

**MARYLAND DEPARTMENT OF THE ENVIRONMENT  
LAND AND MATERIALS ADMINISTRATION**

**Revisions made to the Proposed Regulations in Response to Comments  
on the Draft Proposal during the Small Business Review Period  
COMAR 26.10 Oil Pollution Control and Storage Tank Management**

Introduction: Pursuant to Chapter 212, Acts of 2019, the Maryland Department of the Environment (MDE) provided an opportunity for small businesses, nonprofit organizations, and other interested parties to comment on a draft proposal to comprehensively revise Maryland’s oil pollution control and storage tank management regulations. Small businesses that are expected to be affected by the draft regulatory changes include, but are not limited to, those that:

- Retail motor fuel or heating oil;
- Own and operate a motor fuel dispensing facility, including marinas dispensing motor fuel;
- Own and operate a service station for vehicles or vessels;
- Own and operate an oil aboveground and/or underground storage facility;
- Own and operate a hazardous substance underground storage tank (UST) system;
- Own and operate an emergency power generator associated with a UST system;
- Offer an approved training program for UST system operators;
- Train and certify UST system technicians, removers, and inspectors;
- Employ certified Class A, Class B, and Class C Operators;
- Employ certified UST system technicians, removers, and inspectors;
- Install, maintain, repair, and close residential heating oil tanks;
- Perform environmental services; and
- Participate in any combination of the above activities.

MDE published the draft proposal online for public inspection on October 18, 2021, and accepted public comments on the draft proposal for a 15-day period that ended on November 2, 2021. Upon considering all comments received on the draft proposal, on January 28, 2022, the Secretary of the Environment officially proposed to repeal existing and adopt new regulations under Code of Maryland Regulations (COMAR) Title 26, Subtitle 10 Oil Pollution Control and Storage Tank Management. This proposed action (i.e., “formal proposal” or “proposed regulations”) was published in issue 49, volume 3 of the *Maryland Register* on pages 151-247. On May 24, 2022, the Secretary of the Environment adopted these proposed regulations, with nonsubstantive changes, which have an effective date of June 13, 2022.

Comments and Revisions: MDE received written comments on the draft proposal from a total of 16 entities and individuals. The full text of the comments are included in the appendix of this document. MDE reviewed and considered each comment received on the draft proposal, and in response made several revisions to the draft regulations that were incorporated when the regulations were formally proposed on January 28, 2022. Revisions made between the draft regulations published on October 18, 2021 and the formal proposal of the regulations published on January 28, 2022 are listed below.

**Note:** This document lists only the revisions made between the publishing of the draft regulations and the formal proposal. An additional, formal comment period was provided on the proposed regulations. Comments received on the proposed regulations, as well as responses to those comments, are found in a separate document. A copy of the response to comments on the proposed action and other information regarding the newly adopted regulations are available at: <https://mde.maryland.gov/programs/land/OilControl/Pages/index.aspx>.

**1. Aboveground Storage Tanks.**

- a) Revised the definition for “aboveground storage tank (AST)” to set a minimum storage tank size under which a storage tank is considered an AST, set at a storage capacity of greater than 250 gallons (*see* COMAR 26.10.01.02B(1)).
- b) Clarified the exemption conditions under which owners and operators of double-walled shop-fabricated ASTs storing Class I or Class II liquids do not need to install a secondary containment dike around the AST (*see* COMAR 26.10.17.07B(4)).
- c) Revised the inspection regulation for shop-fabricated ASTs to make the formal inspection and leak testing requirements apply only to shop-fabricated ASTs located at oil storage and handling facilities operating under an Individual Oil Operations Permit, and to clarify who may conduct a formal inspection and leak test on a shop-fabricated AST (*see* COMAR 26.10.17.12D).
- d) Limited the applicability of the out-of-service and permanent closure requirements to shop-fabricated ASTs apart of AST systems that are required to be registered with MDE (*see* COMAR 26.10.17.13A).
- e) Revised the overfill protection requirements for field-erected ASTs by:
  - i. Deleting from the definition of “high-high level” the condition that the high-high level of a field-erected AST be not more than 90 percent of the critical high level of the field-erected AST (*see* COMAR 26.10.18.02B(10)); and
  - ii. Adding a new requirement that owners and operators of field-erected ASTs set the levels at which overfill prevention equipment activates to AST capacity-specified levels that provide adequate protection against an overfill during an oil delivery or transfer while allowing for greater usage of the AST’s capacity (*see* COMAR 26.10.18.07G(2)).

**2. High Risk Oil Facilities.** Revised the procedures and schedule under which owners of underground oil storage facilities must evaluate the monthly throughput of all oil products stored in its UST systems to determine if the facility is a high risk underground oil storage facility. Under the changes, a throughput review must be conducted using forms provided by MDE, and performed at least every three years during the required certified UST system inspections or if directed by MDE (*see* COMAR 26.10.07.07A(2)).

**3. Marinas.** Recognizing there are several professionals with expertise in the installation of oil storage tank systems at marinas, added the following additional categories of professionals that may prepare engineering plans for an oil storage tank system to be installed at a marina:

- a) A professional engineer;
- b) An individual certified as a UST system technician in accordance with COMAR 26.10.06;
- c) A certified inspector, which is an individual certified in accordance with the Steel Tank Institute/Steel Plate Fabricators Association’s SP001 Standard for the Inspection of Aboveground Storage Tanks; or
- d) An authorized inspector, which is an individual certified in accordance with the American Petroleum Institute’s Standard 653 Tank Inspection, Repair, Alteration, and Reconstruction (*see* COMAR 26.10.01.14C(4)).

#### **4. Oil Solidification/Stabilization.**

- a) Updated references to the term “solidification” by changing the term to “solidification/stabilization” and adding a definition for “solidification/stabilization” to describe the treatment processes for oil-contaminated waste that are included under the term, as well as revised the definition of “oil handling facility” to clarify that an oil handling facility may include solidification/stabilization operations (*see* COMAR 26.10.01.02B(49) and (71)).
- b) Revised COMAR 26.10.01.15 to clarify that the requirements of the regulation apply to owners and operators of oil storage and handling facilities that conduct a solidification/stabilization process for oil sludge, oil refuse, or oil mixed with other waste.

#### **5. Residential Heating Oil Tanks.**

- a) Amended the definition of “AST” to exclude an aboveground residential heating oil tank and revised the definition of “residential heating oil tank” (*see* COMAR 26.10.01.02B(1) and (65)). These revisions clarify that these storage tanks are not subject to AST-specific regulatory provisions such as the AST system registration requirement under COMAR 26.10.01.10 or the technical requirements for shop-fabricated and field-erected ASTs under new regulatory chapters COMAR 26.10.17 and 26.10.18.
- b) Removed the requirement for a new underground residential heating oil tank to be double-walled. The requirement now states that a new underground residential heating oil tank installed on or after the effective date of the regulations must be UL listed for underground use or a storage tank designed and constructed for underground use in accordance with an MDE-approved industry standard (*see* COMAR 26.10.01.13C(6)).

#### **6. Reporting Oil Discharges.**

- a) Revised the requirement to submit a written report of the occurrence to require that a person responsible for the discharge must submit a written report of the occurrence only if one of the following conditions applies:
  - i. 5 gallons or more of oil was spilled, released, or discharged;
  - ii. Oil was discharged to waters of the State, regardless of the amount of oil spilled, released, or discharged; or
  - iii. The person was directed by MDE to submit a written report of the occurrence (*see* COMAR 26.10.01.05E(1)).
- b) Clarified the requirement in which a person must report to MDE evidence of an oil spill, release, or discharge discovered during an environmental assessment conducted on a property as part of a due diligence investigation in support of a property transaction or a loan refinancing by:
  - i. Defining what is considered evidence of a spill, release, or discharge; and
  - ii. Adding language to make it clear that the consultant or property owner responsible for reporting would not be considered the party responsible for the oil contamination unless they meet the statutory criteria for a person responsible for the discharge (*see* COMAR 26.10.08.01B).

7. **Transfer Area.** Revised the definition for “transfer area” to clarify that a transfer area involves only locations within an oil storage or handling facility where oil is transferred to or from a tank car, which is a cargo tank moved by locomotive power along a railroad system (*see* COMAR 26.10.01.02B(86)).

- 8. Used Oil.** Revised the used oil regulations to clarify that used oil may be:
- a) Disposed of at a permitted controlled hazardous waste facility (*see* COMAR 26.10.15.03D); and
  - b) Stored in a storage unit that complies with the oil storage tank requirements established under COMAR 26.10 or, depending upon the type of facility, a container equipped with a containment system that meets the requirements of the federal standards for the management of used oil under 40 CFR Part 279 (*see* COMAR 26.10.15.04C).
- 9. Financial Responsibility for USTs – Reporting Requirement.** For an owner of a UST system using an insurance policy or risk retention group coverage to demonstrate financial responsibility for a UST, deleted the requirement that the owner must annually provide to MDE a statement regarding if the UST has a lined interior (*see* COMAR 26.10.11.04D(3)).
- 10. Wetlands and Waterways.**
- a) Added definitions for “floodplain” and “special flood hazard area” that reference the existing definitions for the terms found in COMAR and Code of Federal Regulations (*see* COMAR 26.10.01.02B(28) and (73)).
  - b) Throughout the regulations, provisions related to the construction of certain storage tank systems or related facilities in wetlands and waterways were revised to be more consistent with the requirements of the governing federal and State statutory and regulatory authorities.

# **Appendix A**

## **Written Comments**



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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## MDE Proposed Regulations - comments

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Treiber, Marie <Marie.Treiber@aecom.com>

Tue, Nov 2, 2021 at 4:43 PM

To: "chris.ralston@maryland.gov" <chris.ralston@maryland.gov>

Cc: "Spencer, Julie" <julie.spencer@aecom.com>, "Galeckas, Kristen" <Kristen.Galeckas@aecom.com>, "Allen, Rachael" <Rachael.Allen@aecom.com>, "Pecora, Peter" <Peter.Pecora@aecom.com>

Chris – I have a comment/question regarding the new oil contamination reporting requirements.

1. The responsibility of reporting should not fall upon the person conducting the site assessment. The person conducting the site assessment has no connection to the property or contamination and may not even be working for the property owner. The property owner or operator should be the one responsible for the reporting a release.
2. How will this be enforced? If the site assessor is responsible for reporting what will be the consequences of non-reporting? Same question for the property owner.

Thank you

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## Comments on Draft COMAR 26.10.01

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bernardbigham@comcast.net <bernardbigham@comcast.net>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>  
Cc: cari@adamsevenvironmentaleng.net, "Meade, Herb" <Herb.Meade@carrollfuel.net>

Tue, Oct 26, 2021 at 11:36 AM

I thank the Maryland Department of the Environment's Oil Control Program for the opportunity to provide comments on this draft proposal. These comments are attributable to me solely and are not meant to necessarily represent the positions of others in the industry.

As I have had opportunity to provide comments via the work group of the Ad-hoc Committee, my comments will be brief.

I will add that I am a big believer in not letting the quest for perfection get in the way of the "very good." This draft is "very good."

### COMMENT 1

I want to make the case one more time for MDE to set a minimal gallon level for the volume of spilled or released "Oil" that needs to be reported to MDE. While recognizing that the Environment Article does not set a lower limit on the volume of "Oil" discharged that needs to be reported, the strict interpretation used by MDE is still an over-reach.

Take for example when a motorist pulls into a gasoline station and inserts their credit card for purchase of fuel and then begins pumping gas into their vehicle. Once the gasoline dispenser starts pumping gasoline into the car's gasoline tank, the motorists (or the credit card owner, usually the same individual) is now the legal owner of the gasoline. Gasoline is "Oil" under the definition of the Environment Article.

When the motorist over-fills his gasoline tank while re-fueling, that fits the definition of a release of "Oil" according to the Environment Article. And as the owner of the "Oil" (due to the purchase through the dispenser) the motorist is responsible for reporting the occurrence to MDE. Yet, few, if any, motorists have ever reported small spillages of gasoline to MDE.

Does MDE pursue appropriate punishment against the many motorists who are guilty of the violation of the Environment Article? Of course not, but why?

Because of the legal doctrine known as "de minimis non curat lex," meaning "law is not concerned with small things." Legal authorities such as MDE/LMA/OCP already use this doctrine to address matters that are very minor, such as the motorist overfilling his car's gasoline tank cited above.

Common law recognizes that reasonable citizens expect legal authorities not to judge extremely minor offences of the law. How often is the automobile speed limit exceeded by just a mile or two?

Based on the acceptance throughout the legal community of the "de minimis non curat lex" doctrine, I encourage OCP to make the regulations read, that while **accepting** reports of all spills regardless of volume, that the regulations only **require** reporting of releases that exceed a pre-determined volume. I suggest the use of 5 (five) gallons for that figure.

### COMMENT 2

In the draft COMAR 26.10.01.14 Marinas., Section C. (3) requires that "At least 60 days prior to the start of installation, submit to the Department for review and approval engineering plans certified by a PE."

Acknowledging the potential for environmental impact an improperly designed and installed ASTs at a marina presents, I support the requirement that plans be submitted to MDE prior to the start of installation. Where I differ with the language in the draft is that the plans **must** be certified by a Professional Engineer (P. E.).

There is no similar requirement for a P. E. certification on plans sent to the OCP for UST installations. Yet, the same potential exists for a release of oil. It has been my experience that the area where unique concerns exist with marina fuel operations involves the “transition piping” to the pier. However, transition piping can be found at marinas with both USTs as well as ASTs. There is no rationale for requiring ASTs to have a P. E. certification when there is not a need for such a certification with USTs.

In reality, the number of P. E.’s with experience dealing with tank systems in general are few. The number of P. E.’s that have experience with marinas much fewer still. Simply possessing a P. E. does guarantee knowledge and wisdom to that individual in all engineering fields.

Given that there are few P. E.’s with both AST *and* marina experience, the OCP would need to have P. E.’s on staff to provide a review of the P. E. certified plans. A review of a P. E.’s work is customary practice across all regulatory agencies.

I recognize that there remains a need for AST systems at marinas to be designed and installed properly. There are trained individuals, STI SP001-certified inspectors, with the knowledge and experience to interpret the regulations and to review the plans and installations at marinas prior to submission to OCP.

Therefore, I suggest that the draft COMAR 26.10.01.14 C. (3) be modified to read as follows:

“At least 60 days prior to the start of installation, submit to the Department for review and approval engineering plans certified by [a PE.] either a Professional Engineer (P. E.) or by an STI SP001 inspector.”

### COMMENT 3

A review of marinas in Maryland that have fuel docks was conducted. Of those, there are approximately eighteen (18) with an Oil Operations Permit (OOP). Using the aerial views provided by Google, 33 (thirty-three) more were found to 1) offer fuel, 2) were without USTs, and 3) did not have an OOP. Many of these marinas, from an aerial view, have identifiable ASTs – a few did not.

Regardless, there will be a number of marinas that will need OOPs that will not have engineered plans. I am not sure how your interpretation of the draft will reconcile this. I believe allowing an STI SP001 Inspector or a P.E. to provide a narrative in lieu of a engineered drawings in these instances would be a reasonable alternative.

### COMMENT 4

COMAR 26.10.01.15 refers to “Solidification.” I suggest that either the term be changed to “Stabilization/Solidification” or that in COMAR 26.10.01.02 “Solidification” be defined to include “Stabilization.” What occurs with the use of saw dust with oil waste more fits the definition of “stabilization” than “solidification.”

Thank you for your consideration of these comments. If I have additional comments you will receive them by November 1, 2021. If there are any questions, please telephone me at (443) 622-4346.

Sincerely,

Bernard Bigham





Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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**Draft Proposed Regulations for Storage Tanks**

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David Resch (UCPM) <dresch@ucpm.com>  
To: chris.ralston@maryland.gov

Thu, Oct 21, 2021 at 11:57 AM

Chris: I wanted to submit my comments in regards to the proposed regulation changes and questions for further thought. From the insurance perspective and in regards to the Financial Responsibility changes on page 10, please see my comments and questions below:

- 1(a). Insurance carriers provide Financial Responsibility Certificates to the policy holder annually with the renewal of the policy. Most carriers have the ability to adjust the federal EPA certificate wording to meet the differing MD specific wording. The tank owner is already required to have this available for an inspection or upon request by the MDE. Under current budget and labor issues, what is the MDE's plan to be able to track and monitor the receipt of Certificates for most of the registered USTs in MD on an annual basis? Otherwise, with the current requirements already in place, what would be the purpose of annual submission by the tank owner?
- 2(b). I've given seminars to the MDE in the past regarding insurance policies and wording. Is the MDE positioned to understand the intent, purpose and implications of additional insurance policy endorsements that are requested for submission? Or, can this be more narrowly defined at to what you are looking for?
- 2(c). Items i through vi are typically underwriting criteria and either already included on most insurance carriers certificates and their attached UST schedule, or could be. Item vii is more of an issue that the MDE should be monitoring and not requested information by insurance carriers. Often, this applies to older tanks that may not be of interest to a lot of carriers to insure and is information they may not possess. What is the expectation of a "statement" from the insurance carrier in this regard?

A number of the items have no implication on whether a claim is covered or not covered by an insurance policy. There should be a basis and reason for imposing additional Financial Responsibility requirements on an insurance carrier or tank owner, if there are no coverage implications. The MDE's Facility Summary provides good information that is often referred to by insurance carriers when the current tank owner does not know the information – information the MDE should be compiling and monitoring. Insurance Certificates often are requested to mirror the Facility Summaries and do not provide new or confirming information for the MDE.

Feel welcome to reach out to me if I can provide additional information, clarification or insight. Thanks.

Dave

Dave Resch, AAI, ARM *Facilities, Casualty & Transportation*(800) 451-6855 | [dresch@ucpm.com](mailto:dresch@ucpm.com) | Working from Bluffton, SC

Corporate Office: 335 E. Germann Rd., Suite 340 | Gilbert, AZ 85297

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**2 attachments** **Draft Proposed Oil Pollution Control and Storage Tank Management Regulations Compliance Guide.pdf**  
536K



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

## Oil Pollution Control and Storage Tank Management Regulations

**Donna Morrow -DNR-** <donna.morrow@maryland.gov>  
To: Chris Ralston <chris.ralston@maryland.gov>

Tue, Oct 26, 2021 at 7:19 PM

Hello Chris,

Here are my comments and questions upon review of the Compliance Guide document. Please let me know if anything is unclear.

1. Do all new proposed regulations on pages 7-12 apply to marinas, or only the section titled "Marinas with Motor Fuel Dispensing Facilities?" If all the additional changes apply to marinas too I have additional comments.
2. Pg. 13 of the Compliance Guide, "New Requirements" reads: "Currently, marina fuel systems are only known to the Department if they have registered UST systems or store 10,000 gallons or more of fuel in ASTs. This leaves a vast majority of marinas operating without oversight by the State's Oil Control Program until there is a reported spill, release, or discharge."

COMMENT: This doesn't account for the [MOTTRS used for EPCRA Tier II Reporting](#). Marinas storing 10,000 pounds of hazardous materials (e.g. gas or diesel) are included in this reporting system. It only takes about 1,400 gallons of diesel fuel or 1,500 gallons of gasoline to reach this reporting threshold. Can MDE access this information before requiring Individual Oil Operations Permits?; this could save considerable time/money/resources for MDE.

### 3. Motor Fuel Dispensing Facility Requirements

COMAR 26.10.01.14 would establish the following installation and operation requirements for an owner, an operator, and a person in charge of an oil storage tank system used for fueling vessels at a marina (i.e., a marina fueling system)...

**Q:** I want to confirm that marinas with storage tank systems used only for their own equipment (and not for fueling vessels) would be exempt from the Facility Requirements (which is how it reads presently)? Would they also be exempt from obtaining the Individual Permit?

Same section: 1. mentions a "flood hazard area or a 100 year flood plain" but neither term is defined in the Definitions Section and should be clearly explained.

### 4. Marina Facility Requirements continued:

2. If installing a new or replacement marina fueling system, the design and construction of the marina motor fueling system must comply with specified National Fire Protection Association (NFPA) codes and the Petroleum Equipment Institute's "Recommended Practices for the Installation of Marina Fueling Systems" and Department approved engineering plans certified by a professional engineer; **Q:** If this is a new requirement to have a PE certified plan it may prove burdensome for some small businesses.

I will be on leave the rest of this week but please let me know if you have any questions.

Thank you,



**Donna Morrow**  
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Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

## Oil Pollution Control and Storage Tank Management Regulations

Donna Morrow -DNR- <donna.morrow@maryland.gov>  
To: Chris Ralston <chris.ralston@maryland.gov>

Tue, Nov 2, 2021 at 4:16 PM

Hello Chris,

My comments and questions on the Draft Proposed Regulations comments and questions are continued below. As an overarching comment I would like to note that every new requirement on small businesses (marinas), be it requiring a new Permit, requiring monthly self inspections, or record keeping all attribute to "death by 1,000 cuts" that lead many marinas to get out of the fuel businesses. The time, costs, staffing needs and the liability are ever increasing. Many regions of the bay are now down to just 1 fuel dock for hundreds of boaters. I would encourage us to keep in mind that marina fuel docks are vital to keeping the boating industry a thriving part of Maryland's economy.

### 26.10.01 Oil Pollution Control 02. Definitions

Oil Handling Facility: By receiving fuel from a cargo tank (e.g, a typical overland fuel delivery truck as I read the definition), do small businesses (such as marinas) become "Oil Handling Facilities?"

### 04 General Provisions

E: Requires a Tidal Wetland Permit to install, construct, or expand a tank or oil handling facility in certain locations.

Question: How will this impact marinas or others who already obtained a Permit when they were constructed but want to add a fuel tank now?

### 09 Oil Operations Permits

Why are marinas with ASTs under 10,000 gallons being required to obtain this permit? As noted in earlier comments, marinas with 10,000 POUNDS of hazardous material (~1500 gallons) report their storage through [EPCRA and the MOTTRS system](#). Adding another permit places an additional burden on small businesses.

### .10 Registration of AST Systems

D. Facility with a General Oil Operations Permit. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to operate under a General Oil Operations Permit in accordance with Regulation .09B of this chapter with one or more AST systems having an aggregate storage capacity of greater than 2,500 gallons shall register each AST system with the Department in accordance with §E of this regulation.

Question/comment: I suggest developing the Individual Oil Operations Permit to capture the information you need for "registering" ASTs aggregating to more than 2,500 gallons. It would be best if you could do an "auto" registration of ASTs over 2,500 aggregate to improve compliance rates and minimize the burden on small businesses.

Q: The department will need to work to inform regulated communities about these changes within the time required to register.

### .11 Requirements for the Application and Issuance of an Individual Oil Operations Permit.

C. (4) Confirmation the facility has an up-to-date federal SPCC Plan;[IF REQUIRED]

Comment: Only certain facilities are required to have an SPCC plan.

### 26.10.03 UST Systems: Design, Construction, Installation, Registration, and Inspection

.03 Spill and Overfill Prevention Equipment. C (i) and (ii) Will cause additional expenses to small businesses.

.06 Piping Installation Do the proposed changes affect existing tanks or will they apply to existing piping?

### 26.10.04 UST Systems: General Operating Requirements

.03 Periodic Operation and Maintenance Walkthrough Inspections

If this entire section is new, it adds a lot of new requirements for small businesses.

### 26.10.05 UST Systems: Release Detection

.01

C. Release Detection Operability Test

Comment: This new annual testing requirement will present additional expenses to small businesses.

.04 Inventory Control.

I'm not sure if this entire section is a proposed addition? If so, I believe the requirements are beyond the reach of many small business operators/marinas.

### 26.10.11 UST Financial Responsibility

04. Reporting Requirements

Comment: Generally speaking any additional reporting is a burden on a small business.

### 26.10.15 Management of Used Oil

It's worth noting that quite a few boatyards have used oil furnaces for heating their shops. This oil is collected from the boats when oil is routinely changed. Time doesn't allow me to look up all the COMAR references but section .04 adds a lot of new requirements.

### 26.10.17 Shop-Fabricated Aboveground Storage Tanks

I presume this entire section is new and all small businesses will have 2 years to comply. Without more time I can't delve into the tank requirements to determine if there are significant changes.

Thank you for the opportunity to review and comment on the proposed changes. I would like to invite you to speak at our Clean Marina Workshops to answer questions about the impact these changes will have on marinas. We usually hold three workshops in February in different locations and it would be invaluable to have you there to directly answer questions from this business community. I'll be in touch with more details.

Sincerely,  
Donna Morrow, Coordinator

11/3/21, 10:30 PM

State of Maryland Mail - Oil Pollution Control and Storage Tank Management Regulations

Maryland Clean Marina Initiative

[Quoted text hidden]



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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## Comments on Proposed Regulations

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Meade, Herb <Herb.Meade@carrollfuel.net>

Mon, Oct 25, 2021 at 9:33 AM

To: "Chris Ralston (Chris.Ralston@maryland.gov)" <chris.ralston@maryland.gov>

Hi Chris,

Let me first congratulate the Department on the rewrite of the Oil regulations. I think the Department has set forth a proposal that will serve the Department and the regulated stakeholders for many years to come. This cleanup was way overdue.

I do have two comments, the first is modification to an old horse that I keep beating. The second comment maybe a more controlled way to deal with the new High Risk Underground Oil Storage Facility initial review.

### **26.10.01.05. E. Written Report of Occurrence.**

At times it has been suggested that MDE establish a gallon amount on the spill reporting requirement. MDE has reviewed these suggestions and determined that a gallonage level on the initial reporting requirement is not going to be added. It is likely that such a change would require modification to the environment article and would need to be processed through Annapolis.

Acknowledging, the limitations on the ability to add a gallon amount to the initial reporting requirement, I recommend that a gallon amount be added to 26.10.01.05E "Written Report of the Occurrence". By having a gallonage level added to this section relief would be provided to the Department and the reporting party on the number of reports received and handled. The initial report to the Department gives the bulk of the information that the Department can use for response and analyzes. By having a gallon level, the Department can focus its limited resources on a release of significance size. I feel this change would increase the enforceability this section by allowing the concentration on releases over a certain size.

### **26.10.07.07 High Risk Underground Oil Storage Facility.**

Under A (2), I'm concerned that every UST facility in Maryland will have to submit their review to the Department. Does this place an undue burden on tank owners to perform this review and submit it? Is the Department prepared to receive all of these reviews, and assess them in a timely manner? If the Department does not have a specific form to use, you will likely receive the reports in different formats which may confuse the reviewer. Larger companies following the regulations will know to submit the report, but will single site owners know?

I recommend that the review for HRUOSF be part of the three-year MDE third party inspection. The third-party inspection can flag a site that meets the new definition on the report that is submitted to MDE. The third-party inspection will filter out all the sites that do not meet the standard with no additional MDE review needed. MDE can then concentrate on sites that must comply with the new standard. This action can easily be accomplished with a change to the TPI inspection form. Yes, there will be a slight delay for the discovery of all HRUOF facilities. But, within three years all the facilities should be discovered and begin to address the new standard. Furthermore, by keeping the review on the TPI inspection form, every site in Maryland will be reviewed on a three year basis.

**Herb Meade**  
**Environmental Director**

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**Oil Pollution Control and Storage Tank Management Regulations**

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**Alden, Cynthia** <CAlden@howardcountymd.gov>

Mon, Nov 1, 2021 at 10:36 AM

To: "chris.ralston@maryland.gov" &lt;chris.ralston@maryland.gov&gt;

Cc: "Dannis, Jeffrey" &lt;jdannis@howardcountymd.gov&gt;, "Phillips, Robert" &lt;roPhillips@howardcountymd.gov&gt;, "Bois, Gary" &lt;gbois@howardcountymd.gov&gt;, "Harcum, Damon" &lt;dharcum@howardcountymd.gov&gt;, "John, David" &lt;djohn@howardcountymd.gov&gt;, "Hemphill, David" &lt;dhemphill@howardcountymd.gov&gt;, "Lanham, Amy" &lt;alanham@howardcountymd.gov&gt;, "Blackwell, Niti" &lt;nblackwell@howardcountymd.gov&gt;, "Murphy, Hugh" &lt;hmurphy@howardcountymd.gov&gt;

Chris,

Thank you for providing us an opportunity to submit comments on the Draft Proposed Oil Pollution Control and Storage Tank Management Regulations. I have attached Howard County's comments.

Thank you,

*Cynthia Alden, PE, LEED AP*

Engineering Specialist III

Howard County Bureau of Environmental Services

[9801 Broken Land Parkway](#)[Columbia, MD 21046](#)

410/313-6447

[calden@howardcountymd.gov](mailto:calden@howardcountymd.gov)

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 **Howard Co Comments on Draft Proposed Oil Regs 2021-11-01.xlsx**  
18K

**Howard County's Comments on Draft Proposed Oil Regs (11/1/21)**

<b>Topic</b>	<b>Citation</b>	<b>Comment/Question</b>
Oil Contamination Reporting	26.10.08.01.B	To date, municipalities were not defined as a "person" and thus they were exempted from being required to report contamination discovered during due diligence activities. Please clarify that this exemption has not been removed by these new draft proposed regulations.
		In reference to “the person conducting the assessment and the owner of the property shall report the suspected spill, release, or discharge to the Department”, our interpretation is that MDE is expecting that both the person conducting the assessment and the owner (the County) is expected to report within the timeframe will not be consistently met. We recommend changing the "and" to an “and/or”. One may need to add that it is the owner's responsibility to ensure that such reporting takes place.
		Secondly, we do not consider that the time window provided for reporting is realistic. To expect the reporting party(ies) to notify MDE every time within 2 hours of discovering free product and within 48 hours of receipt of a laboratory report is unreasonable. We recommend increasing the windows for reporting.
		Note that these proposed regs may hinder the Howard County’s ability to perform due diligence activities for property acquisition in the future. Knowing that a consultant working for the County must report unfavorable results of a Environmental Site Assessment to the MDE may make owners of of such property unwilling to allow the County access to the property for environmental sampling prior to purchase. Failure to obtain this information will put Howard County in a position of acquiring property without understanding the environmental liability of the aquisition.
Oil Transfer	26.10.01.08	Please clarify the minimum truck tank size which would require an oil transfer license.
Truck Tank Definition	26.10.01	Please clarify the minimum tank size for a truck to be defined as a truck tank.
Requirements for Oil Transfers at Facilities	26.10.01.18.B	This section requires that a transfer area be covered with a roof and include an oil/water separator, bermed area, or emergency holding area to capture spills. These requirements would be very difficult to implement in the case of re-fueling equipment (landfill grinders, snow plows) in the field. Please clarify whether these requirements apply to motor fuel dispensing facilities.
Definition of "Attended"	26.10.01.02.B(5)	Many County facilities with motor fuel dispensing facilities have trained staff working on site, but they are not immediately available to employees fueling their vehicles. Please clarify whether this circumstance creates an "attended" or "unattended" facility.

Used Oil Analytical Requirements	26.10.15.05.A(2)	Clarify that this section requires that all generators of used oil must have the oil analyzed to determine the halogen content prior to disposal or recycling. This has impacts from two different perspectives. A) Must known and controlled sources of used oil be tested each and every time? For example, Howard County has a landfill gas to energy generator. We use a specific engine oil on this specific engine and produce enough used oil for recycling that it is not comingled with other used oil. Is that a "each and every time" or a "once per process" testing? B) Howard County collects used motor oil from residents. Would this section require us to isolate and store the used oil during the testing period before scheduling pick-up? If so, that may require us to construct redundant storage facilities
Inspection Requirements for an AST System	26.10.17.12	Identify the minimum AST size that triggers the inspection requirement.
AST Out-of-Service and Permanent Closure	26.10.17.16	Identify the minimum AST size that triggers the permanent closure requirements.
Release detection for Deferred UST systems	26.10.02.01 26.10.05	This section refers to a hard date of October 13, 2022. Please make sure that there is enough time between the publication of the final rule and the deadline for operators to construct and implement release detection systems.
Operator Training		Please clarify when revised training course materials must be submitted to MDE for approval and what MDE's turn-around will be on such approvals.
Certified UST System training for Techs, Removers and Inspectors		Please clarify when certification programs must be modified and course materials resubmitted to MDE for approval and what MDE's turn-around will be on such approvals.





Chris Ralston -MDE- <chris.ralston@maryland.gov>

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**PROPOSED OIL RELATED REGS - PUBLIC COMMENTS**

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**james schumacher** <schumacherjim@live.com>  
To: "chris.ralston@maryland.gov" <chris.ralston@maryland.gov>

Wed, Oct 20, 2021 at 5:58 PM

Dear Mr. Ralston,

Good day.

My comments on the proposed oil related regulations are as follows:

"Reduce the overall regulations from 121 pages to 60 pages and then re-advertise for comments. Thank you.

James L. Schumacher

Sent from [Mail](#) for Windows



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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**Oil Pollution Control and Storage Tank Management**

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**Jim Langdon** <directtoyougas@yahoo.com>

Tue, Oct 19, 2021 at 3:11 PM

To: "chris.ralston@maryland.gov" &lt;chris.ralston@maryland.gov&gt;

Mr. Ralston.

My comments on the new COMAR regulations to be adopted by Maryland.

1.) When Maryland adopted rules from California such as vapor recovery, it cost the operators of retail gasoline stations many thousands of dollars in installation costs and yearly tests. What it did was double the amount of underground lines in Maryland that had a possibility to leak product. It had a minimal effect on air quality while it caused unknown amounts of underground pollution. It would have been a good thing to let this regulation stay in California.

2.) MTBE's that California required and started was also adopted by Maryland a year later. This was not researched enough by California and Maryland and as a result we now have MTBE's in our underground water supply and our lakes and rivers for years to come. The little town of Westminster even has traces of MTBE's in our drinking water. This also should have stayed in California. The only states I know of that didn't use MTBE's were New Jersey and Alaska. No MTBE pollution there.

These are just two of the previous debacles that have come out of California that I can think of. I have not read all the new regulations that the Maryland Department of the Environment want (121 pages). But please do not add any new regulations that come from California. You are just asking for trouble on top of trouble.

Sincerely,  
James R. Langdon II  
President  
Direct to You Gas, Inc.  
[2 East George Street](#)  
[Westminster, Maryland 21157](#)



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

**RE: Oil Regs**

Jose Herrera <Jose.Herrera@vioc.net>  
 To: "chris.ralston@maryland.gov" <chris.ralston@maryland.gov>

Thu, Oct 28, 2021 at 12:11 PM

Chris, is there a way to exclude small automotive oil change facilities from the regulations? We have small tanks ranging from 200 gallons up to 500 gallons, and when the inspectors come, they treat us like each tank was 10,000 gallons, and we are a threat to the environment even though our tanks are in a tank room located in our basement. So if our 500-gallon tank were to leak, it would be contained in our basement that could hold 18,000 gallons. Or maybe create a section just for automotive shops. Or modify the existing regulation? Fire Marshals have been involved stating it was too much for our Class IIIB motor oil.

We are all for protecting lives and the environment. We don't mind filling out applications and telling the state what tanks we have. We don't mind inspections but realize the Class IIIB motor oil is not the same as for Class IB Motor Fuel, and a 500-gallon tank is not the same as a 10,000-gallon tank.

It took three months to process one of our Oil Operations permits, and another location took six months from the time we submitted to the time we received our permit. We had to get clearance from the fire department and city before the state would approve us.

I may be just venting here, but when I saw more regulations on above-ground storage tanks, I thought a year before we get permits from the state. Not good when you are trying to put people to work.

Jose Herrera  
 Regulatory Compliance Supervisor/Project Manager

54 Jaconnet Street, Newton Highlands, Ma 02461  
 SoCal Regional Office | 17802 Sky Park Circle, Suite 104, Irvine CA 92614  
 Office: (617) 243-0404 ext 1303  
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 Fax: (949) 419-3433

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**From:** Maryland Department of the Environment <MDMDE@info.maryland.gov>  
**Sent:** Monday, October 18, 2021 11:36 AM  
**To:** Licensing <licensing@vioc.net>  
**Subject:** Oil Regs



**Maryland**  
 Department of  
 the Environment

Greetings,

The Maryland Department of the Environment (MDE) would like to notify the public of an opportunity for interested parties to review and comment on a draft proposal to amend Code of Maryland Regulations (COMAR) by adopting new regulations under **COMAR 26.10 Oil Pollution Control and Storage Tank Management**. The draft regulatory proposal is expected to affect small businesses that:

- Retail motor fuel;
- Own and operate a motor fuel dispensing facility;
- Own and operate a service station for vehicles or vessels;
- Own and operate an oil aboveground and/or underground storage tank system;
- Own and operate a hazardous substance underground storage tank system;
- Own and operate an emergency power generator UST system;
- Offer a State of Maryland approved training program for UST system operators;



Chris Ralston -MDE- <chris.ralston@maryland.gov>

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## Regarding High Risk Oil Storage Facilities

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Louis Lemond <l.lemondii@sbcglobal.net>

Sat, Oct 23, 2021 at 10:41 AM

To: "chris.ralston@maryland.gov" <chris.ralston@maryland.gov>

It does seem rather odd that in the section proposing and defining New Reporting Requirements beginning on pg 9 that there is no mention of MD's ponds, lakes, streams, rivers or waterways.



Erica Chapman -MDE- <erica.chapman@maryland.gov>

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## Fwd: Initial Comments for Discussion

1 message

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**Chris Ralston -MDE-** <chris.ralston@maryland.gov>

Wed, Nov 10, 2021 at 9:03 PM

To: Erica Chapman <erica.chapman@maryland.gov>, Julie Kuspa -MDE- <julie.kuspa@maryland.gov>, Tom Walter <tom.walter@maryland.gov>, Jackie Ryan <jackie.ryan@maryland.gov>

See below comments from Ellen Valentino.



**Christopher Ralston**

Program Manager, Oil Control Program  
Land and Materials Administration  
Maryland Department of the Environment  
1800 Washington Boulevard, Ste. 620  
Baltimore, Maryland 21230  
[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)  
O - 410-537-3470  
C - 443-324-1699  
[Website](#) | [Facebook](#) | [Twitter](#)

Click here to complete a three question [customer experience survey](#).

----- Forwarded message -----

From: **Ellen Valentino** <[ellen@mapda.com](mailto:ellen@mapda.com)>  
Date: Wed, Nov 10, 2021 at 7:57 PM  
Subject: Initial Comments for Discussion  
To: Chris Ralston -MDE- <[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)>  
Cc: Tom Walter <[tom.walter@maryland.gov](mailto:tom.walter@maryland.gov)>

Chris,

The requirement of double-wall residential heat oil tanks has raised a number of questions and requests for additional information. Below is a list of questions (unedited) received from MAPDA members.

Can you provide some insight/additional information to answer them?

There is a high-level of opposition to this change. The answers to the questions may alleviate some concerns.

Is it possible to unbundle the regulations - moving on the UST regs and providing more time for stakeholder conversation and study on the residential heat oil tank regs. It has been 5-years since last discussed and the cost implications to homeowners is tremendous.

Thanks – looking forward to hearing back – Ellen Valentino

1. What other states have the double-wall requirement?
2. What data is the MDE using to make this costly change from the current standard?
3. Who is responsible for monitoring the new “double-wall” tank? How often? Record keeping by the homeowner?
4. What will happen if fuel is delivered to a non-double wall tank after the standard is adopted?
5. When will single wall residential tanks be required to be removed from service? The current recommendation says 20 years to consider replacement.
6. The difference between double and single wall tanks would drive the price of a replacement tank to be at least 75% higher than the current cost, often these tanks are in service in older homes with lower income families that may not be able to afford the difference in price. This added cost would likely result in the current tank being used well beyond its normal life cycle because of the added cost, resulting in a greater frequency of leaks.
7. What percentage of the leaks of oil tanks in residential properties have been connected to below ground storage tanks compared to above the ground? There seems to be a push to get tanks from underground to above ground, where is the data to support that this will result in less release incidents.
8. Are propane tanks going to be regulated in the same fashion?
9. The industry is transitioning to a “Bio-Fuel” (blending soy bean oil with fuel oil as an example), eventually the industry will transition to “Bio-Heat” (100% Soy bean oil stock and others). Bio-Heat products will not be harmful to the soil, will these tanks be regulated in the same fashion?
10. Bio-Fuel & Bio Heat congeals at a higher ambient temperature than fuel oil, and below ground storage would be a better application for storage due to steady temperatures under the ground, especially when stored outside the home, not every home as a space for indoor storage, and the northern Maryland climate would not be able to use outside above ground tanks, what consideration was taken in on this matter?
11. Outside Above ground oil tanks heat up in the sun which results in condensation and resulting service concerns and potential increased cost to the consumer.
12. Outside Above ground oil tanks rust by being exposed to the elements, resulting in greater maintenance cost to the consumer, or worst yet, failure due to lack of maintenance.

13. Not every home has a basement or garage to install these tanks inside, and often we find community covenants that prohibit above ground tanks, below ground may be there only option.
  
14. This mandate appears to be creating a fuel switching environment, is this the intent?
  
15. It was mentioned that the tank cleanup fund would be changing to the assessed value of the customers home listed on SDATA, what is the proposed value and reimbursement percentage?
  
16. There is a feeling that the tank contractors have used the \$20,000 reimbursement as a way to leverage a higher ticket price, is something being done to ensure that the funds won't be fleeced by these methods in the proposed regulations?
  
17. If adopted, what can we do with any inventory of single wall below ground tanks?
  
18. Who is on the ad hoc committee, are there any heating oil companies included?

[Click here](#) to complete a three question customer experience survey.



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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**Additional Comments on UST + Inquiry out on Heat Oil Questions**

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**Ellen Valentino** <ellen@mapda.com>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>  
Cc: Tom Walter <tom.walter@maryland.gov>

Mon, Nov 15, 2021 at 9:49 AM

Chris –

As follow up:

1. I have an inquiry out to key heat oil companies regarding Part Two: of the email below.
2. It is my understanding that Carroll Independent Fuel provided comments. Additional Comments below:

26.10.03.03 A (2)(a)(ii) – C:

How do we test the audible hi level alarm? This will be difficult to simulate in the field.

26.10.03.03 B(1) and (2):

There is a need to further clarify the definition of a “dispenser system”

[26.10.07.07:](#)

It will be difficult to force every potential HRGWUA UST facility in Maryland to submit their review to the Department. Need a consistent format and/or form to use for this review.

26.10.08.01 B:

Concern that the owner AND the consultant will be required to report the findings of a Phase II investigation completed for a property transaction. How does a potential purchaser force the owner or their consultant to report these findings? What if the potential purchaser engages the consultant to perform the Phase II and the current owner does not report the findings?

---

**From:** Chris Ralston -MDE- <chris.ralston@maryland.gov>  
**Sent:** Friday, November 12, 2021 10:57 AM  
**To:** Ellen Valentino <ellen@mapda.com>  
**Cc:** Tom Walter <tom.walter@maryland.gov>  
**Subject:** Re: Initial Comments for Discussion

Ellen,

Thanks for getting the comments/questions to us. We are reviewing them now and have a few quick questions.

First, you indicate that these are initial comments. The ones you sent are mostly related to the proposed regulation pertaining to residential heating oil tanks and the reimbursement program. Is MAPDA anticipating additional comments to be sent for other parts of the draft proposed regulations?

This is kind of a two part question. Are the heating oil companies able to share with MDE the relative percentage of USTs vs ASTs that are installed for residential heating oil storage? Also for the USTs, can the MAPDA members provide information on how frequently USTs are removed proactively (i.e. not due to a leak) and replaced with a new UST?

Thank you again for getting these comments to us.





**Fwd: Follow up to your inquiry -**

1 message

**Chris Ralston -MDE-** <chris.ralston@maryland.gov>  
To: Tom Walter <tom.walter@maryland.gov>, Jackie Ryan <jackie.ryan@maryland.gov>, Erica Chapman <erica.chapman@maryland.gov>  
Cc: Julie Kuspa -MDE- <julie.kuspa@maryland.gov>

Wed, Dec 1, 2021 at 3:12 PM

FYI



**Christopher Ralston**  
Program Manager, Oil Control Program  
Land and Materials Administration  
Maryland Department of the Environment  
1800 Washington Boulevard, Ste. 620  
Baltimore, Maryland 21230  
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[Website](#) | [Facebook](#) | [Twitter](#)

Click here to complete a three question [customer experience survey](#).

----- Forwarded message -----

From: **Ellen Valentino** <ellen@mapda.com>  
Date: Fri, Nov 26, 2021 at 2:17 PM  
Subject: Follow up to your inquiry -  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>

Chris below is some specific responses to your inquiry. There is one company outstanding that did not respond – a fairly big one. So will send to you once I received.  
But gives a good solid snap shot.

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This is kind of a two part question. Are the heating oil companies able to share with MDE the relative percentage of USTs vs ASTs that are installed for residential heating oil storage? Also for the USTs, can the MAPDA members provide information on how frequently USTs are removed proactively (i.e. not due to a leak) and replaced with a new UST?

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Key responses below – from a large set of the market – regional diverse responses:

**Response #1**

It's a negligible percentage, like less than 1%. I think at (redacted) we installed 1 UST last year and I'm pretty sure (redacted) didn't do any. Our sales pitch is in line with MDE goals to get the tanks above ground where you can keep an eye on it so we push the customer to an AST replacement. REM isn't even stocking UST's anymore so they are all 10+ weeks special order and very expensive.

**Response #2**

HERE ARE THE ANSWERS:

*"Are the heating oil companies able to share with MDE the relative percentage of USTs vs ASTs that are installed for residential heating oil storage?"*

*BASED ON (redacted) SALES FOR CALENDAR YEAR 2021, APPROXIMATELY 95% OR MORE OF THE OIL TANKS WE INSTALL AT RESIDENTIAL PROPERTIES WOULD BE ABOVE THE GROUND IN SOME FASHION.*

*Also for the USTs, can the MAPDA members provide information on how frequently USTs are removed proactively? IN CALENDAR YEAR 2021 (redacted) HAS AROUND 60 TANKS THAT WERE REMOVED FROM THE GROUND (i.e. not due to a leak) and ADDITIONALLY, WE REMOVED AROUND 6 TANKS THAT WERE replaced with a new SINGLE WALL UST.*

WE WOULD APPROXIMATE THAT WE ARE UPDATING CLOSE TO 75 TANKS PER YEAR THAT WERE BELOW THE GROUND. OF THOSE TANKS AROUND 10% GO BACK BELOW THE GROUND, AND THE BALANCE SELECT ABOVE GROUND FOR THEIR NEW STORAGE.

how frequently USTs are removed proactively?

IT IS SELDOM THAT A BELOW GROUND TANK IS UPDATED BECAUSE OF A RELEASE OF FUEL, WITH THE COST OF FUEL AND THE POTENTIAL COST OF CLEANUP, MOST CUSTOMERS WITH UNDERGROUND STORAGE UPDATE PROACTIVELY. MOST REACT TO WATER IN THE FUEL OR ANTICIPATED LIFECYCLES.

(redacted) COLLECTS POST EXCAVATION SOIL SAMPLES WHEN A CUSTOMER ELECTS TO REMOVE THEIR BELOW GROUND RESIDENTIAL OIL TANK FROM SERVICE, THESE SAMPLES ARE ANALYZED FOR TPH-DRO (DIESEL ORGANIC) TPH-GRO (GASOLINE ORGANIC) AND VOC'S (CHEMICAL ORGANICS) WHICH ARE SUBMITTED TO AN INDEPENDENT LAB FOR TESTING. (redacted) HAS RECEIVED DATA ON 42 SOIL SAMPLES THAT WERE SUBMITTED TO THE LAB FOR ANALYSIS SO FAR THIS YEAR, OVERWHELMINGLY THESE SAMPLES RESULT IN "NO DETECTED" DIESEL ORGANIC, AROUND 25% SHOWED TRACE AMOUNTS OF HYDROCARBON (ALL BELOW 50 PPM) IN THE SOIL BELOW THE TANK. 1 SAMPLE WAS HIGH, 380 PPM, SLIGHTLY HIGHER THAN THE RESIDENTIAL CLEAN-UP STANDARD, BUT WELL BELOW THE NON-RESIDENTIAL STANDARD.

Analyte	Goundwater Standards Type I and II Aquifers (ug/L)	Soil Standards					
		Residential Clean-up Standard		Non-Residential Clean-up Standard		Protection of Groundwater <sup>a</sup>	
Gasoline Range Organics (GRO)	47	230	mg/kg (ppm)	620	mg/kg (ppm)	--	--
Diesel Range Organics (DRO)	47	230	mg/kg (ppm)	620	mg/kg (ppm)	--	--

BASED ON THIS DATA, YOU COULD SAY THAT THERE IS BETWEEN A 2 - 2.5% CHANCE OF FINDING A LEAKING TANK THAT WOULD POTENTIALLY RESULT IN ANY FURTHER ACTION BY THE MDE, REGARDING ENVIRONMENTAL CLEANUP. WE FIND FAR LESS CONTAMINATION WITH OUR BELOW GROUND TANKS, THAN WE DO WITH ABOVE GROUND TANKS, SIMPLY BECAUSE THE PRESSURE OF THE SOIL KEEPS THE FUEL IN THE TANK.

**Response #3**

The vast majority (over 90% )of the our residential heating oil tanks are ASTs.

Removal of residential heating oil USTs is infrequent and generally after 30 plus years .

Most USTs are replaced with ASTs or other heating sources usually natural gas or electric heat pumps

[Click here](#) to complete a three question customer experience survey.



Chris Ralston -MDE- <chris.ralston@maryland.gov>

**New Proposed Maryland Regs**

Joey Cupp <Joey.Cupp@pilottravelcenters.com>  
To: Chris -MDE- <chris.ralston@maryland.gov>  
Cc: Nelson Brooks <nbrooks@eaest.com>

Tue, Nov 2, 2021 at 6:56 PM

Chris,

Thank you for providing businesses operating in Maryland with the opportunity to review the draft proposal to amend COMAR by adopting new regulations under COMAR 26.10. Pilot reviewed the draft proposal and is offering the following comment on the new requirements found in COMATR [26.10.07.07](#) that define an oil storage facility as high risk underground oil storage facility based on size and construction, and throughput. Based on the criterion included in this regulatory section, most if not all of Pilot’s Maryland retail fuel stations will be grouped into this category. Pilot understands that upon acceptance of Pilot’s facilities into this definition, Pilot shall comply with new monitoring methods (not previously in COMAR 26.10). We understand that our choices are as follows:

- Groundwater Monitoring Method
- Enhanced Testing Method
- Alternative Monitoring Method

Pilot operates over 700 retail service stations across the U.S. Maryland would be the ONLY state in the county that requires these burdensome regulatory requirements on Pilot Travel Centers, LLC. We believe that with the existing secondary containment testing requirements, increased hydrostatic testing frequency (from five to three years), along with all of the other current and proposed compliance testing/monitoring included in COMAR 26.10, are sufficient to maintain compliance and protect against potential releases. We strongly recommend that Maryland Department of the Environment’s omit the draft regulations proposed in COMAR [26.10.07.07](#) from the final regulations.

Joey Cupp  
865-300-6150



**Joey Cupp**  
Director, Environmental  
Joey.Cupp@pilottravelcenters.com  
cell: (865) 300-6150 | office: (865) 474-2826  
efax: (865) 297-1752  
[5508 Lonas Drive / Knoxville, TN 37909](#)



[Pilot Company's COVID-19 Response Details](#)

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November 2, 2021

Chris Ralston,  
Program Manager Oil Control Program,  
Land and Materials Administration  
Maryland Department of the Environment  
1800 Washington Blvd., Suite 620,  
Baltimore, Maryland 21230-1719  
[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)

Subject: Comments from the Marine Trades Association of Maryland re: proposed Oil Pollution Control and Storage Tank Management Regulations

Dear Chris,

As I sat down to make comments on the proposed regulations the most difficult part is the translation from regulatory language to language that a typical marina operator understands and can comply with to achieve the outcome both parties are looking for. Marina operators are interested in compliance in the most efficient way possible so that they can get on with the business of running marinas.

Here are a few comments:

1. Under Motor Fuel Dispensing Facility Requirements, a flood hazard area or 100-year floodplain is not defined. While I suspect that all of our marinas are in the 100-year floodplain, I am asking for better definition here.
2. Again, for Marina Fueling System Requirements, our concern is that these are a lot more detailed than previously were required. Including but not limited to the requirement for 'Department approved engineering plans certified by a professional engineer' if this is a new requirement, this may present a hardship to small businesses.
3. For the Individual Oil Operations Permit. We reviewed the application and had the following comments. The general form looks fairly straightforward. However, timing is everything. How long does it take to get a good standing certificate? How difficult is it to get the necessary zoning paperwork? These 'unknowns' can result in our marinas making the decision to get out of the business of providing fuel. The more definition that can be provided here, the better results we can achieve.
4. The additional reporting, monthly, quarterly, etc. again puts a huge burden on small business owners. Streamlining the reporting would be a great help.

With any additional obstacles, expenses and paperwork, our fear is that we will lose more on-water fuel facilities. We have lost several over the last 20 years as the expense of running them and the additional environmental compliances have both grown too much to manage.

As an aside, as part of our workforce development program, we did a skills gap study a few years ago. In the top job descriptions for positions that marinas are looking to fill, number four was someone to help with environmental compliances. We found it interesting to see this demand up there with mechanical, electrical, and composite work.

The recreational boating industry in Maryland has an annual economic impact of \$3.5 billion. The MTAM membership is just over 300. I offer our assistance and consultation at any time MDE is in need of industry input.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan Zellers', written in a cursive style.

Susan Zellers  
Executive Director, MTAM



Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

## Oil Pollution Control and Storage Tank Management Regulations

Chris Ralston -MDE- <chris.ralston@maryland.gov>  
To: Todd Staub <tstaub@tevisenergy.com>

Thu, Nov 4, 2021 at 8:30 AM

Todd,

In answering your question, it would depend on the purpose of the ASTs. Are the ASTs a part of a motor fuel dispensing facility? If so, then the three ASTs are greater than 15,000 gallons and would need to be in a secondary containment dike. If they are not part of a motor fuel dispensing facility, but are installed at a terminal type setting (or other non motor fuel dispensing facility) then diking would not be required because the ASTs do not exceed 20,000 gallons. I am sure there could be more nuances (e.g. a dispenser is connected to one of the ASTs at a terminal setting), but I think this should answer the basic question.

Based on your question, we are likely going to reword the distinctions presented in COMAR 26.10.17.07B(4) to make it clear that the motor fuel dispensing purpose is associated primarily with the AST and secondarily with the class of liquid stored.

Thank you for the question. If there is anything else we can help with please ask.



**Christopher Ralston**  
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Click here to complete a three question [customer experience survey](#).

On Fri, Oct 29, 2021 at 12:10 PM Todd Staub <tstaub@tevisenergy.com> wrote:

Good Afternoon,

A question regarding the secondary diking and double wall tanks.

According to the proposal, a Double wall tank of more than 10,000 gallons would be subject to secondary diking, unless has overfill prevention equipment, release detection, in a secure area, and must meet less than 12,000 gallons of class 1 used for motor fuel dispensing; less than 15,000 gallons of class 2 used for motor fuel dispensing, and less than 20,000 gallons of class 2 or 3 not used for motor fuel dispensing.

So for example, if I'm looking to install 3- 20,000 gallon double wall aboveground tanks with dyed fuel and clear diesel. They would have overfill protection, release detection, and in a secure area. However the second part is where I'm confused? Would I need secondary containment for these tanks under the proposed regs?

Thank you for your time.

Todd Staub

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Chris Ralston -MDE- &lt;chris.ralston@maryland.gov&gt;

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**Oil Pollution Control and Storage Tank Management**

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jeff &lt;jeff@tidewatermarina.com&gt;

Tue, Nov 2, 2021 at 12:17 PM

To: "chris.ralston@maryland.gov" &lt;chris.ralston@maryland.gov&gt;

Mr. Ralston-

I am writing to you today to post comments about the new Oil Regs that are currently being considered.

As a marina operator with a small AST system (6,000) gallons, I would like to see the state leave the regulations as they are currently- and NOT implement the changes found in the Compliance Guide for Draft Proposed Regulations. The increased government regulations will place an excessive burden on small businesses, and I suspect many may simply close their fuel docks- which will lead to less competition and higher prices for the citizen boaters of Maryland.

In our particular case, our small system already makes competing with others difficult. The loads of fuel that we can get delivered are much smaller than our next closest competitive fuel dock- the city-owned Tydings Yacht Basin in Havre de Grace. This means that we don't realize the volume discount that the city gets. So we're automatically priced higher than the government-owned fuel dock. Any increase in regulation and cost will cause us to consider closing our fuel dock like many others have already done. This will eliminate competition in Havre de Grace as the city will own the last remaining fuel dock.

Tidewater Marina has been a Certified Maryland Clean Marina since the program's inception in 1999. As part of this program, Tidewater maintains our fuel dock to the higher standards defined by the program. For instance, all of the requirements listed in Item #4 regarding an attendant are all included in the MD Clean Marina Best Maintenance Practices. We also submit a TIER II report annually to the MD Department of Environment. Copies of this report are forwarded to other stakeholders, including local first responders, to be sure that our system is known within the proper circles. Additionally, we conduct tours on training nights with our local volunteer fire department.

Please re-consider the draft proposal, and let the smaller marinas continue to serve the citizen boaters of Maryland.

Thanks.

Jeff Andrews

Tidewater Marina

Havre de Grace, MD

# Title 26

## DEPARTMENT OF THE ENVIRONMENT

### *Subtitle 10 OIL POLLUTION CONTROL AND STORAGE TANK MANAGEMENT*

#### **26.10.01 Oil Pollution Control**

*Authority: Environment Article, §§1-101, 4-401, 4-402, 4-405, 4-407—4-412, 4-415—4-420, and 7-201 et seq.; State Government Article, §§10-206 and 10-226; Annotated Code of Maryland*

##### **.01 Scope and Applicability.**

A. Unless otherwise stated, throughout this subtitle when a regulation places a requirement on more than one person, the following apply:

- (1) The Department may hold all or each person individually liable for a violation;
- (2) At least one of the persons listed shall meet the requirement; and
- (3) Each person listed shall ensure the requirement is met.

B. Except as otherwise provided, this chapter applies to a person that:

- (1) Engages in one or more of the following activities:
  - (a) The aboveground or underground storage, dispensing, or transportation of oil;
  - (b) The underground storage of a hazardous substance;
  - (c) The removal, storage, treatment, or transportation of oil-contaminated soil, oil sludge, oil refuse, or oil mixed with other waste;
  - (d) The installation, removal, closure, or maintenance of a storage tank system; or
  - (e) The management of used oil, including burning used oil as fuel;
- (2) Actively or passively participates in the spill, release, or discharge of oil or allows the spill, release, or discharge of oil; and
- (3) Owns, operates, or is the person in charge of a device, equipment, facility, or vessel used to engage or participate in one or more of the activities described under §B(1) or (2) of this regulation.

