

Saint Regis Mohawk Tribe

Home Heating Fuel

Tank & Delivery Ordinance

&

Supporting Materials

July, 2011

Prepared By:

Matthew V. Thompson

As a Part of the Home Heating Fuel Committee

Revised September 2011





Ohiarihko:wa/ July 2011

To Tribal Council:

The attached Environment Division report, **Home Heating Fuel Tank & Delivery Ordinance & Supporting Materials, July 2011**, is the result of work completed by the Home Heating Fuel Committee. The Home Heating Fuel Committee was formed to address Fuel Oil spills in Akwesasne. The results of this committee are summarized in this report, and wholly express the committee's recommendations on how to best mitigate and address these concerns.

The key elements of the Home Heating Fuel Tank & Delivery Code & supporting materials are: 1) The Tanks & Delivery Ordinance; 2) Spill Prevention and Education; 3) Inspections; 4) Emergency Response Team Procedures; and 5) Fuel Spill and Recovery Fund. Each section in the briefing package addresses an area associated with Fuel Oil spills, and the committee recommendations is to adopt these policies to best mitigate spills in Akwesasne.

Sken:nen/ Peace,

A handwritten signature in black ink, appearing to read "Ken Jock". The signature is written in a cursive, flowing style.

Ken Jock
Environment Division
Director

Saint Regis Mohawk Tribe

Environment Division



Home Heating Fuel Tank & Delivery Ordinance

& Supporting Materials

July 2011

Prepared by Home Heating Fuel Committee

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Saint Regis Mohawk Tribe

Environment Division

Home Heating Fuel Tank & Delivery Ordinance & Supporting Materials

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Home Heating Tanks & Delivery Ordinance

Whereas the Tribal Council is the duly recognized governing body responsible for the protection of the land, air, water, natural resources, and environment of all lands within the exterior boundaries of Akwesasne. Fuel Oil Spills pose a direct threat to the environment, and health of members and residents through the contamination of soil and water through their releases. As such it is the responsibility of Tribal Council to approve Tribal Policies and laws that will mitigate and prevent Fuel Oil spills from occurring, and in the event of a spill, assist in any cleanup efforts.

The following ordinance represents the recommendations of the Home Heating Fuel Committee on the best way to prevent fuel oil spills from occurring within the community.

Saint Regis Mohawk Tribe

Home Heating Fuel Tanks & Delivery Ordinance

SECTION 1 – GENERAL

Section 1.1 Purpose

Whereas the Tribal Council is the duly recognized governing body responsible for the protection of the land, air, water, natural resources, and environment of all lands within the exterior boundaries of Akwesasne. Fuel Oil Spills pose a direct threat to the environment, and health of members and residents through the contamination of soil and water through their releases. As such it is the responsibility of Tribal Council to approve Tribal Policies and laws that will mitigate and prevent Fuel Oil spills from occurring, and in the event of a spill, assist in any cleanup efforts.

With current practice, home heating fuel deliveries and inspections remain unregulated and lack effective monitoring within Akwesasne and the Saint Regis Mohawk Tribe (SRMT) and community is faced with a potentially devastating situation. The SRMT believes it is necessary to implement duties and obligation, to ensure the preservation and protection of the environment for future generations from leaks and spills.

The purpose of this ordinance is to establish responsibilities and procedures for fuel oil dealers operating within the Territory of the Saint Regis Mohawk Tribe. This regulation will govern registration, filling operations, spill reporting, tank installations, and visual tank inspections. Inspection and leak detection is the responsibility of all parties; the homeowner and the delivery personnel within the Territory.

Section 1.2 Jurisdiction

The Saint Regis Mohawk Tribe has the inherit responsibility to protect the health, welfare, and safety of the people of Akwesasne.

Section 1.3 Applicability

This ordinance applies to all home heating fuel providers that conduct business within the jurisdiction of the Saint Regis Mohawk Tribe.

Section 1.4 Definitions

“Tank” means any stationary tank, which contains 55 gallons or more of home heating fuel.

“Home Heating Fuel Provider” means a person who transports and transfers petroleum products from one pipe or tank to another.

“Cathodic protection” means corrosion protection for an underground metal tank or pipe by causing a continuous electric current to flow from one or more electrodes or a sacrificial anode to the protected structure.

“Storage Tank System” means the tank, foundation, piping, and all attachments.

Section 2 – Registration

Dealers operating their business within the jurisdiction of the Saint Regis Mohawk Tribe must be licensed by the Saint Regis Mohawk Tribe.

