "<u>Extractable Total Petroleum Hydrocarbons by ETPH Analysis</u>" it is unclear if this method is intended to be used for samples collected on and after July 1, 2009.</p>	<p>Revisions have been made to pages 59, 64 and 71 to clarify that the specified ETPH Method may be used for the analysis of samples collected on or after June 22, 1999. June 22, 1999 is the date that the Commissioner of the Department of Public Health approved the ETPH method.</p>
<p>3. On page 102, it is unclear who is signing the document because the introductory language states that the undersigned is signing on behalf of the Grantor, but then next to the line for a signature, it states "Grantor".</p>	<p>Revisions have been made to this signature page to clarify where the Grantor's Name (Entity) shall be identified and where the duly authorized person representing the Grantor entity shall print their name and insert their signature on the document.</p>
<p>4. On page 105, it is unclear what could constitute "appropriate language" for an acknowledgement.</p>	<p>Revision has been made to page 105. DEEP identifies that "appropriate language" may be identified by the applicant if the Grantor is any other type of entity, by providing the appropriate language for the Grantor Entity that shall be found as the appropriate certification language for an Acknowledgement as specified in Section 1-34 of the General Statutes.</p>
Technical Corrections:	
<p>1. On page 1, the introductory language should be "Section 1. Sections 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:", for proper form.</p>	<p>Recommended revisions to the introductory language have been made.</p>
<p>2. On page 3, in subdivision (17), the definition should be underlined for proper form, "Department of Environmental Protection" should be "Department of Energy and</p>	<p>Recommended revisions for proper form have been made. DEEP has identified the document as named,</p>

<p>Environmental Protection", for accuracy, unless the document is referenced as it existed on a particular date, and the definition should indicate where such "Recommended Reasonable Confidence Protocols, Quality Assurance and Quality Control Requirements for Extractable Total Petroleum Hydrocarbons by the State of Connecticut, Department of Public Health ETPH Method" is published or can be readily found and if there are multiple versions, which applicable publishing date, for clarity.</p>	<p>referenced the document as it existed on a particular publishing date and identified where such document can be readily found.</p> <p>In addressing other LCO Technical comments with DEEP's subsequent responses subdivision (17) is now identified as subdivision (20).</p>
<p>3. On page 4, in line 7 of subdivision (29), "<u>or (ii)</u>" should be "<u>(ii)</u>" for proper form, in line 8 of said subdivision "<u>to exceed of</u>" should be "<u>in excess of</u>", for clarity, in lines 9 and 10 of said subdivision, "<u>and limits identified herein subparagraph 22a-133k-1(29)(C)(i) or (ii)</u>" should be "<u>or limits identified in clause (i) or (ii) of this subparagraph</u>", for clarity, and in line 10 of said subdivision, "(D)" should be "<u>(D)</u>", for proper form.</p>	<p>Recommended revisions to the definition have been made.</p>
<p>4. On page 5, subdivision (37) should be underlined for proper form, "is defined as" should be "means", for proper form and the second sentence should be deleted as it is unnecessary.</p>	<p>Recommended revisions to the definition have been made for proper form and the second sentence has been deleted.</p>
<p>5. On page 5, in subdivision (44), "section 22a-2(c)" should be "section 22a-2[(c)](b)" for accuracy.</p>	<p>Recommended revision to the definition to accurately reference the C.G.S. has been made.</p>
<p>6. On page 9 in the catchline for subsection (c) of section 22a-133k-1 and throughout the remaining catchlines in Section 1 of the proposed regulation, bold type should be used to reflect the form of the current regulation.</p>	<p>Bold type modifies all catchlines throughout Section 1, and for consistency, Sec. 2 and Sec. 3 of the proposed regulations to reflect the form of the current regulation.</p>
<p>7. On page 10, in line 7 of subsection (c) of section 22a-133k-1, "<u>or 134a of the General Statutes</u>" should be "<u>or 22a-134a of the General Statutes</u>", for proper form.</p>	<p>Recommended revisions have been made.</p>
<p>8. On page 10, in line 3 of subdivision (1) of section 22a-133k-1(d), "<u>of the General Statutes</u>" should be inserted after "<u>22a-208a(c)</u>", for proper form.</p>	<p>Recommended revision has been made.</p>
<p>9. On page 10, in line 2 of subdivision (2) of section 22a-133k-1(d), "<u>sections</u>" should be "<u>section</u>", for accuracy. The same change should be made on page 11, in line 8 of</p>	<p>Recommended revisions have been made to "section" on pages 10 and 11 for accuracy.</p>

