

Recommendations of Ad Hoc Group Releases on Residential Properties

Submitted to the Release-Based Remediation Workgroup and the Department of Energy and Environmental Protection (DEEP) on 10/19/21

DEEP's charge to the group: *"The Ad Hoc Team should evaluate the concepts proposed by the first phase Subcommittees and propose conceptual approaches or additional tools to aid homeowners in addressing releases on their property. The approaches or tools proposed may include special pathways to achieving cleanups or interim measures that both protect human health and the environment but are also efficient and cost effective for homeowners to implement."*

The Group assumed:

- Under the release-based program there will be many releases that do not require closure by an LEP, and that the majority of residential releases will fall into that category.
- The overwhelming majority of releases occurring at residences will be fuel oil.
- These recommendations would not apply when a release occurs at a business operated from a home.
- Some releases that are discovered and reported would not trigger an obligation to remediate on the part of the party making the discovery and report (consistent with the assumptions of the Discovery Subcommittee as stated in the Discovery Concept Paper). For example, when a residential drinking water well is discovered to be contaminated because of an upgradient source of pollutants, we assume that the upgradient source would be responsible for remediation.

Recommendations for approaches or additional tools to aid homeowners in addressing releases on their property:

Recommendation 1. No Lessening of Health or Safety Standards

The Ad Hoc Group was not in favor of enacting any approaches or tools that would make environmental standards less stringent at residential properties in an attempt to ease the burden on homeowners suffering from a spill or its consequences. Given the exposure pathways associated with residential uses, the Ad Hoc Group was in favor of requiring the achievement of residential standards under the RSRs (or successor set of standards) for releases occurring on residential properties and/or through residential activities. There was discussion of whether there should be mandatory drinking water testing for residences served by wells, but there was not consensus on the issue. One idea to lessen financial burden would be to tie residential water well testing to the sale or transfer of a property by requiring home inspectors to screen for nearby potential contaminant sources (i.e., dry cleaners, gas stations, industrial properties) and conduct appropriate sampling. Another idea is to inform the public about areas of groundwater contamination impacting residential properties, such as pesticide / PFAS contamination, by CT DEEP publishing /mapping the potable water well results.

Recommendation 2. Prevent Releases

The Ad Hoc Group agreed that the most cost-effective way to address releases is to prevent them from happening in the first place. Because the most common release at a residence is likely to be from a spill of fuel oil, the group recommended actions to decrease the probability of loss of fuel oil from storage

tanks and their associated fittings. The Ad Hoc Group preferred incentives, not sanctions, to encourage homeowners to address the potential risk that their aging storage tanks might pose.

A. Underground Storage Tanks (USTs)

1. Educate. Provide educational materials for the homeowner to know who to contact and how to close / in most cases remove a residential UST. Provide education materials about the risks posed to the environment associated with residential USTs.
2. Identify the extent of the risk. The Ad Hoc Group recommends that DEEP undertake an analysis to determine the number of remaining residential USTs.

DEEP staff reported to the Ad Hoc Group about its Residential Amnesty program for USTs that ran from July 1999 to December 31, 2002. It was responsible for the removal of 4,000 tanks, using four million dollars in bond funding. More were likely removed because those with no contamination may not have submitted any reports to DEEP (then DEP). The number remaining is unknown and, consequently, so is the risk from UST's.

3. Incentivize removals. The Ad Hoc Group recommends an incentive program for removal of USTs that is scaled to the size of the risk and to the availability of funds. Multiple approaches were put forward for consideration including:

- a. Provide funds for remediation after removal of the UST, if removal indicates the presence of a spill from the tank. It was the opinion of the Ad Hoc Group that the money for remediation, and possibly for removal, did not have to originate from public funds. New Hampshire's Petroleum Reimbursement [Fund](#) is a financing mechanism that deserves consideration as a model to emulate in Connecticut.
- b. Incentivize removal of a known residential UST on the sale or transfer of the property.

