



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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Travis A. Voyles  
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Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

September 12, 2023

Mr. Jackie Soni, Owner/President  
ATVI LLC  
2710 Matthew Dr.  
Vinton, Virginia 24179  
Via Email: [sonijp864@gmail.com](mailto:sonijp864@gmail.com)

Mr. Jackie Soni, Owner/President  
Quick Mart  
8345 Monetary Road  
Bedford, Virginia 24523

**Notice of Delivery Prohibition Proceeding and Special Order Proceeding**

**DATE:** October 16, 2023

**TIME:** 10:00 am

**CONFERENCE CALL INFORMATION:**

**CALL-IN NO.:** 1 (312) 757-3121

**ACCESS CODE:** 253-160-749

**In re:** ATVI LLC  
Quick Mart 8345 Monetary Road, Bedford, Virginia  
Facility ID No. 2015192

Dear Mr. Soni:

You are hereby notified that a Delivery Prohibition Proceeding and a Special Order Proceeding will be held on October 16, 2023 at 10:00 am regarding the Quick Mart (the "Facility") located at 8345 Monetary Road, Bedford, Virginia. **The Delivery Prohibition Proceeding and Special Order Proceeding will be held via conference call.** At the scheduled time, dial 1 (312) 757-3121, and enter the Access Code 253-160-749 when requested. If you have any difficulty accessing the conference call, please call **Michelle Callahan** at (804) 664-3893.

**PURPOSE**

The Delivery Prohibition Proceeding will determine whether the underground storage tank(s) (“USTs”) located at the Facility and listed in this Notice are ineligible for delivery, deposit, or acceptance of a regulated substance based on violation(s) of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements Regulation. The Delivery Prohibition Proceeding will be an informal fact finding proceeding conducted pursuant to Va. Code § 2.2-4019.

The Special Order Proceeding will determine whether ATVI LLC has violated certain provisions of the State water Control Law and Regulations and will determine the appropriateness of injunctive relief and a civil penalty. DEQ staff will be seeking a Special Order requiring ATVI LLC to comply with the above statutes and regulations at the Facility and pay a \$10,000 civil penalty. The Special Order Proceeding will be an informal fact finding proceeding conducted pursuant to Va. Code §§ 2.2-4019 and 10.1-1186.

Va. Code § 10.1-1186 authorizes the Director of DEQ to issue a Special Order to any person to comply with the provisions of any law, any condition of a permit or certification, any regulation or case decision, as addressed therein. Va. Code § 10.1-1182 defines a Special Order as “an administrative order to any party that has a stated duration of not more than twelve months and that may include a civil penalty of not more than \$10,000.”

The alleged violations for the Delivery Prohibition Proceeding and Special Order Proceeding are set forth in this Notice Letter.

### **INFORMATION TO BE USED BY DEQ**

This letter notifies you of information upon which DEQ staff may rely to (1) make a case decision following the Delivery Prohibition Proceeding and (2) request the issuance of a Special Order following the Special Order Proceeding. In addition to the information enclosed with this Notice Letter and labeled as “DEQ Exhibit Book,” DEQ staff may also rely on other public documents in DEQ files. The enclosed information, the information in DEQ’s case file, and the information presented by witnesses will be relied upon to ascertain the facts in this matter.

DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. In addition to the laws and regulations cited in this Notice Letter, DEQ may rely on other authorities. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

