

# Virginia Brownfields Conference

## Harrisonburg

### March 10, 2011

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# Special Thanks

- To all those who agreed to speak and volunteered their time developing presentations and talks (and showing up today)
- A special thanks Environmental Standards, Inc. & Ann Marie Gathright for providing coffee and refreshments
- And a very special thanks to Marilee Tretina of DEQ for helping to get everything together and keeping us on track (she was like the glue)
- And Thanks to the Valley Regional Office for offering their facility

# Program Agenda

- RCRA Corrective Action Progress
- Uniform Environmental Covenants Act
- Brownfields/Voluntary Remediation Program Update
- Brownfields
- Drycleaners
- Solid Waste Debris and Pre-Reg Landfills
- Site Specific Assessments/Subgrants
- Brownfields Grants
- EPA Initiatives

# RCRA Corrective Action

## Fact Sheet Draft Guidance

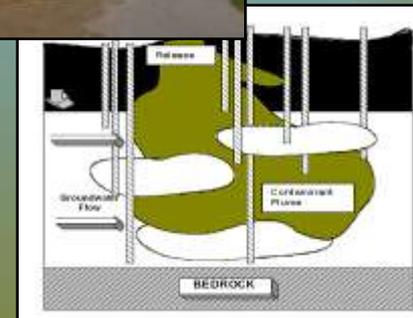
**Fact Sheet #1** – Land Use Assumptions  
for RCRA Corrective Action Baseline  
Risk Assessments



**Fact Sheet #2** – Fate & Transport  
Modeling for RCRA Corrective Action  
Risk Assessments



**Fact Sheet #3** – Groundwater Monitoring  
Requirements at RCRA Corrective  
Action Sites



# RCRA Corrective Action Fact Sheet Draft Guidance

## **Fact Sheet #1** - Land Use Assumptions for RCRA CA Baseline Risk Assessments

- Stated goal is to close RCRA sites without future involvement of VDEQ (default land use assumption is residential), but recognizes that this may not be feasible given the probable industrial future land use of most sites
- Provides guidance on what information should be utilized and presented in developing a site's current land use and future reasonably anticipated land use scenario
  - Current designation and planned future designation by local jurisdiction
  - Adjacent property uses/designations
  - Existing characterization and analytical data for site soil
  - Initial screening of the data against Regional Screening Levels (RSLs)

# RCRA Corrective Action Fact Sheet Draft Guidance

## **Fact Sheet #2** – Fate & Transport Modeling for RCRA CA Risk Assessments

- Provides guidance for evaluating a site's contaminant concentrations in soil with respect to the migration to groundwater pathway
- Provides several acceptable approaches to determining if contaminant migration to groundwater is occurring
  - Conduct soil data screening utilizing most up to date soil to groundwater transfer site screening levels, dilution attenuation factor of 1 (SSL DAF-1) and SSL DAF-20 in addition to SSL DAF-1
  - Fate & transport modeling such as SESOIL
  - Evaluate soil data with existing groundwater data if an adequate groundwater record exists
- Provides a fate & transport modeling decision process flow chart
- Provides an overview of the SESOIL modeling program

# RCRA Corrective Action Fact Sheet Draft Guidance

## **Fact Sheet #3** – Groundwater Monitoring Requirements at RCRA CA Sites

- GW monitoring at a site may be required if there is a release or reasonably suspected release to the ground or subsurface that impacts GW
- Required when it is determined that the migration to groundwater pathway is present
- GW characterization guidance for inaccessible areas
- Importance of the conceptual site model in developing a GW monitoring network

# RCRA Corrective Action Sites

## In or Near Harrisonburg, VA

- Intrapac Harrisonburg, Inc.
- EPA ID VAD000485078
- Harrisonburg, VA 22802
  
- Genie Manufacturing Facility
- EPA ID VAD000019620
- Shenandoah, VA 22849
  
- Merck and Company, Inc.
- EPA ID VAD001705110
- Elkton, VA 22827

# What UECA Is...

- Uniform Environmental Covenants Act – 2010 – A system to provide for the uniform recording of environmental covenants through the nation.
- The use of UECA is similar to a deed restriction but can provide for a more enforceable use restriction.
- The choice of utilizing a UECA covenant will be voluntary at the closure of an environmental remediation project.
- UECA will be an option to further ensure use restrictions on the property.