Fuel dealer must also present proof of financial responsibility which includes, but is not limited to, one of the following:

- A. Pollution Liability Insurance and/or
- B. Security Bonds and/or
- C. Letter of Credit and/or
- D. Qualifications as self-insured

The amount of financial responsibility will be \$500,000 per occurrence and \$1,000,000 for aggregate coverage.

Section 3 - Inspections

Inspection and leak detection is the responsibility of the homeowner and the Home Heating Fuel Provider. Monthly inspection, annual inspection, and SRMT inspection should be conducted according to the following parameters:

3.1.1 Bi Monthly Visual Inspection by Homeowner:

Visual inspections of storage tank to be conducted on a monthly/bimonthly shall include the following checks:

- A. Tank Foundation
- B. Tank Legs
- C. All Piping
- D. Tank Condition
- E. Area surrounding the tank system should be free of debris and household items.

If the tank is underground the following must be checked:

- A. Type of tank and its age
- B. Conduct a test for presence of water
- C. Cathodic protection monitoring

3.1.2 Annual Inspection by Home Heating Fuel Provider:

Visual Inspection of storage tank to be conducted on an annual basis and should be conducted at the start of the fuel season. Homeowners with indoor tanks will need to be present. The annual inspection shall include the following checks and reviews:

- A. Tank Foundation
- B. Tank Legs
- C. All Piping
- D. Tank Condition
- E. The vent alarm must be present and free of excessive corrosion

3.1.3 Tribal Inspection

Tribal Inspection will be conducted by personnel from the Saint Regis Mohawk Tribe. The inspection shall include the following checks and reviews:

- A. Tank Foundation
- B. Tank Location
- C. Tank Legs
- D. Valves free of excessive corrosion
- E. Fill Pipes
- F. Vent Alarm
- G. Diameter of fill pipe
- H. Tank Condition
- I. Fuel level gauge must be working and not cracked

Inspection will be conducted if requested by the homeowner, business, and inspection program, or referred by Tribal Program or Division or any Tribal Entity.

- 3.2 Any tank that passes the yearly visual inspection shall be granted a Tribal Inspection Certificate, permitting fuel delivery. Said Certificate can also be in the form of a sticker.
- 3.3 Any tank **failing** the yearly visual inspection **shall not be allowed to be filled** with Home Heating Fuel until full compliance is reached.
 - A. Notification to Owner, Fuel Dealer, Land Lord, and Tenant must be made indicating that the tank could not be filled until the failing component is repaired or replaced.
- 3.4 If the Storage Tank is deemed beyond repair it shall be taken out of service
 - A. Recommendations for a new tank shall be made available by SRMT.

Section 4 – Fill Operations

A Home Heating Fuel Provider is responsible for determining if the integrity of the tank and piping system is sound. Fuel will only be delivered when an occupant of the dwelling is present (for indoor tanks). It will be the fuel dealers' responsibility to work with the occupant or business owner to schedule an appointment.

Product Transfer Operations:

4.1 When fuel is being transferred the operator shall remain:

- A. in constant view of the fill pipe;
- B. in constant attendance at the delivery control valve

4.2 All Home Heating Fuel Dealers shall develop and provide copies of Standard procedures for normal operation, as well as emergencies. This shall be given to the operator, and the Home Heating Fuel Dealer shall certify that any employee involved with the transfer of petroleum shall be trained in the correct operating procedures for all equipment.

Section 5 – New Tank Installations

When replacing either the tank, or the piping, or installing a whole new system, the tank should be built in accordance with UL 80, Steel inside Tanks for Oil Burners Fuel. A new system must be installed in accordance NFPA 31 standard, Installation of Oil Burning Equipment, and a SRMT building permit must be obtained. Once the fuel dealer receives approval to operate by the SRMT, copies of the NFPA standards and the UL Standards will be provided for reference.

The Saint Regis Mohawk Tribe has established additional requirements for the new tank and piping systems:

- Every vent pipe shall have a 1 ½”-2” inside diameter whichever is equivalent to Fill Line.
- Only wrought iron, steel, or brass piping shall be used for both the vent and fill lines.
- A vent alarm is required on every tank.
- A tank stored indoors shall have both the vent and fill pipe terminating outdoors.
- Outdoor Tanks need to be installed on the gable end of the house or business or have a protective roof.

An underground fuel tank shall not be installed without prior approvals from SRMT Environment. Only Propane tanks will be considered not Fuel Oil.

