



Delivery Prohibition

Understanding the “Red Tag” Process in Virginia

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Agenda

- What is delivery prohibition (DP)?
- How does it work?
- Who does it affect?
- How do I navigate the process?



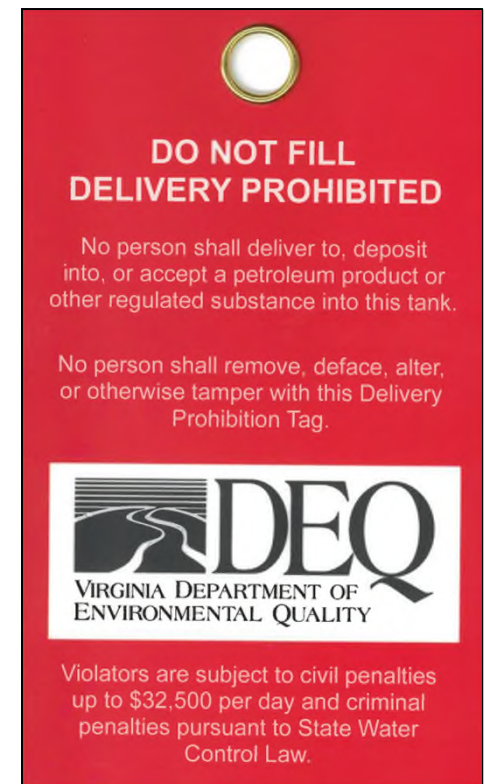
When a tank is subject to delivery prohibition...

- ☒ It cannot receive product.
- ☐ It cannot dispense product.
- ☒ A red tag is attached to its fill pipe by DEQ.
- ☐ A red tag is posted in the facility's window.

Answer: A red “Do Not Fill” tag will be zip-tied around the fill pipe by DEQ staff to alert delivery drivers. The tank cannot receive product from *any source* (no deliveries, no fuel entering through a manifold, etc.)!

What does Delivery Prohibition mean?

- DEQ may prohibit deliveries to noncompliant tanks until the owner/operator resolves the issues
- Per §9VAC25-580-370, no person shall:
 - Accept product into a tagged UST.
 - Deliver product into a tagged UST.
 - Deface, mar or remove a red tag from a UST without authorization.



Types of Delivery Prohibition



Regular

Facility fails to comply after request(s) for corrective action / notice of alleged violation (e.g., RCA, WL, CSO)

