

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**DIVISION OF QUALITYWATER PROGRAMS**  
**ELLEN GILINSKY, Ph.D., Director**

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

Location:  
629 East Main Street  
Richmond, VA 23219

**SUBJECT:** Guidance Memorandum No. 07-2001 - Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume III, Application Process: For Work Authorized On Or After March 1, 2007;  
Guidance Memorandum No. 07-2002 - The Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume IV, 007 UCR Schedules: For Work Authorized On Or After March 1, 2007;  
Guidance Memorandum No. 07-2003 - The Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume V, Reconsideration Procedures Applicable to initial Reimbursement Decisions issued after March 1, 2007

**TO:** Regional Directors

**FROM:** Ellen Gilinsky, Ph.D., Director 

**DATE:** February 23, 2007

**COPIES:** Rick Weeks, James Golden, Fred Cunningham, Regional Groundwater Managers, John Giese, Betty Lamp, Renee Hooper, Steve Williams

---

**Summary:**

Effective the date of this memorandum, staff should use the attached version of The Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume III, Application Process: For Work Authorized On Or After March 1, 2007; The Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume IV, 007 UCR Schedules: For Work Authorized On Or After March 1, 2007; and The Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume V, Reconsideration Procedures Applicable to Initial Reimbursement Decisions Issued After March 1, 2007.

These three volumes establish procedures for claimants and consultants to follow for phases begun on or after March 1, 2007, to remediate releases eligible for reimbursement from the Virginia Petroleum Storage Tank Fund (VPSTF). The Usual and Customary Rates (UCR) in Volume IV are guidance, which implement state law and regulation. The guidance establishes a norm but is not the final determination of the issues addressed. The Reconsideration Panel will make the final Agency decisions in any particular case by applying State Water Control Law and implementing regulations on the basis of the site-specific facts.

For work started before March 1, 2007, Guidance No. 00-2004 Reimbursement Manual Volume 1, 3<sup>rd</sup> Edition and Guidance No. 02-2019 - Virginia Petroleum Storage Tank Fund Reimbursement Guidance Manual, Volume II, 5<sup>th</sup> Edition, remain in effect.

**Electronic Copy:**

An electronic copy of this guidance in PDF format is available for staff internally in DEQNet, and for the general public on DEQ's website at: <http://www.deq.virginia.gov>.

**Contact Information:**

Should you have any questions or need further assistance on this guidance, please contact Steve Williams (telephone 804.698.4293; e-mail [scwilliams@deq.virginia.gov](mailto:scwilliams@deq.virginia.gov)) or Fred Cunningham (telephone 804.698.4285; e-mail [fkcunningh@deq.virigina.gov](mailto:fkcunningh@deq.virigina.gov)).

**Disclaimer:**

**This document provides procedural guidance to the DEQ Storage Tank Program staff. This document is guidance only. It does not establish or affect legal rights or obligations. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made by applying the State Water Control Law and the implementation regulations on the basis of site-specific facts.**

**THE VIRGINIA PETROLEUM STORAGE TANK FUND  
REIMBURSEMENT GUIDANCE MANUAL**

Volume V

Reconsideration Procedures

*Applicable To Initial Reimbursement Decisions Issued **after March 1, 2007***



**TABLE OF CONTENTS**

	Page
1.0 VPSTF REIMBURSEMENT RECONSIDERATION PROCEDURE .....	1
1.1. Overview .....	1
1.2. Assistance .....	1
1.3. Deadlines.....	1
1.4. Step By Step Claim Procedures .....	2
1.5. Other Helpful Information .....	5
1.5.1. UCR Denials .....	5
1.5.2. Reconsideration Claim Preparation Costs .....	5
 APPENDICES	
1 Reconsideration Claim Forms	



## 1.0 VIRGINIA PETROLEUM STORAGE TANK FUND REIMBURSEMENT RECONSIDERATION PROCEDURE

The documents in this procedure package are updated periodically. Claimants and consultants should use the procedure package in effect at the time of their claim decision and should not rely on versions of the procedure package, which they may have received previously. The latest version of these procedures may be obtained by calling (804) 698-4358 or on the Internet at [www.deq.virginia.gov/tanks/dwnllib.html](http://www.deq.virginia.gov/tanks/dwnllib.html).