The Saint Regis Mohawk Tribe Environment Division shall make recommendations of approved Tanks for use on the SRMT Territory.

Section 6 – Spill Reporting

In the event of a spill during delivery, the Home Heating Fuel Dealer must take the following steps:

- A. Cease filling operations.
- B. Attempt to contain the spill.
- C. Notify homeowner or business manager of incident.
- D. IMMEDIATELY notify the SRMT Environment Division or the Tribal Police Department after hours if the spill is over five (5) gallons.
- E. Employees must notify Employer.

Section 7 – Enforcement

A Fine, of Non-compliance with this ordinance may result in the suspension of business licenses, and in the finding of held responsibility for the result of any spill. Homeowners, tenants, or occupants who choose not to be in compliance with inspection regulations may become ineligible for any SRMT Administered Fuel Assistance.

The maximum fine under this ordinance shall be five thousand dollars (\$5,000.00) plus the costs of remedial work, or any combination thereof that is determined to be just and equitable. Any decisions and rendering of penalties shall be reviewable in the SRMT Court.



Spill Prevention and Education Plan

With any new policy or program a major component to success of the program is Education. The Home Heating Fuel Tank & Delivery Ordinance requires specific education and training to prevent spills from occurring.

The following is the proposed work plan and supporting documents to address education as an integral part of this new program.

EDUCATIONAL PLAN

Performance Measures and Milestones		
Activities	Time Period	
	Begin	End
Activity 1: Develop Educational Materials	M1	M3
Activity 2: Community Outreach and Education	M2	M11
Activity 3: Host Training with NYSDEC for home heating fuel delivery personnel	M3	M3
Activity 4: Final Report and Follow up	M11	M12
<p>Outcomes Expected:</p> <ul style="list-style-type: none"> a) Educated Akwesasne homeowners on pollution prevention for home heating fuel tanks. <p>Outputs Expected:</p> <ul style="list-style-type: none"> a) Educational sessions for Seniors, low-income, any other community members on pollution prevention b) Educational Material for Home Heating Fuel Tank Spill Prevention c) Partnership with the Saint Regis Mohawk Senior Center d) Approved Home Heating Fuel Tank Delivery Regulation e) Final Report 		

SUPPORTIVE NARRATIVE

The first priority for the project will be for the Environmental Compliance Inspector (Inspector) and the Outreach Coordinator to develop educational materials. The deliverables will be a brochure, magnet, several posters, and a manual for all home heating fuel delivery personnel.

The second priority will be to begin community outreach and education. This will be the bulk of the work for this project and last the longest amount of time. The Inspector and Outreach Coordinator will host at least three community information sessions at the community building and the senior building. They will also identify community events to attend to share education material with the community such as wellness day, earth day celebration, and the community pow-wow.

Another important priority for this project is educating the delivery personnel. Many of these individuals tend not to have too much technical experience/training and lack knowledge in what to look for. Russell Mulvey, Environmental Engineer from the New York State Department of Environmental Conservation, Environmental Remediation & Bulk Storage Program, volunteered to be the main presenter and share his 20 plus years of expertise with the participants. The training will cover:

- a) What to inspect prior to fill up.
- b) What a proper installation looks like.
- c) What precautions they can take to prevent overflow.

Spill Prevention Education Time Line



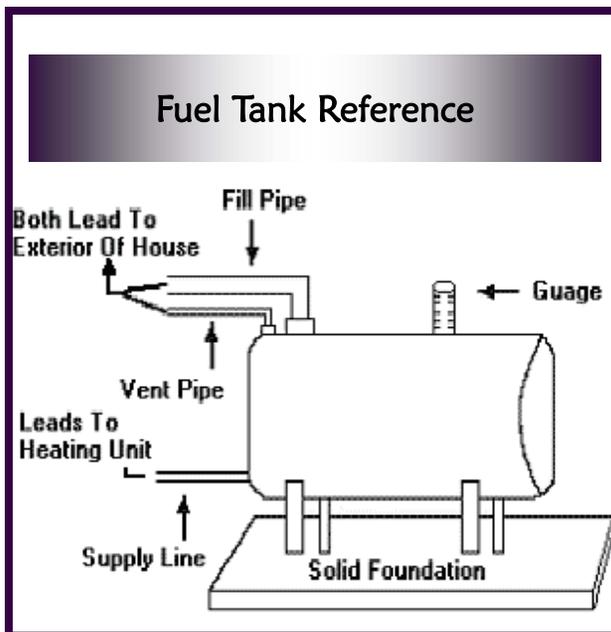
These are a few of the events that could be included as places to distribute the information on Home Heating Fuel once it has been finalized. Other community events could be added to the list when made public. Possible outreach items are brochures, public announcements, newspaper ads, magnets, posters, and a manual.