subsection (e).	
10. On pages 11 and 12, in subsections (f) and (g) of section 22a-133k-1, the references to "(NEW)" should be deleted and the language should be underlined, for proper form.	Recommended revision has been made.
11. On pages 11 and 12, in subdivisions (1) and (2) of subsection (g), "the 2013 amendments to Sections 22a-133k-1 through 22a-133k-3" should be "this subsection", for clarity.	Recommended revisions have been made on pages 11 and 12.
12. On page 12, the bracketed introductory language to section 22a-133k-2 should be deleted as it is not part of the text of the existing regulation.	Recommended revision has been made.
13. On pages 13 and 14 in subdivision (4) of 22a-133k-2(b), "(NEW)" should be deleted and the catchline and the text of the subdivision should be underlined, for proper form.	Recommended revisions have been made for proper form.
14. On page 14, in subdivision (4) of section 22a-133k-2(b), "contained in subsection (b) of this section" should be inserted after "criteria", for clarity.	Recommended revisions have been made.
15. On page 14 and 15, in clauses (i) and (ii) of section 22a-133k-2(b)(5)(B), "(NEW)" should be deleted and the new equation should be underlined, for proper form.	Recommended revisions have been made.
16. On page 18, in the first line of subparagraph (A) of section 22a-133k-2(c)(2), "A soil in a GA area and" should be "A soil in a GA area [and] <u>that is</u> ", for clarity", for clarity. The same change should be made on page 20, in the first line of subparagraph (C) of said subdivision.	Recommended text revisions have been made for clarity.
17. On page 18, in the first line of subparagraph (B) of section 22a-133k-2(c)(2) "A soil in a GA area" should be "A soil in a GA area <u>that is</u> ", for clarity.	Recommend text revisions have been made for clarity.
18. On page 24, in subparagraph (C) of section 22a-133k-2(c)(4), "(NEW)" should be deleted and the text of the subparagraph should be underlined, for proper form and in clause (i), the subclause designators "(aa)" and "(bb)" should be "(I)" and "(II)", respectively, for proper form and in subclause (I), "is located in an area which at least eighty percent of the release area has been subject to infiltration, not obstructed" should be "Is located in an area in	Recommended revisions have been made for proper form and clarity.

<p>which at least eighty percent of the release area has been subject to infiltration, and not obstructed", for clarity and in subclause (II), "has been determined by the Commissioner in writing to have" should be "Has been determined by the Commissioner, in writing, to have", for proper form.</p>	
<p>19. On page 25, in clause (ii) of section 22a-133k-2(c)(4)(C), the subclause designators "(aa)" and "(bb)" should be "(I)" and "(II)", respectively, and the first word of each subclause should be capitalized, for proper form.</p>	<p>Recommended revisions have been made for proper form.</p>
<p>20. On page 25, in clause (iii) of section 22a-133k-2(c)(4)(C), the subclause designators "(aa)" and "(bb)" should be deleted, as they are unnecessary, "the ground-water sampling" should be "The ground-water sampling" and "over time and that except for" should be "over time; (iv) Except for" and "the ground-water samples are" should be "(v) The ground-water samples are", for clarity and proper form.</p>	<p>Recommended revisions have been made for clarity and proper form.</p>
<p>21. On page 25, in subdivision (5) of section 22a-133k-2(c), "(NEW)" should be deleted and the catchline and provisions of the subdivision should be underlined, for proper form.</p>	<p>Recommended revisions have been made. DEEP had proposed new subdivision provisions to existing designator number (5) with an underlined catchline and underlined text of the provisions of this subdivision for proper form.</p>
<p>22. On page 26, in subdivision (6) of section 22a-133k-2(c), the catchline and text of the subdivision should be underlined, for proper form and in the first line "a substance" should be "any substance", for accuracy and in the fifth line "he" should be "the Commissioner", for proper form.</p>	<p>DEEP had proposed a new subdivision language at existing designator (5) and inserted a new designator (6) for the existing regulatory language that was previously identified by designator number (5). The number (6) designator has been underlined but the catchline and text of the subdivision were not underlined since this subdivision is existing 1996 regulatory language. DEEP did make the other recommended text revisions to this subdivision.</p>
<p>23. On page 26, in subdivision (6) of section 22a-133k-2(c), a definition of "dilution or dilution and attenuation factor" should be added for clarity since the term is otherwise used in the existing regulation but not defined.</p>	<p>DEEP has included new definitions in subdivisions 22a-133-1(a)(11) and (12) for "Dilution factor" and "Dilution and Attenuation Factor" or "Dilution Attenuation Factor" in the amended regulations for clarity. In addressing other LCO Technical comments with DEEP's subsequent responses the existing subdivisions within this section have been</p>

