

## Virginia Department of Environmental Quality (DEQ) Storage Tank Program Fact Sheet: Liability for Petroleum Cleanups and Access to VPSTF following Residential Property Transfers

*This fact sheet pertains to situations in which an individual purchases residential property on which a petroleum release was reported before the transfer of ownership.*

- Article 11 of State Water Control Law<sup>1</sup> requires that spills and leaks from home heating oil tanks be cleaned up. In cases where a spill has occurred (e.g., overfilling the tank), both the spiller and the homeowner are responsible for the cleanup, although DEQ normally requires the spiller to complete the cleanup. In cases where the tank system has leaked due to corrosion or system failure (i.e., no spiller), the homeowner is responsible for the cleanup. The spiller or homeowner that DEQ has identified as liable for the cleanup must continue the cleanup until DEQ closes the case, even if the residential property is transferred to another party. If the property is transferred to another party, the homeowner/spiller should obtain a site access agreement to ensure the ability to complete the cleanup after the sale of the property.
- For spills and leaks from home heating oil tanks that are reported before the sale of a property, DEQ typically does not pursue a subsequent residential property purchaser. However, if acts or omissions of the subsequent purchaser interfere with cleanup activity (e.g., barring site access), DEQ may hold the subsequent purchaser liable for cleanup.
- Closure of a cleanup case does not mean that the property is free of contamination. Most cleanup cases are closed with contamination remaining on the property. In such cases, subsequent purchasers who develop or alter the property are responsible for properly managing contaminated media and addressing environmental impacts resulting from development activities. This includes disposal of petroleum contaminated soils generated by construction activities and disposal of contaminated water generated by dewatering activities<sup>2</sup>.

- **Reimbursement from the Virginia Petroleum Storage Tank Fund (VPSTF)**

Some buyers wish to complete the cleanup that the seller has initiated. For cleanups in which the seller is eligible to submit for reimbursement from the Virginia Petroleum Storage Tank Fund (VPSTF), the seller may: (1) assign its reimbursement to the buyer (requires an assignment with each progress claim), or (2) relinquish its VPSTF access to the buyer (requires the buyer to submit to DEQ an assumption of liability for the entire cleanup). The Assumption of Liability fact sheet contains additional information on this process.

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<sup>1</sup> Virginia Code Section 62.1-44.34:14 *et seq.*

<sup>2</sup> If a previously issued pollution complaint occurrence is reopened for other reasons, the original homeowner/spiller will remain responsible for required response activities.