



**Final Regulation  
Agency Background Document**

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 25-580
<b>Regulation title</b>	Underground Storage Tanks: Technical Standards and Corrective Action Requirements
<b>Action title</b>	Amendment for Implementation of the federal Energy Policy Act of 2005
<b>Date this document prepared</b>	February 2, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

**Brief summary**

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

Pursuant to the requirements of the federal Energy Policy Act of 2005, the Board is amending the regulation to accomplish the following: (1) require secondary containment of all new and replacement underground storage tanks (USTs) and associated piping within 1000 feet of an existing community water system (this includes the piping distribution system) or other potable drinking water well; (2) develop criteria for determining what tanks are ineligible for petroleum delivery, the methods for marking the tanks, providing notice to owners/operators and delivery companies that the tanks are ineligible and for developing criteria for reclassifying ineligible tanks as eligible; and (3) require training for certain classes of UST operators. Since publication of the proposal, section 125 has been modified to clarify when a deliver is responsible for delivering to an ineligible tank and in section 370 the requirement for certain operators to be on site within 24 hours and the time frame for retention of training records has been modified.

To see the full text of this new federal legislation see: [http://www.epa.gov/oust/fedlaws/nrg05\\_01.htm](http://www.epa.gov/oust/fedlaws/nrg05_01.htm). This action consolidates two Notices of Intended Regulatory Action: 2558 / 4469 – Amendment Regarding Operator Training for Owners and Operators published on March 17, 2008 (Volume 24, Issue 14) and 2415 / 4209 - Incorporation of Requirements of Federal Energy Policy Act of 2005 published on August 20, 2007 (Volume 23, Issue 25).

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The State Water Control Board at their regularly scheduled meeting on March 18, 2010 approved the proposed amendments to regulation 9VAC25-580 Underground Storage Tanks: Technical Standards and Corrective Action Requirements regulation.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The legal basis for the Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9 VAC 25-580) is the State Water Control Law (Chapter 3.1, Article 9 of the Code of Virginia). Specifically, § 62.1-44.34:9:8 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. Section § 62.1-44.34:9.5 authorizes the Board to apply for such funds as may become available under federal acts and transmit such funds to appropriate persons.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The amendments are necessary to protect the health, safety or welfare of citizens of the Commonwealth. Secondary containment for new and replaced USTs within 1000 feet of a public water supply or potable well will help prevent future UST leaks and limit the extent and impact of contamination. A delivery prohibition program will provide added incentive for UST owner/operators to maintain compliant tank systems. Compliant tank systems reduce the likelihood and severity of petroleum leaks into the environment. An operator training program will educate UST operators about how to maintain compliant tank systems and how to recognize and respond to problems associated with leaking USTs. Operator familiarity with UST regulatory requirements and with their own UST systems will increase compliance, help prevent future UST releases and limit the extent, impact, and cleanup costs of contamination in the event of a release.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

9VAC25-580-10 (Definitions): The Board is amending section 9 VAC 25-580-10 to add new definitions that will apply to the new secondary containment, delivery prohibition, and operator training requirements.  
 9VAC25-580-20 (Applicability): Minor changes to accommodate proper references to the other substantive changes.  
 9VAC25-580-50 (Performance standards for new UST systems) and 9 VAC 25-580-140 (Requirements for petroleum UST systems): The Board is amending section 9 VAC 25-580-50 and 9 VAC 25-580-140 to require secondary containment for all new tanks and piping within 1000 feet of existing community water systems or other potable drinking water wells.  
 9VAC25-580-125 (NEW – Operator Training): The Board is adding section 9VAC25-580-125 to identify specific classes of UST operator and require training for those classes of UST operators.  
 9 VAC 25-580-370 (NEW - Delivery Prohibition): The Board is adding section 9VAC25-580-370 to prohibit delivery of petroleum products to tanks deemed ineligible by the Board due to noncompliance. This new section of the regulation contains criteria for determining what tanks are ineligible for petroleum delivery, the process for identifying a tank as ineligible, the methods for marking the tanks and providing notice to owners/operators and delivery companies that the tanks are ineligible and the criteria for reclassifying ineligible tanks as eligible.