# What UECA Doesn't and Can't Do

- Set cleanup standards or affect cleanup liability.
- Force anyone to enter into a covenant.
- Create a covenant for property where an owner cannot be found.
- Not practical at large sites with many affected properties.

# UECA

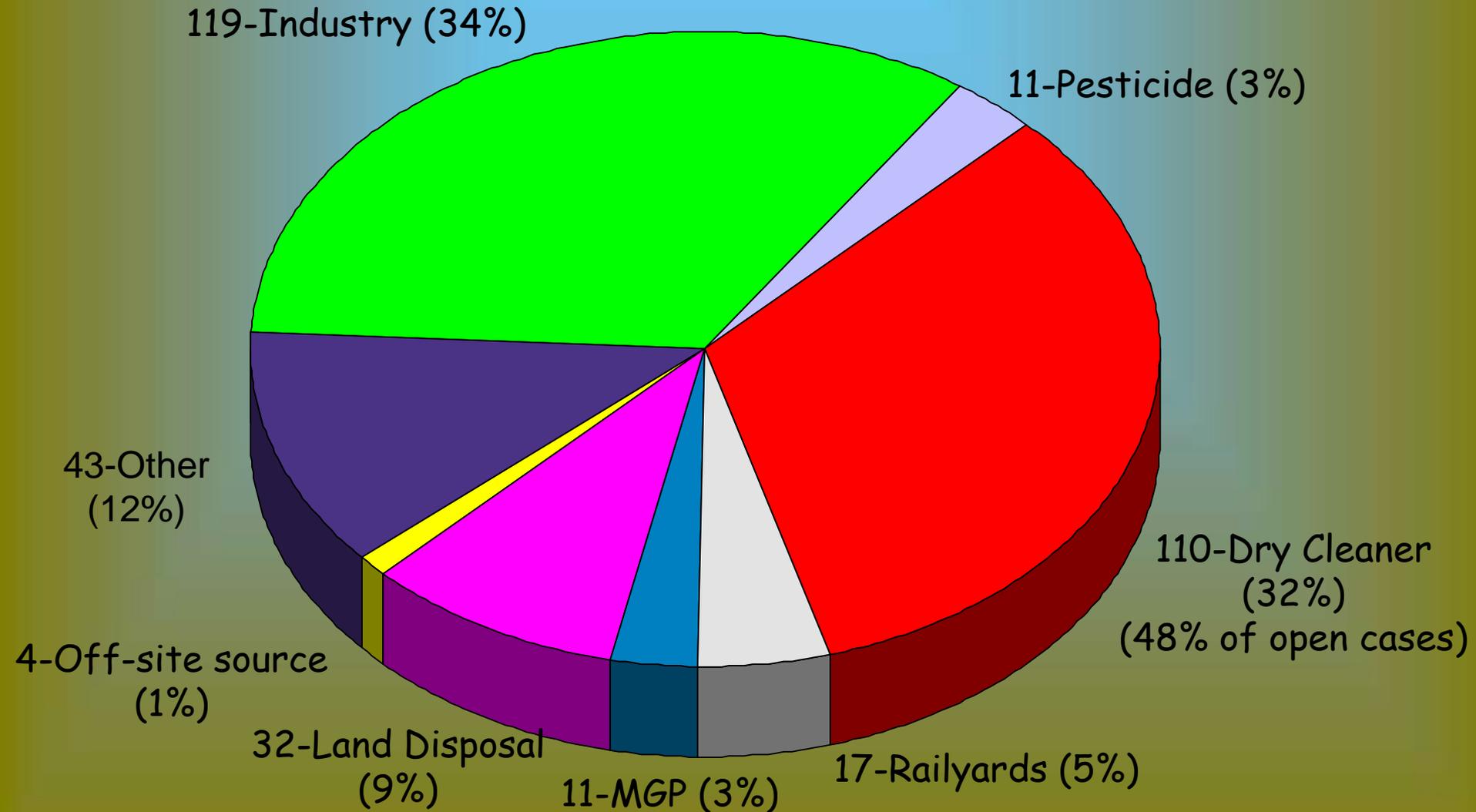
## Schedule for Rulemaking

- Interview stakeholders and research implementation of uniform covenants in other states (**May-June 2010**).
- Publish notice asking for persons interested in DEQ's UECA implementation to contact DEQ staff by date certain (**June 2010**).
- Convene meetings) of interested persons to review provisions and ideas suggested by DEQ's Waste Division and to discuss UECA implementation (**Summer & Fall 2010**).
- Develop proposed regulation and covenant form, as appropriate, to implement legislation, utilizing input from interested persons. Rulemaking will include provision for fees to cover costs incurred by the department in implementing this legislation, as well as any other necessary provisions (**Fall/Winter 2010/11**).