DP Notice typically 45+ days after inspection if issues not fixed by deadline

**More History/Severity of Noncompliance
=
Faster DP Process!**

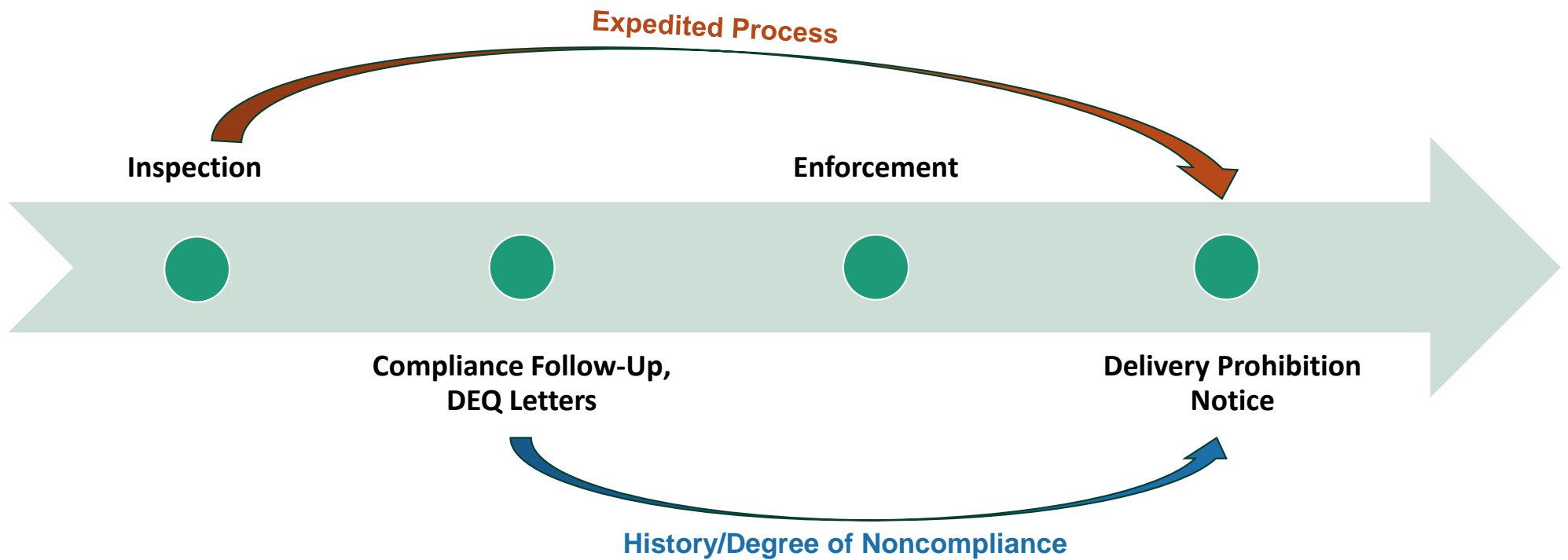


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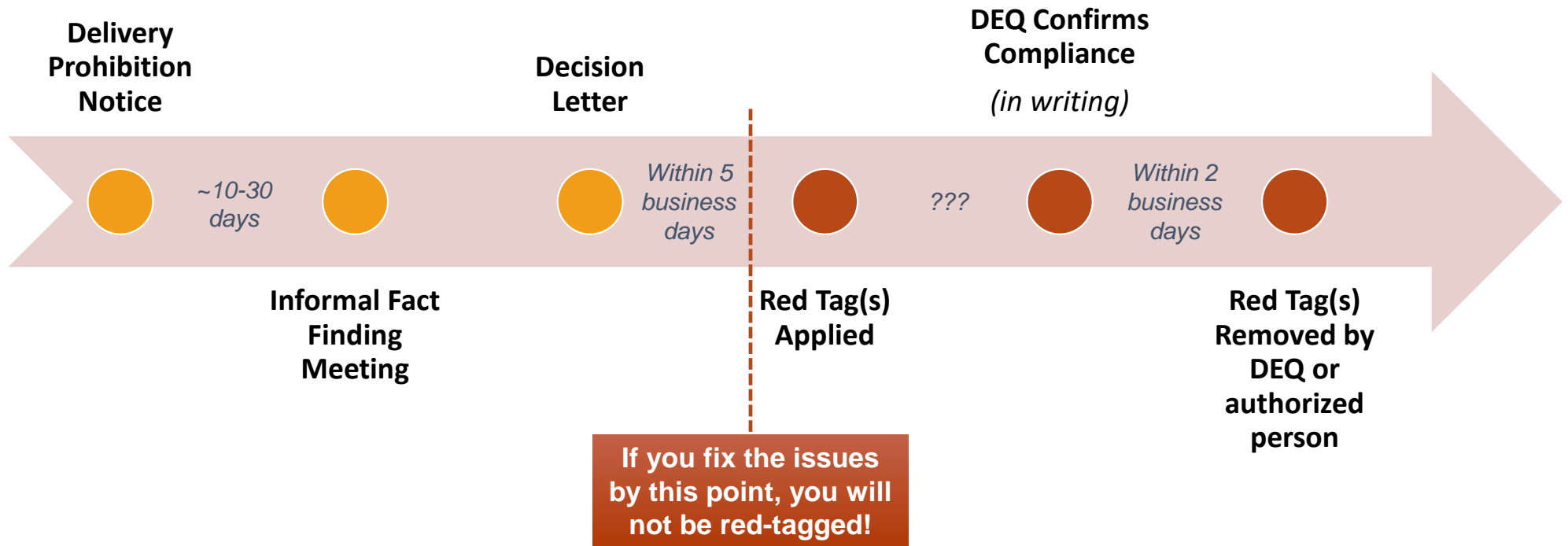
Tank not equipped with basic pollution prevention equipment (e.g., spill bucket, overfill device)