The Board followed the US Environmental Protection Agency’s (EPA) grant guidelines for secondary containment, delivery prohibition, and operator training to develop the amendments (see: [http://www.epa.gov/swerust1/fedlaws/epact\\_05.htm](http://www.epa.gov/swerust1/fedlaws/epact_05.htm)).

**Issues**

Please identify the issues associated with the proposed regulatory action, including:  
 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;  
 2) the primary advantages and disadvantages to the agency or the Commonwealth; and  
 3) other pertinent matters of interest to the regulated community, government officials, and the public.  
 If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) The primary advantages to the public are the diminished impacts from leaking USTs to drinking water supplies, wells, and the reduction in the extent of any future releases. The disadvantages are the incremental cost burden to businesses that will be incurred to install and replace USTs with required secondary containment and train their operators and the cost to UST owners who have lost the ability to accept fuel deliveries to a noncompliant UST.
- 2) The primary advantages to the agency include better deterrence against noncompliant USTs (Delivery Prohibition) and early discovery of leaking USTs in cases where secondarily contained systems exist. The primary agency disadvantage is the cost to implement and oversee the new program activities.
- 3) Operator training and delivery prohibition efforts have been in existence and worked in other states for years to better limit violations and releases.

**Changes made since the proposed stage**

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
9VAC25-580.370.A	Requirements for delivery prohibition.  A. No person shall deliver to, deposit into, or accept a petroleum product or other regulated substance into an underground storage tank that has been identified by the board to be ineligible for such delivery, deposit, or acceptance. Unless authorized in writing by the board, no person shall alter, deface, remove, or attempt to remove a tag that prohibits delivery, deposit, or acceptance of a petroleum product or other regulated substance to an underground storage tank.	9VAC25-580.370.A was modified by inserting the reference "under 9VAC25-580.370.G.2" after "been identified."	Based on a comment, staff believes linking 9VAC25-580.370.G.2 to the beginning text clarifies when a petroleum deliverer is held responsible for delivering to an ineligible tank.
9VAC25-580.125.B.5	5. Trained operators shall be readily available to respond to suspected/confirmed releases, other unusual operating conditions and equipment shut-offs or failures.	Proposed language 9VAC 25-580-125.B.5.a was amended to remove the 24-hour on-site requirement and require, instead, the Class A and B operator to be able to be onsite "within a reasonable time to perform necessary functions".	Commenter suggested and staff agrees the 24 hour and 2 hour response times are too burdensome and more stringent than that required by federal guidelines.

	<p>a. The Class A or Class B operator shall be available for immediate telephone consultation when an UST facility is in operation. A Class A or Class B operator shall be able to be onsite at the facility within 24 hours.</p> <p>c. For unmanned facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be onsite within two hours of being contacted. Emergency contact information shall be prominently displayed at the site. After [effective date] written instructions or procedures shall be maintained and visible at unmanned UST facilities for persons performing duties of the Class C operator to follow and to provide notification necessary in the event of emergency conditions.</p>	<p>Proposed language 9VAC 25-580-125.B.5.c was amended to remove the 2-hour on-site requirement and require, instead, the Class C operator to be onsite "within a reasonable time to perform necessary functions".</p>	
<p>9VAC25-580.125.F.2*</p>	<p>2. A copy of the certificates of training for Class A and Class B operators shall be on file and readily available and a copy of the facility list of Class A, Class B, and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for manned UST facilities and readily available for unmanned facilities (see subdivision 2 e of 9VAC25-580-120 relating to reporting and recordkeeping).</p>	<p>9VAC25-580.125.F.2 was amended to require records to be retained as long as each operator serves in that capacity at the facility or three years whichever is longer.</p>	<p>Commenter noted that the proposed regulation could be interpreted to require that records be retained indefinitely and requested a modification to balance the need for documentation with avoiding unnecessary and costly paperwork. Staff agrees and suggests a three year record retention.</p>