### 1.1 OVERVIEW

Claimants for reimbursement from the Virginia Petroleum Storage Tank Fund (Fund) have one opportunity (the Reconsideration process) to contest the initial Reimbursement Decision for their claim. A Reconsideration Panel (Panel) composed of DEQ personnel who have not previously rendered a reimbursement decision on the claim but who are familiar with reimbursement policies, decides the merits of each reconsideration claim. The Panel is charged with ensuring that State law and regulations and DEQ policies and procedures have been properly and fairly applied during the reconsideration claim review, and is responsible for rendering the agency's final, written decision on the claim.

### 1.2 ASSISTANCE

1. If you wish to file a Reconsideration of the initial Reimbursement decision, the remaining volumes of *VPSTF Reimbursement Guidance Manual* contain additional information that may assist in its preparation. If you have UCR denials, you may wish to consult the UCR Schedule(s). A copy can be obtained by (1) calling DEQ's customer service line at **(804) 698-4358**, or (2) visiting VPSTF's Web Page at <http://www.deq.virginia.gov/tanks/dwnllib.html>.

### 1.3 DEADLINES



All claimants who desire reconsideration are required to submit the following document, which must be **RECEIVED BY DEQ** on or before the deadline stated in the table below:

Form	Filing Deadline
<b>Reconsideration Claim Form</b> (with supporting documentation)	<b>45 calendar days</b> after the date of the Claim Decision Summary for the initial Reimbursement Decision package.
<b>If the claimant fails to meet the deadline, the initial Reimbursement Decision will be <b>FINAL</b>, and the claimant will not be permitted any further administrative review.</b>	





#### 1.4 STEP BY STEP CLAIM PROCEDURES

Claimants may contest DEQ's initial Reimbursement decision by following the steps below. Questions about the process can be directed to the DEQ's customer service line at **(804) 698-4358**.

- Step 1. The claimant receives the initial Reimbursement Decision package containing a **Reconsideration Claim Form** and decides to contest all or part of any costs denied. Note: Sample forms are included in Appendix 1. To file for Reconsideration, you must use the forms included with the Reimbursement Decision package.
- Step 2. If the claimant would like a copy of the complete reimbursement file, he or she calls DEQ's customer service line at (804) 698-4358 to request one.
- Step 3. DEQ mails a copy of the file, if requested by the claimant.
- Step 4. Within 45 days of the date of the claim decision summary for the original claim, the claimant files the **Reconsideration Claim Form and Reconsideration Claim Form Worksheet** (see Appendix 1) with all necessary supporting documents. Please refer to the Denial Codes listed on your Decision Package Worksheet and the Denial Code Response Report included with your Claim decision package to determine what supporting documentation is necessary to support your argument that the denial should be reversed and paid.



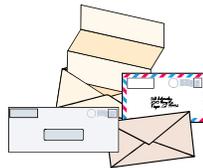
Note: Additional information may be added to the Reconsideration Claim until the Claim Form filing deadline. After this deadline, the reconsideration claim is closed, unless additional information is requested by the Technical Reviewer.

- Step 5. After the Reconsideration Claim Form deadline DEQ reviews the claim. The presumption is that all documentation and evidence pertinent to the claim is now part of the claim file. Should the Technical Reviewer determine that additional information or clarification of the submitted documentation is necessary, a Reconsideration Claimant Notification Form will be sent to the Claimant with a 14-calendar day deadline for submittal of the requested info.
- Step 6. The technical reviewer reviews the Reconsideration Claim Form and supporting documentation and generates a draft Reconsideration Claim decision.