DP Notice within 3-10 days of inspection

Initiating Delivery Prohibition



Delivery Prohibition Process



Notice of Delivery Prohibition Proceeding

NOTICE OF INFORMAL FACT FINDING PROCEEDING

RE:

Named
Party(ies)

Facility

Facility ID
No.

Dear Sir/Madam:

You are hereby notified that the Department of Environmental Quality Fact Finding Proceeding ("Proceeding") will be held via conference call at the date and time listed below. Please call the Call-In Number and enter the Access Code.

FUTURE ACTIONS

If you waive your right to an Informal Fact Finding Proceeding or if these tanks are determined to be in violation of 9VAC25-580-10 *et seq.* and ineligible for delivery, a delivery prohibition notice ("red tag") will be placed on the fill port of the ineligible UST(s) and delivery, deposit or acceptance of a regulated substance into the UST(s) will be prohibited until such time as the UST(s) are returned to compliance. Please be advised that removal of the red tag is prohibited by 9VAC25-580-370 unless authorized, in writing, by DEQ. In addition, for each alleged violation, DEQ is authorized to pursue enforcement actions, seek civil penalties and seek compliance with its rules and regulations in any manner allowed by law.

Please contact the following DEQ staff within 5 business days of the date of this letter to confirm whether you and/or a representative will attend the Proceeding or with any questions related to this Proceeding.

Agency Advocate

Phone No.

Email

Informal Fact Finding Proceeding

- Organized discussion between DEQ and owner/operator of facility
- Chance to respond to or disprove alleged violations (e.g., recently resolved issues)
- Will conclude with a decision on whether the tank(s) must be tagged

Agency Advocate

- Presents DEQ's case, i.e., evidence that the tanks are violating rules in ways that call for delivery prohibition

Presiding Officer

- Neutral DEQ employee with no prior knowledge of case
- Decides whether the tanks are ineligible to receive deliveries, based on cases presented by DEQ and facility rep(s) at the meeting

How to Handle an Informal Fact Finding

Before

- Prepare to demonstrate your efforts to establish compliance/fix problems
- Invite anyone who can speak to those efforts (e.g., contractors)
- Contact Agency Advocate to waive IFF or reschedule (with good cause)

During

- Listen to the agency advocate's case and ensure you understand the alleged violations
- Submit documentation or evidence to demonstrate your efforts

After

- Complete any steps requested by the Presiding Officer
- Continue working on any unresolved issues
- Await the Delivery Prohibition Decision Letter

Decision Letter

DECISION AND NOTICE OF UNDERGROUND STORAGE TANK (UST) DELIVERY PROHIBITION			
Facility Name		Facility Address	
<p>No later than 5 business days from the date of this decision, DEQ staff will affix a delivery prohibition tag to the fill pipe of the UST(s) listed below which will specify that the UST(s) are ineligible for delivery, deposit, or acceptance of a regulated substance.</p> <p>Depositing or allowing deposit of a regulated substance into any of the tanks listed below or removing the delivery prohibition tag without prior DEQ approval constitutes a violation of 9VAC25-580-370 and may subject the violator to enforcement action.</p>			

Red Tag #	DEQ Tank #	Tank Size (Gal)	Product Stored		Red Tag #	DEQ Tank #	Tank Size (Gal)	Product Stored

DEQ Contact	
Address	
Email	
Phone No.	

When Attaching Red Tags, DEQ will...

- Provide notice of the site visit date/time
- Attach the tags around the fill pipe with DEQ embossed, *custom* zip ties
- Take pictures
- Stick tank & take totalizer readings



Who can DEQ enforce against for violations of delivery prohibition requirements?