### **ALLEGED VIOLATIONS AND LEGAL REQUIREMENTS**

Alleged Violation	Observations and Legal Requirements
<input checked="" type="checkbox"/>	Failed to keep required records at the Facility, readily available at an alternative site, or make them immediately available upon request. <b>9VAC25-580-120: Reporting and Recordkeeping</b>
<input checked="" type="checkbox"/>	Failed to properly perform, repair, replace, test, or provide a method, or combination of methods, of release detection for tanks, and/or operation of electronic and mechanical components for USTs at the Facility. <b>9VAC25-580-110: Repairs Allowed</b> <b>9VAC25-580-130: General Requirements for all UST Systems</b> <b>9VAC25-580-140: Requirements for Petroleum UST Systems</b> <b>9VAC25-580-160: Methods of Release Detection for Tanks</b>
<input checked="" type="checkbox"/>	Failed to properly perform, repair, replace, test, or provide release detection for piping, and/or operation of electronic and mechanical components for USTs at the Facility. <b>9VAC25-580-110: Repairs Allowed</b> <b>9VAC25-580-130: General Requirements for all UST Systems</b> <b>9VAC25-580-140: Requirements for Petroleum UST Systems</b> <b>9VAC25-580-170: Methods of Release Detection for Piping</b>
<input checked="" type="checkbox"/>	Failed to provide, operate, repair, test and/or maintain corrosion protection of the UST system. <b>9VAC25-580-50: Performance Standards for New UST Systems</b> <b>9VAC25-580-60: Upgrading of Existing UST Systems</b> <b>9VAC25-580-90: Operation and Maintenance of Corrosion Protection</b> <b>9VAC25-580-110: Repairs Allowed</b>
<input type="checkbox"/>	Failed to provide overfill and/or spill prevention / equipment that will prevent a release into the environment. <b>9VAC25-580-50: Performance Standards for New UST Systems</b> <b>9VAC25-580-60: Upgrading of existing UST Systems</b>
<input checked="" type="checkbox"/>	Failed to conduct or properly conduct walkthrough inspections. <b>9VAC25-580-85: Periodic operation and maintenance walkthrough inspections</b>
<input type="checkbox"/>	Failed to submit a UST notification form or an amended notification form regarding a change in ownership, tank status, tank/piping systems, or substance stored within 30 days after such change or upgrade occurs or is brought into use. <b>9VAC25-580-70: Notification Requirements</b>
<input checked="" type="checkbox"/>	Failed to complete the required training and/or designate Class A, Class B, and/or Class C operators and/or failed to provide written instructions or emergency procedures. <b>9VAC25-580-125: Operator Training</b>
<input checked="" type="checkbox"/>	Failed to properly conduct testing and/or test spill prevention equipment, overfill equipment, and/or containment sumps. <b>9VAC25-580-82: Periodic Testing</b>
<input type="checkbox"/>	Failed to report a suspected release or unusual operating condition within 24 hours. <b>9VAC25-580-190: Reporting of Suspected Releases</b> <b>9VAC25-580-220: Reporting and Cleanup of Spills and Overfills</b>

Alleged Violation	Observations and Legal Requirements
<input type="checkbox"/>	<p>Failed to immediately investigate and confirm all suspected releases of regulated substances requiring system test/site check and reporting within seven days.  <b>9VAC25-580-210: Release Investigation and Confirmation Steps</b></p>
<input type="checkbox"/>	<p>Failed to contain and immediately clean up a spill or overflow that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and/or take immediate action to prevent further release or migration of a regulated substance; and/or failed to identify and mitigate fire, explosion and vapor hazards; and/or failed to remedy hazards posed by contaminated soils; and/or measure for a release where contamination is most likely; and/or failed to submit an initial abatement report; and/or failed to investigate and remove free product.  <b>9VAC25-580-220: Reporting and Cleanup of Spills and Overfills</b>  <b>9VAC25-580-240: Initial Response</b>  <b>9VAC25-580-250: Initial Abatement Measure and Site Check</b>  <b>9VAC25-580-270: Free Product Removal</b></p>
<input type="checkbox"/>	<p>Failed to assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures.  <b>9VAC25-580-260: Site Characterization</b></p>
<input type="checkbox"/>	<p>Failed to notify 30 days before switching to a specified regulated substance and/or failed to demonstrate proper compatibility.  <b>9VAC25-580-100: Compatibility</b></p>
<input type="checkbox"/>	<p>Failed to investigate off-site impacts to determine if the UST system is the source.  <b>9VAC25-580-200: Investigation Due to Off-Site Impacts</b></p>
<input type="checkbox"/>	<p>Failed to submit a corrective action plan, with all necessary information, according to the required schedule, or perform corrective action to address contaminated soils and groundwater.  <b>9VAC25-580-270: Free Product Removal</b>  <b>9VAC25-580-280: Corrective Action Plan</b></p>
<input type="checkbox"/>	<p>Failed to follow the requirements to temporarily close a UST system and/or failed to keep temporarily closed UST system in compliance with requirements.  <b>9VAC25-580-310: Temporary Closure</b></p>
<input type="checkbox"/>	<p>Delivered or accepted a regulated substance into an ineligible UST.  <b>9VAC25-580-370: Requirements for Delivery Prohibition</b></p>
<input type="checkbox"/>	<p>Failed to permanently close a UST system that does not meet the new UST or UST upgrade requirements.  <b>9VAC25-580-50: Performance Standards for New UST systems</b>  <b>9VAC25-580-60: Upgrading of existing UST systems</b>  <b>9VAC25-580-310: Temporary Closure</b></p>

