



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 25-580 – Underground Storage Tanks: Technical Standards and Corrective Action Requirements

Department of Environmental Quality

May 16, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The General Assembly mandates in §62.1-44.34:9 of the Code of Virginia that the State Water Control Board promulgate regulations to carry out its powers and duties with regard to underground storage tanks. The Code of Virginia also requires that regulations so promulgated are consistent with applicable federal laws and regulations.

The proposed regulation deletes the requirement for underground storage tank (UST) owners and operators to obtain a corrective action plan permit from the Department of Environmental Quality (DEQ) before initiating action to deal with contamination of soils and/or ground water.

The proposed regulation includes changes intended to make the existing regulation consistent with changes in the Code of Virginia and changes in federal UST regulations. It also makes corrections and deletes redundant language from the existing regulation.

Estimated Economic Impact

The proposed regulation repeals the section in the existing regulation that requires UST owners and operators to obtain a corrective action plan (CAP) permit from DEQ before undertaking any corrective action to deal with soil and/or ground water contamination. However, if required by the State Water Control Board, owners and operators of USTs will still have to submit a corrective action plan in accordance with the regulation. According to DEQ, approximately 99% of active USTs in Virginia are petroleum storage tanks. Leakage and/or spillage from these tanks could result in soil and ground water contamination and create public health and environmental hazards. The intent of the CAP permit is to ensure that the appropriate corrective action is taken to minimize the impact of leakage or spillage on the surrounding soil and ground water. At a minimum, the permit specifies the corrective action to be taken and the schedule and format for the corrective action. The permit is issued at no cost to the UST owner/operator.

DEQ believes, based on 13 years of oversight of this regulation, that CAP permits are not necessary in order for owners and operators of USTs to take appropriate corrective actions. Moreover, federal UST regulations do not require UST owners and operators to obtain a permit before initiating corrective actions. When the UST regulation was promulgated in 1989, DEQ believed that the CAP permit was needed in order to provide DEQ with the ability to authorize and enforce appropriate clean-up actions. However, since then, existing requirements for UST owners and operators to submit a Corrective Action Plan upon request by the State Water Control Board have proved adequate for authorizing and enforcing clean-up operations. Thus, DEQ believes that the CAP permit is no longer essential.

The proposed change is not likely to have significant economic impact. According to DEQ, CAP permits have not been issued since 1993. In this time, DEQ has not observed any significant problems associated with the implementation of corrective actions by owners and operators of USTs that would be addressed by the issuance of a CAP permit. Thus, removing the CAP permit requirement is not likely to reduce the effectiveness of the regulation in protecting public health and the environment. In fact, the proposed change is likely to produce some economic benefits by making the regulation consistent with current practice. Deleting the CAP permit requirement is likely to reduce confusion and streamline and speed up the process by

which corrective actions can be initiated. Moreover, to the extent the proposed regulation removes an unnecessary step and makes the regulation less burdensome, it is also likely to produce some economic benefits.

The proposed regulation incorporates changes intended to make the existing regulation consistent with changes in the Code of Virginia. The UST technical regulation was promulgated in 1989 and has not been modified since. One of the changes being proposed in order to make the regulation consistent with the Code of Virginia is the exemption of USTs storing heating oil for the purpose of on-premise consumption from the requirements of this regulation. Federal UST regulations do not require such USTs to be regulated. Prior to 1996, the Code of Virginia required such USTs with a capacity of 5,000 gallons or more to be regulated under the UST technical regulation. In 1996, the Virginia Water Control Law was amended to exclude these USTs. The proposed change is intended to make the regulation consistent with the 1996 amendment to the Virginia Water Control Law. Other changes being proposed in order to make the regulation consistent with the Code of Virginia include amendments to certain existing definitions, the inclusion of new definitions, and the removal of redundant definitions.

The proposed changes are not likely to have a significant economic impact. The changes have been mandated under the Code of Virginia for many years now and are not likely to affect current practice. To the extent that the Code-required changes help the regulated community better understand the regulation, they are likely to have a small positive economic impact.

The proposed regulation also incorporates changes intended to bring the regulation in agreement with federal UST requirements. In 1990, an amendment was made to federal UST regulations that allowed the use of overfill prevention equipment that was capable of restricting flow 30 minutes prior to overfilling, alerting the operator with a high-level alarm one minute before overfilling, or automatically shutting off flow to the tank such that none of the fittings located on top of the tank are exposed to the product due to overfilling. The amendment allowed for the use of overfill prevention equipment meeting these standards as an alternative to equipment meeting existing overfill prevention design standards. The proposed regulation incorporates the federal amendment. In addition to existing overfill prevention equipment, it allows for the use of equipment meeting the new additional overfill prevention design standards.

The proposed change is not likely to have a significant economic impact. To the extent that it provides UST owners and operators with more options for meeting overfill prevention requirements, the proposed change will produce some economic benefits. Moreover, making the regulation consistent with federal requirements is also likely to produce some economic benefits.

Businesses and Entities Affected

The proposed regulation will affect all UST owners and operators in Virginia. DEQ estimates that currently there are 30,000 regulated USTs in Virginia, owned by approximately 6,000 different entities. UST owners and operators will now have more options for complying with overfill prevention requirements. Moreover, removing the CAP permit requirement is likely to reduce confusion and make it slightly easier for UST owners and operators to initiate corrective action once soil and/or ground water contamination has occurred.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is not likely to have significant impact on employment in Virginia.

Effects on the Use and Value of Private Property

The proposed regulation is not likely to have a significant impact on the use and value of private property. To the extent that it provides UST owners with more options for complying with overfill prevention requirements, it may help reduce costs and raise the asset value of their businesses. Removal of the CAP permit requirement is likely to make the process of initiating corrective action following soil and/or ground water contamination more streamlined and to that extent reduce the costs associated with operating USTs.