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
<p>Commenter: Mr. Camilo K. Coble, AST/UST Program Manager for the</p>	<p>Mr. Coble expressed strong support for the new UST requirements and complimented the DEQ tank staff for many years of helpful assistance to him</p>	<p>NA</p>

<p>US Marine Corps Base, Quantico, VA</p>	<p>as tank facility manager for a major US military base with hundreds of tanks.</p>	
<p>Mr. Michael O'Connor, President of the Virginia Petroleum, Convenience, and Grocery Association (VPCGA)</p>	<p>Proposed new language to 9VAC25-580-50 to modify what UST piping upgrades may trigger installation of new under-dispenser containment when a fueling dispenser is removed or replaced. The existing proposed regulation at 9VA25-50.7.b and b.(2) states: Each new motor fuel dispenser system installed within 1,000 feet of any existing community water system or existing potable drinking water well shall have under-dispenser containment in accordance with 9VAC25-580-140.B A motor fuel dispenser system is considered new when:</p> <p>(2) An existing dispenser is removed and replaced with another dispenser and the equipment used to connect the dispenser to the UST system is replaced. This equipment may include unburied flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping.</p> <p>VPCGA ISSUE WITH THE PROPOSAL:</p> <p>Distributors often time purchase the dispensing equipment for their clients that operate retail fueling stations. Frequently the pumps are damaged by driver negligence, acts of god or even vandalism. Under the proposed regulations, if the distributor is incentivized to repair, not replace the dispenser. Replacing the damaged dispenser may require the replacement of unburied flexible connectors or other transitional components solely because the replacement pump is a newer model or manufactured by a different manufacturer. If new connectors are required, then it is in the financial interest of the distributor to repair, or ignore the damage since replacing the connectors when replacing the dispenser triggers compliance with the regulation.</p> <p>The public would be better served by allowing replacements of pumps and connectors without compliance with the regulations insofar as replacement would in some cases be better than repair or ignoring the damage.</p> <p>VPCGA's Proposed modification of the Regulation:</p> <p>(2) An existing dispenser is removed and replaced with another dispenser</p>	<p>Staff response: The regulation as drafted makes the dividing line between the UST system and the dispenser consistent with EPA and Virginia program history, minimizing confusion for the regulated community. Accommodating the suggested modification would result in a regulation that is less stringent than federal requirements, which would endanger federal program approval and grant funding. Discussions with VDOT and industry tank staff indicate a lower cost under-dispenser pan product does exist for most retrofit applications. The implementation guidance for the proposed amendment will clarify this option. Staff recommends no change to the proposed regulation.</p>