C. Exceptions.

(1) Except for Regulations .02—.06 and .24 of this chapter, the requirements of this chapter do not apply to an owner, an operator, and a person in charge of a vessel, facility, or equipment when used in activities related to the removal of oil within a spill response area defined by a federal or State on-scene coordinator.

(2) Except for Regulations .02—.04, and .24 of this chapter, the requirements of this chapter do not apply to an owner, an operator, and a person in charge of an underground storage tank (UST) system used for the storage of a hazardous substance.

##### **.02 Definitions.**

A. In this subtitle:

- (1) A term in §B of this regulation has the meaning indicated; and
- (2) A term not defined in §B of this regulation has:
  - (a) The meaning given to the term in a relevant statute; or
  - (b) If not defined in a relevant statute, the meaning attributed by common use.

B. Terms Defined.

(1) Aboveground Storage Tank (AST).

(a) "Aboveground storage tank" means a storage tank that:

- (i) Currently stores oil or previously stored oil;
- (ii) Is constructed more than 90 percent above the surface of the ground, excluding piping; and
- (iii) May be installed in an underground vault, a basement, or a sub-surface building.

(b) "Aboveground storage tank" does not include:

- (i) A flow-through process tank;
- (ii) A septic tank, surface impoundment, pit, pond, or lagoon;
- (iii) Oil-filled operational equipment; and
- (iv) A pipeline breakout tank, including gathering lines, regulated under the Hazardous Liquid Pipeline

Safety Act of 1979, 49 U.S.C. §§60101 et seq.

(2) "Aggregate storage capacity" means the total storage capacity of all oil ASTs on a property.

(3) Ancillary Equipment.

(a) "Ancillary equipment" means a device connected to a storage tank system used to distribute, meter, or control the flow of:

- (i) Oil to and from an AST; or



- (i) A regulated substance to and from a UST, as defined in COMAR 26.10.02.02B.
- (b) "Ancillary equipment" includes, but is not limited to, devices such as piping, fittings, flanges, valves, and pumps.
- (4) "AST system" means an AST, connected aboveground and underground piping, ancillary equipment, and appurtenances, including dispensers, loading racks, and secondary containment.
- (5) "Attended" means there is an attendant or an employee that is on duty and available to customers at a motor fuel dispensing facility.
- (6) "Barge" means a vessel not equipped with a means of self-propulsion.
- (7) "Barrel" means a measure of oil that consists of 42.0 gallons of liquid measure.
- (8) Biofuel.
- (a) "Biofuel" means a fuel that is derived from animal or plant byproducts.
- (b) "Biofuel" may include oil if the liquid meets the definition of oil under §B(46) of this regulation.
- (9) "Breakout tank" means a tank used to:
- (a) Relieve surges in an oil pipeline system; or
- (b) Receive and store oil transported by pipeline for reinjection and continued transportation by pipeline.
- (10) "Cargo level monitor system" means a system of fixed level sensing and warning devices used to gauge and to warn of changes in levels of liquid cargo during transport by tank vessel, or any other system that gauges levels and warns of changes in levels of liquid cargo that is approved by the United States Coast Guard under 33 CFR Part 157.
- (11) Cargo Tank.
- (a) "Cargo tank" means any vehicle-mounted tank used for carrying oil that has a liquid capacity greater than 110 gallons.
- (b) "Cargo tank" does not include a tank used solely for the purpose of supplying fuel for the propulsion of a vehicle.
- (12) "Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell, usually through the application of either galvanic anodes or impressed current.
- (13) "Cathodic protection tester" means a person who:
- (a) Can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and storage tank systems;
- (b) Possesses one of the following:
- (i) A valid registration or certification card issued by a recognized institution within the past 5 years; or
- (ii) Documentation signed by a Professional Engineer (PE) attesting to the person's education and knowledge of cathodic protection; and
- (c) Possesses education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and storage tank systems.
- (14) "Collecting agents" means a chemical agent or other compound that can gel, congeal, herd, entrap, fix, or make an oil mass more rigid or viscous to facilitate its removal from a water surface.
- (15) "Combustible liquid" means a liquid having a closed-cup flash point at or above 100.0°F (37.8°C).
- (16) Containment Sump.
- (a) "Containment sump" means a liquid-tight container that protects the environment by containing spills, releases, or discharges of a regulated substance from piping, dispensers, pumps and related components in the containment area.
- (b) "Containment sump" may be single-walled or secondarily contained and located at the top of a storage tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).
- (17) "Control" means the possession of power to direct or cause the direction of the actions of a person, place, or thing.
- (18) Corrosion Expert.
- (a) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system.
- (b) "Corrosion expert" includes:
- (i) A person who is certified by the National Association of Corrosion Engineers; or
- (ii) A registered PE who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal components of storage tank systems.
- (19) "Damages" has the meaning stated in Environment Article, §4-401(c), Annotated Code of Maryland.
- (20) "Department" means the Maryland Department of the Environment.
- (21) "Dielectric material" means a material, such as a coating, bushing, or union that does not conduct direct electrical current.
- (22) "Discharge" means the addition, introduction, leaking, spilling, or emitting of oil to waters of the State or the placement of oil in a location where it is likely to reach or pollute waters of the State.
- (23) "Dispenser" means equipment located aboveground that dispenses:

- (a) Oil from an AST system; or
  - (b) A regulated substance from a UST system.
- (24) Dispenser System.
- (a) “Dispenser system” means a dispenser and the equipment necessary to connect the dispenser to a UST system.
  - (b) “Dispenser system” includes a dispenser connected to a UST system using check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the UST system.
- (25) “Dispersant” means a chemical agent or another compound that can emulsify, disperse, or solubilize oil or which acts to further the surface spreading of oil to facilitate its dispersal.
- (26) “Farm tank” means a storage tank:
- (a) That does not meet the definition of a residential heating oil tank under §B(64) of this regulation;
  - (b) Located on a farm property, including associated residences and improvements, or a tract of land devoted to:
    - (i) Agriculture, including the production of crops and nurseries with growing operations; or
    - (ii) Raising animals, including rangelands and fish hatcheries; and
  - (c) Used solely in farm activities.
- (27) “Flammable liquid” means a liquid having a closed-cup flash point below 100.0°F (37.8°C).
- (28) Flow-through Process Tank.
- (a) “Flow-through process tank” means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process.
  - (b) “Flow-through process tank” does not include:
    - (i) Oil-filled operational equipment or a tank used for the storage of materials before their introduction into the production process; or
    - (ii) Oil-filled operational equipment or a tank used for the storage of finished products or byproducts from the production process.
- (29) “Fuel oil” means a liquid petroleum product that includes, but is not limited to, the following products:
- (a) No. 1, No. 2, No.4 – light, No. 4 – heavy, No. 5 – light, No. 5 – heavy, and No. 6 technical grades of fuel oil;
  - (b) Other residual fuel oils, including Navy Special fuel oil and Bunker C;
  - (c) Other fuels when used as substitutes for one of the fuel oils described in §B(29)(a) and (b) of this regulation; and
  - (d) Heating oil as defined under §B(34) of this regulation.
- (30) “Fund” means the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund.
- (31) “Gathering lines” means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.
- (32) “General Oil Operations Permit” means the authorization established under Regulation .09B of this chapter for certain categories of oil storage facilities and oil handling facilities to operate without an Individual Oil Operations Permit.
- (33) Hazardous Substance.
- (a) “Hazardous substance” has the meaning stated in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601(14).
  - (b) “Hazardous substance” does not include a substance that is regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act.
- (34) “Heating oil” means a fuel oil as defined under §B(29) of this regulation that is typically used in the operation of heating equipment, boilers, or furnaces.
- (35) “Individual Oil Operations Permit” means an individual written authorization issued by the Department in accordance with Regulation .09A of this chapter describing the required performance standards for specific activities and operations of an oil storage facility or oil handling facility.
- (36) “Leak” means a loss of pressure within a storage tank system that may result in a spill, release, or discharge.
- (37) “Licensee” means a person who holds a valid Oil Transfer License from the Department in accordance with Regulation .08 of this chapter.
- (38) “Loading/unloading rack” means a fixed structure, such as a platform or gangway, having a loading or unloading arm necessary for loading or unloading a truck tank, transport, or tank car and may include any combination of the following:
- (a) Piping assemblages;
  - (b) Valves;
  - (c) Pumps;
  - (d) Shut-off devices;
  - (e) Overfill sensors; and
  - (f) Personnel safety devices.

(39) “Maintenance” means the performance of normal operational upkeep to prevent a storage tank system from spilling, releasing, or discharging a regulated substance.

(40) Marina.

(a) “Marina” means a facility having one or more piers, moorings or bulkheads, and marine motor fuel storage and dispensing systems for boats, vessels, and other marine watercraft used primarily for recreational purposes by the general public.

(b) “Marina” does not include a marine oil facility.

(41) Marine Oil Facility.

(a) “Marine oil facility” means an on-shore or off-shore oil storage facility or oil handling facility located within waters of the State, including the Chesapeake Bay and its tributaries, used or capable of being used to transfer oil in bulk to or from a tank vessel and includes structures, equipment, and appurtenances.

(b) “Marine oil facility” includes, if the facility is associated with a factory or power plant, only areas of the facility used for transfer of oil to or from a tank vessel.

(c) “Marine oil facility” does not include a tank vessel or a tank barge.

(42) “MDE” means the Maryland Department of the Environment.

(43) “Monthly” means occurring at a frequency of once per calendar month and occurring generally 28 to 31 days between events.

(44) Motor Fuel.

(a) “Motor fuel” means a complex blend of hydrocarbons typically used in the operation of a motor engine or an emergency generator.

(b) “Motor fuel” includes:

(i) Motor gasoline, including gasohol;

(ii) Aviation gasoline;

(iii) No. 1 or No. 2 diesel fuel, including biodiesel fuel; and

(iv) Any blend containing one or more of the substances listed in §B(44)(b)(i)—(iii) of this regulation.

(45) “Motor fuel dispensing facility” means that portion of an oil storage facility where motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles, vessels, or into approved containers, including all equipment used in connection therewith.

(46) Oil.

(a) “Oil” means oil of any kind and in any liquid form including:

(i) Petroleum and petroleum products;

(ii) Petroleum byproducts;

(iii) Light and heavy fuel oils, including fuel oils that are blended or mixed with biofuels or processed or re-refined used oil;

(iv) Sludge containing oil or oil residues;

(v) Oil refuse;

(vi) Oil mixed with or added to or otherwise contaminating soil, waste, or any other liquid or solid media;

(vii) Crude oils;

(viii) Aviation fuels;

(ix) Gasoline, including gasohol;

(x) Kerosene;

(xi) Diesel motor fuel, including biodiesel fuel, regardless of whether the fuel is petroleum based;

(xii) Asphalt;

(xiii) Ethanol that is intended to be used as a motor fuel or fuel source; and

(xiv) Regardless of specific gravity, every other nonedible, nonsubstituted liquid petroleum fraction unless that fraction is specifically identified as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§9601 et seq.

(b) “Oil” does not include:

(i) Liquefied propane;

(ii) Liquefied natural gas; or

(iii) Any edible oils not intended to be used as a motor fuel or a fuel source.

(47) “Oil-filled operational equipment” means equipment that includes an oil storage container or multiple containers in which the oil is present solely to support the function of the apparatus or the device, including:

(a) Hydraulic systems;

(b) Lubricating systems for pumps, compressors and other rotating equipment;

(c) Gear boxes;

(d) Machining coolant systems;

(e) Heat transfer systems;

(f) Transformers;

(g) Circuit breakers;

(h) Electrical switches; and

(i) Other systems containing oil solely to enable the operation of the device.

- (48) "Oil handling facility" means a facility that is responsible for one or more of the following operations:
- (a) Delivery of oil by cargo tank;
  - (b) Transfer of oil;
  - (c) Management of used oil;
  - (d) Storage and treatment of oil-contaminated soils; and
  - (e) Oil solidification.
- (49) Oil Storage Facility.
- (a) "Oil storage facility" means an installation, structure, or premises, including an aboveground or underground storage tank, in which oil has been or is stored.
  - (b) "Oil storage facility" does not include:
    - (i) A storage tank on a farm or private residence with a capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial or personal use; or
    - (ii) A vessel.
- (50) "Operator" means a person in control of a storage tank system, oil storage facility, or oil handling facility or a person that has responsibility over the following activities for a storage tank system, oil storage facility, or oil handling facility:
- (a) Daily or periodic operation;
  - (b) Installation, repair, maintenance, and testing of one or more storage tank system; or
  - (c) Closure.
- (51) "Other security" means a trust fund, letter of credit, insurance, or other form of financial responsibility approved by the Department.
- (52) "Owner" means a person who:
- (a) Owns a storage tank system, oil storage facility, or oil handling facility; or
  - (b) Owned a storage tank system, oil storage facility, or oil handling facility immediately before the discontinuation of its use.
- (53) "Permittee" means one of the following regulated persons:
- (a) A person holding a valid Individual Oil Operations Permit issued by the Department;
  - (b) A person subject to a General Oil Operations Permit authorized by the Department; or
  - (c) A person subject to a General UST System Permit authorized by the Department under COMAR 26.10.02.04.
- (54) "Person" means:
- (a) An individual;
  - (b) A receiver, trustee, guardian, executor, administrator, fiduciary, trust, or representative of any kind;
  - (c) A partnership, firm, joint stock company, association, public or private corporation, joint venture, commercial entity, or consortium;
  - (d) The United States Government and any federal agency;
  - (e) The State or a county, municipality, municipal corporation, or other political subdivision of the State, or any of their units;
  - (f) A commission or any interstate body; or
  - (g) Any other entity.
- (55) "Person in charge" means a person designated by an owner, an operator, or a permittee as the person with direct supervisory responsibility for:
- (a) An activity or operation at a facility, such as the transfer of oil to or from any points in the facility; or
  - (b) The repair, installation, maintenance, closure, or testing of a storage tank system.
- (56) "Person responsible for the discharge" means a person that meets the criteria under Environment Article, §4-401(j), Annotated Code of Maryland and includes the owner, the operator, or the person in charge of an oil handling facility involved in the discharge at the time of or immediately before the discharge.
- (57) "Pier" means a fixed or floating dock or a wharf constructed on or over waters of the State.
- (58) "Pollution" means every contamination or alteration of the physical, chemical, or biological properties of any waters of the State, including a change in temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State that will render the waters harmful, detrimental, or injurious to:
- (a) Public health, safety, or welfare;
  - (b) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses;
  - (c) Livestock, wild animals, or birds; or
  - (d) Fish or other aquatic life.
- (59) "Public vessel" means a vessel, not engaged in commerce, which is operated by the Government of the United States or a state or political subdivision or a foreign nation.
- (60) "Regulated substance" means:
- (a) A hazardous substance as defined under §B(33) of this regulation; and
  - (b) Oil as defined under §B(46) of this regulation.
- (61) Regulated Substance Storage Facility.

- (a) “Regulated substance storage facility” means an installation, structure, or premises in which a regulated substance has been or is stored in one or more UST systems.
- (b) “Regulated substance storage facility” includes an underground oil storage facility
- (62) “Release” means:
- (a) A discharge as defined under §B(22) of this regulation from a storage tank system, transport, truck tank, tank barge, tank car, or pipeline;
- (b) The discharge, escaping, leaching, spilling, leaking, emitting, or disposing of a regulated substance from a UST system as defined in COMAR 26.10.02.02B into:
- (i) Groundwater, surface water, or surface or subsurface soils; or
- (ii) Secondary containment; or
- (c) The discharge, escaping, leaching, spilling, leaking, emitting, or disposing of oil from an AST system to a secondary containment dike as defined in COMAR 26.10.17.02B and 26.10.18.02B.
- (63) “Removal” means:
- (a) In response to a spill, release, or discharge, the act of abatement, containment, response, or the taking of other corrective actions as may be necessary to minimize or mitigate damage to the public health, safety, or welfare from a discharge or release or the threat of a discharge or release, including, but not limited to, public and private lands, waters of the State, and natural resources, both living and inert; and
- (b) The act of extracting a UST, underground piping, and any other components of a UST system.
- (64) “Residential heating oil tank” means an aboveground or underground heating oil tank that meets the criteria under Environment Article, §4-401, Annotated Code of Maryland that is used to store heating oil for use as a fuel in heating a single-family residential property.
- (65) “Residential tank” means a storage tank used solely for noncommercial purposes and serving not more than one residence.
- (66) “Responsible party” includes:
- (a) For a discharge of oil, the person responsible for the discharge; and
- (b) For a release of a regulated substance from a UST system:
- (i) The owner of the released regulated substance;
- (ii) The owner, the operator, and the person in charge of the UST system or vehicle involved in the release of the regulated substance at the time of or immediately before the release;
- (iii) Any other person who through act of omission causes the release; and
- (iv) A person that meets the criteria of a responsible person under Environment Article, §7-201(t), Annotated Code of Maryland.
- (67) “Secondary containment” means an Underwriters Laboratories LLC (UL) listed or Department-approved system that:
- (a) Prevents a release to the environment by containing a regulated substance released from the primary storage tank or piping until the regulated substance is detected and removed; and
- (b) Detects a release by meeting the requirements of COMAR 26.10.05.05G.
- (68) “Secretary” means the Secretary of the Environment or the Secretary’s designee.
- (69) “Sinking agent” means a chemical agent or other compound that can physically sink oil below the water surface.
- (70) “Sorbent” means a substance or material that takes up and holds oil by either adsorption or absorption.
- (71) “Spill” means a release as defined in §B(62) of this regulation.
- (72) Spill Catchment Basin.
- (a) “Spill catchment basin” means a liquid tight container, which may be single-walled or double-walled, that has a minimum capacity of 5 gallons and is installed on the fill pipe riser, remote fill pipe, and Stage I vapor recovery connections.
- (b) “Spill catchment basin” includes a spill bucket.
- (73) “Spill Prevention, Control, and Countermeasure (SPCC) Plan” means the document required under 40 CFR §112.3 that details the equipment, workforce, procedures, and steps to prevent, control, and provide adequate countermeasures to a spill, release, or discharge.
- (74) “State” means the State of Maryland.
- (75) “Storage capacity” means the primary shell capacity of a storage tank.
- (76) “Storage tank” means a stationary device:
- (a) Designed to contain an accumulation of oil either aboveground or underground, or an accumulation of hazardous substances underground; and
- (b) Constructed of nonearthen materials such as concrete, steel, fiberglass, and plastic, that provide structural support.
- (77) “Storage tank system” means a storage tank, connected piping, ancillary equipment and appurtenances, including dispensers and secondary containment.
- (78) “Tank barge” means a tank vessel not equipped with a means of self-propulsion.
- (79) “Tank car” means a cargo tank that is moved by locomotive power along a railroad system.
- (80) Tank Vessel.

(a) “Tank vessel” means a vessel constructed or adapted to carry oil, or that carries oil in bulk as cargo, in a quantity of 300 gallons or more and does not carry the oil for self-propulsion.

(b) “Tank vessel” does not include any vessel dedicated to, and engaged only in, oil removal-related activities, including training or drills.

(81) “Tank vessel operator” means a person responsible for the operation of a tank vessel and includes, but is not limited to, the owner or a person who charters the tank vessel by demise.

(82) “Transfer” means the loading or unloading of oil in the State from or to any tank vessel, tank barge, transport, truck tank, tank car, pipeline, or any other means used for transporting oil.

(83) “Transfer area” means an area of an oil storage facility or oil handling facility, other than a loading/unloading rack, where oil is transferred to or from a storage tank, truck tank, transport, tank car, tank barge, or tank vessel.

(84) “Transport” means a vehicle used for the transportation of oil and equipped with a cargo tank or vacuum tank having a fifth wheel connection such that part of its load and weight rests upon the towing vehicle.

(85) “Transporting” means the movement of oil or storage of oil by tank vessel, transport, truck tank, tank barge, tank car, or pipeline, or any other means used for transporting oil, and includes the transfer of oil.

(86) “Truck tank” means a self-propelled motor vehicle used for the transportation of oil and equipped with a permanently mounted cargo tank or vacuum tank.

(87) “Ullage” means the volume above the liquid in a storage tank as calculated by subtracting the gross volume of liquid in the storage tank from the maximum capacity of the storage tank, as listed on the applicable tank chart.

(88) “Unattended” means there is no attendant or employee that is on duty and available to customers at a motor fuel dispensing facility.

(89) “USCG” means the United States Coast Guard.

(90) “Used oil” means any petroleum-based oil or synthetic oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

(91) “USEPA” means the United States Environmental Protection Agency.

(92) “Vessel” means every watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the State.

(93) “Waters of the State” includes:

(a) Both surface and underground waters within the boundaries of the State subject to its jurisdiction, including that portion of the Atlantic Ocean within the boundaries of the State;

(b) The Chesapeake Bay and its tributaries;

(c) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(d) The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.

### **.03 Incorporation by Reference.**

A. In this subtitle, the following documents published by the American Petroleum Institute (API) are incorporated by reference:

(1) Specification for Bolted Tanks for Storage of Production Liquids (API Specification 12B, 17th Edition, December 2020);

(2) Specification for Field-welded Tanks for Storage of Production Liquids (API Specification 12D, 12th Edition, June 2017);

(3) Risk-based Inspection (API Recommended Practice 580, 3rd Edition, February 2016);

(4) Welded Tanks for Oil Storage (API Standard 650, 13th Edition, March 2020, Errata 1, January 2021);

(5) Cathodic Protection of Aboveground Petroleum Storage Tanks (API Recommended Practice 651, 4th Edition, September 2014);

(6) Tank Inspection, Repair, Alteration, and Reconstruction (API Standard 653, 5th Edition, November 2014), except Annex H – Similar Service Assessment;

(7) Closure of Underground Petroleum Storage Tanks (API Recommended Practice 1604, 4th Edition, February 2021);

(8) Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615, 6th Edition, April 2011, Reaffirmed May 2020);

(9) Storing and Handling Ethanol and Gasoline-ethanol Blends at Distribution Terminals and Filling Stations (API Recommended Practice 1626, 2nd Edition, August 2010, Reaffirmed May 2020);

(10) Interior Lining and Periodic Inspection of Underground Storage Tanks (API Standard 1631, 5th Edition, June 2001, Reaffirmed May 2020);

(11) Using the API Color-Symbol System to Identify Equipment, Vehicles, and Transfer Points for Petroleum Fuels and Related Products at Dispensing and Storage Facilities and Distribution Terminals (API Recommended Practice 1637, 4th Edition, April 2020);

(12) Venting Atmospheric and Low-pressure Storage Tanks (API Standard 2000, 7th Edition, March 2014, Reaffirmed April 2020); and

(13) *Overfill Protection for Storage Tanks in Petroleum Facilities (ANSI/API Standard 2350, 5th Edition, September 2020).*

B. In this subtitle, the following documents published by the National Association of Corrosion Engineers (NACE) are incorporated by reference:

(1) *Control of External Corrosion on Underground or Submerged Metallic Piping Systems (NACE SP0169-2013, Approved April 1969, Revised October 2013);*

(2) *Application of Cathodic Protection to Control External Corrosion of Carbon Steel On-Grade Storage Tank Bottoms (NACE SP0193-2016, Approved October 1993, Revised February 2016);*

(3) *Corrosion Control of Underground Storage Tank Systems by Cathodic Protection (NACE SP0285-2011, Approved March 1985, Revised March 2011);*

(4) *Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems (NACE Standard TM0101-2012, Approved November 2001, Revised March 2012); and*

(5) *Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems (NACE TM0497-2018, Approved September 2018).*

C. In this subtitle, the following documents published by the National Fire Protection Association (NFPA) are incorporated by reference:

(1) *Flammable and Combustible Liquids Code (NFPA 30, 2021 Edition);*

(2) *Code for Motor Fuel Dispensing Facilities and Repair Garages (NFPA 30A, 2021 Edition);*

(3) *Standard for the Installation of Oil-Burning Equipment (NFPA 31, 2020 Edition);*

(4) *National Electrical Code (NFPA 70, 2020 Edition);*

(5) *Standard for Tank Vehicles for Flammable and Combustible Liquids (NFPA 385, 2017 Edition); and*

(6) *Standard System for the Identification of the Hazards of Materials for Emergency Response (NFPA 704, 2022 Edition).*

D. In this subtitle, the following documents published by the Petroleum Equipment Institute (PEI) are incorporated by reference:

(1) *Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP100-20, 2020 Edition);*

(2) *Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling (PEI/RP200-19, 2019 Edition);*

(3) *Recommended Practices for Overfill Prevention for Shop-Fabricated Aboveground Tanks (PEI/RP600-18, 2018 Edition);*

(4) *Recommended Practices for Installation of Bulk Storage Plants (PEI/RP800-20, 2020 Edition);*

(5) *Recommended Practices for the Inspection and Maintenance of UST Systems (PEI/RP900-17, 2017 Edition);*

(6) *Recommended Practices for the Installation of Marina Fueling Systems (PEI/RP1000-14, 2014 Edition);*

(7) *Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities (PEI/RP1200-19, 2019 Edition); and*

(8) *Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems (PEI/RP1700-18, 2018 Edition).*

E. In this subtitle, the following documents published by Steel Tank Institute/Steel Plate Fabricators Association (STI/SPFA) are incorporated by reference:

(1) *Standard for the Inspection of Aboveground Storage Tanks (STI/SPFA SP001, 6th Edition, January 2018);*

(2) *Cathodic Protection Testing Procedures for sti-P3 USTs (STI/SPFA R051, Revised April 2017); and*

(3) *Recommended Practice for the Addition of Supplemental Anodes to sti-P3 USTs (STI/SPFA R972, Revised December 2010).*

F. In this subtitle, the following documents published by UL are incorporated by reference:

(1) *Standard for Safety, Steel Aboveground Tanks for Flammable and Combustible Liquids (UL 142, 10th Edition, May 2019, Revised January 2021); and*

(2) *Standard for Safety, Special Purpose Aboveground Tanks for Specific Flammable or Combustible Liquids (UL 142A, 1st Edition, May 2018, Revised January 2021).*

G. In this subtitle, USEPA Doing Inventory Control Right for Underground Storage Tanks (USEPA 510-B-93-004, November 1993) is incorporated by reference.

H. In this subtitle, the following test methods as published in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods Compendium” (USEPA SW-846, 3rd Edition) are incorporated by reference:

(1) *USEPA Test Method 1311 - Toxicity Characteristic Leaching Procedure (July 1992, Revision 0);*

(2) *USEPA Test Method 8015C - Nonhalogenated Organics by Gas Chromatography (February 2007, Revision 3);*

(3) *USEPA Test Method 8082A - Polychlorinated Biphenyls (PCBs) by Gas Chromatography (February 2007, Revision 1); and*

(4) *USEPA Test Method 8260D - Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (June 2018, Revision 4).*

I. In this subtitle, the following test methods as published in “Selected Analytical Methods for Environmental Remediation and Recovery (SAM) 2017” (USEPA/600/R-17/356, 2017) are incorporated by reference:

- (1) USEPA Test Method 524.2 - Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry (1995 Edition, Revision 4.1); and
- (2) USEPA Test Method 8015D - Nonhalogenated Organics Using GC/FID (June 2003, Revision 4).

**.04 General Provisions and Specifically Prohibited Acts.**

A. The requirements of this chapter do not relieve a person from the duty to comply with any other federal, State, or local government statute, regulation, or authorization applicable to an activity, operation, or authorization regulated under this subtitle.

B. The Department, at its discretion, may modify a testing requirement of this subtitle for an owner, an operator, and a person in charge of a storage tank system, vehicle, vessel, or equipment subject to the provisions of this subtitle if:

- (1) The modification does not violate a general restriction or specifically prohibited act under §§C and D of this regulation;
- (2) The modification is not prohibited under a State statute or a federal statute, rule, or regulation; and
- (3) The modification is as protective of public health and the environment as the testing requirement modified.

C. General Restrictions. A person subject to the requirements of this chapter, as defined in Regulation .01B of this chapter, may not engage in an activity or operation in a manner likely to:

- (1) Create a nuisance;
- (2) Create air pollution;
- (3) Cause a discharge of pollutants to waters of this State, except in accordance with a valid permit issued by the Department under Environment Article, §9-323, Annotated Code of Maryland;
- (4) Impair the quality of the environment; or
- (5) Create other hazards to the public health, safety, welfare, or comfort as may be determined by the Department.

D. Specifically Prohibited Acts.

(1) Prohibition Against Hazardous Substance Releases.

- (a) A person may not cause a release of a hazardous substance.
- (b) A person violating §D(1)(a) of this regulation is subject to:

(i) Any applicable sanctions under Environment Article, Title 7, Subtitle 2, Part VIII, Annotated Code of Maryland;

(ii) The modification, suspension, or revocation of a permit issued under the provisions of COMAR 26.10.02.04; and

(iii) The Hazardous Substance Response Action Plan requirements under Environment Article, §7-222, Annotated Code of Maryland and COMAR 26.14.01 and 26.14.02.

(2) Prohibition Against Oil Pollution.

(a) A person may not pump, spill, release, discharge, throw, drain, deposit, or cause to be deposited oil or other matter containing oil into, near, or in an area likely to pollute waters of the State.

(b) A person may not pump, spill, release, discharge, deposit or cause to be deposited bilge or ballast water or water from any receptacle containing oil in a manner by which oil may escape into, or in an area likely to pollute, waters of the State.

(c) A person violating §D(2)(a) or (b) of this regulation is subject to:

(i) Sanctions under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland;

(ii) The modification, suspension, or revocation of a license or permit issued under the provisions of this subtitle; and

(iii) Any other sanctions provided under law.

(d) The Department may exempt a person from §D(2)(a) and (b) of this regulation if:

- (i) There is an emergency imperiling life or property, an unavoidable accident, a collision, or stranding; or
- (ii) The person is authorized by the Department to remove an oil discharge from waters of the State.

(3) False Statements. A person may not knowingly make a false statement, representation, or certification to the Department in any application, record, report, plan, or other document filed or required to be maintained under this subtitle.

(4) Tampering with Monitoring Devices. A person may not falsify, tamper with, or knowingly render inaccurate a monitoring device or method required to be maintained under this subtitle.

E. Wetlands and Waterways.

(1) A person may not install, construct, or extend a storage tank, storage tank system, oil storage facility, oil handling facility, or regulated substance storage facility in the following locations unless the person obtains all of the applicable authorizations listed in §E(2) of this regulation:

- (a) A special flood hazard area;
- (b) A tidal or nontidal wetland;
- (c) A nontidal wetland buffer; or
- (d) A 100-year frequency floodplain of free-flowing waters.



(2) A person installing, constructing, or extending a storage tank, storage tank system, oil storage facility, oil handling facility, or regulated substance storage facility in one of the areas listed in §E(1) of this regulation shall first obtain:

(a) The applicable authorizations issued under Environment Article, Title 5 or 16, Annotated Code of Maryland and COMAR 23.02.04, 26.17.04, 26.23.02, 26.23.03, 26.24.02, or 26.24.03; and

(b) If required under 33 U.S.C §1341(a), a Water Quality Certification issued by the Department in accordance with 33 U.S.C §1341, 40 CFR Part 121, and COMAR 26.08.02.10.

**.05 Reporting an Oil Spill, Release, or Discharge.**

A. A person spilling, releasing, or discharging oil or allowing the spill, release, or discharge of oil, or who either actively or passively participates in a spill, release, or discharge of oil, either from a land-based installation, including vehicles in transit, or from any vessel, including a ship or boat of any kind, shall:

(1) Report the incident to the Department immediately, but not later than 2 hours after detection of the spill, release, or discharge, in accordance with §B of this regulation; and

(2) Remain available until clearance to leave the scene of the incident is given by the appropriate official as designated under §C of this regulation.

B. A person reporting an oil spill, release, or discharge to the Department shall include in the report all of the following information:

(1) Time and date of the spill, release, or discharge;

(2) Location and cause of the spill, release, or discharge;

(3) Mode of transportation or type of facility involved;

(4) Type and quantity of oil spilled, released, or discharged;

(5) Assistance required;

(6) Name, address, and telephone number of the person making the report; and

(7) Any other pertinent information requested by the Department.

C. The authority to grant a person responsible for the discharge clearance to leave the scene of a spill, release, or discharge is designated as follows:

(1) A representative of the Department may grant any person responsible for the discharge clearance to leave the scene either by telephone or in-person at the scene;

(2) Without first giving notice to and receiving approval from the Department, a representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant a person responsible for the discharge clearance to leave the scene to a person that is responsible for a discharge of less than 250 gallons; and

(3) After giving notice to and receiving approval from the Department, a representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant a person responsible for the discharge clearance to leave the scene to a person that is responsible for a discharge of more than 250 gallons.

D. Before granting a person responsible for the discharge clearance to leave the scene, the designated official shall obtain the person's name, address, and telephone number as well as information on how the spill, release, or discharge occurred.

E. Written Report of the Occurrence.

(1) Within ten working days, or as directed by the Department, after completion of removal work required under Regulation .06 of this chapter, a person responsible for the discharge shall prepare a written report of the occurrence and promptly submit the report to the Department.

(2) A person responsible for the discharge shall prepare the written report on company letterhead and include all of the following information:

(a) Date, time, and place of the spill, release, or discharge;

(b) Amount and type of oil spilled, released, or discharged;

(c) A complete description of circumstances contributing to the spill, release, or discharge;

(d) A complete description of the containment and removal operations performed, including disposal sites to which oil refuse was transported;

(e) Procedures, methods, and precautions instituted to prevent recurrence of an oil spill, release, or discharge from the facility involved;

(f) Any other information considered necessary or required by the Department for a complete description of the incident; and

(g) A certification that the information provided is true and correct to the knowledge of the person signing the report.

**.06 Removal of an Oil Spill, Release, or Discharge.**

A. Responsibility for Performing a Removal.

(1) The responsibility for the prompt control and removal of any oil spill, release, or discharge or threat of a spill, release, or discharge shall be with the person responsible for the discharge.

(2) For spills, releases, or discharges occurring from an improperly abandoned storage tank system, the current landowners and any other person who owned, operated, leased, or was otherwise responsible for the storage tank system at the time it was abandoned shall also be responsible for the oil removal.

B. A person's responsibility under §A of this regulation shall continue until removal of the spill, release, or discharge or threat of a spill, release, or discharge has been accomplished to the satisfaction of the Department.

C. A person shall accomplish the removal of oil by physical or mechanical means such as the use of skimming devices or vacuum systems, by the use of inert sorbent material, or by any other method specifically approved by the Department.

D. If sorbent material is employed, a person shall remove and dispose of the sorbent material in accordance with all federal, State, and local requirements.

E. A person may not use collecting agents, dispersants, or sinking agents except when authorized in writing by the Department.

F. Unless the appropriate federal official is directing the removal, the Department shall assume control of any spill, release, or discharge incident when the Department determines that a person responsible for the discharge is:

(1) Not acting promptly to perform the removal of the spill, release, or discharge; or

(2) Not completing the removal in a manner that controls or rectifies the conditions constituting an emergency or hazard.

G. A person shall perform removal activities that are:

(1) Consistent with Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland; and

(2) Not prohibited under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, the National Contingency Plan, or the directions of a Departmental or federal on-scene coordinator.

#### **.07 Site Status Letters.**

A. The Department may issue notice of compliance, site condition, removal suspension, and final closure letters to either a person responsible for the discharge or any other person associated with a site subject to regulatory requirements under this subtitle.

B. Notice of Compliance Letter. The Department shall issue, upon request, a notice of compliance letter to a person who has received from the Department a notice of a violation of one or more of the regulatory provisions of this subtitle after the violation is corrected to the satisfaction of the Department.

C. Site Condition Letter. The Department shall issue, upon request, a site condition letter stating whether:

(1) The Department requires corrective action at a site; or

(2) A site is in compliance with the regulations of this subtitle.

D. Removal Suspension Letter.

(1) Unless otherwise provided under §F of this regulation, the Department shall issue, upon request, a removal suspension letter if the Department determines that no further treatment of soil, groundwater or surface water is required for a specific spill, release, or discharge undergoing corrective action in accordance with Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, Regulation .06 of this chapter, or COMAR 26.10.09.

(2) After receiving a removal suspension letter, a person responsible for the discharge or a person performing a removal shall continue to monitor a site as may be required by the Department.

(3) If a removal suspension letter is issued, the letter is applicable to any transferee of title, successor or assignee of a person responsible for the discharge, or any other person who performed a removal.

E. Final Closure Letter.

(1) Unless otherwise provided under §F of this regulation, the Department shall issue a final closure letter after the Department determines that a site where a spill, release, or discharge of oil occurred is in compliance with Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, Regulation .06 of this chapter, or COMAR 26.10.09.

(2) The Department shall state in a final closure letter that a person responsible for the discharge or a person performing a removal is released from any additional corrective action under this subtitle regarding a spill, release, or discharge, except in those circumstances described under §F of this regulation.

(3) A final closure letter is applicable to any transferee of title, successor or assignee of a person responsible for the discharge, or any other person who performed a removal.

F. The Department may require a person responsible for the discharge or a person performing a removal to take further remedial action at a site subject to a letter issued under §§B—E of this regulation if the Department determines that:

(1) There is a threat to public health, safety, or welfare or the environment;

(2) A spill, release, or discharge recurs as free phase oil product;

(3) A letter issued under §D or E of this regulation was obtained through fraud or misrepresentation; or

(4) A new or previously undiscovered spill, release, or discharge of oil requires a corrective action under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland or the provisions of COMAR 26.10.

G. A purchaser of an oil-contaminated property may not be considered a person responsible for the discharge solely as a result of the purchase of the property, unless the purchaser meets the criteria for a person responsible for the discharge under Regulation .02B of this chapter.

**.08 Oil Transfer License.**

A. *Oil Transfer License Requirement.* Except for a vessel or barge, a person may not transfer oil in the State without an Oil Transfer License issued by the Department.

B. *Application Requirements.* Before an Oil Transfer License may be issued by the Department, an applicant shall submit to the Department all of the following information:

(1) A completed application on a form provided by the Department;

(2) If applicable, satisfactory evidence that the applicant has implemented or is in the process of implementing:

(a) State and federal plans and regulations to control pollution related to oil, petroleum products, and their byproducts; and

(b) A plan for the abatement of pollution related to oil, petroleum products, and their byproducts when a spill, release, or discharge occurs;

(3) Proof that the applicant is registered with the Maryland Department of Assessments and Taxation and that the person is in good standing with the State at the time the application for an Oil Transfer License is submitted;

(4) Proof of Workers' Compensation Insurance or a signed document by the applicant that this coverage is not required; and

(5) Proof of the applicant's registration with the Comptroller of Maryland's Motor Fuel Tax Unit or a signed document that registration by the applicant with the unit is not required.

C. *License Effective Period.* An Oil Transfer License issued by the Department has an effective period of 5 years, unless the license is:

(1) Surrendered, suspended, revoked, or otherwise terminated by the Department; or

(2) Issued by the Department, with reasons stated, with an effective period of less than 5 years.

D. *License Renewal.*

(1) In addition to satisfying the requirements under §B of this regulation, a licensee applying to renew an Oil Transfer License may not have any tax liabilities with the Comptroller of Maryland.

(2) When a tax liability is identified, the licensee will be notified by the Department and the license renewal process will stop until the liability is resolved.

(3) The licensee shall determine the cause of the tax liability and notify the Department in writing when the liability is resolved.

E. *License Cancellation.* A licensee that determines they no longer require an Oil Transfer License shall notify the Department in writing within 60 days of making the determination.

F. *Oil Transfer Fee.*

(1) The Department shall impose a fee on each barrel of oil transferred in the State, with the fee assessed only once at the first point of transfer in the State.

(2) The fee amount is established under Environment Article, §4-411, Annotated Code of Maryland.

(3) The licensee that offloads or onloads oil at the first point of transfer in the State is responsible for paying the fee.

(4) A licensee shall pay the fee on a quarterly basis to the Department on or before the following due dates or, if the payment is received by the Department after a due date, postmarked two days before the following due dates:

(a) First Quarter (July, August, September) – October 31;

(b) Second Quarter (October, November, December) – January 31;

(c) Third Quarter (January, February, March) – April 30; and

(d) Fourth Quarter (April, May, June) – July 31.

G. *Reports Required.* A licensee, including one that does not transfer oil during one or more quarters identified in §F of this regulation, shall:

(1) Report to the Department the barrels of oil transferred each quarter on forms provided by the Department;

and

(2) Submit the completed forms with the fee payment to the Department in accordance with §F of this regulation.

H. *The transfer of the following products are exempt from the oil transfer fee and reporting requirements:*

(1) Oil in containers of less than 100 gallons capacity; and

(2) Oil products not listed under §I of this regulation.

I. *The following oil and petroleum products are subject to the license fee:*

(1) Gasoline;

(2) Gasohol, including:

(a) Alcohols denatured with oil; and

(b) Ethanol that is intended to be used as a motor fuel or fuel source;

(3) Kerosene;

(4) Aviation fuels;

(5) Diesel motor fuel, including biodiesel fuel, regardless of whether the fuel is petroleum based;

(6) Heating oil;

(7) Fuel oils, including fuel oil that is blended or mixed with:

(a) Biofuels; or

(b) Processed or re-refined used oil;

- (8) Liquid asphalts;
- (9) Hydraulic oils;
- (10) Lubricating oils; and
- (11) Crude oil.

**J. Audits.**

(1) The Department may perform audits of a report, required under §G of this regulation, submitted by a licensee to ensure the licensee is reporting properly and completely.

(2) Upon the request of the Department, a licensee shall provide records to the Department during an audit in accordance with Regulation .20 of this chapter.

**K. Failure to Submit Oil Transfer Fee Payments and Reports.**

(1) If a licensee fails to submit an oil transfer fee payment and accompanying report to the Department for a given quarter, the Department shall determine the amount of oil transfer fee due using available information and provide notice of this determination to the licensee liable for payment of the oil transfer fee.

(2) A licensee shall have an opportunity for a contested case hearing if the licensee files a written request with the Department within 30 calendar days of receiving a notice of determination issued under §K(1) of this regulation.

(3) A determination made in accordance with §K(1) of this regulation is considered final, unless:

(a) The licensee liable for the oil transfer fee payment requests a hearing in accordance with §K(2) of this regulation; or

(b) The Department, on its own, redetermines the oil transfer fee amount owed by the licensee liable for the oil transfer fee payment.

(4) The Department shall conduct a contested case hearing in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

**.09 Oil Operations Permits.**

**A. Individual Oil Operations Permit.**

(1) An owner, an operator, and a person in charge of an oil storage facility or oil handling facility engaging in one or more of the following oil operations shall obtain an Individual Oil Operations Permit in accordance with Regulation .11 of this chapter:

(a) An oil storage facility or oil handling facility having aboveground aggregate oil storage capacity of 10,000 gallons or greater;

(b) A marina with an AST system that is part of a motor fuel dispensing facility;

(c) An oil storage facility or oil handling facility involved in the handling, reuse, processing, re-refining, or disposal of used oil that has an aboveground aggregate storage capacity of 1,000 gallons or greater of used oil;

(d) The delivery or transfer of oil:

(i) Using a truck tank or transport with a cargo tank capacity of 500 gallons or greater; and

(ii) To or from any point within the State, including deliveries from out-of-State facilities;

(e) An oil storage facility or oil handling facility with a loading/unloading rack or transfer area used in the transfer of oil to or from a truck tank, transport, or tank car;

(f) An oil storage facility or oil handling facility otherwise permitted under §B of this regulation that delivers, transfers, or stores oil, if the Department determines the delivery, transfer, or storage of oil poses a water pollution hazard due to the facility's size, nature, or location;

(g) An oil-contaminated soil facility as defined in COMAR 26.10.13.02B; and

(h) An oil storage facility or oil handling facility whose operations involve the solidification of oil sludge, oil refuse, or oil mixed with other waste.

(2) An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to have an Individual Oil Operations Permit shall comply with the following provisions of COMAR 26.10:

(a) Regulations .04—06 of this chapter and COMAR 26.10.08 and 26.10.09 when a suspected or confirmed spill, release, or discharge occurs;

(b) Regulations .03, .04, .10—12, .19, and .24 of this chapter;

(c) For an aboveground oil storage facility:

(i) Regulations .18, .20, and .21 of this chapter;

(ii) If the facility is located at a marina, Regulation .14 of this chapter;

(iii) If the facility manages used oil, COMAR 26.10.15;

(iv) If the facility has shop-fabricated ASTs, COMAR 26.10.17;

(v) If the facility has field-erected ASTs, COMAR 26.10.18;

(vi) If the facility has underground piping connected to an AST, COMAR 26.10.03.02 and 26.10.05.02D;

and

(vii) COMAR 26.10.10, which specifies the closure requirements for underground piping connected to an

AST;

(d) If the facility conducts deliveries or transfers of oil using a truck tank or transport, Regulations .16 and .17 of this chapter;

(e) The oil transfer requirements in Regulation .18 of this chapter;

- (f) For an oil-contaminated soil facility, COMAR 26.10.13; and
- (g) For an oil solidification facility, Regulation .15 of this chapter.

**B. General Oil Operations Permit by Rule.**

(1) Unless required to obtain an Individual Oil Operations Permit under §A(1) of this regulation, an owner, an operator, and a person in charge of one of the following oil storage facilities or oil handling facilities is permitted by the Department to operate provided the conditions specified in this section are met:

(a) An oil storage facility or oil handling facility with an aboveground aggregate oil storage capacity of less than 10,000 gallons;

(b) An oil storage facility or oil handling facility involved in the handling, reuse, processing, re-refining, or disposal of used oil with an aboveground aggregate storage capacity of less than 1,000 gallons of used oil; and

(c) An oil storage facility or oil handling facility involved in the delivery or transfer of oil:

- (i) Using a truck tank or transport with a cargo tank capacity of less than 500 gallons; and
- (ii) To or from any point within the State, including deliveries from out-of-State facilities.

(2) An owner, an operator, and a person in charge of an oil storage facility or oil handling facility permitted to operate under a General Oil Operations Permit shall comply with the following provisions of COMAR 26.10:

(a) Regulations .04—.06 of this chapter and COMAR 26.10.08 and 26.10.09 when a suspected or confirmed spill, release, or discharge occurs;

(b) Regulations .03, .04, .10, .12, .19, and .24 of this chapter;

(c) If the facility has underground piping connected to an AST, COMAR 26.10.03.02 and 26.10.05.02D;

(d) If the facility has shop-fabricated ASTs, COMAR 26.10.17;

(e) If the facility has field-erected ASTs, COMAR 26.10.18;

(f) If the facility manages used oil, COMAR 26.10.15; and

(g) If the facility conducts oil deliveries or transfers using a truck tank or transport, Regulations .16 and .17 of this chapter.

**.10 Registration of AST Systems.**

**A. Exception.**

(1) Unless otherwise directed by the Department, an owner, an operator, and a person in charge of an AST system is not required to register the AST system if:

(a) The AST system contains a substance other than oil;

(b) The AST system is located on a single-family residential property that meets the definition of an oil storage facility; or

(c) The AST system is used to store oil for less than six consecutive months.

(2) For an AST system otherwise required to be registered with the Department under this regulation, the Department may approve a registration exception when a written request is submitted to the Department by an owner, an operator, and a person in charge of the AST system to address a special circumstance.

**B. Registration Requirement.** Except as provided under §A of this regulation, an owner, an operator, and a person in charge of one or more AST systems located at an oil storage facility or oil handling facility:

(1) Shall register, and maintain current registration of, each AST system with the Department; and

(2) May not allow the receipt of oil to, or selling or dispensing of oil from, an AST system not registered with the Department.

**C. Facility with an Individual Oil Operations Permit.** An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to be permitted under Regulation .09A of this chapter shall meet the AST system registration requirement in §B of this regulation by complying with the Individual Oil Operations Permit application process specified in Regulation .11 of this chapter.

**D. Facility with a General Oil Operations Permit.** An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to operate under a General Oil Operations Permit in accordance with Regulation .09B of this chapter with one or more AST systems having an aggregate storage capacity of greater than 2,500 gallons shall register each AST system with the Department in accordance with §E of this regulation.

**E. AST System Registration Procedures.**

(1) An owner, an operator, and a person in charge of an AST system located at an oil storage facility or oil handling facility described under §D of this regulation shall register or amend the registration for the AST system using a registration form provided by the Department.

(2) An owner, an operator, and a person in charge of an AST system:

(a) Shall provide all of the required information on the registration form, including information unchanged since the last registration form was submitted to the Department for the AST system;

(b) Shall sign and date each registration form submitted to the Department;

(c) May use one registration form to register multiple AST systems at a single facility;

(d) May not use one registration form to register multiple AST systems located at more than one facility;

(e) Shall maintain a copy of the registration form at the oil storage facility or oil handling facility; and

(f) Shall make the registration form available upon request by the Department.

- (3) An owner, an operator, and a person in charge of an AST system shall register the AST system with the Department in accordance with the following schedule:
- (a) If an AST system installed on or after the effective date of this chapter, within 30 days of installing the AST system; and
  - (b) If an AST system installed before the effective date of this chapter, not later than 18 months after the effective date of this chapter.
- (4) An owner, an operator, and a person in charge of an AST system shall submit an amended registration form to the Department within 30 days of one or more of the following changes to an AST system or an oil storage facility or oil handling facility:
- (a) Sale, transfer of ownership, or change in ownership structure;
  - (b) Change in status from or to:
    - (i) In-service;
    - (ii) Out-of-service, including a change-in-service to store a non-oil product in the AST system; or
    - (iii) Permanently closed;
  - (c) The addition of an AST system at the facility; or
  - (d) A change in the oil product stored in the AST system.
- (5) An owner, an operator, and a person in charge of a registered AST system that sells or transfers ownership of the AST system intended to be used by the purchaser or transferee for the storage of oil in Maryland shall:
- (a) Inform the purchaser or transferee of the registration requirements under this regulation; and
  - (b) Provide the purchaser or transferee with a copy of the current registration.

**.11 Requirements for the Application and Issuance of an Individual Oil Operations Permit.**

A. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to obtain an Individual Oil Operations Permit under Regulation .09A of this chapter shall complete and submit, on forms provided by the Department, to the Department:

- (1) An application for an Individual Oil Operations Permit; and
- (2) A plan for notification, containment, and removal of a spill, release, or discharge of oil.

B. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall submit the following additional documentation with the forms required under §A of this regulation to the Department:

- (1) Satisfactory evidence that the oil storage facility or oil handling facility is in compliance with all applicable county zoning and land use requirements;
- (2) Proof of Workers' Compensation Insurance;
- (3) If the oil storage facility or oil handling facility is used in the operation of a commercial or business entity, certification and proof that:
  - (a) The owner has registered the commercial or business entity with the Maryland Department of Assessments and Taxation; and
  - (b) The commercial or business entity is in good standing with the State at the time the application for an Individual Oil Operations Permit is submitted; and
- (4) If a marine oil facility, an updated response plan in accordance with Regulation .21A of this chapter when requested by the Department.

C. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall include in the plan for notification, containment, and removal required under §A of this regulation the following information to address containment and removal operations for an oil spill, release, or discharge:

- (1) A list of names and telephone numbers of individuals to be notified in the event of a spill, release, or discharge at the facility;
- (2) Provisions for quick control of an oil spill, release, or discharge, including personnel assignments, equipment and personnel locations, and procedures necessary to obtain equipment and materials;
- (3) A list of contractors, equipment, and disposal facilities that may be used for containment and removal;
- (4) Confirmation the facility has an up-to-date federal SPCC Plan; and
- (5) Additional information as requested by the Department.

D. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall submit the documents required in §§A—C of this regulation to the Department not later than 60 days prior to:

- (1) A new oil storage facility receiving, selling, or dispensing oil; or
- (2) A new oil handling facility initiating oil operations.

E. Renewal. A permittee shall submit an application for the renewal of an Individual Oil Operations Permit in accordance with §§A—C of this regulation not later than 60 days before the expiration of the Individual Oil Operations Permit.

F. When issuing an Individual Oil Operations Permit, the Department shall:

- (1) Review an application for an Individual Oil Operations Permit submitted by an owner, an operator, and a person in charge of an oil storage facility or oil handling facility completed in accordance §§A—C of this regulation;
- (2) Inspect each oil storage facility or oil handling facility for which the application was submitted, except for:
  - (a) Truck tank and transport facilities having no AST systems; and

- (b) *Out-of-state oil delivery facilities; and*
  - (3) *Issue an Individual Oil Operations Permit to the applicant if the Department determines that:*
    - (a) *The applicable requirements of COMAR 26.10 can be met;*
    - (b) *A facility is properly and adequately equipped to prevent oil pollution, and to contain and remove oil spills, releases, and discharges;*
    - (c) *A person in charge of a facility has the capability to handle the oil in accordance with the applicable requirements of COMAR 26.10; and*
    - (d) *An owner, an operator, and a person in charge of an oil storage facility or oil handling facility has:*
      - (i) *No tax liabilities with the Maryland Comptroller's Office;*
      - (ii) *Submitted to the Department satisfactory evidence that the oil storage facility or oil handling facility is in compliance with all applicable county zoning and land use requirements;*
      - (iii) *Provided proof that Workers' Compensation Insurance requirements have been satisfied; and*
      - (iv) *Provided proof that the person is registered with the Maryland Department of Assessments and Taxation and is in good standing with the State.*
- G. Permit Effective Period. An Individual Oil Operations Permit issued by the Department has an effective period of 5 years, unless the permit is:*
- (1) *Surrendered, suspended, revoked, or otherwise terminated by the Department; or*
  - (2) *Issued by the Department, with reasons stated, with an effective period of less than 5 years.*

**.12 Conditions for the Denial, Suspension, Revocation, and Modification of an Oil Transfer License or Oil Operations Permit.**

**A. Oil Transfer License.**

- (1) *After written notification by the Department and an opportunity to request a hearing, the Department may deny a person's application for an Oil Transfer License or suspend or revoke a licensee's Oil Transfer License if the Department determines that:*
- (a) *A violation of a provision of the Oil Transfer License or other applicable federal, State, or local requirements related to oil pollution has occurred;*
  - (b) *A violation of the Environment Article, Annotated Code of Maryland or a regulation adopted under the Environment Article, Annotated Code of Maryland has occurred;*
  - (c) *False or inaccurate information or data was provided in:*
    - (i) *An application for an Oil Transfer License;*
    - (ii) *A report, submitted to the Department, on the barrels of oil transferred within a quarter by a licensee;*
- or*
- (iii) *Any other document submitted to the Department under the terms and conditions of an Oil Transfer License;*
  - (d) *A licensee has failed to submit to the Department an oil transfer fee payment or accompanying report on the barrels of oil transferred for one or more quarters;*
  - (e) *Issuance of an Oil Transfer License would pose a risk of harm to public health, safety, or welfare or the environment; or*
  - (f) *Any other good cause exists for denying, suspending, or revoking an Oil Transfer License.*
- (2) *Once the Department denies a person's application to renew an Oil Transfer License or suspends or revokes a person's Oil Transfer License, the person shall cease activities authorized under the license in a manner determined by the Department.*
- (3) *The filing of a hearing request made in accordance with §D of this regulation does not stay the Department's decision to deny, revoke, or suspend an Oil Transfer License.*

**B. Individual Oil Operations Permit.**

- (1) *Denial, Suspension, or Revocation.*
- (a) *The Department may deny a person's application for an Individual Oil Operations Permit or suspend or revoke a permittee's Individual Oil Operations Permit if the Department determines that:*
- (i) *A violation of a provision of an Individual Oil Operations Permit or other applicable federal, State, or local requirements related to oil pollution has occurred;*
  - (ii) *A violation of the Environment Article, Annotated Code of Maryland or a regulation adopted under the Environment Article, Annotated Code of Maryland has occurred;*
  - (iii) *False or inaccurate information or data was provided in an application for an Individual Oil Operations Permit or any other document submitted to the Department under the terms and conditions of an Individual Oil Operations Permit;*
  - (iv) *The permittee has failed to report to the Department a substantial change that requires a permit modification under §B(2) of this regulation;*
  - (v) *Issuance of an Individual Oil Operations Permit would pose a risk of harm to public health, safety, or welfare or the environment; or*
  - (vi) *Any other good cause exists for denying an application for an Individual Oil Operations Permit or suspending or revoking an Individual Oil Operations Permit.*

(b) Once the Department denies a person's application to renew an Individual Oil Operations Permit or suspends or revokes a person's Individual Oil Operations Permit, the person shall cease activities authorized under the permit in a manner determined by the Department.

(2) Modification.

(a) The Department may modify an Individual Oil Operations Permit as necessary to carry out the intent and purpose of COMAR 26.10 and a permittee may submit to the Department a request to modify an Individual Oil Operations Permit to implement a substantial change listed in §B(2)(b) of this regulation.

(b) Before implementing the change, a permittee shall submit a request to the Department to modify an Individual Oil Operations Permit for one or more of the following substantial changes in either the size or scope of the permitted oil operation or in the information provided to the Department in the permit application:

(i) A change in owner, operator, or person in charge of an oil storage facility or oil handling facility;

(ii) The addition or removal of an AST at the oil storage facility or oil handling facility;

(iii) A change in the methods, process, or operations used for the handling of oil sludge solidification or the treatment of oil-contaminated soil;

(iv) The addition of, or a change in the type of, secondary containment or diking used as containment for ASTs, loading/unloading rack, or transfer areas at an oil storage facility or oil handling facility;

(v) A change in the type of oil stored in an AST;

(vi) The addition or removal of underground piping; and

(vii) Upon notification by the Department, a change determined by the Department to constitute a substantial change in either the size or scope of the permitted oil operation or in the information provided to the Department in the permit application.

(c) A permittee requesting a modification of an Individual Oil Operational Permit shall submit to the Department a request in writing on company letterhead and signed by the permittee.

(d) The Department may deny a permittee's request to modify an Individual Oil Operations Permit for the reasons provided under §B(1) of this regulation.

C. General Oil Operations Permit.

(1) The Department may suspend or revoke a permittee's authorization to operate under a General Oil Operations Permit as provided under Regulation .09B of this chapter if the Department determines that:

(a) A violation of a condition specified under Regulation .09B of this chapter under which the permittee is required to comply with in the operation an oil storage facility or oil handling facility has occurred;

(b) A violation of an applicable federal, State, or local requirement related to oil pollution has occurred;

(c) A violation of the Environment Article, Annotated Code of Maryland or a regulation adopted under the Environment Article, Annotated Code of Maryland has occurred;

(d) False or inaccurate information or data was provided in a document required to be submitted to the Department under Regulation .09B of this chapter;

(e) A permittee's continued operation of an oil storage facility or oil handling facility under the General Oil Operations Permit would pose a risk of harm to public health, safety, or welfare or the environment; or

(f) Any other good cause exists for suspending or revoking the authorization provided under Regulation .09B of this chapter.

