Virginia Regulatory Town Hall

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Final Regulation
Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9VAC25-91
Regulation title	Facility and Aboveground Storage Tank (AST) Regulation
Action title	Amend to incorporate requirements of Chapter 884 of the 2011 Acts of Assembly and clarify existing regulatory language.
Date this document prepared	November 4, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The regulations are being revised to incorporate new performance standards for certain aboveground storage tanks (ASTs) located in the City of Fairfax as mandated by actions taken by the 2011 General Assembly (CH 884). In addition to these changes, the regulations are being revised to clarify the applicability of the regulations and remove the requirement for registration fees to be paid. The pollution prevention requirement section of the regulation (Section 130) has also been re-organized to make the regulations easier to understand.

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 or board taking the action, and (3) the title of the regulation.

On December 17, 2013, the State Water Control Board adopted the Facility and Aboveground Storage Tank Regulations 9VAC25-91 as final regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. The identification should include a reference to the agency/board/person's overall regulatory authority, as well as a specific provision authorizing the promulgating entity to regulate this specific subject or program; and a description of the extent to which the authority is mandatory or discretionary.

Section 62.1-44.34:15.1 of the Code of Virginia directs the State Water Control Board to adopt regulations concerning aboveground storage tanks. The statute specifically directs the board to adopt regulations with different regulatory requirements based on the aggregate capacity of the tanks.

Section 62.1-44.34:19.1 of the Code of Virginia requires the Board to develop an inventory of facilities with an aboveground storage capacity of more than 1320 gallons of oil or individual aboveground storage tanks having a storage capacity of more than 660 gallons of oil. The Board is authorized by statute to develop regulations concerning the registration of these tanks.

Section 62.1-44.34:15 of the Code of Virginia requires facilities to provide an Oil Discharge Contingency Plan to the Department for approval. These plans detail actions that will be taken by the operator in the event an oil spill occurs.

There is no direct mandate for aboveground storage tank regulations in federal law; however, federal regulations such as 40 CFR Part 112 (Oil Pollution Prevention), and 29 CFR 1910.106 (Occupational Safety and Health Regulations) and industry standards (such as API 653 and API 570) contain a number of requirements related to AST construction and operation. Many of those federal requirements are similar in their purpose/effect to the requirements envisioned by the State's Pollution Prevention Law and Oil Discharge Contingency Plan mandates. Every attempt has been made to make the requirements of the State's aboveground storage tank regulations consistent with requirements already contained in those federal regulations and industry standards.

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 regulations need to be revised to incorporate new performance standards for certain aboveground storage tanks located in the City of Fairfax as mandated by actions taken by the 2011 General Assembly (CH 884 of the 2011 Acts of Assembly). State law requires certain aboveground storage tanks located in the City of Fairfax to meet new performance standards by July 1, 2021. Other changes will align Virginia's regulatory requirements with federal requirements and current industry standards. Updating these regulations to be consistent with current federal requirements and current industry standards will require the most up to date standards to be met in Virginia, and will be more protective of the health, safety, and welfare of citizens.

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.

A new section, Section 145 – Performance standards for aboveground storage tanks located in the City of Fairfax, is being added to the regulations to address requirements for ASTs located in the City of Fairfax. These standards are required by state law to be met by July 1, 2021. Facilities with aboveground storage tanks with an aggregate capacity of 1 million gallons or more that are located in the City of Fairfax that were in existence prior to January 29, 1992 are required to meet the new performance standards. Section 145 addresses the requirements for strength testing of tanks, requirements for release prevention barriers, and requires upgraded tanks to meet applicable standards of the Uniform Statewide Building Code.

The regulations are also being revised to remove the requirement for registration fees to be paid. Registration fees range from $25 to $100 per operator. Fees are being retained for the review of Oil Discharge Contingency Plans (ODCP) which range from $718 to $3,353. Removing the requirement for registration fees to be paid will allow for program staff to dedicate more time on activities such as facility inspections and reviewing contingency plans instead of registration fee issues.