- Publish notice of a public comment period (**Spring 2011**). Rulemaking is exempt from Administrative Process Act except that DEQ must provide an opportunity for public comment.
- Submit proposed regulation and covenant form (template) to the Director for his approval (**Spring 2011**).
- Publish final regulation and related documents (**Spring 2011**).

# Virginia's Voluntary Remediation Program

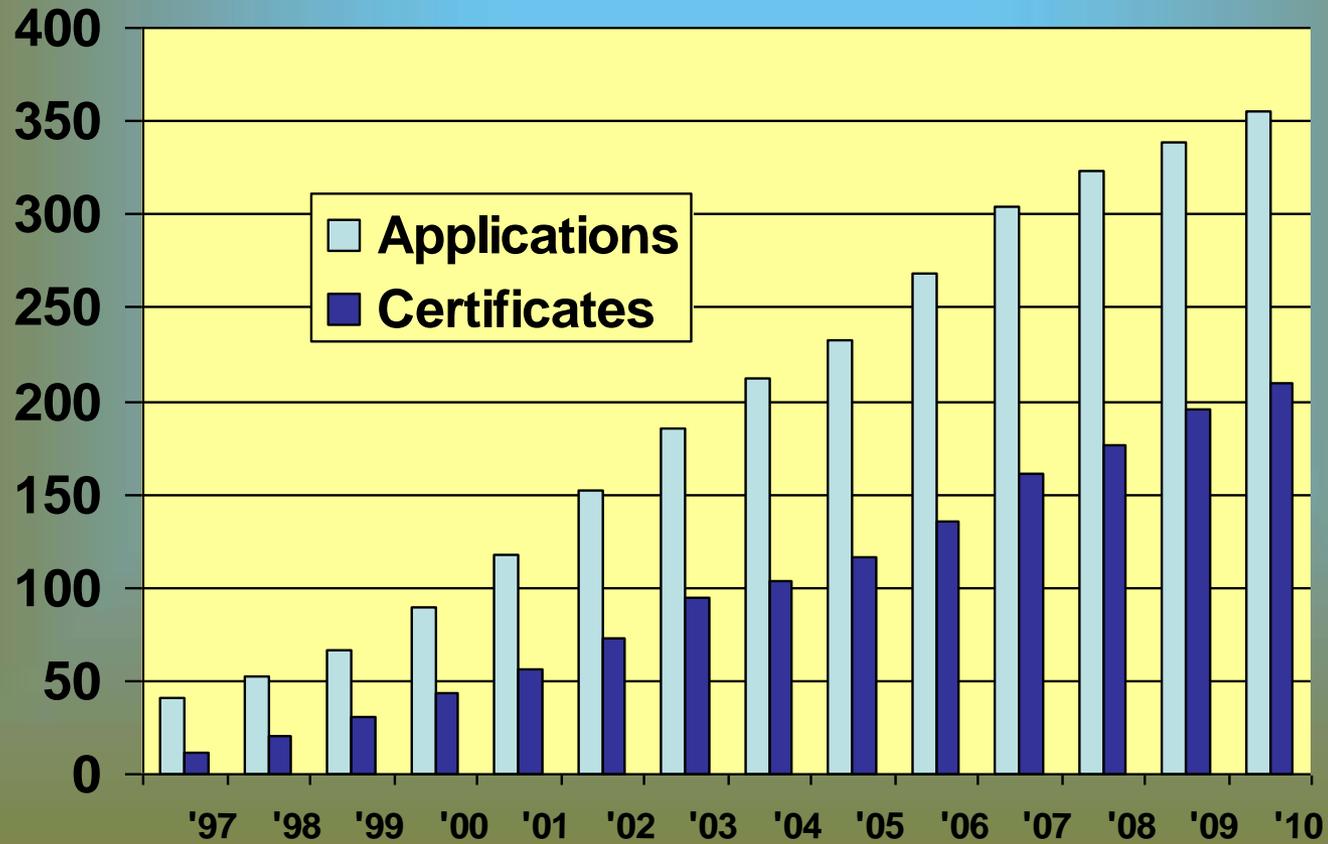
- Voluntary program in which owners/operator or others can enroll a property to remediate
- These sites cannot be subject to other environmental programs such as RCRA, Superfund, Enforcement Actions, etc
- Sites where remediation is not *clearly* mandated by other programs
- Participants voluntarily enroll and can *withdraw* from the VRP
- VRP handles a wide variety of brownfield sites
- VRP allows the use in engineering and institutional controls to mitigate risk
- Participants may proffer Deed Restrictions to future use