(2) Once the Department suspends or revokes a person's authorization to operate under a General Oil Operations Permit, the person shall cease activities permitted under the suspended or revoked General Oil Operations Permit in a manner determined by the Department.

D. Contested Case Hearings.

(1) A person whose application for an Oil Transfer License was denied or a person with a suspended or revoked Oil Transfer License shall have an opportunity for a contested case hearing if the person files a written request with the Department not later than 30 calendar days after receiving a notice of the Department's decision to deny an application for the Oil Transfer License or to suspend or revoke the Oil Transfer License.

(2) Unless a person notified of the Department's licensing decision makes a timely request for a contested case hearing in accordance with §D(1) of this regulation, the decision is final.

(3) The Department shall conduct a hearing in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

E. A person aggrieved by a permit or order issued by the Department under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland and the provisions of this chapter may obtain immediate judicial review under State Government Article, §§10-222 and 10-223, Annotated Code of Maryland and the Maryland Rules.

**.13 Residential Heating Oil Tanks.**

A. Scope. This regulation establishes requirements for the delivery of heating oil to a residential heating oil tank and the use, installation, and permanent closure of a residential heating oil tank.

B. Heating Oil Delivery.

(1) The owner of an oil delivery company shall have a valid Individual Oil Operations Permit issued by the Department:

(a) To deliver heating oil to residential heating oil tanks; and



(b) To employ persons to deliver heating oil to residential heating oil tanks.

(2) A person may not deliver heating oil to a residential heating oil tank if the residential heating oil tank has a spill or release, visible or otherwise known, or unstable so as to likely fall over when filled.

(3) A person may not deliver heating oil to a residential heating oil tank unless the residential heating oil tank is equipped with means to determine the heating oil level in the residential heating oil tank at the fill point by one or more of the following methods:

(a) A functioning vent whistle with proper vent sizing;

(b) A functioning visual or audible overfill alarm; or

(c) A person confirming there is sufficient ullage in the residential heating oil tank for the planned delivery volume.

(4) A person shall report a suspected or confirmed spill, release, or discharge of heating oil that occurs during a delivery to:

(a) The Department in accordance with Regulation .05 of this chapter;

(b) An individual living at the property; and

(c) The owner of the residential heating oil tank.

(5) Homeowner Heating Oil Deliveries.

(a) A homeowner may deliver heating oil to a residential heating oil tank owned by the homeowner.

(b) A homeowner delivering heating oil to a residential heating oil tank owned by the homeowner shall:

(i) Comply with §B(2)—(4) of this regulation; and

(ii) Report a suspected or confirmed heating oil spill, release, or discharge to the Department in accordance with Regulation .05 of this chapter.

C. New and Replacement Residential Heating Oil Tanks. A person installing a new or replacement residential heating oil tank aboveground, inside of a building, or underground shall comply with the following provisions:

(1) Install a residential heating oil tank that meets the requirements of NFPA 31 “Standard for the Installation of Oil-Burning Equipment”;

(2) Ensure all underground piping or piping in contact with the ground surface is protected from corrosion in accordance with:

(a) NFPA 30 “Flammable and Combustible Liquids Code”; and

(b) NFPA 31 “Standard for the Installation of Oil-Burning Equipment”;

(3) Before installing a residential heating oil tank in flood hazard area or 100-year floodplain, determine if a permit issued by the Department under COMAR 26.17.04 is required;

(4) If installing an aboveground residential heating oil tank aboveground or inside of a building:

(a) Install an UL listed storage tank or a storage tank constructed in accordance with an industry standard of design that is approved by the Department; and

(b) Place the residential heating oil tank on a foundation designed to minimize:

(i) Uneven settling of the residential heating oil tank or the foundation; and

(ii) Corrosion to any part of the residential heating oil tank resting on the foundation;

(5) If installing an aboveground residential heating oil tank aboveground or inside of a building that will be located in a flood hazard area or 100-year floodplain, anchor the residential heating oil tank securely to prevent:

(a) The residential heating oil tank from floating; and

(b) A spill, release or discharge of heating oil from the residential heating oil tank; and

(6) If installing an underground residential heating oil tank on or after the effective date of this chapter, install a double-walled and corrosion protected steel or fiberglass reinforced plastic underground oil storage tank that meets the requirements of:

(a) NFPA 30 “Flammable and Combustible Liquids Code”; and

(b) NFPA 31 “Standard for the Installation of Oil-Burning Equipment”.

D. Permanent Closure. A person shall complete all of the requirements of this section when permanently abandoning the use of heating oil as a fuel at a residential property or if removing a residential heating oil tank from a property.

(1) Complete the permanent closure of a residential heating oil tank in accordance with PEI/RP1700-18 “Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems”.

(2) Complete the requirements listed in §D(3) or (4) of this regulation within 30 days of the determination that a residential heating oil tank will be permanently closed.

(3) When permanently closing a residential heating oil tank located aboveground or inside of a building:

(a) Remove all flammable or combustible liquids from the storage tank and piping;

(b) Dispose of all flammable and combustible liquids in accordance with federal, State, and local laws;

(c) Remove the residential heating oil tank from the property;

(d) Remove all piping and piping connections used for supplying heating oil between the storage tank and the heating system; and

(e) Remove all fill and vent pipes or fill the pipes with cement to prevent accidental filling.

(4) When permanently abandoning the use of heating oil as fuel, permanently close an underground residential heating oil tank in accordance with the closure requirements for UST systems in COMAR 26.10.10.

**.14 Marinas.**

A. This regulation does not apply to:

- (1) A marine oil facility;
- (2) An oil storage facility with loading and unloading facilities;
- (3) An oil storage facility or oil handling facility utilizing a flange-to-flange closed transfer piping system; or
- (4) A marine motor fuel dispensing facility where oil used as fuel is stored and dispensed only into fuel tanks of vessels of 300 gross tons or greater.

B. If a marina is located in a flood hazard area or 100-year floodplain, an owner, an operator, and a person in charge of the marina shall ensure an AST and each dispenser at the marina used for fueling vessels or motor vehicles is anchored securely to prevent the AST or dispenser from floating and spilling, discharging, and releasing oil.

C. An owner, an operator, and a person in charge of a new or replacement storage tank system used for fueling vessels at a marina shall:

- (1) Comply with §E of this regulation;
- (2) Ensure the design and construction of a marina fueling system, including the piping system installed on a pier and connected to a dispenser, complies with the following standards:
  - (a) NFPA 30 “Flammable and Combustible Liquids Code”;
  - (b) NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”; and
  - (c) PEI/RP1000-14 “Recommended Practices for the Installation of Marina Fueling Systems”; and
- (3) At least 60 days prior to the start of installation, submit to the Department for review and approval engineering plans certified by a PE.

D. An owner, an operator, and a person in charge of an oil storage tank system installed before the effective date of this chapter that is used for fueling vessels at a marina shall comply with §E of this regulation not later than:

- (1) 3 years after the effective date of this chapter; or
- (2) Another time period approved by the Department.

E. Marina Fueling System Requirements. An owner, an operator, and a person in charge of an oil storage tank system used for fueling vessels at a marina shall ensure a marina fueling system satisfies all of the following requirements:

(1) A readily accessible shut-off ball valve for each pipe conveying oil from a storage tank to a dispenser on a fueling pier is:

- (a) Located on-shore and near to the approach to the fueling pier;
- (b) Located outside of any secondary containment area;
- (c) Grouped in one location;
- (d) In a waterproof containment sump that is not locked or bolted closed; and
- (e) Identified by a sign stating “EMERGENCY FUEL SHUTOFF VALVE” in 2-inch minimum red capital letters;

(2) The electrical components of a marina fueling system:

- (a) Are installed in accordance with NFPA 70 “National Electrical Code”; and
- (b) Include emergency shut-off switches:
  - (i) That are interlocked to shut off power to all pump motors, fuel dispensing devices, solenoid valves, and electrical circuits in classified areas from any individual location and manually reset only from a master switch;
  - (ii) Located on land within 10 feet of the bulkhead and near to the approach to a fueling pier;
  - (iii) Located on a fueling pier at least 20 feet and not further than 100 feet from a dispenser; and
  - (iv) Identified by a sign stating “EMERGENCY PUMP SHUTOFF” in 2-inch minimum red capital letters;

(3) The fuel dispensing system, including each dispenser, dispenser hose and nozzle, at the marina:

- (a) Is UL listed or approved for the fuel being dispensed;
- (b) Is compatible with the product piping;
- (c) Has a containment sump that does not leak; and
- (d) Has an UL listed shear valve placed and properly anchored at the dispenser in accordance with manufacturer requirements;

(4) Each fuel delivery nozzle on a dispenser used for fueling vessels is an automatic-closing type without a latch-open device;

(5) One or more signs are posted in the dispensing area that provide instructions to the public on vessel fueling procedures in accordance with Section 11.10.8 of NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”;

(6) If the hose length of a dispenser hose is greater than 18 feet, the dispenser hose is secured by a hose reel;

(7) Underground piping:

- (a) Between an AST and the bulkhead complies with COMAR 26.10.03.02 and 26.10.05.01 and .02; and
- (b) May be used between the bulkhead and the dispenser only if the underground piping has UL listed flexible double-walled construction:

(i) Rated for aboveground, overwater, or underwater use by the piping manufacturer; or  
(ii) Not rated for aboveground, overwater, or underwater use by the piping manufacturer, but the piping is sleeved in rigid, corrosion-resistant pipe meeting a minimum 2-hour fire rating; and

(8) The transition piping between the bulkhead and a floating pier:

(a) Includes:

- (i) A reducing seal at the bulkhead;
- (ii) Non-corrosive pipe supports;
- (iii) An in-line breakaway that seals both ends of the piping;
- (iv) Single plane swivel joints with flanged fittings; and
- (v) Fire-rated flex connectors; and

(b) Connects to the floating pier piping in a leak-proof containment sump with:

(i) A manual ball valve in the product line;  
(ii) A solenoid valve that is closed when the emergency pump shutoff is activated or when no fueling is occurring; and

(iii) A sump sensor that triggers a positive system shutdown.

F. An owner, an operator, and a person in charge of a marina shall:

(1) Provide an attendant during vessel fueling activities and the attendant shall:

(a) Be familiar with the dispensing systems and emergency shutoff controls;  
(b) Prevent the dispensing of oil into improper portable containers;  
(c) Ensure vessels are properly moored and all fueling connections are made;  
(d) Be within 15 feet of the dispensing controls during a fueling operation; and  
(e) Maintain a direct, clear, and unobstructed view of both the vessel fuel filler neck and the emergency pump shutoff; and

(2) Provide a spill response box near to a fuel dispensing area that:

(a) Stores a sufficient quantity of sorbent materials that can float on water to contain a minimum of 25 gallons of oil; and  
(b) The person in charge of the marina inspects monthly to ensure supplies of sorbent materials are maintained.

#### **.15 Solidification of Oil Waste Materials.**

A. An owner, an operator, and a person in charge of an oil handling facility shall obtain an Individual Oil Operations Permit to conduct an oil solidification operation.

B. Permit Application and Issuance Procedures.

(1) An owner, an operator, and a person in charge of an oil handling facility shall apply for an Individual Oil Operations Permit in accordance with Regulations .09A and .11 of this chapter, and include the following information in the permit application:

(a) A to-scale site diagram that identifies the:

- (i) Location of each solidification process area;
- (ii) Direction of stormwater flow at the facility;
- (iii) Storm drains on-site and immediately off-site; and
- (iv) Location of buildings and property lines, identifying the owners of any adjacent properties; and

(b) A detailed description of:

(i) The solidification process;  
(ii) The testing or verification to be completed prior to accepting oil sludge, oil refuse, or oil mixed with other waste intended for solidification to ensure the oil sludge, oil refuse, or oil mixed with other waste does not contain a hazardous substance or originate from a gasoline storage tank system; and

(iii) How the facility will maintain records of tracking and testing of each batch of raw material to be solidified and processed material transferred to a permitted disposal facility.

(2) Upon review of an application completed in accordance with this regulation, the Department shall:

(a) Notify the applicant in writing that the application is not complete and additional information is required to determine whether the proposed oil solidification operation is consistent with all applicable requirements of this chapter, COMAR 26.10, and other State laws and regulations;

(b) Issue an Individual Oil Operations Permit to the applicant in accordance with Regulation .11F and G of this chapter; or

(c) Deny the application for an Individual Oil Operations Permit in accordance with Regulation .12 of this chapter.

(3) An owner, an operator, and a person in charge of an oil handling facility shall apply to renew an Individual Oil Operations Permit in accordance with §B(1) of this regulation and Regulation .11E of this chapter.

(4) In accordance with Regulation .12B of this chapter, the Department may:

(a) Deny an application for an Individual Oil Operations Permit for a proposed oil solidification operation;

or

(b) Suspend or revoke an Individual Oil Operations Permit under which an oil solidification operation is permitted.

(5) The Department may modify, or an owner, an operator, and a person in charge of an oil handling facility may request to modify, the oil solidification conditions of an Individual Oil Operations Permit in accordance with Regulation .12B of this chapter.

C. Operation and Recordkeeping Conditions. An owner, an operator, and a person in charge of an oil handling facility conducting an oil solidification operation:

(1) May not accept oil sludge, oil refuse, or oil mixed with other waste that contains:

(a) A hazardous substance; or

(b) Sludge, refuse, or other mixed waste from a gasoline storage tank system;

(2) May not cause or allow the unpermitted discharge of stormwater entering the solidification process area into waters of the State;

(3) Shall ensure stormwater entering the solidification process area is either:

(a) Included in the solidification process;

(b) Managed under a State discharge permit or National Pollutant Discharge Elimination System permit; or

(c) Disposed of at a facility permitted for the treatment of oily water;

(4) Shall complete the following tasks at the end of each working day:

(a) Clean the area surrounding the solidification area of all oily substances; and

(b) Cover and secure the solidification process area so that the contents are not exposed to stormwater;

(5) Shall dispose of the end product from the solidification process at a State or USEPA permitted facility;

(6) Shall maintain the following records for at least 5 years at the oil handling facility:

(a) Certification by a generator of oil sludge, oil refuse, or oil mixed with other waste that the material is in compliance with §C(1) of this regulation;

(b) Analytical data demonstrating the oil sludge, oil refuse, or oil mixed with other waste accepted at the oil handling facility is in compliance with §C(1) of this regulation; and

(c) A copy of each approval from the receiving facility where the oil solidification end product was accepted and disposed, including analytical data; and

(7) In addition to the requirements under §C(1)–(6) of this regulation, shall comply with the Individual Oil Operations Permit conditions under Regulation .09A of this chapter.

#### **.16 Requirements for Oil Delivery by Truck Tanks and Transports.**

A. A permittee and a person in charge of the transportation, transfer, or delivery of oil shall use:

(1) A truck tank or transport equipped with transfer hoses and fittings of a grade suitable for the type of oil transferred and for the type of delivery;

(2) A truck tank or transport equipped with transfer hoses designed to withstand pressure of the shut-off head of the cargo pump or pump relief valve setting; and

(3) Vehicles that are in compliance with:

(a) The Maryland Department of Transportation requirements for transportation of hazardous materials under COMAR 11.16.01 and motor carrier safety under COMAR 11.21.01; and

(b) NFPA 385 “Standard for Tank Vehicles for Flammable and Combustible Liquids”.

B. A permittee and a person in charge of the transportation, transfer, or delivery of oil by truck tank or transport shall:

(1) Provide a driver safety training program annually that instructs drivers employed by the permittee or the person in charge on:

(a) Truck tank, transport, and oil delivery operations;

(b) The oil pollution control and storage tank system provisions in COMAR 26.10.01—26.10.04, 26.10.17, and 26.10.18;

(c) The requirement for the reporting, containment, and removal of an oil spill, release, or discharge; and

(d) The conditions of the permittee’s Individual Oil Operations Permit;

(2) Ensure a driver employed by the permittee or the person in charge is knowledgeable of and follows the requirements under Regulation .17 of this chapter;

(3) Maintain records demonstrating compliance with the training requirement under §B(1) of this regulation;

(4) Within 30 days of hire, provide a truck tank or transport driver with safety training in accordance with §B(1) of this regulation;

(5) Provide each truck tank or transport with:

(a) Materials to be used for the prompt containment and removal of an oil spill, release, or discharge; and

(b) One portable fire extinguisher that has a minimum rating of 4-A:40-B:C, or at least two portable fire extinguishers with a rating of 2-A:20-B:C;

(6) Ensure the Department’s emergency spill reporting telephone number listed in the Individual Oil Operations Permit is conspicuously posted in each truck tank and transport authorized under the permit for the transportation, transfer, or delivery of oil;

(7) Meet insurance requirements for the transportation, transfer, and delivery of oil;

- (8) On an annual basis or at least every 25,000 miles, perform preventative maintenance on a truck tank or transport in accordance with 49 CFR Part 396 and COMAR 11.14;
- (9) Inspect and test each truck tank and transport used for the transportation of flammable petroleum liquids in accordance with 49 CFR §180.407;
- (10) Obtain and properly display a:
- (a) U.S. Department of Transportation number for each interstate truck tank or transport the permittee or the person in charge uses in the transportation, transfer, or delivery of oil; and
  - (b) Maryland State Highway Administration identification number for each intrastate truck tank or transport the permittee or the person in charge uses in the transportation, transfer, or delivery of oil;
  - (11) Register each placarded truck tank or transport in accordance with 49 CFR Part 107; and
  - (12) Meet zoning requirements for commercial vehicles when parking a truck tank or transport in the State.
- C. A permittee and a person in charge may not deliver oil by truck tank or transport to:
- (1) A UST system that is not registered with the Department in accordance with COMAR 26.10.03.09;
  - (2) An AST system that is not registered with the Department in accordance with Regulation .10 of this chapter;
  - (3) An oil storage tank in which the Department has:
    - (a) In accordance with COMAR 26.10.02.03C, issued a notice of a delivery ban to the owner, the operator, and the person in charge of the oil storage tank system; and
    - (b) Affixed a monitoring device, such as a tag, notice, or locking mechanism, to the fill; or
  - (4) A storage tank system or a residential heating oil tank that is:
    - (a) Visibly spilling or releasing oil;
    - (b) In poor or damaged condition; or
    - (c) In an unstable condition.
- D. A person may not fuel or refuel a vessel from a truck tank or transport at a public marina.
- E. Class II liquid from a truck tank or transport may be dispensed to a vessel located at a commercial, industrial, government, or manufacturing facility if the following requirements are met:
- (1) The vessel is used in connection with the facility's business;
  - (2) The owner, the operator, and the person in charge of the facility controls access to the fueling or refueling area, with the fueling or refueling area not accessible to the general public;
  - (3) The dispensing hose does not exceed 50 feet in length;
  - (4) The dispensing nozzle is a UL listed, automatic-closing type without a latch-open device;
  - (5) A nighttime delivery only occurs in an area that is adequately lighted;
  - (6) The driver or the person in charge at the facility ensures the flasher lights of the truck tank or transport are in operation during all fueling and refueling activities;
  - (7) The driver ensures there is adequate fuel expansion space left in each fuel tank of the vessel being filled to prevent a spill, release, or discharge because of temperature increase; and
  - (8) The owner, the operator, and the person in charge of a facility where the oil is delivered by truck tank or transport to a vessel:
    - (a) Maintains sufficient spill containment materials for a spill, release, or discharge of, at a minimum, 100 gallons of oil on land or in waters of the State; and
    - (b) Locates the spill containment materials in an easily identifiable area near to where fueling operations occur.

**.17 Requirements for Drivers of Truck Tanks and Transports.**

- A. A driver operating a truck tank or a transport shall:
- (1) Comply with NFPA 385 "Standard for Tank Vehicles for Flammable and Combustible Liquids";
  - (2) Be 21 years old or older as required under Transportation Article, §25-111, Annotated Code of Maryland; and
  - (3) Complete annual safety training provided in accordance with Regulation .16B of this chapter.
- B. A driver shall load and unload a truck tank or transport only in an approved location.
- C. A driver may not deliver to a storage tank, including a residential heating oil tank, when any of the following conditions are observed:
- (1) The Department has:
    - (a) In accordance with COMAR 26.10.02.03C, issued a notice of a delivery ban to the owner, the operator, and the person in charge of the oil storage tank system; and
    - (b) Affixed a monitoring device, such as a tag, notice, or locking mechanism, to the fill;
  - (2) The storage tank system is visibly spilling or releasing oil; or
  - (3) An AST system is in poor, unstable, or damaged condition.
- D. Before a transfer of oil begins, the driver shall:
- (1) Verify that:
    - (a) Proper hoses and fittings will be used in the delivery of oil;
    - (b) The transfer hoses are not damaged; and
    - (c) All transfer hose connections are tight; and

(2) Confirm, for direct or remote filling operations, the storage tank has sufficient ullage available to hold the amount of oil being delivered by implementing one or more of the following methods:

- (a) Gauge the storage tank and record ullage and amount of oil delivered;
- (b) Use a functioning vent whistle or other overfill device;
- (c) Verify with the facility's person in charge:
  - (i) The size of the storage tank being delivered to and the quantity of oil to be delivered;
  - (ii) That the storage tank has an approved and functional overfill alarm; or
  - (iii) For remote filling, that a representative from the facility will actively participate in the filling

operation; or

- (d) Use another method approved by the Department.

E. During a transfer of oil, the driver shall:

- (1) Be alert and outside the vehicle;
- (2) Remain within 10 feet and in full and immediate control of the nozzle, shut-off valves, pumps, and emergency operating mechanism for the discharge control valve; and
- (3) Have the fill pipe opening in full view at all times.

F. If a driver leaves the equipment unattended for any reason, the driver shall turn off or return to the closed position all nozzles, shut-off valves, pumps, and discharge control valves of the truck tank or transport and the receiving facility.

G. A driver may not drain oil or empty hoses into a spill catchment basin.

H. A driver shall immediately report to the delivery company any unusual conditions observed during a transfer operation including, but not limited to:

- (1) A spill, release, or discharge;
- (2) A discrepancy between the quantity of oil delivered and the quantity of oil received;
- (3) Equipment defects on the delivery vehicle or at a transfer location; and
- (4) Unsafe delivery conditions.

I. A driver, permittee, and person in charge of a delivery company shall report a spill, release, or discharge made during an oil delivery in accordance with Regulation .05 of this chapter.

#### **.18 Requirements for Oil Transfers at Facilities.**

A. The requirements of this regulation are applicable to oil storage facilities and oil handling facilities with tank car, truck tank, or transport loading/unloading racks or transfer areas.

##### **B. Spill Control.**

(1) For a loading/unloading rack or transfer area at an oil storage facility or oil handling facility where a spill, release, or discharge can occur during transfer operations, an owner, an operator, and a person in charge of the facility shall:

- (a) Pave the loading/unloading rack or transfer area with a material that has a permeability of  $10^{-7}$  centimeters/second or less and is resistant to oil;
- (b) Maintain the pavement installed in accordance with §B(1)(a) of this regulation to prevent cracking and holes;
- (c) Design the loading/unloading rack or transfer area to prevent the entrance of stormwater or wastewater runoff into the loading/unloading rack or transfer area;
- (d) Cover the loading/unloading rack or transfer area with a roof;
- (e) Include a containment system that prevents oil or stormwater containing oil from discharging to waters of the State by:
  - (i) Being designed to hold a spill, release, or discharge from the largest single compartment of any tank car, truck tank, or transport loading or unloading oil at the facility; and
  - (ii) Using permanent curbing, trenching, or other spill control methods approved by the Department; and
- (f) Install one or more of the following to prevent a spill, release, or discharge of oil:
  - (i) An oil/water separator;
  - (ii) A diked or bermed catchment area that has a permeability of  $10^{-7}$  centimeters/second or less; or
  - (iii) An emergency underground holding tank that remains empty unless a spill, release, or discharge occurs.

(2) An owner of an oil storage facility or oil handling facility with a loading/unloading rack or transfer area may be required to obtain a State discharge permit or a National Pollutant Discharge Elimination System permit issued by the Department under Environment Article, §9-323, Annotated Code of Maryland and COMAR 26.08.01—26.08.04 for discharges of stormwater to waters of the State.

(3) If oil is spilled, released, or discharged during an oil transfer, an owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall:

- (a) Report the spill, release, or discharge immediately to the Department in accordance with Regulation .05 of this chapter;
- (b) Immediately begin the removal of oil; and
- (c) Handle the oil and all removal debris in accordance with all State, federal, and local requirements.

(4) An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall make available at a loading/unloading rack or transfer area removal materials, such as sorbents:

- (a) That are appropriate for:
  - (i) The grades of oil being transferred; and
  - (ii) The most probable size of an anticipated spill, release, or discharge; and
- (b) For use in the containment and removal of spilled, released, or discharged oil.

C. Transfer Operations. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall:

- (1) Install a clearly identifiable switch or shutoff at the loading/unloading rack and at a remote location from the loading/unloading rack area to shut off power to all transfer devices in the event of an emergency;
- (2) Provide an interlocking warning light or physical barrier system, warning signs, wheel chocks, or vehicle brake interlock system to prevent a tank car, truck tank, or transport from leaving a loading/unloading area or transfer area before flexible or fixed oil transfer lines are disconnected;
- (3) Prior to filling and departure at the oil storage facility or oil handling facility, inspect the lowermost drain and all outlets on the tank car, truck tank, or transport for spills, releases, or discharges; and
- (4) If a spill, release, or discharge is found during an inspection, repair or replace the lowermost drain and all outlets on the tank car, truck tank, or transport prior to entering a public transportation system.

**.19 Right to Information and Facility Access.**

As a condition for the issuance of an Individual Oil Operations Permit or authorization to operate under a General Oil Operations Permit, the permittee and the person in charge of an oil storage facility or oil handling facility shall, upon the request of the Department:

- A. Provide to the Department information and copies of records required under:
  - (1) The provisions of COMAR 26.10;
  - (2) Environment Article, §§4-401—4-420, Annotated Code of Maryland; or
  - (3) A condition of the permit;
- B. Allow the Department to conduct monitoring;
- C. Complete any survey forms or other documents provided by the Department in a timely manner;
- D. Make the facility available for inspection by the Secretary or the Secretary's authorized representative, including the inspection of storage tank systems, equipment, vehicles, or vessels used in the operation of the oil storage facility or oil handling facility; and
- E. During an inspection of the facility:
  - (1) Make all records pertaining to the facility and the operation of the facility available for inspection;
  - (2) Allow the Department to:
    - (a) Make copies of data, records, and information pertaining to the facility and the operation of the facility;
    - (b) Collect air, surface or groundwater, soil, and vegetation samples or samples of other materials on-site as determined necessary by the Department; and
    - (c) Obtain photographic or videographic documentation or evidence.

**.20 Requirements for Motor Fuel Dispensing Facilities.**

A. The requirements of this regulation apply to an owner, an operator, and a person in charge of a motor fuel dispensing facility.

B. An owner, an operator, and a person in charge of a motor fuel dispensing facility shall install and operate a storage tank system in accordance with the requirements of COMAR 26.10 as follows:

- (1) Install and operate a UST system in accordance with:
  - (a) The requirements of this chapter, COMAR 26.10.02—26.10.12, and 26.10.16; and
  - (b) The applicable documents incorporated by reference under Regulation .03 of this chapter;
- (2) Install and operate an AST system in accordance with:
  - (a) The requirements of this chapter and COMAR 26.10.17 and 26.10.18; and
  - (b) The applicable documents incorporated by reference under Regulation .03 of this chapter; and
- (3) If the motor fuel dispensing facility is located at a marina, comply with the requirements of Regulation .14 of this chapter.

C. An owner, an operator, and a person in charge of a motor fuel dispensing facility may not allow the dispensing of motor fuel at the facility unless:

- (1) The location is attended;
- (2) The owner, the operator, and the person in charge has received prior written approval from the Department to operate the location as an unattended motor fuel dispensing facility; or
- (3) The location is a commercial, industrial, governmental, or manufacturing property where motor fuels are dispensed into the fuel tanks of motor vehicles or vessels that are:
  - (a) Owned or controlled by the owner, the operator, and the person in charge of the facility; and
  - (b) Used in connection with the business or operation of that property by persons within the employ of such business or operation.

*D. The Department may not provide written approval to an owner, an operator, and a person in charge of a marina with a motor fuel dispensing facility to operate the motor fuel dispensing facility unattended.*

*E. The Department may provide written approval to an owner, an operator, and a person in charge of a motor fuel dispensing facility to operate the location unattended if the owner, the operator, and the person in charge of the facility:*

*(1) Provide each customer with a unique means of authorization, such as a key card, membership card, or other method that identifies the specific customer;*

*(2) Ensure the dispensers at the facility require a customer to input the unique authorization required under §E(1) of this regulation in order for motor fuel to be dispensed;*

*(3) Install an emergency shut-off device or electrical disconnect that is readily accessible to customers for each group of dispensers on an individual dispenser island;*

*(4) Confirm with the State Fire Marshall or local fire department whether the owner, the operator, and the person in charge of the motor fuel dispensing facility needs to employ additional fire protections such as:*

*(a) Installing fixed suppression systems, automatic fire detection systems, or manual fire alarm stations;*

*(b) Transmitting alarms to an off-site supervising fire alarm station located at the oil storage facility or another off-site location; or*

*(c) Limiting the quantity of motor fuel dispensed per transaction;*

*(5) Provide the Department with documentation that confirms the installation of any additional fire protection methods at the facility under the direction of the State Fire Marshall or local fire department, as required under §E(4) of this regulation;*

*(6) Conspicuously post operating instructions, warning signs, and emergency instructions in the dispensing area in accordance with NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”;*

*(7) Provide on-site in a readily accessible location a telephone or other approved clearly identifiable means to notify the fire department in accordance with NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”;*

*(8) On a sign visible from the dispensing area that is not less than 8 x 10 inches in size with lettering not less than 1-inch high, conspicuously post emergency telephone numbers for contacting the following persons in the event of a suspected or confirmed spill, release or discharge, unusual operating conditions, emergency, or equipment failure:*

*(a) Emergency response authorities;*

*(b) A person in charge at the facility; and*

*(c) The Department;*

*(9) Provide at least one readily available spill containment kit clearly labeled and stored on-site to contain spills, releases, or discharges of less than 20 gallons; and*

*(10) If the facility is a regulated substance storage facility, comply with the operator training requirements for designated Class A operators, Class B operators, and Class C operators of unattended facilities in accordance with COMAR 26.10.16.*

*F. If the Department determines that an owner, an operator, and a person in charge of an approved unattended motor fuel dispensing facility is not maintaining the operations of the facility in accordance with §E of this regulation, the Department may:*

*(1) For a UST system, issue a notice of a delivery ban in accordance with COMAR 26.10.02.03C; and*

*(2) For an AST system, suspend or revoke an Individual or General Oil Operations Permit in accordance with Regulation .12 of this chapter.*

*G. An owner, an operator, and a person in charge of a motor fuel dispensing facility with a sanitary sewer or storm drain connection receiving oil-bearing waste or wastewater from operations at the motor fuel dispensing facility shall:*

*(1) Comply with one of the following requirements:*

*(a) If oil-bearing waste or wastewater enters a publicly-owned wastewater treatment system, obtain and operate under a Pretreatment Permit issued by:*

*(i) The local municipal wastewater treatment utility with delegated authority by the Department to administer a Pretreatment Program in accordance with COMAR 26.08.08; or*

*(ii) The Department if the local municipal wastewater treatment utility does not have delegated authority to administer a Pretreatment Program; or*

*(b) If oil-bearing waste or wastewater enter into a storm drain system, install an oil/water separating system that is properly:*

*(i) Designed to accommodate a worst case incident of a spill, release, or discharge;*

*(ii) Operated by a person in charge of the motor fuel dispensing facility;*

*(iii) Maintained to manufacturer specifications;*

*(iv) Inspected monthly; and*

*(v) Pumped out when oil has accumulated to greater than 1 inch in the retention chamber; and*

*(2) Obtain all the required permits for the sanitary sewer or storm drain connection receiving oil-bearing waste or wastewater from operations at the motor fuel dispensing facility in accordance with federal, State and local laws and regulations.*



H. A person in charge of a motor fuel dispensing facility shall dispose of used oil generated at the motor fuel dispensing facility:

- (1) In accordance with COMAR 26.10.15;
- (2) In a manner that prevents a spill, release, or discharge; and
- (3) Using disposal methods required under applicable federal, State and local laws and regulations.

I. An owner, an operator, and a person in charge of a motor fuel dispenser facility may not install or use a dispenser hose that is greater than 18 feet in length.

#### **.21 Requirements for Marine Oil Facilities.**

##### **A. Response Plan.**

(1) An owner and an operator of a marine oil facility required to have an approved response plan under 33 CFR Part 154, Subpart F may not operate the marine oil facility unless the owner, the operator, and the marine oil facility are in full compliance with federal requirements for a response plan.

(2) An owner and an operator of a marine oil facility shall include in a response plan, at a minimum:

- (a) Training elements;
- (b) Oil spill, release, or discharge contingency elements;
- (c) Removal equipment elements; and
- (d) All of the elements required to be included in a response plan under 33 CFR Part 154, Subpart F.

(3) An owner and an operator of a marine oil facility shall provide to the Department a current response plan as part of an application for:

- (a) A new Individual Oil Operations Permit; and
- (b) A renewal of an Individual Oil Operations Permit.

(4) An owner and an operator of a marine oil facility shall implement all of the elements of an approved response plan in accordance with the schedule of compliance in 33 CFR Part 154, Subpart F.

(5) An owner and an operator of a marine oil facility shall:

- (a) Maintain an approved response plan at the marine oil facility; and
- (b) Make the approved response plan available for review upon request by the Department.

##### **B. Spill, Release, and Discharge Prevention at Marine Oil Facilities.**

(1) An owner and an operator of a marine oil facility shall institute safe fill and shutdown procedures to prevent oil spills, releases, or discharges:

- (a) During an oil transfer operation; and
- (b) In the event of an overfill of a storage tank.

(2) An owner and an operator of a marine oil facility shall include in the procedures required under §B(1) of this regulation, at a minimum, the following elements:

(a) Prior to commencing an oil transfer operation, an owner, an operator, and a person in charge of the marine oil facility confirms that the volume available in the receiving storage tank is greater than the volume of oil to be transferred;

(b) The continuous monitoring of an oil transfer operation by manual or automatic means until the transfer of oil is complete;

(c) A storage tank fill valve not in use during an oil transfer operation is closed and secured; and

(d) The transfer of oil only occurs into a storage tank designated to receive the oil.

(3) Shutdown System or Alarm.

(a) Storage tanks receiving asphalt (CAS8052424) from a tank vessel are exempt from the requirements of §B(3) of this regulation.

(b) An owner and an operator of a marine oil facility shall:

(i) Install an automatic shutdown system on each storage tank to be used during the transfer of oil from a tank vessel that will, in the event of an overfill, direct the flow of oil to another storage tank capable of receiving the oil or shut down the pumping system; or

(ii) Equip each AST used in the transfer of oil from a tank vessel with a high level alarm.

(c) If an AST is equipped with a high level alarm in accordance with §B(3)(b)(ii) of this regulation, an owner and an operator of a marine oil facility shall install a high level alarm that:

(i) Consists of a device capable of visually and audibly alerting the owner and the operator of the marine oil facility of an impending storage tank overfill; and

(ii) If a failure, malfunction, or power loss occurs during the transfer of oil, causes a warning light and audible signal to activate at a location in which the owner and the operator of the marine oil facility monitors or controls oil transfers at the facility.

(4) If a high level alarm sounds, an owner and an operator of a marine oil facility shall initiate an immediate and orderly emergency shutdown of the oil transfer.

(5) An owner and an operator of a marine oil facility using a high level alarm shall include an emergency shutdown procedure in the facility records and ensure that all facility personnel involved in the transfer operation are trained in the emergency shutdown procedure.

(6) An owner and an operator of a marine oil facility shall ensure that an automatic shutdown system or high level alarm system is tested:

- (a) Monthly; or
- (b) Before a receipt of oil.

(7) An owner and an operator of a marine oil facility shall:

- (a) Maintain records of testing at the marine oil facility; and
- (b) Make the records of testing available for review by a representative of the Department upon request.

#### **.22 Requirements for Tank Vessels.**

##### **A. Response Plan.**

(1) An owner and an operator of a tank vessel shall comply with the requirements of §A(2)—(4) of this regulation.

(2) An owner and an operator of a tank vessel required to have an approved response plan under 33 CFR Part 155, Subpart D may not operate the tank vessel in the State unless the owner and the operator of the tank vessel and the tank vessel are in full compliance with federal requirements for a response plan.

(3) An owner and an operator of a tank vessel shall include in a response plan, at a minimum:

- (a) Training elements;
- (b) Oil spill, release, or discharge contingency elements;
- (c) Removal equipment elements; and
- (d) All of the elements required to be included in a response plan under 33 CFR Part 155, Subpart D.

(4) An owner and an operator of a tank vessel shall make an approved response plan available for review by a representative of the Department upon request.

##### **B. Detection and Control of Oil Spills, Releases, and Discharges.**

(1) All-weather Escort Tank Vessel.

(a) The requirements of §B(1) and (2) of this regulation do not apply to a public vessel.

(b) An owner and an operator of a tank vessel shall ensure that a tank vessel transporting oil in the State is accompanied by an all-weather escort vessel.

(c) The crew on an escort vessel shall continuously check for any evidence of an oil spill, release, or discharge from the escorted tank vessel.

(d) A vessel supplying propulsion to the tank vessel does not fulfill the requirement for an all-weather escort vessel.

(2) Alternative Monitoring. In lieu of meeting the escort vessel requirement under §B(1) of this regulation, an owner and an operator of a tank vessel may:

- (a) Equip the tank vessel with a cargo level monitoring system;
- (b) Ensure the tank vessel's double hulls are designed in compliance with 33 CFR §157.10(d); or
- (c) Have a Department approved plan prepared by the owner and the operator of the tank vessel that provides for visual or another method of inspection of load lines or draft markings for the tank vessel that will determine the existence of an oil spill, release, or discharge from the tank vessel.

(3) Cargo Level Monitoring System. An owner and an operator of a tank vessel shall:

- (a) Maintain the cargo level monitoring system of the tank vessel in full working order; and
- (b) Correct a malfunction of equipment before getting the tank vessel underway.

##### **C. Inspection Requirements.**

(1) The requirements of this section do not apply to a public vessel.

(2) An owner and an operator of a tank vessel transporting oil in the State shall inspect the tank vessel in accordance with 46 U.S.C. Subtitle II, Part B and 46 CFR Part 2.

(3) The Department may require an owner and an operator of a tank vessel to perform additional inspections if the Department has reason to believe the tank vessel has been damaged or responsible for one or more spills, releases, or discharges due to structural damage.

(4) An owner and an operator of a tank vessel shall display a certificate of inspection issued under 46 U.S.C. Subtitle II, Part B and 46 CFR Part 2 in a conspicuous place on the tank vessel.

#### **.23 Bonding Requirements for Tank Vessels.**

A. The terms "assets", "current assets", "current liabilities", "liabilities", "net working capital", "net worth", "parent corporation", and "tangible net worth" as used in §D of this regulation have the meanings stated in 40 CFR §264.141.

##### **B. Exceptions.**

(1) The requirements of this regulation do not apply to a public vessel.

(2) An owner and an operator of a tank vessel transferring greater than 25 barrels of oil in bulk as cargo in waters of the State may not be required to obtain a bond or other security for the tank vessel if:

- (a) The tank vessel is carrying oil removed from:
  - (i) Waters of the State as the result of a spill, release, or discharge or at the request of the Department, the federal government, or a person responsible for the discharge; or
  - (ii) Another vessel because of the threat of a spill, release, or discharge into waters of the State; and

(b) *The tank vessel is not owned or operated by the person responsible for the discharge resulting in the need for removal of oil from waters of the State.*

C. *Bonding Requirement. Upon entering waters of the State to transfer greater than 25 barrels of oil in bulk as cargo, an owner and an operator of a tank vessel shall post a bond or other security as set forth in §D of this regulation:*

- (1) *In the amount of \$500 per gross ton of tank vessel; and*
- (2) *In a form approved by the Department.*

D. *Other Acceptable Forms of Security. In lieu of posting a bond, an owner and an operator of a tank vessel may satisfy the requirement under §C of this regulation by posting another acceptable form of security that meets the conditions under §D(1) or (2) of this regulation:*

- (1) *A certification signed by a certified public accountant that the owner and the operator of the tank vessel has:*

(a) *Two out of the three following ratios:*

(i) *A ratio of total liabilities to net worth of less than 2.0;*

(ii) *A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities of greater than 0.1; or*

(iii) *A ratio of current assets to current liabilities of greater than 1.5;*

(b) *Net working capital and tangible net worth that are individually at least six times the bond amount required under §C(1) of this regulation;*

(c) *Tangible net worth of at least \$10,000,000; and*

(d) *Assets located in the United States amounting to at least:*

(i) *90 percent of total assets; or*

(ii) *Six times the bond amount required under §C(1) of this regulation; or*

- (2) *A certification signed by a certified public accountant that the owner and the operator of the tank vessel has:*

(a) *A current rating for the most recent bond issuance of:*

(i) *AAA, AA, A, or BBB as issued by the Standard and Poor's (S&P); or*

(ii) *Aaa, Aa, A, or Baa as issued by Moody's;*

(b) *A parent corporation that meets the requirements of §D(1)(b)—(d) of this regulation; and*

(c) *An absolute guaranty by the parent corporation of the owner and the operator of the tank vessel.*

E. *An owner and an operator of a tank vessel may satisfy §C of this regulation by offering proof to the Department of a current Certificate of Financial Responsibility issued to the owner and the operator of the tank vessel by the USCG under 33 CFR Part 138 for each tank vessel of the owner and the operator entering waters of the State.*

F. *The Department may waive the requirements of this regulation if the Department determines that the bonds or other securities required under this regulation are not generally available.*

G. *Bond Forfeiture.*

(1) *If the Department determines that a spill, release, or discharge into waters of the State originated from a tank vessel, the bond or other security posted by the owner and the operator of the tank vessel is forfeited and becomes due and payable to the Department to the extent of:*

(a) *The costs incurred by the Department to eliminate the residue of the oil spill, release, or discharge;*

(b) *Damage caused to the natural and recreational resources of the State; and*

(c) *Any uncollectible penalty levied against the owner and the operator of the tank vessel; and*

(2) *If a bond or other security is forfeited to the Department as described in §G(1) of this regulation, an owner and an operator of a tank vessel shall post a new bond or other security for the tank vessel in accordance with §C of this regulation.*

#### **.24 Violations.**

A. *As authorized under Environment Article, §4-412, Annotated Code of Maryland:*

- (1) *The Department shall issue and cause to be served a written complaint:*

(a) *To an alleged violator of a provision of Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland or of any oil pollution control and storage tank management provision of COMAR 26.10; and*

(b) *That specifies the following information:*

(i) *The provision of law, rule, or regulation allegedly violated; and*

(ii) *The alleged fact or facts that constitute the violation;*

(2) *Subsequent to or concurrent with the service of the complaint authorized under §A(1) of this regulation, the Department may issue to an alleged violator:*

(a) *An order requiring the alleged violator take necessary corrective action within the time prescribed in the order;*

(b) *A notice requiring an alleged violator file a written report with the Department regarding the alleged violation;*

(c) *A notice requiring the alleged violator to appear before the Department at a time and place the Department specifies to answer the charge outlined in the complaint; or*

(d) A notice requiring the alleged violator file a written report with the Department regarding the alleged violation and appear before the Department at a time and place the Department specifies to answer the charges outlined in the complaint; and

(3) If the Department exercises one of the options provided under §A(2)(b)—(d) of this regulation, the Department:

(a) May not issue an order to the alleged violator that requires corrective action be taken as a result of the alleged violation before expiration of the time set for filing a written report and for holding a hearing required under §A(2)(b)—(d) of this regulation; and

(b) May issue an order requiring corrective action be taken within the time prescribed in the order, after the expiration of the time set for filing the written report and holding the hearing required under §A(2)(b)—(d) of this regulation.

**B. Contested Case Hearing.**

(1) Filing a Hearing Request. A person shall have an opportunity for a contested case hearing if the person files a written request with the Department not later than 10 calendar days after being served with:

(a) An order from the Department requiring a corrective action issued under §A(2)(a) of this regulation; or

(b) A notice from the Department requiring the person to file a written report regarding an alleged violation issued under §A(2)(b) of this regulation.

(2) The appearance of the alleged violator before the Department in accordance with §A(2)(c) or (d) of this regulation constitutes an administrative hearing, and the party shall have the rights of any party in a contested case provided under State Government Article, §§10-205, 10-208 and 10-209, Annotated Code of Maryland.

(3) A person issued an order provided under §A(3)(b) of this regulation may not request a hearing as a result of the order.

(4) Notwithstanding a person's right to a contested case hearing, an order issued to a person pursuant to this regulation is effective immediately upon service according to its terms.

(5) The Department shall conduct a hearing in accordance with the provisions under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

C. Judicial Review. A person aggrieved by an order issued by the Department may obtain immediate judicial review under the provisions of State Government Article, §§10-222 and 10-223, Annotated Code of Maryland and the Maryland Rules.

## **26.10.02 Underground Storage Tank Systems**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-412, 4-415—4-419, 4-701 et seq., and 7-201 et seq.; State Government Article, §§10-206 and 10-226; Annotated Code of Maryland

### **.01 Applicability.**

A. Requirements for an Owner and an Operator of a UST System.

(1) Except as otherwise provided in §§B and C of this regulation, an owner and an operator of a UST system that uses or may use the UST system to store a regulated substance are subject to the requirements of this chapter, COMAR 26.10.03—26.10.12, and 26.10.16.

(2) On or after January 12, 2009, an owner and an operator installing a new or replacement UST system are subject to the interstitial monitoring requirements for methods of release detection in COMAR 26.10.05.05G.

(3) On or after January 12, 2009, an owner and an operator of a UST system installing new, replacement, or upgraded secondary containment piping are subject to the monitoring requirements for secondary containment piping in COMAR 26.10.05.02D(3).

(4) An owner and an operator of an airport hydrant fuel distribution system are subject to the requirements in COMAR 26.10.12.

(5) An owner and an operator of a UST system with one or more field-constructed tanks are subject to the requirements in COMAR 26.10.12.

(6) An owner and an operator of a UST system that stores fuel for use by an emergency power generator are subject to the methods of release detection requirements in COMAR 26.10.05.

B. Exclusions. An owner and an operator of the following UST systems are not subject to the requirements of this chapter and COMAR 26.10.03—26.10.12 and 26.10.16:

(1) A UST system holding:

(a) A hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act; or

(b) A mixture of a hazardous waste, as described under §B(1)(a) of this regulation, and other regulated substances;

(2) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under §307(b) or 402 of the Clean Water Act (33 U.S.C. §1317(b) or 1342);

(3) Equipment or machinery that contains a regulated substance for operational purposes, such as hydraulic lift tanks and electrical equipment tanks;

(4) A UST system that contains a de minimis concentration of a regulated substance; and

(5) An emergency spill or overflow containment UST system that is expeditiously emptied after use.

*C. Partial Exclusions.*

(1) *An owner and an operator of the following UST systems are not subject to the requirements under COMAR 26.10.03—26.10.05, 26.10.08, 26.10.10, 26.10.12, and 26.10.16:*

(a) *A wastewater treatment tank system not covered under §B(2) of this regulation;*

(b) *An AST associated with:*

(i) *An airport hydrant fuel distribution system regulated under COMAR 26.10.12; and*

(ii) *A UST system with one or more field-constructed tanks regulated under COMAR 26.10.12;*

(c) *A UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C. §§2011—2296b-7); and*

(d) *A UST system that is part of an emergency generator system at a nuclear power generation facility licensed by the Nuclear Regulatory Commission and subject to the Nuclear Regulatory Commission's requirements regarding design and quality criteria including, but not limited to, 10 CFR Part 50.*

(2) *An owner and an operator of a UST system that stores heating oil only for consumptive use are not subject to the requirements under COMAR 26.10.03.08, 26.10.05, 26.10.11, and 26.10.16.*

**.02 Definitions.**

*A. In this chapter and COMAR 26.10.03—26.10.12 and 26.10.16:*

(1) *A term in §B of this regulation has the meaning indicated; and*

(2) *A term not defined in §B of this regulation has the meaning given to it in:*

(a) *A relevant statute;*

(b) *COMAR 26.10.01; or*

(c) *If not defined in a relevant statute or COMAR 26.10.01, the meaning attributed by common use.*

*B. Terms Defined.*

(1) *Aboveground Release.*

(a) *“Aboveground release” means a spill, release, or discharge to the surface of the land or to surface water.*

(b) *“Aboveground release” includes, but is not limited to:*

(i) *A release from the aboveground portion of a UST system; and*

(ii) *An aboveground release associated with overfills and transfer operations as a regulated substance moves to or from a UST system.*

(2) *“Airport hydrant fuel distribution system” or “airport hydrant system” means a UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants or fill stands, and begins where fuel enters one or more storage tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.*

(3) *Belowground Release.*

(a) *“Belowground release” means a spill, discharge, or release to the subsurface of the land, groundwater, or both.*

(b) *“Belowground release” includes, but is not limited to:*

(i) *A release from the belowground portions of a UST system; and*

(ii) *A belowground release associated with overfills and transfer operations as a regulated substance moves to or from a UST.*

(4) *“Beneath the surface of the ground” means beneath the ground surface or otherwise covered with earthen materials.*

(5) *Bulk Oil Storage.*

(a) *“Bulk oil storage” means the storage of oil in a UST system that is not excluded under Regulation .01B of this chapter; and*

(b) *“Bulk oil storage” does not include the storage of oil in a UST system for consumptive use.*

(6) *“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq.*

(7) *“Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of a UST system under conditions likely to be encountered in the UST system.*

(8) *“Completion” means the final grade of a finished regulated substance storage facility, including all concrete pads and asphalt paving.*

(9) *Connected Piping.*

(a) *“Connected piping” means all underground piping, including valves, elbows, joints, flanges, and flexible connectors, attached to a UST system through which a regulated substance or petroleum vapor flows.*

(b) *“Connected piping” includes, for the purpose of determining how much piping is connected to an individual UST system, the piping that joins two UST systems with the piping allocated equally between the UST systems.*

(10) *Consumptive Use.*

(a) *“Consumptive use” means heating oil consumed on the premises.*

(b) *“Consumptive use” does not include the use of fuel oil in an emergency generator.*

(11) “Electrical equipment” means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(12) Excavation Zone.

(a) “Excavation zone” means the volume containing one or more UST systems and backfill material bounded by the ground surface, walls, and floor of a pit and trenches into which a UST system is placed at the time of installation.

(b) “Excavation zone” includes a storage tank field.

(13) “Existing UST system” means a UST system used to contain an accumulation of regulated substances for which installation commenced on or before December 22, 1988.

(14) “Field-constructed tank” means a storage tank constructed in the field, including, but not limited to:

(a) A storage tank constructed of concrete that is poured in the field; or

(b) A steel or fiberglass storage tank primarily fabricated in the field.

(15) “Free product” refers to a regulated substance that is present as a nonaqueous phase liquid.

(16) “General UST System Permit” means the authorization established under Regulation .04A of this chapter for the operation of a UST system.

(17) Groundwater Drain System.

(a) “Groundwater drain system” means a permanent installation of a horizontal pipe or gravel trench intercepting the excavation zone of a UST for the purpose of removing, directing, or relieving groundwater accumulation to an alternative location.

(b) “Groundwater drain system” does not include a temporary sump pump or temporary well point dewatering system.

(18) Hazardous Substance UST System.

(a) “Hazardous substance UST system” means a UST system that contains a hazardous substance or any mixture of a hazardous substance and petroleum.

(b) “Hazardous substance UST system” does not include a petroleum UST system or a hazardous waste tank regulated under Subtitle C of the Resource Conservation and Recovery Act.

(19) “Hydraulic lift tank” means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(20) “Implementing agency” means the Maryland Department of the Environment.

(21) “Installation commenced” means an owner and an operator of a UST system has:

(a) Obtained all federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the UST system; and

(b) Either:

(i) Begun a continuous on-site physical construction or installation program; or

(ii) Entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction at the site or installation of the UST system to be completed within a reasonable time.

(22) “Liquid trap” means a sump, well cellar, and other trap used in association with oil and gas production, gathering, and extraction operations, including gas production plants, for the purpose of:

(a) Collecting oil, water, and other liquids;

(b) Temporarily collecting liquids for subsequent disposition or reinjection into a production or pipeline stream; or

(c) Collecting and separating liquids from a gas stream.

(23) “New UST system” means a UST system that is or will be used to contain an accumulation of regulated substances for which installation commenced after December 22, 1988.

(24) “Noncommercial purposes” means motor fuel not for resale.

(25) “On the premises” means a UST system storing heating oil located on the same property where the stored heating oil is used.

(26) “Operational life” means the period beginning when installation of a UST system has commenced until the time the UST system is properly closed in accordance with COMAR 26.10.10.

(27) “Overfill” means an occurrence when a UST is filled beyond the applicable level specified in COMAR 26.10.03.03A(2)(a), and that may result in a spill, release, or discharge of a regulated substance.

(28) Petroleum UST System.

(a) “Petroleum UST system” means a UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances.

(b) “Petroleum UST system” includes a UST system that may contain motor fuel, jet fuel, distillate fuel oil, residual fuel oil, heating oil, lubricant, petroleum solvent, or used oil.

(29) “Pipe” or “piping” means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(30) “Pipeline facility” means a new and existing pipe rights-of-way and any associated equipment, facilities, or buildings, including gathering lines.

(31) “Precision tightness test” means a test:

(a) For UST system tightness approved by the Department;

(b) Conducted in accordance with the manufacturer's test procedure, a test method with third party approval, or standards approved by the Department; and

(c) Capable of detecting a 0.1 gallon per hour leak rate from any portion of a UST system, while accounting for the effects of:

- (i) Thermal expansion;
- (ii) Contraction of a liquid;
- (iii) Vapor pockets;
- (iv) Storage tank deformation;
- (v) Evaporation;
- (vi) Water; and
- (vii) Any subsurface water contacting the UST system.

(32) "Release detection" means to determine whether a release of a regulated substance has occurred:

- (a) From a UST system into the environment;
- (b) Into the interstitial space between a UST system and the secondary barrier of the UST system; or
- (c) Into the secondary containment around a UST system.

(33) "Repair" means to restore to proper operating condition a storage tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other component of a UST system that has:

- (a) Caused a release of a regulated substance from the UST system;
- (b) Failed to function properly; or
- (c) Been rendered inoperable in any way.

(34) "Replace" means to remove and install:

- (a) A UST; or
- (b) 40 percent or more of piping connected to a single UST, including each independent piping run connected to a UST with multiple piping runs.

(35) "SARA" means Superfund Amendments and Reauthorization Act of 1986.

(36) "Septic tank" means a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer, with the effluent distributed for disposal through the soil and settled solids and scum from the septic tank are pumped out periodically and hauled to a treatment facility.

(37) Stormwater or Wastewater Collection System.

(a) "Stormwater or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of:

- (i) Stormwater runoff resulting from precipitation; or
- (ii) Domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur.

(b) "Stormwater or wastewater collection system" does not include the treatment of stormwater or wastewater, except where treatment is incidental to conveyance of stormwater or wastewater.

(38) "Surface impoundment" means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, that is not an injection well.

(39) "Under-dispenser containment" means containment underneath a dispenser system that meets the following conditions:

- (a) Designed to prevent a spill, release, or discharge from the dispenser and piping within or above the under-dispenser containment from reaching soil or groundwater;
- (b) Liquid-tight on the sides, bottom, and at any penetration of the containment;
- (c) Compatible with the regulated substance conveyed by the piping;
- (d) Tested in accordance with COMAR 26.10.03.03; and
- (e) Allows for visual inspection and access to the components in the containment, or the periodic monitoring of the containment for leaks from the dispenser system.

(40) "Upgrade" means the addition or retrofit of a system, such as interior lining, cathodic protection, spill and overfill controls, or the replacement of any piping.

(41) UST.

(a) "UST" means one storage tank or a combination of storage tanks, including underground pipes connected to the storage tank, in which the volume of the storage tank and connected underground pipes is 10 percent or more beneath the surface of the ground.

(b) "UST" does not include:

- (i) Except for a farm or residential tank no longer in use and subject to the requirements under COMAR 26.10.10, a farm or residential tank with the capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial purposes;
- (ii) A septic tank;
- (iii) A pipeline facility, including gathering lines, regulated under 49 U.S.C. §§60101—60141, or an intrastate pipeline facility regulated under State law as provided under 49 U.S.C. §§60101—60141 and determined by

*the federal Secretary of Transportation to be connected to a pipeline, or operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;*

*(iv) A surface impoundment, pit, pond, or lagoon;*

*(v) A stormwater or wastewater collection system;*

*(vi) A flow-through process tank;*

*(vii) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;*

*(viii) If a storage tank is situated upon or above the surface of the floor, a storage tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel; or*

*(ix) Pipes connected to a tank described under §B(41)(b) of this regulation.*

*(42) “UST system” means a UST, connected underground piping, underground ancillary equipment, and, if any, containment systems.*

*(43) “Wastewater treatment tank” means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.*

### **.03 General Provisions for UST Systems.**

*A. An owner and an operator of a UST system storing a regulated substance shall comply with the general provisions and specifically prohibited acts under COMAR 26.10.01.04.*

#### **B. Person Responsible for a Release.**

*(1) The following persons shall be responsible for the prompt control, containment, and removal of a regulated substance release:*

*(a) The responsible party;*

*(b) The owner of the property where the regulated substance release occurred;*

*(c) The owner of the regulated substance;*

*(d) The owner and the operator of the UST system storing the regulated substance;*

*(e) The person in charge of the facility, vessel, or vehicle involved in the release; and*

*(d) If a release occurs from an improperly abandoned UST system, the current landowner and any person who owned, leased, or was otherwise responsible for the UST system at the time it was improperly abandoned.*

*(2) A person shall continue to be responsible for the control, containment, and removal of a regulated substance release until removal of the regulated substance has been accomplished to the satisfaction of the Department.*

#### **C. Ban on Receiving a Regulated Substance.**

*(1) An owner and an operator of a UST system served a written notification provided under §C(2) of this regulation is subject to a ban on receiving a regulated substance until the conditions in §C(3) of this regulation are met.*

*(2) Upon determining that a UST system is not in compliance with one or more requirements of this chapter or COMAR 26.10.03—26.10.12 and 26.10.16:*

*(a) The Department may serve a written notification to the owner and the operator of the UST system that specifies the Department’s determination, the regulatory provisions violated, and the facts that constitute the violation;*

*(b) Subsequent to or concurrent with service of the written notification provided in §C(2)(a) of this regulation, the Department may:*

*(i) Issue the owner and the operator of the UST system an order requiring the performance of corrective actions necessary to bring the UST system into compliance;*

*(ii) Issue the owner and the operator of the UST system a ban on receiving a regulated substance; and*

*(iii) Affix a monitoring device, such as a tag, notice, or locking mechanism to the UST system.*

*(3) The Department may allow an owner and an operator of a UST system subject to a ban on receiving regulated substances to resume receiving regulated substances for the UST system if the following conditions are met:*

*(a) The owner and the operator of the UST system notify the Department that the corrective actions necessary to bring the UST system into compliance have been performed;*

*(b) The owner and the operator of the UST system submit to the Department evidence of the corrective actions performed that includes at least the following records:*

*(i) Receipts;*

*(ii) Work orders;*

*(iii) Certificates;*

*(iv) Testing records; and*

*(v) Photographs;*

*(c) The owner and the operator of the UST system have resolved all obligations related to the UST system as directed by the Department or in compliance with an order issued by the Department under §C(2)(b) of this regulation; and*

*(d) The owner and the operator of the UST system receive written approval from the Department to remove the monitoring device from the UST system.*

*(4) Contested Case Hearings.*



(a) As provided under Environment Article, §4-412, Annotated Code of Maryland, an owner and an operator of a UST system served an order under §C(2)(b) of this regulation shall have an opportunity for a contested case hearing if the owner and the operator of the UST system files a written request with the Department not later than 10 calendar days from the date the order was served.