Since many years have passed since the regulations were last amended, the agency is revising the regulations to address common questions the agency receives concerning these regulations. For example, the agency often receives questions concerning the applicability of the regulations. The agency is proposing to revise the regulations to clarify how the aggregate storage capacity of a facility is calculated. The agency is also reorganizing the regulatory section that discusses the pollution prevention standards that facilities must comply with. Reorganizing this regulatory section will remove duplicative requirements in the regulations, and make the pollution prevention requirement section more concise and easier to understand.

The agency is also updating the regulations to mention the most recent industry standards in the regulations. Industry standards are continuously reviewed and updated as technology advances. Depending upon the size and type of the aboveground storage tank, different industry standards apply to the maintenance and inspection of the tanks. The regulations will now mention the most recent industry standards.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The public will benefit from the revisions being made to the regulations. The regulations will now include the most recent industry standards which will make the regulations consistent with current industry

practices. Making the regulations consistent with current industry practices will make it easier for the regulated community to comply with Virginia's regulations. This change will also make it easier for the Commonwealth to oversee this regulatory program since there will no longer be a difference between regulatory requirements and current industry practices. Additionally the regulations have been revised to include current industry practices for both site built (large tanks) and shop built tanks (smaller tanks).

The amendment also removes the requirement for registration fees to be paid when facilities register aboveground storage tanks. Removing this requirement will benefit both the regulated community and the agency. The agency will be able to devote resources previously used to track payments of registration fees ($25-$100) to verifying the ASTs are operated and maintained in a manner that is protective of human health and the environment.

The regulatory action poses no disadvantages to the public or the Commonwealth.

This regulatory amendment will assist facilities located in the City of Fairfax that are required to have their ASTs meet performance standards by July 1, 2021 by providing these facilities with certainty concerning the standards they will be required to meet. These facilities need time to arrange for tanks to be emptied, upgraded, and retested before being brought back into service. The facilities will need to coordinate the upgrading of tanks to ensure that capacity is available to handle pipeline deliveries and to prevent the disruption of petroleum deliveries to consumers.

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
30	Exclusion for licensed motor vehicles	Examples of licensed motor vehicles that are excluded from the regulation have been added to the regulation. (e.g. airport refueling trucks, mobile refueling vehicles)	This change provides examples of vehicles not solely used for the storage of oil that are not regulated by this regulation.
130	Professional Engineering statements	A clarification has been made to the regulation concerning when the wording of professional engineering statements must match the required statements included in the regulation.	The current regulations require secondary containment to have been certified with respect to compliance with the applicable requirements of 40 CFR Part 112 (1997), NFPA 30 and 29 CFR 1910.106 by June 30, 1998. It is not the board's intent to require all certifications to be re-performed and submitted with the wording of the certification stated in

			9VAC25-91-130 B. 2.e. upon the effective date of the regulation. It is the board's intent that all future certifications meet the certification statement requirements of 9VAC25-91-130 B. 2.e.
130	Each operator shall institute and maintain records of safe fill, shutdown, and transfer procedures, or equivalent measures approved by the board.	Each operator shall institute safe fill, shutdown, and transfer procedures, or equivalent measures approved by the board. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel.	The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer procedures occur to prevent overfills.
220	Stated standards and codes were stated as being listed in 9VAC25-91-220 A.	Standards and codes are listed in 9VAC25-91-220 B.	Editorial correction to citation in regulation.
Documents incorporated by reference	Listing of documents incorporated by reference	Corrections were made to titles and dates of documents incorporated by reference.	Editorial corrections were made to eliminate confusion concerning documents incorporated by reference.

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.

Commenter	Comment	Agency response
James McGrath	9VAC25-91-30.A.2 contains an exclusion for, "Licensed motor vehicles, unless used solely for the storage of oil". Believes that the wording of this exclusion is unclear. Suggests that DEQ consider defining the term licensed motor	Licensing motor vehicles is an activity that the State Water Control Board is not authorized to perform. Any motor vehicle that has been issued license plates by an authorized state or federal entity is deemed to be a licensed motor vehicle. This would include vehicles such as airport refueling trucks and mobile refueling