Tank tip-over's and fuel delivery accidents are the leading causes of residential fuel oil spills. To help eliminate fuel delivery accidents, homeowners and renters should review the inspection check list inside this brochure.

For owners who are filling up their tanks for the first time please conduct a through inspection of the tank and its piping with your delivery person before first fill up occurs.

Also tanks that are stored outside should be kept at least three quarters full during the summer. This will prevent water from entering the tank through condensation. This will minimize the inside of the tank from corroding.



Learn more about:

- Open Dumping Not the Solution
- SRMT Recycling Guide
- SRMT Burn Guidelines
- Solid Waste Residential Collection Services
- Does Burning your Trash Make It Disappear
- Household Hazardous Waste Information Sheet

By stopping by our offices at 449 Frogtown Road or visiting us on the web www.srmtenv.org



Saint Regis Mohawk Tribe

412 State Route 37
 Akwesasne, NY 13655
 Phone: 518-358-5937 Fax: 518-358-6252
 Email: jessicac.creealvarez@srmt-nsn.gov

Preventing Home Heating Oil Spills



Environmental Compliance Program

Helping Build A Better Tomorrow!!!

Preventive Measures for Homeowners to Stop Fuel Spills

Homeowners should conduct visual inspections of their fuel oil tanks every three months. The following is a homeowner's self inspection checklist to determine if there may be a problem with their heating oil tank. If you answer YES to any of these questions, you should call the your fuel oil dealer for assistance or the Saint Regis Mohawk Tribe's Environment Division with any questions.

— Tank legs unstable, flaking from rust, or on a shaky foundation? (Very Important.)

— Signs of rust, wet spots, or excessive dents on the tanks surface?

— Drips or signs of leakage around the filter or valves?

— Do the oil lines between the tank and the furnace run either under concrete or aboveground without being encased in a protective tubing?

— Danger of snow or ice falling on the tank? (Very Important.)

— Tank vent pipe clogged or restricted because of ice, snow, insect nests? (Screened vents can be used to prevent insect nest problems.)

— Is the overflow whistle silent when the tank is being filled? (Ask your delivery person.)

— Are there signs of spills around the fill pipe or the vent pipe?

— Is the fuel-level gauge cracked, stuck, frozen, or are there signs of oil around it?

— Are the filler and vent lines made out of plastic instead of black or galvanized iron? Some plastic lines can shatter or break in extremely cold weather.

— Is the inside diameter of the fill pipe less than 2"?

— Are you using more oil than normal?

— Is the vent pipe missing or not connected to the tank?

— Can you smell fuel odors long after a delivery is made?

— Is the tank over 25 years old?

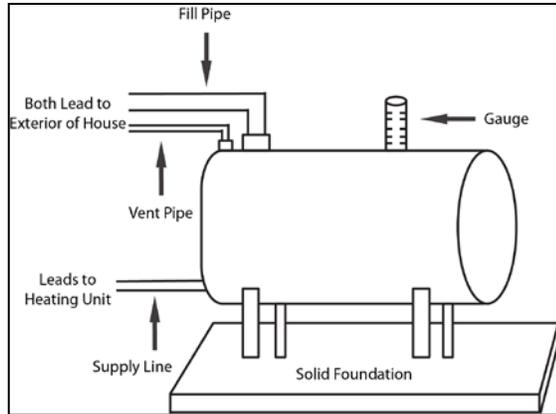
Please review back panel for a fuel tank components reference!!!



Despite efforts accidents happen and in the event of a spill please contact the Saint Regis Mohawk Tribe Environment Division at 518-358-5937 immediately, the sooner they know and can respond the less impact the spill will have on personal property and the environment!!! (For community members residing on the Canadian portion of the territory please contact MCA Environment Division at 613-936-1548.)

Preventing Home Heating Fuel Spills

Tank tip-overs and fuel delivery accidents are the leading causes of residential fuel oil spills. To help eliminate fuel delivery accidents homeowners and renters should conduct visual inspections using this check list every three months.



For owners who are filling up their tanks for the first time please conduct a thorough inspection of the tank and its piping with your delivery person before your first fill-up occurs.

Also tanks that are stored outside should be kept at least three quarters full during the summer.