(b) The filing of a hearing request made in accordance with §C(4)(a) of this regulation does not stay the:

(i) Department's determination of noncompliance;

(ii) The ban on receiving a regulated substance; or

(iii) The obligation of the owner and the operator of the UST system to comply with §C(3) of this regulation.

(c) The Department shall conduct a contested case hearing in accordance with the provisions under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

**D. Work Performed by Certified UST System Individuals.**

(1) Except as otherwise provided in §D(3) of this regulation, an owner, an operator, and a person in charge of a UST system shall ensure that the following work is performed by the following individuals certified by the Department under COMAR 26.10.06:

(a) The installation, upgrade, and repair of a UST system is performed by or under the supervision of a certified UST system technician;

(b) The closure or change-in-service of a UST system is performed by or under the supervision of a certified UST system technician or remover; and

(c) Inspections required under COMAR 26.10.03.10 are performed by or under the supervision of a certified UST system inspector.

(2) Except as otherwise provided in §D(3) of this regulation, an owner, an operator, and a person in charge of a storage tank system shall ensure that the following work is performed by the following individuals certified by the Department under COMAR 26.10.06:

(a) The installation, upgrade, and repair of a UST system or the underground piping associated with a storage tank is performed in the continuous on-site presence and under the direction of a certified UST system technician; and

(b) The closure or a change-in-service of a UST system, underground farm tank, underground residential tank, an underground residential heating oil tank, or the underground piping associated with a storage tank is performed in the continuous on-site presence and direction of a certified UST system technician or remover.

(3) An owner, an operator, and a person in charge of a UST system storing heating oil for consumptive use and with a capacity of 2,000 gallons or less may use a heating oil technician that is certified by the Department under COMAR 26.10.06 to install, upgrade, repair, and close the UST system.

**E. Installation Requirements for Partially Excluded UST Systems.** An owner and an operator of a UST system listed under Regulation .01C of this chapter storing a regulated substance shall install a UST system that meets the following requirements:

(1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(2) Is cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of a stored regulated substance; and

(3) Is constructed or lined with material that is compatible with the stored regulated substance.

**.04 General UST System Permit by Rule.**

A. An owner and an operator of a UST system regulated under this chapter are authorized by the Department under a General UST System Permit to operate the UST system provided the conditions specified in this section are met:

(1) The owner and the operator of the UST system shall comply with all of the applicable requirements of this chapter and COMAR 26.10.03—26.10.12 and 26.10.16;

(2) The owner and the operator of the UST system shall remove or properly decommission nonoperational components and appurtenances connected to the UST system in order to:

(a) Ensure proper operation of all spill and overfill, corrosion protection, and release detection equipment; and

(b) Prevent a spill, release, or discharge;

(3) The owner and the operator of the UST system shall:

(a) Make the facility where the UST system is located available for reasonable inspection by the Secretary or the Secretary's authorized representative; and

(b) During an inspection, allow the Secretary or the Secretary's authorized representative to:

(i) Collect air, ground or surface water, soil, and vegetation samples or samples of other materials on-site as determined necessary by the Department; and

(ii) Obtain photographic or videographic documentation or evidence;

(4) The owner and the operator of the UST system shall make all records required under COMAR 26.10 and Environment Article, Annotated Code of Maryland available for inspection and copying by the Secretary or the Secretary's authorized representative; and

(5) The owner and the operator of the UST system shall complete any survey forms or other documents required by the Department in a timely manner.

**B. Suspension or Revocation.**

(1) The Department may suspend or revoke a permittee's authorization provided under §A of this regulation if the Department determines that:

(a) A violation of a condition specified under §A of this regulation has occurred;

(b) A violation of an applicable federal, State, or local requirement related to the management of a regulated substance has occurred;

(c) A violation of the Environment Article, Annotated Code of Maryland or a regulation adopted under the Environment Article, Annotated Code of Maryland has occurred;

(d) False or inaccurate information or data was provided in a document required to be submitted under this regulation to the Department;

(e) A permittee's continued operation of a UST system under the General UST System Permit would pose a risk of harm to public health, safety, or welfare or the environment; or

(f) Any other good cause exists for suspending or revoking the authorization.

(2) Once the Department suspends or revokes a permittee's authorization provided under §A of this regulation, the permittee shall cease activities permitted under the suspended or revoked authorization in a manner determined by the Department.

**C. Judicial Review.** A person aggrieved by a permit issued by the Department may obtain immediate judicial review under the provisions of State Government Article, §§10-222 and 10-223, Annotated Code of Maryland and the Maryland Rules.

**.05 Violations and Hearing Rights.**

**A.** The provisions of this regulation apply to an owner and an operator of a UST system regulated under COMAR 26.10.

**B.** If the Department determines that an owner and an operator of a UST system violated a provision of this chapter or Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, the Department shall comply with the violation procedures specified under COMAR 26.10.01.24 and Environment Article, §4-412, Annotated Code of Maryland.

**C.** In addition to the violation procedures identified under §B of this regulation, if the UST system is a hazardous substance UST system from which a release of a hazardous substance has occurred, the Department shall conduct any applicable enforcement actions under Environment Article, Title 7, Subtitle 2, Part VIII, Annotated Code of Maryland.

**D. Contested Case Hearings.**

(1) In addition to any other contested case hearing rights provided under this chapter, an owner and an operator of a UST system shall:

(a) Have the contested case hearing rights provided under COMAR 26.10.01.24B and Environment Article, §4-412, Annotated Code of Maryland; and

(b) In the case of a release of a hazardous substance from a UST system, have the contested case hearing rights provided under Environment Article, §7-261, Annotated Code of Maryland.

(2) The Department shall conduct a contested case hearing in accordance with the provisions under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

**E. Judicial Review.** A person aggrieved by an order issued by the Department may obtain immediate judicial review under the provisions of State Government Article, §§10-222 and 10-223, Annotated Code of Maryland and the Maryland Rules.

**26.10.03 UST Systems: Design, Construction, Installation, Registration, and Inspection**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland

**.01 Performance Standards for New or Replacement UST Systems.**

**A.** An owner and an operator of a new or replacement UST system shall comply with the requirements of this chapter for as long as a UST system is used to store a regulated substance to prevent a spill, release, or discharge due to structural failure, corrosion, or an overfill.

**B. UST Standards for a New or Replacement UST System.**

(1) An owner and an operator of a UST system shall install a UST that is properly designed, constructed, and protected from corrosion in accordance with one of the following methods:

(a) The UST is constructed of UL listed fiberglass-reinforced plastic;

(b) The UST is constructed of steel, is coated with a suitable dielectric material, and has one of the following cathodic protection systems:

(i) An impressed current system designed by a corrosion expert; or

(ii) A manufacturer-installed cathodic protection system that is UL listed or approved by STI;

(c) *The UST is constructed of steel and clad or jacketed with a non-corrodible material that is UL listed or approved by STI; or*

(d) *Subject to the approval of the Department, the UST is constructed and protected from corrosion by an alternative installation method that is designed to prevent a spill, release, or discharge or a threatened spill, release, or discharge of a stored regulated substance in a manner determined by the Department to be as protective of public health, safety, and welfare and the environment as the USTs described in §B(1)(a)–(c) of this regulation.*

(2) *If the UST system is installed on or after January 12, 2009, an owner and an operator of a UST system shall install a UST that has secondary containment.*

(3) *An owner and an operator of a UST system with a cathodic protection system installed in accordance with §B(1)(b) of this regulation shall:*

(a) *Operate and maintain the cathodic protection system in accordance with COMAR 26.10.04.02; and*

(b) *If the UST cathodic protection system is an impressed current system, ensure the impressed current system is designed to allow for the determination of the current operating status as required in COMAR 26.10.04.02.*

**C. Notification.**

(1) *In a format required by the Department, an owner, an operator, and a person in charge of a new or replacement UST system shall notify the Department in writing of the installation of the new or replacement UST system not later than 5 working days before installation begins.*

(2) *In accordance with Regulation .09 of this chapter, an owner, an operator, and a person in charge of a new or replacement UST system shall register the UST system with the Department after the installation of the UST system is complete.*

**D. Previously Installed USTs. An owner and an operator of a UST system shall:**

(1) *Only install a previously installed UST if:*

(a) *The owner and the operator submit to the Department a written certification from the UST manufacturer that states the previously installed UST is suitable for service; and*

(b) *The Department has provided the owner and the operator written approval to install the previously installed UST;*

(2) *Begin the installation of the previously installed UST within 60 days of the issuance of the Department's written approval to install the UST or in accordance with another schedule required by the Department;*

(3) *Ensure all UST system standards and installation requirements of COMAR 26.10 are met when installing the previously installed UST; and*

(4) *Maintain the manufacturer's written certification and the Department's written approval in accordance with the recordkeeping requirements in COMAR 26.10.04.05.*

**.02 Performance Standards for Piping.**

**A.** *On or after January 26, 2005, an owner and an operator of a UST system shall install, upgrade, or replace piping that routinely contains petroleum vapor or a regulated substance in accordance with the following requirements:*

(1) *Install piping in a UL listed or Department approved secondary containment system that:*

(a) *Contains the petroleum vapor or regulated substance released from the primary piping until the petroleum vapor or regulated substance is detected and removed;*

(b) *Prevents a spill, release, or discharge of petroleum vapor or a regulated substance to the environment;*  
*and*

(c) *With the exception of the vent riser, on or after the effective date of this chapter, terminates or connects in a liquid tight containment sump with a sump sensor:*

(i) *Installed within 1 inch of the lowest part of the sump bottom;*

(ii) *Properly secured in the sump by a fixed mounting bracket; and*

(iii) *That activates an alarm when liquid is detected;*

(2) *Connect piping to the UST in a liquid tight containment sump that is maintained clean and free of liquid;*

(3) *When a product dispenser is part of the UST system, install piping that terminates in an under-dispenser containment sump that is liquid tight and maintained clean and free of liquid; and*

(4) *If an intermediate sump is used, connect piping in a liquid tight containment sump that is maintained clean and free of liquid.*

**B. Corrosion Protection Standards for Piping.**

(1) *An owner and an operator of a UST system shall ensure that piping in contact with the ground, including soil and backfill material, or continuous or intermittent water, is properly designed, constructed, and protected from corrosion in accordance with one of the following methods:*

(a) *The piping and connectors are constructed of fiberglass-reinforced plastic or flexible piping that is UL listed as appropriate piping for the regulated substance stored and for use in a UST system;*

(b) *The piping is constructed of steel, is coated with a suitable dielectric material, and has a cathodic protection system designed by a corrosion expert; or*

(c) *Subject to the approval of the Department, the piping is constructed and protected from corrosion by an alternative installation method that is designed to prevent a spill, release, or discharge or a threatened spill, release, or*

discharge of a stored regulated substance in a manner determined by the Department to be as protective of public health, safety, and welfare and the environment as the types of piping described in §B(1)(a) and (b) of this regulation.

(2) An owner and an operator of a UST system with steel piping equipped with a cathodic protection system installed in accordance with §B(1)(b) of this regulation shall:

(a) Operate and maintain the piping cathodic protection system in accordance with COMAR 26.10.04.02; and

(b) If the piping cathodic protection system is an impressed current system, ensure the impressed current system is designed to allow for the determination of the current operating status as required in COMAR 26.10.04.02.

C. An owner and an operator of a UST system may not use a fiberglass-reinforced plastic piping system:

(1) For direct fill lines, unless approved by the Department; or

(2) Aboveground or above grade.

D. After January 1, 2009, an owner and an operator that installs a new, upgraded, or replacement UST system may not use a flexible piping system for:

(1) Direct fill lines;

(2) Vent lines; or

(3) Stage II vapor recovery lines.

E. An owner and an operator of a UST system that replaces 40 percent or more of piping connected to a single UST, including each independent piping run connected to a UST with multiple piping runs, shall replace the remaining single-walled piping connected to the UST with a piping system that meets the requirements of this regulation.

### **.03 Spill and Overfill Prevention Equipment.**

A. Except as provided under §C of this regulation, an owner and an operator of a UST system shall use spill and overfill prevention equipment that complies with the requirements of this section.

(1) Spill Prevention Equipment. An owner and an operator of a UST system shall install and test spill prevention equipment that will prevent a spill, release, or discharge of a regulated substance into the environment when the transfer hose of a truck tank or transport is detached from the fill pipe or Stage I vapor recovery connection of a UST in accordance with the following requirements:

(a) Install a spill catchment basin with a minimum capacity of 5 gallons at the fill pipe of a new, replacement, or upgraded UST;

(b) On or after November 4, 1996, install a spill catchment basin with a minimum capacity of 5 gallons at the fill pipe of a new, replacement, or upgraded UST system that receives used oil;

(c) On or after July 1, 1998, install a spill catchment basin with a minimum capacity of 5 gallons at the Stage I vapor recovery connection on a new or replacement UST system that utilizes Stage I vapor recovery; and

(d) Test spill prevention equipment for tightness using a method approved by the Department at the following frequency:

(i) If the spill prevention equipment was installed before January 26, 2005, within 180 days of that date;

(ii) If the spill prevention equipment is installed on or after January 26, 2005, within 30 days of installing the spill prevention equipment;

(iii) Upon repair of the spill prevention equipment; and

(iv) At least annually after the most recent test was conducted.

(2) Overfill Prevention Equipment. An owner and an operator of a UST system:

(a) Shall ensure overfill prevention equipment:

(i) Automatically shuts off flow into a UST when the UST is 95 percent full; or

(ii) Alerts the transfer operator when a UST is 90 percent full by restricting the flow of a regulated

substance into the UST or triggering a high level alarm;

(b) May not install or replace a flow restrictor in a vent line to comply with §A(2)(a) of this regulation after the effective date of this chapter;

(c) Shall have a UST system inspector or technician certified under COMAR 26.10.06 or a precision tightness tester certified by a test method recognized by the Department conduct an inspection and functional test of overfill prevention equipment as follows:

(i) Inspect overfill prevention equipment using a method approved by the Department to ensure the overfill prevention equipment is set to activate at the correct level specified in §A(2)(a) of this regulation when a regulated substance reaches that level in a UST; and

(ii) Conduct a functional test of the overfill prevention equipment using a method approved by the Department to ensure the overfill prevention equipment will activate when a regulated substance reaches the correct level specified in §A(2)(a) of this regulation; and

(d) Shall conduct inspections and functional tests of overfill prevention equipment in accordance with the procedures in §A(2)(c) of this regulation at the following frequency:

(i) Unless an inspection and functional test was conducted before the effective date of this chapter, within 1 year of the effective date of this chapter;

(ii) Upon the installation or repair of overfill prevention equipment; and

(iii) At least every 3 years after the most recent inspection and functional test was conducted.

(3) Containment Sumps. An owner and an operator of a UST system shall:

- (a) Ensure a containment sump prevents the release of a regulated substance into the environment;
- (b) Use a containment sump for all connections of piping to or from a UST and to or from a dispenser; and
- (c) Test a containment sump for tightness using a method approved by the Department at the following frequency:

- (i) If the containment sump was installed before January 26, 2005, within 1 year of that date;
- (ii) If the containment sump is installed on or after January 26, 2005, within 30 days of installing the containment sump;
- (iii) Upon repair of the containment sump;
- (iv) If the most recent test conducted on the containment sump occurred before the effective date of this chapter, within 5 years of the most recent test; and
- (v) At least every 3 years after the most recent test was conducted.

(4) When a test for tightness conducted on spill prevention equipment or a containment sump results in a failed test result, the owner and the operator of the UST system and the person conducting the test shall report the failed test result to the Department within 2 hours in accordance with COMAR 26.10.08.01.

**B. Dispenser System Requirements.**

(1) When installing a new dispenser system, an owner and an operator of a UST system shall equip the dispenser system with under-dispenser containment.

(2) A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to a UST system are installed at a regulated substance storage facility.

C. An owner and an operator of a UST system are not required to use the spill and overfill prevention equipment required under §A of this regulation if:

(1) The Department determines alternative equipment or methods used for spill and overfill prevention are as protective of public health, safety, and welfare and the environment as the equipment or methods required under §A of this regulation;

(2) Not more than 25 gallons of a regulated substance is transferred at one time to the UST system; or

(3) The UST system stores heating oil only for consumptive use and the UST system was installed before November 4, 1996.

**D. Reporting and Recordkeeping.**

(1) An owner and an operator of a UST system shall maintain records demonstrating compliance with the requirements for installing and operating spill and overfill prevention equipment and containment sumps for as long as the UST system is used to store a regulated substance.

(2) If an owner, an operator, and a person in charge of a UST system changes the method of spill or overfill prevention used, the owner, the operator, and the person in charge of the UST system shall provide the Department written notification within 30 days of the change.

(3) For each inspection and test conducted in compliance with §§A(1)(d), A(2)(d), and A(3)(c) of this regulation, the owner and the operator of the UST system shall:

(a) Maintain test records that include at least the following information:

- (i) The name of the testing company;
- (ii) The name of the individual conducting the test;
- (iii) The date of the test;
- (iv) The data accumulated by the test; and
- (v) The results of the test.

(b) Keep the test records on file at the regulated substance storage facility or at a location designated by and under the control of the owner and the operator of the UST system for as long as the UST system is used to store a regulated substance; and

(c) Make the records available to the Department upon request.

**.04 UST System Installation Standards.**

A. An owner and an operator of a UST system shall properly install the UST system in accordance with:

- (1) The requirements of this regulation;
- (2) The applicable technical codes and standards incorporated by reference under COMAR 26.10.01.03;
- (3) The manufacturer's instructions;
- (4) The requirement to have a certified UST system technician perform or supervise the installation in accordance with COMAR 26.10.02.03D; and
- (5) Any alternative installation methods approved by the Department under Regulations .01B(1)(d), .02B(1)(c), and .03C(1) of this chapter.

(4) The requirement to have a certified UST system technician perform or supervise the installation in accordance with COMAR 26.10.02.03D; and

(5) Any alternative installation methods approved by the Department under Regulations .01B(1)(d), .02B(1)(c), and .03C(1) of this chapter.

B. Monitoring Pipes. An owner and an operator of a UST system shall:

(1) Install two permanent monitoring pipes or, if a UST system is constructed in a high risk groundwater use area or well head protection area as defined in COMAR 26.10.07.02B, four permanent monitoring pipes:

- (a) Vertically and in opposing corners of a new or replacement UST system excavation zone;
- (b) That extend to a minimum depth of 2 feet below the bottom of the UST in the excavation zone;
- (c) Constructed of schedule 40 polyvinyl chloride (PVC);

- (d) That are a minimum of 4 inches in diameter;
- (e) Constructed with PVC screened pipe from the bottom to within 2 feet of the top of a monitoring pipe, with the remaining 2 feet being constructed of solid PVC; and
- (f) That have a minimum slot size of 0.020 inches and maximum slot size of 0.025 inches with not less than 30 slots per foot; and

(2) Complete the installation of the monitoring pipes required under §B(1) of this regulation by:

- (a) Backfilling around the outside of the monitoring pipes with fine pea gravel or wrapping the monitoring pipes in an appropriate filter cloth to prevent clogging;
- (b) Sealing around the top 8 inches to ground surface with a bentonite clay and concrete mixture or by other means to prevent the entrance of surface water runoff;
- (c) Capping the monitoring pipes with a liquid-tight threaded cap or removable liquid-tight plug;
- (d) Protecting the monitoring pipes from traffic with a manhole and cover;
- (e) Locking or bolting closed the monitoring pipes;
- (f) Identifying the monitoring pipes to avoid confusion with product fill lines; and
- (g) Having a key or locking tool for the monitoring pipes kept at the regulated substance storage facility.

C. Excavations. An owner and an operator of a UST system shall perform an excavation for the UST system that is:

- (1) A minimum distance of 5 feet from the base of adjacent structures or property lines;
- (2) If installing a steel UST, a minimum 12-inch distance between other USTs and a minimum 12-inch clearance between a UST and all sides of the excavation zone; and
- (3) If installing a fiberglass-reinforced plastic UST, a minimum 18-inch distance between other USTs and a minimum 18-inch clearance between a UST and all sides of the excavation zone.

D. An owner and an operator of a UST system shall place a UST upon a minimum 12-inch bedding made of backfill material.

E. Backfill Material. An owner and an operator of a UST system:

- (1) Shall use backfill material composed of:
  - (a) Pea gravel not larger than 3/4 of an inch; or
  - (b) Crushed stone not larger than 1/2 of an inch;
- (2) May use clean sand as backfill material for protected steel and steel-clad USTs;
- (3) Shall use the same material for backfilling operations that is used for bedding; and
- (4) May not use backfill material with debris, foreign matter, or frozen matter.

F. Except where there is, at a minimum, 48 inches of clearance between a UST and shoring, an owner and an operator of a UST system shall remove shoring from the UST system excavation zone when the installation of the UST system is complete.

G. In an area of high groundwater or where UST movement is possible, an owner and an operator of a UST system shall safeguard a UST against movement from high groundwater or a flood by:

- (1) Anchoring the UST in compliance with the UST manufacturer's instructions; or
- (2) Other means acceptable to the Department.

H. When using a hold-down pad or anchors made of concrete to prevent the movement of a UST, an owner and an operator of a UST system shall allow the concrete to cure for a minimum of 48 hours before:

- (1) Placing a new UST and associated backfill on freshly poured concrete; or
- (2) Anchoring a UST to the hold-down devices.

I. An owner and an operator of a UST system may not install a groundwater drain system in the UST system excavation zone without prior written approval by the Department.

#### **.05 Precision Tightness Testing.**

A. After completing the installation or replacement, repair, or upgrade of a UST system, an owner and an operator of a UST system shall test the UST system for tightness using a precision tightness test as defined in COMAR 26.10.02.02B before operation of the UST system.

B. An owner and an operator of a UST system shall only conduct a precision tightness test approved by the Department.

C. For each precision tightness test conducted on a UST system, the owner and the operator of the UST system shall:

- (1) Maintain and make available for inspection by the Department upon request, records regarding a precision tightness test;
- (2) Keep the records on file at the regulated substance storage facility or at a location designated by and the under control of the owner and the operator of the UST system for as long as the UST system is used to store a regulated substance; and
- (3) Include in the records all of the following information:
  - (a) The commercial name of the test equipment;
  - (b) The name of the testing company;
  - (c) The name of the individual conducting the test;
  - (d) The date of the test;

- (e) The data accumulated by the test; and
- (f) The results of the precision tightness test.

**D. Inconclusive Precision Tightness Test Results.**

(1) When a precision tightness test conducted on a UST system results in an inconclusive test result, the owner and the operator of the UST system shall retest the UST system not later than 2 working days after the inconclusive test result.

(2) If a subsequent precision tightness test conducted on a UST system also results in an inconclusive test result, the owner and the operator of the UST system and the person conducting the precision tightness test shall report the test result as a failure to the Department within 2 hours in accordance with COMAR 26.10.08.01.

E. When a precision tightness test conducted on a UST system results in a failed test result, the owner and the operator of the UST system and the person conducting the precision tightness test shall report the failed test result to the Department within 2 hours in accordance with COMAR 26.10.08.01.

**F. Consumptive Use UST Systems.**

(1) An owner and an operator of a consumptive use UST system shall comply with the requirements of §§A—E of this regulation.

(2) Unless otherwise required by the Department, an owner and an operator of a consumptive use UST system are not required to conduct precision tightness tests on the consumptive use UST system at the frequency required under §F(3)(a) if the following conditions are met:

- (a) The UST system is protected against corrosion in accordance with the requirements of this chapter;
- (b) The UST system is installed in accordance with the requirements of this chapter; and
- (c) The owner and the operator of the UST system conduct monthly release detection monitoring of the UST system in accordance with COMAR 26.10.05.

(3) If the conditions in §F(2) of this regulation are not met, an owner and an operator of a consumptive use UST system shall:

(a) Conduct a precision tightness test on the UST system:

(i) 15 years after the installation date for the UST system or, if the installation date cannot be determined, immediately; and

(ii) At least every 5 years after the most recent precision tightness test; and

(b) Conduct a precision tightness test on the UST system immediately upon receipt of a notice from the Department to conduct a precision tightness test.

**.06 Piping Installation.**

A. An owner and an operator of a UST system shall comply with the installation requirements of this regulation.

B. Install piping in accordance with the requirements of this regulation.

C. Place underground piping on a 6-inch bedding of appropriate backfill material as described in Regulation .04 of this chapter.

D. Maintain the following clearances when installing piping:

- (1) Twice the nominal diameter of the pipe but at least 4 inches between all piping;
- (2) At least 6 inches between piping and electrical conduits related to the UST system;
- (3) At least 6 inches between piping and excavation zone sidewalls; and
- (4) At least 18 inches between piping and the surface of the ground.

E. Unless otherwise approved by the Department, ensure piping rises 1/8 of an inch for each lateral foot from the UST to the piping endpoint.

F. Follow the manufacturer specifications and installation requirements when installing piping.

G. In accordance with manufacturer specifications, use a UL listed flexible connector to connect piping as follows:

(1) Except for a direct fill line, to connect a pipe carrying a regulated substance to a UST at the end of a piping run; and

(2) To connect a pipe carrying a regulated substance to a dispenser system.

H. Unless otherwise approved by the Department, an owner and an operator of a UST system may not use a flexible connector to connect piping carrying petroleum vapor or a regulated substance at any other point in the piping system not listed in §G of this regulation.

I. Place a UL listed shear valve on pressurized product piping dispensing motor fuel, and properly anchor the shear valve at the dispenser.

J. Install appurtenances such as water or air piping in a separate piping trench;

K. Ensure vent lines above the ground surface are:

- (1) Constructed with at least schedule 40 steel;
- (2) Protected from traffic;
- (3) Properly anchored; and
- (4) Protected from weather and debris.

L. Ensure the vents of a UST system storing a flammable or combustible liquid meet the following conditions:

(1) If the UST system stores a flammable liquid, the vents terminate 12 feet above the ground surface and 2 feet above an attached building; and

(2) If the UST system stores a combustible liquid, the vents terminate at least 3 feet above the ground surface.

**.07 Compatibility.**

An owner and an operator of a UST system shall:

A. Use a UST system made of or lined with a material compatible with the regulated substance stored in the UST system;

B. If the UST system stores an ethanol blend, comply with API Recommend Practice 1626 “Storing and Handling Ethanol and Gasoline-ethanol Blends at Distribution Terminals and Filling Stations”;

C. Provide notification to the Department regarding a change in the regulated substance stored in the UST system as follows:

(1) In a format required by the Department, notify the Department in writing at least 30 days before switching to a regulated substance that contains:

(a) Greater than 10 percent ethanol;

(b) Greater than 20 percent biodiesel; or

(c) Any other regulated substance identified by the Department; and

(2) In accordance with Regulation .09 of this chapter, amend the registration for the UST system after the switch to a regulated substance listed in §C(1) of this regulation is complete;

D. If a UST system stores one of the regulated substances identified in §C of this regulation, demonstrate the compatibility of the UST system with the regulated substance, including the UST, piping, containment sumps, pumping equipment, release detection equipment, spill prevention equipment, and overfill prevention equipment, by using one of the following options:

(1) Use equipment or components certified or listed by a nationally recognized association for use with the stored regulated substance;

(2) Use equipment or components with written approval from the manufacturer that affirmatively states the equipment or components are compatible with a specified range of biofuel blends, including the stored regulated substance; or

(3) Use equipment or components determined by the Department to be not less protective of public health, safety, and welfare and the environment as the equipment or components specified in §D(1) and (2) of this regulation; and

E. Maintain records documenting compliance with the compatibility requirements under §D of this regulation for as long as the UST system is used to store the regulated substance.

**.08 Upgrading Existing UST Systems.**

A. This regulation does not apply to an owner and an operator of:

(1) A UST system containing heating oil for consumptive use; or

(2) A UST system with a field-constructed tank or an airport hydrant fuel distribution system.

B. Closure of an Existing UST System.

(1) Except as provided in §B(2) of this regulation, an owner and an operator of an existing UST system shall permanently close the UST system in accordance with:

(a) The closure requirements under COMAR 26.10.10; and

(b) The reporting and corrective action requirements under COMAR 26.10.08 and 26.10.09.

(2) An owner and an operator of an existing UST system are not required under §B(1) of this regulation to permanently close the existing UST system if the following conditions are met:

(a) Upon installation, the existing UST system was installed in accordance with the performance standards under Regulations .01B, .02B, .03A(1)(a) and (2)(a), and .07A of this chapter; or

(b) The existing UST system was upgraded on or before December 22, 1998 in accordance with the requirements under §§D—F of this regulation.

C. Unless an existing UST system meets the conditions in §B(2) of this regulation, an owner and an operator of an existing UST system may not allow delivery of a regulated substance to, or dispensing of a regulated substance from, the existing UST system.

D. Upgrade Requirements.

(1) On or before December 22, 1998, an owner and an operator of an existing UST system with a steel UST shall implement one of the following corrosion protection methods under §D(2) or (3) of this regulation.

(2) Cathodic Protection System. On or before December 22, 1998, an owner and an operator of an existing UST system with a steel UST shall upgrade the UST by installing a cathodic protection system meeting the performance standards in Regulation .01B(1)(b)(i) and (3) of this chapter, and ensuring the integrity of the UST through one of the following methods:

(a) Internally inspect and assess the UST to ensure the storage tank is structurally sound and free of corrosion holes;

(b) Demonstrate the UST was not installed before December 22, 1988, and the UST has been monitored monthly for releases in accordance with COMAR 26.10.05.05E—H;

(c) Demonstrate the UST was not installed before December 22, 1988, and the UST has been assessed by conducting two precision tightness tests meeting requirements of Regulation .05A—C of this chapter and the following testing schedule:



(i) The first precision tightness test was conducted before installing the cathodic protection system; and  
(ii) The second precision tightness test was conducted between 3 and 6 months following the first operation of the cathodic protection system; or

(d) Demonstrate that the UST was assessed for corrosion holes using a method determined by the Department to prevent spills, releases, and discharges in a manner that is not less protective of public health, safety, and welfare and the environment than the methods specified under §D(2)(a)—(c) of this regulation.

(3) **Internal Lining Combined with Cathodic Protection.** On or before December 22, 1998, an owner and an operator of an existing UST system with a steel UST that meets the requirements of API Standard 1631 “Interior Lining and Periodic Inspection of Underground Storage Tanks” shall upgrade the steel UST with an internal lining and a cathodic protection system as follows:

(a) Before applying the interior lining, determine if there is evidence of a spill, release, or discharge from the UST system where a spill, release, or discharge is most likely to be present;

(b) Apply the interior lining:

(i) In compliance with the repair standards in COMAR 26.10.04.04; and

(ii) In accordance with the requirements in API Standard 1631 “Interior Lining and Periodic Inspection of Underground Storage Tanks”;

(c) Install a cathodic protection system that meets the performance standards for cathodic protection under Regulation .01B(1)(b)(i) and (3);

(d) Conduct a precision tightness test on the UST system in accordance with Regulation .05A—C of this chapter before placing the UST system back into service;

(e) Maintain, and make available for inspection by the Department upon request, a written certification from the contractors that performed the work required under §D(3)(a)—(d) of this regulation that states all work was performed in accordance with the requirements of this regulation; and

(f) Internally inspect the lined UST within the first 10 years after applying the lining and at least every 5 years thereafter, with the results of each inspection finding that the lining is structurally sound and performing in accordance with the original design specifications.

(4) After December 22, 1998, if the internal lining of an existing UST system upgraded using the method in §D(3) of this regulation no longer performs in accordance with original design specifications, the owner and the operator of the existing UST system shall permanently close the UST system in accordance with procedures in COMAR 26.10.10.

**E. Piping Upgrade Requirements.** On or before December 22, 1998, an owner and an operator of an existing UST system shall upgrade metal piping in contact with the ground by installing a cathodic protection system that meets the performance standards for cathodic protection under Regulation .02B(1)(b) and (2) of this chapter.

**F. Spill and Overflow Prevention Equipment Requirements.** On or before December 22, 1998, an owner and an operator of an existing UST system shall upgrade the UST system to meet the performance standards under Regulation .03A(1)(a) and (2)(a) of this chapter.

**G.** In accordance with Regulation .09 of this chapter, an owner, an operator, and a person in charge of an existing UST system shall amend the registration for the existing UST system after an upgrade performed in compliance with this regulation is complete.

**.09 UST System Registration Requirements.**

A. An owner, an operator, and a person in charge of one or more UST systems shall:

(1) Register each UST system with the Department and maintain up-to-date registration for each UST system with the Department;

(2) Submit to the Department a completed registration form for a UST system to the Department not later than 30 days following the:

(a) Installation of a new or replacement UST system; or

(b) Acquisition of a new or replacement UST system;

(3) Amend the registration for a registered UST system by submitting to the Department a registration form not later than 30 days following:

(a) The return of a temporarily closed UST system to in-service status;

(b) A change in the regulated substance stored;

(c) A change-in-service to store a non-regulated substance in a UST system;

(d) An upgrade of an existing UST system;

(e) The temporary closure or permanent closure of a UST system; or

(f) If applicable, an owner of UST system being released from the requirement to maintain financial responsibility or obtaining coverage under an alternate mechanism of financial responsibility; and

(4) Include on a submitted registration form all of the information requested on the form, including:

(a) If amending the registration for a registered UST system, information remaining unchanged since the last registration form was submitted for the UST system;

(b) A certification of the UST system owner’s compliance with the:

(i) Installation of a UST and piping requirements under this chapter;

(ii) Installation of spill and overflow prevention equipment requirements under this chapter;

- (iii) *Cathodic protection of steel USTs and piping requirements under Regulations .01 and .02 of this chapter;*
- (iv) *Financial responsibility requirements under COMAR 26.10.11; and*
- (v) *Release detection requirements under COMAR 26.10.05 and, if a UST system with a field-constructed tank or an airport hydrant system, 26.10.12;*
- (c) *If the UST system is used in the operation of a commercial or business entity, certification and proof that:*
  - (i) *The owner has registered the commercial or business entity with the Maryland Department of Assessments and Taxation; and*
  - (ii) *The commercial or business entity is in good standing with the State at the time of the UST system initial or amended registration; and*
  - (d) *A certification from a certified UST system technician that the methods used to install the UST system comply with the requirements in COMAR 26.10.02—26.10.12 and 26.10.16.*

*B. An owner, an operator, and a person in charge of a UST system required to register or amend the registration for a UST system under §A of this regulation:*

- (1) *May register or amend the registration for one or more UST systems located at one place of operation using one registration form; and*
- (2) *Shall register or amend the registration for UST systems located at separate places of operation using separate registration forms for each place of operation.*

*C. A person who sells a UST system shall inform the purchaser of the registration obligation under §A of this regulation and provide the purchaser with a copy of the Department's registration form.*

*D. An owner, an operator, and person in charge of a UST system that is not registered with the Department may not sell, receive, or dispense oil or any other regulated substance to or from the UST system, with the exception of the minimum amount of a regulated substance necessary to conduct an initial precision tightness test for a new or replacement UST system.*

*E. An owner, an operator, and a person in charge of a registered UST system shall:*

- (1) *Display the UST system registration certificate issued by the Department at the regulated substance storage facility; or*
- (2) *Produce the UST system registration certificate immediately upon the request of the Department.*

#### **.10 UST System Inspection Requirements.**

*A. An owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system shall have a certified inspection completed for the UST system:*

- (1) *By a UST system inspector certified by the Department under COMAR 26.10.06;*
- (2) *To verify the owner's and the operator's compliance with the UST system requirements established under this chapter and COMAR 26.10.02, 26.10.04, 26.10.05, 26.10.07—26.10.12 and 26.10.16; and*
- (3) *In accordance with the schedule established under §B of this regulation.*

*B. Inspection Schedule. An owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system shall complete:*

- (1) *An initial inspection of the UST system:*
  - (a) *If the UST system was installed before January 16, 2006, within 30 days of receiving a notification from the Department to complete an inspection; and*
  - (b) *If the UST system was installed on or after January 16, 2006, within 6 months of the UST system installation;*
- (2) *A subsequent inspection of the UST system:*
  - (a) *At least once every 3 years following the most recent inspection;*
  - (b) *Within 30 days of receiving a notification from the Department to complete an inspection; and*
  - (c) *If the ownership of the UST system changes, within 3 months of the change in ownership.*

*C. Additional Inspections.*

*(1) If required by the Department, an owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system shall complete an inspection in addition to an inspection required under §B of this regulation to verify compliance with the UST system requirements under this chapter and COMAR 26.10.02, 26.10.04, 26.10.05, 26.10.07—26.10.12 and 26.10.16.*

*(2) An owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system may not substitute an inspection required by the Department under §C(1) of this regulation for an inspection required under §B of this regulation.*

*D. After conducting an inspection required under §B or C of this regulation, an owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system shall:*

- (1) *Submit to the Department an inspection report on forms provided by the Department:*
  - (a) *Within 30 days of the deadline to complete an inspection established under §B or C of this regulation;*
  - (b) *Completed by a certified UST system inspector;*
  - (c) *Signed by the certified UST system inspector that conducted the inspection; and*
  - (d) *Signed by the owner, the operator, and the person in charge of the UST system; and*

(2) Unless the Department determines immediate corrective action by the owner is required to protect public health, safety, and welfare and the environment, within 30 days of receiving a Notice to Correct Deficiencies issued by the Department:

(a) Correct all of the deficiencies identified during the inspection in accordance with the UST system requirements under this chapter and COMAR 26.10.02, 26.10.04, 26.10.05, 26.10.07—26.10.12 and 26.10.16; and

(b) Submit to the Department proof of corrective actions performed to correct the deficiencies.

E. Recordkeeping. For a minimum of 5 years, an owner of a motor fuel, bulk oil storage, used oil, or a hazardous substance UST system shall maintain records of completed inspections at a location designated by the owner and make the records available to the Department upon request.

## **26.10.04 UST Systems: General Operating Requirements**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland

### **.01 Spill and Overfill Control.**

A. Delivery and Transfer Operations. An owner and an operator of a UST system shall ensure:

(1) The ullage available in the UST is greater than the volume of the regulated substance to be transferred to the UST before delivery or transfer begins;

(2) During a delivery or transfer operation:

(a) A spill, release, or discharge of a regulated substance does not occur due to overfilling the UST or spilling a regulated substance during the transfer; and

(b) The delivery or transfer operation is constantly monitored to prevent overfilling of the UST and spilling of a regulated substance;

(3) The delivery or transfer operation is conducted in accordance with the requirements in COMAR 26.10.01.16 and .17 and NFPA 385 “Standard for Tank Vehicles for Flammable and Combustible Liquids”; and

(4) The company making an oil delivery or transfer using a truck tank or transport with a cargo tank capacity of 500 gallons or greater holds a valid Individual Oil Operations Permit from the Department in accordance with COMAR 26.10.01.09.

B. An owner and an operator of a UST system and a responsible party shall report, investigate, and remediate spills, releases, and discharges and overfills from a UST system in accordance with COMAR 26.10.08.04.

C. Liquid Level Measurements.

(1) An owner and an operator of a metered UST system shall:

(a) Each day of operation, measure the liquid level of the UST using a gauging stick or an electronic method and reconcile the results with:

(i) Pump meter readings of the UST; and

(ii) Regulated substance delivery receipts for the UST;

(b) Perform inventory in accordance with “USEPA Doing Inventory Control Right for Underground Storage Tanks”; and

(c) Review reconciled inventory records in accordance with the inventory control requirements in COMAR 26.10.05.04.

(2) An owner and an operator of a non-metered UST system designed to allow for the direct measurement of liquid levels in the UST shall gauge the liquid level in the UST using a gauging stick or an electronic method and record the measurements in writing before filling the UST.

(3) An owner and an operator of a UST system shall maintain the liquid level measurement and inventory reconciliation records required under §C(1) and (2) of this regulation:

(a) For 5 years at the regulated substance storage facility where the UST system is located, or another location designated by the owner of the UST system; and

(b) In accordance with Regulation .05 of this chapter.

D. Delivery and Transfer Equipment. An owner and an operator of a UST system shall:

(1) Ensure spill catchment basins are kept clean and dry;

(2) In order to prevent liquid or other matter from entering the UST system, return and secure any fill pipe or Stage I vapor recovery connection cap taken off during a delivery or transfer operation;

(3) Install a UST system designed to allow for the direct measurement of liquid levels using the gauging stick method;

(4) Maintain a storage tank gauging stick in good operating condition and capable of measuring the level of a regulated substance over the full range of the UST and riser pipe height to the nearest 1/8 inch;

(5) In compliance with NFPA 30 “Flammable and Combustible Liquids Code”, install a drop-tube in the fill pipe of:

(a) A UST system that stores a flammable substance; or

(b) A UST system with a capacity greater than 1,100 gallons that stores a combustible substance;

(6) Install a high liquid level gauge, an alarm system, or a pump cut-off device on a UST system if the Department determines an overfill of oil is possible;

(7) If a vent is not visible to a person positioned at the UST system fill, conduct additional procedures for filling a UST system as required by the Department to ensure a safe transfer or delivery of a regulated substance;

(8) To indicate the size of a UST and the type of regulated substance stored, clearly mark all fill pipes for a UST system as follows:

(a) Install a permanent tag or sign immediately adjacent to the fill pipe that states the size of the UST and the specific type of regulated substance being stored; or

(b) Use a color code that conforms to the following requirements:

(i) Using the marking system recommended in API Recommended Practice 1637 “Using the API Color-Symbol System to Identify Equipment, Vehicles, and Transfer Points for Petroleum Fuels and Related Products at Dispensing and Storage Facilities and Distribution Terminals”, paint or place color markings around the fill pipe or manhole cover in a manner that will readily identify the regulated substance stored in the UST; and

(ii) Print the color code on a sign that is not less than 8 x 10 inches in size with letters not less than 5/16 inch high, post the sign at the regulated substance storage facility in a prominent location visible from the fill pipe area, and make the signage available for inspection at all times to show the UST size and type of regulated substance stored;

(9) Only mark pipes or openings used for the transfer of a regulated substance stored at the regulated substance storage facility in a manner that associates the pipes or openings with the transfer of that regulated substance; and

(10) Keep a key or other access device at the regulated substance storage facility for access to a dispenser system connected to the UST system.

#### **.02 Operation and Maintenance of Corrosion Protection.**

A. An owner and an operator of a metal UST system with corrosion protection shall:

(1) Comply with the requirements of this regulation to prevent a spill, release, or discharge due to corrosion until the UST system is permanently closed or undergoes a change-in-service pursuant to COMAR 26.10.10.02;

(2) Operate and maintain a corrosion protection system to continuously provide corrosion protection to the metal components of the UST system in contact with the ground, including soil and backfill material, or continuous or intermittent water; and

(3) If the UST system is protected by an impressed current system, design the UST system so that the impressed current source cannot be de-energized at any time, except to perform service work on the UST system or the impressed current system.

B. Inspections. An owner and an operator of a UST system equipped with a cathodic protection system shall comply with all of the following inspection requirements:

(1) Determine if the cathodic protection system is adequate and complies with the requirements of this regulation by using criteria established in a NACE or STI code of practice incorporated by reference under COMAR 26.10.01.03;

(2) Inspect the UST system for proper operation by having a qualified cathodic protection tester:

(a) Test a field-installed cathodic protection system within 6 months of installation, and at least annually thereafter; and

(b) Test a factory-installed cathodic protection system within 6 months of installation, and at least once every 3 years thereafter;

(3) If a qualified cathodic protection tester determines the cathodic protection system is inadequate per a NACE or STI code of practice:

(a) Notify the Department of the failed test in compliance with the suspected spill, release, or discharge reporting requirements in COMAR 26.10.08.01; and

(b) Repair the cathodic protection system in accordance with a NACE or STI code of practice within 60 days of the failed test; and

(4) If the UST system is designed with an impressed current system:

(a) Inspect the UST system at least every 60 days to ensure that the impressed current system is functioning properly; and

(b) Have a complete assessment of the impressed current system performed by a corrosion expert:

(i) When the impressed current system reaches 5 years of age, and at least every 5 years after the most recent assessment; and

(ii) In accordance with the guidance as established under a NACE code of practice.

C. An owner and an operator of a UST system equipped with a cathodic protection system shall:

(1) In accordance with Regulation .05C of this chapter, maintain and upon request by the Department provide records of the operation and maintenance of the cathodic protection system that demonstrate compliance with performance standards of this regulation; and

(2) Include in the records required to be maintained under §C(1) of this regulation the following information:

(a) The results of the last three inspections and the last assessment of an impressed current system conducted in accordance with §B(4) of this regulation; and

(b) The results of testing from the last two inspections of a cathodic protection system conducted in accordance with §B(2) of this regulation.

#### **.03 Periodic Operation and Maintenance Walkthrough Inspections.**

- A. Beginning not later than 90 days after the effective date of this chapter, an owner and an operator of a UST system shall conduct a periodic operation and maintenance walkthrough inspection in accordance with:
- (1) The inspection procedures under §B or C of this regulation; and
  - (2) The recordkeeping requirements under §D of this regulation.
- B. An owner and an operator of a UST system may meet the inspection requirements in §A(1) of this regulation by, at a minimum, checking:
- (1) The spill prevention equipment:
    - (a) On a monthly basis or, if the UST system receives deliveries at intervals greater than 30 days, prior to each delivery; and
    - (b) By completing the following tasks:
      - (i) Visually checking the equipment for damage;
      - (ii) Removing liquid and debris from the equipment;
      - (iii) Checking for and removing obstructions in the fill pipe;
      - (iv) Checking the fill cap to ensure the cap is securely on the fill pipe; and
      - (v) For double-walled spill prevention equipment with interstitial monitoring, checking for a release in the interstitial area;
  - (2) On a monthly basis, the release detection equipment to ensure:
    - (a) The equipment is operating with no alarms or other unusual operating conditions present; and
    - (b) The records of release detection testing are reviewed and are current;
  - (3) On an annual basis, the containment sumps by:
    - (i) Visually checking the containment sumps for damage;
    - (ii) Checking for a release in the containment area and a spill, release, or discharge to the environment;
    - (iii) Removing liquid and debris from the containment sumps; and
    - (iv) For double-walled containment sumps with interstitial monitoring, checking for a release in the interstitial area; and
  - (4) On an annual basis, the hand held release detection equipment by checking devices such as storage tank gauging sticks and groundwater bailers for operability and serviceability.
- C. An owner and an operator of a UST system may meet the inspection requirements in §A(1) of this regulation by using an alternative procedure:
- (1) Established in guidance developed by the Department or a standard code of practice developed by a nationally recognized association incorporated by reference under COMAR 26.10.01.03; and
  - (2) That checks equipment comparable to the equipment required to be checked under §B of this regulation.
- D. An owner and an operator of a UST system shall maintain records of the operation and maintenance walkthrough inspections:
- (1) In accordance with Regulation .05 of this chapter;
  - (2) For at least 1 year at the regulated substance storage facility where the UST system is located;
  - (3) For at least 5 years at a location designated by the owner; and
  - (4) That include the following information:
    - (a) A list of each area checked during the inspection;
    - (b) Whether an area inspected was acceptable or needed action taken;
    - (c) If an action was taken to correct an issue, a description of the action taken; and
    - (d) Delivery records if the spill prevention equipment is checked prior to a delivery because deliveries occur at intervals greater than 30 days.

**.04 Repairs Allowed.**

- A. An owner and an operator of a UST system shall conduct repairs that:
- (1) Prevent spills, releases, and discharges due to structural failure or corrosion for the entire period in which a UST system is used to store regulated substances;
  - (2) Comply with the applicable code of practices developed by a nationally recognized association incorporated by reference under COMAR 26.10.01.03; and
  - (3) Meet all of the requirements of this chapter.
- B. An owner and an operator of a UST system shall have repairs to the equipment and components of the UST system performed or supervised by a UST system technician certified in accordance with COMAR 26.10.06.
- C. Repair Procedures. An owner and an operator of a UST system:
- (1) Upon approval of the Department, shall have repairs conducted on a fiberglass-reinforced plastic or steel UST:
    - (a) By an authorized representative of the UST manufacturer; or
    - (b) In accordance with a code of practice developed by a nationally recognized association incorporated by reference under COMAR 26.10.01.03;
  - (2) May not repair a UST by installing an internal liner;
  - (3) Shall replace a metal pipe that has sections or fittings in which corrosion or other damage has resulted in:
    - (a) A spill, release, or discharge of a regulated substance; or

(b) An imminent threat of the spill, discharge, or release of a regulated substance, as determined by the Department;

(4) Shall repair non-corrodible pipes and fittings in accordance with the manufacturer's specifications; and

(5) Shall repair a containment sump with materials rated by the material manufacturer for the regulated substance stored in the UST system.

D. Testing of Repaired UST Systems. An owner and an operator of a repaired UST system shall:

(1) Before placing the UST system back into service, conduct a precision tightness test in accordance with COMAR 26.10.03.05 to test the repaired UST and piping;

(2) Before placing the UST system back into service, test secondary containment areas of the UST, piping, and containment sumps in accordance with:

(a) The manufacturer's instructions;

(b) A code of practice developed by a nationally recognized association incorporated by reference under COMAR 26.10.01.03; or

(c) Requirements established by the Department; and

(3) Within 6 months of completing a repair on a cathodically protected UST system, test the cathodic protection system:

(a) To ensure the cathodic protection system is operating properly; and

(b) In accordance with Regulation .02B of this chapter.

E. Recordkeeping. In accordance with Regulation .05 of this chapter, an owner and an operator of a UST system shall maintain records of each repair conducted on the UST system until the UST system is permanently closed or undergoes a change-in-service pursuant to COMAR 26.10.10.02.

#### **.05 Access, Reporting, and Recordkeeping.**

A. Access. An owner, an operator, and a person in charge of a UST system shall:

(1) Make available for inspection by the Secretary or the Secretary's authorized representative:

(a) The regulated substance storage facility where the UST system is located; and

(b) An alternative site where records regarding the operation of the UST system are maintained;

(2) Allow the Department to:

(a) Make copies of data, records, and information pertaining to the UST system;

(b) Collect air, ground or surface water, soil, and vegetation samples or samples of other materials on-site as determined necessary by the Department; and

(c) Obtain photographic or videographic documentation or evidence; and

(3) Following a spill, release, or discharge, allow a responsible party access to the site to conduct remedial activities.

B. Reporting. An owner and an operator of a UST system shall submit the following documentation to the Department:

(1) A registration form for the UST system following certain events, as required under COMAR 26.10.03.09;

(2) A notification regarding the planned storage of a certain regulated substance in the UST system required under COMAR 26.10.03.07C;

(3) A report of a spill, release, or discharge or an overflow required under COMAR 26.10.01.05 and 26.10.08 and any other applicable provision under COMAR 26.10;

(4) A report of corrective actions planned or taken required under Environment Article, §§4-412 and 7-259, Annotated Code of Maryland and any applicable provision of COMAR 26.10, including COMAR 26.10.09.03—.07; and

(5) A notification of a planned permanent closure or change-in-service of the UST system required under COMAR 26.10.10.02.

C. Recordkeeping. An owner and an operator of a UST system shall maintain and make available to the Department, the following records:

(1) If the UST system was installed after January 1, 2006, an as-built diagram of the UST system that includes a layout of the USTs and piping of the UST system;

(2) Documentation supporting an alternative method of corrosion protection for the construction of a UST or piping, such as an analysis of the site corrosion potential from a corrosion expert, pursuant to COMAR 26.10.03.01B(1)(d) or .02B(1)(c);

(3) Records of the installation of a previously installed UST, pursuant to COMAR 26.10.03.01D;

(4) Records that demonstrate compliance with the requirements for installing, operating, and testing spill and overflow prevention equipment and containment sumps in COMAR 26.10.03.03;

(5) Records of the compatibility of the UST system with a stored regulated substance, pursuant to COMAR 26.10.03.07;

(6) Records of upgrades made to the existing UST system, pursuant to COMAR 26.10.03.08;

(7) Records of certified inspections conducted pursuant to COMAR 26.10.03.10;

(8) The liquid level measurement and inventory reconciliation records required under Regulation .01C of this chapter;

(9) Records of the operation and maintenance of corrosion protection equipment, pursuant to Regulation .02 of this chapter;

(10) Records of the periodic operation and maintenance walkthrough inspections conducted pursuant to Regulation .03 of this chapter;

(11) Records of repairs performed on the UST system, pursuant to Regulation .04 of this chapter;

(12) Records that demonstrate compliance with the release detection requirements under COMAR 26.10.05, pursuant to COMAR 26.10.05.06;

(13) Records that demonstrate compliance with the release detection requirements under COMAR 26.10.12, pursuant to COMAR 26.10.12.07;

(14) Documentation regarding certified Class A, Class B, and Class C operators designated for the regulated substance storage facility and the operator training and certification, pursuant to COMAR 26.10.16.09; and

(15) Records documenting the UST system being take out-of-service through a closure or change-in-service, including the results of an investigation conducted at the site where the UST system underwent a temporary or permanent closure or a change-in-service, pursuant to COMAR 26.10.10.05.

**D. Availability and Maintenance of Records.**

(1) Unless otherwise required in this chapter or COMAR 26.10.03, 26.10.05, 26.10.10, 26.10.12, and 26.10.16, an owner and an operator of a UST system shall keep the records required under §C of this regulation for the operational life of the UST system at:

(a) The regulated substance storage facility where the UST system is located; or

(b) A readily available alternative site under the control of the UST system owner.

(2) If a UST system underwent permanent closure and the records required under COMAR 26.10.10.05 cannot be maintained at one of the locations specified in §D(1) of this regulation, the owner and the operator of the UST system shall submit the permanent closure records to the Department.

## **26.10.05 UST Systems: Release Detection**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland*

### **.01 Release Detection: General Requirements for All UST Systems.**

A. An owner and an operator of a UST system shall provide a method, or combination of methods, of release detection that:

(1) Can detect a spill, release, or discharge from any portion of the UST and the connected underground piping;

(2) Is installed and calibrated in accordance with the manufacturer's instructions;

(3) Is operated and maintained in accordance with:

(a) The manufacturer's instructions;

(b) A code of practice incorporated by reference under COMAR 26.10.01.03; or

(c) Requirements determined by the Department to be not less protective of human health and the environment than §A(3)(a) or (b) of this regulation;

(4) Meets the performance requirements in Regulations .02 and .05 of this chapter, or COMAR 26.10.12 for a UST system with a field-constructed tank or an airport hydrant system, as applicable, with performance claims verified by the manufacturer's specifications; and

(5) Is capable of detecting a leak at a rate or quantity specified in this chapter with a probability of detection of not less than 0.95 and a probability of false alarm of not more than 0.05.

B. On or after January 12, 2009, an owner and an operator of a UST system installing a new or replacement UST system shall monitor the UST system for a spill, release, or discharge at least monthly by interstitial monitoring in accordance with Regulation .05G of this chapter.

C. Release Detection Operability Test. An owner and an operator of a UST system shall:

(1) Have the electronic and mechanical components of a release detection method tested for proper operation in accordance with:

(a) The manufacturer's instructions;

(b) A code of practice incorporated by reference under COMAR 26.10.01.03; or

(c) Requirements determined by the Department to be not less protective of human health and the environment than §C(1)(a) or (b) of this regulation;

(2) Perform an operability test of each electronic and mechanical component of a release detection method used at a regulated substance storage facility in accordance with the following criteria:

(a) For the automatic tank gauge and other controllers:

(i) Test the alarm;

(ii) Verify the system configuration; and

(iii) Test the battery backup;

(b) For the probes and sensors:

(i) Inspect the equipment for residual buildup;

(ii) Ensure the floats move freely;

- (iii) Ensure the shafts are not damaged;
- (iv) Ensure the cables are free of kinks and breaks; and
- (v) Test the alarm operability and communication with the controller;
- (c) Test the operation of the automatic line leak detector to meet the criteria in Regulation .02D(2) of this chapter by simulating a leak;
- (d) Ensure the proper communication of the vacuum pumps and pressure gauges with the sensors and controller; and
- (e) Ensure the proper operation of the hand-held electronic sampling equipment associated with groundwater monitoring;
- (3) Perform the operability tests required by §C(1) and (2) of this regulation at least annually; and
- (4) Maintain the following records to show compliance with §C(1)—(3) of this regulation:
  - (a) A list of each component tested;
  - (b) Whether each component tested meets criteria specified or needs to have action taken; and
  - (c) A description of any action taken to correct an issue.

**D. Notifications.**

(1) When a release detection method operated in accordance with the performance standards in Regulation .05 of this chapter or, if a UST system with a field-constructed tank or an airport hydrant system, COMAR 26.10.12 indicates that a spill, release, or discharge may have occurred, an owner and an operator of a UST system shall notify the Department in accordance with COMAR 26.10.08.01.

(2) If an owner, an operator, and a person in charge of a UST system changes the method of release detection used, the owner, the operator, and the person in charge of the UST system shall provide the Department written notification within 30 days of the change.