	vehicles in the regulations. Asked if a federal government owned vehicle in the federal motor vehicle registration system would qualify as being licensed.	vehicles that are operated to refuel other vehicles on airports and military installations. The regulation has been modified to include an example of licensed motor vehicles not solely used for the storage of oil.
James McGrath	Believes that DEQ considers airport fueling trucks to be "fuel transportation equipment or fuel transportation vehicles" and that these vehicles qualify for the exclusion described in 9VAC25-91-30.A.2. Suggests adding an example of the exclusion (e.g. airport refueling trucks, mobile refueling vehicles) as an example in the regulations.	The regulation has been modified to include an example of licensed motor vehicles not solely used for the storage of oil. (e.g. airport refueling trucks, mobile refueling vehicles)
James McGrath	9VAC25-91-130.B.2.a requires secondary containment or approved method to be evaluated and certified. The terms "dike or berm" have been removed. Is it DEQ's intent to require that double-wall tanks be evaluated and certified as well as dikes and berms? If not, I would like to suggest that an exemption for double-wall tanks be included in this section.	EPA has issued guidance concerning the certification of smaller shop built double walled tanks as meeting the secondary containment requirements of Spill Prevention, Control and Countermeasure (SPCC) (CFR Part 112). The board is not exempting double walled tanks from the certification requirement; however if a tank meets EPA's double walled tank guidance, no professional engineer certification is needed for that tank. No change has been made to the regulation.
James McGrath	9VAC25-91-130.B.3.a, there is a requirement that, "Each operator shall institute **and maintain records** of safe fill, shutdown, and transfer procedures, or equivalent measures approved by the board. The regulation is unclear if having written safe fill, shutdown, and transfer procedures satisfies the recordkeeping requirement, or if, records need to be maintained for each individual tank fill and each fuel transfer to document that they were performed according to established procedures.	The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer occurs to prevent overfills.
James McGrath	9VAC25-91-130.B.3.d, states "These gauges shall be calibrated annually." Some gauge manufacturers do not specify calibration procedures, or may specify calibrations at a different frequency. Suggests rewording the regulation to state "These gauges shall be installed, calibrated, operated, and maintained in accordance with manufacturer's instructions."	The board believes that the regulated community should follow manufacturer's guidelines concerning the calibration of gauges; however, as the commenter stated, some manufacturers do not specify a timeframe during which recalibration should occur. The board believes that at a minimum, gauges should be calibrated on an annual basis to minimize the chance that overfilling of a tank would occur due to a faulty oil level gauge. No change has been made to the regulation.

Carol Peterson	Section 9VAC25-91-110- Notifications- was not included in the regulatory text. Is this because there were no changes to that section or was it mistakenly omitted?	No changes are being proposed to Section 110- Notifications; therefore, it was not published in the Virginia Register or Town Hall websites as part of the proposed regulation.
Carol Peterson	9VAC25-91-130 B. 5. c. Sample Weekly checklists, contains item (8) Separator or drainage tank in satisfactory condition. Separators are exempt from regulation and the term drainage tank is not defined. Suggests adding a definition of "drain tank" to the regulation for clarification.	The commenter is correct that 9VAC25-91-30 A. 19 excludes oily water separators from the requirements of this chapter; however, not all separators are excluded from regulation. The weekly checklist requires separators and drainage tanks to be visually inspected. There are many types of drainage tanks that are present at regulated facilities that serve different purposes. The objective of this requirement is for the operator to visually inspect the condition of tanks in order to identify and correct any damaged equipment prior to an equipment failure occurring and oil being spilled. No change is being made to the regulation in response to this comment.
Andrew Wilson, Fire Marshall, City of Fairfax	Supports adoption of the proposed regulatory changes. Facilities in the City of Fairfax have already begun implementing plans to comply with the new regulatory requirements.	The Board appreciates the commenter's support for the regulation.
R. Scott Silverthorne, Mayor, City of Fairfax	Supports adoption of the proposed regulatory changes.	The Board appreciates the commenter's support for the regulation.
Sharon Nicklas, HRSD	Supports the proposed amendment to eliminate the tank registration fee.	The Board appreciates the commenter's support for the regulation.
Sharon Nicklas, HRSD	Recommends the requirement for registration renewal in section 9VAC25-91-100.F be deleted. HRSD is unaware of any value gained from the renewal of tank registration every 5 years. This requirement is inconsistent with UST registration requirements which only require registration for the original tank or for modifications to the tank system. Executive Order #14 requires regulations to be designed to achieve their objectives in the most efficient, cost-effective manner and HRSD believes that requiring a renewal every five years is a paperwork burden for the tank owner and DEQ.	§62.1-44.34:19.1 of the Code of Virginia requires AST tank registrations to be renewed every five years or whenever title to a facility or tank is transferred. The commenter's suggested change is inconsistent with state law. No change will be made to the proposed regulation in response to this comment.
Pamela Faggert, Dominion	9VAC25-91-130 B.2.e states the certification statement must be provided by a professional engineer	The current regulations require secondary containment to have been certified with respect to compliance with the applicable requirements