	<p>and the equipment used to connect the dispenser to the UST system is replaced. This equipment <del>may does not</del> include unburied flexible connectors or risers or other transitional components that are beneath the dispenser and <u>are used solely to</u> connect the dispenser to the piping.</p>	
<p>Mr. Michael O'Connor, President of the Virginia Petroleum, Convenience, and Grocery Association (VPCGA)</p>	<p>Proposed new language to further protect petroleum deliverers from mistakenly (unknowingly) delivering fuel to un-tagged delivery prohibited tanks. The proposed UST regulation does not provide a presumption of innocence for delivery personnel who unknowingly deliver fuel to an ineligible tank from which the tag has been removed. The VPCGA suggested changes are: 9VAC25-580-370. Requirements for delivery prohibition. A. No person shall <u>knowingly</u> deliver to, deposit into, or accept a petroleum product or other regulated substance into an underground storage tank that has [been identified] <u>a delivery prohibition tag actually attached thereto</u> by the board to be ineligible for such delivery, deposit or acceptance. No person shall, unless authorized in writing by the board, alter, deface, remove or attempt to remove a tag that prohibits delivery, deposit or acceptance of a petroleum product or other regulated substance to an underground storage tank. <u>There shall be a presumption that the delivery of petroleum product to a tank that did not actually have a delivery prohibition tag is lawful.</u></p>	<p>Staff response: The proposed amendments track the language in the federal Energy Policy Act of 2005 and changes to that language would result in a regulation that is less stringent than federal requirements. Further, the language proposed by the commenter will negatively impact DEQ's ability to effectively deter and enforce against negligent deliveries. Staff suggests inserting the reference "under 9VAC25-580.370.G.2" after "been identified" to section 9VAC25-580.370.A to clarify when a petroleum deliverer is held responsible for delivering to an ineligible tank. Staff will clarify in regulatory guidance the typical order in which the agency will pursue enforcement in the case of unsanctioned tag removal and will offer a DEQ website listing of officially tagged tanks for timely reference by deliverers prior to embarking on a delivery.</p>
<p>Beveridge &amp; Diamond, PC</p>	<p>Beveridge &amp; Diamond, PC expressed support for the Proposed Rule's objectives of ensuring UST operators have proper training. Beveridge &amp; Diamond, PC submitted their comments on behalf of their client, which owns and operates multiple retail fueling stations in Virginia and other states. Their client strongly supports the Proposed Rule's objectives of ensuring that UST operators have the proper training to maintain UST systems in a manner that protects both the integrity of the environment and the health and safety of the client's customers, employees, and the public.</p>	<p>NA</p>
<p>Beveridge &amp; Diamond, PC</p>	<p>Proposed modification to 9VAC25-580.125.C of the regulation to allow owners to provide training to all classes of their operators, including Class C</p>	<p>Staff response: No change is recommended. Staff believe that the proposed regulation as drafted inherently provides for owners to train their staff. Staff intends that the approval process will result in</p>

	<p>operators. The commenter also proposed that owners could train their operators without obtaining approval of their training programs from DEQ. Beveridge &amp; Diamond, PC states the Proposed Rule would require Class A and Class B operators to complete a training course that has been approved by the State Water Control Board ("Board"). Proposed Rule 9VAC 25-580-125(C)(1)-(2). For Class C operators, the Proposed Rule would allow owners, Class A, and Class B operators to provide the training. Proposed Rule 9VAC 25-580-125(C)(3). They strongly support giving owners and operators the flexibility to attend training seminars conducted by third parties. Nonetheless, they believe that the Proposed Rule should be changed in order to allow owners to provide training to all classes of operators. They believe this change is warranted for at least three reasons. First, allowing owners to conduct training would serve the interests of the environment by allowing owners to tailor training programs to the needs of the specific types of UST facilities they own. All owners do not have identical UST systems and do not manage their UST systems in the same way. Owners could tailor the training to the specific, detailed requirements applicable to their facilities. As a result, operators would be focused on the safety features of particular facilities, e.g., industrial installations. While VDEQ may require prior Board approval for third party training programs, such approval would not be necessary for owners. Owners providing training to their own operators need not and should not be subject to approval requirements.</p>	<p>minimal burden on owners and will address this in more detail in the implementation guidance.</p>
<p>Beveridge &amp; Diamond, PC</p>	<p>Proposed that 9VAC25-580-125.C be modified to state that on-line training is an acceptable format for an operator training program or, in the alternative, requested that DEQ clarify that on-line training is an acceptable training format. Beveridge &amp; Diamond, PC indicate the Proposed Rule specifies the content of the required training for Class A, B, and C operators, but it does not specify the acceptable formats in which training can be provided. See Proposed Rule 9VAC25-580-125(C)(1)-(2). They believe that owners should be able to take advantage of current technologies and provide computer-based, on-line interactive training programs. On-line</p>	<p>Staff response: Staff recommends no change to the proposed regulation. Staff will clarify in implementation guidance that on-line training is an acceptable format for an operator training program.</p>