E. An owner and an operator of a UST system that cannot apply a method of release detection that complies with the requirements of this chapter shall close the UST system in accordance with procedures in COMAR 26.10.10.

F. An owner and an operator of a previously deferred UST system described in COMAR 26.10.02.01A(4)—(6) and COMAR 26.10.12 shall meet the requirements of this chapter on or before October 13, 2022.

G. A person may not tamper with, or render inaccurate, any monitoring device or method required to be maintained under this chapter.

**.02 Requirements for UST Systems.**

A. An owner and an operator of a petroleum UST system or a hazardous substance UST system, unless otherwise provided in this regulation, shall provide release detection for USTs and piping as described in this regulation.

B. An owner and an operator of a UST system shall monitor the UST system for releases of a regulated substance by:

(1) Conducting inventory control in accordance with Regulation .04 of this chapter; and

(2) At least monthly, conducting one of the methods of release detection described in Regulation .05B—H of this chapter.

C. An owner and an operator of a UST system with a UST capacity of 550 gallons or less and that is not metered may use weekly manual tank gauging conducted in accordance with Regulation .05C of this chapter as a method of release detection.

**D. Underground Piping.**

(1) An owner and an operator of a UST system shall monitor underground piping that routinely contains petroleum vapor or a regulated substance in accordance with §D(2)—(4) of this regulation.

**(2) Pressurized Piping.**

(a) An owner and an operator of a UST system with underground piping that conveys regulated substances under pressure shall equip the underground piping with an automatic line leak detector that is tested annually in accordance with Regulation .01C of this chapter, and which will:

(i) Alert the operator to the presence of a leak or a spill, release, or discharge by restricting or shutting off the flow of a regulated substance through piping or triggering an alarm; and

(ii) Detect a leak or a spill, release, or discharge of a regulated substance of at least 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour; and

(b) An owner and an operator of a UST system with underground piping that conveys regulated substances under pressure shall:

(i) At least annually, perform a precision tightness test on the piping for a minimum of 1 hour that is capable of detecting a 0.1 gallon per hour release at 1.5 times the pipe operating pressure; or

(ii) At least monthly, perform one of the methods of release detection described in Regulation .05B and F—H of this chapter.

**(3) Suction Piping.**

(a) An owner and an operator of a UST system with underground piping that conveys regulated substances under suction shall:

(i) At least every 2 years, perform a precision tightness test on the piping for a minimum of 1 hour that is capable of detecting a 0.1 gallon per hour release at a pressure between 5 and 15 pounds per square inch; or



(ii) *At least monthly, monitor for a spill, release, or discharge using one of the methods of release detection described in Regulation .05B and F—H of this chapter.*

(b) *An owner and an operator of a UST system with underground suction piping are not required to perform the release detection and precision tightness testing required in §D(3)(a) of this regulation on the piping when:*

(i) *The piping operates at less than atmospheric pressure;*

(ii) *The piping is sloped so that the contents of the pipe will drain back into the UST if the suction is released;*

(iii) *A single check valve is included in each suction line;*

(iv) *The check valve is located directly below and as close as practicable to the suction pump; and*

(v) *The owner and operator of the UST system provide a method of visual inspection to determine compliance with §D(3)(b)(ii)—(iv) of this regulation.*

(4) *An owner and an operator of a UST system with secondary containment piping shall test that piping:*

(a) *After completing installation of the piping but before operation of the UST system, for new, upgraded, or replaced piping;*

(b) *At least every 5 years, for piping installed on or after January 12, 2009; and*

(c) *In accordance with manufacturer's specifications or a method approved by the Department.*

### **.03 Requirements for Hazardous Substance UST Systems.**

A. *In addition to the UST system requirements in Regulation .02 of this chapter, an owner and an operator of a hazardous substance UST system shall:*

(1) *Provide containment that meets the requirements of this regulation; and*

(2) *Monitor the containment systems using interstitial monitoring pursuant to Regulation .05G of this chapter at least monthly.*

B. *An owner and an operator of a hazardous substance UST system shall ensure the hazardous substance UST system meets the following requirements:*

(1) *A secondary containment system is designed, constructed, and installed to:*

(a) *Contain hazardous substances spilled or released from the primary containment until the spill or release is detected and removed;*

(b) *Prevent the spill, release, or discharge of hazardous substances to the environment at any time during the operational life of the UST system; and*

(c) *Be checked for evidence of a spill, release, or discharge at least monthly;*

(2) *A double-walled UST is designed, constructed, and installed to:*

(a) *Contain a release from any portion of the inner storage tank within the outer wall; and*

(b) *Detect the failure of the inner wall;*

(3) *An external liner, including a vault, is designed, constructed, and installed to:*

(a) *Contain 100 percent of the capacity of the largest UST within its boundary;*

(b) *Prevent precipitation or groundwater from entering the liner; and*

(c) *Surround the UST completely;*

(4) *Underground piping is equipped with secondary containment that satisfies the requirements of §B(1)—(3) of this regulation; and*

(5) *Underground piping that conveys hazardous substances under pressure is equipped with an automatic line leak detector in accordance with Regulation .02D(2) of this chapter.*

C. *An owner and an operator of hazardous substance UST system may use other methods of release detection in conjunction with interstitial monitoring as required in §A(2) of this regulation if the owner and an operator of the UST system:*

(1) *Demonstrates to the Department in writing that an alternate method can detect a release of the stored hazardous substance as effectively as any of the methods allowed in Regulation .05B—H of this chapter,*

(2) *Provides the Department with information regarding effective corrective action technologies, health risks, and chemical and physical properties of the stored hazardous substance, and the physical characteristics of the regulated substance storage facility; and*

(3) *Obtains approval from the Department to use the alternate release detection method before the installation and operation of the UST system.*

### **.04 Inventory Control.**

A. *Inventory Variations.*

(1) *An owner and an operator of a UST system shall review the reconciled inventory records required by COMAR 26.10.04.01 for the following:*

(a) *Inventory variations exceeding 1 percent plus 130 gallons of the metered quantity of a regulated substance each calendar month; and*

(b) *Daily inventory records that show 7 consecutive days of shortage totaling 80 gallons or more.*

(2) *An owner and an operator of a UST system shall conduct a review of reconciled inventory records at the following frequencies:*

(a) *Review inventory variation as required under §A(1)(a) of this regulation monthly; and*

(b) Review daily inventory records as required under §A(1)(b) of this regulation daily.

(3) Reporting and Investigating Inventory Variations.

(a) An operator of a UST system shall report a variation or shortage as described in §A(1) of this regulation to the owner of the UST system;

(b) Upon discovery of an inventory variation, an owner and an operator of a UST system shall immediately investigate the cause of the variation or shortage;

(c) If the investigation required under §A(3)(b) of this regulation reveals no indication of a discharge or release from a UST system, an owner and an operator of a UST system shall state the cause of the inventory variation or shortage in the daily inventory records; and

(b) If the investigation required under §A(3)(b) of this regulation reveals a discharge or release from a UST system, an owner and an operator of a UST system shall follow the procedures established under COMAR 26.10.08.

B. The Department may require an owner and an operator of a UST system to perform a precision tightness test of the UST system:

(1) If the owner and the operator fail to reconcile daily inventory records as specified in COMAR 26.10.04.01 and review the reconciled records in accordance with §A of this regulation;

(2) If the owner and the operator fail to comply with monthly release detection requirements of Regulation .05 of this chapter; or

(3) For any other good cause as determined by the Department.

C. The Department may require an owner and an operator of a UST system to perform a precision tightness test of the UST system and install monitoring wells or conduct a site assessment if there is reason to believe there is or may have been a discharge or release of a regulated substance from the UST system.

**.05 Method of Release Detection.**

A. In addition to the inventory control requirements in Regulation .04 of this chapter, an owner and an operator of a UST system shall perform one or a combination of the methods of release detection described in §§B—H of this regulation at least monthly.

B. Statistical Inventory Reconciliation. An owner and an operator of a UST system utilizing statistical inventory reconciliation as a monthly method of release detection:

(1) May only use statistical inventory reconciliation if the UST system is a metered UST system;

(2) Shall use statistical inventory reconciliation to detect a spill, release, or discharge through application of statistical principles to inventory data, or another test of equivalent performance, with a probability of detection of not less than 0.95 and a probability of false alarm of not more than 0.05;

(3) Shall use a method of statistical inventory reconciliation that meets the following requirements:

(a) Uses inventory volume measurements collected in accordance with COMAR 26.10.04.01;

(b) Produces a quantitative result with a calculated leak rate;

(c) Is capable of detecting:

(i) A leak rate of 0.2 gallon per hour; or

(ii) A spill, release, or discharge of 150 gallons within a month; and

(d) Uses a threshold that does not exceed one-half the minimum detectible leak rate; and

(4) Shall have a Department-approved third party conduct the statistical inventory reconciliation.

C. Manual Tank Gauging.

(1) At least weekly, an owner and an operator of a UST system shall perform manual tank gauging using a storage tank gauging stick maintained in accordance with COMAR 26.10.04.01 as follows:

(a) Take UST liquid level measurements at the beginning and ending of an at least 36-hour period, during which liquid may not be added to or removed from the UST;

(b) Base the level measurements on an average of two consecutive stick readings at both the beginning and ending of the period; and

(c) Using a UST gauge chart specific to the UST gauged, convert the liquid levels to the gallons present in the UST and review for any variations between the starting and ending measurements.

(2) An owner and an operator of a UST system shall report a suspected spill, release, or discharge and follow the investigation and confirmation procedures in COMAR 26.10.08 if the variation between beginning and ending manual tank gauging measurements performed in accordance with §C(1) of this regulation exceeds the weekly or monthly standards in the following table:

Nominal UST Capacity	Weekly Standard (one test)	Monthly Standard (average of four tests)
550 gallons or less	10 gallons	5 gallons
551—1,000 gallons	13 gallons	7 gallons
1,001—2,000 gallons	26 gallons	13 gallons

(3) An owner and an operator of a UST system may use manual tank gauging:

(a) As the sole method of release detection if the nominal capacity of a UST is 550 gallons or less; and

(b) For a UST with a nominal capacity of 551 to 2,000 gallons only in conjunction with conducting a precision tightness test, as defined in COMAR 26.10.02.02, at least every 5 years in accordance with the requirements of COMAR 26.10.03.05.

(4) An owner and an operator of a UST system may not use manual tank gauging to meet the requirements of this chapter for a UST that has a nominal capacity of more than 2,000 gallons.

D. Precision Tightness Testing. At least monthly, an owner and an operator of a UST system shall conduct a precision tightness test, as defined in COMAR 26.10.02.02, as a method of release detection in accordance with the requirements of COMAR 26.10.03.05.

E. Automatic Tank Gauging. At least monthly, an owner and an operator of a UST system shall perform automatic tank gauging using equipment that tests for the loss of regulated substance and conducts inventory control and that meets the following requirements:

(1) The automatic regulated substance level monitor test is capable of detecting a 0.2 gallon per hour leak rate from any portion of the UST;

(2) The automatic tank gauging equipment meets the inventory control, or another test of equivalent performance, requirements of COMAR 26.10.04.01, and Regulation .04 of this chapter; and

(3) An automatic tank gauging system tests for loss of a regulated substance by operating in one of the following modes:

(a) In-tank static testing conducted at least once monthly; or

(b) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the automatic tank gauging system to gather incremental measurements to determine the leak status of the UST at least once monthly.

F. Groundwater Monitoring.

(1) On or after the effective date of this chapter, an owner and an operator of a UST system may only use groundwater monitoring as a monthly method of release detection with prior written approval from the Department.

(2) An owner and an operator of a UST system shall conduct groundwater monitoring in accordance with the following requirements:

(a) Perform a site assessment 60 days before the implementation of the groundwater monitoring method;

(b) Provide a written report of the site assessment to the Department upon request and, on or after the effective date of this chapter, ensure the written report is signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the Department; and

(c) Demonstrate that the testing or monitoring to detect a regulated substance on the groundwater meets all of the following requirements:

(i) The regulated substance stored is immiscible in water and has a specific gravity of less than one;

(ii) Groundwater is never more than 15 feet from the ground surface and the hydraulic conductivity of the soil or soils between the UST system and the monitoring wells or devices is not less than 0.01 centimeter/second, with the soil consisting of gravels, coarse to medium sands, coarse silts, or other permeable materials;

(iii) The slotted portion of the monitoring well casing is designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(iv) Monitoring wells are sealed from the ground surface to the top of the filter pack;

(v) Monitoring wells or devices intercept the UST excavation zone or positioned as close to the excavation zone as is technically feasible;

(vi) The method of measuring the contents of the well, whether automatic or manual, is capable of detecting the presence of at least 1/8 of an inch of free product on top of the groundwater in the monitoring wells;

(vii) At least monthly, the contents of the groundwater monitoring well are measured;

(viii) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in §F(2)(c)(i)—(v) of this regulation and to establish the number and positioning of monitoring wells or devices that will detect discharges or releases from any portion of the UST system;

(ix) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and

(x) A key, a lock combination number, or access tool for all monitoring wells is provided to the Department upon request and made available on the site where the UST system is located.

G. Interstitial Monitoring.

(1) On or after the effective date of this chapter, an owner and an operator of a UST system may only use interstitial monitoring as a monthly method of release detection between a UST system and a secondary barrier as described in §G(2)(b) of this regulation with prior written approval from the Department.

(2) An owner and an operator of a UST system may use interstitial monitoring between the UST system and a secondary barrier immediately around or beneath the UST system as a method of release detection if the UST system is designed, constructed, and installed to detect a spill, release, or discharge from any portion of the UST system and one of the following conditions are met:

(a) For a double-walled UST system, the owner and operator of the UST system uses a sampling or testing method that can detect a spill or release through the inner wall in any portion of the UST system;

(b) For a UST system with a secondary barrier within the excavation zone, the owner or operator of the UST system uses a sampling or testing method that can detect a spill, release, or discharge between the UST system and the secondary barrier, provided that:

(i) The secondary barrier around and beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable, at least  $1 \times 10^{-6}$  centimeter/second for the regulated substance stored, to direct a spill, release, or discharge to the monitoring point and allow the detection of the regulated substance;

(ii) The barrier is compatible with the regulated substance stored so that a spill, release, or discharge from the UST system will not cause a deterioration of the barrier and allow a spill, release, or discharge to pass through the barrier undetected;

(iii) For cathodically protected UST systems, the owner and the operator installs a secondary barrier so that it does not interfere with the proper operation of the cathodic protection system;

(iv) The groundwater, soil moisture, or rainfall will not make the testing or sampling method used inoperative so that a spill, release, or discharge could go undetected for more than 30 consecutive days;

(v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under these conditions; and

(vi) Monitoring wells are clearly marked and secured with bolts or a lock to avoid unauthorized access and tampering; and

(c) For USTs with an internally fitted liner, the owner and operator of the UST uses an automated device that can detect a spill or release between the inner wall of the UST and the liner, and the liner is compatible with the regulated substance stored.

#### H. Other Methods.

(1) Upon the approval of the Department, an owner and an operator of a UST system may use one or combination of alternative methods of monthly release detection if:

(a) The method can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of not less than 0.95 and a probability of false alarm of not more than 0.05; or

(b) The owner and the operator of the UST system can demonstrate to the Department that the method can detect a spill, release, or discharge as effectively as any of the methods allowed in §§B and D—G of this regulation.

(2) If an alternative method of monthly release detection proposed by an owner and an operator of a UST system is approved by the Department, the owner and the operator of the UST system shall comply with any conditions imposed by the Department on the use of the method to ensure the protection of human health and the environment.

I. Vapor Monitoring. Except as provided in §H of this regulation, an owner and an operator of a UST system may not use vapor monitoring as a monthly method of release detection after April 1, 2009.

#### **.06 Release Detection Recordkeeping.**

A. An owner and an operator of a UST system shall maintain records demonstrating compliance with the applicable requirements of this chapter:

(1) In accordance with COMAR 26.10.04.05;

(2) For at least 1 year at the regulated substance storage facility;

(3) For at least 5 years at a location designated by the owner of the UST system; and

(4) That include the following information:

(a) Written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer;

(b) The results of any sampling, testing, or monitoring including:

(i) The results of annual operability tests required in Regulation .01C of this chapter; and

(ii) The results of precision tightness testing conducted in accordance with Regulation .05D of this chapter;

and

(c) Written documentation for all calibration, maintenance, and repair of release detection equipment permanently located on-site, and any schedules of required calibration and maintenance provided by the release detection equipment manufacturer.

B. An owner and an operator of a UST system shall maintain records of site assessments required under Regulation .05F of this chapter for as long as the groundwater monitoring method is used.

### **26.10.06. UST System Technician, Remover, and Inspector Certification**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq.; State Government Article, §§10-206 and 10-226; Annotated Code of Maryland

#### **.01 General.**

A. The Department may issue certifications to an individual for the following UST system categories:

(1) A UST system technician certification that allows the individual to install, upgrade, repair, close, and perform a change-in-service of a UST system in accordance with the requirements in COMAR 26.10.01—26.10.10, 26.10.12, and 26.10.16;

(2) A heating oil technician certification that allows the individual to only install, upgrade, repair, and close a UST system storing heating oil for consumptive use and with a capacity of 2,000 gallons or less in accordance with the requirements in COMAR 26.10.01—26.10.06 and 26.10.08—26.10.10;

(3) A UST system remover certification that allows the individual to close and perform a change-in-service of a UST system in accordance with the requirements in COMAR 26.10.01, 26.10.02, 26.10.06, and 26.10.08—26.10.10; and

(4) A UST system inspector certification that allows the individual to conduct a UST system inspection in accordance with COMAR 26.10.03.10.

B. A certification issued by the Department to an individual under this chapter expires 2 years from the date of issuance.

C. The Department may issue a UST system inspector certification and not more than one additional certification from the remaining categories listed in §A of this regulation to an individual provided the individual applies for the certifications in accordance with this chapter.

D. An individual shall only perform UST system work for which the individual has received a certification from the Department.

E. An individual certified by the Department under this chapter shall have proof of certification from the Department at all times while performing work on a UST system.

### **.02 Initial Certification Requirements.**

A. To be certified as a UST system technician, an individual shall:

(1) Submit a complete application in accordance with Regulation .03 of this chapter;

(2) Meet the following experience requirements:

(a) Have at least 2 years of UST system installation experience within the last 36 months with a company or organization that installs UST systems; and

(b) Have direct involvement in a minimum of six separate UST system installation, repair, upgrade, or closure events, where not more than three UST system closure events may be counted towards the six direct involvement events; and

(3) Achieve a score of 90 percent or better on the UST system technician certification test given by the Department.

B. To be certified as a heating oil technician, an individual shall:

(1) Submit a complete application in accordance with Regulation .03 of this chapter;

(2) Meet the experience requirements listed in §A(2) of this regulation; and

(3) Achieve a score of 90 percent or better on the heating oil technician certification test given by the

Department.

C. To be certified as a UST system remover, an individual shall:

(1) Submit a complete application in accordance with Regulation .03 of this chapter;

(2) Have direct involvement in a minimum of six separate UST system closure events within the last 36 months with a company or organization that closes UST systems; and

(3) Achieve a score of 90 percent or better on the UST system remover certification test given by the Department.

D. To be certified as a UST system inspector, an individual shall:

(1) Submit a complete application in accordance with Regulation .03 of this chapter;

(2) Meet the following experience requirements:

(a) Attend and complete one or more nationally recognized or Department approved training courses, classes, examinations, or workshops pertaining to UST system design, installation, operation, testing, or inspection; and

(b) Attend a UST system inspector orientation course provided by the Department; and

(3) Achieve a score of 90 percent or better on the UST system inspector certification test given by the

Department.

E. The experience requirements in §§A(2), B(2), C(2), and D(2) of this regulation may be waived if the individual has equivalent training or education as determined by the Department.

### **.03 Application and Testing.**

A. Application Process.

(1) To apply for an initial or renewal UST system technician, heating oil technician, or UST system remover certification, an individual shall complete an application provided by the Department as follows:

(a) As specified on the application, the individual shall submit verifiable proof of the experience requirements for the particular certification as required under:

(i) Regulation .02A(2), B(2), or C(2) of this chapter for an initial certification; or

(ii) Regulation .04A(2) of this chapter to renew a certification;

(b) The individual applying for certification and the employer of the individual shall sign the completed application; and

(c) The individual shall submit the completed application to the Department.

(2) To apply for an initial or to renew a UST system inspector certification, an individual shall complete an application provided by the Department as follows:

(a) As specified on the application, the individual shall submit verifiable proof of the experience requirements as required under:

- (i) Regulation .02D(2) of this chapter for an initial certification; or
- (ii) Regulation .04B(2) of this chapter to renew a certification;

(b) The individual applying for certification and the employer of the individual shall sign the completed application; and;

(c) The individual shall submit the completed application to the Department.

**B. Certification Testing.**

(1) At least 30 days prior to registering with the Department to take a certification test, an individual shall have submitted a completed application to the Department in accordance with §A of this regulation.

(2) The Department shall publish certification testing dates on the Department's website.

(3) An individual shall register with the Department at least 72 hours prior to the scheduled test date to take a certification test.

(4) An individual shall present a valid government issued photo identification to the Department at the time of the certification test.

(5) An individual shall follow all directions provided by the Department in taking the certification test.

(6) The Department may disqualify an individual from completing a certification test if the Department determines the individual is dishonestly taking the certification test.

(7) In order to pass a certification test, an individual must achieve a score of 90 percent or better.

(8) An individual who has not achieved a passing score on a certification test may register to retest within 90 days and without being required to reapply for a certification.

(9) An individual who does not achieve a passing score on a certification test within 90 days of the first failed attempt shall submit a new application for a certification.

(10) An individual may not count time taking a certification test toward the continuing education requirements under this chapter.

**.04 Certification Renewal Requirements.**

A. To renew a certification for a UST system technician, a heating oil technician, or a UST system remover, an individual shall:

(1) At least 30 days prior to the expiration of the current certification, submit a complete application in accordance with Regulation .03 of this chapter; and

(2) Meet the following experience requirements:

(a) Attend and complete a UST system course approved by the Department within the last 2 years; and

(b) Have direct involvement in a minimum of six separate UST system installation, repair, upgrade, or closure events.

B. To renew a certification for a UST system inspector, an individual shall:

(1) At least 30 days prior to the expiration of the current certification, submit a complete application in accordance with Regulation .03 of this chapter; and

(2) Meet the following experience requirements:

(a) Attend and complete the following courses within the last 2 years:

(i) At least one Department approved training program for compliance inspections of UST systems; and

(ii) An inspector orientation course or workshop provided by the Department; and

(b) Perform UST system inspections at a minimum of 10 regulated substance storage facilities within the last 2 years.

C. An individual shall renew a certification in accordance with Regulation .02 of this chapter if the individual fails to:

(1) Submit a complete application at least 30 days prior to the expiration date of the current certification; or

(2) Demonstrate compliance with the experience requirements in §A(2) or B(2) of this regulation.

D. An individual may elect to renew a certification in accordance with Regulation .02 of this chapter.

E. If an individual is required to renew a UST system inspector certification in accordance with §C of this regulation or elects to renew a UST system inspector certification in accordance with Regulation .02 of this chapter, the individual is not required to meet the experience requirement in Regulation .02D(2)(a) of this chapter.

**.05 Reciprocity Certification.**

A. The Department may issue a reciprocity certification for one of the four categories listed in Regulation .01A of this chapter to an individual who has a valid certification issued by another state if the Department determines that the state has a comparable certification program to the requirements of this chapter.

B. To obtain reciprocity certification, an individual shall:

(1) Submit a valid certification from another state to the Department;

(2) Complete an application provided by the Department in accordance with Regulation .03 of this chapter;

(3) Meet the experience requirements as follows:

(a) An individual applying for a UST system technician, heating oil technician, or UST system remover reciprocity certification shall meet the experience requirements in Regulation .02 of this chapter; and

(b) An individual applying for a UST system inspector reciprocity certification shall meet the following experience requirements:

(i) Perform UST system inspections at a minimum of 10 regulated substance storage facilities within the last 2 years; and

(ii) Attend and complete an inspector orientation course provided by the Department; and

(4) Achieve a score of 90 percent or better on a certification test given by the Department for that certification.

C. An individual receiving a reciprocity certification issued under this chapter shall be subject to the requirements under COMAR 26.10.

D. An individual renewing a reciprocity certification issued under this chapter shall follow the renewal requirements in Regulation .04 of this chapter.

#### **.06 Standards of Performance.**

An individual certified by the Department under this chapter shall:

A. Maintain knowledge of COMAR 26.10.01—26.10.12 and 26.10.16 and all documents incorporated by reference;

B. Adhere to equipment manufacturers' instructions, accepted industry standards, and applicable industry codes of practice when performing UST system installation, repair, upgrade, closure, change-in-service, precision tightness testing, other tightness testing, or inspection activities;

C. Perform work so that there is no spill, release, or discharge of regulated substances or contamination of soil, surface water, or groundwater caused by regulated substances from a UST system or regulated substance storage facility;

D. Certify to an owner or an operator of a UST system that a UST system installation, upgrade, repair, closure, change-in-service, or inspection is complete only when the activity conducted by the individual complies with COMAR 26.10.01—26.10.12 and 26.10.16;

E. Complete and submit to the Department a form provided by the Department that certifies a UST system installation, closure, change-in-service, or inspection activity conducted by the individual meets the requirements of COMAR 26.10.01—26.10.12 and 26.10.16;

F. Place the individual's signature and Department issued certification number on documentation concerning an installation, upgrade, repair, closure, change-in-service, or inspection of a UST system or component of a UST system only if:

(1) The certified individual directly completed the work or the work was completed under the certified individual's direct, on-site supervision and control; and

(2) The individual had a valid certification issued by the Department to conduct the specific work at the time the work was performed;

G. Maintain complete records of UST system installation, upgrade, repair, closure, change-in-service, and inspection activities that the certified individual was directly involved with for a minimum of 5 years; and

H. Upon request by the Department, provide proof of the individual's certification for the UST system services being provided.

#### **.07 Conflict of Interest.**

A. A certified UST system inspector may not perform, and an owner and an operator of a UST system may not allow, a UST system inspector to perform an inspection on a UST system for compliance with COMAR 26.10.03.10 if the UST system inspector is also:

(1) The owner or the operator of the UST system to be inspected;

(2) An employee of the owner or the operator of the UST system to be inspected; or

(3) The certified UST system technician who completed the installation, replacement, or upgrade work on the UST system to be inspected.

B. The Department shall refuse a UST system inspection report submitted in compliance with COMAR 26.10.03.10D if the UST system inspector who performed the inspection and signed and provided their Department issued certification number on the inspection report is also one of the individuals identified in §A of this regulation.

C. A certified UST system inspector who is also a certified UST system technician may correct deficiencies while performing an inspection on a UST system in compliance with COMAR 26.10.03.10.

D. A certified UST system inspector shall be subject to the actions available to the Department as stated in Regulation .08 and .09 of this chapter if the individual performed the inspection and signed and provided their Department issued certification number on the inspection report refused by the Department under §B of this regulation.

#### **.08 Denial, Suspension, or Revocation.**

A. The Department may deny an application for certification if an individual has not complied with the application and experience requirements in Regulations .02—.04 of this chapter or has demonstrated a history of noncompliance with the provisions of COMAR 26.10, including the reasons listed in §B(1) of this regulation.

B. Suspension or Revocation.

(1) The Department may suspend or revoke a certification of an individual if the Department determines that the individual has done one or more of the following:

- (a) Demonstrated a willful or negligent disregard or repeated violations of the regulations in this subtitle;
  - (b) Willfully or negligently submitted false information to the Department;
  - (c) Violated the requirements of Regulation .06 or .07 of this chapter; or
  - (d) After a prior suspension or revocation of a certification under this chapter, committed an act in violation of COMAR 26.10.
- (2) An individual shall surrender all State certification documents obtained under this chapter to the Department upon notification of suspension or revocation.
- (3) The Department may suspend or revoke a certification obtained under this chapter in accordance with State Government Article, §10-226, Annotated Code of Maryland.
- C. Contested Case Hearing.
- (1) Except as otherwise provided in COMAR 26.10.01.24, an individual shall have an opportunity for a contested case hearing if the individual files a written request with the Department within 30 calendar days of receiving:
- (a) A notice of the Department's decision to deny the certification application or to suspend or revoke the individual's certification, as provided in §§A and B of this regulation;
  - (b) A notice or order issued by the Department regarding a violation of a provision of this chapter or COMAR 26.10.
- (2) The Department shall conduct a contested case hearing in accordance with the provisions under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

**.09 Sanctions.**

- A. An individual whose certification has been revoked may not apply for a new certification for 2 years from the date of revocation.
- B. An individual is subject to the sanctions set forth in Environment Article, Title 4, Subtitle 4 and Title 7, Subtitle 2, Part VIII, Annotated Code of Maryland if that individual:
- (1) Violates any provision of this chapter; or
  - (2) Does not install, upgrade, repair, close, perform a change-in-service of, or inspect a UST system in accordance with the provisions of COMAR 26.10.

**26.10.07 High Risk Oil Storage Facilities**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, and 4-701 et seq., Annotated Code of Maryland

**.01 Scope.**

- A. Applicability.
- (1) The requirements of this chapter apply only to the following oil storage facilities:
    - (a) An oil storage facility with a new or existing gasoline UST system located in a high risk groundwater use area (HRGUA) or well head protection area (WHPA); and
    - (b) An oil storage facility that meets the definition of a high risk underground oil storage facility under Regulation .07A of this chapter.
  - (2) In addition to the requirements of this chapter, an owner of a new or existing gasoline UST system and an owner of a high risk underground oil storage facility is subject to the requirements under COMAR 26.10.01—26.10.06, 26.10.08—26.10.12, and 26.10.16.
- B. Variances.
- (1) The Department may grant an owner of a new or existing gasoline UST system or a high risk underground oil storage facility a variance from one or more requirements of this chapter if the owner demonstrates the UST system or oil storage facility is not a threat to groundwater.
  - (2) An owner applying for a variance provided under §B(1) of this regulation shall submit to the Department the following information:
    - (a) A survey of groundwater use within a 1/2 mile radius of the oil storage facility;
    - (b) A description of the construction materials used for the UST system;
    - (c) A description of the release detection methods used to protect groundwater;
    - (d) A description of operation and testing methods used to protect groundwater; and
    - (e) Any other information requested by the Department.

**.02 Definitions.**

- A. In this chapter:
- (1) A term in §B of this regulation has the meaning indicated; and
  - (2) A term not defined in §B of this regulation has:
    - (a) The meaning given to the term in a relevant statute or in COMAR 26.10.01 or 26.10.02; or
    - (b) If not defined in a relevant statute or COMAR 26.10.01 or 26.10.02, the meaning attributed by common use.
- B. Terms Defined.



- (1) “Existing gasoline UST system” means a UST system located in a HRGUA or WHPA:
  - (a) Installed before:
    - (i) January 26, 2005, if located in a HRGUA; or
    - (ii) January 1, 2010, if located in a WHPA;
  - (b) Containing gasoline, including gasohol, that is used to fuel motor vehicles; and
  - (c) That has a storage capacity greater than 2,000 gallons.
- (2) “High risk underground oil storage facility” means an oil storage facility that meets the conditions defined in Regulation .07A of this chapter.
- (3) “HRGUA” means an area with a new or existing gasoline UST system:
  - (a) In which an individual water supply system, as defined in COMAR 26.04.03.01-1B, serves as the water supply for the new or existing gasoline UST system facility, an adjoining property of the new or existing gasoline UST system facility, or both; and
  - (b) Located in:
    - (i) Baltimore, Carroll, Cecil, Frederick, or Harford County; and
    - (ii) Anne Arundel, Baltimore, Carroll, Cecil, Frederick, or Harford County for the purpose of notifying a property owner of groundwater contamination in accordance with Environment Article, §4-411.2, Annotated Code of Maryland.
- (4) “Levels of concern” means:
  - (a) Benzene at (=) 5 parts per billion;
  - (b) Toluene at (=) 1,000 parts per billion;
  - (c) Ethylbenzene at (=) 700 parts per billion;
  - (d) Total xylenes at (=) 10,000 parts per billion; and
  - (e) Methyl tertiary butyl ether (MTBE) at (=) 20 parts per billion.
- (5) “Local government” means a county, municipal corporation, or sanitary district.
- (6) “New gasoline UST system” means a UST system, including a replacement UST system, located in a HRGUA or WHPA:
  - (a) Installed on or after:
    - (i) January 26, 2005, if located in a HRGUA; or
    - (ii) January 1, 2010, if located in a WHPA; and
  - (b) Containing gasoline, including gasohol, that is used to fuel motor vehicles.
- (7) “Well” means a hole made in the ground to obtain or monitor groundwater.
- (8) “WHPA” means an area in Baltimore, Carroll, Cecil, Frederick, or Harford County identified and regulated by a local government surrounding one or more wells serving a:
  - (a) Community water system, as defined by COMAR 26.04.01.01B; or
  - (b) Public water system, as defined by COMAR 26.04.01.01B.

**.03 New Gasoline UST System.**

An owner of a new gasoline UST system, except for a new gasoline UST system in a HRGUA located in Anne Arundel County, shall:

- A. Comply with the following release prevention and detection requirements for a newly installed UST system:
  - (1) If installing Stage II vapor recovery piping, install the Stage II vapor recovery piping in accordance with COMAR 26.10.03.02;
  - (2) Install and utilize an interstitial release detection system for the UST system piping approved by the National Work Group on Leak Detection Evaluations;
  - (3) If the UST system has a storage capacity of greater than 2,000 gallons or there are multiple USTs installed in a shared excavation zone:
    - (a) Install four monitoring pipes in accordance with the specifications in COMAR 26.10.03.04B, with one monitoring pipe located in each corner of the excavation zone; and
    - (b) In conjunction with the monitoring pipes required under §A(3)(a) of this regulation, install a piping system that is designed to allow for active ventilation of the excavation zone; and
  - (4) Select and, upon receipt of Department approval, install one of the following systems to detect a spill, release, or discharge of gasoline liquid and vapors from the UST system:
    - (a) A minimum of three monitoring wells that are:
      - (i) Constructed in accordance with COMAR 26.04.04 and Department specifications;
      - (ii) Located outside of the excavation zone;
      - (iii) In locations that will allow for the determination of groundwater flow; and
      - (iv) Placed in areas that are most likely to detect a spill, release, or discharge from the UST system;
    - (b) A pressure control system that:
      - (i) Is continuously operated;
      - (ii) Continuously monitors storage tank pressure;
      - (iii) Maintains storage tank pressure at an average negative pressure; and
      - (iv) Prevents the release of gasoline vapors to the environment;

(c) If the UST system excavation zone meets the conditions of §A(3) of this regulation by either having a storage capacity of greater than 2,000 gallons or multiple USTs installed in a shared excavation zone, a soil vapor extraction system that is:

- (i) Connected to the monitoring pipes and piping system required under §A(3) of this regulation; and
- (ii) Operated continuously to maintain active ventilation of the excavation zone; or

(d) An alternative method that will detect a spill, release, or discharge of gasoline liquid and vapors from the UST system;

B. Within 30 days of installing a UST system, and annually thereafter:

(1) Sample each site supply well and groundwater monitoring well located at the oil storage facility using a method approved by the Department; and

(2) Analyze each collected water sample in accordance with Regulation .05 of this chapter;

C. Within 60 days of conducting a sample collection in accordance with §B of this regulation, submit the following documents to the Department:

(a) A complete laboratory report that includes a copy of the laboratory sample acceptance form, sample chain-of-custody, and laboratory analytical results; and

(b) A site map identifying each site supply well and groundwater monitoring well located at the oil storage facility; and

D. Upon completing the installation, replacement, repair, or upgrade of a UST system and before placing the UST system in operation:

(1) Test all primary piping that does not contain liquid gasoline, tank top fittings, Stage II piping, riser pipes, and vent piping using a helium pressure test, or other test approved by the Department, in accordance with procedures prescribed by the Department;

(2) If leaks or deficiencies are found during the testing, make necessary repairs in accordance with COMAR 26.10.04.04; and

(3) Upon completion of a repair, retest the UST system in accordance with §D(1) of this regulation to ensure the UST system does not leak.

#### **.04 Existing Gasoline UST System.**

A. An owner of an existing gasoline UST system in a HRGUA, except for an existing gasoline UST system located in Anne Arundel County, shall:

(1) Not later than July 25, 2005, implement the following release detection methods:

(a) Sample each site supply well and any existing groundwater monitoring wells located on the oil storage facility;

(b) Install a minimum of three groundwater monitoring wells that are:

(i) Constructed in accordance with COMAR 26.04.04 and Department specifications;

(ii) Outside of the excavation zone;

(iii) In locations that will allow for the determination of groundwater flow; and

(iv) Placed in areas that are most likely to detect a spill, release, or discharge from the UST system;

(c) Sample each groundwater monitoring well installed pursuant to §A(1)(b) of this regulation; and

(d) Analyze each water sample collected pursuant to §A(1)(a) and (c) of this regulation in accordance with Regulation .05 of this chapter;

(2) On an annual basis, collect and analyze water samples from each site supply well and groundwater monitoring well in accordance with §A(1)(a), (c) and (d) of this regulation;

(3) Within 60 days of conducting a sample collection pursuant to §A(1) or (2) of this regulation, submit the following documents to the Department:

(a) A complete laboratory report that includes a copy of the laboratory sample acceptance form, sample chain-of-custody, and laboratory analytical results; and

(b) A site map identifying each site supply well and groundwater monitoring well located on the oil storage facility; and

(4) Except for a UST system with Stage II piping decommissioned using a method approved by the Department, not later than January 26, 2006, and on a 24-month basis thereafter, test the UST system in accordance with the following procedures:

(a) Test all primary piping that does not contain liquid gasoline, tank top fittings, Stage II piping, riser pipes, and vent piping using a helium pressure test, or other test approved by the Department, in accordance with procedures prescribed by the Department;

(b) If leaks or deficiencies are found during the testing, make necessary repairs in accordance with COMAR 26.10.04.04; and

(c) Upon completion of a repair, retest the UST system in accordance with §A(4)(a) of this regulation to ensure the UST system does not leak.

B. An owner of an existing gasoline UST system in a WHPA shall:

(1) Not later than January 1, 2010, implement the following release detection methods:

- (a) Sample any existing groundwater monitoring well, and if present, site supply well located on the oil storage facility;
  - (b) Install a minimum of three groundwater monitoring wells that are:
    - (i) Constructed in accordance with COMAR 26.04.04 and Department specifications;
    - (ii) Outside of the excavation zone;
    - (iii) In locations that will allow for the determination of groundwater flow; and
    - (iv) Placed in areas that are most likely to detect a spill, release, or discharge from the UST system;
  - (c) Sample each groundwater monitoring well installed pursuant to §B(1)(b) of this regulation; and
  - (d) Analyze each water sample collected pursuant to §B(1)(a) and (c) of this regulation in accordance with Regulation .05 of this chapter;
- (2) On an annual basis, collect and analyze water samples from each groundwater monitoring well, and if present, site supply well in accordance with §B(1)(a), (c) and (d) of this regulation;
- (3) Within 60 days of conducting a sample collection pursuant to §B(1) or (2) of this regulation, submit the following documents to the Department:
- (a) A complete laboratory report that includes a copy of the laboratory sample acceptance form, sample chain-of-custody, and laboratory analytical results; and
  - (b) A site map identifying each groundwater monitoring well, and if present, site supply well located on the oil storage facility; and
- (4) Except for a UST system with Stage II piping decommissioned using a method approved by the Department, not later than January 1, 2010, and on a 24-month basis thereafter test the UST system in accordance with the following procedures:
- (a) Test all primary piping that does not contain liquid gasoline, tank top fittings, Stage II piping, riser pipes, and vent piping using a helium pressure test, or other test approved by the Department, in accordance with procedures prescribed by the Department;
  - (b) If leaks or deficiencies are found during the testing, make necessary repairs in accordance with COMAR 26.10.04.04; and
  - (c) Upon completion of a repair, retest the UST system in accordance with §B(4)(a) of this regulation to ensure the UST system does not leak.

**.05 Analytical Testing Methods - New or Existing Gasoline UST Systems.**

An owner of a new or existing gasoline UST system shall conduct an analysis for full suite volatile organic compounds, including naphthalene and fuel oxygenates, for each water sample collected from:

- A. A groundwater monitoring well in accordance with USEPA Test Method 8260 or another method approved by the Department; and
- B. A site supply well in accordance with USEPA Test Method 524.2 or another method approved by the Department.

**.06 Detection of Levels of Concern.**

If the concentration of benzene, toluene, ethylbenzene, total xylenes, or MTBE is detected at equal to or greater than the levels of concern defined in Regulation .02B of this chapter in a groundwater sample collected and analyzed in accordance with Regulations .03—.05 of this chapter, an owner of a new or existing gasoline UST system shall:

- A. Within 24 hours of receiving an analytical laboratory report that shows the detection, report the sampling results to the Department;
- B. Within 48 hours of receiving an analytical laboratory report that shows the detection, initiate an investigation both on-site and off-site of the oil storage facility in accordance with COMAR 26.10.08.02—.04; and
- C. In accordance with COMAR 26.10.09.07, develop a corrective action plan under the direction of the Department.

**.07 High Risk Underground Oil Storage Facility.**

A. Defining a High Risk Underground Oil Storage Facility.

- (1) An oil storage facility is defined as a high risk underground oil storage facility under this chapter if the facility has:
- (a) An underground storage capacity that includes:
    - (i) One or more UST systems constructed with a single walled UST or single walled product piping; and
    - (ii) A total underground oil storage capacity of 80,000 gallons or greater, not including underground oil storage capacity used to store heating oil for onsite consumptive use; or
  - (b) As determined by a throughput review conducted in accordance with §A(2) of this regulation, a combined monthly oil throughput for all products stored in UST systems of:
    - (i) 750,000 gallons or more when averaged over a rolling 12-month period; or
    - (ii) 1,000,000 gallons or more in any single month.
- (2) An owner of an underground oil storage facility shall determine if the facility meets the definition of a high risk underground oil storage facility on a throughput basis by conducting a throughput review as follows:
- (a) Determine the combined monthly oil throughput for all products by evaluating inventory records that document:
    - (i) The average combined monthly oil throughput for all products over the preceding 12 months; and

- (ii) The highest combined monthly oil throughput for all products in the preceding 12 months; and
- (b) Submit the throughput review and supporting inventory documentation to the Department for concurrence:
  - (i) Within 6 months of the effective date of this chapter, if construction of the underground oil storage facility was complete on or before the effective date of this chapter;
  - (ii) No later than 60 days following the first year of operation, if construction of the underground oil storage facility was complete after the effective date of this chapter; or
  - (iii) On a schedule determined by the Department.

(3) An owner of a high risk underground oil storage facility may demonstrate that the oil storage facility no longer meets the definition of a high risk underground oil storage facility by submitting documentation, such as inventory records or an updated throughput review, to the Department that proves the oil storage facility no longer meets the conditions under §A(1) of this regulation.

(4) Upon review of documentation provided to the Department pursuant to §A(3) of this regulation, the Department may determine:

- (a) The oil storage facility no longer meets the definition of a high risk underground oil storage facility; and
- (b) The owner of the oil storage facility is no longer required to comply with the requirements of this regulation.

**B. Compliance with Monitoring Methods.** An owner of a high risk underground oil storage facility shall select and, upon receipt of Department approval, implement one of the monitoring methods described under §§C—E of this regulation in accordance with the following schedule:

- (1) Within 6 months of the effective date of this chapter, if the high risk underground oil storage facility meets the conditions of §A(1)(a) of this regulation;
- (2) Within 6 months of determining that the facility meets the conditions of §A(1)(b) of this regulation; or
- (3) On a schedule determined by the Department.

**C. Groundwater Monitoring Method.** An owner of a high risk underground oil storage facility choosing to implement the groundwater monitoring method shall:

- (1) Install a minimum of three groundwater monitoring wells that are:
  - (a) Constructed in accordance with COMAR 26.04.04 and Department specifications;
  - (b) Outside of the excavation zone;
  - (c) In locations that will allow for the determination of groundwater flow; and
  - (d) Placed in areas that are most likely to detect a spill, release, or discharge from the UST system;
- (2) Within 60 days of installing the groundwater monitoring wells, and annually thereafter:
  - (a) Sample each groundwater monitoring well and analyze collected samples:
    - (i) For full suite volatile organic compounds, including naphthalene and fuel oxygenates, in accordance with USEPA Test Method 8260 or another method approved by the Department; and
    - (ii) For total petroleum hydrocarbons, including diesel and gasoline range organics, in accordance with USEPA Test Method 8015 or another method approved by the Department; and
  - (b) If present at the high risk underground oil storage facility, sample each site supply well and analyze collected samples for full suite volatile organic compounds, including naphthalene and fuel oxygenates, in accordance with USEPA Test Method 524.2 or another method approved by the Department; and
- (3) Within 60 days of conducting a sample collection required under §C(2) of this regulation, submit the following documents to the Department:
  - (a) A complete laboratory report that includes a copy of the laboratory sample acceptance form, sample chain-of-custody, and laboratory analytical results; and
  - (b) A site map identifying each site supply well and groundwater monitoring well located at the oil storage facility.

**D. Enhanced Testing Method.**

(1) This method may only be implemented by an owner of a high risk underground oil storage facility if all of the UST systems at the facility are installed with double walled USTs and all of the piping systems are installed in accordance with COMAR 26.10.03.02A.

(2) An owner of a high risk underground oil storage facility choosing to implement the enhanced testing method shall:

- (a) Perform UST and piping release detection by interstitial monitoring and perform at least one additional method of UST release detection in accordance with COMAR 26.10.05;
- (b) Perform annual primary line precision tightness testing;
- (c) Perform annual piping interstice precision tightness testing;
- (d) Equip all containment sumps, except the vent riser containment sump, with sensors programmed for positive UST system dispensing and pumping shut down; and
- (e) Every three years or at an alternative frequency under the direction of the Department, perform precision tightness testing of:
  - (i) The UST in a manner that minimizes isolation of UST system components, such as the vent and vapor piping and risers, to the greatest extent possible; and
  - (ii) The UST interstice, except for a brine filled interstice.

*E. Alternative Monitoring Method. Subject to Department approval, an owner of a high risk underground oil storage facility may implement an alternative monitoring method if the owner demonstrates the alternative method is designed to detect a spill, release, or discharge from the UST system in a manner that is not less protective of human health and the environment than the methods described under §C or D of this regulation.*

*F. If an owner of a high risk underground oil storage facility detects a spill, release, or discharge at the facility, the owner shall comply with the spill, release, or discharge reporting and corrective action requirements of COMAR 26.10.08 and 26.10.09.*

**.08 Recordkeeping.**

*An owner of a new or existing gasoline UST system and an owner of a high risk underground oil storage facility shall:*

*A. Maintain records of all testing required by this chapter for one year at the oil storage facility and for five years at a location designated by the owner; and*

*B. Make the records maintained pursuant to §A of this regulation available to the Department upon request or as required under this chapter.*

**26.10.08 Spill, Release, and Discharge Reporting, Investigation, and Confirmation**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-410—4-411.1, 4-417, and 7-201 et seq., Annotated Code of Maryland*

**.01 Reporting of Suspected Spills, Releases, and Discharges.**

*A. An owner and an operator of a storage tank system, a responsible party, and a person conducting a test on a storage tank system shall report to the Department a suspected spill, release, or discharge immediately, but not later than 2 hours after the discovery, and follow the investigation and confirmation procedures in Regulation .03 of this chapter if any of the following circumstances occur:*

- (1) There is evidence of a spill, release, or discharge of oil;*
- (2) There is evidence of a spill, release, or discharge of a regulated substance from a UST system;*
- (3) A storage tank system fails a precision tightness test;*
- (4) A storage tank system has two consecutive inconclusive precision tightness test results;*
- (5) A storage tank system is determined to have a leak or there is evidence of a spill, release, or discharge of oil*

*at an oil storage facility or oil handling facility, such as the presence of:*

- (a) Dissolved product in groundwater;*
- (b) Absorbed product in soils;*
- (c) Free product in soils, a basement, a sewer or utility line, or waters of the State; or*
- (d) Vapors in soils, a basement, a sewer or utility line, or waters of the State;*

*(6) There is evidence of a spill, release, or discharge at a regulated substance storage facility or in the surrounding area, such as the presence of:*

- (a) Dissolved product in groundwater;*
- (b) Absorbed product in soils;*
- (c) Free product in soils, a basement, a sewer or utility line, or waters of the State; or*
- (d) Vapors in soils, a basement, a sewer or utility line, or waters of the State;*

*(7) Unusual operating conditions exist, such as:*

- (a) The erratic behavior of product-dispensing equipment;*
- (b) The sudden loss of a regulated substance from a storage tank system;*
- (c) An unexplained presence of water in a storage tank;*
- (d) Liquid in the interstice space of secondarily contained systems; or*
- (e) A failed spill prevention equipment or containment sump test for tightness; and*

*(8) Monitoring results, including investigation of an alarm, from a release detection method required under COMAR 26.10.05 indicate a spill, release, or discharge may have occurred, unless:*

- (a) The monitoring device is found to be defective and immediately repaired, recalibrated or replaced; and*
- (b) Additional monitoring does not confirm the initial result.*

*B. Additional Reporting Circumstances. If evidence of a spill, release, or discharge is discovered during an environmental assessment conducted on a property as part of a due diligence investigation in support of a property transaction or a loan refinancing, the person conducting the assessment and the owner of the property shall report the suspected spill, release, or discharge to the Department:*

- (1) Immediately, but not later than 2 hours after detecting free product; or*
- (2) Within 48 hours of receiving an analytical laboratory report that shows a detection of a petroleum constituent in a soil, groundwater, drinking water, or soil vapor sample at a concentration equal to or exceeding a cleanup standard or action level published by the Department for the petroleum constituent and media type.*

**.02 Investigation Due to Off-Site Impacts.**

A. When directed by the Department, an owner and an operator of a storage tank system and a responsible party shall follow the investigation and confirmation procedures in Regulation .03 of this chapter to determine if the storage tank system or another source under the control of the owner and the operator of the storage tank system or the responsible party is the source of off-site impacts that have been:

- (1) Observed by the Department; or
- (2) Brought to the Department's attention by another party.

B. The off-site impacts subject to an investigation under §A of this regulation include, but are not limited to:

- (1) Dissolved product in groundwater;
- (2) Absorbed product in soils;
- (3) Free product in soils, a basement, a sewer or utility line, or waters of the State; and
- (4) Vapors in soils, a basement, a sewer or utility line, or waters of the State.

### **.03 Investigation and Confirmation Steps.**

A. Unless corrective action is initiated in accordance with COMAR 26.10.09, an owner and an operator of a storage tank system and a responsible party shall use the steps described in §§B and C of this regulation, or other procedures required by the Department to:

(1) Immediately but not later than 48 hours from the time a suspected spill, release, or discharge is discovered under Regulation .01 of this chapter or from the time an owner and an operator of a storage tank system and a responsible party is directed by the Department under Regulation .02 of this chapter, investigate a suspected spill, release, or discharge of a regulated substance; and

(2) Within 7 days of beginning the investigation, or another time period specified by the Department, confirm:

(a) All suspected spills, releases, and discharges of regulated substances requiring reporting under Regulation .01 of this chapter; and

(b) The source of off-site impacts if directed by the Department, as required under Regulation .02 of this chapter.

#### **B. System Test.**

(1) An owner and an operator of a storage tank system and a responsible party shall conduct a system test to determine whether a leak exists in the storage tank, the piping, the secondary containment, or another component of the storage tank system by conducting:

- (a) Precision tightness testing in accordance with COMAR 26.10.03.05;
- (b) As appropriate, secondary containment testing in accordance with COMAR 26.10.04.04D; or
- (c) A testing procedure required by the Department.

(2) When a storage tank system fails a system test required by §B(1) of this regulation or another test for tightness, an owner and an operator of a storage tank system and a responsible party shall take the following steps:

- (a) Immediately discontinue use of the storage tank system and notify the Department;
- (b) Within 48 hours, begin an investigation to determine whether the leak is occurring in the storage tank, the piping, the secondary containment, or another component of the storage tank system;
- (c) If the storage tank is determined to be leaking, immediately remove the regulated substance from the storage tank;

(d) If the piping system is determined to be leaking, immediately drain and discontinue the use of the piping system;

(e) If the system test confirms a release into the interstice or a spill, release, or discharge to the environment:

- (i) Repair the storage tank system in accordance with COMAR 26.10.04.04;
- (ii) Replace or upgrade the storage tank system in accordance with COMAR 26.10.03; or
- (iii) Close the storage tank system in accordance with COMAR 26.10.10;

(f) If another component of the storage tank system is determined to be leaking, perform the necessary repairs to the storage tank system in accordance with COMAR 26.10.04.04 within a time period approved by the Department; and

(g) After repairing or replacing the storage tank system and before placing the storage tank system back in service, conduct a system test on the storage tank system in accordance with §B(1) of this regulation to verify that the condition that caused the original test failure has been corrected.

(3) In addition to complying with the steps in §B(2) of this regulation, an owner and an operator of a storage tank system and a responsible party shall begin corrective action in accordance with COMAR 26.10.09 if the system test results for the storage tank system, storage tank, or piping indicate the existence of a spill, release, or discharge to the environment.

(4) An owner and an operator of a storage tank system and a responsible party are not required to conduct further investigation if the system test results for the storage tank system, storage tank, and piping do not indicate the existence of a spill, release, or discharge and environmental contamination was not the basis for suspecting a spill, release, or discharge.

(5) An owner and an operator of a storage tank system and a responsible party shall conduct a site check as described in §C of this regulation if the system test results for the storage tank system, storage tank, and piping do not

indicate the existence of a spill, release, or discharge, but environmental contamination was the basis for suspecting a spill, release, or discharge.

**C. Site Check.**

(1) An owner and an operator of a storage tank system and a responsible party shall measure for the presence of a spill, release, or discharge where contamination is most likely to be present.

(2) In selecting sample types, sample locations, and measurement methods, an owner and an operator of a storage tank system and a responsible party shall consider:

- (a) The nature of the stored substance;
- (b) The type of initial alarm or cause for suspicion;
- (c) The type of backfill;
- (d) The depth to groundwater; and
- (e) Other factors appropriate for identifying the presence and source of a spill, release, or discharge.

(3) If the test results for the excavation zone or the site indicate that a spill, release, or discharge has occurred, an owner and an operator of a storage tank system and a responsible party shall begin corrective action in accordance with COMAR 26.10.09.

(4) If the test results for the excavation zone or the site do not indicate that a spill, release, or discharge has occurred, the Department will determine if further investigation is required.

(5) If required by the Department, an owner and an operator of a storage tank system and a responsible party shall construct observation, monitoring, and recovery wells:

- (a) In compliance with COMAR 26.04.04;
- (b) Of polyvinylchloride or another material approved by the Department;
- (c) With a proper grout seal and locking cap; and
- (d) As required in an approved corrective action plan developed in accordance with COMAR 26.10.09.07.

**.04 Reporting and Remediating Spills, Releases, Discharges, and Overfills.**

Upon detecting or confirming a spill, release, or discharge or an overflow of a regulated substance, an owner and an operator of a storage tank system and a responsible party shall:

A. Not later than 2 hours after detecting or confirming the spill, release, discharge or the overflow, or within another reasonable time period specified by the Department:

(1) Contain and immediately remediate the spill, release, or discharge or the overflow of a regulated substance and begin corrective action in accordance with COMAR 26.10.09; and

(2) Report the spill, release, or discharge or the overflow as follows:

(a) Report a spill, release, or discharge or an overflow of oil to the Department in accordance with COMAR 26.10.01.05; and

(b) Report a spill or release, or an overflow that results in a spill or release, of a hazardous substance equal to or greater than its reportable quantity under 40 CFR Part 302 to the Department and the National Response Center in accordance with 40 CFR §§302.6 and 355.40;

B. Determine the cause of the spill, release, or discharge or the overflow of a regulated substance from a storage tank system; and

C. If the spill or overflow prevention equipment of the storage tank system is determined to be the cause of the spill, release, or discharge or overflow of a regulated substance, repair or replace the spill or overflow prevention equipment in accordance with COMAR 26.10.03.03 and 26.10.04.04 prior to receiving a regulated substance delivery.

**26.10.09 Spill, Release, and Discharge Response and Corrective Action**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

**.01 General.**

A. In response to a confirmed spill, release, or discharge of a regulated substance from a storage tank system, the following persons shall comply with the requirements of this chapter:

(1) If a confirmed spill, release, or discharge of a regulated substance from a UST system, the owner and the operator of the UST system and any responsible party; and

(2) Except as otherwise directed by the Department, if a confirmed spill, release, or discharge of oil from a storage tank system, the owner and the operator of the storage tank system and any responsible party.

B. An owner and an operator of a storage tank system and a responsible party shall continue any required abatement, investigation, removal, remediation, mitigation, monitoring, corrective action, or product recovery activities required under this chapter in response to a spill, release, or discharge of a regulated substance until the required activities are completed to the satisfaction of the Department.

**C. Definitions.**

(1) In this section, “discharge” means:

- (a) The addition, introduction, leaking, spilling, or emitting of any pollutant to waters of this State; or
- (b) The placing of a pollutant in a location where the pollutant is likely to pollute.

(2) In this chapter, “discharge permit” has the following meaning:

(a) “Discharge permit” means a permit issued by the Department for the discharge of any pollutant or combination of pollutants into the waters of the State; and

(b) “Discharge permit” includes:

(i) A State discharge permit issued under Environment Article, §9-323, Annotated Code of Maryland; or

(ii) A National Pollutant Discharge Elimination System permit issued under the Federal Water Pollution Control Act (33 U.S.C. §§1251 et seq.), its amendments, and all regulations and rules adopted under the Act.

(3) In this chapter, “permitted discharge” means a discharge conducted under a discharge permit and in compliance with the water pollution control requirements and conditions of COMAR 26.08.01—26.08.04.