	that evaluated the tank system's secondary containment. This statement does not match Dominion's existing engineering certification statements, and would require Dominion to amend each of their secondary containment certification statements to match the specified certification language. Dominion believes this is costly and does not provide and benefit to the environment. Suggests revising 9VAC25-91-130.B.2. to include the following language "Operators of an existing AST with a current certification on [date rule becomes effective] may maintain their existing engineering certification statement until their next certification date or within 10 years, whichever is sooner. At such time, the certification statements must conform to requirements in 9VAC25-91-130 B.2.e.	of 40 CFR Part 112 (1997), NFPA 30 and 29 CFR 1910.106 by June 30, 1998. It is not the board's intent to require all certifications to be re-performed and submitted with the wording of the certification stated in 9VAC25-91-130 B. 2.e. upon the effective date of the regulation. It is the board's intent that all future certifications meet the certification statement requirements of 9VAC25-91-130 B. 2.e. The regulation has been modified to clarify this requirement.
Pamela Faggert, Dominion	Supports the addition of Steel Tank Institute (STI) STI-SP001 tank inspection checklist standards. Would like regulations to be revised to include the recommended schedule for tank re-inspections contained in STI-SP001. Recommends that the proposed rule incorporate a consideration of risk factors similar or identical to STI-SP001 in its tank re-inspection schedule requirements in 9VAC25-91-130C.2.	62.1-44.34:15.1 of the Code of Virginia requires formal inspections to be conducted at facilities with an aggregate storage capacity of 1 million gallons of oil or greater every five years. No change has been made to the regulation.
Pamela Faggert, Dominion	Supports the new provision in 9VAC25-91-160D.11 that removed double-walled ASTs from daily and weekly inspection requirement and extends the inspection frequency for these tanks to once every 31 days.	The Board appreciates the commenter's support for the regulation.
Pamela Faggert, Dominion	Suggests revising 9VAC25-91-130B.3.a to clarify that the safe fill, shutdown, and transfer procedures should be current and active, not historical. Suggests revising language to read "Each operator shall institute and maintain ~~records of~~ written safe fill, shut down, and transfer procedures or equivalent…"	The regulation has been modified to clarify that the operator shall institute safe fill, shutdown, and transfer procedures. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. The goal of the requirement is to ensure that the facility has developed and implemented procedures to ensure that safe fill, shutdown and transfer occurs.
Pamela Faggert, Dominion	Dominion has gauges installed at fill ports on the outside of secondary	It is difficult to create regulatory language to address all tank configurations. The board

	containment berms rather than at the tanks. Suggests revising 9VAC25-91-130B.3.d to the following "All ASTs shall be equipped with a gauge that is readily visible and indicates the level of oil in the tank. In addition, the storage capacity, product stored and tank identification number shall be clearly marked ~~on the tank~~ at the location of the gauge. These gauges shall be calibrated annually."	believes that this specific request would be more appropriately handled through examining the specific tank's configuration and examining if a variance from the regulation would be appropriate. No changes have been made to the regulation.
Pamela Faggert, Dominion	9VAC25-91-190 was not published in the Virginia Register as part of this proposal. In Section 180, a reference to section 190 is stricken. In Section 200, a reference to Section 190 is maintained. It is unclear if section 190 is proposed to be retained in the regulation or repealed.	No changes are being proposed to Section 190; therefore, it was not published in the Virginia Register or Town Hall websites as part of the proposed regulation. Section 190 will remain part of the regulation and is not being amended as part of this regulatory action.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	10	Definitions	A definition of elevated tank is being added to the regulations. This definition is needed since it is a term that is being used in a new section (section 145) of the regulations.
20	20	Applicability	This section clarifies which oil capacities are included when calculating the aggregate storage capacity of the facility.
30	30	Exclusions	An additional exclusion is being described in the regulations to clarify ASTs that are excluded from the regulations. The regulations have excluded ASTs that are part of machinery from the regulations, and the regulations are being revised to further describe the exclusion. This exclusion deals with ASTs that are integral parts of equipment or machinery. In response to a