- ✓ The person/entity who accepts a delivery into a red-tagged tank.
- ✓ The person/entity who delivers to a red-tagged tank.
- ✓ Any person who removes/alters a red tag.

Answer: The tank owner/operator, fueling company, or anyone who removes or tampers with a red tag (e.g., a contractor) can be subject to enforcement action.

What does Delivery Prohibition mean?

- Per §9VAC25-580-370, no person shall:
 - Accept product into a tagged UST.
 - Deliver product into a tagged UST.
 - Deface, mar or remove a red tag from a UST without authorization.

“...civil penalties up to \$32,500 per day and criminal penalties pursuant to State Water Control Law.”



DEQ.Virginia.Gov – Delivery Prohibition Page

<https://www.deq.virginia.gov/our-programs/land-waste/petroleum-tanks/underground-storage-tanks/delivery-prohibition>

Red Tagged Facility List

Below is a current list of facilities that have “red tagged” tanks. DEQ recommends that fuel delivery companies check this list before making a delivery. For more details on the tanks at each facility, you can download the [Red Tagged Facility Details Table](#) here.

Join the DEQ REDTAG email list, and DEQ will notify you when a red tag is placed on a tank at a Virginia facility. Contact [Alicia Meadows](#) to join.

List of Facilities Subject to Delivery Prohibition/Red Tag

(Last Updated on May 30, 2024)

1. **Gunz Grocery and Deli (#1015321)**
2032 Cedar Valley Drive
Cedar Bluff, VA

FACILITY RED TAG DETAILS						
Facility Name	Facility ID#	Facility Address	Date Tagged	Capacity	DEQ Tank #	Tag Number
Gunz Grocery	1015321	2032 Cedar Valley Dr, Cedar Bluff, VA	11/22/2010	8k gal gasoline	DEQ #1	Tag #6
				4K gal gasoline	DEQ #3	Tag #7
				20K gal diesel	DEQ #6	Tag#12/13
Colonial Texaco	3014395	13022 James Madison Hwy, Orange, VA	12/13/2020	4K gal gasoline	DEQ #1	Tag #14
Devyn's Market and Grill	7028104	1781 Centerville Road, Axton, VA	10/13/2011	4K gal gasoline	DEQ #2	Tag #15
				1K gal diesel	DEQ #3	Tag #16
				10K gal gasoline	DEQ #1	Tag #55
Hilton Food Center	1011385	120 AP Carter Highway, Hiltons, VA	7/3/2013	4K gal diesel	DEQ #2	Tag #56
				5K gal gasoline	DEQ #3	Tag #57
				8K gal gasoline	DEQ #1	Tag #52
Miller's Food Mart	1014179	4325 Gate City Highway, Bristol, VA	7/3/2013	6K gal gasoline	DEQ #2	Tag #53
				6K gal gasoline	DEQ #3	Tag #54

Red Tag Email List - contact alicia.meadows@deq.virginia.gov

A red-tagged tank cannot receive a delivery until...

- ☒ All compliance issues on the Decision Letter are resolved.
- ☒ DEQ confirms the tank is back in compliance in writing.
- ☐ DEQ indicates the tank is back in compliance on a phone call.
- ☒ The red tag is removed by DEQ staff or an authorized person.
- ☐ The red tag is removed by my fueling company or contractor.

Answer: You must correct all the issues on the Decision Letter, wait for DEQ to review and confirm in writing, and then follow instructions regarding tag removal. *After* the tag is removed per DEQ's instructions, you may get a delivery.

If a delivery is needed for testing, DEQ can also authorize one-time temporary tag removal. Again, DEQ must approve in writing and will provide tag removal instructions.

Requesting Temporary Tag Removal

Need a delivery for testing? Need to move the red tag for repairs?