This will prevent water from entering the tank through condensation. This will minimize the inside of the tank from corroding.

If you answer yes to any of the following questions please contact your fuel dealer or the Saint Regis Mohawk Tribe Environment Division for further assistance.

--Are the tank legs unstable, flaking from rust, or on a shaky foundation? (Very Important.)

--Are there any signs of rust, wet spots, or excessive dents on the tanks surface?

--Are there any drips or signs of leakage around the filter or valves?

--Do the oil lines between the tank and the furnace run either under concrete or aboveground without being encased in protective tubing?

--Is there danger of snow or ice falling on the tank? (Very Important.)

--Is the tank vent pipe clogged or restricted because of ice, snow, insect nests? (Screened vents can be used to prevent insect nest problems.)

--Is the overfill whistle silent when the tank is being filled? (Ask your delivery person.)

--Are there signs of spills around the fill pipe or the vent pipe?

--Is the fuel-level gauge cracked, stuck, frozen, or are there signs of oil around it?

--Are the filler and vent lines made out of plastic instead of black or galvanized iron? Some plastic lines can shatter or break in extremely cold weather.

--Is the inside diameter of the fill pipe less than 2"?

--Are you using more oil than normal?

--Is the vent pipe missing or not connected to the tank?

--Can you smell fuel odors long after a delivery is made?

--Is the tank over 25 years old?

Despite efforts accidents happen and in the event of a spill please contact the Saint Regis Mohawk Tribe's Environment Division at 518-358-5937 immediately.



Home Heating Fuel Tank Inspections

The most important part of preventing Fuel Oil spills is conducting effective Fuel Tank Inspections. As a part of the Fuel Tank & Delivery Ordinance, tank inspections will be conducted by three distinct groups: 1) homeowners/ land lords/ renters; 2) Fuel Providers; and 3) Tribal personnel.

Homeowner inspections shall be conducted on a monthly/bi-monthly basis. The main emphasis on this will come out of the educational materials created under the Education plan. Pamphlets and brochures will assist all owners on how to properly maintain and inspect their tanks.

Fuel providers will represent the most beneficial inspection to prevent fuel oil spills. As a part of the policy providers must complete an Inspection prior to filling any tank. They must work with homeowners to ensure all tanks indoors and out will be inspected. If any tank fails inspection the homeowner must be notified, and no fuel may be delivered. Also Tribal Compliance and Environment divisions must be notified. Fuel Tanks that fail must be repaired before any fuel delivery can commence. Training for all providers is addressed under the education plan and the Environment, and Compliance divisions will work with providers to ensure personnel are knowledgeable in inspection procedures.

Tribal Inspections will take place on a periodic basis and be conducted by an Environmental Compliance Inspector. The Tribal Inspection will be the most comprehensive inspection due to enhanced training. Inspections will be conducted if requested by the homeowner, business, and inspection program, or referred by Tribal Program or Division or any Tribal Entity.

Enclosed are two sample inspection sheets for the Fuel Delivery Inspection, and the Tribal Inspection.

Saint Regis Mohawk Tribe
Home Heating Fuel
Delivery Inspection

Residence/Business
Name/Address: _____

Phone: _____

Delivery Personnel: _____
Date: _____
File#: _____

General Requirements:

Fuel tanks shall undergo a visual inspection prior to filling upon every delivery. The inspection of Fuel Tanks shall look for deterioration of the tank that could result in a leak of fuel oil, and catastrophic failure. The Home Heating Fuel Delivery Personnel shall look for the following requirements prior to filling of all fuel tanks. Each field shall be issued a pass/fail, with any fail resulting in an unconditional no fuel delivery status.

Fuel Tank requirements:

Requirement	Pass/Fail
The tank must be on a sturdy foundation, and have visually stable legs that are free of excessive corrosion	
The pipes into/out of house shall be free of excessive corrosion and leaks	
The vent alarm must be present, and free of excessive corrosion	
There shall be no excessive dents or corrosion spots on tank	

Recommendations: _____

Saint Regis Mohawk Tribe
 SRMT Personal
 Fuel Tank Inspection

Residence/Business
 Name/Address: _____

 Phone: _____

Inspector: _____
 Date: _____
 File #: _____

General Requirements:

Fuel tanks shall be inspected for leaks and integrity on a periodic basis. The inspection of Fuel Tanks shall look for deteriorations of the tank that could result in a leak of fuel oil, and possibly recommend that no additional fuel be added until inspector recommendations are followed by the home owner. The Saint Regis Mohawk Tribe tank inspector must look for the following requirements on all fuel tanks. Each field shall be issued a pass or fail, with recommendations being provided if a requirement has failed.