			comment, examples of licensed motor vehicles that are excluded from the regulation have been added to the regulation. (e.g. airport refueling trucks, mobile refueling vehicles)
40	40	Compliance Dates	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations.
50	50	Statement of Purpose	The term board is being replaced with the term department since annual reports are submitted to the department.
60	60	Administrative fees	Registration fees will no longer be charged. Fees will still be required for review of Oil Discharge Contingency Plans (ODCP). The regulation clarifies the different facility size categories and the applicable application fee. The agency's address has been revised.
70	70	~~Notices~~ Correspondence to the Department of Environmental Quality	The agency's address has been revised. The section title has been revised to more accurately reflect the requirements of the section. The section provides details to the regulated community concerning where they should send different correspondence- either the central office or the regional office.
90	90	Evaluation of chapter	This section is being removed since it is no longer applicable. Periodic reviews of the regulations are detailed in a Governor's Executive order.
100	100	Registration requirements	The section of the regulation clarifies when a registration form is required to be submitted.
120	120	Aboveground storage tank closure	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations. The term "board" is replacing the term "department" in this section to use terminology consistent with statutory requirements. The section has also been revised to allow for the use of approvable leak detection systems to be used instead of requiring soil sampling.
130	130	Pollution prevention standards and procedures	This section has been reorganized and removes redundant requirements from the regulations. Previously this section listed requirements each category of facilities was required to meet separately. The section has been reorganized to list all of the requirements ASTs with an aggregate storage capacity of 25,000 gallons of oil or more must meet first. Additional requirements facilities with a capacity of 1 million gallons of oil or more must meet are listed following the requirements for facilities with an aggregate storage capacity of 25,000 gallons of oil. In addition to these changes, current industry standards have been mentioned in the

			regulations. *Inventory Control* Changes have been made to the inventory control and testing for significant variation requirements. Requirements for refineries have been placed after the requirements for facilities. Facilities are no longer required to reconcile physical measurements every time a stored amount is recorded. If a significant variation exists for two consecutive reconciliation periods, the facility operator is then required to reconcile physical measurements. This will reduce the recordkeeping requirements for facilities. *Secondary Containment* Clarifications have been made to the secondary containment requirements. The regulations specify the board's expectations for secondary containment that have been implemented though department policy. The PE certification is described in the regulations. Additionally, the PE certification may include qualifications, which the board may choose to accept. This will provide more flexibility to the facility concerning requirements for secondary containment. In response to a comment received, a clarification has been made to the regulation concerning when the wording of professional engineering statements must match the required statements included in the regulation. *Safe fill and shutdown procedures* Safe fill and shutdown procedures have been clarified. Written safe fill, shutdown and transfer procedures shall be maintained by the operator for use by facility personnel. *Pressure testing of piping* Pressure testing of piping requirements have been revised to incorporate the effective date of the last revision of the regulations. *Visual daily and weekly inspections* Visual daily and weekly inspection requirements have been revised to incorporate the effective date of the last revision of the regulations. Facilities may also conduct daily inspections less frequently than daily if normal operations are not being conducted. Facilities may also conduct weekly inspections less than weekly if normal operations are not being conducted. Daily and weekly inspections need to be conducted at least once every 14 days. The regulations are also being clarified to state that when facility inspections identify