B. Above Ground Storage Tanks

1. Incentivize prevention with regular inspections, as done in neighboring states, without creating an undue burden on the homeowner.
 - a. Massachusetts and Vermont have laws requiring inspection of oil tanks and their associated hardware. Massachusetts has taken a two-pronged approach of [mandating](#) anti-spill features on home heating systems and requiring insurance companies to offer optional [coverage](#) for residential spills.
 - b. The infrastructure for regular inspections of above ground tanks already exists within the companies that service oil burners. A requirement for a regular inspection would be of benefit. Vermont [requires](#) inspections of fuel oil storage and associated equipment (1) Immediately after tank system installation; (2) Immediately after initial delivery of fuel to the tank system; (3) Prior to the initial delivery of fuel to the tank system when the tank owner switches fuel carriers; (4) If not otherwise required under subdivisions (1), (2), or (3) of this subsection, the tank system shall be inspected once every three years.

Recommendation 3. Lessen the Burden to Homeowners Who Experience a Spill

1. Provide educational materials for the homeowner to know who to contact and how to respond to a spill. The information could be available from fuel oil dealers, a placard required to be installed on the tank, DEEP or at the “311” information number.
2. Make financial assistance available to incentivize reporting and clean-ups. Provide homeowners with access to a fund to assist with the characterization and remediation of a fuel oil spill which meets the legal threshold of a “reportable” spill. The Group recommended that a dedicated non-lapsing account be established for this purpose. A small surcharge on home heating fuel would be one potential funding mechanism.
3. Lessen the administrative burden of reporting and closing spills at residences.
 - a. Consider increasing the minimum reportable quantity of fuel oil for residences in cases where there is no imminent risk to people or to the environment.
 - b. Where a release is sufficient to be reportable, provide a simplified reporting form or highlight the standard form so that the reporter can easily identify the portions required to be completed for a spill at a residence and disregard the rest.

Recommendation 4. – Handling Releases Other Than Fuel Oil

1. Lessening of reportable quantities for releases that are not fuel oil is not warranted. Because of the wide variability of the potential adverse effects of the multiple substances other than fuel oil, the Ad Hoc Group did not recommend a higher reporting threshold than appears in DEEP’s Spill Reporting Regulations. (The [Draft](#) Release Reporting Regulations require reporting of a release of either ten (10) pounds or more or one and a half (1.5) gallons or more, of a reportable material other than oil or petroleum, if released within any period of twenty four (24) hours. The Draft Release Reporting Regulations also require reporting of a release of either less than ten (10) pounds or one and a half (1.5) gallons of a reportable material other than oil or petroleum unless, within two (2) hours of discovery, properly trained.)
2. Lessening the administrative burden for homeowners is warranted. Provide a simplified reporting form or highlight the standard form so that the reporter can easily identify the portions required to be completed for a spill at a residence and disregard the rest.

Recommendation 5. – Innocent Landowner/Downgradient Owner Protections

Assuming that there are opportunities for downgradient owners to demonstrate that they did not cause the contamination and should not be responsible for remediating it, such opportunities should be crafted to be easy for homeowners to use. Additional study might be required on the issue of what it means for a resident to “maintain” a release and whether more robust carve-outs for downgradient property owners are necessary.

Chronology of the Ad Hoc Group's meetings and deliberations.

September 10, 2021: First meeting of group – Broad discussion of the nature and extent of residential spills and the charge by DEEP to address the burden to homeowners.

September 13, 2021: Written report drafted for oral report on 9/14

September 14, 2021: Oral report from Ad Hoc Group to the larger Working Group on the Ad Hoc Group's process and deliberations

September 22, 2021: Second meeting of group. Heard from representatives of the Department of Insurance, The Department of Housing (Crumbling Foundations Fund) and a representative of the real estate sector.

September 28, 2021: Third meeting of group – Heard from a representative of the C-Pace program concerning its suitability as a model to finance a large remediation expense.

October 4, 2021: Fourth meeting of group summarized discussions and framed recommendations

October 8, 2021: Fifth meeting to approve draft recommendations.

October 12, 2021: Summation and recommendations of Ad Hoc Group to Working Group.

October 15, 2021: follow-up meeting to discuss input received in October 12 Working Group meeting.

October 26, 2021: Working Group's consideration of ad hoc team recommendations.

Participants

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7. Peter Hearn, CT Council on Environmental Quality
8. Abigail Davis, CT DEEP
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Presenters:

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