



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**9 VAC 25-91 – Facility and Aboveground Storage Tank (AST) Regulation**  
**Department of Environmental Quality**  
August 11, 2012

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 884 of the 2011 Acts of Assembly, the State Water Control Board (Board) proposes to incorporate new performance standards for aboveground oil storage tanks (ASTs) at facilities with an aggregate capacity of one million gallons or greater existing prior to January 29, 1992, and located in the City of Fairfax. Additionally, the Board proposes to: 1) eliminate registration fees, 2) introducing additional flexibility concerning daily and weekly inspections, and 3) include additional variances by regulation.

### **Result of Analysis**

The benefits likely exceed the costs for one or more proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

### **Estimated Economic Impact**

As required by Chapter 884 of the 2011 Acts of Assembly, the Board proposes that ASTs at facilities with an aggregate capacity of one million gallons or greater existing prior to January 29, 1992, and located in the City of Fairfax be required to meet certain performance standards by July 1, 2021. There are four facilities located in the City of Fairfax that are subject to these requirements. There are approximately 56 tanks at these facilities; however some tanks have previously been upgraded and some are not required to be upgraded. The Department of Environmental Quality estimates that there are 17 tanks that may need to be upgraded as a result to changes in state law that have been incorporated into this regulatory amendment. One industry representative estimated that the cost to upgrade an AST (2,100,000 - 3,360,000 gallons) is

\$600,000. Meeting the performance standards will reduce the likelihood of leaks harming the environment and public health.

Other Board proposals would reduce costs to most of the regulated community. The Board proposes to eliminate registration fees which can range from \$25 to \$100. Here are the current required registration fees:

- a. An individual AST (new, existing, replaced or brought back into use after permanent closure) = \$25;
- b. One facility with one AST = \$25;
- c. One facility with two or more ASTs = \$50;
- d. Two facilities with one AST at each facility = \$50;
- e. Two facilities with one AST at the first facility and two or more at the other = \$75;
- f. Two or more facilities with two or more ASTs each = \$100;
- g. Three facilities with one AST each = \$75; or
- h. Three facilities with two or more ASTs at the first facility and one AST at each other facility = \$100.

According to the Department, the revenue from the registration fees does not cover the administrative cost of collection. Thus eliminating fees creates a net benefit for the Commonwealth since costs are reduced for the regulated community and net resources for the Department to protect the environment and public health are not reduced.

The Board also proposes introducing additional flexibility concerning daily and weekly inspections. Inspections would be required to be conducted at a minimum every 14 days, instead of daily or weekly when normal operations are not occurring. This will reduce compliance costs to the regulated community associated with conducting these inspections. Since this would not likely significantly increase risk to the environment and public health, this proposed amendment would also likely produce a net benefit.

Additionally, the Board proposes to include additional variances by regulation that would extend the time between inspections if certain criteria are met. This would reduce the number of inspections that are required to be conducted and would also allow the regulated community more regulatory flexibility without having to petition the board for a variance. The regulated

community would not have to pay costs associated with preparing a variance petition; and the Department does not believe that it would increase the probability that activity would occur that the Board would not have approved. Thus the proposal to include additional variances by regulation would also likely produce a net benefit.

### **Businesses and Entities Affected**

The proposed amendments potentially affect owners of aboveground oil storage tanks with capacities of 660 gallons of oil or greater and the public who live within the watershed potentially contaminated by leaks. Both localities and businesses are examples of potential entities that own aboveground storage tanks with capacities of greater than 660 gallons of oil. At the end of FY2011, there were 10,670 active registered ASTs in Virginia. These ASTs were located at 3,654 facilities within the state.

### **Localities Particularly Affected**

The proposal to incorporate new performance standards for certain aboveground storage tanks located in the City of Fairfax particularly affects the City of Fairfax, of course. The other proposed amendments apply statewide.

### **Projected Impact on Employment**

The proposal amendments are unlikely to significantly affect employment.

### **Effects on the Use and Value of Private Property**

The proposal that the facilities located in the City of Fairfax meet the specified performance standards, as required by statute, will significantly increase costs for the relevant private firms, consequently negatively affecting their value. The proposals to eliminate registration fees, introduce additional flexibility concerning daily and weekly inspections, and include additional variances by regulation all reduce costs for private firms and hence have a positive impact on their value.

### **Small Businesses: Costs and Other Effects**

The proposals to eliminate registration fees, introduce additional flexibility concerning daily and weekly inspections, and include additional variances by regulation all reduce costs for small firms with ASTs.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed amendments are unlikely to adversely affect small businesses.

## **Real Estate Development Costs**

The proposed amendments are unlikely to significantly affect real estate development costs.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.