# Types of VRP Sites (355)



# Data Trends

## Voluntary Remediation Program



# Certificates & Institutional Controls (total 210)

- Groundwater Use restriction 79%
- Residential use restriction 51%
- Excavation Limitation 20%
- Other 19%
- No institutional controls- 15%

# VRP Regulatory Update

- VRP Regulations under Revision
    - TAC met in 2009/2010
    - Waste Management Board Approved for Public Notice
      - Revising registration fee collection process
      - Raising Risk level from  $10^{-6}$  to  $10^{-5}$
      - Expanding Public Notice requirements
- Currently the Regs are at the Governor's Office

# Virginia & EPA

## Memorandum of Agreement

- Constitutes no federal interest in voluntary cleanups once cleanup is completed
- EPA won't pursue federal enforcement
- And DEQ's closure is a final agency decision
- Signed in 2002

Brownfields are often located in our older core city areas & these properties can be key to revitalization efforts



# Brownfields – the definition

- "Brownfield" means real property; the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

# § 10.1-1231. Brownfield Restoration and Land Renewal Policy and Programs

It shall be the **policy** of the **Commonwealth** to **encourage remediation and restoration of brownfields by removing barriers and providing incentives and assistance whenever possible**. The Department of Environmental Quality and the Economic Development Partnership and other appropriate agencies shall establish policies and programs to implement these policies, including a Voluntary Remediation Program, the Brownfields Restoration and Redevelopment Fund, and other measures as may be appropriate.

# Brownfields Fund

- § 10.1-1237. Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund established in 2002
- \$1M place budgeted for the fund this year
- Details are being worked out in the administration of the fund with Virginia Economic Development Partnership

# Brownfield Funding for DEQ Programs {aka 128(a)}

- The majority of our funding comes from EPA grant monies under the Small Business Liability Relief and Brownfields Revitalization Act (SBLRBRA) Section 128 (a) of the CERCLA Act signed in law in 2002
- These funds cover much of DEQ's efforts for Brownfields and land revitalization
- SSA work, VRP, BFPP, Lender Liability & comfort letters, outreach, etc

