

Facility and Aboveground Storage Tank Regulations (9 VAC 25-91)
DEQ Regulatory Advisory Panel April 16, 2012 meeting notes
629 E. Main Street, Richmond VA 23218

RAP Members present

Jim Puckett- (alternate for Bill Wilkinson), Dominion Resources
Walter Beck (alternate for Sam Hollins), Vulcan Materials
PJ Smith, P.G., Faulkner & Flynn, Inc.
Steve McNelly, TransMontaigne
Andrew Wilson, City of Fairfax
Tom Burrell, Barrister's Keepe Homeowner's Association
Michael D. Ward, Virginia Petroleum Council
Mike Neish, Morgan Oil Corporation
Mike Younce, Buckeye Partners, L.P.
Chris Dowd, Antea Group (alternate for Clement Mesavage)
Steve Hughes, DEQ (alternate for Randy Chapman)
Mike O'Connor, Virginia Petroleum Convenience and Grocery Association
Roger Cryan, Ph. D., Immediate Past President of the Mantua Citizen's Association

RAP Members not present

Joseph J. Croce, representing Virginia Manufacturers Association
Donald L. Struminger, P.E., Southern Textile Service
Randy Chapman, DEQ
Ms. Martha Neave (representing citizens)
Mr. Mace Carpenter (representing citizens)
Bob Alvis, Citgo
Clement Mesavage, Antea Group
Emory Rodgers- VDHCD

Public Attendees

Richard C. Lutz, Transcontinental Gas Pipe Line Company, LLC
Carol Peterson, US Navy-NAVFAC Mid-Atlantic

DEQ Staff

Betty Lamp
Melissa Porterfield
Russ Ellison
Alicia Meadows
Renee Hooper
Tom Madigan
Tim Petrie

Welcome and Introductions

The meeting began at 9:35 am. Melissa Porterfield welcomed RAP members and introductions were conducted. Two new alternates were introduced to the group - Chris Dowd, Antea Group (alternate for Clement Mesavage) and Steve Hughes, DEQ (alternate for Randy Chapman). Today's meeting is the last scheduled meeting of the AST RAP. Meeting notes were taken and would be distributed to the 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. Mrs. Porterfield discussed housekeeping issues.

After today's meeting the agency will work on drafting a proposal to be sent to the State Water Control Board. The State Water Control Board will meet in June 2012 and the regulatory amendment to the AST regulation will be presented to them as a proposal at their meeting. Once a proposal is sent to the Board for their review, the AST RAP and interested parties will be provided with the same information. Once a proposal is adopted by the Board, the proposal will be reviewed by the Department of Planning and Budget and the Governor's office. A public comment period will be held once the governor approves the proposal.

**Prior to the RAP meeting, documents listed below were provided to the AST RAP members and interested parties which included the following:

- Strawman document of the entire regulation which included the consensus language for Section 145 - a new section of the regulations to address the facilities located in the City of Fairfax
- Section by section summary of changes made to the strawman document since the March AST RAP meeting
- Strawman document of a reorganized Section 130
- Crosswalk document explaining the relationship between requirements of the current Section 130 and the reorganized Section 130

Discussion of Draft Regulatory Language

Section 60 - Registration fees

The group discussed removing the requirement for payment of registration fees which are currently \$25 to \$100. The registration fees are capped in statute. The regulation

will continue to contain applicable Oil Discharge Contingency Plan review fees. The AST RAP reached consensus on removing the registration fee.

Section 130 - Pollution Prevention Standards and Procedures

At the March AST RAP meeting, a suggestion was made to reorganize the requirements of Section 130. A reorganized Section 130 was drafted and provided to the RAP in advance of the meeting. The group discussed the current organization of the requirements of 130 and the reorganized version of Section 130. Mrs. Porterfield asked the group to choose which version of Section 130 they preferred. Discussions took place concerning potential confusion that may occur if Section 130 was reorganized. The group reached consensus on preferring the reorganized Section 130. The group recommended adding a new Section A to the reorganized Section 130 to initially explain further the applicable requirements of Section 130.

Inserting a new 130 A. will require the reorganized version of Section 130 to be renumbered. This will make the requirements that facilities with 25,000 gallons or more of oil to be listed in 130 B. which is consistent with the location where these requirements are in the existing regulation. The additional requirements that facilities with 1 million gallons of oil or greater must meet will be relocated to Section 130 C.

