

Leaking Heating Oil Tanks Technical Workgroup Meeting #3

Meeting Notes

April 20, 2016, 9 a.m.

Virginia Credit Union Campus

7500 Boulders View Drive, North Chesterfield, Virginia 23225

Meeting Attendees

The following members of the Leaking Heating Oil Technical Workgroup attended the meeting:

David Beahm, William “Billy” Willard, John Pollard, Garland “Gary” Moore, Robert Howard, Todd Pitsenberger, Heather Evans, Alex Wardle, and James Barnett

The following non-workgroup members participated in workgroup proceedings as indicated below:

John Giese, Virginia Department of Environmental Quality (DEQ) - moderator, Suzanne Taylor (DEQ) - note taker, Betty Lamp (DEQ) – Office of Spill Response and Remediation, Director

Welcome/Introductions/Housekeeping

John Giese, DEQ Petroleum Remediation and Preparedness Programs Manager, welcomed the technical workgroup to the meeting, discussed general meeting logistics and guidelines.

Mr. Giese reminded the workgroup that its creation constituted a public body and all meetings of the group are considered public meetings; any meeting of three or more members of the group where they will be discussing matters within the scope of the group must be noticed as a public meeting and is bound by the Freedom of Information Act (FOIA). Pursuant to statutory requirement, all public meetings must be announced on the Virginia Regulatory Town Hall website and Commonwealth Calendar. Workgroup members should send any information that group members would like to share to Mr. Giese; he will then send the information out to all workgroup members. The group members should not use the “Reply All” function on emails. To do so would constitute a meeting subject to public notice. Mr. Giese also reviewed the procedures for testing for group consensus.

Review of Last Meeting Consensus and Action Items

Mr. Giese presented an overview of the consensus and action items from the workgroup’s last meeting on March 16, 2016, at the Virginia Credit Union Campus in the Boulders Office Park.

Discussion to Review and Finalize Minutes from March 16, 2016 Meeting

The workgroup discussed the minutes from the March 16, 2016, meeting because some group members disagreed with the wording of the following section (shown in italics) from the discussion concerning groundwater protection:

The workgroup then had a discussion on regulatory requirements for recovery of free product. The DEQ pointed out that the requirement to recover free product applies to releases from regulated tanks but that free product recovery is being performed at some heating oil cases.

The group members agreed to replace the section of minutes shown above with the following revised text:

The workgroup then had a discussion on regulatory requirements for recovery of free product. The DEQ acknowledged that the petroleum program guidance applies to releases from both regulated and unregulated USTs.

Discussion on Heating Oil Case Categorization

The workgroup spent the remainder of the day discussing: appropriate approaches for categorizations of residential heating oil release sites, appropriate scopes of work for assessment of heating oil releases and appropriate corrective actions at heating oil release sites.

The workgroup tested for consensus on several items but only reached consensus on two items which are presented below.

Consensus Items:

1. Sites with a confirmed release and an on-site drinking water well cannot be treated as an NFA, i.e. additional assessment is required. The sites should be categorized as Cat 1, 2, or 3.
2. Sites with a confirmed release, no obvious receptor(s), and an initial sample $\geq 13,000$ PPM cannot be treated as an NFA. Additional assessment is required. The sites should be categorized as Cat 1, 2, or 3.

Public Comments

1. One member of the public remarked there should be a process for giving consultants a voice if they disagree with DEQ decisions--without risking the professional relationship between the consultants and the DEQ/case manager. There was general discussion regarding options available to responsible parties/consultants. Ms. Lamp explained that DEQ has an expedited dispute resolution process which is outlined in the agency's confirmed release letters; however, this language is not included in closure letters. The group suggested the dispute resolution process at DEQ should be put into a memo so all consultants know it exists.
2. Garry Moore provided the workgroup with a copy of Lindsay Trittipoe's *Resolutions For DEQ Heating Oil Technical Workgroup* because Mr. Trittipoe could not be present at the meeting. John Giese read the document to the workgroup. The Resolutions are as follows:
 - 1) Resolved: Virginia's General Assembly has determined that the Commonwealth's groundwater is a valuable natural resource to be protected for all citizens. The Department of Environmental Quality acknowledges that it has an obligation to protect Virginia's groundwater from pollution caused by leaking heating oil tanks.
 - 2) Resolved: The Department of Environmental Quality has an obligation to protect Virginia's groundwater from pollution caused by leaking heating oil tanks, irrespective of whether the groundwater in question is presently being used as a source of drinking water.
 - 3) Resolved: The Department of Environmental Quality's policies with respect to leaking heating oil tanks should have as a goal to protect the Commonwealth's groundwater from petroleum pollution, irrespective of whether the groundwater in question is presently being used as a source of drinking water.
 - 4) Resolved: Any policy that results in Virginia's groundwater becoming polluted (or more polluted) by failing to remove oil saturated soils is inconsistent with the Department of Environmental Quality's obligations to protect Virginia's environment.

Meeting Conclusion

Mr. Giese concluded the final workgroup meeting with the following statements:

- The consensus items from the April 20 meeting were restated for the group,
- The workgroup did not have time to take up a discussion of petroleum vapor intrusion (PVI) risk evaluation agenda item. If the workgroup's PVI assessment recommendation to the agency moves forward, there should be an opportunity for stakeholders to review and comment on proposed PVI assessment guidelines.

- The workgroup did not have time for the EPR revision agenda item, therefore, a draft EPR will be shared with the workgroup by email. The workgroup will be asked to comment on the revised EPR in order to finalize recommendations.
- The Petroleum Program will draft a report to DEQ management that will present the recommendations of the heating oil technical workgroup. Workgroup members will be presented with a draft of the report and asked to comment prior to finalization of the report.
- The workgroup members were reminded that FOIA rules* are still in place until the final report is approved. This means any meeting or discussion among three or more members of the workgroup would constitute a public meeting subject to the Freedom of Information Act (FOIA).

Meeting Adjourned

The meeting was adjourned at 4:08 p.m.