



townhall.virginia.gov

Periodic Review Report of Findings

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation	9VAC25-580
Regulation title	Underground Storage Tanks: Technical Standards and Corrective Action Requirements
Date this document prepared	March 15, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CFR- Code of Federal Regulation
UST- Underground storage tank

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The legal basis for the Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC 25-580) is the State Water Control Law (Chapter 3.1, Article 9 of the Code of Virginia). Specifically, subdivision 8 of § 62.1-44.34:9 authorizes the Board to promulgate such regulations as may be necessary to carry out its powers and duties with regard to underground storage tanks in accordance with applicable federal laws and regulations. Federal regulations (40CFR280) contain requirements for USTs.

Alternatives

Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

One alternative considered was to repeal the state regulation and rely on the federal UST regulation. Having the federal government administer the UST program and regulation in Virginia would likely result in delays for tank owners and persons remediating releases of petroleum from USTs. This would likely

result in increased costs to the regulated community and potential damage to Virginia's environment, therefore this alternative was rejected.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An advisory group was not formed to assist with the periodic review. No comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is necessary to protect public health, safety, and welfare. This regulation contains technical standards that set forth compliance requirements designed to prevent and reduce the number of releases of petroleum and hazardous substances from USTs, measures to quickly detect any releases from USTs, and measures to ensure cleanup of contamination from releases from USTs. This regulation is clearly written and easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The regulation is effective and is being retained as is without making changes.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

The regulation continues to be needed to protect human health and the environment.

No comments were received during the public comment period for the periodic review.

The regulation is complex and technical in nature, and is based on federal regulatory language. The regulation incorporates both federal requirements for USTs and also state building code requirements for USTs. By maintaining consistency with the federal UST and state building code requirements, confusion within the regulated community is minimized.

This regulation was last amended in 2018 to maintain consistency with 40CFR280. The regulation is consistent with current federal requirements applicable to USTs.

The state regulation is written to be only as stringent as the federal UST requirements that sought to minimize where possible the economic impact of regulations on small businesses.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on families.