

**Facility and Aboveground Storage Tank Regulations (9 VAC 25-91)
Regulatory Advisory Panel February 7, 2012 meeting notes**

Electronic Meeting

Main meeting location- 629 E. Main Street, Richmond VA 23218

**Teleconference site: Department of Environmental Quality, Northern Regional Office ,
13901 Crown Court, Woodbridge, VA 22193**

RAP Members present in Richmond

Bob Alvis, Citgo
Jim Puckett- (alternate for Bill Wilkinson) Dominion
Walter Beck (alternate for Sam Hollins), Vulcan Materials
Clement Mesavage, Antea Group
Emory Rodgers- DHCD
PJ Smith, P.G., Faulkner & Flynn, Inc.
Steve McNelly, TransMontaigne
Andrew Wilson, City of Fairfax
Ms. Martha Neave (representing citizens)
Tom Burrell, Barrister's Keepe Homeowner's Association
Michael D. Ward, Virginia Petroleum Council

RAP Members present in Woodbridge

Mike Younce, Buckeye Partners, L.P.
Roger Cryan, Ph. D., Immediate Past President of the Mantua Citizen's Association
Randy Chapman, DEQ
Mike Neish, Morgan Oil Corporation

RAP Members not present

Joseph J. Croce, representing Virginia Manufacturers Association
Mike O'Connor, Virginia Petroleum Convenience and Grocery Association
Donald L. Struminger, P.E. Southern Textile Service
Mr. Mace Carpenter (representing citizens)

Public Attendees in Richmond

Richard C. Lutz, Williams Gas Pipeline
Louis Bott, City of Newport News
Kim Worthington, Verizon Wireless
Sam Hollins, VTGA
Jack McCrossin, Citgo Petroleum

DEQ Staff in Richmond

Betty Lamp
Melissa Porterfield
Russ Ellison
Alicia Meadows

Introductions

Melissa Porterfield welcomed RAP members and introductions were conducted. The meeting began at 9:40 a.m.

Administrative Issues

Mrs. Porterfield discussed the teleconference/electronic meeting requirements and ground rules. Mrs. Porterfield took roll to ensure that there were an appropriate number of attendees present for a quorum.

Mrs. Porterfield explained that a webinar was available in both locations.

The director approved two new alternate members– Jim Puckett-Dominion and George Conover-TransMontaigne.

An interested parties email distribution list has been created. Anyone interested in being included in the interested parties list should contact Melissa Porterfield (Melissa.Porterfield@deq.virginia.gov) and request to be added to the list.

The meeting agenda included a public forum. The public forum portion of the meeting provides an opportunity for the public to provide comments to the RAP. Individuals that are interested in speaking during the public forum were asked to sign up on the sign up sheet. Since there were no individuals that signed up for the public forum, the public forum was not being held. These public forums provide an opportunity for members of the public to provide feedback to the group.

Meeting notes were taken and would be distributed to group for review. The meeting notes must be posted within 10 days after the meeting.

The goal of the group is to discuss topics and concepts and to reach a consensus concerning the topics and concepts discussed. Consensus is defined as a willingness of each member of the RAP to be able to say that he or she can live with the decisions reached and recommendations made and will not actively work against them outside of the process. Regulatory Advisory Panel Guidelines for the Facility and Aboveground Storage Tank Regulations were previously distributed to RAP members.

Overview of Fairfax Senate Bill 843

Tables with information regarding the number of Aboveground Storage Tanks (ASTs) impacted by SB843 were distributed to RAP members prior to the meeting for their review. An aerial photograph of the four facilities located on Pickett Road in the City of Fairfax was presented on the webinar. The four facilities are Motiva, Buckeye, Citgo, and TransMontaigne.

Draft regulation language created by the agency for the Pickett Road facilities was distributed to the RAP members and interested parties for their review prior to the meeting. The language distributed is for discussion purposes only and is not a proposed regulation. The basis for the draft regulation language came from Section 140 of Virginia's Facility and Aboveground Storage

Tank regulations (9VAC25-91). Section 140 of the AST regulation discusses performance standards for ASTs.