	renumbered for proper form.
24. On page 29, in line 4 of subparagraph (A) of section 22a-133k-2(e)(2) " <u>and</u> " should be deleted, for proper form and in lines 11 and 12 of said subparagraph, "[<u>(iv)</u>]" should be "[<u>(iv)</u> and <u>(iii)</u>]", and " <u>or</u> " should be underlined, for proper form.	Subparagraph (A)'s existing provisions contained four clauses. The proposed amendments were to delete existing clauses (A)(ii) and (A)(iv). DEEP's proposed amendments' also bracketed clause (iv) twice causing the confusion. DEEP believes the appropriate technical changes have now been made for proper form.
25. On page 31, in subdivision (2) of section 22a-133k-2(f), a definition of the term "engineered control" should be added for clarity as said term is otherwise used in the existing regulation but not defined.	DEEP has included a new definition in subdivision 22a-133-1(a)(16) of "Engineered control" in the amended regulations for clarity. In addressing other LCO Technical comments with DEEP's subsequent responses the existing subdivisions within this section have been renumbered for proper form.
26. On pages 33 and 34, in clause (i) of section 22a-133k, the subclause designators "(aa) and (bb)" should be bracketed and replaced with "(I) and (II)", respectively, for proper form and in the third line, " <u>or</u> " should be inserted before the opening bracket, for proper form, in line 14, the underlining of " <u>et seq</u> " should be deleted as it is existing language, in line 16, " <u>and; (cc)</u> " should be " <u>(ii)</u> ", for proper form and clarity and the remaining clauses, (ii) to (vi), inclusive, should be bracketed and renumbered as <u>(iii)</u> to <u>(vii)</u> , respectively, for proper form.	Recommended revisions have been made for subclause designators and for proper form.
27. On page 35, in line 3 of subdivision (2) of subsection (h), "subsection 22a-449(c)" should be "[subsection 22a-449(c)] <u>section 22a-448</u> " for accuracy and in line 4 of said subdivision, "said section 22a-209-1" should be "[said] section 22a-209-1 <u>of the Regulations of Connecticut State Agencies</u> " for accuracy.	Recommended revisions have been made for accuracy.
28. On page 37, the bracketed introductory language for section 22a-133k-3 should be deleted as it is not part of the existing regulation.	Recommended bracketed introductory language for section 22a-133k-3 has been deleted.
29. On page 37, in subdivision (1) of section 22a-133k-3(b), "subdivision (2)(C)" should be " <u>subdivision (2)(C)</u> ", for proper form.	Recommended revision has been made for proper form.
30. On page 44, in subsection (f) of section 22-133k-3, "(NEW)" should be deleted and the catchline and provisions of the subsection should be underlined, for proper form.	Recommended revisions have been made to address proper form.

31. On page 44, in subsection (g) of section 22a-133k-3, "(NEW)" should be deleted throughout the subsection, and the provisions of the subsection until subparagraph (B) on page 46 should be underlined, for proper form.	Recommended revisions have been made to address proper form for all proposed amended language.
32. On page 45, in subsection (g)(1)(F) of section 22a-133k-3, "limited to" should be "limited to," for proper form.	Recommended revision has been made for proper form.
33. On pages 45 and 46, in subdivision (2) of section 22a-133k-3(g), the subclause designators (aa) to (dd) should be (I) to (IV), respectively, for proper form.	Recommended revisions have been made for proper form.
34. On page 45, in subclause (aa) of section 22a-133k-3(g)(2)(A)(i), "Environmental Land Use Restriction" should be lowercase, for proper form.	Recommended revision has been made for proper form.
35. On page 46, in the last line of section 22a-133k-3(g)(2)(A)(ii), "subdivision (D)(ii)" should be "subparagraph (D)(ii)", for accuracy.	Recommended revision has been made for accuracy.
36. On page 46, in lines 4 and 8 of subparagraph (B) of section 22a-133k-3(g)(2), "(i)" and "(ii)" should each be underlined, for proper form.	Recommended revision has been made for proper form.
37. On page 47, in line 6 of subparagraph (C) of section 22a-133k-3(g)(2), "(i)" should be underlined, for proper form.	Recommended revision has been made for proper form.
38. On page 48, in clause (ii) of section 22a-133k-3(g)(2)(D), "[(3)]" should be deleted as it is duplicative of the change being made on page 47.	Recommended revision has been made for proper form.
39. On page 51, in subparagraph (B) of section 22a-133k-3(h)(2), in the equation that is being deleted, the closing bracket should be located after the entirety of the equation, for proper form, "(NEW)" should be deleted and the new equation should be underlined, for proper form.	Recommended revision has been made for proper form.
40. On page 82, in Appendix G, "Volatilization Criteria for Ground Water" should be in bold type and not underlined, to accurately reflect the text of the existing regulation.	Recommended revision has been made to accurately reflect the text of the existing regulation.
41. On page 85, in Appendix G, "Volatilization Criteria for Soil" should be in bold type and not underlined, to accurately reflect the text of the existing regulation.	Recommended revision has been made to accurately reflect the text of the existing regulation.
42. On page 87, in Appendix G, "Table of Target Air Concentrations" should be in bold	Recommended revision has been made to accurately reflect the text of the existing