	<p>training has several benefits. Accordingly, they ask that the Proposed Rule be revised to state that operator training may be provided in an on-line format that communicates the required training content, or, alternatively, that VDEQ clarify that on-line training is an acceptable training format. Such a revision or clarification would bring the Proposed New Rule in line with the EPA Guidelines, which allow for on-line training if it includes an evaluation of operator knowledge. 72 Fed. Reg.2</p>	
Beveridge & Diamond, PC	<p>Proposed modification to 9VAC25-580-125.B.5: to eliminate the 24-hour on site requirement for Class A and B operators. Beveridge &amp; Diamond, PC indicates the proposed rule requires Class A and Class B operators to be available for immediate telephone consultation when a facility is in operation and able to be on site at the facility within 24 hours. They believe this 24-hour on site requirement is particularly burdensome for owners, such as their client, that operate fueling stations in multiple states and that may assign Class A and Class B operators to a number of facilities in a certain region. They therefore request that the proposed rule be modified to eliminate the 24-hour on site requirement for Class A and Class B operators. This modification would bring the proposed rule in line with EPA guidelines, which do not require Class A and Class B operators to be able to be on site within any specific time.</p>	<p>Staff Response: Staff agrees that this requirement may be overly burdensome to certain types of owners and recommend that the proposed language 9VAC 25-580-125.B.5.a be amended to remove the 24-hour on-site requirement and require, instead, the Class A and B operator to be onsite "within a reasonable time to perform necessary functions".</p>
Beveridge & Diamond, PC	<p>Proposed modification to 9VAC25-580-125.B.5 to eliminate the requirement that a Class C operator be on site at an unmanned facility within 2 hours of contact.</p>	<p>Staff Response: Staff also agrees that this requirement may be overly burdensome to certain types of owners and recommend that the proposed language 9VAC 25-580-125.B.5 be amended to remove the 2-hour on-site requirement and require, instead, the Class C operator to be onsite "within a reasonable time to perform necessary functions".</p>
Beveridge & Diamond, PC	<p>Proposed modification to 9VAC25-580-125.E to require retraining for a Class A or a Class B operator rather than retraining of both classes of operator. Beveridge &amp; Diamond, PC supports VADEQ's efforts to ensure that operators are properly trained; however, they believe that the Proposed Rule's retraining requirement for Class A and Class B operators would impose costly and burdensome requirements but yield few, if any, benefits. The Proposed Rule would require that Class A and Class B operators be</p>	<p>Staff Response: Staff believes that there will be instances where it is appropriate for both the Class A and Class B operator to be retrained on compliance requirements. Staff intends to address these circumstances and provide additional detail in the implementation guidance for the amended regulation. Staff recommends no change to the proposed regulation.</p>



	<p>retrained if they are responsible for a facility that has been determined to be out of compliance. As a result, VDEQ would have the authority to require retraining of both the Class A and Class B operators at a noncompliant facility. This would exceed the EPA Guidelines, which require only that a Class A or Class B operator be retrained at a noncompliant facility. They believe that the EPA Guidelines properly recognized that any noncompliance can be remedied by retraining only one class of operators (Class A or Class B) at a facility.</p>	
Beveridge & Diamond, PC	<p>The commenter expressed support for the requirement to retain operator training records but noted that there is no records retention time period specified. Proposed a modification to 9VAC25-580.120, .125 to require operator training records to be retained only as long as the individual serves as a Class A, Class B or Class C operator, but not longer than 5 years. Beveridge &amp; Diamond, PC states the client generally supports the requirement to maintain records of operator training. They seek balance for operator training and the interest in avoiding unnecessary and costly paperwork.</p>	<p>Staff Response: Staff agrees that the regulation should specify how long the required records should be maintained, but recommends the change to the proposed regulation be “keep records as long as each operator serves in that capacity at the facility or 3 years, whichever is longer.”</p>
Beveridge & Diamond, PC	<p>Proposed modification to 9VAC25-580.120, .125 to state that records for both staffed and unstaffed facilities may be kept at an owner's principal place of business or other centralized location.</p>	<p>Staff Response: The proposed regulation requires that training documentation must be readily available at both manned and unmanned sites. The current language does not preclude keeping the records at a central location. Staff recommends no change to the proposed regulation.</p>
Beveridge & Diamond, PC	<p>Proposed modification to 9VAC25-580-125.C.5 to extend training certification reciprocity to Class C operators. Beveridge &amp; Diamond, PC is aware of the need to exchange Class C staff among facilities in different states and wish to see Class C operators covered by the reciprocity provision too should they need to serve other locations.</p>	<p>Staff Response: Staff believes that operator training for Class C operators can be handled through written procedures developed by the owner or other training program which results in minimal burden to the tank owner. In addition, Class C training should be facility-specific and, as such, generally should not be obtained in another state. Additional detail will be provided in the implementation guidance for the regulation. Staff recommends no change to the proposed regulation.</p>

