

Good evening,

In advance of tomorrow's Working Group meeting, please find three presentations attached and summaries of these presentations below.

Don't forget that we are still accepting written comments last month's topics.

Home Heating Fuel – Alternative Cleanup Approach

- This special path for releases from residential heating oil tanks aims to codify current practices
- Using this special path, homeowners can work with a PEP or LEP to cleanup a release to the maximum extent prudent, so long as the release is shown to have not impacted groundwater
- It is the intent of the Department that this special path will lead to these releases being addressed in a timely and cost-effective manner

Soil Beneath Roadways, Parking Lots, and Buildings:

- DEEP is establishing a permit by rule program to manage soil beneath parking lots, roads, and buildings
- Soil managed under this rule will not have to be remediated to the DEC if the responsible party complies with the terms of the permit by rule
- The permit by rule will require:
 - regular maintenance to prevent soil exposure
 - quinquennial inspections of the parking lot, road, or building and reports on those inspections will be sent to DEEP
 - proper management of the soil during maintenance of the parking lot, road, or building foundation or infrastructure beneath
 - some mechanism to provide notice over time that the soil is subject to the permit

New Exposure Scenarios

- DEEP is discussing developing additional exposure criteria for scenarios beyond residential and industrial/commercial with DPH
- Following the recommendations of Subcommittees 7 and 9, DEEP is interested in introducing Passive Recreation and Managed Residential Exposure Scenarios
- DEEP's current thinking on these risk assumptions is outlined below:
 - Passive Recreation will allow for remediation to this standard if the property on which the release occurred is subject to an EUR or a conservation easement for passive recreation held by a government entity
 - Managed residential will allow for remediation to this standard if an EUR is in place prohibiting disturbance of the soil or active recreation without impervious cover for parcels with 4 or more units that are managed by a professional property management company or similar entity
- DEEP is seeking DPH's assistance to establish criteria for these scenarios.

We look forward to seeing you tomorrow!

Best,

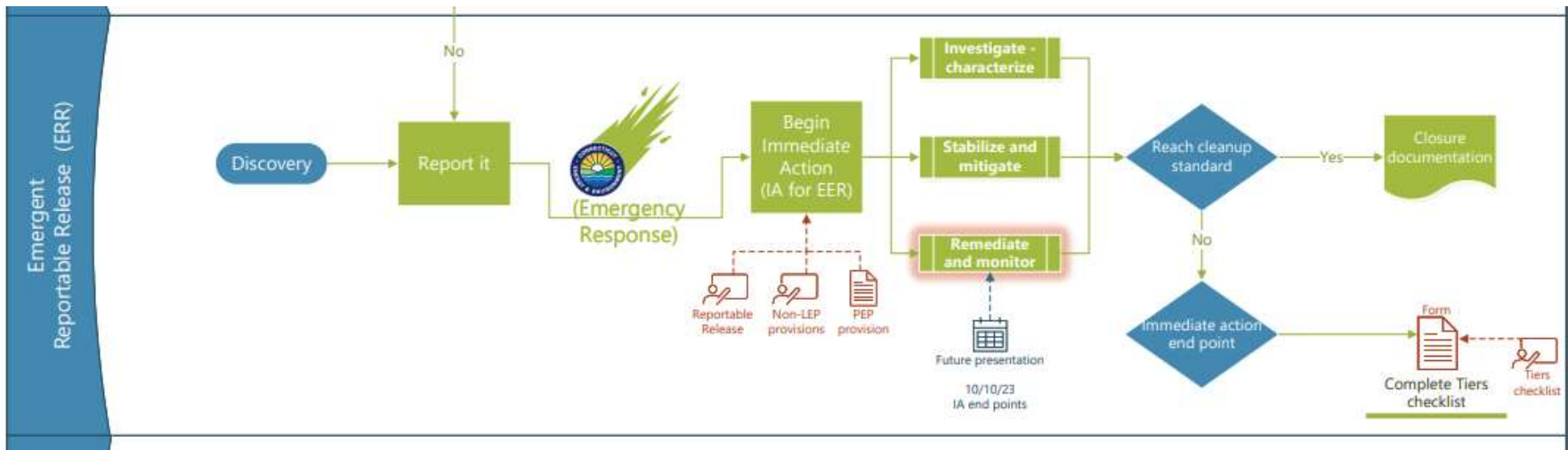
Graham



SPECIAL PATH FOR RESIDENTIAL HEATING OIL

Prepared By: Allison Forrest-Laiuppa, Katherine Nee, Lynn Olson-Teodoro, Lori Saliby, Sarah Solarz and Peter Zaidel

ROADMAP



WHY RESIDENTIAL HEATING OIL?