Step 7. Opportunity to Convert from a Meeting to a Written Reconsideration

At this point in the process, the claimant chooses whether to participate in a meeting to contest the denials (a "Meeting Reconsideration") or request a written determination based on the paper file (a "Written Reconsideration"). See below for more information about Meeting and Written Reconsiderations. Claimants may convert to a Written Reconsideration prior to scheduling the Panel Meeting. The results of the draft Reconsideration Claim decision are communicated to the claimant in a "conversion letter" identifying any additional amount(s) that can be approved. If the approval amount is acceptable, the claimant signs and returns the Conversion Request Form to DEQ within 7 business days of the date of the conversion letter. From this point forward, the claim is handled as Written Reconsideration.

Step 8. If the claimant elects not to convert, he or she must call DEQ to schedule the Panel Meeting within 7 business days of the date of the conversion letter. If the claimant fails to meet this deadline, DEQ will select the meeting date without the claimant's input and will send written confirmation of this date to the claimant. Meeting dates will not be rescheduled except for bona fide emergencies as determined in the sole discretion of DEQ



**For Written Reconsiderations:**

 *In the written type of reconsideration, the claimant elects not to make a personal appearance before the Panel, relying solely on the written claim materials to state the claimant's position.*

Step 9W. If the claimant converted to a Written Determination, a draft Reconsideration Claim decision is presented to the Panel. The Panel reviews this draft based on the documentation in the file and the presentation of information by the claim reviewer.

Step 10W. The Final Agency decision package is generated based on the Panel proceedings and is mailed to the claimant's address specified on the Reconsideration Claim.



### **For Meeting Reconsiderations:**

 *In a meeting type of reconsideration, the claimant and/or representative(s) appear personally before the Panel. A claimant's representative can be anyone with a detailed knowledge of the remediation activities and/or the claim, such as an attorney, accountant, or environmental consultant. Attending this meeting provides claimants the opportunity to personally present their perspective on the claim and arguments supporting their interpretation of the contents of the claim file. The meeting will be tape-recorded in order to have an accurate record of the proceedings.*

Step 9M. The claimant and/or the claimant's representative(s) attend the Panel Meeting and presents arguments to the Panel. **The Panel is under no obligation to consider any documentation other than that, which was submitted in the reconsideration claim package prior to its submission deadline.** Panel Meetings are generally allotted one hour.

Step 10M. If the claimant and/or the claimant's representatives fail to attend the scheduled Panel Meeting, the Panel will proceed as though the claimant requested a Written Determination and will render a Final Agency decision.

Step 11M. The Final Agency decision package is generated based on the meeting proceedings and is mailed to the claimant's address specified on the Reconsideration Claim.

## 1.5 OTHER HELPFUL INFORMATION

When compiling information for the Reconsideration Claim Form Worksheet, the claimant should consider the possibility that several independent review criteria might affect the final determination of a particular cost's reimbursement eligibility. Additionally, the information reviewed during the reconsideration process may show that costs that DEQ previously approved should have been denied. Therefore, the claimant should anticipate and address any new issues the review might raise as well as addressing those issues specifically identified in the Reimbursement Decision Summary and Denial Response Report.

For example, assume that some costs were denied in the initial decision due to lack of documentation. It is possible that once the appropriate documentation is received the reconsideration claim review may determine that the costs exceed the UCRs. Such a determination would result in some portion of the claimed costs continuing to be denied. To avoid such secondary denials, the claimant should anticipate them and supply evidence to address them.