Alleged Violation	Observations and Legal Requirements
<input checked="" type="checkbox"/>	Failed to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. <b>9VAC25-590-40: Amount and Scope of Financial Responsibility Requirement</b> <b>9VAC25-590-50: Allowable Mechanisms</b>
<input type="checkbox"/>	Failed to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility. <b>9VAC25-590-160: Recordkeeping</b>

**RECOMMENDED DECISION, RELIEF AND CIVIL PENALTY**

DEQ staff will request that the Presiding Officer find that the referenced UST(s) at the Facility are in violation of the Regulation and ineligible for delivery, deposit, or acceptance of a regulated substance based on 9 VAC 25-580-370 of the Regulation.<sup>1</sup>

DEQ staff will also request a Special Order to compel ATVI LLC to comply with the State Water Control Regulations. Specifically, DEQ staff will request a Special Order requiring ATVI LLC to:

Requested	Required Action	UST No(s).	Due Date
<input checked="" type="checkbox"/>	Provide release detection for the UST system as required in 9VAC25-580-140.	1,2,3,4,5	12/1/2023
<input checked="" type="checkbox"/>	Provide records for <u>2</u> months in accordance with 9VAC25-580-120 demonstrating compliance with all release detection requirements as required in 9VAC25-580-180.	1,2,3,4,5	12/1/2023
<input checked="" type="checkbox"/>	Provide records demonstrating the automatic line leak detector has been tested within the past 12 months, presenting passing results in accordance with the performance requirements set forth in 9VAC25-580-130 and 170.	1,2,3,4,5	12/1/2023

<sup>1</sup> You may request to be heard on the Emergency, Rural or Remote Exemption. 9 VAC 25-580-370(I) provides that if the Presiding Officer, acting on behalf of the Board, determines that a delivery prohibition violation exists, he or she can consider whether the threat posed by the violation is outweighed by the need for fuel from the UST(s) to meet an emergency situation or to meet the needs of a rural and remote area. If it is determined that such a condition outweighs the immediate risk of the violation, the Presiding Officer may defer imposition of delivery prohibition for up to 180 days. In every such case, the director shall consider (i) issuing a special order under the authority of subdivision 10 of § 10.1-1186 of the Code of Virginia prescribing a prompt schedule for abating the violation and (ii) imposing a civil penalty.

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Requested	Required Action	UST No(s).	Due Date
<input checked="" type="checkbox"/>	Provide records demonstrating line tightness testing has been completed within the past 12 months, presenting passing results in accordance with the performance requirements set forth in 9VAC25-580-130 and 170.	1,2,3,4,5	12/1/2023
<input type="checkbox"/>	Provide records demonstrating the proper repair and/or replacement of electronic and mechanical components of a UST system upon failed testing results, is in accordance with 9VAC25-580-110.		
<input type="checkbox"/>	Provide records demonstrating that the install and/or repair of the necessary equipment to provide adequate corrosion protection on the UST system is in accordance with 9VAC25-580-90 and 9VAC25-580-110.		
<input checked="" type="checkbox"/>	Complete cathodic protection system testing in accordance with 9VAC25-580-90 and submit copies of these cathodic protection system test results in accordance with 9VAC25-580-120.	1,2,3,4,5	12/1/2023
<input checked="" type="checkbox"/>	Submit documentation that the impressed current cathodic protection system is inspected every 60 days in accordance with 9VAC25-580-90(3).	1,2,3,4,5	12/1/2023
<input checked="" type="checkbox"/>	Provide records demonstrating periodic testing and inspections of spill/overfill prevention equipment and containment sumps has been performed within the past 12 months in accordance with 9VAC25-580-82.	1,2,3,4,5	12/1/2023
<input type="checkbox"/>	Submit an updated Notification for the UST system in accordance with 9VAC25-580-70.		
<input checked="" type="checkbox"/>	Submit documentation demonstrating financial responsibility in accordance with 9VAC25-590-10 <i>et seq.</i>		12/1/2023
<input checked="" type="checkbox"/>	Submit training documentation for all the Class A, B, and C operators, including a current list of operators and written instructions or procedures for Class C operators. All training documentation shall verify training has been conducted in accordance with 9VAC25-580-120, and -125.		12/1/2023
<input checked="" type="checkbox"/>	Submit results of <u>  2  </u> months of walkthrough inspections results in accordance with 9VAC25-580-85.		12/1/2023
<input checked="" type="checkbox"/>	Submit annual walkthrough inspections results in accordance with 9VAC25-580-85.		12/1/2023