#### **.02 Initial Response.**

Within 2 hours, or another reasonable time period specified by the Department, of confirming a spill, release, or discharge of a regulated substance in accordance with COMAR 26.10.08.03 or after a spill, release, or discharge of a regulated substance from a storage tank system is identified in any other manner, an owner and an operator of a storage tank system and a responsible party shall perform the following initial response actions:

A. Report the spill, release, or discharge of the regulated substance to the Department in accordance with COMAR 26.10.08.04;

B. Take immediate action to prevent any further spilling, releasing, or discharging of the regulated substance into the environment or secondary containment;

C. Identify and mitigate fire, explosion, and vapor hazards; and

D. Perform any other initial response actions required by the Department.

#### **.03 Initial Abatement Measures and Site Check.**

A. Unless directed to do otherwise by the Department, an owner and an operator of a storage tank system and a responsible party shall perform each of the following abatement measures:

(1) Remove as much of the regulated substance from the storage tank system as is necessary to prevent further spilling, releasing, or discharging of the regulated substance to the environment;

(2) Visually inspect any aboveground spills, releases, or discharges or exposed belowground spills, releases, or discharges and prevent further migration of the spilled, released, or discharged regulated substance into surrounding soils, surface water, and groundwater;

(3) Continue to monitor and mitigate any fire and safety hazards posed by vapors or free product that have migrated from a UST excavation zone or a storage tank system site and entered into subsurface structures, such as sewers or basements;

(4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of a spill, release, or discharge confirmation, site investigation, abatement, or corrective action activity by:

(a) Removing contaminated soils from the site within 50 days of excavation for treatment or disposal in compliance with applicable federal, State, and local laws; or

(b) Treating contaminated soils in accordance with a corrective action plan approved by the Department;

(5) Unless the location, extent, and source of a spill, release, or discharge were confirmed during a site check conducted in accordance with COMAR 26.10.08.03C or a closure site assessment conducted in accordance with COMAR 26.10.10.03A, perform a site check to determine the location and extent of a spill, release, or discharge by:

(a) Measuring for the presence of the spill, release, or discharge in the area where contamination is most likely to be present; and

(b) Selecting sample types, sample locations, and measurement methods for identifying the presence and source of the spill, release, or discharge that consider the:

(i) Nature of the stored substance;

(ii) Site soil characteristics;

(iii) Type of backfill;

(iv) Depth to groundwater; and

(v) Other relevant factors for identifying the presence and source of the spill, release, or discharge; and

(6) Investigate to determine the possible presence of free product and begin free product removal as soon as practicable in accordance with Regulation .05 of this chapter.

B. Within 20 days of confirming a spill, release, or discharge, or within another reasonable time period required by the Department, an owner and an operator of a storage tank system and a responsible party shall submit a report to the Department summarizing the initial abatement steps taken in compliance with §A of this regulation and any resulting information or data.

#### **.04 Initial Site Characterization.**

A. Unless directed to do otherwise by the Department, an owner and an operator of a storage tank system and a responsible party shall assemble information about the site and the nature of the spill, release, or discharge that includes:

(1) Information gained while confirming the spill, release, or discharge and completing the initial abatement measures required in Regulations .02 and .03 of this chapter;



- (2) *Data on the nature and estimated quantity of a spill, release, or discharge;*
  - (3) *Data from available sources or site investigations, or both, concerning the following:*
    - (a) *Surrounding populations;*
    - (b) *Water quality;*
    - (c) *A map showing the use and approximate locations of wells potentially affected by the spill, release, or discharge;*
    - (d) *Subsurface soil conditions;*
    - (e) *Locations of subsurface utilities;*
    - (f) *Climatological conditions; and*
    - (g) *Land use at the site and surrounding area;*
  - (4) *The results of the site check performed in compliance with Regulation .03A(5) of this chapter;*
  - (5) *To determine whether free product must be recovered in accordance with Regulation .05 of this chapter, the results of the free product investigation performed in accordance with Regulation .03A(6) of this chapter; and*
  - (6) *Any other information required by the Department.*
- B. An owner and an operator of a storage tank system and a responsible party shall:*
- (1) *Prepare a written site characterization report that:*
    - (a) *Includes all of the information required under §A of this regulation regarding the site and the nature of the spill, release, or discharge; and*
    - (b) *Discusses the applicability, reliability, and validity of the information provided; and*
  - (2) *Submit the site characterization report required under §B(1) of this regulation to the Department within:*
    - (a) *45 days of confirming the spill, release, or discharge; or*
    - (b) *Another reasonable time period required by the Department.*

***.05 Free Product Removal.***

*A. At sites where free product is present or an investigation performed in compliance with Regulation .03A(6) of this chapter indicates the presence of free product, an owner and an operator of a storage tank system and a responsible party shall remove free product to the maximum extent practicable as determined by the Department while:*

*(1) Continuing, as necessary, to perform any initial corrective action measures initiated under Regulations .02— .04 of this chapter; or*

*(2) Preparing to perform the corrective action measures required under Regulations .06 and .07 of this chapter.*

*B. In meeting the requirements of this regulation, an owner and an operator of a storage tank system and a responsible party shall:*

*(1) Before beginning free product removal:*

*(a) Provide notification to the Department regarding the proposed free product recovery method to be used; and*

*(b) In accordance with the permitting requirements in COMAR 26.08.04, obtain the necessary discharge permit for the proposed free product recovery method;*

*(2) Conduct free product removal in a manner that:*

*(a) Prevents the spread of contamination from entering previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site; and*

*(b) Properly treats, disposes, or conducts permitted discharges of recovery byproducts in compliance with applicable federal, State, and local laws;*

*(3) Use abatement of free product migration as a minimum initial objective for the design of the free product removal system;*

*(4) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and*

*(5) Unless directed to do otherwise by the Department, within 45 days after confirming a spill, release, or discharge, prepare and submit to the Department a free product removal report that provides at least the following information:*

*(a) The name, address, and phone number of the person or persons responsible for implementing the free product removal measures;*

*(b) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;*

*(c) The type of free product recovery system to be used;*

*(d) A description of any permitted discharge to take place on-site or off-site during the free product recovery operation including:*

*(i) The location of each permitted discharge outfall;*

*(ii) The type of treatment applied to the permitted discharge;*

*(iii) The effluent quality achieved from the treatment applied to the permitted discharge; and*

*(iv) An assessment of compliance with the discharge permit required under §B(1)(b) of this regulation; and*

*(e) The disposition of the recovered free product.*

***.06 Investigations of Soil and Groundwater.***

A. In order to determine the full extent and location of soils contaminated by a spill, release, or discharge and the presence and concentrations of dissolved product contamination in the groundwater, an owner and an operator of a storage tank system and a responsible party shall conduct investigations of the spill, release, or discharge, the site, and the surrounding area potentially affected by the spill, release, or discharge if one or more of the following conditions exist:

- (1) There is evidence that groundwater wells have been affected by the spill, release, or discharge;
- (2) Free product is present;
- (3) There is evidence that contaminated soils may contaminate groundwater; or
- (4) The Department requests an investigation.

B. An owner and an operator of a storage tank system and a responsible party shall submit the information collected in compliance with §A of this regulation as soon as practicable, but not later than 90 days after confirming a spill, release, or discharge or in accordance with a schedule established by the Department.

**.07 Corrective Action Plan.**

A. At any point after reviewing the information submitted in compliance with Regulations .02—.04 of this chapter, the Department may require an owner and an operator of a storage tank system and a responsible party to:

- (1) Submit additional information related to the requirements of this chapter; or
- (2) Develop and submit a corrective action plan for remediating contaminated soil and groundwater, and submit the corrective action plan according to a schedule and in a format established by the Department.

B. After fulfilling the requirements of Regulations .02—.04 of this chapter, an owner and an operator of a storage tank system and a responsible party may choose to submit a corrective action plan for remediating contaminated soil and groundwater.

C. If a corrective action plan is submitted under a scenario described in §A or B of this regulation, an owner and an operator of a storage tank system and a responsible party shall:

- (1) Ensure the corrective action plan provides for the adequate protection of human health and the environment as determined by the Department; and
- (2) Modify a submitted corrective action plan as necessary to maintain adequate protection of human health and the environment as determined by the Department.

D. The Department may approve a corrective action plan submitted by an owner and an operator of a storage tank system and a responsible party only after:

- (1) Ensuring that the implementation of the plan will adequately protect human health, safety, and the environment; and
- (2) Considering the following factors, as appropriate:
  - (a) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
  - (b) The hydrogeologic characteristics of the site and the surrounding area;
  - (c) The proximity, quality, and current and future uses of nearby surface water and groundwater;
  - (d) The potential effects of residual contamination at the conclusion of the planned corrective action on nearby surface water and groundwater;
  - (e) An exposure assessment; and
  - (f) Any information assembled in compliance with this chapter.

E. Upon approval of a corrective action plan or as directed by the Department, an owner and an operator of a storage tank system and a responsible party shall:

- (1) Implement the plan, including modifications to the plan made by the Department; and
- (2) Monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the Department.

F. In the interest of minimizing environmental contamination and promoting more effective remediation, an owner and an operator of a storage tank system and a responsible party may begin remediation of soil and groundwater before the corrective action plan is approved, if the owner and the operator of the storage tank system and the responsible party:

- (1) Notifies the Department of its intention to begin remediation;
- (2) Complies with any conditions imposed by the Department, including halting remediation or mitigating adverse consequences from remediation activities; and
- (3) Incorporates these self-initiated remediation measures into the corrective action plan that is submitted to the Department for approval.

G. In accordance with Regulation .01B of this chapter, an owner and an operator of a storage tank system and a responsible party shall continue remediation activities until removal of the spilled, released, or discharged regulated substance is accomplished to the satisfaction of the Department.

**.08 Public Participation.**

A. Notice to Affected Public. For each confirmed spill, release, or discharge that requires a corrective action plan, the Department, in cooperation with an owner and an operator of a storage tank system and a responsible party, shall provide notice:

(1) To those members of the public directly affected by the spill, release, or discharge and the planned corrective action, as determined by the Department; and

(2) In a manner designed to reach the affected public that may include, but is not limited to:

- (a) Publication in local newspapers;
- (b) Block advertisements;
- (c) Public service announcements;
- (d) Publication in the Maryland Register;
- (e) Letters to individual property owners; or
- (f) Personal contact by the Department.

B. Before approving a corrective action plan, the Department may hold a public meeting to consider comments on the proposed corrective action plan or for any other reason.

C. If the Department considers terminating the remedial work under a corrective action plan before achievement of any goals set forth in the plan, the Department shall notify the affected public in the manner set forth in §A of this regulation.

D. As required by the Public Information Act, the Department shall ensure that information regarding the site of a spill, release, or discharge and decisions concerning a corrective action plan are made available to the public for inspection upon request.

### **26.10.10 Out-of-Service UST Systems and Closure**

Authority: Environment Article, 4-402, 4-405, 4-407, 4-408, 4-410, 4-411, 4-411.1, 4-417, and 7-201 et seq., Annotated Code of Maryland

#### **.01 Temporary Closure.**

A. When a UST system is temporarily closed, an owner and an operator of a UST system shall:

- (1) If a metal UST system, continue operation and maintenance of corrosion protection in accordance with COMAR 26.10.04.02;
- (2) Except as provided in §B(3) of this regulation, maintain a method of release detection in accordance with COMAR 26.10.05 and, if the UST system has a field-constructed tank or is an airport hydrant system, COMAR 26.10.12;
- (3) If a spill, release, or discharge is suspected or confirmed, comply with the reporting, investigation, and corrective action requirements in COMAR 26.10.08 and 26.10.09;
- (4) In accordance with COMAR 26.10.03.09, amend the registration for the UST system not later than 30 days following the temporary closure of the UST system; and
- (5) If a motor fuel, bulk oil storage, used oil, or hazardous substance UST system, perform the UST system inspections required in COMAR 26.10.03.10.

B. When a UST system is temporarily closed and the storage tank system is emptied by having all materials removed using commonly employed practices so that not more than 1 inch of residue or 0.3 percent by weight of the total capacity of the UST remain in the UST system, an owner and an operator of a UST system is not required to perform:

- (1) Operation and maintenance testing and inspections of spill and overfill prevention equipment, as required by COMAR 26.10.03.03;
- (2) Periodic operation and maintenance walkthrough inspections, as required by COMAR 26.10.04.03; and
- (3) Operation and maintenance testing and inspections of release detection equipment, as required by COMAR 26.10.05.

C. When a UST system is temporarily closed for 3 months or more, an owner and an operator of a UST system shall:

- (1) Leave the vent line open and functioning; and
- (2) Cap and secure all other lines, pumps, manways, and ancillary equipment.

D. When a UST system does not meet the performance standards for new UST systems in COMAR 26.10.03.01 or the upgrading requirements in COMAR 26.10.03.08, except for the requirements of COMAR 26.10.03.08F, and the UST system has been temporarily closed for more than 6 months, an owner and an operator of a UST system shall:

- (1) Permanently close the UST system in accordance with Regulations .02—.05 of this chapter; or
- (2) If the Department grants an extension, permanently close the UST system within the time period established by the Department and in accordance with Regulations .02—.05 of this chapter.

E. When a UST system meets the performance standards for new UST systems in COMAR 26.10.03.01 or the upgrading requirements in COMAR 26.10.03.08, and the UST system has been temporarily closed for more than 1 year, an owner and an operator of a UST system shall:

- (1) Permanently close the UST system in accordance with Regulations .02—.05 of this chapter; or
- (2) If the Department grants an extension, permanently close the UST system within the time period established by the Department and in accordance with Regulations .02—.05 of this chapter.

F. An owner and an operator of a temporarily closed UST system required to permanently close the UST system under §D or E of this regulation may apply to the Department for an extension to the required time period for completing the permanent closure by:

- (1) Completing a site assessment in accordance with the procedures in Regulation .03 of this chapter; and
- (2) Submitting a written site assessment report to the Department that includes, at a minimum, the following information:

- (a) The location of the UST system on the property;
- (b) The date the site assessment was performed;
- (c) A summary of any field test and the laboratory analytical results;
- (d) The name of the contractors who performed the work; and
- (e) All analytical data and laboratory reports.

**.02 Permanent Closure and Changes-in-Service.**

A. An owner and an operator of a UST system, an underground farm tank, an underground residential tank, and an underground residential heating oil tank shall have a permanent closure or change-in-service of a storage tank system performed by or under the supervision of a certified UST system technician or remover.

B. An owner, an operator, and a person in charge of a UST system shall conduct a permanent closure or change-in-service of a storage tank system in accordance with the following documents:

- (1) API Recommended Practice 1604 "Closure of Underground Petroleum Storage Tanks"; and
- (2) PEI/RP 1700 "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems".

C. Notification.

(1) Unless a permanent closure or change-in-service of a UST system is performed in response to a corrective action, an owner, an operator, and a person in charge of a UST system shall notify the Department of a planned permanent closure or change-in-service of the UST system by submitting a notification:

- (a) In writing on a form provided by the Department; and
- (b) At least 30 days before beginning the permanent closure or change-in-service, or within another reasonable time period determined by the Department.

(2) An owner and an operator of a UST system shall confirm a planned permanent closure of a UST system with the Department 48 hours in advance of beginning the permanent closure.

(3) An owner and an operator of a UST system shall perform an assessment of the excavation zone, as required under Regulation .03 of this chapter:

- (a) After notifying the Department of a planned permanent closure or change-in-service of the UST system; and
- (b) Before completion of the permanent closure or change-in-service of the UST system.

(4) In accordance with COMAR 26.10.03.09, an owner, an operator, and a person in charge of a UST system that was permanently closed or underwent a change-in-service shall amend the registration for the UST system after the permanent closure or change-in-service of the UST system is complete.

D. Permanent Closure.

(1) When a UST system is permanently taken out-of-service, an owner and an operator of a UST system shall permanently close the UST system by:

- (a) Removing the UST system from the ground; or
- (b) If approved by the Department, abandoning the UST system in place.

(2) Unless otherwise directed by the Department, an owner, an operator, and a person in charge of a UST system requesting to abandon the UST system in place shall provide the Department with a report signed by a professional engineer that confirms the permanent closure of the UST system by removal would have an adverse effect on a building foundation or other important structures or utilities within the immediate vicinity of the excavation zone.

(3) To permanently close a UST system by removal or abandonment in place, an owner, an operator, and a person in charge of a UST system shall take the following actions:

- (a) Immediately before closing the UST system, empty and clean the UST and piping by removing all flammable, combustible, and other liquids and accumulated sludge from the UST system;
- (b) Unless otherwise directed by the Department, disconnect and remove all emptied lines;
- (c) Remove all aboveground portions of vent lines and cap the remaining lines at their bases; and
- (d) Remove all regulated substances, sludge, and soil contaminated with a regulated substance found during the UST system closure for treatment or disposal in compliance with applicable federal, State, and local laws.

(4) If a UST system is permanently closed by removal, an owner, an operator, and a person in charge of a UST system shall take the following actions:

- (a) Purge all explosive vapors from the UST prior to removal from the excavation zone;
- (b) Monitor the UST with an appropriate meter for vapors before and during removal of the UST from the excavation zone;
- (c) Once the UST system has been removed from the excavation zone:
  - (i) Retest the UST for flammable vapors and, if necessary, purge all remaining explosive vapors; and
  - (ii) Make holes or openings in the UST to render it unfit for further use;
- (d) If the operation poses a threat to public safety, do not crush or cut up the UST on-site;
- (e) Dispose of the UST system materials at a location acceptable to the Department; and

- (f) Fill the former UST system excavation zone to grade with an appropriate fill material.
- (5) If a UST system is permanently closed by abandonment in place, an owner, an operator, and a person in charge of a UST system shall take the following actions:
  - (a) Do not fill the UST through a fill or vent pipe;
  - (b) Provide proper openings by excavation, or other means, on the UST to facilitate cleaning and filling the UST;
  - (c) Completely fill the UST with a solid, inert, and flowable material so there are no voids in the UST;
  - (d) Dispose of any removed UST system materials at a location acceptable to the Department; and
  - (e) Fill any excavated areas to grade with an appropriate fill material.

E. Change-in-Service. When an owner and an operator of a UST system chooses to store a nonregulated substance in a UST system, the owner and the operator of the UST system shall:

- (1) Notify the Department of the planned change-in-service of the UST system in accordance with §C(1) of this regulation;
- (2) Before completing the change-in-service, perform a site assessment in accordance with Regulation .03 of this chapter; and
- (3) To conduct the change-in-service, empty and clean the UST and piping by removing all flammable, combustible, and other liquids and accumulated sludge from the UST system.

#### **.03 Assessing the Site at Closure or Change-in-Service.**

A. Before applying for an extension for temporary closure or completing a permanent closure or change-in-service of a UST system, an owner and an operator of a UST system shall:

- (1) Perform a site assessment to determine if there is evidence of a spill, release, or discharge where contamination would most likely be present; and
- (2) In selecting sample types, sample locations, and measurement methods consider:
  - (a) The method of closure;
  - (b) The nature of the stored regulated substance;
  - (c) The type of backfill;
  - (d) The depth to groundwater; and
  - (e) Other factors appropriate for identifying the presence of a spill, release, or discharge.

B. If contaminated soil, contaminated groundwater, free product, or vapor is discovered while performing the actions under §A of this regulation or by any other manner during a UST system closure or change-in-service activities, an owner, an operator, and a person in charge of a UST system shall:

- (1) Notify the Department within 2 hours of the discovery, as required in COMAR 26.10.08; and
- (2) Begin performing the response and corrective actions required in COMAR 26.10.09.

#### **.04 Applicability to Previously Closed UST Systems.**

When directed by the Department, an owner and an operator of a UST system that was permanently closed before December 22, 1988 shall assess the excavation zone and close the UST system in accordance with this chapter if a spill, release, or discharge from the UST system may, in the judgment of the Department, pose a current or potential threat to human health and the environment.

#### **.05 Closure Records.**

A. An owner and an operator of a UST system shall maintain records in accordance with COMAR 26.10.04.05 that demonstrate compliance with closure requirements under this chapter.

B. The owner and the operator of a UST system that took the UST system out-of-service or the current owner and operator of a property where the UST system was taken out-of-service shall:

- (1) Maintain the closure report required in §C of this regulation and the results of the site assessment required in Regulation .03 of this chapter for at least 5 years after completion of a permanent closure or change-in-service; and
- (2) Maintain the records specified in §B(1) of this regulation by:
  - (a) Storing the records at the property; or
  - (b) If the records cannot be stored at the property, submitting the records to the Department.

C. UST System Closure Report. An owner and an operator of a UST system that underwent a permanent closure or change-in-service shall submit to the Department a written UST system closure report:

- (1) Signed by the certified UST system technician or remover that performed the permanent closure or change-in-service;
- (2) Within 45 days of completing the UST system closure or change-in-service; and
- (3) That includes records documenting:
  - (a) The permanent closure or change-in-service of the UST system was conducted in accordance with Regulation .02 of this chapter;
  - (b) The site assessment was performed in accordance with Regulation .03 of this chapter; and
  - (c) At a minimum, all of the following information:
    - (i) The UST size;
    - (ii) The location of the UST system on the property;

- (iii) *The date of the UST system closure or change-in-service;*
- (iv) *The method used for the UST system closure or change-in-service;*
- (v) *A summary of the work performed;*
- (vi) *A summary of any field test and the laboratory analytical results;*
- (vii) *The name and certification number of the certified UST system technician or remover, and name of the contractors who performed the work;*
- (viii) *If permanently closed by removal, a receipt documenting proper disposal of the UST system;*
- (ix) *A receipt documenting proper treatment or disposal of excavated oil-contaminated soils;*
- (x) *All analytical data and laboratory reports; and*
- (xi) *Photographs of each UST system taken out-of-service and each excavation zone.*

D. An owner and an operator of an underground farm tank, an underground residential tank, and an underground residential heating oil tank that does not meet the definition of a UST shall submit a written storage tank closure report in accordance with the requirements in §C of this regulation if:

- (1) A spill, release, or discharge occurred at the property that required the owner and the operator of the underground storage tank to notify the Department in compliance with COMAR 26.10.08 and 26.10.09; or
- (2) The Department directs the owner and the operator of the underground storage tank to submit a storage tank closure report.

## **26.10.11 UST Financial Responsibility**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland*

### **01. General.**

A. Owners of UST systems described in 40 CFR §280.90, including local governments that own UST systems, shall demonstrate financial responsibility for one or more USTs in accordance with the requirements of this chapter and 40 CFR §§280.90—280.116.

B. The requirements for the “owner or operator” or “owners or operators” of a UST system contained in 40 CFR §§280.90—280.116 are to be assumed solely by the “owner” of a UST system.

### **.02 Incorporation by Reference.**

A. As qualified by §§B and C of this regulation, 40 CFR §§280.90—280.116 (October 13, 2015) is incorporated by reference.

B. For the purposes of this chapter, a person shall make the following substitutions:

- (1) Wherever the words “Director”, “Director of the Implementing Agency”, “EPA Regional Administrator”, or “Director of the EPA” appear, substitute “Secretary of the Environment”; and
- (2) Wherever the words “a state implementing agency” or “implementing agency” appear, substitute “the Maryland Department of the Environment”, “the Department”, or “MDE”.

C. For the purposes of this chapter, a person shall interpret the following cross-references contained in 40 CFR §§280.90—280.116 as follows:

- (1) Interpret a cross-reference to 40 CFR Part 280, Subpart E as COMAR 26.10.08;
- (1) Interpret a cross-reference to 40 CFR Part 280, Subpart F as COMAR 26.10.09; and
- (2) Interpret a cross-reference to 40 CFR Part 280, Subpart G as COMAR 26.10.10.

### **.03 Additional Mechanism for Local Governments to Demonstrate Financial Responsibility.**

A. In addition to the mechanisms for demonstrating financial responsibility listed in 40 CFR §§280.95—280.107, a local government may use the mechanism described in §§B—D of this regulation to demonstrate financial responsibility for one or more USTs.

B. A local government may obtain environmental liability coverage from an insurance pool that:

- (1) Is established under Insurance Article, §§19-602 and 19-603, Annotated Code of Maryland;
- (2) The Secretary of the Environment has determined to be financially sound and at least as equivalent to one or more of the financial assurance mechanisms provided in 40 CFR §§280.95—280.107; and
- (3) On an annual basis, provides any information to the Department considered necessary to assess whether the insurance pool remains financially sound.

C. When determining the financial soundness of an insurance pool, the Secretary of the Environment may consider the certainty of the availability of the insurance pool funds to cover the potential liability of participating local governments to take corrective action or to compensate third parties for bodily injury and property damage, or both, caused by an accidental spill, release, or discharge arising from the operation of petroleum USTs, as set forth in 40 CFR §280.93.

D. A local government using an insurance pool approved under this chapter to demonstrate financial responsibility for one or more USTs shall:

- (1) Obtain a separate endorsement, certificate, or similar document worded in accordance with the forms set forth in 40 CFR §280.97(b); and

(2) Comply with all applicable provisions of 40 CFR §§280.90—280.116, including those imposing requirements for reporting and recordkeeping.

**.04 Reporting Requirements**

A. An owner of a UST system shall provide evidence of financial responsibility for one or more USTs to the Department as follows:

(1) Submit evidence of financial responsibility in an electronic format determined by the Department according to the following schedule:

(a) Annually, but not later than 90 days following the initiation of coverage under a financial mechanism or the anniversary date of existing coverage under a financial mechanism; and

(b) Upon the request of the Department; and

(2) Submit as evidence of financial responsibility any applicable forms listed in 40 CFR §280.111(b) or any other information relevant to compliance with the provisions of this chapter.

B. Unless otherwise directed by the Department, an owner of a UST system shall:

(1) Comply with all of the applicable notification provisions of 40 CFR §§280.90—280.116, including any accompanying reporting and recordkeeping requirements; and

(2) Provide notification to the Department that demonstrates that the financial assurance mechanism is valid.

C. In accordance with the UST system registration requirements in COMAR 26.10.03.09, an owner of a UST system shall:

(1) Certify compliance with the financial responsibility requirements of this chapter when registering a newly installed or acquired UST system; and

(2) Amend the registration for a registered UST system if:

(a) The owner of the UST system is released from the requirement to maintain financial responsibility for the UST system, as provided under 40 CFR §280.113; or

(b) The owner of the UST system obtains an alternate mechanism of financial responsibility, if required under 40 CFR §280.114.

D. In addition to the requirements in §§A and B of this regulation, an owner of a UST system that uses an insurance policy or risk retention group coverage to demonstrate financial responsibility for one or more USTs shall provide to the Department on an annual basis:

(1) An endorsement or certificate of insurance;

(2) Any amendments to the insurance policy or risk retention group coverage, including amendments for additional insured; and

(3) A UST schedule that includes, at a minimum, the following information:

(a) The Department issued regulated substance storage facility identification number;

(b) The registered UST system owner's name and address as insured;

(c) The installation date of the UST system;

(d) The UST system capacity in gallons;

(e) A statement that the UST construction is single-walled or double-walled;

(f) The type of regulated substance stored in the UST system; and

(g) A statement that the UST has a lined interior or does not have a lined interior.

**26.10.12 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland

**.01 General Requirements.**

A. Implementation of Requirements. Except as otherwise provided in Regulations .02—.05 of this chapter, an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system shall comply with requirements of this chapter, COMAR 26.10.02—26.10.11 and 26.10.16 in accordance with the following schedule:

(1) For a UST system installed after the effective date of this chapter, upon installation of the UST system; and

(2) For a UST system installed on or before the effective date of this chapter:

(a) Comply with the following requirements not later than October 13, 2022:

(i) Upgrade requirements in Regulation .03 of this chapter;

(ii) Spill and overflow control requirements in COMAR 26.10.04.01;

(iii) Operation and maintenance of corrosion protection requirements in COMAR 26.10.04.02;

(iv) Compatibility requirements in COMAR 26.10.03.07;

(v) Requirements regarding repairs allowed on UST systems in COMAR 26.10.04.04;

(vi) Reporting and recordkeeping requirements in Regulation .07 of this chapter and COMAR 26.10.04.05;

(vii) Spill and overflow prevention equipment and testing requirements in COMAR 26.10.03.03;

(viii) Periodic operation and maintenance walkthrough inspections requirements in Regulation .04 of this chapter and COMAR 26.10.04.03;

(ix) Release detection requirements in Regulation .05 of this chapter and COMAR 26.10.05; and

(x) Operator training requirements in COMAR 26.10.16; and

(b) Comply with the following requirements on and after the effective date of this chapter:

(i) Requirements for reporting, investigating, and confirming a spill, release, or discharge in COMAR 26.10.08;

(ii) Spill, release, and discharge response and corrective action requirements in COMAR 26.10.09;

(iii) Closure and change-in-service of a UST system requirements in COMAR 26.10.10;

(iv) Except as provided in §B of this regulation, UST system registration requirements in COMAR 26.10.03.09; and

(v) Except as provided in §C of this regulation, financial responsibility requirements in COMAR 26.10.11.

B. Not later than October 13, 2022, an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system installed before the effective date of this chapter shall register the UST system and maintain up-to-date registration of the UST system with the Department in accordance with COMAR 26.10.03.09.

C. An owner of a UST system with a field-constructed tank or an airport hydrant system in use as of the effective date of this chapter shall demonstrate financial responsibility for the UST system at the time of submitting a registration form for the UST system, as required in §B of this regulation.

D. In compliance with COMAR 26.10.02.03D, an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system shall ensure:

(1) The installation, upgrade, and repair of the UST system is performed by or under the supervision of a certified UST system technician;

(2) The closure or change-in-service of the UST system is performed by or under the supervision of a certified UST system technician or remover; and

(3) Inspections required under COMAR 26.10.03.10 are performed by or under the supervision of a certified UST system inspector.

#### **.02 Exception to Piping Secondary Containment Requirements.**

A. An owner and an operator of a UST system with a field-constructed tank greater than 50,000 gallons or an airport hydrant system may use single-walled piping when installing or replacing piping associated with the UST system.

B. An owner and an operator of a UST system with a field-constructed tank less than or equal to 50,000 gallons that is not part of an airport hydrant system shall meet the piping performance standards and secondary containment requirements of COMAR 26.10.03.02 when installing or replacing piping.

#### **.03. Upgrade Requirements.**

A. Not later than October 13, 2022, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system installed on or before the effective date of this chapter shall comply with the upgrade requirements of this section.

(1) Corrosion Protection. The owner and the operator of the UST system shall ensure the UST system components in contact with the ground:

(a) Except as provided in Regulation .02 of this chapter, meet the new and replacement UST system performance standards for USTs in COMAR 26.10.03.01 and piping in COMAR 26.10.03.02; or

(b) Are constructed of metal and cathodically protected according to a NACE code of practice incorporated by reference under COMAR 26.10.01.03 and meet the following cathodic protection conditions:

(i) The cathodic protection meets the requirements of COMAR 26.10.03.01B(1)(b) and (3) for USTs and COMAR 26.10.03.02B(1)(b) and (2) for piping; and

(ii) A UST greater than 10 years old without cathodic protection is assessed to ensure the UST is structurally sound and free of corrosion holes prior to adding cathodic protection through an internal inspection or another method determined by the Department.

(2) Spill and Overfill Prevention Equipment. To prevent a spill, release, or discharge or an overflow associated with product transfer to a UST system, the owner and the operator of the UST system shall ensure the UST system meets the new UST system spill and overflow prevention equipment requirements specified in COMAR 26.10.03.03.

B. An owner and an operator of a UST system with a field-constructed tank or an airport hydrant system not in compliance with §A of this regulation shall:

(1) Immediately place the UST system in temporary closure in accordance with COMAR 26.10.10.01; and

(2) Permanently close the UST system in accordance with COMAR 26.10.10.02—.05 not later than April 13, 2023, or another time period established by the Department.

#### **.04. Walkthrough Inspections.**



A. In addition to the operation and maintenance walkthrough inspection requirements in COMAR 26.10.04.03, an owner and an operator of an airport hydrant system shall inspect the following additional areas of the airport hydrant system:

(1) Inspect hydrant pits by:

- (a) Visually checking for any damage;
- (b) Removing any liquid or debris; and
- (c) Checking for evidence of a spill, release or discharge; and

(2) Inspect hydrant piping vaults and sumps by checking for evidence of a spill, release or discharge from hydrant piping.

B. An owner and an operator of an airport hydrant system shall inspect the additional areas required in §A of this regulation:

(1) Monthly if confined space entry according to the Occupational Safety and Health Administration is not required; or

(2) At least annually if confined space entry according to the Occupational Safety and Health Administration is required.

C. An owner and an operator of an airport hydrant system shall maintain records of the additional areas inspected in accordance with COMAR 26.10.04.03.

#### **.05 Release Detection.**

A. Not later than October 13, 2022, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system shall provide a method of release detection in accordance with the requirements of this regulation.

B. Field-Constructed Tanks.

(1) An owner and an operator of a UST system with a field-constructed tank with a capacity less than or equal to 50,000 gallons shall meet the UST system release detection requirements in COMAR 26.10.05.

(2) An owner and an operator of a UST system with a field-constructed tank with a capacity greater than 50,000 gallons shall comply with the following release detection requirements:

(a) If a metered UST system, perform monthly inventory control in accordance with COMAR 26.10.05.04 or an equivalent procedure that can detect a leak less than or equal to 0.5 percent of the monthly flow-through; and

(b) Perform release detection in accordance with COMAR 26.10.05 or by using at least one of the following alternative methods of release detection:

(i) Conduct an annual tank tightness test that can detect a 0.5 gallon per hour (gph) leak rate;

(ii) Use an automatic tank gauging system to perform monthly release detection that can detect a leak rate of less than or equal to 1.0 gph, and conduct a tank tightness test that can detect a 0.2 gph leak rate at least every 3 years;

(iii) Use an automatic tank gauging system to perform monthly release detection that can detect a leak rate of less than or equal to 2.0 gph, and conduct a tank tightness test that can detect a 0.2 gph leak rate at least every 2 years;

(iv) Perform vapor monitoring in accordance with §C(2)(b) of this regulation;

(v) Perform monthly inventory control in accordance with COMAR 26.10.05.04 or an equivalent procedure that can detect a leak less than or equal to 0.5 percent of the monthly flow-through, and in conjunction perform either a tank tightness test that can detect a 0.5 gph leak rate at least every 2 years or groundwater monitoring as a monthly method of release detection in accordance with COMAR 26.10.05.05F; or

(vi) Perform another method of release detection approved by the Department if the owner and an operator of the UST system can demonstrate that the method can detect a spill, release, or discharge as effectively as any of the methods allowed under §B(2)(b)(i)—(v) of this regulation.

C. Piping. An owner and an operator of a UST system with a field-constructed tank that has a capacity greater than 50,000 gallons or an airport hydrant system shall comply with the release detection requirements of this section if underground piping is associated with the field-constructed tank or the airport hydrant system.

(1) If the UST system is metered, the owner and the operator of the UST system shall perform monthly inventory control in accordance with COMAR 26.10.05.04 or an equivalent procedure that can detect a leak less than or equal to 0.5 percent of the monthly flow-through.

(2) The owner and the operator of the UST system shall perform a method of release detection provided in COMAR 26.10.05 or at least one of the alternative methods of release detection specified in paragraphs (a)—(d) of this subsection.

(a) Line Tightness Test.

(i) Perform a semiannual or annual line tightness test at or above the piping operating pressure in accordance with Table 1.

Table 1 - Maximum Leak Detection Rate per Test Section Volume

Test Section Volume	Semiannual Test	Annual Test
	Maximum Leak Detection Rate	Maximum Leak Detection Rate
< 50,000 gal	1.0 gph	0.5 gph
≥ 50,000 to < 75,000 gal	1.5 gph	0.75 gph
≥ 75,000 to < 100,000 gal	2.0 gph	1.0 gph
≥ 100,000 gal	3.0 gph	1.5 gph

Agency Note: The leak detection rate for a test section volume may not exceed the maximum leak detection rate identified for the corresponding semiannual test or annual test.

(ii) If a piping segment with a volume of greater than or equal to 100,000 gallons is not capable of meeting the maximum 3.0 gph leak rate for a semiannual test, perform a line tightness test using a leak rate up to 6.0 gph in accordance with the schedule established in Table 2.

Table 2 - Phase In for Piping Segments ≥ 100,000 Gallons in Volume

First Test	Not later than October 13, 2022 (may use up to 6.0 gph leak rate).
Second Test	Between October 13, 2022 and October 13, 2025 (may use up to 6.0 gph leak rate).
Third Test	Between October 13, 2025 and October 13, 2026 (use 3.0 gph leak rate).
Subsequent tests	After October 13, 2026 (use the maximum leak detection rate for semiannual or annual line tightness testing, as specified in Table 1).

(b) Vapor Monitoring. Perform vapor monitoring for a tracer compound placed in the UST system that is capable of detecting a 0.1 gph leak rate at least every 2 years according to the following criteria:

(i) Test for the tracer compound within the soil gas of the excavation zone;

(ii) Use materials as backfill that are sufficiently porous, such as gravel, sand or crushed rock, to readily allow diffusion of tracer compound vapors released from the UST system into the excavation zone;

(iii) Place a tracer compound in the UST system that is sufficiently volatile to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event the tracer compound vapors are released from the UST system;

(iv) Use a method to detect tracer compound vapors that is not rendered inoperative by groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(v) Ensure that the level of background contamination in the excavation zone will not interfere with the method used to detect the tracer compound if released from the UST system;

(vi) Use a method to detect tracer compound vapors in the excavation zone that is designed and operated to detect any significant increase in the concentration of the tracer compound vapor above background;

(vii) In the excavation zone, assess the site to ensure compliance with the requirements §C(2)(b)(ii)–(v) of this regulation and to establish the number and positioning of testing locations that will detect tracer compound vapors released within the excavation zone from any portion of the UST system; and

(viii) Clearly mark and secure the testing locations to avoid unauthorized access and tampering.

(c) Inventory Control. Perform monthly inventory control in accordance with COMAR 26.10.05.04 or an equivalent procedure that can detect a leak less than or equal to 0.5 percent of the flow-through and perform one of the following methods of release detection:

(i) Perform a line tightness test at least every 2 years in accordance with Table 1 of §C(2)(a)(i) of the regulation using the leak rates for the semiannual test; or

(ii) Perform groundwater monitoring as a method of monthly release detection in accordance with COMAR 26.10.05.05F.

(d) An owner and an operator of a UST system with a field-constructed tank or an airport hydrant system may use another release detection method approved by the Department if the owner and an operator of the UST system can demonstrate that the method can detect a spill, release, or discharge as effectively as any of the methods allowed §C(2)(a)–(c) of this regulation.

D. When comparing alternative methods of release detection for approval, as provided in §§B(2)(b)(vi) and C(2)(d) of this regulation, the Department shall consider the size of release that the method can detect and the frequency and reliability of detection.

E. Recordkeeping for Release Detection. An owner and an operator of a UST system with a field-constructed tank or an airport hydrant system shall maintain release detection records in accordance with COMAR 26.10.05.06.

F. Notifications.

(1) When a release detection method operated in accordance with this regulation indicates that a spill, release, or discharge may have occurred, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system shall notify the Department in accordance with COMAR 26.10.08.01.

(2) If an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system changes the method of release detection used, the owner, the operator, and the person in charge of the UST system shall provide the Department written notification within 30 days of the change.

**.06 Applicability of Closure Requirements to Previously Closed UST Systems.**

When directed by the Department, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system that was permanently closed before the effective date of this chapter shall assess the excavation

zone and permanently close the UST system in accordance with COMAR 26.10.10 if a spill, release, or discharge from the UST system may, in the judgment of the Department, pose a current or potential threat to human health and the environment.

**.07 Access, Reporting, and Recordkeeping.**

A. An owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system shall comply with the access, reporting, and recordkeeping requirements in COMAR 26.10.04.05.

B. An owner and an operator of an airport hydrant system shall comply with the recordkeeping requirements for the additional areas to be inspected during walkthrough inspections in accordance with Regulation .04C of this chapter and COMAR 26.10.04.03 and 26.10.04.05.

C. An owner and an operator of a UST system with a field-constructed tank or an airport hydrant system shall comply with the recordkeeping requirements for release detection in accordance with Regulation .05E of this chapter and COMAR 26.10.04.05 and 26.10.05.06.

**26.10.13 Oil-Contaminated Soil**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411, and 4-415—4-418, Annotated Code of Maryland

**.01 Scope.**

A. This chapter applies to an owner, an operator, and a person in charge of an oil-contaminated soil (OCS) facility.

B. This chapter is not intended to and does not relieve an owner, an operator, and a person in charge of an OCS facility of the duty to comply with all other applicable requirements of COMAR 26.10.

C. This chapter does not affect the Department's authority to direct a corrective action conducted in response to an oil spill, release, or discharge in accordance with the requirements of COMAR 26.10.01 and 26.10.08—26.10.10.

**.02 Definitions.**

A. In this chapter:

- (1) A term defined in §B of this regulation has the meaning indicated; and
- (2) A term not defined in §B of this regulation has the meaning given to it in:
  - (a) A relevant statute;
  - (b) COMAR 26.10.01 or 26.10.02; or
  - (c) If not defined in a statute or COMAR 26.10.01 or 26.10.02, the meaning attributed by common use.

B. Terms Defined.

- (1) "Controlled hazardous substance (CHS)" means a hazardous waste as defined in COMAR 26.13.02, except as provided in COMAR 26.13.02.06.
- (2) "Mobile treatment OCS facility" means equipment that is:
  - (a) Capable of being moved from place to place;
  - (b) Capable of treating OCS after it is excavated; and
  - (c) Used on-site.
- (3) OCS.
  - (a) "OCS" means excavated soil that has been in contact with oil.
  - (b) "OCS" does not include post-treatment soil.
- (4) OCS Facility.
  - (a) "OCS facility" means a facility that receives OCS for treatment and storage.
  - (b) "OCS facility" includes a mobile treatment OCS facility.
- (5) OCS Treatment Approval.
  - (a) "OCS treatment approval" means written permission from the Department that grants an applicant approval to conduct a pilot project to treat OCS.
  - (b) "OCS treatment approval" does not include an Individual Oil Operations Permit issued by the Department to an owner, an operator, and a person in charge of an OCS facility.
- (6) "On-site" means the immediate location where the OCS was generated.
- (7) "Pilot project" means an experimental OCS treatment project conducted by an owner, an operator, and a person in charge of an OCS facility under the terms and conditions of an OCS treatment approval.
- (8) "Post-treatment soil" means treated OCS that meets one of the criteria established in Regulation .10 of this chapter.
- (9) "Shelter" means a freestanding structure that includes a roof or an equivalent protective cover and prevents the infiltration of rainwater.
- (10) "TCLP" means the toxicity characteristic leaching procedure, as defined in USEPA Test Method 1311.
- (11) "TPH" means total petroleum hydrocarbons.
- (12) "Treatment" means any activity or process at an OCS facility that decreases or stabilizes, or is intended to decrease or stabilize, the level of oil contaminants in OCS.

**.03 Permits, Approvals, and Prohibitions.**

A. A person shall only store OCS at an OCS facility covered under an Individual Oil Operations Permit.

*B. An owner, an operator, and a person in charge of an OCS facility may not accept OCS for storage or treatment without first obtaining an Individual Oil Operations Permit in accordance with Regulations .04 and .05 of this chapter and COMAR 26.10.01.09 and .11.*

*C. Before beginning a pilot project to treat OCS, a person shall obtain an OCS treatment approval from the Department in accordance with Regulation .16 of this chapter.*

**.04 Permit Application Requirements.**

*A. An owner, an operator, and a person in charge of an OCS facility shall obtain an Individual Oil Operations Permit in accordance with the requirements of this regulation and COMAR 26.10.01.09 and .11.*

*B. A person applying for an Individual Oil Operations Permit to operate an OCS facility shall include on forms provided by the Department all of the following information:*

- (1) A general description of the proposed OCS facility, including a description of the treatment process, anticipated production volume, and OCS acceptance procedures;*
- (2) The name, physical address, and mailing address of the owner of the proposed OCS facility;*
- (3) If different than the owner specified in §B(2) of this regulation, the name, physical address, and mailing address of the owner of the property on which the OCS facility will be located;*
- (4) The size of property on which the OCS facility will be located;*
- (5) The name, physical address, and mailing address of each adjoining property owner; and*
- (6) One copy of the following documents:*
  - (a) A map that delineates the property and the surrounding ¼ mile area, identifying:*
    - (i) The location of all potable wells, wetlands, floodplains, intermittent and other surface waters; and*
    - (ii) Each property owner identified in §B(5) of this regulation;*
  - (b) A to-scale diagram of the OCS facility that depicts the:*
    - (i) Treatment and storage areas for OCS and post-treatment soil;*
    - (ii) Storm drains and stormwater retention ponds located at the facility;*
    - (iii) Roads located within the property boundaries of the OCS facility; and*
    - (iv) Existing and proposed structures;*
  - (c) A description of the following features and utilities at the facility:*
    - (i) Vehicle weighing facilities;*
    - (ii) Both wired and wireless communications equipment, including telephones and radios;*
    - (iii) Maintenance facilities;*
    - (iv) Equipment storage facilities;*
    - (v) The location of the OCS facility site supply well, if one is present; and*
    - (vi) The location of the sewerage system;*
  - (d) A description of the proposed soil types and sources of OCS to be accepted and rejected by the OCS facility;*
    - (e) A description of how the OCS facility will control dust, petroleum vapors, and odors;*
    - (f) A description of the manner in which OCS and post-treatment soil will be stored at the facility to prevent the contamination of waters of the State while maintaining compliance with the storage requirements of Regulation .07 of this chapter;*
    - (g) The name, physical address, and mailing address of the laboratory to be used to test OCS and post-treatment soil samples, and a description of the sampling and analytical protocols to be used for testing OCS and post-treatment soil;*
    - (h) The maximum and anticipated average quantity of:*
      - (i) OCS to be accepted or stored at the OCS facility at any one time; and*
      - (ii) Post-treatment soil to be stored at the OCS facility at any one time;*
    - (i) The proposed method of controlling unauthorized access to the OCS facility;*
    - (j) The proposed operating procedures, including:*
      - (i) Hours and days of operation;*
      - (ii) The type and number of pieces of equipment to be used;*
      - (iii) The number of employees and description of individual employee duties;*
      - (iv) The provisions for fire prevention and control;*
      - (v) The provisions for wet weather operations;*
      - (vi) The methods for controlling stormwater run-off from the OCS facility and stormwater run-on onto the OCS facility from adjoining areas; and*
      - (vii) The erosion and sediment control provisions approved by the appropriate approving authority;*
    - (k) An operations manual that includes:*
      - (i) Standard operating procedures for the OCS facility;*
      - (ii) OCS acceptance procedures;*
      - (iii) Sample collection, storage, and analytical procedures;*
      - (iv) The names and duties of key personnel;*
      - (v) Facility maintenance procedures; and*

- (vi) A quality assurance/quality control plan to ensure OCS is properly treated and post-treatment soil meets the requirements of Regulation .10 of this chapter;
- (l) Except for an application for a mobile treatment OCS facility, a closure plan for the proposed OCS facility that includes, at a minimum:
  - (i) The location and installation details of monitoring wells that will allow for the determination of groundwater flow and that are placed in areas that are most likely to detect a spill, release, or discharge from the OCS facility;
  - (ii) Procedures for the removal of all OCS from the OCS facility;
  - (iii) Procedures for the removal of post-treatment soil from the OCS facility; and
  - (iv) Procedures, schedules, and methods for monitoring the waters of the State at the OCS facility for five years after the closure of the facility;
- (m) For an application for a mobile treatment OCS facility, a closure plan for the proposed mobile treatment OCS facility that includes, at a minimum:
  - (i) Procedures for the removal of all OCS not treated by the mobile treatment OCS facility on-site, and
  - (ii) Procedures for the removal of post-treatment soil stored on-site; and
  - (n) Written consent from the owner of the property on which the proposed OCS facility is to be located, as identified in §B(3) of this regulation, stating the proposed OCS facility may be located and operated on the property.

C. Upon review of an application completed in accordance with this regulation, the Department shall:

- (1) Notify the applicant in writing that the application is not complete and additional information is required to determine whether the proposed OCS facility is consistent with all applicable requirements of this chapter, COMAR 26.10, and other state laws and regulations;

(2) Issue an Individual Oil Operations Permit to the applicant in accordance with COMAR 26.10.01.11F and G;  
or

- (3) Deny the application for an Individual Oil Operations Permit in accordance with COMAR 26.10.01.12.

D. Renewal of an Individual Oil Operations Permit.

(1) An owner, an operator, and a person in charge of an OCS facility shall:

- (a) Except as provided in §D(1)(b) of this regulation, apply to renew an Individual Oil Operations Permit in accordance with §§A and B of this regulation and COMAR 26.10.01.11; and

(b) Submit an application for renewal at least 90 days before the expiration of an Individual Oil Operations Permit.

- (2) Unless otherwise directed by the Department, an owner, an operator, and a person in charge of an OCS facility is not required to hold an informational meeting in accordance with Regulation .05 of this chapter when renewing an Individual Oil Operations Permit.

#### **.05 Informational Meeting.**

A. Informational Meeting Requirement.

(1) An owner, an operator, and a person in charge of a proposed OCS facility applying for an Individual Oil Operations Permit shall hold an informational meeting.

(2) The Department may require an owner, an operator, and a person in charge of the OCS facility to hold an informational meeting before:

- (a) Renewing an Individual Oil Operations Permit;
- (b) Reinstating a suspended or revoked Individual Oil Operations Permit; and
- (c) Modifying an Individual Oil Operations Permit.

B. A person responsible for holding an informational meeting shall:

(1) Secure an approved meeting venue located in the political subdivision and in close proximity to the OCS facility; and

(2) At least 15 days but not more than 30 days before the date of the meeting, publish a notice advertising the informational meeting:

(a) At least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the OCS facility is or will be located; and

(b) That includes the following information:

- (i) The name and address of the owner of the OCS facility;
- (ii) A description of where the OCS facility would be located;
- (iii) The nature of the proposed activity to be performed under the Individual Oil Operations Permit;
- (iv) A reference to the applicable statutes or regulations governing the application process;
- (v) The time and place of the meeting or a description of where this information can be found;
- (vi) A description of where further information about the Individual Oil Operations Permit application or the revoked or suspended Individual Oil Operations Permit can be found; and
- (vii) Any other information that the Department determines is necessary.

C. The Department may consolidate an informational meeting provided in accordance with this regulation with other informational meetings for the OCS facility.

#### **.06 Permit and Operational Requirements.**

A. The Department shall specify the following requirements in an Individual Oil Operations Permit for an OCS facility other than a mobile OCS treatment facility:

- (1) The maximum quantities of OCS and post-treatment soil to be stored at the OCS facility at any given time;
- (2) The methods used to store OCS and post-treatment soil;
- (3) The methods of stormwater run-on and run-off control;
- (4) The sampling and testing requirements for accepted OCS;
- (5) The testing requirements for post-treatment soil;
- (6) The recordkeeping requirements for the following records at the OCS facility:

- (a) OCS acceptance documents;
- (b) OCS and post-treatment soil testing records;
- (c) OCS and post-treatment soil laboratory analyses; and
- (d) Documentation for OCS deliveries made to the OCS facility, including refused OCS deliveries, showing:
  - (i) The generator's name and physical and mailing addresses;
  - (ii) The OCS source; and
  - (iii) The transporter's name and physical and mailing addresses;

(7) A closure plan prepared in accordance with Regulation .04B of this chapter;

(8) A schedule for testing the quality of waters of the State at the OCS facility; and

(9) A description of the field and laboratory analytical methods that will be used to monitor the quality of waters of the State at the OCS facility, including the location and types of monitoring stations and monitoring well construction method.

B. The Department shall specify the following requirements in an Individual Oil Operations Permit for a mobile treatment OCS facility:

- (1) The requirements listed in §A(3)—(6);
- (2) The method used for staging OCS on-site; and
- (3) Closure plan requirements, including procedures for:
  - (a) The removal of OCS not treated by the mobile treatment OCS facility on-site; and
  - (b) The removal of post-treatment soil generated on-site.

C. An owner, an operator, and a person in charge of an OCS facility shall comply with the following operational requirements:

- (1) Maintain an up to date operations manual at the OCS facility and make the operations manual available to all OCS facility personnel;
- (2) Train all OCS facility personnel in facility operations, standard operating procedures, and contingency plans;
- (3) Restrict unloading and loading of OCS to approved facility operational hours;
- (4) Maintain adequate personnel and equipment at the OCS facility at all times to ensure proper operation and prompt response to problems associated with loading, unloading, and storage of OCS;
- (5) Keep and make available to the Department upon request all of the records required under this chapter for:
  - (a) The duration of an active Individual Oil Operations Permit; and
  - (b) An additional five years after the permit has expired or been closed by the Department;
- (6) In accordance with the reporting requirements of COMAR 26.10.01.05, notify the Department of an operational malfunction at the OCS facility that results in a spill, release, or discharge within 2 hours of the operational malfunction;
- (7) At the direction of the Department during the operational life of the facility, sample monitoring wells and analyze the quality of waters of the State at the OCS facility; and
- (8) Submit an annual written report by January 30 of each year to the Department that provides the following information for the preceding calendar year:
  - (a) The quantity of OCS received,
  - (b) The origin of OCS received, and
  - (c) The quantity of OCS treated and converted into post-treatment soil at an OCS facility.

D. In addition to the permit conditions specified in §§A and B of this regulation, the Department may include additional special conditions in an Individual Oil Operations Permit if the Department determines the special conditions are necessary to protect public health or the environment.

#### **.07 Storage Requirements.**

A. Unless otherwise approved by the Department as a condition of a new, renewal, or modified Individual Oil Operations Permit, an owner, an operator, and a person in charge of an OCS facility shall store OCS:

- (1) On an impermeable base that has a permeability of  $10^{-7}$  centimeters/second or less;
- (2) Under a shelter; and
- (3) At a volume that does not exceed a 90-day treatment capacity.

B. An owner, an operator, and a person in charge of an OCS facility may not accept or store OCS that does not meet the requirements of Regulation .08 of this chapter.

#### **.08 Acceptance Requirements.**

- A. An owner, an operator, and a person in charge of an OCS facility:
- (1) May accept OCS that:
    - (a) Contains virgin oil; or
    - (b) If the origin of the OCS is unknown, has undergone the laboratory analysis required under §D of this regulation; and
  - (2) May not accept OCS that:
    - (a) Contains free phase oil product, oil sludge, oil refuse, or oil mixed with other waste that has been mixed with soil;
    - (b) Is regulated as a CHS under COMAR 26.13; or
    - (c) Does not meet the conditions of an Individual Oil Operations Permit.
- B. Except as otherwise provided in §C of this regulation, an owner, an operator, and a person in charge of an OCS facility shall obtain the following documentation prior to accepting OCS at the OCS facility:
- (1) An analytical laboratory report that shows the results of analysis for TPH conducted in accordance with:
    - (a) USEPA Test Method 8015; or
    - (b) Another method determined by the Department as appropriate for the type of oil that was spilled, released, or discharged; and
  - (2) One of the following forms that attest to the origin of the OCS and states that a representative of the Department or another authorized person has reason to believe, based upon evidence presented to the person on-site, that the OCS complies with §A of this regulation:
    - (a) A Tank Closure Form or Oil Contaminated Soil Removal Form provided and completed by an authorized representative of the Department;
    - (b) Another form similar to a form listed in §B(2)(a) of this regulation provided and completed by an authorized representative of:
      - (i) A State or local enforcement agency, such as a local fire department, police agency, or an emergency response unit owned by the enforcement agency or hired by the enforcement agency to conduct a removal of an oil spill, release or discharge; or
      - (ii) If the OCS originates from out of state, an enforcement agency of another state enforcing an oil regulatory program;
      - (c) If the OCS is related to the closure of a UST system, underground farm tank, underground residential tank, or underground residential heating oil tank performed in accordance with COMAR 26.10.10, a form provided by the owner, the operator, and the person in charge the OCS facility that was completed by the OCS generator that includes the following information:
        - (i) The OCS facility name and physical address;
        - (ii) The printed name and signature of the OCS facility representative;
        - (iii) The printed name, signature, and certification number of the certified UST system technician or remover;
        - (iv) The UST owner's name and physical and mailing addresses;
        - (v) The Department assigned case number for the UST closure;
        - (vi) The reason for removing the OCS; and
        - (vii) A signed statement that the OCS is the result of a spill, release, or discharge of virgin oil and not used oil, oil refuse, or oil mixed with waste; or
      - (d) If the OCS is related to a commercial transportation spill, release, or discharge and one of the documents described in §B(2)(a)–(c) of this regulation cannot be provided, an affidavit completed by the owner or knowledgeable representative of the responsible party confirming that the OCS complies with §A of this regulation.

C. If the documentation described under §B of this regulation cannot be provided or the OCS was contaminated by a substance other than virgin oil, an owner, an operator, and a person in charge of an OCS facility shall obtain an analytical laboratory report provided by the generator with the results of an analysis conducted in accordance with §D of this regulation prior to accepting OCS at the OSC facility.

D. An owner, an operator, and a person in charge of an OCS facility accepting OCS of an unknown origin shall ensure the OCS undergoes an analytical laboratory analysis as follows:

    - (1) An evaluation for the following oil constituents:
      - (a) TPH, in accordance with the procedures of USEPA Test Method 8015 or another method determined by the Department as appropriate for the type of oil that was spilled, released, or discharged; and
      - (b) Polychlorinated biphenyls, in accordance with the procedures of USEPA Test Method 8082A or another method approved by the Department; and
    - (2) A complete TCLP analysis is conducted in accordance with USEPA Test Method 1311, except that:
      - (a) The TCLP analysis may be limited to metals only if the generator of the OCS has certified that:
        - (i) If the OCS was generated within the State, the OCS is excluded under COMAR 26.13.02.04A(12); or
        - (ii) If the OCS was generated outside the State, the OCS is excluded under 40 CFR §261.4(b)(10) or an equivalent requirement of that state; or
      - (b) Pesticides or herbicides may be omitted from the TCLP analysis if the generator of the OCS certifies that pesticides or herbicides are not reasonably expected to be present.