The residential home heating tanks do not have the same leak detection equipment as regulated tanks; therefore, releases are often discovered as a result of homeowners responding to the increased oil costs due to more frequent filling

Currently, residential home heating fuel tanks are exempt from DEEP's UST Regulations

"Residential building" means any house, apartment, trailer, mobile home, or other structure, **composed of four residential units or fewer**, occupied by individuals as a dwelling provided that if the structure is not used solely as a dwelling, the nominal capacity of the facility, exclusive of piping, serving such structure does not exceed two thousand one hundred (2,100) gallons. RCSA sec. 22a-449(d)-1(a)(2).

From October 1 to October 31 of this year, DEEP has responded to 68 home heating oil releases

WHY RESIDENTIAL HEATING OIL?

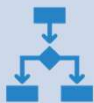


Not all homeowner insurance policies cover heating fuel tank releases

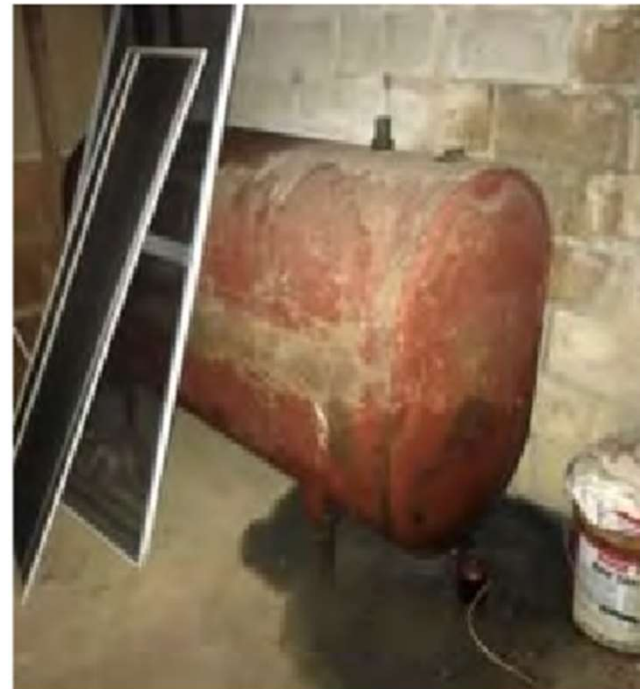


DEEP is seeing an increase in releases from residential tanks as the tanks age

Releases must be reported under RCSA sec. 22a-450-1, et seq.



Heating oil contamination is well understood and biodegrades





SPECIAL PATH

- Applies to tanks which heat four or fewer residential units
- The responsible party is the homeowner
- Impacts are limited to inside the house and on-site soils
- Soil removal to the maximum extent prudent
 - Can leave impacted soils if residential footing would be threatened by removal
- Groundwater must be sampled if encountered
- Groundwater impact doesn't last more than 24 hours

SPECIAL PATH - CLOSURE REPORT

- Identifies the location of any remaining contamination, if any
- Provides evidence that cleanup was to the maximum extent prudent
 - Soil samples from the limits of excavation
 - All samples collected from groundwater to show no impact after 24 hours and three attempts to remove
- Determination that closure report can only be used to comply with soil standards, not groundwater
- PEP and/or LEP certification of cleanup



SPECIAL PATH BENEFITS



- ❖ This special path for home heating oil is an early exit
- ❖ Most residential releases would be able to use this pathway
- ❖ The Closure Report will be available online and be accessible to potential buyers in the future. This will eliminate the confusion that frequently occurs when homebuyers become aware of a tank having been removed but the current owner does not have information regarding whether there was contamination and if any remains.