Requested	Required Action	UST No(s).	Due Date
<input checked="" type="checkbox"/>	Pay a civil penalty of <u>10,000</u> .		12/1/2023
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

**PROCEDURES**

You may participate in the conference call yourself or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, ATVI LLC will be able to present factual data, argument, or proof in connection with this case. DEQ staff may rely on the enclosed documents, other documents in its files, and statements of DEQ staff to substantiate the alleged violations.

A presiding officer will hear the evidence in this case and prepare a case decision to resolve the issues presented in the Delivery Prohibition Proceeding. With respect to the Special Order Proceeding, the presiding officer will prepare an independent Findings of Fact and Conclusions of Law and a draft Order for the Director’s review. Then the Director may issue a Special Order to resolve the issues presented in the Special Order Proceeding. If the Director issues a Special Order under Va. Code § 10.1-1186, the Special Order may include both injunctive relief and a civil penalty.

**Be advised that if you fail to attend or appear without good cause to an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the presiding officer may issue a default order regarding the subject of this notice.** If a default order is issued, the presiding officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

You will be notified of the results of the Delivery Prohibition Proceeding and Special Order Proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

Michelle Callahan will represent DEQ at this proceeding. Please contact Michelle Callahan at 804-664-3893 or [michelle.callahan@deq.virginia.gov](mailto:michelle.callahan@deq.virginia.gov) within ten (10) calendar days of the receipt of this letter to indicate whether you will be represented at this Delivery Prohibition Proceeding and Special Order Proceeding by counsel or if you are unable to participate by conference call at the scheduled time.

### **RESOLUTION**

DEQ encourages settlement of these matters at any time if such settlement is consistent with the provision and objectives of the applicable laws and regulations. You may request a settlement conference with DEQ staff to discuss the allegations in the notice. A request for a settlement conference or the opportunity to submit documentation will not affect the scheduled proceedings unless the parties and the presiding officer otherwise agree. If you wish to arrange an informal settlement conference or discuss the opportunity to submit documentation, please call Michelle Callahan within ten (10) calendar days of receipt of this notice.

DEQ will not go forward with the Delivery Prohibition Proceeding if DEQ verifies that you have taken all necessary corrective actions to return the Facility to compliance prior to the date of the proceedings. If you complete the necessary work to correct the alleged violations prior to the date of the proceedings, contact Michelle Callahan immediately so that compliance can be verified. You must provide a written report and appropriate documentation demonstrating that compliance has been achieved three business days prior to the Proceeding. If compliance is verified, the Delivery Prohibition Proceeding will be cancelled, and the UST(s) will be eligible for receipt of a regulated substance. However, the Special Order Proceeding will go forward as scheduled unless the parties and the presiding officer otherwise agree. If compliance is not verified, both the Delivery Prohibition Proceeding and the Special Order Proceeding will go forward as scheduled.

If you have any questions or require assistance, please contact Michelle Callahan at 804-664-3893 or [michelle.callahan@deq.virginia.gov](mailto:michelle.callahan@deq.virginia.gov).

Sincerely,



Lee Crowell  
Director of Enforcement

Attachment

cc: Daniel Burstein



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Nelson Dail

Michelle Callahan