### 1.5.1 UCR Denials

Regarding costs denied for exceeding UCRs, please note that the administration of the Fund is not intended to interfere with or govern the actions of businesses engaged in petroleum storage tank release corrective action activities. Corrective action is site

specific in nature, and the degree of effort involved cannot be determined accurately prior to the beginning of work in some cases. DEQ has the authority to reimburse for certain costs (e.g., mileage, equipment, hourly fees) at rates which may differ from the fees some companies charge as part of the cost of doing business. Thus, **it is possible that certain costs or a percentage of certain costs, incurred by the responsible person during corrective action may not be eligible for reimbursement.**



March 1, 2007

---

**APPENDIX 1**  
**Reconsideration Claim Forms**



**VIRGINIA PETROLEUM STORAGE TANK FUND  
RECONSIDERATION CLAIM FORM**

If you have questions about how to complete this form or the Reconsideration Procedures, or if you have any questions in general, please call the Virginia Petroleum Storage Tank Fund Customer Service Line at (804) 698-4358. After completing this form, please mail it to: DEQ, OSRR, 10<sup>th</sup> Floor, 629 E. Main Street, Richmond, VA 23219 or fax it to (804) 698-4338 or (804) 69804266. **THIS FORM AND WORKSHEET(S) MUST BE RECEIVED BY DEQ WITHIN 45 DAYS OF THE DATE OF THE DECISION SUMMARY FOR THE ORIGINAL CLAIM.**

**SECTION A: PAYEE INFORMATION**

If any additional monies are approved for this reconsideration claim, payment will be made to the payee (referenced below) as designated in the original claim. Please review items 3 through 11 for verification. If any corrections need to be made to the information, please check the boxes that apply and write the correct information in **SECTION C: CORRECTED INFORMATION** below.

1.  **Payee Name is correct as listed below but the address needs to be corrected** - I have submitted the corrected address in Section C of this page.
2.  **Assign payment to a different party other than the one listed below** - I have completed a notarized payment assignment form or recession request from (if applicable) and a W-9 for the payment assignee.
3.  **Payee Name**  
(Changes to Payee require additional documentation - see 2 above)
4.  **Address**
  
5.  **Name of Contact Person**
6.  **Daytime Telephone Number**
7.  **Fax Number**
8.  **PC#**
9.  **Claim #**
10.  **Site Name**
11.  **Site Address**

**SECTION B: STATEMENT OF COSTS FOR RECONSIDERATION**

12. Total costs being contested in this application \$ \_\_\_\_\_

**SECTION C: CORRECTED INFORMATION**

---

---

---

**Please Note**

- The Payee Name and Address on this form will be used for all correspondence, and the Final Agency Decision and check (if applicable) will be sent to this name and address unless a notarized Payment Assignment Form or Rescission Request Form and W-9 for the new designated payment assignee is submitted.
- Supporting documentation must be submitted with this form.
- You must submit this page *and* the Reconsideration Claim Form Worksheet(s) by the deadline.

Instructions for Completing the  
**Reconsideration Claim Form**

Note: To ensure that this claim form is received at DEQ by the filing deadline, DEQ suggests sending this claim by certified mail (return receipt requested), express service, courier service, or fax (804) 698-4266.

**Section A: Payee Information**

- Verify the
- (3) Payee Name
  - (4) Address
  - (5) Name of Contact
  - (6) Daytime Telephone Number (of the contact person)
  - (7) Fax Number (of the contact person)
  - (8) PC Number (of the Decision Package you are contesting)
  - (9) Claim Number (of the Decision Package you are contesting)
  - (10) Site Name
  - (11) Site Address

And indicate if this pre-printed information has changed since the original claim was filed by writing the correct information in

**Section C: Corrected Information.** Please note that additional documentation is required to change the Payee. For specifics, refer to the front of this form, Section A: Payee Information, #2.

The claimant address is the address to which the Final Agency decision and check (if applicable) will be mailed. If an assignment has been filed, the assignee address is the address to which the Final Agency decision and check (if applicable) will be mailed, with a copy of the Final Agency decision sent to the claimant.

**Section B: Statement of Costs for Reconsideration**

Indicate the total dollar amount being contested. This dollar amount must agree with the Grand Total on the Reconsideration Claim Form Worksheet. The Reconsideration Claim Form is considered incomplete without the Reconsideration Claim Form Worksheet.



