

**UHOT Stakeholder Group Meeting
NJDEP Headquarters
January 14, 2011**

Attendees:

John Donohue – Fuel Merchants Association of NJ
Jon Libourel – Brilliant Environmental Services (LSRP/SSE)
Tom Pitcherello – Department of Community Affairs, Division of Codes & Standards
Michael Russo – Whitman Company (SSE)
Kathi Stetser – Roux Associates (LSRP/SSE)
Melody Warraner, High Point Insurance
David Caulfield – NJDEP, Bureau of Ground Water Pollution Abatement
Chris Dwyer – NJDEP, Bureau of Southern Field Operations
Tessie Fields – NJDEP, Office of Community Relations
Brent Vonroth – NJDEP, Bureau of Northern Field Operations
Ken Kloof – NJDEP, Site Remediation Program

Absent:

Greg Buzan – SSG-BARCO (LSRP/SSE)
Bruce Shapiro – New Jersey Association of Realtors
Gary Sanderson – NJDEP, Unregulated Heating Oil Tank Program

Minutes: The minutes of the December 17, 2010 UHOT Stakeholder Group meeting were reviewed and accepted with minor edits.

Agenda: The agenda for the January 14, 2011 UHOT Stakeholder Group meeting was reviewed and accepted with some additions to the agenda.

LSRP process: With the exception of one LSRP representative who strongly disagreed, stakeholders agreed that DEP should continue to issue all NFAs for unregulated heating oil tanks, including those remediated under the direction of an LSRP, with the exception of cases subject to other regulatory authority (i.e., ISRA or UST rules) or when the LSRP issues an entire site RAO.

“Over-excavation” guidance: Stakeholders agreed to defer discussion on developing guidance for the practice of over-excavating to avoid subsequent mobilizations. The guidance was requested to address concerns relative to unnecessary remediation or inflating costs. DEP will attempt to develop draft language for inclusion in the rule to address this issue.

Ground water investigation requirements: Stakeholders resumed discussion of ground water investigation requirements.

DEP representatives presented a tiered approach providing options in the following order of preference:

1. three monitor wells around the tank/excavation
2. three well points around the tank/excavation
3. one well in the excavation
4. one well adjacent to the excavation

As part of the discussion, DEP agreed to consider eliminating the requirement for the collection and analysis of trip and field blanks.

Stakeholders agreed to defer discussion to clarify the potable well sampling requirements (in terms of distance from impacted area) and how to sample the potable well.

***De minimis* volumes of contaminated soil:** Stakeholders deferred discussion as to whether DEP was considering *de minimis* volumes of contaminated soil that would not require remediation. DEP will evaluate this issue and provide guidance at a future meeting.

Certification of other environmental professionals' data: Stakeholders resumed discussion regarding the issue of certifying data generated by another environmental professional, usually as a result of an insurance liability determination.

DEP representatives questioned whether all sampling, including that performed by insurance carriers for a liability determination, be conducted in accordance with DEP regulations and guidance. What would be the additional cost to insurers, and would a subsequent environmental professional be willing to certify data they did not generate. The issue will be discussed further at the next meeting.

On-site supervision by LSRPs: The issue of whether an LSRP was required to provide on-site supervision of all remediation activities was deferred to the next meeting.

OSC approvals for non-residential tanks: Discussion regarding the ability to obtain On-Scene Coordinator (OSC) approval for non-residential unregulated heating oil tanks consistent with the practice for residential unregulated heating oil tanks is being investigated by DEP. Currently, discharges to surface water for a non-residential unregulated heating oil tank require a NJPDES-DSW permit.

Remediation standards - 8,000 ppm limit for “free and residual product”: Stakeholders agreed to defer discussion of the 8,000 ppm limit established by DEP for “free and residual product”, which must be remediated, to the next meeting.

Enforcement of mandatory and regulatory timeframes: Stakeholders deferred discussion as to whether DEP would be taking enforcement against homeowners relative to the mandatory and regulatory timeframes established in the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS). The Site

Remediation Reform Act and the ARRCs rule exclude unregulated heating oil tanks from the mandatory timeframes.

Non-UHOT related contaminants: The issue of how to address contamination detected but unrelated to an unregulated heating oil tank was deferred to the next meeting.

Penalty point system: Stakeholders agreed to defer discussion concerning DEP's intention to adopt the current Penalty Point System used in the Unregulated Heating Oil Tank Program as a means of alerting environmental professionals of performance issues prior to suspending a certification.

Rule schedule:

Draft – May 2011

Proposal – July 2011

Adoption – May 2012

Future meetings and workgroups: The workgroup formed to assist DCA with the development/revision of guidance documents for the investigation of tanks for in-place abandonment continues to meet and make progress. The workgroup consists of Tom Pitcherello, Greg Buzan, John Donohue and Chris Dwyer.