

MEMORANDUM

DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE DIVISION
OFFICE OF SPILL RESPONSE AND REMEDIATION

Mail Address:
P.O. Box 1105
Richmond, VA 23218

Location:
629 East Main Street
Richmond, VA 23219

SUBJECT: Underground Storage Tank (UST) Regulation TAC Meeting Minutes—
December 17, 2007 at DEQ-PRO

TO: Cindy Berndt

FROM: Russ Ellison

DATE: December 18, 2007

COPIES: Fred Cunningham, Renee Hooper, Tom Madigan

The first UST TAC meeting was called to order at 1:15pm at the Piedmont Office of DEQ, 4949 Cox Road, Glen Allen, VA.

In attendance were: **Fred, Cunningham, Tom Madigan, Russ Ellison, Wallace Brittle (DEQ); Suzanne Ankrum**, Program Coordinator, Virginia Conservation Network, 422 East Franklin Street, Suite 303, Richmond, VA 23219, 804-644-0283, 804-644-0286, suzanne@vcnva.org
Peter Baird, F.W. Baird, 27801 Reams Drive, Petersburg, VA 23805 (804) 748-6887
pbaird@bairdpetroleum.com
Jeffery T. Howard, Environmental Manager, Chesterfield County, 9846 Lori Road, Suite 200, Chesterfield, VA 23832, howardjt@chesterfield.gov, (804) 717-6531 representative for Larry Land, Director of Policy, Virginia Association of Counties,
Dan Laing, Fuel Manager, VDOT Equipment Division, 6600 West Broad Street – Brookfield, Richmond, VA 23230 Daniel.Laing@VDOT.Virginia.gov
Mike O'Connor, President, VA Petroleum Convenience and Grocery Association (804) 282-7534
mike@vpcga.com – and **Wes Diggs**
Emory Rodgers, Deputy Director of Building & Fire Regulation, Department of Housing & Community Development (DHCD), Telephone: (804) 371-7000, Fax: (804) 371-7090 The Jackson Center, 501 North Second Street, Richmond, Virginia 23219-1321 Emory.Rodgers@dhcd.virginia.gov
Suzanne Parker Schweikart, Environmental Compliance Specialist, Chesapeake/Northeast/Great Lakes Divisions, 7-Eleven, Inc. (757) 490-6339 SWalte01@7-11.com
Jim Thornhill, Attorney, Partner, McGuire Woods Law Firm, jthornhill@mcguirewoods.com, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030 T: 804.775.1163 F: 804.698.2191
Absent--Denise Thompson (or substitute), Virginia Municipal League, 13 E. Franklin St., Richmond, VA 23219, P.O. Box 12164, Richmond, VA 23241 804/649-8471, 804/343-3758 dthompson@vml.org
Public attendee: **Ken Neal**, XERXES Tank Corporation.

After personal introductions, Fred Cunningham, Director of OSRR gave an overview of the UST program regulation effort and the plans underway to incorporate the EPA UST grant guidelines into state regulation. He announced that the TAC will have 2-3 meetings and this first meeting was to review each EPA guideline in detail to familiarize the members with the many options and requirements and to answer any questions.

Russ Ellison presented the preliminary issue of the requirement for each state to choose between requiring secondary containment for all new/replacement USTs and piping and requiring financial responsibility for installers/manufacturers. The group understood the issues, and Jim Thornhill indicated that the litigation issues appear very complex for the FR option especially with respect to proving product liability or installation problems and would likely be a significant effort with diminished results for the environment. Peter Baird and Suzanne Schweikart spoke to the common use of secondary containment already in the state and region. Mr. Ellison indicated that some 60% of UST installations last year were secondarily contained in VA and that the increased cost per facility would add some 5% to the overall facility installation cost. Dan Laing proposed a vote but it was delayed until the next meeting to give the members time to digest the many issues.

The group then reviewed in some detail the EPA secondary containment guidelines including one of the main requirements to include under dispenser containment. The main secondary containment issues reviewed and discussed were as follows: (1) 1,000 foot spacing between any new/replaced UST and any water supply, (2) under dispenser containment, (3) repair versus replace for piping runs, and (4) whether spill buckets would be required to have secondary containment.

The group then reviewed the delivery prohibition guidelines. Key questions revolved around notifying fuel deliverers about tagged tanks, i.e., prior notice. Staff indicated that implementation guidance would be developed concurrently with the regulation and would address this key issue. The group generally supported the “red tag” method of delivery prohibition, noting that maintaining a green tag option for all compliant tanks would be a large administrative burden for all.

The group then discussed the question of under what circumstances should a delivery prohibition tag be affixed to a tank. DEQ staff reviewed with the group the EPA guideline criteria for when a tag “must” (UST not equipped to comply) be affixed and when a tag “should” (O&M failure) be affixed.

Then the staff handed out a draft “straw-man” document suggesting how the EPA guideline requirements might best fit in the existing state UST regulation for discussion purposes only. There was a question about the criteria in the draft for determining when to affix a tag and DEQ staff explained that the text was intended to closely replicate the EPA requirements addressing the “must” and “should” affix instances.

The TAC was asked to review all documents before the next TAC meeting to be scheduled sometime in early February at the DEQ-PRO location.