1. Submit written request (email) & explanation to DEQ *at least 2 business days in advance*
 - o DEQ contact specified in Decision Letter, or Presiding Officer
2. Wait for DEQ's response – do NOT alter the tag or accept/deliver product without prior written approval from DEQ
3. Follow instructions in DEQ's response (e.g., who will/can remove tag, when, for what specific purpose)



Requesting Permanent Tag Removal

1. Submit written request (email) to DEQ, including evidence of return to compliance (*e.g., test report, invoice for repairs*)
 - DEQ contact specified in Decision Letter, or Presiding Officer
2. Wait for DEQ's response within 5 business days – do NOT remove any red tag or begin accepting/delivering fuel without prior written DEQ approval
 - Not Approved: DEQ will explain the remaining problems & corrective actions.
 - Approved: DEQ will confirm in writing and provide details about tag removal.



True or False?

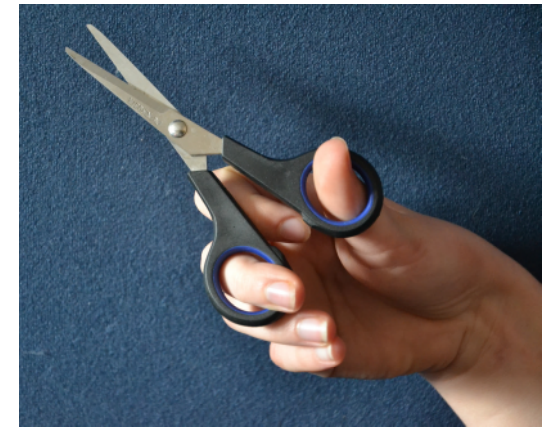
- An owner/operator can prioritize getting red tags removed from certain USTs before others (e.g., get the Regular tank fixed & untagged before the Premium).
 - **True** – DEQ will remove red tags on a tank-by-tank basis.

True or False?

- An owner/operator can leave one UST red-tagged indefinitely while continuing to operate the other USTs.
 - **False** – DEQ may pursue facility-wide delivery prohibition if 1 or more USTs have been red-tagged for > 90 days without returning to compliance or being properly closed.

When Removing Red Tags, DEQ will...

- Contact owner/operator with projected removal date
 - May authorize facility representative to remove tag(s) in writing
- Remove tag(s) within 2 business days of confirming return to compliance
 - Tank-by-tank basis
- Issue a Delivery Prohibition Termination Letter & remove facility from the public list
 - When all tags at the facility are removed



DEQ Main Point of Contact

Point of contact will change as you move through the process.

When in doubt, **check your latest letter from DEQ**, call your inspector, or call your regional office for assistance: <https://www.deq.virginia.gov/get-involved/about-us/contact-us>



TANK INSPECTOR



AGENCY ADVOCATE



PRESIDING OFFICER



How can I avoid Delivery Prohibition (“Red Tags”)?

If you do not keep your tanks in compliance with Virginia law & regulation, delivery prohibition is a possible result. More severe issues may lead to faster initiation of DP.

Know the Requirements

- DEQ offers 1-on-1 assistance from tank inspectors (reachable by phone or email) and many online resources to assist with understanding how to stay in compliance.
- **Failure to learn and meet requirements may lead to DP.**



Stay in Compliance

- DEQ Tank Inspectors will routinely inspect your facility for compliance with the UST Technical Regulation ([9VAC25-580](#)).
- **Violations may lead to DP if not addressed in a timely manner.**



Don't Ignore DEQ Letters & Miss Deadlines

- If violations are found, DEQ will issue letter(s) specifying the issues and how to fix them.
- **Failure to complete corrective actions by DEQ's deadlines may lead to DP.**

Resources

- Delivery Prohibition webpage - <https://www.deq.virginia.gov/our-programs/land-waste/petroleum-tanks/underground-storage-tanks/delivery-prohibition>
- Fact sheets (available on webpage):
 - Delivery Prohibition Overview
 - Requesting Red Tag Removal
- Email list for fueling companies – notification when facilities are tagged
 - Contact Alicia Meadows (alicia.meadows@deq.virginia.gov) to sign up

Questions

Contact kelsey.gump@deq.virginia.gov or 804-814-7889