# Dry Cleaners

- Significant portion of VRP workload (approx 43% currently)
- Numbers enrolling continues to increase
- With increase emphasis on Vapor Intrusion we have accepted alternative mitigation such as subslab depressurization systems
- Developed the *Accelerated Dry Cleaner Remediation Process Manual* in an attempt to speed up site characterization and ultimately closure of the site.
- Process is applicable to sites which meet certain criteria.
- State Coalition for Remediation of Drycleaners for additional cleanup information. <http://www.drycleancoalition.org/>
- Funded through EPA Office of Innovative Technologies

# Risk Based Decision-Making Soil/Debris Management

- Developing alternatives to the definition of solid waste as it applies to contaminated debris and media in order to better facilitate its use as a recoverable material.
- Developed an internal committee to review the process and to develop a white paper.
- Will be contacting interested stakeholders in the future
- May take regulatory change
- Should be a benefit to Brownfields redevelopment projects

# Pre-Regulatory Landfills & Brownfields

- Can a pre-reg landfill be a brownfield? *Sure*
- Does DEQ have a policy or guidance on how to deal with these sites? *No*
- If a party has a closed pre-reg landfill property that has the potential for reuse, revitalization or other changes how should they approach DEQ? *These sites usually have unique situations and therefore will be handled on case by case basis. A suggested first step would be set up a meeting with the regional waste compliance manager regarding the proposal and what is known about the property and environmental conditions.*

# HUD – Chapter 9 Environmental Review

- Effective September 18, 2009
- Requires Phase I ESA in accordance with ASTM E-1527-05
- Phase I ESA must include an initial vapor intrusion screen per ASTM E2600 – 08 “Standard Practice for Assessment of Vapor Intrusion into Structures on Property Involved in Real Estate Transactions
- May require Phase II ESA in accordance with ASTM E 1903

## Chapter 9 *continued*

- If conditions indicate contamination is above de minimis or a tiered screening level one then additional requirements may apply
- Remediation plans
- Approval by LSTF authority
- Allows RBCA, Institutional & Engineering Controls, Vapor mitigation systems, MNA, etc
- Can move forward with a conceptual remedial action work plan
- **Recommendation:** Resolve these issues as soon as possible to prevent delay in the project

# Urban Gardening

- Significant increase in interest nation wide especially in “brownfield” situations
- We’ve been involved with this issue for years with the successful **Lynchburg Grows!**
- EPA has recognized this urban gardening trend and it is one of the top Initiatives
- ASTSWMO Brownfields Task Force is working on guidance & recommendations

# **Waste Tire Management Program**

2010 Update



## **Authority for the Program:**

§ 58.1-640 through 644

Imposed a tax of one dollar for each new tire sold in the Commonwealth. Fifty cents of the tax ends on July 1, 2011. This portion of the tax was dedicated to supporting tire pile cleanups.

§ 10.1-1422.1 through 1422.4

The Department shall develop and implement a plan for the management and transportation of all waste tires in the Commonwealth.

# Goals of the Waste Tire Management Program:

Develop and support a recycling network for all current flow tires - collection centers, haulers and processors.

Coordinate the clean up of illegal waste tire piles - demonstration projects and end user reimbursement support.

Maintain and expand markets for waste tire material - end user reimbursement for use of Virginia waste tire material.

## TIRE PILE STATUS

### IDENTIFIED TIRE PILES

(since 1993)

