



# Underground Storage Tank System Product Delivery Ban

## What You Need to Know

In accordance with Code of Maryland Regulation (COMAR) 26.10.02.03C, the Maryland Department of the Environment (MDE) may prohibit the delivery of product to one or more underground storage tank (UST) systems at a facility when it has determined that a UST system is not in compliance with one or more of the requirements of COMAR 26.10.02 through 26.10.12 and 26.10.16, Oil Pollution Control and Storage Tank Management.

### UST System Violations – Cause for Delivery Ban

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Failure of a UST system owner/operator to maintain and operate a UST system in compliance with COMAR 26.10 greatly increases the likelihood that a UST system will have a release to the environment, inhibit the timely detection of a release, or diminish the owner/operator's ability to respond to a release of product to the environment. UST system violations that may result in a delivery ban include but are not limited to:

- Registration
- Spill prevention
- Overfill protection
- Release detection
- Corrosion protection
- Financial responsibility
- Operator training
- Operating an unauthorized unmanned UST facility

These types of violations are considered significant violations by MDE and the U.S. Environmental Protection Agency.

MDE will issue a Delivery Ban as soon as practicable after determining a UST does not have required equipment installed (e.g., spill prevention equipment, overfill protection equipment, leak detection equipment) or other conditions exist that MDE determines are significant violations.

MDE may also issue a Delivery Ban for failure to have a UST System Compliance Inspection (i.e., a third party inspection) completed and submitted to MDE by the required due date.

### Notification to Owner/Operator

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Once MDE determines a UST system is in significant violation, MDE will conduct a site inspection to verify the compliance status and to notify the UST system owner/operator in writing of the pending Delivery Ban. The written notice will state the violations and actions that must be taken to achieve compliance and to prevent the Delivery Ban from being issued. The notice will inform the owner/operator that MDE will return in four (4) days to re-inspect the facility for compliance.



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Upon the 4th day or another date determined by MDE, a re-inspection of the UST facility will be performed to determine whether the necessary corrective actions have been completed. If the corrective actions have not been completed, MDE will issue a Delivery Ban and attach a tag and locking device to the fill port of each UST system in significant violation. Written notice will be provided that states the violations and actions that must be taken to achieve compliance to lift the Delivery Ban. The notice will state how the owner/operator can inform MDE of achieving compliance. The notice will also explain certain hearing rights that are available to the owner/operator through the Office of Administrative Hearings.

In emergency situations, or if there is an imminent threat to human health or the environment, MDE may issue a Delivery Ban and provide immediate notice to the owner/operator.

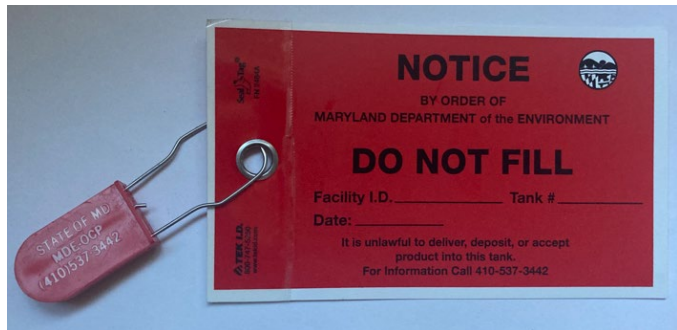
MDE will attempt to determine the oil delivery company and notify them of the Delivery Ban and the affected USTs at the facility. MDE will also identify the affected tanks in its database, which can be accessed through MDE's website at:

<http://mes-mde.mde.state.md.us/FacilitySummary/default.aspx>.

## Delivery Ban Tag

MDE implements the Delivery Ban by attaching a tag and locking clip to the fill port of the noncompliant UST system. The tag is marked "Do Not Fill" and has MDE's contact information on it (see photo).

If the fill port is in a condition where attaching the tag is not feasible, MDE may plug and label the fill in such a manner that alerts a delivery company but does not damage the fill port. Additional stickers or labels may be affixed to locations at the facility where deemed necessary to alert a delivery company of the Delivery Ban.



## Continued Operation While Under a Delivery Ban

Unless MDE determines that there is an immediate threat to public health and safety or the environment, an owner/operator may continue to use and/or dispense the remaining product within a UST system after the Delivery Ban is issued.

The removal of locks, tags, stickers, or labels affixed by a MDE representative without MDE's written approval is a violation of §4-417(c) Environment Article, Annotated Code of Maryland, and may result in enforcement actions.



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### Achieving Compliance and Delivery Ban Lift

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In accordance with COMAR 26.10.02.03C(3), MDE may allow an owner and an operator of a UST system subject to a Delivery Ban to resume receiving regulated substances if the following conditions are met:

- The owner/operator notifies MDE that the corrective actions necessary to bring the UST system into compliance have been performed;
- The owner/operator submits evidence of the corrective actions performed that includes at least the following records:
  - Receipts;
  - Work orders;
  - Certificates;
  - Testing records; and
  - Photographs;
- The owner/operator resolved all obligations related to the UST system as directed by MDE; and
- The owner/operator receives written approval from MDE to remove the monitoring device from the UST system.

MDE will review the compliance data provided and may visit the site to confirm compliance. Removal of the tag and locking device may only be performed by an OCP representative or by others once written approval from MDE has been issued. Temporary removal of tags to conduct repairs, upgrades, testing, or to remove product from the UST system may only be performed after receiving written approval from MDE.

Upon full compliance, MDE will provide written notice of compliance to the owner/operator and MDE will update the facility status by removing the facility name from the delivery ban list on MDE's website.

In certain circumstances MDE may remove the Delivery Ban on a conditional basis to further monitor UST system compliance. Under a conditional Delivery Ban lift, the owner/operator will be allowed to receive fuel deliveries and operate the UST system. However, the owner/operator will be required to submit compliance documents to MDE on a specific schedule. If the owner/operator fails to operate the UST system in compliance and submit documents by the established deadlines, MDE may re-issue the Delivery Ban.

### Hearing Rights Available

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A Delivery Ban is an order issued under the authorization of § 4-411.1 of the Environment Article and is effective immediately whether or not a request for a hearing is filed and remains in effect until lifted by MDE. As noted above, the written notice that accompanies the Delivery Ban will provide certain hearing rights that are available to the owner/operator through the Office of Administrative Hearings

Environment Article § 4-412(a)(1)(i) provides that "Any person named in the order may request in writing a hearing before the Department not later than ten days after the date the order is served, in



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which case a hearing shall be scheduled within ten days from the receipt of the request. A decision shall be rendered within ten days from the date of the hearing.”

Environment Article § 4-412(b) states that “a person aggrieved by an order or permit issued may obtain immediate judicial review under the provisions of §§ 10-222 and 10-223 of the State Government Article and the Maryland Rules.”

### Impact on MDE Enforcement

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The issuance of a Delivery Ban at a UST system facility does not limit MDE’s ability to take enforcement actions against a UST system owner/operator for the same or similar violations that were the cause for the Delivery Ban to be issued by MDE.

### Questions

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For further information on requirements for UST systems, please contact OCP at (410) 537-3442 or (800) 633-6101 x3442. To report oil spills call 1-866-633-4686 available 24 hours a day.

### Limitations

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This fact sheet has been provided for informational purposes. This document is not intended to be, nor should it be interpreted as, a regulation as defined in § 10-101, State Government Article. MDE encourages you to read and understand the regulations that govern the operation of aboveground and underground storage systems found in COMAR 26.10. – Oil Pollution Control and Storage Tank Management.