type and not underlined, to accurately reflect the text of the existing regulation.	regulation.
43. On page 89, the introductory language for section 22a-133q-1 should be "Sec. 2. Section 22a-133q of the Regulations of Connecticut State Agencies is amended to read as follows:", for proper form, and the catchline for said section should be: " 22a-133q-1. Environmental [land use restrictions] Land Use Restrictions ", for proper form and accuracy.	Recommended revision has been made for proper form and accuracy.
44. On page 89 and throughout section 2 of the proposed regulation, the catchlines for each subsection should be in bold type to accurately reflect the text of the existing regulation.	Recommended revisions to the catchlines for each subsection in bold type to accurately reflect the text of the existing regulation for proper form.
45. On page 91, in subdivision (1) of section 22a-133q-1(d), ", as applicable" should be bracketed, for consistency with the repeal of Appendix 2.	Recommended revision has been made for consistency.
46. On page 92, in subsection (g) of section 22a-133q-1, " <u>of this section</u> " should be inserted after " <u>subsection (d)</u> " and " <u>subsection (e)</u> " for clarity.	Recommended revisions have been made for clarity.
47. On page 92, in subsection (h) of section 22a-133q-1 " <u>within seven (7) days after receiving on the environmental land use restriction the signature of the Commissioner or licensed environmental professional</u> " should be " <u>not later than seven (7) days after receipt of such approval</u> ", for clarity.	Recommended revised text has been made for clarity.
48. On page 94, the pages of Appendix 1 should be numbered sequentially for ease of use. For example, page 1 could be numbered as "App. 1, p. 1"	Recommended revised text has been made.
49. On page 94, the text in the box should be in bold type to reflect the form of the existing regulation and " a " should be inserted before "Licensed Environmental Professional", for proper form.	Recommended text revision to bold type to reflect the form of the existing regulation and a "a" has been inserted before "Licensed Environmental Professional" for proper form.
50. On page 95, in line 3, " <u>Commissioner of the Department of Energy</u> " should be " <u>Commissioner of Energy</u> ", for proper form. The same change should be made on page 96 in the first text box.	Recommended revisions for proper form have been made on both pages 95 and page 96.
51. On page 95, in the text box describing the property, in the fourth row, "desgination"	Recommended spelling error has been corrected.

should be "designation", for proper spelling.	
52. On page 98, in paragraph 4 of Appendix 1, "such [Paragraph] Paragraphs" should be "[such Paragraph] said Paragraphs" for proper grammar.	Recommended text revision has been made for proper grammar.
53. On page 100, in the first line of paragraph 10 of Appendix 1, " " should be deleted and in the second line of said paragraph the brackets and "and" should be deleted, for proper form.	Recommended revisions have been made for proper form.
54. On page 100, in the last line of paragraph 12, "[.]" should be deleted, for accuracy.	DEEP proposed deleting typographical error of an "extra" period in the 1996 Regulations; therefore, this error has been deleted for accuracy.
55. On pages 103 to 108, inclusive "(NEW)" should be inserted at the top of each page, for proper form.	"(NEW)" has been inserted on the requested pages at the top of each page, for proper form. The documentation for this Appendix is now on pages 105 to 109, inclusive.
56. On page 103, in the "If the Grantor is an individual" section, "[choose is" should be "{choose is", for proper form and consistency.	Recommended revision has been made for proper form and consistency.
57. On page 103, in the "If the Grantor is a Corporation" section, a comma should be inserted after "me" for proper grammar.	Recommended revision has been made for proper grammar.
58. On page 104, in line 4, "forgoing" should be "foregoing" for proper spelling. The same change should be made in the "If a Grantor is a Limited Liability Company" section.	Recommended revisions have been made for proper spelling.
59. On page 106, in the first box, "Energy & Environmental" should be "Energy and Environmental" for internal consistency. The same change should be made in the second paragraph of the lower box.	Recommended revisions to change the symbol "&" to "and" have been made where identified for internal consistency.
60. On page 106, in the lower box, "The" should not be in bold type, for consistency.	Recommended revision has been made for consistency.
61. On page 107, "[insert mailing address]" should be "{insert mailing address}" and "[insert City/Town, State, and Zip Code]" should be "{insert City/Town, State, and Zip Code}", for consistency.	Recommended revisions have been made for consistency.
62. On page 108, the hyphen after the colon should be deleted as it is unnecessary and "[choose is or are]" should be "{choose is or are}", for consistency.	Recommended revisions have been made for consistency.
63. On pages 109 to 113, inclusive, the bracketed provisions of Appendix 2 should be deleted as they are duplicative of the repealer provision and unnecessary.	Recommended bracketed provisions of Appendix 2 have been deleted as they are duplicative of the repealer provision and unnecessary.