# PILES – APPROX. 1,300

# TIRES – 25 MILLION

### CLEAN UPS TO DATE

# PILES – 1,147

# TIRES – 26,600,000

\$ COST – \$21,900,000

### PILES REMAINING

# PILES – APPROX. 130

# TIRES – 2 MILLION

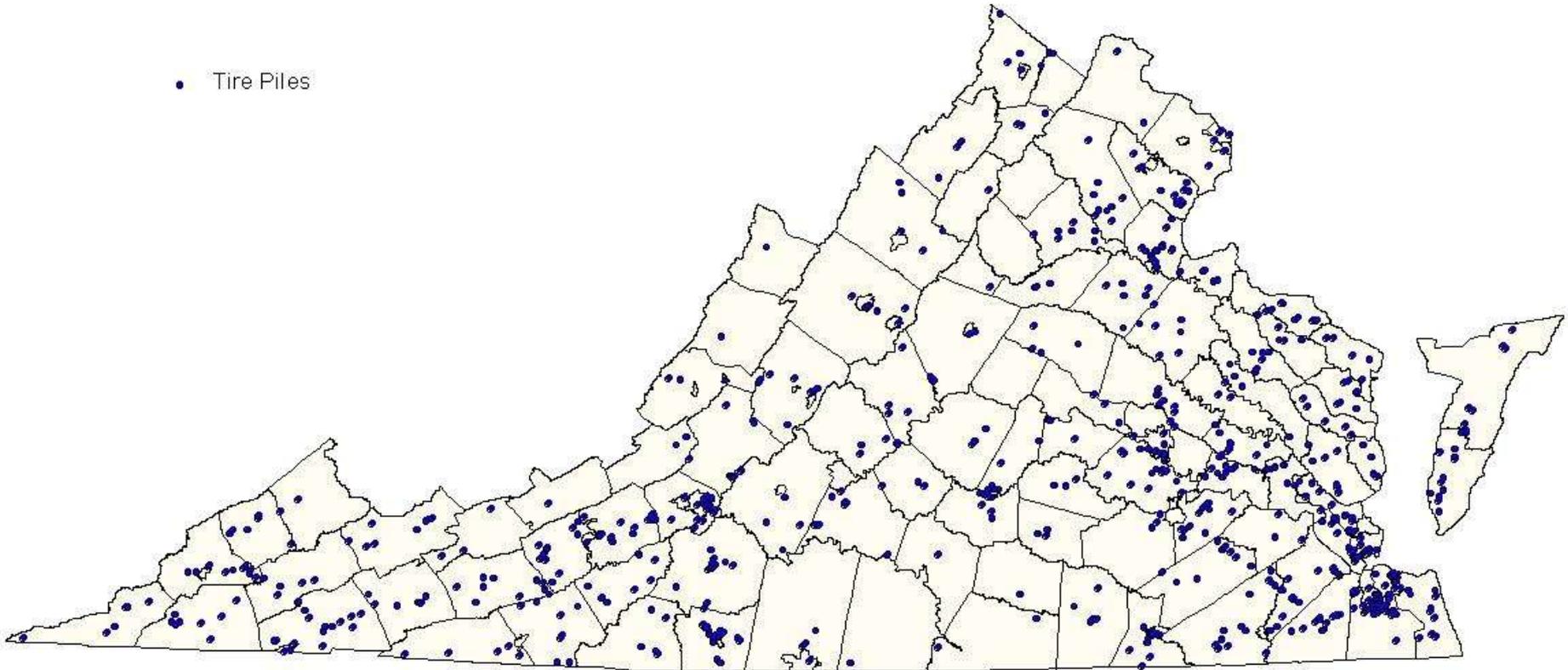
## CLEAN UPS BY TYPE

Type of Clean Up	# Piles	# Tires	\$ Costs
<u>END USER REIMBURSEMENT</u> (EUR)	200	13,600,000	\$9,300,000
<u>DEMONSTRATIONS</u> (DEMO)	7	2,800,000	\$1,600,000
<u>REGIONAL PROGRAMS</u> (REGIONAL)	76	1,700,000	\$1,700,000
<u>BY OWNER</u>	681	1,700,000	UNKNOWN*
<u>CLEAN SWEEP PROJECTS</u>	183	3,800,000	\$9,300,000
<b>TOTAL</b>	<b>1,147</b>	<b>23,100,000</b>	<b>\$21,900,000</b>

# Historic Tire Piles

## Waste Tire Piles in Virginia

• Tire Piles



- For more information and contact information, please visit our website at [www.deq.virginia.gov/wastetires](http://www.deq.virginia.gov/wastetires)
- Steve Coe
- 804-698-4029
- Steve.coe@deq.virginia.gov