ANOTHER EARLY EXIT

Examples already discussed:

- Background metals
- 120 days to cleanup historical releases before reporting
- Releases that are below 2x the RSRs within one year
- PEP provisions
- Permit by rule for managing Historically Impacted Material
- LEP implemented, risk-based DEC criteria (“short forms”)





Thank you

Please submit any questions within 7 business days to DEEP.Cleanup.Transform@ct.gov



SOIL BENEATH ROADS, PARKING LOTS, AND BUILDINGS

[John Gallalee](#), [Brendan Schain](#), [Kelsey Shields](#)

"PERMIT-BY-RULE" FOR SOIL UNDER CONCRETE AND BITUMINOUS CONCRETE

- Soil is not required to be remediated to the DEC if it:
 - is under a paved parking lot or road, or concrete building foundation; and
 - doesn't contain VOCs at greater than the applicable direct exposure criteria; and
 - is impacted by pollutants at concentrations:
 - less than or equal to both the industrial DEC and fifteen times the applicable DEC; **OR**
 - If the soil is more than a foot beneath the bituminous concrete or concrete, at concentrations greater than the industrial DEC but not more than fifteen times the applicable direct exposure criteria
- and
- is managed in accordance with the required permit by rule

PERMIT BY RULE

The permit by rule for managing polluted soil by the above means requires performance of the following:

- Maintain the concrete or bituminous concrete to prevent exposure to soil
- Inspect the concrete or bituminous concrete every five years
- Report on the condition of the concrete or bituminous concrete to DEEP every five years
- Manage the polluted soil properly during the times it is temporarily exposed for maintenance or replacement of the concrete or bituminous concrete or infrastructure below it.

NOTICE

Record an affidavit of facts on the land records memorializing the existence of inaccessible soil beneath concrete or bituminous concrete managed using the permit by rule

A different mechanism to provide notice over time for roads rendering soil inaccessible managed using the permit by rule

Please submit any questions
within 7 business days to

DEEP.Cleanup.Transform@ct.gov

THANK YOU!



NEW EXPOSURE SCENARIOS

Alessandra Alling, Jing Chen, John Gallalee, Rosemary Gatter-Evarts, Elizabeth McAuliffe, Monica Meschiatti, Kevin Neary, Lori Saliby, Brendan Schain, and Peter Zaidel

NOT A NEW CONCEPT

- Developing criteria for additional exposure scenarios beyond residential and industrial/commercial has been a topic of discussion for years.
- Most recently identified in subcommittee concept papers:
 - **Subcommittee 7** – additional pre-approved risk scenarios benefit site closure and could be LEP-implemented; no specific exposure scenarios suggested.
 - **Subcommittee 9** – recommended that the Department consider numerous exposure scenarios, including a passive residential for apartment/condominium complexes and a passive park visitor.

PASSIVE RECREATION

- A release can be cleaned up to the passive recreation direct exposure criterion if:
 - **It is subjected to an EUR**
 - OR-
 - **It has a passive recreation conservation easement placed on it**
- Areas surrounding the subject area of the easement or EUR may be subject to residential direct exposure criteria

EASE OF IMPLEMENTATION

- Subcommittee 9 highlighted current EUR process as a potential hinderance to implementing additional exposure scenarios and suggested alternative mechanisms beyond EURs (e.g., land trusts) to ensure maintenance of the exposure scenario.
- Use of a **conservation easement** in place of an EUR represents significant step in streamlining process while still ensuring exposure scenario will be maintained and passive recreation DEC will be appropriately protective.



WHAT IS PASSIVE RECREATION?



Examples of Uses that Qualify	Examples of Uses that DO NOT Qualify
hiking trails	sports fields
bike paths	picnic grounds
horse trails	playgrounds
XC ski trails	campsites

MANAGED RESIDENTIAL – QUALIFICATIONS

- A release may qualify for use of the managed residential direct exposure criterion if:
 - There are four or more units on the same parcel; and
 - The parcel and residential units are managed by an association or professional property management company; and



MANAGED RESIDENTIAL – QUALIFICATIONS

- Use of the managed residential direct exposure criterion will also require:
 - **An EUR is in place prohibiting:**
 - any kind of disturbance of soil by residents; and
 - active recreation without impervious cover.



SUMMARY

- *DEEP is committed to working with DPH to try to move forward with these two new exposure assumptions as part of this regulatory package – conversations on-going.*
- Formal mechanisms are needed to ensure that new DEC values will remain appropriate and protective in the future and site conditions will not change.
- The use of alternative controls like conservation easements and permits by rule are a major step forward in streamlining the EUR process to be able to utilize the passive recreational DEC.

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THANK YOU!