Fuel Tank requirements:

Requirement	Pass/Fail
The tank must be on a sturdy foundation	
The tank must be located on the gable side of the house Or have protective roof	
The tank legs all must be present and free from excessive corrosion	
All valves must be free from excessive corrosion	
The fill pipe must be made of iron or steel	
The vent alarm must be present, and excessive corrosion free	
The inside diameter of the fill pipe must be 2" or larger	
The vent pipe shall be larger than 1-1/4"	
The tank shall not have excessive corrosion spots, or weakened spots anywhere on the tank	
There shall be no excessive dents on the tank	
There shall be no signs of spills around the tank and around the fill pipe	
The fuel-level gauge must be in working order and not cracked	
The pipes into/out of house shall be free of excessive corrosion and leaks	

Recommendations: _____



Emergency Response Team Procedures

The Environment Divisions Emergency Response Team (ERT) since its inception has responded to hazardous waste and toxic substance spills in Akwesasne. In recent years several large Fuel Oil spills have occurred that has required a significant cleanup effort. During these spill events Tribal Council was needed to Fund the cleanup effort, thus prompting the need for a Home Heating Fuel Tank & Delivery Ordinance.

The Following represents what the ERT does in the event of a spill or incident, and potential cost considerations for such incidents.

ERT Spill Response, Clean Up and Recovery

The ERT and What We Do

The Saint Regis Mohawk Tribe, Environmental Response Team (ERT) is a unit established under the Tribe's Environment Division that is trained in responding to hazardous materials releases using response tools, personal protective equipment and materials to minimize harm to life and property. The ERT's role is:

- A. To respond to reported events for evaluation and determination of additional state, federal and private sector resources required to manage the problem;
- B. To perform technical response procedures in accordance with standard operating procedures and personal protection guidelines; and
- C. To provide support to other response agencies as required.

An event is a spill or incident where a hazardous material (as per USDOT definition) is dispersed into the environment or its container is damaged to such an extent that the contents can be expected to be released with the potential to cause injury to people or harm the environment. Petroleum heating fuels are considered a hazardous material and are classified as a flammable liquid.

The ERT responds to spills following an established set of procedures, Standard Operating Procedures (SOP), based on Occupational Safety and Hazards Administration and National Fire Protection Administration guidelines and competencies.

For home heating fuel spills the ERT will respond as follows upon receipt of notification that fuel oil has spilled or leaked into the environment:

1. A spill notification sheet is completed that records details of the spill location and nature of the spill.
2. A minimum of 2 ERT members will be dispatched to the spill location for initial evaluation.
3. The ERT members will size up the spill and evaluate the need for additional resources including more ERT members to assist, site security and/or traffic control, medical assistance, and notification and/or request for outside support resources, e.g. US Coast Guard.
4. The ERT will evaluate the dangers to human health and the environment and initiate actions based on team capacity and resources.
5. The ERT will defensively contain and confine the spill using supplies and equipment to limit the spread of fuel.

6. The ERT will use instrumentation to evaluate the indoor air quality impacts and assess the need for ventilation, occupancy/evacuation based on detection readings in parts per million (ppm).
7. After the spill has been stopped, confined and/or stabilized the ERT will seek to identify the cause of the spill and determine a responsible party to assign clean up costs.
8. In the event the ERT is unable to identify a responsible party the ERT will utilize its resources, including a request to Tribal Council for funds, to clean up the spill as soon as possible.
9. The ERT will assign a project person to the spill to monitor clean up and disposal activities until the file is closed on the spill.
10. The ERT at its discretion will bill persons for materials and time used in spill response.
11. The ERT maintains records of the spill from the time of notification to file closure in its database for future reference.

Immediate Response Action

The ERT will collect pooled oil using a combination of pumping and absorbent materials (pads, socks, loose). Collected oil will be placed in containers and disposed of as non-hazardous waste through a licensed disposal contractor.

The ERT will utilize field screening methods to initially evaluate soil vapor concentrations using established protocols and field screening instrumentation.

Spill Clean Up

The ERT will determine the appropriate clean up actions to take based on site considerations. The ERT utilizes the New York State Department of Environmental Conservation (NYSDEC) CP-51 Soil Cleanup Guidance, Kentenha/October 21, 2010 in determining the clean up levels.

