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March 30, 2013

Department of Environmental Protection  
Bureau of Waste Site Cleanup  
One Winter Street, 6th Floor  
Boston, MA 02108  
Attn: Elizabeth Callahan

Re: Proposed 2013 MCP Changes

Dear Ms. Callahan:

I am writing to provide comments on the proposed 2013 changes to the MCP. My comments pertain to one section *40.0046: Application of Remedial Additives*. The proposed revisions will prohibit the application of Remedial Additives within 100 feet of an occupied Residential Dwelling (unless specifically approved by DEP). The DEP notes that the change was prompted by an actual case of vapor intrusion into a residence from the additives. I would ask that this portion of the revision be removed, or at least modified to exempt the application of remedial additives to treat releases of #2 fuel oil at Residential Dwellings.

It is a fairly common practice to treat residual fuel oil impact beneath residences with Fenton's Reagent. I think it can be safely argued that no LSP wants to be in charge of a residential cleanup where the application of the Fenton's results in an unwanted or excessive reaction that may cause oil vapors to enter a residence. In my experience, this is something that happened in the past when contractors applied a Fenton's (peroxide) concentration of 35% or greater. No one that I know or have heard of applies that relatively high concentration anymore; most apply between 10 and 15% concentrations,

and I believe it is common knowledge that the Fenton's should not be applied until the free-phase oil has been removed.

It is my opinion that this proposed change to the MCP is regressive. It would add DEP oversight and ultimately add to the cleanup cost of residential fuel oil spills. This is contrary to the mission statement of the 1993 MCP, which was to streamline the cleanup process and minimize DEP oversight by privately licensing LSP's and transferring the responsibility to them.

You may be aware that several insurance companies are scaling back their coverage of fuel oil releases at residential dwellings as an unintended consequence of the recent revisions to the homeowner's insurance regulations. Over the past 18 months, insurance companies have begun to deny coverage under the liability portion of their policies, resulting in a discernable shift towards homeowners having to bear the cleanup costs.

This typically happens if a homeowner has not purchased an oil spill rider to the policy; however those riders were intended only to provide coverage under cases of first party damages. I have personally been involved with two cases in the past year where homeowner's have had to fund cleanups to the tune of \$150K to \$200K out of their own pockets. In both cases, groundwater was impacted and the oil threatened to migrate off-site and would normally have been covered under the liability portion of their homeowner's policy. In both cases we used Remedial Additives (chemical oxidation) to reduce the risk and cost-effectively remove the residual impact. In neither case did we have a problem with vapor intrusion.

In both of these cases, the cost would have been greater if DEP had to provide specific approvals. A DEP approval will typically take longer than the 21-day presumptive IRA approval process, slowing down the cleanup and allowing the oil to migrate further before treatment. Additionally, in the future, the cost of the extra stipulations in the

DEP approval will be born more and more by the homeowners themselves. DEP should consider this before changing the regulations.

I am not opposed to DEP prohibiting the use of Remedial Additives near residences in the cases of a gasoline or solvent release, as the potential for unintended vapor migration is much greater in those instances.

Please feel free to call or email if there are any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "S.B. Shope", with a long horizontal flourish extending to the right.

Steven B. Shope, LSP  
President  
Exeter Environmental Associates, Inc.