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC25-580-10		Definitions	The proposed amendments add definitions to address terms used in the new secondary containment, operator training and delivery prohibition sections of the regulation. Rationale: The new sections are necessary to comply with requirements of the Energy Policy Act of 2005 -see: <a href="http://www.epa.gov/swerst1/fedlaws/epact_05.htm">http://www.epa.gov/swerst1/fedlaws/epact_05.htm</a> .
9VAC25-580-20		Applicability	This section was modified to state that the new delivery prohibition requirements do not apply to deferred tanks but that the new secondary containment provisions do apply to a certain type of deferred tank. Rationale: This change was necessary to comply with the Energy Policy Act of 2005.
9VAC25-580-50	9VAC25-580-50.7	Performance standards for new UST systems	This section was added to impose secondary containment requirements on new or replacement tanks and piping within 1000 feet of a community water source or potable water supply well. This section also imposes under dispenser containment requirements on certain motor fuel dispenser systems. Finally, this section provides procedures for demonstrating that secondary containment is not necessary and lays out conditions under which secondary containment is not required. Rationale: This new section was necessary to comply with the Energy Policy Act of 2005.
9VAC25-580-120.2.e		Reporting and recordkeeping	This new subsection requires operators to maintain records of training certification and operator classification. Rationale: These requirements will ensure that necessary information concerning training and operator classification is available to the Department when needed.
	9VAC25-580-125	NEW	This section establishes operator classes and requires owners and operators to designate and train individuals or entities in each operator class. The section imposes requirements on training course content and also provides for Department approval of training courses. This section establishes deadlines for training and circumstances under which operators must retrain and describes the documentation that owners/operators must maintain. This section also provides for reciprocity with other state training programs. Rationale: This section is necessary to comply with the Energy Policy Act of 2005.
9 VAC 25-580-140		Requirements for Petroleum USTs	This section is modified to provide specific requirements to which secondarily contained tanks must conform to accomplish release detection. This amended section also provides release detection requirements for those owners/operators required to have secondary containment under subsection 25-580-50.7. Rationale: This section is necessary to comply with the Energy Policy Act of 2005.
	9VAC25-580-370	NEW	This new section prohibits delivery of a petroleum product into any ineligible tank. This section describes the types of noncompliance that warrant delivery prohibition, the procedure for delivery

			<p>prohibition and provisions for notifying an owner and operator and product deliverer of delivery prohibition. This section also describes circumstances under which the Department may choose not to prohibit delivery to an ineligible tank. Rationale: This section is necessary to comply with the Energy Policy Act of 2005.</p>
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**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The federal Energy Policy Act of 2005 and EPA grant guidance establish the minimums required for state program compliance and the final amendments comply with those minimal requirements.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The only impact on the family or family stability is indirect. Those families living near UST systems--especially those using private potable water supply wells -- will benefit from the reduced risk of well contamination caused by releases from noncompliant UST systems.