***Petroleum Spill Response Program:** The goal of the Petroleum Spill Response Program is to achieve pre-spill conditions [6 NYCRR 611.6(a)(4)]. Remedial activities under this program shall be undertaken relative to the petroleum contamination that was released along with any co-mingled contamination from other sources. The remedial party shall achieve, to the extent feasible, the unrestricted SCOs for petroleum-related contaminants listed in 6 NYCRR Table 375-6.8(a). For petroleum contaminants not included in 6 NYCRR Table 375-6.8(a) (discussed in Section E below), the remedial party shall apply, to the extent feasible, the soil cleanup levels provided in Table 1. For ease of implementation, two lists of petroleum contaminants (Gasoline and Fuel Oil, Tables 2 and 3) are attached. The tables combine the applicable petroleum-related SCOs from 6 NYCRR 375-6.8(a) and the applicable petroleum related SSCOs from Table 1. Where DEC determines that it is not feasible to achieve the soil cleanup levels as set forth in this paragraph, the remedial party may propose soil cleanup levels in accordance with any of the general approaches. However, when considering restricted use soil cleanup levels, the remedial party should apply the least restrictive use category feasible.*

For purposes of this discussion, residential use is the least restrictive use, and industrial use is the most restrictive category. This process starts with consideration of residential use, followed by restricted residential use, commercial use, and then industrial use. The evaluation proceeds through the different land uses until a feasible remedy is found. If the protection of groundwater or ecological SCOs apply, the lower of the applicable protection of the public health SCO or the applicable protection of groundwater or ecological SCO should be achieved to the extent feasible. This evaluation is not bound to the SCOs in regulation or the SSCOs set forth in this guidance but may result in a site-specific soil cleanup level that is between the SCOs or soil cleanup level for two different land uses (e.g., above the restricted residential SCO and below the commercial SCO).

Soil Cleanup Levels for Gasoline Contaminated Soils

Contaminant	CAS Registry Number	Soil Cleanup Level (ppm)
Benzene	71-43-2	0.06
n-Butylbenzene	104-51-8	12.0
sec-Butylbenzene	135-98-8	11.0
Ethylbenzene	100-41-4	1.0
Isopropylbenzene	98-82-8	2.3
p-Isopropyltoluene	99-87-6	10.0
Methyl-Tert-Butyl-Ether	1634-04-4	0.93
Naphthalene	91-20-3	12.0
n-Propylbenzene	103-65-1	3.9
Tert-Butylbenzene	98-06-6	5.9
Toluene	108-88-3	0.7
1,2,4-Trimethylbenzene	95-63-6	3.6
1,3,5-Trimethylbenzene	108-67-8	8.4
Xylene (Mixed)	1330-20-7	0.26

Soil Cleanup Levels for Fuel Oil Contaminated Soil

Contaminant	CAS Registry Number	Soil Cleanup Level (ppm)
Acenaphthene	83-32-9	20
Acenaphthylene	208-96-8	100
Anthracene	120-12-7	100
Benz(a)Anthracene	56-55-3	1.0
Dibenzo(a,h)Anthracene	53-70-3	0.33
Benzene	71-43-2	0.06
n-Butylbenzene	104-51-8	12.0
sec-Butylbenzene	135-98-8	11.0
Tert-Butylbenzene	98-06-6	5.9
Chrysene	218-01-9	1.0
Ethylbenzene	100-41-4	1.0
Fluoranthene	206-44-0	100

Benzo(b)Fluoranthene	205-99-2	1.0
Benzo(k)Fluoranthene	207-08-9	0.8
Fluorene	86-73-7	30
Isopropylbenzene	98-82-8	2.3
p-Isopropyltoluene	99-87-6	10.0
Naphthalene	91-20-3	12.0
n-Propylbenzene	103-65-1	3.9
Benzo(g,h,i)Perylene	191-24-2	100
Phenanthrene	85-01-8	100
Pyrene	129-00-0	100
Benzo(a)Pyrene	50-32-8	1.0
Indeno(1,2,3-cd)Pyrene	193-39-5	0.5
1,2,4-Trimethylbenzene	95-63-6	3.6
1,3,5-Trimethylbenzene	108-67-8	8.4
Toluene	108-88-3	0.7
Xylene (Mixed)	1330-20-7	0.26

Cost Considerations

The ERT will determine the most cost effective method for clean up possible. The least costly clean up method that is most protective of human health where human exposure is a concern will be selected followed by the least costly method that is protective of the environment will then be selected. Considerations in evaluating cleanup include:

- Risks to humans
- Risk to the environment
- Level of contamination
- Site specific conditions such as soil type
- Extent of spill
- Proximity to buildings
- Proximity to groundwater and surface water
- Mobility of product
- Excavation costs
- In-situ treatment costs

The ERT will collect soil samples to assist in evaluating contamination levels.

