



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 25-590– Petroleum Underground Storage Tank Financial Responsibility Requirements
Department of Environmental Quality
July 12, 2013

Summary of the Proposed Amendments to Regulation

The State Water Control Board (Board) proposes to add a certificate of deposit (CD) as an acceptable mechanism to demonstrate financial responsibility for owners and operators of Petroleum Underground Storage Tanks (USTs).

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

State Water Control Law (Section 62.1-44.34:12 A) requires that owners and operators of USTs annually demonstrate and maintain evidence of financial responsibility for taking corrective action and for compensating third parties in case of leaks. These regulations specify the financial responsibility requirements for USTs. Under the current regulations, owners and operators may use any one or combination of the following mechanisms to demonstrate financial responsibility: (1) financial test of self-insurance, (2) guarantee, (3) insurance, (4) surety bond, (5) letter of credit, or (6) trust fund. Further details are specified in the regulations. The Board proposes to add a CD to the list acceptable mechanisms.

Banks charge a fee to establish a letter of credit and an annual maintenance fee to carry it. Additionally, the Department of Environmental Quality (DEQ) has found that many owners and operators of USTs who use a letter of credit are required by the bank to collateralize the letter of credit with a CD. Thus, directly permitting a CD as an acceptable mechanism could save costs for owners and operators who currently use a letter of credit.

According to DEQ's 2012 survey of banks in Virginia that currently issue letters of credit to owners and operators, the cost to set up and maintain a new CD will be either no cost or have a very low fee compared to the charge for setting up and maintaining letters of credit. Owners and operators who can afford to put up the full amount of cash required to fund their financial responsibility requirement may not have to pay any origination or annual fees to the bank and they would earn interest on the CD. Many banks currently charge application fees of 1.0% to 1.5% of the total letter of credit amount with a minimum fee of \$450 to \$500. Additionally, banks charge owners and operators an annual fee of \$450 to \$500 on the anniversary date of the letter of credit.¹ Letters of credit that are secured with real estate also have additional costs associated with the loan.

If owners and operators switch from a letter of credit to a certificate of deposit mechanism, the total cost savings could be substantial. Since allowing the use of a CD to demonstrate financial responsibility potentially reduces costs for some owners and operators with no apparent reduction in assurance of financial responsibility, the proposed amendment should produce a net benefit.

Businesses and Entities Affected

The proposed amendment potentially affects the approximately 3,000 petroleum underground storage tank owners and operators in the Commonwealth, as well as their banks.²

Localities Particularly Affected

As there are petroleum underground storage tanks throughout the Commonwealth, the proposed amendment does not particularly affect a few specific localities.

Projected Impact on Employment

The proposed amendment will not likely have a large impact on employment.

Effects on the Use and Value of Private Property

The proposed amendment will likely result in some owners and operators of USTs who currently use another mechanism to demonstrate financial responsibility to switch to using a CD.

¹ Data source: Department of Environmental Quality

Those owners and operators who currently use a letter of credit seem particularly likely to switch in that it will very likely lower their costs.

Small Businesses: Costs and Other Effects

The proposed amendment will likely reduce costs for small owners and operators of USTs who currently use a letter of credit to demonstrate financial responsibility.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Real Estate Development Costs

The proposed amendment will not 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, a determination of the public benefit, 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 an 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.

² Ibid