			problems, the problems need to be corrected. *Training requirements* Training requirements are being clarified. Training requirements have been revised to incorporate the effective date of the last revision of the regulations. *Facilities with an aggregate capacity of 1 million gallons or more* In addition to the areas listed above, facilities with an aggregate capacity of 1 million gallons of oil or more must meet the following additional requirements: Formal inspections and reinspections; high level alarm for safe filling of tanks; and cathodic protection of piping. These requirements were previously in the regulations and are not new, but have been grouped into their own subsection of the regulations.
140	140	Performance standards for aboveground storage tanks newly installed, retrofitted, or brought into use	Compliance dates have been revised to incorporate a previous effective date of the regulations. References to NFPA 30 and BOCA are being replaced with a reference to the Uniform Statewide Building Code. The Uniform Statewide Building Code references many codes and standards, and is required to be followed in Virginia.
	145	Performance standards for aboveground storage tanks located in the City of Fairfax	This is a new section being added to the regulation to specifically address the AST facilities with an aggregate capacity of 1 million gallons of oil or greater located in the City of Fairfax. State law requires these tanks to meet certain performance standards by July 1, 2021. The section includes information concerning ASTs the section is applicable to, and includes the performance standards the ASTs must meet, including requirements for strength testing, and release prevention barriers.
150	150	Recordkeeping	This section has been clarified to state inspection records are to be kept.
160	160	Variances to the requirements of part III (9VAC25-91-130 et seq.) of this chapter	Additional variances by regulation are being added to the regulation. These additional variances allow for a facility to obtain a variance from the regulation without petitioning the board. The additional variances are common variances requested by the regulated community and granted by the board. Adding these variances to the regulations removes the requirement for a facility to petition the board for a variance if the conditions of the variance are being met. This reduces the regulatory burden on the regulated community as well as the department's resources.

170	170	Contingency plan requirements and approval	The regulation is being clarified to include the purpose of Oil Discharge Contingency Plans. The term board is being replaced with the term department to be consistent with statutory requirements. Statutory references are being updated. A deadline is also being included in the section for the board to receive notification of amendments to the Facility Response Plan (FRP) if the FRP is part of the ODCP.
180	180	Groundwater characterization study (GCS)	The term department is being replaced with the term board to be consistent with statutory requirements.
200	200	Reporting; GCS well monitoring report	The term board is being replaced with the term department since annual groundwater reports are required to be submitted to the department, not the board.
220	220	Resources available	This section is being revised to list the many resources that may assist the regulated community with maintaining compliance with the numerous codes and regulations ASTs are subject to. Depending on the size of the tank, and tank construction, there are many requirements or standards that may be applicable to the AST. Tanks are manufactured to meet certain standards that vary depending on the type of tank, the intended contents of the tank, and the location of the tank. This section acts as a list of resources the regulated community may wish to consult when selecting an AST to use, upgrading an existing tank, or inspecting tanks. A citation was corrected in this section of the regulation.
		Documents incorporated by reference	Some documents previously listed in section 220 are being incorporated by reference. Corrections were made to titles and dates of documents incorporated by reference since originally proposed.

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.

During the development of the proposal the agency considered alternative regulatory methods that would reduce the regulatory burden on the regulated community while continuing to be protective of human health and the environment. The proposal includes reduced requirements for inventory control and testing for significant variation if certain conditions are met. Additionally, the regulations are revising the procedure for conducting inventory control and testing for significant variation to simplify these requirements for the regulated community. The revised regulation will only require temperature conversions to be conducted if there is a significant variation in the inventory in the AST instead of requiring this calculation to be performed with every inventory reading.

Small businesses are more likely to have smaller capacity ASTs that are purchased from manufacturers and delivered to them fully constructed. These tanks are commonly referred to as shop built tanks. The regulations are being revised to include more references to industry standards for shop built tanks.

The proposed regulation provides regulatory flexibility for all regulated entities, including small businesses.

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.

This regulation does not have a direct impact on the institution of the family and family stability.

Acronyms and Definitions

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

API- American Petroleum Institute
AST- Aboveground Storage Tank
EPA- Environmental Protection Agency
FRP- Facility Response Plan
GCS- Groundwater Characterization Study
ODCP- Oil Discharge Contingency Plans
PE- Professional Engineer
RAP- Regulatory Advisory Panel
RPB- Release Prevention Barrier
SPCC- Spill Prevention, Control and Countermeasure
STI- Steel Tank Institute