*E. An owner, an operator, and a person in charge of an OCS Facility may be found in violation of Environment Article, §7-224, Annotated Code of Maryland if:*

*(1) Any person, including the Department, determines through subsequent analytical analyses or a review of records that OCS accepted, stored, or treated at the OCS facility is a CHS; and*

*(2) The OCS facility does not operate under a valid CHS Facility Permit issued by the Department under COMAR 26.13.07.*

*F. An owner, an operator, and a person in charge of an OCS facility shall maintain all records, documents, and analytical laboratory reports required under §§B—D this regulation for:*

*(1) The duration of an active Individual Oil Operations Permit; and*

*(2) An additional five years after an Individual Oil Operations Permit has expired or been closed by the Department.*

**.09 Refusal Criteria.**

*A. An owner, an operator, and a person in charge of an OCS facility shall refuse to accept OCS that does not meet the acceptance requirements of Regulation .08 of this chapter.*

*B. Upon determination that an OCS facility accepted OCS that does not meet the requirements of Regulation .08 of this chapter, an owner, an operator, and a person in charge of the OCS facility shall:*

*(1) Isolate and remove the unacceptable OCS from the OCS facility within 48 hours; and*

*(2) Ensure the OCS removed from the OCS facility is disposed of in compliance with applicable federal, State, and local laws and regulations.*

*C. For each instance of OCS refused in accordance with §§A and B of this regulation, an owner, an operator, and a person in charge of an OCS facility shall provide notification of the refusal to the Department as follows:*

*(1) Provide notification by telephone within 24 hours and written notification within five days of the refusal; and*

*(2) Include the following information in the notifications:*

*(a) The source location and generator of the OCS; and*

*(b) The transporter who delivered or attempted to deliver the OCS.*

**.10 Post-Treatment Requirements.**

*A. An owner, an operator, and a person in charge of an OCS facility shall treat OCS using a process that generates post-treatment soil meeting one of the following criteria:*

*(1) The post-treatment soil has a TPH concentration of 10 mg/kg or less, as measured by USEPA Test Method 8015;*

*(2) Remaining oil in the post-treatment soil is determined to be physically and chemically bound with TPH-diesel range organics concentration of less than 0.5 mg/L, determined by:*

*(a) Preparing a leachate sample from the post-treatment soil in accordance with USEPA Test Method 1311;*

*and*

*(b) Analyzing the leachate sample for TPH-diesel range organics using USEPA Test Method 8015; or*

*(3) Post-treatment soil that meets an alternative criterion established by the Department.*

*B. If treated OCS does not meet one of the criteria established in §A of this regulation, an owner, an operator, and a person in charge of an OCS facility shall:*

*(1) Continue the treatment process for the partially treated OCS until one of the criteria established in §A of this regulation is met; or*

*(2) Except as otherwise provided in §C of this regulation, dispose of the partially treated OCS in compliance with applicable federal, State, and local laws and regulations.*

*C. The Department may approve a request to remove partially treated OCS from an OCS facility for use if the Department determines that the proposed use will not adversely affect public health, safety, or welfare or the environment.*

**.11 Quality Control, Sample Collection, and Analysis.**

*A. An owner, an operator, and a person in charge of an OCS facility shall maintain a quality control program approved by the Department that establishes an adequate tracking mechanism and verification for OCS received by the facility.*

*B. For each truckload of OCS received by an OCS facility, an owner, an operator, and a person in charge of the OCS facility shall:*

*(1) Collect a grab sample from the incoming truckload of OCS and combine not more than three grab samples to form one composite sample;*

*(2) Identify each composite sample by source, date received, and transporter; and*

*(3) Unless otherwise directed by the Department, properly maintain each composite sample at the OCS facility for a minimum of 90 days.*

*C. At least every two weeks, an owner, an operator, and a person in charge of an OCS facility shall have a third-party testing laboratory approved by the Department analyze the composite samples collected in accordance with §B of this regulation as follows:*

*(1) The testing laboratory shall randomly select one composite sample and perform:*



(a) An analysis for polychlorinated biphenyls in accordance with USEPA Test Method 8082A or another method approved by the Department; and

(b) Unless the generator of the OCS certified the OCS is excluded under 40 CFR §261.4(b)(10) and a TCLP analysis limited to metals was performed, a complete TCLP analysis in accordance with USEPA Test Method 1311 or another method approved by the Department; and

(2) The testing laboratory shall submit the results of the analyses conducted pursuant to §C(1) of this regulation directly to the Department.

D. The Department may excuse an owner, an operator, and a person in charge of an OCS facility from the requirements under §C of this regulation if the owner, the operator, and the person in charge sends a letter to the Department certifying that no OCS was accepted during the relevant 2-week period.

#### **.12 Use of Post-Treatment Soils.**

A. The Department may specify in an Individual Oil Operations Permit restrictions on the use of post-treatment soil.

B. An owner, an operator, and a person in charge of an OCS facility shall be responsible for determining the federal, State, and local laws and regulations that apply to the use of post-treatment soil.

#### **.13 Closure Requirements.**

A. Closure Plan Modifications. Subject to the approval of the Department, an owner, an operator, and a person in charge of an OCS facility shall modify a closure plan if:

(1) The operational history of the OCS facility or changes in conditions, such as changes to land use conditions at the site, substantially affect the closure plan in effect;

(2) Before or after closure activities have commenced, unanticipated events necessitate a revision to the closure plan; or

(3) The Department determines a modification of the closure plan is necessary.

B. Initiation of Closure. An owner, an operator, and a person in charge of an OCS facility shall initiate the closure of the OCS facility within 90 days of one of the following occurrences:

(1) An owner, an operator, and a person in charge of an OCS facility determines the OCS facility will no longer be operational;

(2) The OCS facility has suspended OCS treatment activities for greater than six continuous months; or

(3) A condition for closure specified in the Individual Oil Operations Permit occurs.

C. Closure Procedures. An owner, an operator, and a person in charge of an OCS facility shall close the OCS facility in accordance with the closure plan approved by the Department and meet the following requirements:

(1) Remove all OCS from the OCS facility that has not undergone treatment;

(2) Unless otherwise allowed in the Individual Oil Operations Permit, remove all post-treatment soil from the OCS facility;

(3) In accordance with a testing schedule and field and laboratory analytical methods specified by the Department under Regulation .06A of this chapter, monitor the quality of the waters of the State for at least 5 years after completing closure; and

(4) Following the conclusion of the 5-year period for monitoring waters of the State, properly abandon any monitoring wells in accordance with COMAR 26.04.04.

D. Closure of an Individual Oil Operations Permit.

(1) If an Individual Oil Operations Permit only authorizes the operation of an OCS facility, an owner, an operator, and a person in charge of a closed OCS facility may request the Department close the Individual Oil Operations Permit.

(2) Upon the request of an owner, an operator, and a person in charge of an OCS facility, the Department shall close an Individual Oil Operations Permit if the Department determines the closure of the OCS facility was satisfactorily completed in accordance with the closure plan, the Individual Oil Operation Permit, this chapter, and, if applicable, COMAR 26.10.09.

#### **.14 Right of Entry.**

An owner, an operator, and a person in charge of an OCS facility shall allow, as a prerequisite to the issuance of an Individual Oil Operations Permit, the Department to access the OCS facility and all records related to the operation of the OCS facility in accordance with, and for any of the purposes stated in, COMAR 26.10.01.19.

#### **.15 Denial, Suspension, Revocation, and Modification of an Individual Oil Operations Permit.**

A. Denial, Suspension, or Revocation. The Department may deny an application for an Individual Oil Operations Permit or suspend or revoke an Individual Oil Operations Permit in accordance with COMAR 26.10.01.12B.

B. Modification.

(1) The Department may modify an Individual Oil Operations Permit in accordance with COMAR 26.10.01.12B.

(2) If an owner, an operator, and a person in charge of an OCS facility requests to modify an Individual Oil Operations Permit, the owner, the operator, and the person in charge shall submit a request for the modification to the Department in accordance with COMAR 26.10.01.12B.

(3) If the Department determines a proposed modification to an Individual Oil Operations Permit is substantial in nature, an owner, an operator, and a person in charge of an OCS facility shall hold an informational meeting in accordance with Regulation .05 of this chapter.

**.16 Oil-Contaminated Soil Treatment Pilot Project.**

A. The Department may issue an OCS treatment approval to a person to conduct a pilot project that may deviate from one or more requirements in Regulations .07—.11 of this chapter, if the pilot project will:

(1) Accept, store, and treat OCS in a manner as protective to the public health, safety, and wellness and the environment as the requirements established in Regulations .07—.11 of this chapter; and

(2) Comply with all other applicable federal, State, and local government laws and regulations.

B. The Department shall establish the application process and conditions of an OCS treatment approval.

C. A person seeking to conduct a pilot project shall:

(1) First, obtain an Individual Oil Operations Permit in accordance with Regulation .04 of this chapter; and

(2) Second, obtain OCS treatment approval from the Department.

D. An OCS treatment approval is valid for the length of time specified by the Department in the OCS treatment approval, but may not exceed one year.

**26.10.14 Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415, 4-415.1, 4-417, and 4-701 et seq., Annotated Code of Maryland

**.01 Scope.**

A. This chapter provides the mechanisms for reimbursing a residential owner of a residential heating oil tank system for certain site rehabilitation costs, as authorized under Environment Article, §4-704(b)(1)(iii), Annotated Code of Maryland.

B. This chapter may not be construed:

(1) As altering the rights, responsibilities, or liabilities of a person responsible for the discharge; or

(2) As entitling a residential owner to reimbursement of site rehabilitation costs.

**.02 Exclusions.**

This chapter does not provide reimbursements for:

A. Site rehabilitation costs for residential heating oil tank systems incurred before October 1, 2000;

B. Site rehabilitation costs that result from a spill, release, or discharge of oil originating from a source other than a residential heating oil tank system;

C. Costs resulting from:

(1) Residential heating oil tank system closures in place, upgrades, or replacements; or

(2) Retrofitting of a residential heating oil tank or associated piping;

D. Except as otherwise provided in Regulation .05 of this chapter, costs resulting from a residential heating oil tank system removal;

E. A third-party claim; or

F. Site rehabilitation costs that have been paid or are payable under an insurance policy.

**.03 Definitions.**

A. In this chapter:

(1) The terms in §B of this regulation have the meanings indicated; and

(2) A term not defined in §B of this regulation has the meaning given to it in the relevant statutes and in COMAR 26.10.01.02 or, if not defined there, the meaning in the ordinary dictionary definition of the term.

B. Terms Defined.

(1) "Approved application" means an application that has been submitted by a qualified residential owner in accordance with Regulation .06 of this chapter and has been approved by the Department for a reimbursement allocation.

(2) "Department" means the Maryland Department of the Environment.

(3) "Fund" means the Oil Contaminated Site Environmental Cleanup Fund.

(4) "Occurrence" means the existence of contamination resulting from a spill, release, or discharge of oil from one or more residential heating oil tank systems at a site.

(5) "Oil" has the meaning stated in COMAR 26.10.01.02B.

(6) "Reimbursement allocation" means an amount of money from the Fund set aside for an approved application to reimburse a residential owner for site rehabilitation costs incurred, or to be incurred, during the remediation of the site approved on the application as allowed under this chapter.

(7) “Residential heating oil tank” means an aboveground or underground heating oil tank that meets the criteria under Environment Article, §4-401(e), Annotated Code of Maryland that is used to store heating oil for use as a fuel in heating a single-family residential property.

(8) “Residential heating oil tank system” means a residential heating oil tank and all associated piping, including, but not limited to, fill, vent, dispensing, and return line pipes.

(9) “SDAT” means the State Department of Assessments and Taxation.

(10) “Site” means a single-family residential property where a person owns one or more residential heating oil tank systems that is the source of a spill, release, or discharge of oil, including any soil, groundwater, or surface water at the single-family residential property or a neighboring property affected by the spill, release, or discharge of oil.

(11) Site Rehabilitation.

(a) “Site rehabilitation” means cleanup actions taken in response to a spill, release, or discharge of oil from a residential heating oil tank system.

(b) “Site rehabilitation” includes investigation, evaluation, planning, design, engineering, construction, or other services undertaken and expenses incurred to investigate or clean up affected soils, groundwater, or surface water.

(12) “Supervisor” has the meaning stated in Tax-Property Article, §1-101(mm), Annotated Code of Maryland.

(13) “Value” has the meaning stated in Tax-Property Article, §1-101(qq), Annotated Code of Maryland, as determined by the most recent SDAT assessment in accordance with Tax-Property Article, §§8-101—8-104, Annotated Code of Maryland.

#### **.04 Reimbursement Process.**

A. A residential owner of a residential heating oil tank system seeking reimbursement from the Fund shall apply to the Department in accordance with the application requirements in Regulation .06 of this chapter.

B. The Department may reimburse a residential owner with an approved application to the extent there are available revenues in the Fund and in accordance with the reimbursement limitations and deductible requirement in Regulation .08 of this chapter.

C. The Secretary of the Environment or a designee shall:

- (1) Make all final decisions regarding reimbursement matters; and
- (2) Adjust reimbursement allocations if substantial need is demonstrated.

#### **.05 Site Rehabilitation Costs.**

A. Eligible Site Rehabilitation Costs. The Department may reimburse a residential owner of a residential heating oil tank system for eligible site rehabilitation costs incurred in performing the following activities if the Department determines they are cost effective, reasonable, and consistent with an application received on or after July 1, 2005:

(1) Soil treatment, including:

- (a) Excavation, transportation, and proper disposal of oil-contaminated soil; or
- (b) On-site treatment, such as soil vapor extraction;

(2) Procurement and installation of groundwater remediation equipment, including soil vapor extraction equipment;

(3) Subsurface investigation, well bailing, recovery system design, operation, monitoring, or a combination of these activities;

(4) Private supply well replacement;

(5) Odor abatement activities, such as forced venting and oil saturated material removal and proper disposal, replacement, or restoration to a degree as determined by the Department to return a residence to a habitable condition;

(6) Closure of a heating oil tank by removal, if the Department determines removal of the heating oil tank is necessary to accomplish soil treatment as described in §A(1)(a) of this regulation; and

(7) Other site rehabilitation activities performed by a residential owner under the direction and approval of the Department to remediate a spill, release, or discharge of oil from a residential heating oil tank system.

B. Ineligible Costs. The Department may not reimburse a residential owner of a residential heating oil tank system for costs incurred in performing the following activities:

(1) Closure in place of an underground residential heating oil tank;

(2) Installation of a new or replacement residential heating oil tank;

(3) Third-party contractor mobilization or demobilization of equipment, materials, and personnel at a site;

(4) Preparation of a complete application, including preparing or obtaining support documentation; and

(5) Performance of activities that are not related to remediation of oil-contaminated soil, groundwater, or surface water at a site so as to mitigate threats to public health, safety, and welfare or the environment, as determined by the Department.

#### **.06 Application Requirements.**

A. A residential owner of a residential heating oil tank system may apply to the Department for reimbursement from the Fund:

- (1) Until the date established by Environment Article, §4-705(b), Annotated Code of Maryland;

- (2) Not later than 6 months after the completion of site rehabilitation;
  - (3) Only for eligible site rehabilitation costs listed in Regulation .05 of this chapter that were incurred on or after October 1, 2000;
  - (4) Once for the entire period of ownership of the single-family residential property where the residential heating oil tank system is located; and
  - (5) Once per State fiscal year if the residential heating oil tank system is not located at the primary residence of the residential owner.
- B. A residential owner applying for reimbursement from the Fund shall submit to the Department:
- (1) A complete and accurate application on a form supplied by the Department;
  - (2) A current W-9 Identification Number and Certification Form from the federal Department of the Treasury, Internal Revenue Service;
  - (3) On a form supplied by the Department, a description of the incurred site rehabilitation costs eligible for reimbursement under Regulation .05 of this chapter, including copies of actual invoices and other proofs of payment for site rehabilitation costs; and
  - (4) If submitting an application on or after July 1, 2022, a copy of:
    - (a) The online SDAT property database's search results page for the site; or
    - (b) The most recent property tax assessment notice mailed to the residential owner of the site by the Supervisor in accordance with Tax-Property Article, §8-401, Annotated Code of Maryland.
- C. A residential owner may submit to the Department additional eligible site rehabilitation costs with the supporting documentation required under §B(3) of this regulation:
- (1) Following the approval of the application by the Department; and
  - (2) Not later than 6 months after the completion of site rehabilitation.
- D. To be eligible for reimbursement from the Fund, a residential owner shall:
- (1) Certify to the Department that the spill, release, or discharge of oil resulted from a residential heating oil tank system;
  - (2) Submit to the Department for its approval:
    - (a) A corrective action plan;
    - (b) An implementation schedule;
    - (c) A cost estimate; and
    - (d) An estimated completion date;
  - (3) Certify to the Department that the spill, release, or discharge of oil is not the result of a willful or deliberate act;
  - (4) As determined by the Department, be in substantial compliance with the applicable requirements under Environment Article, §4-420, Annotated Code of Maryland, COMAR 26.10, and all Maryland laws and regulations applicable to residential heating oil tank systems; and
  - (5) Certify to the Department that the site rehabilitation costs submitted for reimbursement are:
    - (a) True and eligible for reimbursement under Regulation .05 of this chapter;
    - (b) Necessary to complete site rehabilitation; and
    - (c) Not excluded under Regulation .02 of this chapter.
- E. The filing of an application for reimbursement does not relieve the residential owner or any other person from the requirement to take prompt site rehabilitation action as required by law or regulation.
- F. If an applicant knowingly submits a false certification of satisfying the eligibility requirements under §D of this regulation, the residential owner is not eligible for reimbursement.

**.07 Application Approval.**

- A. Application Numerical Ranking.
- (1) The Department shall assign each application a numerical rank based on the date the complete application was received by the Department, so that the earliest complete application receives the highest rank.
  - (2) Subject to the availability of revenues within the Fund, the Department shall approve reimbursement allocations for approved applications in order of their numerical ranking.
- B. A residential owner may submit to the Department, and the Department shall approve not more than one application per State fiscal year for separate single-family residential properties owned by the same person or persons.
- C. If the Department determines that an application is ineligible under this chapter:
- (1) The Department shall provide written notification to the residential owner that the application was denied; and
  - (2) The residential owner may submit an application for another site for consideration within that State fiscal year.

**.08 Reimbursement Limits and Deductibles.**

- A. A reimbursement of eligible site rehabilitation costs paid from the Fund for an approved application received by the Department on or after July 1, 2005:
- (1) May not exceed a total of \$20,000 per occurrence; and
  - (2) Is subject to a deductible of \$500 per occurrence.

*B. If an approved application was received by the Department on or after July 1, 2022, a reimbursement allocation is limited as follows:*

- (1) If the value of the residential property is less than or equal to \$300,000, the reimbursement allocation is:
  - (a) 100 percent of the eligible site rehabilitation costs; and*
  - (b) Up to a total of \$20,000, less the \$500 deductible;**
- (2) If the value of the residential property is greater than \$300,000 and less than or equal to \$600,000, the reimbursement allocation is:
  - (a) 50 percent of the eligible site rehabilitation costs; and*
  - (b) Up to a total of \$10,000, less the \$500 deductible; or**
- (3) If the value of the residential property is greater than \$600,000, the reimbursement allocation is:
  - (a) 25 percent of eligible site rehabilitation costs; and*
  - (b) Up to a total of \$5,000, less the \$500 deductible.**

**.09 Reimbursement Allocations and Payments.**

**A. Reimbursement Allocation.**

- (1) The Department shall make a reimbursement allocation in accordance with:
  - (a) A complete application received and approved by the Department;*
  - (b) The numerical ranking assigned to an approved application in accordance with Regulation .07A of this chapter;*
  - (c) The reimbursement limit and deductible requirements established in Regulation .08 of this chapter; and*
  - (d) The availability of revenues within the Fund.**
- (2) Upon the approval of a complete application, the Department shall reserve a reimbursement allocation within the Fund in accordance with §A of this regulation to pay for a reimbursement of site rehabilitation costs that are otherwise eligible under this chapter.*

**B. Payment of an Approved Reimbursement.**

- (1) Subject to §B(2) and (3) of this regulation, the Department may issue a reimbursement payment to a residential owner for eligible site rehabilitation costs from allocated funds.*
- (2) In order to issue a reimbursement payment from allocated funds, the Department may request that a residential owner provide a recent W-9 Identification Number and Certification Form from the federal Department of the Treasury, Internal Revenue Service.*
- (3) The Department reserves the right to deny a reimbursement payment in whole or in part if the Department determines that:
  - (a) A residential owner is disregarding or has disregarded the oil pollution control and abatement requirements under Environment Article, §§4-401 et seq., Annotated Code of Maryland;*
  - (b) The reimbursement has been or is being used, or site rehabilitation work has been or is being conducted, in a manner inconsistent with the goals of the site rehabilitation;*
  - (c) The residential owner is not proceeding with the site rehabilitation or has abandoned the site;*
  - (d) The residential owner is not in compliance with all Maryland laws and regulations applicable to oil and residential heating oil tank systems;*
  - (e) The residential owner has not submitted any eligible site rehabilitation costs and supporting documentation of those costs within 6 months of completing the site rehabilitation, unless extended in writing by the Department; or*
  - (f) Any other good cause exists for denying a reimbursement payment, as determined by the Department.**

**C. Any reimbursement allocation left unpaid will be released for other Fund uses.**

**.10 Auditing.**

*A. Upon request of the Department, a residential owner who applied for reimbursement from the Fund shall submit records that document all costs incurred and monies reimbursed to date for a site rehabilitation within:*

- (1) 6 months of completing the site rehabilitation; or*
- (2) 3 years of receiving the final payment from the reimbursement allocation.*

*B. The Department reserves the right to audit all costs, expenses, or files associated with the Fund.*

*C. A residential owner shall maintain all records associated with a site rehabilitation for at least 3 years after the later of:*

- (1) Receiving the final payment from the reimbursement allocation; or*
- (2) Completion of the site rehabilitation.*

*D. If an audit reveals any amount of money was improperly paid from the Fund to a residential owner, the residential owner shall return that amount to the Department within 30 days of notification by the Department of the improper payment from the Fund.*

*E. A residential owner is liable for any expenses incurred by the Department in collecting money owed under §D of this regulation.*

**26.10.15 Management of Used Oil**

Authority: Environment Article, §§4-402, 4-405, and 4-410, Annotated Code of Maryland

**.01 Scope.**

A. A person managing used oil shall determine using the conditions in COMAR 26.13.10.05 whether the used oil is:

- (1) Regulated as used oil under this chapter; or
- (2) Regulated as a hazardous waste under COMAR 26.13.

B. Notwithstanding §C of this regulation, a person managing used oil shall comply with all of the applicable oil pollution control and storage tank management provisions of COMAR 26.10.01—26.10.13 and 26.10.16—26.10.18.

C. Exceptions.

(1) The management of used oil containing polychlorinated biphenyls (PCBs) at concentrations of 50 parts per million (ppm) or greater is:

- (a) Regulated as a hazardous waste under 40 CFR Part 761 and COMAR 26.13; and
- (b) Not regulated as used oil under this chapter.

(2) Materials Mixed with or Derived from Used Oil.

(a) A mixture of used oil and diesel fuel mixed on-site by a used oil generator for use in the generator's own vehicles is not regulated under this chapter once the used oil and diesel fuel have been mixed.

(b) Materials reclaimed from used oil that are beneficially used and not burned as fuel or used in a manner constituting disposal are not regulated as used oil under this chapter.

(3) Wastewater, a discharge of which is subject to §402 or 307(b) of the Clean Water Act, contaminated with “de minimis quantities of used oil” as defined in 40 CFR §279.10(f), is not regulated under this chapter.

(4) Crude Oil Pipeline or Petroleum Refining Facility Process.

(a) If used oil introduced into a crude oil pipeline or petroleum refining facility process is exempt from the requirements of 40 CFR Part 279 under the conditions of 40 CFR §279.10(g), then the used oil is not regulated under this chapter.

(b) Notwithstanding the substitution requirement in Regulation .02C(1)(d) of this chapter, a person shall use the used oil specification provided in Table 1 of 40 CFR §279.11 to determine if used oil introduced into a crude oil pipeline or petroleum refining facility process is exempt from the requirements of 40 CFR Part 279 under the conditions of 40 CFR §279.10(g).

(5) Used Oil on Vessels. Used oil produced on a vessel from normal shipboard operations is not regulated under this chapter until the used oil is transported ashore.

(6) Used Oil Generators. The following generators of used oil are not subject to the requirements of this chapter:

(a) An individual that generates household-derived used oil, such as used oil generated through the maintenance of an individual's personal vehicle; and

(b) A farmer who generates an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year.

D. Applicability.

(1) The requirements of this chapter and 40 CFR Part 279 apply to:

(a) The following used oil management activities:

(i) The collection, storage, transportation, processing, re-refining, recycling, or other management of used oil;

(ii) The transfer of fuel oil blended or mixed with used oil in the State; and

(iii) The burning of used oil as fuel;

(b) A used oil burner that burns off-specification used oil;

(c) A used oil collection center;

(d) A used oil fuel marketer;

(e) A used oil generator;

(f) A used oil processor/re-refiner;

(g) A used oil transfer facility; and

(h) A used oil transporter.

(2) The management of used oil mixed with or contaminating another substance is subject to the requirements of this chapter, unless the used oil is:

(a) Exempt from being regulated as a used oil under 40 CFR Part 279; or

(b) Identified under COMAR 26.13.10.05 as regulated under COMAR 26.13 as a hazardous waste.

**.02 Incorporation by Reference.**

A. As qualified by §§B and C of this regulation, 40 CFR Part 279 (July 1, 2020) is incorporated by reference.

B. Interpretation. As provided in Table 1 of this regulation, for the purposes of this chapter, a person shall interpret a cross-reference in 40 CFR Part 279 to a federal regulation in 40 CFR as the analogous State regulation in COMAR Title 26:

Table 1. State Regulation Analog to a Cross-Referenced Federal Regulation in 40 CFR Part 279.

40 CFR Cross-Reference	COMAR Title 26 Analog
40 CFR Part 124	26.13.07

40 CFR Part 257	26.04.07
40 CFR Part 258	26.04.07
40 CFR Parts 260—266	26.13.01—26.13.06 and 26.13.10
40 CFR §260.10	26.13.01.03
40 CFR §260.20	26.13.01.04A
40 CFR §260.21	26.13.01.04B
40 CFR Part 261	26.13.02
40 CFR Part 261, Subpart C	26.13.02.10—.14
40 CFR Part 261, Subpart D	26.13.02.15—.19
40 CFR §261.1	26.13.02.01
40 CFR §261.3(c)(2)(i)	26.13.02.03C(2)
40 CFR §261.5	26.13.02.05
40 CFR §261.7	26.13.02.07
40 CFR §261.21	26.13.02.11
40 CFR Appendix I to Part 261	26.13.02.20
40 CFR Appendix VIII to Part 261	26.13.02.24
40 CFR Part 264	26.13.05
40 CFR Part 264, Subpart O	26.13.05.16
40 CFR Part 265	26.13.06
40 CFR §265.310	26.13.06.22B(3)
40 CFR Part 265, Subpart O	26.13.06.23
40 CFR Part 270	26.13.07
40 CFR §280.12	26.10.01.02 and 26.10.02.02

C. Substitutions. For the purposes of this chapter, a person shall make the following substitutions:

(1) Substitute a federal provision in 40 CFR Part 279 with a state provision in COMAR Title 26 as follows:

(a) For 40 CFR §279.10(b), substitute COMAR 26.13.10.05C—F;

(b) For 40 CFR §279.10(c), substitute COMAR 26.13.10.05G;

(c) For 40 CFR §279.10(e), substitute COMAR 26.13.10.05I and 26.13.02.04-IA(15);

(d) For Table 1 of 40 CFR §279.11, substitute COMAR 26.11.09.10B;

(e) For 40 CFR §279.57(b), substitute Regulation .06A of this chapter; and

(f) For 40 CFR §§279.22(d), 279.45(h), 279.54(g), and 279.64(g), substitute COMAR 26.10.01.05 and 26.10.08;

(2) Whenever the words “the rebuttable presumption of §279.10(b)(1)(ii)”, “rebuttable presumption provided under §279.10(b)(1)”, or “rebuttable presumption for used oil of §279.10(b)(1)(ii)” appear, substitute with “the rebuttable presumption for used oil of COMAR 26.13.10.05C(2)”;

(3) Substitute the words that appear in 40 CFR §§279.12(b) and 279.82(a) with “The use of used oil as a dust suppressant is prohibited”;

(4) Substitute the words that appear in 40 CFR §§279.42(b), 279.51(b), 279.62(b), and 279.73(b) with “Mechanics of Notification. A used oil transporter, processor/re-refiner, or marketer who does not have an EPA identification number may obtain a number by applying online using the MyRCRAID electronic system, or another equivalent online system, or submitting a completed EPA Form 8700-12 to the Department”;

(4) In 40 CFR §279.52(b)(6)(viii)(C) and (ix), substitute the words “Regional Administrator” with “Secretary”;

(5) In 40 CFR §279.66(a)(1), substitute the word “EPA” with “the Department”; and

(6) In 40 CFR §279.75(a)(1), substitute the word “EPA” with “EPA or the corresponding state agency with regulatory authority over the management of used oil”.

### .03 Disposal of Used Oil.

A. This regulation applies to the management of used oil that is not recycled, processed, re-refined, or burned as a fuel.

B. Use as a Dust Suppressant. A person may not use used oil as a dust suppressant.

C. Disposal of Hazardous Used Oil. The disposal of used oil identified as a hazardous waste is subject to the hazardous waste management requirements in COMAR 26.13.

D. Disposal of Nonhazardous Used Oil.

(1) A person may not dispose of used oil by discharging, dumping, or depositing into sewers, drainage systems, surface or groundwaters, or any waters in the State.

(2) A person may not dispose of used oil by incineration.

(3) A person may not dispose of used oil by discharging, dumping, or depositing onto land, unless:

(a) Pursuant to Environment Article, §5-1001, Annotated Code of Maryland, the used oil is disposed of on public or private land designated by the State, or an agency or political subdivision of the State, as a collection facility for used oil and the used oil is placed in a receptacle or container installed or located on the property; or

(b) The used oil is disposed of at a solid waste acceptance facility permitted under COMAR 26.04.07 as specifically authorized by the Department to handle used oil or waste containing free phase used oil.

#### **.04 Management of Used Oil.**

##### **A. General Provisions.**

###### **(1) Spill, Release, or Discharge.**

(a) A person shall report a spill, release, or discharge of used oil to the Department immediately, but not later than 2 hours, after detection of the spill, release, or discharge in accordance with COMAR 26.10.01.05 and 26.10.08.01.

(b) In response to a confirmed spill, release, or discharge of used oil or an oil-derived product from a storage tank system, an owner and an operator of the storage tank system and any responsible party shall comply with the response and corrective action requirements of COMAR 26.10.09.

(2) A person transporting used oil in a truck previously used to transport hazardous waste shall comply with the transportation of hazardous waste requirements in COMAR 26.13.04.01D(4).

##### **B. Burning Used Oil.**

(1) A person that proposes to burn used oil in fuel-burning equipment shall submit to the Department the information required in COMAR 26.11.09.10A.

(2) A person burning used oil as fuel shall comply with:

(a) Regulation .05B of this chapter;

(b) COMAR 26.11.09.10;

(c) If burning on-specification used oil as fuel, 40 CFR §279.23; and

(d) If burning off-specification used oil as fuel, 40 CFR §§257.12(c) and 257.60—257.66.

##### **C. Storage of Used Oil. A person managing used oil shall only store used oil in the following storage units:**

(1) A storage tank system equipped with a secondary containment system that complies with COMAR 26.10.01—26.10.12 and 26.10.16—26.10.18; and

(2) Depending upon the type of facility where the used oil is stored, a container equipped with a secondary containment system that meets the applicable requirements in 40 CFR §279.22, 279.54, or 279.64.

**D. Department Approvals and Registrations.** An owner, an operator, and a person in charge of an oil handling facility or oil storage facility that manages used oil shall comply with the following Department approval and registration requirements:

(1) If the facility has a used oil aboveground aggregate storage capacity of 1,000 gallons or greater, obtain an Individual Oil Operations Permit from the Department in accordance with COMAR 26.10.01.09A and .11;

(2) If the facility has a used oil aboveground aggregate storage capacity of less than 1,000 gallons, comply with the General Oil Operations Permit conditions in COMAR 26.10.01.09B;

(3) If used oil is stored in a petroleum UST system, register each UST system at the facility with the Department in accordance with COMAR 26.10.03.09;

(4) If used oil is stored in an AST system, register each AST system at the facility with the Department in accordance with COMAR 26.10.01.10;

(5) If transferring fuel oil blended or mixed with processed or re-refined used oil in the State, obtain an Oil Transfer License from the Department in accordance with COMAR 26.10.01.08;

(6) If a used oil transporter, used oil processor/re-refiner, or used oil marketer, obtain an EPA identification number by:

(a) Applying for an EPA identification number online using the MyRCRAId electronic system or another equivalent online system; or

(b) Submitting a completed EPA Form 8700-12 to the Department;

(7) If burning used oil as fuel, comply with the fuel-burning equipment registration or air quality permitting requirements in COMAR 26.11.02.02; and

(8) If applicable, obtain a State discharge permit or National Pollutant Discharge Elimination System permit from the Department in accordance with COMAR 26.08.04.

**E. An owner, an operator, and a person in charge of a used oil processor/re-refiner facility shall:**

(1) Comply with the general facility standards for preparedness and prevention, prepare a contingency plan, and implement emergency procedures in accordance with 40 CFR §279.52; and

(2) In accordance with 40 CFR §279.55, develop, follow, and keep at the facility a written analysis plan used to determine:

(a) The total halogen content of used oil in accordance with Regulation .05A of this chapter; and

(b) If the used oil is to be burned as fuel, whether the used oil meets the specifications in COMAR 26.11.10.09B in accordance with Regulation .05B of this chapter.

#### **.05 Analytical Requirements.**

##### **A. Rebuttable Presumption for Used Oil.**



(1) Used oil containing more than 1,000 ppm total halogens is presumed to be hazardous waste because it has been mixed with halogenated hazardous waste listed in COMAR 26.13.02.16—.19, unless a person rebuts this presumption by demonstrating the used oil does not contain hazardous waste, as specified in COMAR 26.13.02.04-1A(11).

(2) To determine whether used oil is presumed to be hazardous waste under the rebuttable presumption, a person managing used oil shall determine the total halogen content of the used oil in accordance with COMAR 26.13.10.05C(2) and, depending on the type of facility managing the used oil, the applicable requirements in 40 CFR §279.44, 279.53, or 279.63.

B. Specifications for Used Oil Burned as Fuel. A person that burns used oil as fuel or processes used oil to produce a heating oil shall determine if the used oil or used oil-derived heating oil meets or exceeds the specifications for used oil in COMAR 26.11.09.10B by performing analyses or obtaining documentation demonstrating the used oil or used oil-derived heating oil meets or exceeds the specifications.

#### **.06 Recordkeeping and Reports.**

A. On a form provided by the Department, a used oil transporter or used oil processor/re-refiner shall:

(1) Report on used oil operations conducted during the preceding fiscal year, covering the 12-month period from July 1 to June 30;

(2) Include in the report all of the following information:

(a) The name and address of the used oil transporter or used oil processor/re-refiner;

(b) If a used oil processor/re-refiner, the facility's EPA identification number;

(c) The quantity of used oil collected in the State;

(d) The quantity of used oil exported out of the State;

(e) The quantity of used oil imported into the State;

(f) The methods in which used oil was managed or disposed, including burning used oil as fuel; and

(g) The quantity of used oil managed or disposed using each method; and

(3) Submit the report to the Department on or before July 31, following the reporting period.

B. Operating Record. An owner and an operator of a used oil processor/re-refiner shall maintain and keep a written operating record at the facility in accordance with 40 CFR §257.57.

C. A used oil transporter and an owner, an operator, and a person in charge of a used oil transfer, processor/re-refiner, burner, or fuel marketer facility shall comply with the applicable tracking, notice, recordkeeping, and record retention requirements in 40 CFR §§279.44, 279.46, 279.56, 279.63, 279.66, 279.72(b), 279.74, and 279.75.

D. A person that burns used oil in fuel-burning equipment shall comply with the annual reporting requirement in COMAR 26.11.09.10D.

#### **.07 Closure Requirements.**

A. Upon the termination of used oil operations, an owner, an operator, and a person in charge of an oil handling or oil storage facility that collects, stores, transports, transfers, processes, re-refines, recycles, burns as fuel, or otherwise manages used oil shall comply with the closure requirements of this regulation.

B. Facility Closure. An owner, an operator, and a person in charge of an oil handling or oil storage facility described in §A of this regulation shall:

(1) Remove or decontaminate used oil residues in storage tank systems, containers and contaminated secondary containment system components and used oil-contaminated soils, structures and equipment;

(2) Unless determined to be nonhazardous waste under COMAR 26.13.02.15—.19 or COMAR 26.13.10.05, manage used oil residuals or used oil-contaminated material as hazardous waste; and

(3) If the owner, the operator, and the person in charge of the facility demonstrates not all contaminated soils can be practicably removed or decontaminated as required in §B(1) of this regulation, close the storage tank system and perform post-closure care at the facility in accordance with the requirements for a hazardous waste landfill in COMAR 26.13.06.22B(3).

C. Underground Storage Tanks. An owner, an operator, and a person in charge of an oil handling or oil storage facility storing used oil in a UST shall comply with the temporary or permanent closure requirements in COMAR 26.10.10.

D. Aboveground Storage Tanks. An owner, an operator, and a person in charge of an oil handling or oil storage facility storing used oil in an AST shall comply with the temporary or permanent closure requirements in COMAR 26.10.17 or 26.10.18.

E. Containers. An owner, an operator, and a person in charge of an oil handling or oil storage facility storing used oil in containers shall:

(1) Remove used oil residues from containers;

(2) Remove containers that stored used oil and any used oil residues from the site; and

(3) Unless determined to be nonhazardous waste under COMAR 26.13.02.15—.19 or COMAR 26.13.10.05, manage the materials as hazardous waste.

F. An owner, an operator, and a person in charge of an oil handling or oil storage facility conducting a removal or decontamination processes in accordance with this regulation that generates air emissions shall meet all applicable air quality requirements in COMAR 26.11.

## **26.10.16 Trained Facility Operators**

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-408—4-411.1, 4-412, 4-415—4-419, and 7-201 et seq., Annotated Code of Maryland

### **.01 Scope.**

A. This chapter applies to an owner and an operator of a UST system or group of UST systems located at a regulated substance storage facility.

B. This chapter establishes the Class A operator, the Class B operator, and the Class C operator classifications, and the required knowledge, duties, skills, training requirements, and certification requirements for each operator classification.

C. This chapter:

(1) Does not apply to an owner and an operator of a UST system that stores only heating oil for consumptive use;

(2) Does not alter the definition of an operator set forth in COMAR 26.10.01.02B;

(3) Does not apply to an individual defined as an operator under COMAR 26.10.01.02B, unless an owner and an operator of a UST system or group of UST systems located at a regulated substance storage facility designates that individual to serve as the Class A operator, the Class B operator, or the Class C operator for the UST system or group of UST systems at the regulated substance storage facility;

(4) Does not relieve an owner and an operator of a UST system of the duty to comply with the legal responsibilities under:

(a) 40 CFR Part 280;

(b) Environment Article, Title 4, Annotated Code of Maryland;

(c) Environment Article, Title 7, Annotated Code of Maryland; and

(d) COMAR 26.10.01—26.10.12; and

(5) Does not alter or transfer the legal responsibilities for, between, or among an owner and an operator of a UST system under:

(a) 40 CFR Part 280;

(b) Environment Article, Title 4, Annotated Code of Maryland;

(c) Environment Article, Title 7, Annotated Code of Maryland; and

(d) COMAR 26.10.01—26.10.12.

### **.02 Definitions.**

A. In this chapter:

(1) A term in §B of this regulation has the meaning indicated; and

(2) A term not defined in §B of this regulation has:

(a) The meaning given to the term in a relevant statute or COMAR 26.10.01 or 26.10.02; or

(b) If not defined in a relevant statute or COMAR 26.10.01 or 26.10.02, the meaning attributed by common

use.

B. Terms Defined.

(1) “Class A operator” means an individual who:

(a) Has primary responsibility to operate and maintain a UST system in accordance with applicable requirements established by the Department; and

(b) Typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

(2) “Class B operator” means an individual who:

(a) Has day-to-day responsibility for implementing applicable regulatory requirements for a UST system established by the Department; and

(b) Typically implements in-field aspects of operation, maintenance, and associated recordkeeping for a UST system.

(3) “Class C operator” means an individual who:

(a) Is responsible for initially addressing emergencies presented by a spill, release, or discharge from a UST system; and

(b) Typically controls or monitors the dispensing or sale of regulated substances.

(4) “Training Program” means an informational course, class, or set of training instructions approved by the Department for educating and certifying a Class A operator, Class B operator, or Class C operator to comply with this chapter.

### **.03 Implementation.**

A. An owner and an operator of a UST system or group of UST systems shall:

(1) Designate by a written list one or more individuals to serve as a Class A operator, a Class B operator, and a Class C operator for a UST system or group of UST systems at a regulated substance storage facility;

- (2) Ensure that Class A operators, Class B operators, and Class C operators designated under §A(1) of this regulation are trained and certified in accordance with this chapter;
- (3) Provide written instructions for the UST system or group of UST systems at the regulated substance storage facility that are readily accessible at all times to the Class A operators, the Class B operators, and the Class C operators identified under §A(1) of this regulation and that describe how to:
  - (a) Respond to operational or equipment alarms, warnings, or alert mechanisms;
  - (b) Implement the emergency shutoff process;
  - (c) Respond to a suspected or confirmed spill, release or discharge, unusual operating conditions, emergencies, and equipment failures; and
- (4) Notify the Department of a spill, release, or discharge in accordance with:
  - (i) Environment Article, §4-410, Annotated Code of Maryland;
  - (ii) COMAR 26.10.01.05; and
  - (iii) COMAR 26.10.08.01—.04;
- (4) Provide emergency telephone numbers for contacting emergency response authorities, persons responsible for the regulated substance storage facility, and the Department in the event of a suspected or confirmed spill, release or discharge, unusual operating conditions, an emergency, or an equipment failure;
- (5) Except for an approved unattended motor fuel dispensing facility, ensure that the emergency telephone numbers provided under §A(4) of this regulation are readily accessible on-site to the Class A operators, the Class B operators, and the Class C operators and other facility personnel; and
- (6) For an approved unattended motor fuel dispensing facility, ensure that the emergency telephone numbers provided under §A(4) of this regulation are conspicuously posted on a sign as required by COMAR 26.10.01.20E.

B. An owner and an operator of a UST system or a group of UST systems at a regulated substance storage facility may not:

- (1) Dispense from or store in a UST system a regulated substance unless the Class A operators, the Class B operators, and the Class C operators have been designated, trained, and certified as required by this chapter; and
- (2) Except for an approved unattended motor fuel dispensing facility, dispense a regulated substance from a UST system unless at least one Class A operator, Class B operator, or Class C operator is present at the regulated substance storage facility.

C. An owner and an operator of a UST system or group of UST systems at a regulated substance storage facility shall ensure that:

- (1) A regulated substance storage facility continuously has one or more individuals designated, trained, and certified to serve as a Class A operator, a Class B operator, and a Class C operator as required by this chapter;
- (2) New or replacement Class A operators and Class B operators are trained and certified within 30 days after assuming duties and responsibilities of the designated class;
- (3) New or replacement Class C operators are trained and certified before assuming duties and responsibilities of the class; and
- (4) The following documents are updated within 10 business days of a change:
  - (a) The written list set forth in §A(1) of this regulation;
  - (b) The written instructions set forth in §A(3) of this regulation; and
  - (c) The emergency telephone numbers set forth in §A(4) of this regulation.

D. An owner and an operator of a UST system or group of UST systems at an approved unattended motor fuel dispensing facility shall ensure that:

- (1) A Class A operator, a Class B operator, or a Class C operator inspects the regulated substance storage facility for suspected or confirmed spills, releases or discharges, unusual operating conditions, emergencies, and equipment failures monthly or at another frequency approved by the Department; and
- (2) A written record of inspections required in §D(1) of this regulation are maintained by the owner and the operator of the UST system or group of UST systems and made available upon request by the Department or a UST system inspector certified by the Department under COMAR 26.10.06.

#### **.04 Requirements for Designated Operators.**

A. A Class A operator shall:

- (1) Successfully complete Class A operator training required by this chapter and approved by the Department;
- (2) In accordance with this chapter and COMAR 26.10.01—26.10.12, ensure that:
  - (a) The installation, upgrade, and repair of a UST system is performed in the continuous on-site presence and under the direction of a UST system technician certified under COMAR 26.10.06;
  - (b) The closure or a change-in-service of a UST system is performed in the continuous on-site presence and direction of a UST system technician or remover certified under COMAR 26.10.06;
  - (c) A qualified person implements the operation, maintenance, testing, and recordkeeping requirements for a UST system, including requirements related to:
    - (i) Spill and overfill prevention;
    - (ii) Release detection, reporting, and emergency response;
    - (iii) Corrosion protection;

- (iv) *Product and equipment compatibility;*
  - (v) *Financial responsibility;*
  - (vi) *Notification and UST system registration;*
  - (vii) *The temporary and permanent closure and change-in-service of a UST system; and*
  - (viii) *Class B operator and Class C operator training and certification; and*
- (d) *Records required to demonstrate compliance with COMAR 26.10.01—26.10.12 are maintained and made available upon request to the Department or a certified UST system inspector;*
- (3) *Maintain knowledge of the skills and training requirements for Class B operators and Class C operators; and*
- (4) *Be available to respond to suspected or confirmed spills, releases or discharges, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by being:*
- (a) *Immediately accessible for consultation by telephone when the facility is operating; and*
  - (b) *On-site at the regulated substance storage facility within 24 hours of receiving a request from emergency response personnel or the Department, or within another time period approved by the Department.*

**B. A Class B operator shall:**

- (1) *Successfully complete Class B operator training required by this chapter and approved by the Department;*
- (2) *In accordance with this chapter and COMAR 26.10.01—26.10.12, ensure that:*
  - (a) *UST system release detection methods are implemented, and release detection and prevention equipment are operational and tested;*
  - (b) *Release detection reporting requirements are met;*
  - (c) *The inspection and testing of spill prevention, overfill prevention, and corrosion protection equipment for proper operation are conducted;*
  - (d) *Walkthrough inspections are conducted;*
  - (e) *All required UST system equipment tests are conducted;*
  - (f) *UST equipment manufacturer and third-party performance standards are met, and the applicable standards, manuals, and instructions are available at a regulated substance storage facility;*
  - (g) *Records required to demonstrate compliance with COMAR 26.10.01—26.10.12 are maintained and made available upon request to the Department or a certified UST system inspector; and*
  - (h) *A Class C operator is trained in accordance with this chapter to respond properly to a suspected or confirmed spills, releases or discharges, unusual operating conditions, emergencies, and equipment failures;*
- (3) *Maintain knowledge of the skills and training requirements for a Class C operator; and*
- (4) *Be available to respond to a suspected or confirmed spills, releases or discharges, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by being:*
  - (a) *Immediately accessible for consultation by telephone when the facility is operating; and*
  - (b) *On-site at the regulated substance storage facility within 24 hours of a receiving request from emergency response personnel or the Department, or within another time period approved by the Department.*

**C. A Class C operator shall:**

- (1) *Successfully complete the Class C operator training required by this chapter and approved by the Department; and*
- (2) *Control and monitor the dispensing or sale of a regulated substance;*
- (3) *Immediately respond to alarms, equipment failures, or other indications of emergencies caused by a spill, release, or discharge from the UST system;*
- (4) *Notify a Class A operator or a Class B operator, appropriate emergency response personnel, and the Department of a suspected or confirmed spill, release, or discharge in accordance with the written instructions provided by the owner and the operator of the UST system as set forth in Regulation .03A(3) of this chapter; and*
- (5) *Be available to respond to suspected or confirmed spills, releases or discharges, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by:*
  - (a) *Except for an approved unattended motor fuel dispensing facility, being on-site and readily available whenever the regulated substance storage facility is operating; or*
  - (b) *For an approved unattended motor fuel dispensing facility:*
    - (i) *Being immediately accessible for consultation by telephone with emergency response personnel or the Department; and*
    - (ii) *Being on-site at the regulated substance storage facility within 2 hours of receiving a request from emergency response personnel or the Department, or within another time period approved by the Department.*

**.05 Requirements for Operator Training.**

A. *An owner and an operator of a UST system or a group of UST systems shall ensure each individual designated as Class A operator, Class B operator, and a Class C operator for a regulated substance storage facility is trained in accordance with the requirements of this regulation.*

B. *An individual designated for more than one operator class shall successfully complete the required training program for each operator class in which the individual is designated.*

C. *An owner and an operator of a UST system or a group of UST systems shall:*

- (1) Ensure any training program meets the minimum training requirements of this regulation for each operator class; and
- (2) Include an evaluation through testing, a practical demonstration, or another approach approved by the Department.

*D. Class A Operators.*

- (1) An owner and an operator of a UST system or a group of UST systems shall provide a Class A operator training program that meets the requirements in §D(2) and (3) of this regulation.
- (2) At a minimum, the training program for a Class A operator provides general knowledge and teaches a Class A operator about the purpose, methods, and functions of:
  - (a) Spill and overflow prevention;
  - (b) Release detection;
  - (c) Corrosion protection;
  - (d) Emergency response;
  - (e) Product and equipment compatibility and demonstration of compatibility;
  - (f) Financial responsibility;
  - (g) Notification and UST system registration;
  - (h) The temporary and permanent closure and change-in-service of a UST system;
  - (i) Reporting, recordkeeping, testing, and inspections;
  - (j) Environmental and regulatory consequences of releases; and
  - (k) Training requirements for Class B operators and Class C operators.
- (3) At a minimum, the training program evaluates a Class A operator to determine if the individual has the knowledge and skills in accordance with §D(2) of this regulation to:
  - (a) Make informed decisions regarding regulatory compliance; and
  - (b) Determine whether appropriate individuals are fulfilling the operation, maintenance, testing, and recordkeeping requirements for UST systems.

*E. Class B Operators.*

- (1) An owner and an operator of a UST system or group of UST systems shall provide a Class B operator training program that meets the requirements in §E(2)—(4) of this regulation.
- (2) At a minimum, the training program for a Class B operator covers either:
  - (a) General requirements that encompass all regulatory requirements and typical equipment used at a regulated substance storage facility; or
  - (b) Site-specific requirements that address only the regulatory requirements and equipment specific to a regulated substance storage facility for which the Class B operator has been designated.
- (3) At a minimum, the training program for a Class B operator teaches the Class B operator about the purpose, methods, and functions of:
  - (a) Operation and maintenance;
  - (b) Spill and overflow prevention;
  - (c) Release detection and related reporting;
  - (d) Corrosion protection;
  - (e) Emergency response;
  - (f) Product and equipment compatibility and demonstration of compatibility;
  - (g) Reporting, recordkeeping, testing, and inspections;
  - (h) Environmental and regulatory consequences of releases; and
  - (i) Training requirements for Class C operators.
- (4) At a minimum, the training program evaluates a Class B operator to determine if the individual has the knowledge and skills in accordance with §E(2) and (3) of this regulation to implement applicable UST regulatory requirements in the field on:
  - (a) The components of a typical UST system; or
  - (b) The site-specific equipment used at a regulated substance storage facility for which the Class B operator has been designated.

*F. Class C Operators.*

- (1) An owner and an operator of a UST system shall provide a Class C operator training program that meets the requirements in §F(2)—(5) of this regulation and Regulation .07D of this chapter.
- (2) A certified Class A operator or a certified Class B operator designated for a regulated substance storage facility shall train each individual designated as a Class C operator for the same regulated substance storage facility.
- (3) At a minimum, the training program for a Class C operator teaches the Class C operator to take appropriate action, including notifying appropriate authorities, in response to emergencies or alarms caused by spills, releases, and discharges resulting from the operation of a UST system.
- (4) The training program for a Class C operator is specific to a regulated substance storage facility for which the individual has been designated, and the training program is not valid for another regulated substance storage facility.
- (5) At a minimum, the training program evaluates a Class C operator to determine if the individual has the knowledge and skills in accordance with §F(3) and (4) of this regulation to take appropriate action, including notifying

appropriate authorities, in response to emergencies or alarms caused by spills, releases, and discharges from a UST system.

**.06 Training Programs.**

**A. The Department shall:**

- (1) Review and approve training programs for Class A operators, Class B operators, and Class C operators; and
- (2) Make available a list of approved training programs.

**B. The Department may not approve a training program if:**

- (1) A person intending to implement a training program has demonstrated a history of noncompliance with the requirements of COMAR 26.10;
- (2) The training program does not meet the minimum requirements established in Regulation .05 of this chapter;
- (3) Department-required changes to training materials are not made; or
- (4) The person implementing the training program has not demonstrated a process to keep records in accordance with this regulation.

**C. A person implementing a training program shall:**

- (1) Obtain approval for a training program in writing from the Department by;
  - (a) Ensuring the training program meets the minimum requirements established in Regulation .05 of this chapter;
  - (b) Ensuring the certification requirements in Regulation .07A and B of this chapter are met;
  - (c) Submitting training program materials, including a program outline, presentation materials, and testing materials to the Department for review;
  - (d) Making any changes required by the Department; and
  - (e) Demonstrating that the recordkeeping requirements of this regulation will be met;
- (2) Provide operator training in accordance with a Department-approved training program;
- (3) Obtain approval for a change to an approved training program in writing from the Department;
- (4) Provide a dated certificate to each trainee that successfully completes a training program;
- (5) Maintain the following training records:
  - (a) Date and location of training;
  - (b) Names of trainers providing training;
  - (c) Names of trainees in attendance;
  - (d) Names of trainees certified as Class A operators, Class B operators, and Class C operators; and
  - (e) A copy of the dated certificate required in §C(4) of this regulation;
- (6) Make records available upon request by the Department or a UST system inspector certified under COMAR 26.10.06; and
- (7) Allow the Department to audit a training program.

**D. Reauthorization of Currently Approved Training Programs.**

- (1) Upon the effectiveness of a new or revised regulation under this chapter or COMAR 26.10.01—26.10.12, the Department shall provide notice to a person implementing a currently approved training program that the person is required to update an approved training program.
- (2) Upon receiving notice from the Department, a person shall revise a currently approved training program and submit the revised training program materials to the Department for approval.
- (3) A person may not implement an updated training program that has not been approved by the Department.

**.07 Certification.**

**A. An owner and an operator of a UST system or a group of UST systems at a regulated substance storage facility shall have:**

- (1) An individual designated to be a Class A operator or a Class B operator, or both, successfully complete a training program in accordance with §B or C of this regulation; and
- (2) An individual designated to be a Class C operator successfully complete a training program in accordance with §D of this regulation.

**B. The Department shall consider an individual to have successfully completed a Class A operator or a Class B operator training program if the following requirements are met:**

- (1) An individual designated as a Class A operator was trained and evaluated in accordance with Regulation .05D of this chapter;
- (2) An individual designated as a Class B operator was trained and evaluated in accordance with Regulation .05E of this chapter;
- (3) An individual attended 100 percent of the training program;
- (4) An individual achieved a score of 80 percent or better on a written competency test of the information presented; and
- (5) The trainer provided a dated certificate to an individual that successfully completed the training.

**C. With approval from the Department, an owner and an operator of a UST system or a group of UST systems at a regulated substance storage facility may conduct a training program at the regulated substance storage facility for an**

individual designated to serve as the Class A operator or the Class B operator, or both, at the facility provided the following requirements are met:

(1) An individual designated as a Class A operator is trained and evaluated in accordance with Regulation .05D of this chapter;

(2) An individual designated as a Class B operator is trained and evaluated in accordance with Regulation .05E of this chapter;

(3) An individual demonstrates to the satisfaction of the trainer:

(a) For a Class A operator, the individual has the knowledge and skills in accordance with Regulation .05D(2) of this chapter to:

(i) Make informed decisions regarding regulatory compliance for a UST system at the regulated substance storage facility; and

(ii) Determine whether appropriate individuals are fulfilling the operation, maintenance, testing, and recordkeeping requirements for a UST system at the regulated substance storage facility;

(b) For a Class B operator, that the individual has the knowledge and skills in accordance with Regulation .05E(2) and (3) of this chapter to implement applicable UST system regulatory requirements for the site-specific equipment used at the facility; and

(4) The trainer provides a dated certificate to an individual that successfully completes the on-site training.

D. A certified Class A operator or a certified Class B operator designated for a regulated substance storage facility shall train and certify an individual to be a Class C operator for that regulated substance storage facility by:

(1) Training and evaluating the individual in accordance with Regulation .05F of this chapter;

(2) Having the individual demonstrate an understanding of the written instructions required by Regulation .03A(3) of this chapter; and

(3) Upon successful completion of the training, completing and signing a form provided by the Department that certifies the Class C operator has been successfully trained.

E. In addition to §D of this regulation, an owner and an operator of a UST system or group of UST systems at a regulated substance storage facility may provide an off-site or on-site training program to an individual designated to serve as a Class C operator.

F. Reciprocity.

(1) The Department may allow a Class A operator or a Class B operator certification from another state to satisfy the requirements of this chapter.

(2) An individual certified as a Class A operator or a Class B operator in another state shall request reciprocity as a Class A operator or a Class B operator on a form provided by the Department.

(3) An individual requesting reciprocity shall demonstrate to the satisfaction of the Department that the operator training requirements and the UST system regulations where the individual is presently certified are at least as stringent as this chapter and COMAR 26.10.01—26.10.12.

## **.08 Sanctions.**

A. Retraining.

(1) If the Department determines that a Class A operator or a Class B operator is not in compliance with a regulation in this chapter, or that a regulated substance storage facility is not in compliance with any regulations in COMAR 26.10.01—26.10.12, the Department shall document the deficiency.

(2) Upon notice of a documented deficiency provided under §A(1) of this regulation, the owner and the operator of the UST system and regulated substance storage facility shall implement one or more of the following options as directed by the Department for the designated Class A operator or Class B operator, or both:

(a) Have the Class A operator or the Class B operator complete a full training program and meet the certification requirements of this chapter;

(b) Have the Class A operator or the Class B operator complete a training program tailored to the areas the Department determined were deficient and demonstrate the duties, skills, and knowledge areas in compliance with the requirements of this chapter or in a manner specified by the Department; or

(c) Have the Class A operator or the Class B operator complete partial on-site training given by a Department representative in the areas the Department determined were deficient and demonstrate the duties, skills, and knowledge areas to the satisfaction of the Department representative.

(3) In providing a notice under §A(2) of this regulation, the Department may require a Class A operator or a Class B operator, or both, receive training from an alternate training program rather than the training program in which the operator originally or most recently received training from.

(4) Not later than 30 days after receiving a notice from the Department under §A(2) of this regulation, an owner and an operator of a UST system shall ensure that a Class A operator or a Class B operator, or both, completes the retraining required by the Department, unless the Department waives the retraining requirement for either the Class A operator or the Class B operator, or both.

(5) Within 60 days of the Department's directive to retrain a Class A operator or a Class B operator, or both, an owner and an operator of a UST system shall submit written verification to the Department that retraining was completed.

(6) In addition to the retaining requirements in §A(1)—(5) of this regulation, the Department may require an owner and an operator of a UST system and a regulated substance storage facility to retrain designated Class C operators.