The reorganized Section 130 will be as follows:

130 A - A new "A" will be inserted and language added to direct the reader to the applicable requirements in B and C.

130 B - Will be the previous reorganized "A" and will be the requirements that all facilities that have 25,000 gallons or more of oil must meet.

130 C - Will be the previous reorganized "B" and will be the additional requirements that facilities with 1 million gallons or more must meet in addition to the requirements of 130 B.

After the group reached consensus on preferring the reorganized Section 130, Mrs. Porterfield walked the group through the changes to Section 130 that have been made since the last meeting.

Secondary Containment

The group discussed the requirements for AST secondary containment. The main changes made to this section include the professional engineer (PE) certification. Changes have been made to the language since the last meeting to increase the flexibility of the engineer to submit a certification with qualifications. The board would review the qualifications to ensure the qualifications do not impact the ability of the secondary containment to contain a discharge of oil.

The group discussed the certification being provided "by a person approved by the board," which is in the existing regulation. One suggestion was made to change the word "person" to "PE". Staff indicated that some small shop-built tanks are installed

with secondary containment certified by a manufacturer or built by industry standard and that the regulations needed to remain flexible to allow certifications from the manufacturer to continue to be submitted. If only professional engineers are able to submit the certification, these small shop-built tanks certified by a manufacturer would need to be certified by an engineer, causing an additional expense to be incurred by a facility.

Safe fill and shutdown procedures

At the previous AST RAP meeting, members suggested revising the example included in the safe fill and shutdown section. The agency revised the example as suggested by the RAP to read "Vehicle loaded or unloaded at a loading rack" After reviewing the revised language, the RAP discussed the meaning of the term "loading rack." After further discussion of the example in the regulations, the group reached consensus on removing the example.

Formal Inspections and Reinspections

The group discussed the requirement for formal internal and external inspections to be conducted and industry standards concerning conducting these inspections. If conducting an inspection of a tank using the standards of STI-SP001, and the bottom exterior of the tank is visible, then you can perform an external inspection in lieu of an internal inspection. The regulations need to be clear concerning replacing an internal inspection with an external inspection when allowed by STI-SP001.

Public Forum

A public forum was held following the lunch break and Carol Peterson, US Navy-NAVFAC Mid-Atlantic, addressed the group. Ms. Peterson stated that the current Aboveground Storage Tank Regulations do not address conducting temporary closure. The regulations also do not address the timeframe for permanently closing a tank once it is not being used. The Navy has tenants that will not close tanks that are not in use and the Navy would like to see language placed in the regulations to address timeframes for conducting temporary and subsequent permanent closure of tanks. This comment was also submitted by the Navy in the NOIA public comment period for these regulations.

DEQ staff responded that the International Fire Code does specify the requirement to place a tank into temporary closure after the tank has not been in use for 90 days, and permanent closure when the tank has not been in use for a year.

Continued Discussion of Draft Regulatory Language

Exclusions

The group discussed the revision made to the belly tank exclusion since the last RAP meeting and the applicability of the belly tank exclusion. The group discussed at length different types of tanks and the applicability of the regulations to those tanks. The group decided to replace the word "welded" with "affixed" in the regulation to address those tanks that are attached to equipment and that is specifically used solely by the equipment. (A fuel tank attached to a lawnmower was used as an example of a tank that is an integral part of machinery.) For example, the belly tank exclusion excludes tanks that are permanently attached/affixed into the frame of emergency generators that are solely used to fuel the emergency generators.

Oil Discharge Contingency Plan and Facility Response Plan changes

A suggestion was made to revise the language concerning Facility Response Plan (FRP) changes that are being used in part to meet the requirements of an Oil Discharge Contingency Plan. The suggestion was to require only significant changes to the FRP to be reported to the agency. The agency is looking into this issue further.

Referenced Publications

Mrs. Porterfield discussed the note that is located at the beginning of Section 220. The note is provided to let the reader know that there are other requirements, not found in this regulation, which ASTs must meet. Two different notes were provided to the group to review and most appeared to prefer the language in the second note. A suggestion was made to add a disclaimer in the note that this is not a comprehensive list of all requirements that ASTs in Virginia must meet.

Wrap Up

Ms. Porterfield and Ms. Lamp both thanked members for their participation on this group. Today's meeting is the last scheduled meeting of the AST RAP.