Recommended Number of Soil Samples for Soil Imported To or Exported From a Site

Contaminant	VOC _s a	SVOCs, Inorganics & PCBs/Pesticides	
		Composite	Discrete Samples/Composite
Soil Quantity (cubic yards)	Discrete Samples		

0-50	1	1	Each composite sample for analysis is created from 3-5 discrete samples from representative locations in the fill.
50-100	2	1	
100-200	3	1	
200-300	4	1	
300-400	4	2	
400-500	5	2	
500-800	6	2	
800-1000	7	2	
> 1000	Add an additional 2 VOC and 1 composite for each additional 1000 Cubic yards or consult with DER. ^b		

Technological Considerations

In selecting cleanup methods the ERT will evaluate:

- Site access
- Proximity to buildings
- Site conditions
- Spill size
- Groundwater location
- Contamination levels
- Contractor costs
- Location of utilities
- Disposal costs

Excavation

This is a common and quick cleanup strategy. It is most often used especially when a response can be made soon after a spill occurs. There is a concern for affecting building structures. This option is selected when the spill area and extent is very well defined. This option has no long-term monitoring costs if cleanup is effective.

This process involves:

- Excavating contaminated soil
- Recovering pooled oil within a basement or off groundwater in an open pit

Excavated material may be disposed of at a permitted landfill or treated on-site. Excavation and off-site disposal can be performed only by qualified and licensed hauler (generator's permit).

On-site treatment will occur only if the following conditions are met:

- The responsible party demonstrates the ability to manage on-site treatment including management of runoff
- Site security
- There is enough area to properly manage the material
- Human risk exposures are minimized

Alternative Options

Other options may be considered when site access is limited, building structures will be affected, and the spill area is large. These options take more time and include long-term monitoring costs.

Alternatives include:

- Bioremediation
- Chemical Oxidation
- Soil Vapor Extraction

Costs

The ERT will track and record costs associated with response including personnel time, vehicle usage, materials used and other resources considered to be necessary to be protective of human health and the environment. The costs will be presented to a responsible party, insurance companies and other parties that play some role in paying for cleanup costs.



Home Heating Fuel Spill & Recovery Fund

The Home Heating Fuel Committee recommends the establishment of a spill fund. Recent Spills in Akwesasne have prompted Tribal Council allotment of significant funds to pay for the costs of cleanups. In order to prevent such allotments to be released the committee suggests establishing a spill fund that will only be used for cleanup costs, and potentially other home heating fuel related materials.

The following represents how the spill fund shall be established and how it will operate.

Home Heating Fuel Spill Response and Recovery Fund

Spill Response and Recovery Fund Background

The Home Heating Fuel Committee recommends and requests the establishment and development of a spill fund. The committee considered many options to fund a program that would allow the cleanup of any spills of hazardous home heating fuel, and agreed upon recommending the creation of a fee on home heating fuel sales.

Allocation of Home Heating Fuel Allotment

Currently the Saint Regis Mohawk Tribe has no fee associated with the sales of Home Heating Fuel Oil. Under this new regulation a \$0.04 per gallon fee will be added to all sales of home heating fuel oil and would be set aside and be used to establish the Spill and Recovery Fund.

The Spill Response and Recovery Fund will be placed into an interest bearing account that is added to through the sale of heating fuel oil so that the account may build and become available for covering larger response costs (e.g. >\$100,000-\$500,000) that are possible. The funds may only be used for costs occurred in responding to and cleaning up a spill and recovery of the spill area.

The Spill and Recovery Fund shall only be utilized upon approval from any one of the following:

- Emergency Response Team (ERT) Scene Commander
- Environment Division Director
- Tribal Compliance Director
- Tribal Council

Spill and Recovery Fund Moving Forward

The Spill and Recovery Fund will continued to be replenished every year, and only be utilized for cleaning up a spill until an appropriate funding level has been met. The amount shall be determined by the Environment Division, and the ERT based upon appropriate clean up costs, and reasonably predicting the absolute minimum level needed in the Fund.

Once the minimum Fund level has been met, the spill fund may be used for Home Fuel Tank repair and replacement for Tribal Members who apply.