Question and Answer Session

The RAP members had some questions and discussions regarding the facilities that would be affected by the regulation change and the draft regulatory language. The RAP members discussed the following topics:

- The 1 million gallon aggregate capacity language was explained. It applies to the total capacity of regulated tanks at a facility and was derived from the new law language from Senate Bill 843.
- The January 29, 1992 date mentioned in state law (§62.1-44.34:15.1) was the effective date of Virginia's first regulation that required performance standards to be met for ASTs.
- Under the current regulations tanks installed before 1992 were "grandfathered" from performance standards and now regulatory language needs to be developed to require the ASTs at the Fairfax facilities to meet performance standards.
- Details of the current facilities. ASTs at Motiva and Buckeye facilities have already met these requirements. Citgo and TransMontaigne facilities have tanks that do not meet these requirements.
- The affect on small ASTs at the facilities and current requirements for small ASTs was discussed.
- Applicability of AST requirements.
- Small ASTs are typically excluded from release prevention barrier (RPB) requirements because they are usually installed totally off ground.
- Clarifications of the term "All ASTs" in draft regulations and scope of regulations. "All" includes only regulated ASTs.
- Calculating aggregate facility capacities. Only regulated (not excluded or deferred) ASTs greater than 660 gallons are included in total aggregate capacities.
- Discussion of secondary containment versus release prevention barriers (RPB). Virginia allows earthen secondary containment but only non-earthen RPBs.
- RPB definition.

Suggestions and Concerns for New Regulation

The RAP members discussed some suggestions for the new regulations. The suggestions are as follows:

- Concerns expressed regarding the “all ASTs” language from Section A.
- Concerns expressed regarding regulations affecting small ASTs.
- It was suggested that Section A should cover scope of regulations, perhaps under “1” followed by subsections b, c, d, and e to keep changes affecting only large facilities with an aggregate capacity greater than one million gallons.
- Referencing or restating other parts of regulation in the section to make regulations clearer.
- Possibly referencing that secondary containment meets these requirements for smaller tanks since most are in concrete or other secondary containment. VA allows earthen secondary containment.
- Define more clearly “strength tested”.
- Concern regarding “approved by the board”. What does it mean?
- Change language/wordsmith since focus is providing performance standards to existing tanks.
- Reference existing performance standards instead of re-stating for these tanks.
- Retroactively require existing performance standards to apply to these specific tanks.
- Clearly define applicability.
- Consider removing January 1992 date since it may be unnecessary. Some members wanted to keep date so that it is consistent with law language.
- Suggestion was made for future Strawman documents to include references and footnotes for discussion purposes only.

Discussion of Regulation Development and Definitions

Betty Lamp discussed the challenge of the RAP which is to follow the requirements of the law, nail down applicability, and identify items that need to be included in the regulation. The strawman document presented contains language that is similar to existing language in the current regulations. The language has been modified to specify it is applicable to the facilities located in the City of Fairfax. DEQ’s draft regulatory approach to regulating the Fairfax facilities is based upon 20 years of program history of applying similar language to facility upgrades and brought into service ASTs. The Group needs to provide to DEQ specifics of what needs to be changed in the strawman document based upon the group’s comfort level.

Emory Rodgers explained that state agencies try to coordinate to avoid conflict and duplication of regulations. The Uniform State Building Code (USBC) and applicable fire codes cross

reference DEQ regulations and DEQ's regulations cross reference USBC and fire codes. Mr. Rodgers indicated that DEQ's regulatory definition of RPB could be different than other related codes since RPB is a new term in building codes that are currently under revision.

Betty Lamp restated the process of interrelated regulations. There is international code adopted by the International Code Council (ICC) that recommends changes, states update USBC and have fire prevention codes, and then states select which ones will apply in Virginia. DEQ coordinates with USBC so you have one stop shopping for tank rules. Here we are trying to make it as clear and simple as possible for implementation purposes. We are trying to make it internally consistent with all other requirements.

Group discussed current definitions of RPBs. Mrs. Porterfield showed group various industry definitions via the webinar.

Wrap Up

Mrs. Porterfield discussed with the group the future possibility of electronic meetings and groups opinion on electronic meetings. There was a concern that it may be hard to reach a quorum. However, Woodbridge group agreed that the electronic meeting went well. The group decided that they would possibly meet electronically in March as long as there is a quorum.

Some of the members suggested a field trip to the facility. Mrs. Porterfield indicated that there were logistics with the facilities that need to be worked out and wanted to consider the value of a site visit. Only 3 members had never seen the facilities. Andrew Wilson volunteered to be tour guide contingent upon permission of facility owners.

Mrs. Porterfield indicated that anyone planning on a rewrite of the draft language should send the draft to her within one week. Revised draft regulatory language will be crafted by the agency in response to feedback received from the RAP.

Mrs. Porterfield explained to the group that a decision has not been made on proceeding with additional regulation changes and that we are focusing on addressing regulatory changes needed to address the Fairfax facilities first. Members that attended the first RAP suggested that the focus should be on Fairfax first and some members even suggested that we limit the focus on Fairfax.

The meeting adjourned at 11:35 a.m.