# Bona Fide Prospective Purchaser

- BFPP – Brownfields Summary Form
- All Appropriate Inquiry with Phase I ESA in accordance with ASTM E-1527-05
- Self implementing program as it is set up with the EPA
- In Virginia, to help facilitate redevelopment we will issue a BFPP status letter as a form of a comfort letter
- Phase II ESA may be needed
- DEQ staff review of submitted data along with agency records should help eliminate pitfalls for a buyer
- Also provide Lender Liability Letters and Contiguous Property Owner Letters
- Does NOT eliminate the need for “Appropriate Care”

**NEW**

# CERCLA Liability and Local Government Acquisitions and Other Activities Fact Sheet

- December 23, 2011
- Summarizing key provisions that affect local government
- ID resources such as enforcement discretion guidance and site specific tools available to mitigate liability concerns



# Site Specific Assessments

- Designed to assist the sale, purchase, and/or further characterize property to facilitate revitalization, ie Phase I & II ESAs and sampling, etc
- SSA completed with 6 localities for 9 sites by 12/31/2009
- Working on 6 SSA contracts now
- Did not received our full request for a total of 8
- May have the ability to complete 2 more
- Must be completed QUICKLY to use funding

# Initiatives from the EPA

- Affected communities must have a leadership place at the decision making table & Local governments are critical stakeholders in any successful revitalization efforts.
- Partnership within federal government such as between EPA and Dept of Transportation and Dept of Housing and Urban Development.
- Urban gardens and Urban agriculture
- Improving mass transit and facilitating cleanup and redevelopment along freight rail lines
- Revitalization of property associated with automotive industry
- Renewable energy projects on Brownfields properties.

# Other Examples of Initiatives

- Urban Waters Initiative (Elizabeth River has been chosen in Virginia)
- Corridor Redevelopment
- Safe Schools
- Area wide planning for Brownfields redevelopment

# Community Involvement

- Critical to the success of remediation projects
- Requires communication with community representatives early and often
- TRUST: Can be difficult to achieve without early involvement and even harder to regain once lost
- Disaffected communities have numerous options available to slow or halt remediation/revitalization efforts
- Cleanups at sites with effectively engaged communities run more smoothly and have fewer problems on the “back end” of projects

# Common Methods to Engage Communities

- Standard public meeting (not as effective)
- Open house forums
  - Information booths
  - Casual
  - Prevents individuals not representative of the community from dominating discussion
- Direct mail (fact sheets, questionnaires, etc.)
- Face to face conversations- getting out in the community

# Resources for Community Involvement

- ASTSWMO Community Involvement Resource Guide

([http://astswmo.org/files/publications/federalfacilities/2009.07\\_Final-CI-Guide.pdf](http://astswmo.org/files/publications/federalfacilities/2009.07_Final-CI-Guide.pdf))

- EPA Community Involvement Handbook

([http://www.epa.gov/superfund/community/cag/pdfs/ci\\_handbook.pdf](http://www.epa.gov/superfund/community/cag/pdfs/ci_handbook.pdf))

- EPA Superfund Community Involvement Toolkit

(<http://www.epa.gov/superfund/community/toolkit.htm>)

# Other Opportunities for Grants

- Area Wide Planning
- Pilot Program Grants
- Job Training Grants
- Petroleum Brownfields Grants
  - Corridor redevelopment and Historic Highways Projects

# Brownfield Grants

- DEQ strongly recommends applying for Brownfields Grants
- Three excellent examples are the grants received by Pulaski, Danville, and Roanoke

# Virginia Brownfields E-mail List

- E-mail list with periodic information on issues which affect the Brownfields community.
- If you are interested in getting on this list, please contact me and I will include you in the next mailing.

# Brownfields 2011

- April 3 to 5, 2011
- Philadelphia, Pennsylvania
- <http://www.brownfields2011.org>
- Plan on attending!



# Future Regional Brownfields Conferences

## Virginia Department of Environmental Quality

### Brownfields and Land Renewal Program

To be determined

If there is interest, please let us know

- **Development of a web based survey to focus future programs**
- **Contact us regarding one on one meetings or specific sites**

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