

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

9 VAC 25-640 Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements

Department of Environmental Quality

Town Hall Action/Stage: 5048/8275

May 30, 2018

Summary of the Proposed Amendments to Regulation

The State Water Control Board (Board) proposes to incorporate the changes that occurred in a companion regulation.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

This regulation establishes financial assurance requirements for facilities and individual storage tanks that are subject to a companion regulation, the Facility and Aboveground Storage Tank (AST) Regulation (9 VAC 25-91). The companion regulation contains the technical requirements for registration of facilities and individual ASTs among others. The Board recently excluded ASTs that are an integral part of an equipment or machinery (e.g., fuel tank affixed into the frame of an emergency generator) from registration.¹ In the same action, the Board also added an example to clarify that airport refueling trucks and mobile refueling vehicles are exempt from registration because they are examples of “licensed motor vehicles” that are already

¹ <http://townhall.virginia.gov/l/viewstage.cfm?stageid=6844>

excluded from the regulation. In this action, the Board proposes to incorporate in this regulation the new exemption and the clarification of an existing exemption in the companion regulation.

The companion regulation determines whether a facility or an individual AST is subject to registration. Thus, when the companion regulation was amended to exempt certain equipment, the financial assurance requirements relating to those types of ASTs were automatically made obsolete. As a result, amending this regulation will have no economic impact other than improving the clarity of this regulation and consistency between this regulation and the companion regulation.

Businesses and Entities Affected

At the end of fiscal year 2017, there were 10,972 active registered ASTs in Virginia. These ASTs were located at 4,003 facilities within the state.

Localities Particularly Affected

The proposed amendments do not affect any particular locality more than others.

Projected Impact on Employment

The proposed amendments do not have any effect on employment.

Effects on the Use and Value of Private Property

The proposed amendments do not have any effect on the use and value of private property.

Real Estate Development Costs

No impact on real estate development costs is expected.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

According to the Department of Environmental Quality, there are 2,030 facilities that only have one AST registered, which is an indication that the facility is likely a small

business. The proposed changes do not affect costs for them, but will likely improve clarity of the regulation.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not have adverse effects on small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not have adverse impacts on businesses.

Localities:

The proposed amendments would not adversely affect localities.

Other Entities:

The proposed amendments would not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.