

## Testimony in Support of House Bill 899 — Above Ground Storage Tank Regulation (Delegate Alfonso Lopez)

January 31, 2022

Dear Chairman Bloxom and Members of the House Agriculture, Chesapeake, and Natural Resources - Agriculture Subcommittee:

The **undersigned organizations** are grateful for the opportunity to submit written testimony in **support** of House Bill 899. The bill would establish a registration program, administered by the Virginia Department of Environmental Quality (DEQ), for presently-unregulated aboveground hazardous chemical storage tanks. This proposal is modeled after the registration component in Virginia's comprehensive regulations for aboveground oil and gas tanks, which have been on the books for decades. This bill would enact the 2016 recommendations of the VDEQ, VDEM, and VDH, presented in a joint study of these tanks mandated by the Virginia General Assembly in 2015.<sup>1</sup>

According to the findings of the agencies and recent research by the Center for Progressive Reform (CPR), these hazardous aboveground storage tanks (ASTs) are not regulated by federal or Virginia law. This leaves state-level regulators unable to identify the quantity, size, location, hazardous chemical contents, condition, and spill prevention measures, if any, for tanks throughout the Commonwealth.<sup>2</sup> Limited data suggests that the number of unregulated chemical storage tanks in the Commonwealth may fall between 2,720 and 5,405.<sup>3</sup> This data gap threatens the health and safety of Virginians and their drinking water resources. According to DEQ's Pollution Response Program database, 4,800 tank-related instances of spills, releases, improper storage, and illegal dumping were recorded between 2000 and 2020. Of these, more than 1,400 explicitly involved aboveground chemical storage tanks.<sup>4</sup> That amounts to at least 230 tank-related incidents per year.

HB 899 will help minimize these hazards by:

- Requiring the State Water Control Board to create a registration program for aboveground storage tanks that contain certain federally-designated hazardous substances; and impose a graduated fee schedule intended to self-fund the registration program;
- Authorizing the Board to undertake corrective action in the event of a discharge of a hazardous substance; and
- Requiring tank owners to notify certain parties in the event of a release of a regulated substance.

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<sup>1</sup> Virginia's Legislative Information System. See SB 811 text at <https://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+SB811>

<sup>2</sup> Flores D, Minovi D, and Clark J, *Tanks for Nothing: The Decades Long Failure to Protect The Public from Hazardous Chemical Spills*. Center for Progressive Reform. Dec 2021. Available at <https://progressivereform.org/our-work/energy-environment/tanks-for-nothing-ast-rpt/>

<sup>3</sup> Id.

<sup>4</sup> Id.

These requirements are desperately needed in the Commonwealth. While ten states, including West Virginia, Kansas, South Dakota, and Florida, have adopted comprehensive registration and spill prevention standards for aboveground chemical storage tanks – in some cases following major ecological and public health disasters – Virginia has not even required tank registration. After the Elk River chemical spill contaminated the drinking water for over 300,000 West Virginians in 2014, Virginia’s General Assembly sought to identify and evaluate the same risks within the Commonwealth. Rather than enact registration requirements, Virginia legislators instead deferred to action by federal regulators , which never came. As a result, Virginians remain unprotected from the acknowledged threat of ASTs in the Commonwealth.

This bill also stands to help prevent the worst tank-related spills resulting from climate-related weather disasters. One 2012 study found that Virginia was one of the three U.S. states, alongside Louisiana and Mississippi, with the highest rate of hazardous materials releases due to hurricanes.<sup>5</sup> This same study also found that among all facility types and equipment, storage tanks are the most likely to release large volumes of hazardous substances due to natural hazards. These hazards are disproportionately located in communities of color and low-income communities.<sup>6</sup> Notable tank-related spills have occurred in Chesapeake, Cloverdale, and Petersburg, all of which contain census tracts defined as overburdened.

House Bill 899 is a necessary step in strengthening environmental, health, and disaster prevention and management programs in the Commonwealth. By closing gaps in information and reporting, this bill ensures that all Virginians are better protected against the risks of spills, leaks, explosions and other incidents involving unregulated aboveground chemical storage tanks. It is well past time the Commonwealth establishes common sense regulations that protect Virginia’s communities and resources. In an effort to safeguard communities, we urge the Subcommittee to adopt a **FAVORABLE** report on House Bill 899.

Sincerely,

Center for Biological Diversity  
Center for Progressive Reform  
Chesapeake Bay Foundation  
Chesapeake Climate Action Network Action Fund  
Environment Virginia  
Friends of Buckingham  
Friends of Dyke Marsh  
Friends of the Rivers of Virginia  
James River Association  
Lynnhaven River NOW

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<sup>5</sup> Sengul, H., Santella, N., Steinberg, L. J., & Cruz, A. M. (2012). Analysis of Hazardous Material Releases Due to Natural Hazards in the United States. *Disasters*, 36(4),723-743.

<sup>6</sup> Starbuck, A., & White, R. (2016). Living in the Shadow of Danger: Poverty, Race, and Unequal Chemical Facility Hazards. Center for Effective Government. <https://www.foreffectivegov.org/sites/default/files/shadow-of-danger-highrespdf.pdf>

Potomac Riverkeeper Network  
Richmond Audubon  
Rockbridge Area Conservation Council  
Sierra Club Virginia Chapter  
Southern Environmental Law Center  
Virginia Aquarium & Marine Science Center  
Virginia Conservation Network  
Virginia Health Catalyst  
Virginia Organizing  
Waterkeepers Chesapeake