B. *Training Programs.* The Department may suspend or revoke its approval of a training program if the Department determines that a person implementing a training program or a trainer for the training program has done one or more of the following:

- (1) Demonstrated a willful or negligent disregard or repeated violations of the regulations in COMAR 26.10; or
- (2) Willfully or negligently submitted false information to the Department.

C. A person violating a provision of this chapter is subject to sanctions under:

- (1) Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland;
- (2) Environment Article, Title 7, Subtitle 2, Part VIII, Annotated Code of Maryland; and
- (3) Any other sanctions provided by federal or State statutes or regulations.

#### **.09 Recordkeeping.**

An owner and an operator of a UST system or a group of UST systems at a regulated substance storage facility shall:

A. Maintain records in accordance with COMAR 26.10.04.05 that demonstrate compliance with this chapter;

B. Maintain the following records:

(1) A list of certified Class A operators, Class B operators, and Class C operators designated for a regulated substance storage facility by the owner and the operator as required by Regulation .03A(1) of this chapter that:

(a) Identifies all Class A operators, Class B operators, and Class C operators currently designated for the facility; and

(b) Includes for each currently designated operator:

(i) The operator's name, mailing address, and emergency contact number;

(ii) The date the operator assumed duties for the operator class at the facility; and

(iii) The name of the initial training program and any required retraining programs and the date of completion for each training program;

(2) Paper or electronic records verifying the completion of a training or a retraining program for each currently designated Class A operator, Class B operator, and Class C operator that:

(a) Identifies the name of the trainee, the date trained, and the name of the operator training class that was completed;

(b) Lists the name of the trainer and the training company name, address, and telephone number; and

(c) Includes a copy of the training certificate issued to the operator;

(3) Written verification from the Class A operator or the Class B operator that designates a Class C operator demonstrating the Class C operator's understanding of the written instructions required by Regulation .03A(3) of this chapter; and

(4) Copies of the inspection records required in Regulation .03D(2) of this chapter;

C. Ensure compliance with the following training record requirements:

(1) A trainer shall sign records from classroom or field training programs, including Class C operator training provided by a Class A operator or a Class B operator;

(2) Records from computer-based training programs, at a minimum, indicate the name of the training program and the web address; and

(3) Records of retraining include those areas on which the Class A operator or the Class B operator, or both, were retrained;

D. Keep the records required by §B of this regulation at a location designated by the owner for the following durations:

(1) Records required by §B(1)—(3) of this regulation for as long as a Class A operator, Class B operator, and Class C operator is designated; and

(2) Records required by §B(4) of this regulation for 5 years; and

E. Ensure the records required to be maintained under this chapter are available upon request by the Department or a UST system inspector certified by the Department under COMAR 26.10.06.

### **26.10.17 Shop-Fabricated Aboveground Storage Tanks**

Authority: Environment Article, §§4-401—4-403, 4-405, 4-406, 4-408, 4-410—4-412, 4-415.1—4-418, 4-501, and 4-502, Annotated Code of Maryland

#### **.01 Scope.**

A. This chapter applies to an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that is used or may be used to store oil at an oil storage facility or oil handling facility.

B. An owner, an operator, and a person in charge of an AST system subject to the requirements in this chapter shall meet all applicable requirements under COMAR 26.10.01 for an oil storage facility or oil handling facility.



C. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST used for storing asphalt only is exempt from the following requirements of this chapter:

- (1) Unless otherwise directed by the Department, the secondary containment requirements in Regulation .07 of this chapter;
- (2) The spill and overfill prevention requirements in Regulation .08 of this chapter;
- (3) The release detection requirements in Regulation .09 of this chapter; and
- (4) The emergency venting requirement in Regulation .11B of this chapter if the AST system has a capacity greater than 12,000 gallons and is not located in:
  - (a) A secondary containment dike with another AST system storing a Class I liquid or Class II liquid; or
  - (b) The drainage path of another AST system storing a Class I liquid or Class II liquid.

## **.02 Definitions.**

### **A. In this chapter:**

- (1) A term in §B of this regulation has the meaning indicated; and
- (2) A term not defined in §B of this regulation has:
  - (a) The meaning given to the term in a relevant statute or COMAR 26.10.01 or 26.10.02; or
  - (b) If not defined in a relevant statute or COMAR 26.10.01 or 26.10.02, the meaning attributed by common

use.

### **B. Terms Defined.**

- (1) "AST" has the meaning stated in COMAR 26.10.01.02B.
- (2) "AST system" has the meaning stated in COMAR 26.10.01.02B.
- (3) "Certified inspector" includes one of the following individuals certified to perform an inspection on a shop-fabricated AST:
  - (a) An authorized inspector, as defined in COMAR 26.10.18.02B, with an adjunct certification, as specified in STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks"; or
  - (b) A certified AST tank system inspector, as specified in STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks".
- (4) "Double-walled AST" means an AST that:
  - (a) Is manufactured as a storage tank within a storage tank; and
  - (b) Has an interstitial space between the primary storage tank and secondary storage tank walls that allows for:
    - (i) Tightness testing of both storage tank walls; and
    - (ii) Monitoring of the interstitial space for a release from the primary storage tank.
- (5) "Elevated AST" means an AST that is not in direct contact with soil by either:
  - (a) Being raised above the surface of the ground or bottom of a vault using supports designed to secure and support the AST from collapse when containing oil; or
  - (b) Resting on a surface material that does not allow moisture penetration or corrosion, such as concrete or steel.
- (6) "Existing" means the installation or construction of an AST, an AST system, or a secondary containment dike was complete before the effective date of this chapter.
- (7) "External inspection" means a formal inspection of an AST conducted by a certified inspector in accordance with STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks" to assess the condition of the AST to determine its suitability for continued service without entry into the AST interior.
- (8) "Formal inspection" means a documented external inspection or internal inspection of an AST conducted by a certified inspector in accordance with STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks".
- (9) Internal Inspection.
  - (a) "Internal inspection" means a formal inspection of an AST conducted by a certified inspector in accordance with STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks" to assess the internal and external condition of the AST to determine its suitability for continued service.
  - (b) "Internal inspection" includes the requirements of an external inspection in STI/SPFA SP001 "Standard for the Inspection of Aboveground Storage Tanks".
- (10) Interstitial Space.
  - (a) "Interstitial space" means:
    - (i) The space in a double-walled AST between the primary and secondary storage tank walls; or
    - (ii) The space in a double-bottom AST that provides an open or closed void to allow monitoring for a release between two storage tank bottoms.
  - (b) "Interstitial space" includes an interstice and an annular space.
- (11) "Maximum working level" means the liquid level of a shop-fabricated AST that should not be exceeded during normal filling procedures and is below the activation level of any overfill prevention equipment.
- (12) "New" means the installation or construction of an AST, an AST system, or a secondary containment dike was complete on or after the effective date of this chapter.

(13) “Out-of-service” means an AST system in which the owner, the operator, and the person in charge of the AST system has:

- (a) Emptied the AST system of all oil and sludge; and
- (b) Designated the AST system as out-of-service in accordance with Regulation .13 of this chapter.

(14) “Overfill” means an occurrence when an AST is filled beyond the overfill level and may result in a spill, release, or discharge of oil.

(15) “Overfill level” means the maximum design capacity of a shop-fabricated AST as determined by the AST manufacturer.

(16) “Repair” means work necessary to maintain or restore an AST system to a safe operating condition using industry approved standards.

(17) Secondary Containment Dike.

(a) “Secondary containment dike” means a secondary containment system that confines a spill, release, or discharge of oil from an AST or piping within the secondary containment system.

(b) “Secondary containment dike” includes diking and a dike.

(18) “Secured area” means an area of an oil storage facility or oil handling facility where the owner, the operator, and the person in charge of the facility protects oil storage operations and oil handling operations from unauthorized access by:

- (a) Providing appropriate security around an AST system, including fencing;
- (b) Marking an AST system with the fire hazard category for the type of product stored;
- (c) Posting “No Trespassing” signs; and
- (d) Providing an adequate security lighting system to:
  - (i) Prevent acts of vandalism; and
  - (ii) Assist in the detection of spills, releases, and discharges.

(19) “Shop-fabricated AST” means a welded carbon steel or stainless steel AST fabricated in a manufacturing facility, or an AST not otherwise identified as field-erected.

(20) “Vault” means an enclosure that:

- (a) May be located above or below grade;
- (b) Consists of four walls, a floor, and a top for the purpose of containing an AST;
- (c) Allows for the inspection, repair, or maintenance of the vault and an AST; and
- (d) Is not intended to be occupied by an individual for an extended period of time.

(21) “Vaulted AST” means an AST enclosed within a vault.

### **.03 General Requirements.**

A. An owner, an operator, and a person in charge of a new or relocated AST system with a shop-fabricated AST shall ensure the new or relocated AST system meets the requirements of this chapter.

B. Unless otherwise specified in this chapter, an owner, an operator, and a person in charge of an existing AST system with a shop-fabricated AST shall ensure the existing AST system meets the requirements of this chapter not later than:

- (1) 2 years after the effective date of this chapter; or
- (2) Another time period approved by the Department.

C. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall comply with the following permit, license, or approval requirements, when applicable:

- (1) Obtain an Individual Oil Operations Permit or comply with the General Oil Operations Permit conditions, in accordance with COMAR 26.10.01.09;
- (2) Obtain a State discharge permit or National Pollution Discharge Elimination System permit, in accordance with COMAR 26.08.04;
- (3) Obtain an Oil Transfer License, in accordance with COMAR 26.10.01.08;
- (4) Obtain an Air Quality Permit to Construct, in accordance with COMAR 26.11.02;
- (5) Obtain a State Air Quality Permit to Operate, in accordance with COMAR 26.11.02; and
- (6) Comply with any other applicable federal, State, or local government permit, license, or approval requirements.

D. Notwithstanding the compliance schedule in §B of this regulation, an owner, an operator, and a person in charge of an AST system shall register and maintain up-to-date registration of the AST system with the Department in accordance with the procedures and schedule in COMAR 26.10.01.10.

E. Wetlands and Waterways. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST may not install the AST system or construct a secondary containment dike in a special flood hazard area, tidal or nontidal wetland, nontidal wetland buffer, or 100-year frequency floodplain of free-flowing waters unless the owner, the operator, and the person in charge of the AST system:

- (1) First, obtain all of the applicable authorizations required under COMAR 26.10.01.04E; and
- (2) Protect the shop-fabricated AST from flotation by anchoring the AST in accordance with an industry-approved standard.

### **.04 Performance Standards for Vaulted Shop-Fabricated ASTs.**

- An owner, an operator, and a person in charge of an AST system that installs a shop-fabricated AST in a vault shall:*
- A. *Construct a UL listed vault;*
  - B. *Ensure the vault and the vaulted AST comply with the design, construction, installation, and operation requirements of:*
    - (1) *This regulation;*
    - (2) *NFPA 30 “Flammable and Combustible Liquids Code”;*
    - (3) *If the vaulted AST is used as part of a motor fuel dispensing facility, NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”;* and
    - (4) *NFPA 70 “National Electrical Code” for all electrical wiring;*
  - C. *Ensure the vaulted AST is:*
    - (1) *UL listed for aboveground use and for the type of product being stored;*
    - (2) *Completely enclosed in the vault; and*
    - (3) *Not partially or entirely covered by backfill;*
  - D. *Provide venting for the vault and the vaulted AST according to the following requirements:*
    - (1) *If the AST stores a Class I liquid, vent the vault in accordance with NFPA 30 “Flammable and Combustible Liquids Code”;*
    - (2) *Terminate a normal vent for the vaulted AST:*
      - (a) *Outside of the vault;*
      - (b) *At least 12 feet above ground level; and*
      - (c) *At least 5 feet from a building opening;*
    - (3) *A normal vent for the vaulted AST may not terminate in a location that allows vapors to be trapped by the eaves of a building;*
    - (4) *Ensure that an emergency vent for the vaulted AST is vapor-tight and allows for the venting of vapors inside of the vault; and*
    - (5) *Do not use a long-bolt manhole cover as an emergency vent for the vaulted AST;*
  - E. *Install vapor and liquid detection systems in the vault that meet the following requirements:*
    - (1) *The vapor detection system:*
      - (a) *Is equipped with an on-site alarm that has a battery backup;*
      - (b) *Has vapor detectors located not higher than 12 inches above the lowest point in the vault; and*
      - (c) *Is set to alarm when vapors reach or exceed 25 percent of the lower flammable limit of the oil stored;*
    - (2) *The liquid detection system is:*
      - (a) *Set to alarm upon detection of a liquid; and*
      - (b) *Located in accordance with the liquid detection system manufacturer’s instructions; and*
    - (3) *The vapor and liquid detection systems required under §E(1) and (2) of this regulation are designed so that if either system alarms, a signal alerts the owner, the operator, and the person in charge of the AST system:*
      - (a) *At a constantly attended location where the vaulted AST is located; or*
      - (b) *At another location that is continually monitored; and*
  - F. *Ensure the vaulted shop-fabricated AST complies with the spill and overfill prevention requirements in Regulation .08 of this chapter.*

**.05 Performance Standards for AST Systems with a Shop-Fabricated AST.**

- An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:*
- A. *Ensure the AST system is:*
    - (1) *Properly selected for the oil storage application and type of oil stored; and*
    - (2) *Constructed to an industry standard, including a UL, STI or API standard;*
  - B. *Ensure the foundation of a stationary shop-fabricated AST is:*
    - (1) *Installed to:*
      - (a) *Support the AST;*
      - (b) *Prevent movement and uneven settlement of the foundation and the AST; and*
      - (c) *Provide positive drainage of water away from the foundation;*
    - (2) *Capable of supporting the soil-bearing pressure of the AST and its contents; and*
    - (3) *Designed by a qualified PE, using field and laboratory testing and analyses, if constructing the AST system in one of the following areas:*
      - (a) *A special flood hazard area;*
      - (b) *A non-tidal wetland; or*
      - (c) *A 100-year frequency floodplain of free-flowing waters;*
  - C. *Ensure the AST system is an elevated AST system, unless:*
    - (1) *An alternate AST system is approved by the Department in writing; and*
    - (2) *The owner, the operator, and the person in charge of the alternate AST system installs, tests, and maintains a cathodic protection system in accordance with Regulation .10 of this chapter; and*
  - D. *Test a new, repaired, or relocated AST system for tightness in accordance with NFPA 30 “Flammable and Combustible Liquids Code”:*

- (1) Upon completion of the installation or repair of the AST system; and
- (2) Before placing the AST system in-service.

**.06 Performance Standards for Piping.**

An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

A. If installing or relocating a shop-fabricated AST on or after the effective date of this chapter, install piping that does not penetrate a secondary containment dike, unless otherwise approved by the Department;

B. Ensure an existing shop-fabricated AST meets the following requirements:

(1) For piping connected to an AST penetrating a secondary containment dike:

(a) Obtain approval from the Department to leave the piping in place; or

(b) Properly abandon and replace the piping not later than 1 year after the effective date of this chapter with piping that does not penetrate the secondary containment dike; and

(2) For underground piping connected to an AST, ensure the piping complies with the underground piping

requirements in §E of this regulation not later than 1 year after the effective date of this chapter;

C. Ensure an aboveground piping system connected to a shop-fabricated AST is:

(1) Constructed of carbon steel, alloy steel, or stainless steel piping;

(2) Compatible with the type of oil transferred in the piping;

(3) Designed and constructed in accordance with recognized industry standards;

(4) Liquid tight;

(5) Properly supported by permanent bracing to prevent structural weaknesses; and

(6) Protected against physical damage;

D. Ensure a piping system installed aboveground or inside of a building is not constructed with:

(1) Low melting point materials, such as aluminum, copper, or brass;

(2) Materials that soften on fire exposure, such as plastics; or

(3) Non-ductile materials, such as cast iron;

E. If installing an underground piping system, comply with the following requirements:

(1) Install the piping system, including containment sumps, in accordance with the performance standards in COMAR 26.10.03.02 and .03A(3);

(2) Installation of the piping system is performed in the continuous on-site presence and under the direction of a certified UST system technician, as required under COMAR 26.10.02.03D;

(3) Test the piping system for tightness in accordance with COMAR 26.10.03.05 and 26.10.05.02D;

(4) Test the containment sumps for tightness in accordance with COMAR 26.10.03.03A(3);

(5) Provide a method of leak detection in accordance with COMAR 26.10.05.02D;

(6) Maintain the containment sumps clean and free of liquid; and

(7) If a test for tightness conducted in accordance with §E(3) or (4) of this regulation results in a failed test result or a leak is found:

(a) Report the failed test result to the Department within 2 hours in accordance with COMAR 26.10.08.01;

and

(b) Follow the investigation and confirmation procedures in COMAR 26.10.08.03, including making repairs and retesting the piping system and containment sumps for tightness.

**.07 Secondary Containment.**

A. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall surround the AST system with a continuous secondary containment dike that meets the requirements of this regulation if:

(1) The shop-fabricated AST is a single-walled AST with a capacity of 10,000 gallons or greater;

(2) The shop-fabricated AST is a double-walled AST with a capacity of 10,000 gallons or greater, unless the double-walled shop-fabricated AST meets the conditions in §B of this regulation; or

(3) The Department determines that the AST system poses a water pollution hazard due to its size, nature, or location.

B. An owner, an operator, and a person in charge of an AST system with a double-walled shop-fabricated AST is exempt from the requirement to install a secondary containment dike around the double-walled shop-fabricated AST provided the AST system:

(1) Has overfill prevention equipment in accordance with Regulation .08 of this chapter;

(2) Has a method of release detection in accordance with Regulation .09 of this chapter;

(3) Is located within a secured area; and

(4) Meets one of the following conditions:

(a) The AST has a capacity not greater than 12,000 gallons and stores a Class I liquid used for motor fuel dispensing;

(b) The AST has a capacity not greater than 15,000 gallons and stores a Class II liquid used for motor fuel dispensing; or

(c) The AST has a capacity not greater than 20,000 gallons and stores a Class II liquid or Class III liquid used for a purpose other than motor fuel dispensing.

C. Compliance Schedule.

(1) An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a new secondary containment dike shall meet the requirements in §§D—J of this regulation upon installation of the secondary containment dike.

(2) Unless otherwise provided in this regulation, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has an existing secondary containment dike shall meet the requirements in §§D—J of this regulation not later than:

(a) 2 years after the effective date of this chapter; or

(b) Another time period approved by the Department.

D. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST required under §A of this regulation to have a secondary containment dike shall ensure the secondary containment dike:

(1) Can contain a spill, release, or discharge from an AST and connected piping within the secondary containment dike surrounding the AST until the spill, release, or discharge is detected and removed;

(2) Is designed by a PE;

(3) Is approved by the Department;

(4) Is designed with consideration given to the soil and groundwater conditions at the oil storage facility or oil handling facility;

(5) Prevents movement of oil into, near, or in an area likely to pollute waters of the State;

(6) Provides safe ingress and egress for an individual;

(7) Prevents water accumulation at an AST foundation;

(8) If the secondary containment dike surrounds two or more ASTs, is subdivided in accordance with NFPA 30 “Flammable and Combustible Liquids Code”;

(9) If the secondary containment dike is exposed to precipitation, is designed and constructed to effectively hold 110 percent of the maximum capacity of the largest AST in the area enclosed by the secondary containment dike; and

(10) Is constructed so that the secondary containment dike, upon testing, meets one of the following permeability criteria:

(a) A permeability of less than  $10^{-4}$  centimeters per second; or

(b) A product level drop rate of less than 1 centimeter per 3 hours.

E. Within 90 days of conducting a permeability test on a secondary containment dike or another time period approved by the Department, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall repair or replace a secondary containment dike that does not meet one of the permeability criteria listed in §D(10) of this regulation.

F. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has an earthen secondary containment dike shall conduct permeability testing on the earthen secondary containment dike according to the following requirements:

(1) For an existing earthen secondary containment dike that has not been previously tested for permeability, test the existing earthen secondary containment dike for permeability using an industry standard approved by the Department not later than 1 year after the effective date of this chapter;

(2) Test a new earthen secondary containment dike for permeability using an industry standard approved by the Department upon completing the construction of the earthen secondary containment dike and prior to placing the AST in-service; and

(3) Submit the results of the permeability testing to the Department not later than 60 days after the test.

G. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a secondary containment dike shall maintain written verification that the secondary containment dike meets the applicable requirements in §§D—F of this regulation in accordance with Regulation .14 of this chapter.

H. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a secondary containment dike shall ensure a drain valve installed in the secondary containment dike is:

(1) Not a flapper-type valve; and

(2) Except when being used to drain trapped water in accordance with §I of this regulation, kept completely closed and locked at all times.

I. When draining trapped water from a secondary containment dike, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has the secondary containment dike shall:

(1) Ensure the drainage leaving the secondary containment dike does not have any visible evidence of oil sheen;

(2) Designate a representative to supervise, monitor, and document each drainage event from the secondary containment dike;

(3) Keep a log that includes the following information for each secondary containment dike drainage event:

(a) The name of the employee supervising, monitoring, and documenting the drainage;

(b) The date of drainage event;

(c) The time the drainage event started and ended;

(d) The estimated volume of water drained; and

(e) A description of the water quality, such as the presence of an oil sheen; and

(4) Maintain the log required by §I(3) of this regulation in accordance with Regulation .14 of this chapter.

J. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a secondary containment dike shall maintain the secondary containment dike clear and free of:

- (1) Vegetation; and
- (2) Flammable and combustible materials, including oil.

**.08 Spill and Overfill Prevention.**

A. To prevent a spill, release, or discharge of oil due to an overfill of a shop-fabricated AST, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

(1) Establish written procedures for filling the AST and maintain the procedures at the oil storage facility or oil handling facility;

(2) Ensure the AST is:

- (a) Normally filled to a level that does not exceed the maximum working level of the AST; and
- (b) Never filled to the overfill level of the AST; and

(3) If required under NFPA 30 “Flammable and Combustible Liquids Code” or §G of this regulation, install, operate, inspect, maintain, and test overfill prevention equipment in accordance with:

- (a) The requirements of this regulation and Regulation .12 of this chapter;
- (b) NFPA 30 “Flammable and Combustible Liquids Code”; and
- (c) PEI RP 600 “Recommended Practices for Overfill Prevention for Shop-Fabricated Aboveground Tanks”.

B. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST may not use overfill prevention equipment:

- (1) To control AST filling operations at an oil storage facility or oil handling facility; or
- (2) That restricts or interferes with the functioning of the normal or emergency vent of the AST.

C. In accordance with COMAR 26.10.08.04, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST and a responsible party shall:

- (1) Report and investigate a spill, release, or discharge from the AST system or an overfill; and
- (2) Remediate the spill, release, or discharge or the overfill.

D. Delivery and Transfer Operations. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

(1) Confirm that the ullage available in the AST is greater than the volume of oil to be transferred to the AST before a delivery or transfer begins;

(2) During a delivery or transfer operation, ensure:

(a) A spill, release, or discharge of oil does not occur due to overfilling the AST or spilling oil during the transfer; and

(b) The delivery or transfer operation is constantly monitored to prevent overfilling of the AST and spilling of oil;

(3) Ensure the delivery or transfer operation is conducted in accordance with the requirements in COMAR 26.10.01.16–18 and NFPA 385 “Standard for Tank Vehicles for Flammable and Combustible Liquids”; and

(4) If the delivery is by truck tank or transport with a cargo tank capacity of 500 gallons or greater, confirm the company making an oil delivery or transfer holds a valid Individual Oil Operations Permit from the Department in accordance with COMAR 26.10.01.09.

E. Liquid Level Measurements. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

(1) Gauge the liquid level and record the measurements in writing before filling the AST; and

(2) Maintain the records required under §E(1) of this regulation in accordance with Regulation .14 of this chapter.

F. Tank Gauge. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

(1) Equip the shop-fabricated AST with a tank gauge or other equivalent monitoring device that is:

- (a) Directly visible during a transfer operation;
- (b) Accurately measures the level or quantity of oil in the AST;
- (c) Independent of any overfill prevention equipment; and
- (d) Maintained in working order;

(2) Install and maintain the tank gauge or other equivalent monitoring device in accordance with the manufacturer’s specifications; and

(3) Inspect and calibrate the tank gauge or other equivalent monitoring device at least once per year.

G. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a storage capacity of 10,000 gallons or greater and is not located within a secondary containment dike shall install the following overfill prevention equipment on the AST system:

(1) An overfill alarm that:

(a) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;

(b) Consists of a visual alarm and an audible alarm that alerts an individual involved in the oil delivery or transfer operation; and

(c) Goes into alarm when the liquid level in the AST reaches 90 percent of the overfill level and upon failure or malfunction of the overfill device; and

(2) An automatic shut-off device that:

(a) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;

(b) Automatically shuts off the flow of oil into the AST when the liquid level reaches 95 percent of the overfill level; and

(c) Is equipped with a fail-safe mechanism that will trigger an alarm and shut off the flow of oil into the AST in the event of a device failure or malfunction.

H. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST using overfill prevention equipment shall:

(1) At least monthly, inspect and perform maintenance of overfill protection equipment in accordance with the manufacturer's instructions; and

(2) At least annually, perform functional testing of overfill protection equipment in accordance with the manufacturer's instructions.

I. Labeling. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

(1) Provide the following labeling on the AST system:

(a) The storage capacity of the AST in gallons;

(b) The type of oil stored or last stored in the AST prior to being placed out-of-service;

(c) A proper NFPA 704 "Standard System for the Identification of the Hazards of Materials for Emergency Response" placard; and

(d) If the AST system was placed out-of-service in accordance with Regulation .13 of this chapter, the words "OUT-OF-SERVICE" or "EMPTY"; and

(2) Permanently and clearly mark the shop-fabricated AST with the information listed in §I(1) of this regulation on, not less than two sides of the AST and in locations that are highly visible to employees of an oil storage facility or oil handling facility, contractors, government representatives, and emergency response personnel.

J. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall maintain records related to spill and overfill prevention measures required under this regulation in accordance with Regulation .14 of this chapter.

#### **.09 Release Detection.**

A. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall provide a method or combination of release detection methods that detect a spill, release, or discharge from the AST system through:

(1) Visual inspections of the AST system in accordance with Regulation .12 of this chapter;

(2) A continuous electronic release detection system; or

(3) A continuous mechanical release detection system.

B. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST using a continuous electronic or mechanical release detection system shall:

(1) Install, calibrate, operate, and maintain the release detection system in accordance with the manufacturer's instructions; and

(2) At least annually:

(a) Perform routine maintenance on the release detection system;

(b) Check the release detection system for operability at scheduled service checks; and

(c) Per the manufacturer's specifications, inspect, field-test, or calibrate the release detection system to verify that the selected release detection method is being maintained and operated properly to detect a spill, release, or discharge.

C. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall monitor underground piping connected to the AST for spill, releases, and discharges in accordance with COMAR 26.10.05.02D.

#### **.10 Corrosion Protection.**

A. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a capacity less than 10,000 gallons shall install an elevated AST so that the storage tank is not in direct contact with soil or another material that may allow moisture penetration or corrosion.

B. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has a capacity of 10,000 gallons or greater, is not an elevated AST, and in direct contact with soil or another material that may allow moisture penetration or corrosion shall:

(1) Provide one of the following cathodic protection systems:

(a) An impressed current system;

(b) A galvanic system; or

(c) Subject to the approval of the Department, an alternative method of corrosion protection that is:

(i) Designed to prevent a spill, release, or discharge of oil or a threatened spill, release, or discharge of oil in a manner determined by the Department to be not less protective of human health and the environment than the methods in §B(1)(a) and (b) of this regulation; and

(ii) Approved by a corrosion expert; and

(2) Provide a cathodic protection system that is:

(a) Designed by a corrosion expert;

(b) Designed and tested, at a minimum, in accordance with the following industry standards and recommended practices:

(i) NACE SP0169-2013 “Control of External Corrosion on Underground or Submerged Metallic Piping Systems”;

(ii) NACE SP0193-2016 “Application of Cathodic Protection to Control External Corrosion of Carbon Steel On-Grade Storage Tank Bottoms”;

(iii) NACE TM0497-2018 “Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems”; and

(iv) API Recommended Practice 651 “Cathodic Protection of Aboveground Petroleum Storage Tanks”;

(c) Designed and installed to provide continuous corrosion protection to the external portion of the AST and other metal components of the AST system in contact with soil or other materials that may allow corrosion;

(d) Installed with easily identifiable test stations, access points, or other methods to monitor the operation and functionality of the cathodic protection system; and

(e) Continuously operated and maintained for the in-service and out-of-service life of the AST system.

C. Impressed Current System. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST system protected by an impressed current system shall:

(1) Install, operate, maintain, inspect, and test the impressed current system in accordance with the requirements of this section;

(2) Ensure the impressed current source is not de-energized at any time except to perform service work on the AST system;

(3) Ensure the impressed current source is equipped with a continuously operating meter that displays the voltage, amperage, and operating (run) time;

(4) At least once every 60 days:

(a) Inspect the impressed current system to ensure the cathodic protection system is functioning properly by:

(i) Verifying the power source to the impressed current system is on; and

(ii) Recording the voltage, amperage, and operating time; and

(b) Record and maintain the inspection results in accordance with Regulation .14 of this chapter;

(5) At least annually:

(a) Have a cathodic protection tester inspect and test:

(i) The impressed current system for electrical shorts, ground connections, meter accuracy, and circuit resistance; and

(ii) The condition of the impressed current system’s isolating devices, continuity bonds, and insulators; and

(b) Record and maintain the results of the inspection and test in accordance with Regulation .14 of this chapter;

(6) Have a corrosion expert inspect the impressed current system in accordance with an industry standard or recommended practice listed in §B(2) of this regulation:

(a) When the impressed current system is 5 years of age; and

(b) Every 5 years thereafter;

(7) Provide a complete report for an inspection performed pursuant to §C(6) of this regulation to the Department and maintain a copy of the report in accordance with Regulation .14 of this chapter;

(8) Except as provided in §C(9) of this regulation, if the protection provided by an impressed current system is determined to be inadequate to properly protect the AST system:

(a) Employ a corrosion expert to determine the cause of the inadequacy within 30 days of the discovery; and

(b) Either:

(i) Complete repairs of the impressed current system within 60 days of the discovery or on a schedule approved by the Department; or

(ii) If repairs cannot return the impressed current system to adequate performance, replace the impressed current system within 120 days of the discovery or on a schedule approved by the Department; and

(9) If an impressed current system determined to be inadequate to provide proper protection to the AST system cannot be repaired or replaced in accordance with §C(8) of this regulation:

(a) Empty all oil in contact with the portion of the AST system inadequately protected by the impressed current system; and

(b) Place the AST system out-of-service in accordance with Regulation .13 of this chapter.

D. Galvanic System. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST system protected by a galvanic system shall:



- (1) Install, operate, maintain, inspect, and test the galvanic system in accordance with the requirements of this section;
- (2) Comply with the following inspection and test requirements:
  - (a) A cathodic protection tester shall inspect and test the galvanic system in accordance with an industry standard or recommended practice listed in §B(2) of this regulation:
    - (i) Within 6 months of installing the galvanic system; and
    - (ii) At least annually thereafter;
  - (b) A cathodic protection tester conducting an annual inspection shall make and record a sufficient number of AST-to-soil and underground piping-to-soil potential measurements to determine if the AST system is completely protected in accordance with an industry standard or recommended practice listed in §B(2) of this regulation; and
  - (c) Maintain records of the AST-to-soil and underground piping-to-soil potential measurements in accordance with Regulation .14 of this chapter;
- (3) Except as provided under §D(4) of this regulation, if the protection provided by a galvanic system is determined to be inadequate to properly protect the AST system:
  - (a) Employ a corrosion expert to determine the cause of the inadequacy within 30 days of the discovery; and
  - (b) Either:
    - (i) Complete repairs of the galvanic system within 60 days of the discovery or on a schedule approved by the Department; or
    - (ii) If repairs cannot return the galvanic system to adequate performance, replace the galvanic system within 120 days of the discovery or on a schedule approved by the Department; and
  - (4) If a galvanic system determined to be inadequate to provide proper protection to the AST system cannot be repaired or replaced in accordance with §D(3) of this regulation:
    - (a) Empty all oil in contact with the portion of the AST system inadequately protected by the galvanic system; and
    - (b) Place the AST system out-of-service in accordance with Regulation .13 of this chapter.

#### **.11 Normal and Emergency Venting.**

A. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall ensure the normal venting for the shop-fabricated AST meets the following requirements:

- (1) Design and construct the normal venting in accordance with one of the following industry standards:
    - (a) UL 142 “Standard for Safety, Steel Aboveground Tanks for Flammable and Combustible Liquids”; or
    - (b) API Standard 2000 “Venting Atmospheric and Low-pressure Storage Tanks”;
  - (2) The normal venting requirements for ASTs listed in NFPA 30 “Flammable and Combustible Liquids Code”;
- and
- (3) Vent an atmospheric pressure AST to prevent the development of vacuum or pressure above a 1.0 psi (6.9 kPa) maximum operating pressure.

B. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall ensure the emergency venting for the shop-fabricated AST meets the following requirements:

- (1) Design and construct emergency venting in accordance with one of the following industry standards:
  - (a) UL 142 “Standard for Safety, Steel Aboveground Tanks for Flammable and Combustible Liquids”; or
  - (b) API Standard 2000 “Venting Atmospheric and Low-pressure Storage Tanks”; and
- (2) Emergency venting meets the requirements in NFPA 30 “Flammable and Combustible Liquids Code”.

#### **.12 Inspection Requirements for an AST System.**

A. Periodic Visual Inspections.

- (1) An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall conduct periodic visual inspections in accordance with:
  - (a) The inspection procedures under §A(2) or (3) of this regulation; and
  - (b) The recordkeeping requirements under §A(4) and (5) of this regulation.
- (2) An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST may meet the visual inspections requirement in §A(1) of this regulation by, at a minimum:
  - (a) Inspecting for the following conditions monthly:
    - (i) Signs of spills, releases, or discharges from any portion of the AST system;
    - (ii) Water in the secondary containment dike and AST or, if a double-walled AST, the primary storage tank and interstice;
    - (iii) The condition of the secondary containment dike, including drain valves;
    - (iv) Signs of shell distortion;
    - (v) Signs of settlement;
    - (vi) Signs of corrosion;
    - (vii) The condition of the AST foundation or supports;
    - (viii) The condition of the exterior coating of the AST system;
    - (ix) The condition of seams, rivets, and nozzle connections;
    - (x) The condition of valves, pumps, piping, and other appurtenances directly connected to the AST;

- (xi) *The condition of the tank gauge or an equivalent monitoring device;*
- (xii) *The condition of release detection systems; and*
- (xiii) *The condition of overfill protection equipment;*
- (b) *Inspecting containment sumps associated with an underground piping system monthly by:*
  - (i) *Checking for evidence of a spill, release or discharge; and*
  - (ii) *Removing any liquid or debris; and*
  - (c) *Removing any water found during the monthly inspection from the secondary containment dike and AST or, if a double-walled AST, the primary storage tank and interstice.*
- (3) *An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST may meet the periodic visual inspections requirement in §A(1) of this regulation by conducting periodic AST inspections in accordance with STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”.*
- (4) *An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall maintain the following records related to periodic visual inspections:*
  - (a) *If the AST system was inspected in accordance with §A(2) of this regulation, a written log or electronic record that includes:*
    - (i) *The date of the inspection;*
    - (ii) *The name and title of the individual performing the inspection;*
    - (iii) *A description of each deficiency found;*
    - (iv) *The name and title of the individual notified of the deficiencies found; and*
    - (v) *A record of how and when the deficiencies were corrected; and*
  - (b) *If the AST system was inspected in accordance with §A(3) of this regulation, the completed monthly and annual inspection checklists in STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”.*
- (5) *An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall maintain the records required in §A(4) of this regulation in accordance with Regulation .14 of this chapter.*
- B. *An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall conduct corrosion protection system inspections in accordance with Regulation .10 of this chapter.*
- C. *An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:*
  - (1) *Inspect and clean normal and emergency vents for the shop-fabricated AST annually; and*
  - (2) *Maintain records of the vent inspection and cleaning required in §C(1) of this regulation in accordance with Regulation .14 of this chapter.*
- D. *Formal Inspections. In accordance with the procedures in STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:*
  - (1) *Have a certified inspector conduct formal external inspections and formal internal inspections of the AST;*
  - (2) *As described in Section 5.0 of STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”, determine the schedule for formal external inspections and formal internal inspections by the size of the AST and the AST category; and*
  - (3) *Comply with the final report for a formal inspection requirements under §F of this regulation.*
- E. *Leak Testing. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:*
  - (1) *In accordance with the procedures in STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”:*
    - (a) *Have properly trained personnel conduct a leak test on the AST in conjunction with a certified inspector conducting a formal inspection of the AST; and*
    - (b) *As described in Section 5.0 of STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”, determine the leak testing schedule by the size of the AST and the AST category; and*
    - (2) *Comply with the formal inspection report requirements under §F of this regulation.*
- F. *Formal Inspection Report.*
  - (1) *The certified inspector that conducts a formal inspection of a shop-fabricated AST in accordance with §D of this regulation shall complete a final report for the formal inspection that, at a minimum:*
    - (a) *Includes field data, measurements, pictures, drawings, tables, and an inspection summary;*
    - (b) *Identifies unacceptable conditions and recommends corrective actions;*
    - (c) *Determines the suitability of the AST for continued service per Section 10.0 of STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”;*
    - (d) *Includes the date of the next scheduled formal external inspection or formal internal inspection; and*
    - (e) *Includes the name and STI SP001 certification number of the certified inspector.*
  - (2) *An owner, an operator, and a person in charge of the AST system with a shop-fabricated AST shall include in the final report completed for the AST under §F(1) of this regulation the results and supporting data of the leak test performed on the AST in accordance with §E of this regulation.*
  - (3) *An owner, an operator, and a person in charge of the AST system with a shop-fabricated AST shall maintain the final reports completed for a formal inspection and leak test conducted for the AST in accordance with Regulation .14 of this chapter.*

**.13 Out-of-Service and Permanent Closure.**

A. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall complete each of the following steps to place the AST system out-of-service:

- (1) Remove all oil from the AST system;
- (2) Isolate all piping connected to the AST;
- (3) Remove all waste materials from the AST system, including storage tank-bottom sludge, and dispose of these materials in compliance with applicable federal, State, and local laws;
- (4) Purge all petroleum vapors and maintain the AST system vapor free;
- (5) Secure the AST system to prevent unauthorized entrance or tampering;
- (6) Protect the AST system from flotation;
- (7) Continue the operation and maintenance of corrosion protection on the AST system in accordance with Regulation .10 of this chapter;
- (8) Lock the fill port;
- (9) Label the AST using lettering at least 3 inches high, in a readily visible location on the AST, with the following information:

- (a) Date the AST was placed out-of-service;
  - (b) Name of product last stored; and
  - (c) The words “OUT-OF-SERVICE” or “EMPTY”; and
- (10) Notify the Department in writing 30 days before the AST system is placed out-of-service.

B. An owner, an operator, and a person in charge of an out-of-service AST system with a shop-fabricated AST shall complete the following steps prior to placing the AST system in-service:

- (1) If a formal inspection was due to occur while the AST system was out-of-service, conduct a formal inspection of the AST system in accordance with STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”;
- (2) Test all connected piping and appurtenances to ensure a spill, release, or discharge will not occur;
- (3) Maintain a copy of all inspection and testing reports, including findings and repairs, and provide a copy to the Department upon request; and
- (4) Notify the Department in writing 30 days before the AST system is placed in-service.

C. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall permanently close the AST system in accordance with the following requirements:

- (1) Place the AST system out-of-service in accordance with §A of this regulation;
- (2) Comply with PEI RP 1700 “Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems”;
- (3) Disconnect and remove all aboveground piping associated with the AST system;
- (4) Disconnect and remove all underground piping associated with the AST system under the continuous on-site presence and under the direction of a certified UST system technician or remover in accordance with the procedures in COMAR 26.10.10.02D;
- (5) Remove the AST and associated piping from the site;
- (6) At least 30 days before beginning the permanent closure of the AST system:
  - (a) Notify the Department in writing of the AST system being permanently closed; and
  - (b) Submit to the Department for approval a proposed sampling plan or a site assessment to determine if there is evidence of a spill, release, or discharge where contamination is most likely be present, that includes the sampling of, at a minimum, the following areas of the AST site:
    - (i) Within and immediately outside of the secondary containment dike, if present;
    - (ii) Within the footprint of the removed AST; and
    - (iii) Beneath underground piping associated with the removed AST; and
- (7) Within 45 days of completing the approved site assessment, submit a closure report to the Department detailing:
  - (a) The AST closure activities; and
  - (b) The results of the sampling event, including a map identifying sample locations, laboratory results, summary of findings, and conclusions.

D. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that is placing the AST system out-of-service in order to store a non-oil product in the AST system shall:

- (1) Notify the Department in writing at least 30 days before placing the AST system out-of-service; and
- (2) Place the AST system out-of-service in accordance with the requirements of the Department.

E. Upon placing an AST system out-of-service or in-service, or completing the permanent closure of an AST system in accordance with §§A—D of this regulation, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

- (1) Within 30 days, amend the AST system registration with the Department in accordance with COMAR 26.10.01.10; and
- (2) Apply for a modification to the Individual Oil Operations Permit in accordance with COMAR 26.10.01.12.

**.14 Recordkeeping.**

*An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:*

- A. Maintain the records required under this chapter at the oil storage facility or oil handling facility, or another a readily accessible location;*
- B. Provide the records to the Department upon request;*
- C. Retain the following records for a minimum of 5 years:*
  - (1) Records of periodic visual inspections conducted in accordance with Regulation .12A of this chapter;*
  - (2) Records of annual normal and emergency vent inspections and cleaning conducted in accordance with Regulation .12C of this chapter;*
  - (3) Inventory control records;*
  - (4) Overfill prevention equipment testing records;*
  - (5) Release detection records;*
  - (6) Secondary containment dike drainage logs;*
  - (7) Tank gauging device calibration records; and*
  - (8) Testing records for aboveground and underground piping; and*
- D. Retain the following AST system records for the operational life of an AST system and for at least 5 years after an AST system was permanently closed in accordance with Regulation .13 of this chapter:*
  - (1) Construction records, including records of:*
    - (a) The AST name plate information;*
    - (b) The original as-built specifications and drawings and any modifications made to the AST system during the operational life of the AST system;*
    - (c) Applicable manufacturer's documentation for ancillary equipment;*
    - (d) Tests conducted upon completing an installation or repair of an AST system component, including hydrostatic testing and pressure tightness testing;*
    - (e) Material tests and analyses, including secondary containment dike permeability tests; and*
    - (f) The names of the companies performing construction activities and a description of the work performed;*
  - (2) Cathodic protection system inspections records for impressed current and galvanic systems, including records of:*
    - (a) Cathodic protection system design description;*
    - (b) Inspection findings and conclusions;*
    - (c) Recommendations; and*
    - (d) Testing and repair records;*
  - (3) A complete copy of each final report for a formal inspection;*
  - (4) Records of AST system repairs and alteration history, including names of companies completing repair work;*
  - (5) Records of secondary containment dike testing and evaluation;*
  - (6) Records of spills, releases, and discharges and written reports of the occurrences required by COMAR 26.10.01.05E; and*
  - (7) A closure report for an AST system permanently closed in accordance with Regulation .13 of this chapter.*

### **26.10.18 Field-Erected Aboveground Storage Tanks**

*Authority: Environment Article, §§4-401—4-403, 4-405, 4-406, 4-408, 4-410, 4-411, 4-412, 4-415.1—4-418, 4-501, and 4-502, Annotated Code of Maryland*

#### **.01 Scope.**

- A. This chapter applies to an owner, an operator, and a person in charge of an AST system with a field-erected AST that is used or may be used to store oil at an oil storage facility or oil handling facility.*
- B. An owner, an operator, and a person in charge of an AST system subject to the requirements in this chapter shall meet all applicable requirements under COMAR 26.10.01 for an oil storage facility or an oil handling facility.*
- C. An owner, an operator, and a person in charge of an AST system with a field-erected AST used for storing asphalt only is exempt from the following requirements of this chapter:*
  - (1) The spill and overfill prevention requirements in Regulation .07 of this chapter;*
  - (2) The release detection requirements in Regulation .08 of this chapter; and*
  - (3) The emergency venting requirement in Regulation .10B of this chapter if the AST system larger than 12,000 gallon capacity and is not located in:*
    - (a) A secondary containment dike with another AST system storing a Class I liquid or Class II liquid; or*
    - (b) The drainage path of another AST system storing a Class I liquid or Class II liquid.*

#### **.02 Definitions.**

- A. In this chapter:*
  - (1) A term in §B of this regulation has the meaning indicated; and*
  - (2) A term not defined in §B of this regulation has:*
    - (a) The meaning given to the term in a relevant statute or COMAR 26.10.01 or 26.10.02; or*

(b) If not defined in a relevant statute or COMAR 26.10.01 or 26.10.02, the meaning attributed by common use.

**B. Terms Defined.**

(1) “AST” has the meaning stated in COMAR 26.10.01.02B.

(2) “AST system” has the meaning stated in COMAR 26.10.01.02B.

(3) “Authorized inspector” means an individual qualified and certified to inspect an AST under API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction”.

(4) “Coating” means a protective material applied to or bonded to an internal or external AST surface, including paint, protective metals, adhered plastic, or polyolefin materials.

(5) Critical High Level.

(a) “Critical high level” means the highest level in a field-erected AST that oil can reach without detrimental impacts, such as an overflow of oil from the AST or damage to the AST.

(b) “Critical high level” includes the design liquid level of a field-erected AST as determined by the AST manufacturer.

(6) “Existing” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete before the effective date of this chapter.

(7) “External inspection” means a formal inspection of an AST to assess all aspects of the storage tank possible without suspending operations or requiring an AST shutdown, performed by or under the supervision of an authorized inspector in accordance with API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction” and Regulation .11F of this chapter.

(8) Field-erected AST.

(a) “Field-erected AST” means an AST that is:

(i) Welded carbon steel or stainless steel;

(ii) Erected or constructed by assembling the AST on-site at an oil storage facility; and

(iii) Erected or constructed for the purpose of storing oil.

(b) “Field-erected AST” includes an AST that:

(i) Has a nameplate or other identifier that indicates it is a field-erected AST; or

(ii) Is not identified as a shop-fabricated AST.

(9) “Formal inspection” means a documented external inspection or internal inspection of an AST conducted by or under the supervision of an authorized inspector in accordance with API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction” and Regulation .11 of this chapter.

(10) “High-high level” means a level in a field-erected AST that is:

(a) Sufficiently below the critical high level to enable the termination of a delivery or transfer of oil before the critical high level of the AST is reached; and

(b) Not more than 90 percent of the critical high level of the AST.

(11) “Internal inspection” means a formal and complete inspection of an emptied and cleaned AST performed under the supervision of an authorized inspector in accordance with API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction” and Regulation .11H of this chapter.

(12) Maximum Working Level.

(a) “Maximum working level” means a liquid level of a field-erected AST that should not be exceeded during normal filling procedures and is at least 3 inches below the high-high level of the AST.

(b) “Maximum working level” includes the normal fill level.

(13) “New” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete on or after the effective date of this chapter.

(14) “Out-of-service” means an AST system in which the owner, the operator, and the person in charge of the AST system has:

(a) Emptied the AST system of all oil and sludge; and

(b) Designated the AST system as out-of-service in accordance with Regulation .12 of this chapter.

(15) “Overflow” means an occurrence when an AST is filled beyond its critical high level and may result in a spill, release, or discharge of oil.

(16) Repair.

(a) “Repair” means work necessary to maintain or restore an AST system to a safe operating condition using industry approved standards.

(b) “Repair” may include

(i) Removing and replacing the roof, shell, or bottom material to maintain AST integrity or ancillary AST equipment;

(ii) Re-leveling of an AST’s shell, bottom, or roof;

(iii) Adding or replacing reinforcing plates to existing shell penetrations; and

(iv) Correcting flaws, such as tears or gouges, by grinding or gouging followed by welding.

(17) Secondary Containment Dike.

(a) “Secondary containment dike” means a secondary containment system that confines a spill, release, or discharge of oil from an AST or piping within the secondary containment system.

(b) "Secondary containment dike" includes diking and a dike.

(18) "Storage tank strapping record" means a current, up-to-date storage tank record for a field-erected AST that:

- (a) Is developed by an owner, an operator, and a person in charge of an AST system; and
- (b) Identifies, by calculations, the following levels of concern:
  - (i) Maximum working level;
  - (ii) High-high level; and
  - (iii) Critical high level.

### **.03 General Requirements.**

A. An owner, an operator, and a person in charge of a new or relocated AST system with a field-erected AST shall ensure that the AST system meets the requirements of this chapter.

B. Unless otherwise specified in this chapter, an owner, an operator, and a person in charge of an existing AST system with a field-erected AST shall ensure the AST system meets the requirements of this chapter not later than:

- (1) 2 years after the effective date of this chapter; or
- (2) Another time period approved by the Department.

C. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall comply with the following permit, license, or approval requirements, when applicable:

- (1) Obtain an Individual Oil Operations Permit or comply with the General Oil Operations Permit conditions, in accordance with COMAR 26.10.01.09;
- (2) Obtain a State discharge permit or National Pollution Discharge Elimination System permit, in accordance with COMAR 26.08.04;
- (3) Obtain an Oil Transfer License, in accordance with COMAR 26.10.01.08;
- (4) Obtain an Air Quality Permit to Construct, in accordance with COMAR 26.11.02;
- (5) Obtain a State Air Quality Permit to Operate, in accordance with COMAR 26.11.02; and
- (6) Comply with any other applicable federal, State, or local government permit, license, or approval requirements.

D. Notwithstanding the compliance schedule in §B of this regulation, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall register and maintain up-to-date registration of the AST system with the Department in accordance with the procedures and schedule in COMAR 26.10.01.10.

E. Wetlands and Waterways. An owner, an operator, and a person in charge of an AST system with a field-erected AST may not install the AST system or construct a secondary containment dike in a special flood hazard area, tidal or nontidal wetland, nontidal wetland buffer, or 100-year frequency floodplain of free-flowing waters unless the owner, the operator, and the person in charge of the AST system:

- (1) First, obtain all of the applicable authorizations required under COMAR 26.10.01.04E; and
- (2) Protect the field-erected AST from flotation by anchoring the AST in accordance with an industry-approved standard.

### **.04 Performance Standards for a Field-Erected AST System.**

An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

A. Ensure the field-erected AST is:

- (1) Properly designed for the oil storage application and type of oil to be stored;
- (2) Constructed of welded carbon steel or stainless steel; and
- (3) Constructed to an industry standard, including an API standard for field-erected ASTs incorporated by reference in COMAR 26.10.01.03;

B. Ensure the foundation of the field-erected AST:

(1) Is designed and constructed in accordance with Annexes B and I of API Standard 650 "Welded Tanks for Oil Storage" to prevent settlement of the foundation and the AST due to soil bearing capacity and other site conditions using:

- (a) Field and laboratory testing; and
- (b) Analyses and other sound engineering practices performed by a PE;
- (2) Is capable of supporting the load of the AST and its contents without excessive differential settlement; and
- (3) Provides positive drainage of water away from the AST base; and

C. Test a new, repaired, or relocated AST system for tightness in accordance with NFPA 30 "Flammable and Combustible Liquids Code":

- (1) Upon completion of the installation or repair of the AST system; and
- (2) Before placing the AST system in-service

### **.05 Performance Standards for Piping.**

An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

A. If installing or relocating a field-erected AST on or after the effective date of this chapter, install piping that does not penetrate a secondary containment dike, unless otherwise approved by the Department;

B. Ensure an existing a field-erected AST meets the following requirements:

- (1) For piping connected to an AST penetrating a secondary containment dike:
  - (a) Obtain approval of the Department to leave the piping in place; or
  - (b) Properly abandon and replace the piping not later than 1 year after the effective date of this chapter with piping that does not penetrate the secondary containment dike; and
- (2) For underground piping connected to an AST, ensure the piping complies with the underground piping requirements in §E of this regulation not later than 1 year after the effective date of this chapter;
- C. Ensure an aboveground piping system connected to a field-erected AST is:
  - (1) Constructed of carbon steel, alloy steel, or stainless steel piping;
  - (2) Compatible with the type of oil being transferred;
  - (3) Designed and constructed in accordance with industry recognized standards;
  - (4) Liquid tight;
  - (5) Properly supported by permanent bracing to prevent structural weaknesses; and
  - (6) Protected against physical damage;
- D. Ensure a piping system installed aboveground or inside of a building is not constructed with:
  - (1) Low melting point materials, such as aluminum, copper, or brass;
  - (2) Materials that soften on fire exposure, such as plastics; or
  - (3) Non-ductile materials, such as cast iron; and
- E. If installing an underground piping system, comply with the following requirements:
  - (1) Install the piping system, including containment sumps, in accordance with the performance standards in COMAR 26.10.03.02 and .03A(3);
  - (2) Installation of the piping system is performed in the continuous on-site presence and under the direction of a certified UST system technician, as required under COMAR 26.10.02.03D;
  - (3) Test the piping system for tightness in accordance with COMAR 26.10.03.05 and 26.10.05.02D;
  - (4) Test the containment sumps for tightness in accordance with COMAR 26.10.03.03A(3);
  - (5) Provide a method of leak detection in accordance with COMAR 26.10.05.02D;
  - (6) Maintain the containment sumps clean and free of liquid; and
  - (7) If a test for tightness conducted in accordance with §E(3) or (4) of this regulation results in a failed test result or a leak is found:
    - (a) Report the failed test result to the Department within 2 hours in accordance with COMAR 26.10.08.01; and
    - (b) Follow the investigation and confirmation procedures in 26.10.08.03, including making repairs and retesting the piping system and containment sumps for tightness.

**.06 Secondary Containment.**

A. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall surround the AST system with a continuous secondary containment dike that meets the requirements of this regulation.

B. Compliance Schedule.

- (1) An owner, an operator, and a person in charge of an AST system with a field-erected AST that has a new secondary containment dike shall meet the requirements in §§C—H of this regulation upon installation of the secondary containment dike.
- (2) Unless otherwise provided in this regulation, an owner, an operator, and a person in charge of an AST system with a field-erected AST that has an existing secondary containment dike shall meet the requirements in §§C—H of this regulation not later than:
  - (a) 2 years after the effective date of this chapter; or
  - (b) Another time period approved by the Department.

C. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall ensure a secondary containment dike:

- (1) Can contain a spill, release, or discharge from an AST and connected piping within the secondary containment dike surrounding the AST until the spill, release, or discharge is detected and removed;
- (2) Is designed by a PE;
- (3) Is approved by the Department;
- (4) Is designed with consideration given to the soil and groundwater conditions at the oil storage facility or oil handling facility;
- (5) Prevents movement of oil into, near, or in an area likely to pollute waters of the State;
- (6) Provides safe ingress and egress for an individual;
- (7) Prevents water accumulation at an AST foundation;
- (8) If the secondary containment dike surrounds two or more ASTs, is subdivided in accordance with NFPA 30 “Flammable and Combustible Liquids Code”;
- (9) If a secondary containment dike for an AST is exposed to precipitation, is designed and constructed to effectively hold 110 percent of the maximum capacity of the largest AST in the area enclosed by the secondary containment dike; and

(10) Is constructed so that the secondary containment dike, upon testing, meets one of the following permeability criteria:

- (a) A permeability of less than  $10^{-4}$  centimeters per second; or
- (b) A product level drop rate of less than 1 centimeter per 3 hours.

D. Within 90 days of conducting a permeability test on a secondary containment dike or another time period approved by the Department, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall repair or replace a secondary containment dike that does not meet the permeability criteria listed in §C(10) of this regulation.

E. An owner, an operator, and a person in charge of an AST system with a field-erected AST that has an earthen secondary containment dike shall conduct permeability testing on the earthen secondary containment dike according to the following requirements:

(1) For an existing earthen secondary containment dike that has not been previously tested for permeability, test the existing earthen secondary containment dike for permeability using an industry standard approved by the Department not later than 1 year after the effective date of this chapter;

(2) Test a new earthen secondary containment dike for permeability using an industry standard approved by the Department upon completing the construction of the earthen secondary containment dike and prior to placing the AST in-service; and

(3) Submit the results of the permeability testing to the Department not later than 60 days after the test.

F. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain written verification that a secondary containment dike meets the requirements in §§C—E of this regulation in accordance with Regulation .13 of this chapter.

G. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall ensure a drain valve installed in a secondary containment dike is:

(1) Not a flapper-type valve; and

(2) Except when being used to drain trapped water in accordance with §H of this regulation, kept completely closed and locked at all times.

H. When draining trapped water from a secondary containment dike, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

(1) Ensure the drainage leaving the secondary containment dike does not have any visible evidence of oil sheen;

(2) Designate an individual to supervise, monitor, and document each drainage event from the secondary

containment dike;

(3) Keep a log that includes the following information for each secondary containment dike drainage event:

(a) The name of employee supervising, monitoring, and documenting the drainage event;

(b) The date of the discharge event;

(c) The time discharge event started and ended;

(d) The estimated volume of water drained; and

(e) A description of the water quality, such as the presence of an oil sheen; and

(4) Maintain the log required by §H(3) of this regulation in accordance with Regulation .13 of this chapter.

I. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain a secondary containment dike clear and free of:

(1) Vegetation; and

(2) Flammable and combustible materials, including oil.

#### **.07 Spill and Overfill Prevention.**

A. To prevent a spill, release, or discharge of oil due to an overfill of a field-erected AST, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

(1) Establish written procedures for filling the AST and maintain the procedures at the oil storage facility or oil handling facility;

(2) Ensure the AST is:

(a) Normally filled to a level that does not exceed the maximum working level of the AST;

(b) If filled to or in excess of the high-high level, emptied to the maximum working level as soon as practical;

and

(c) Never filled to the critical high level; and

(3) Install, operate, inspect, maintain, and test overfill prevention equipment in accordance with:

(a) The requirements of this regulation and Regulation .11 of this chapter;

(b) NFPA 30 “Flammable and Combustible Liquids Code”; and

(c) If an oil storage facility meets the conditions in §H of this regulation, ANSI/API Standard 2350 “Overfill Prevention for Storage Tanks in Petroleum Facilities”.

B. An owner, an operator, and a person in charge of an AST system with a field-erected AST may not use overfill prevention equipment:

(1) To control AST filling operations at an oil storage facility or oil handling facility; or

(2) That restricts or interferes with the functioning of the AST’s normal or emergency vent.



*C. In accordance with COMAR 26.10.08.04, an owner, an operator, and a person in charge of an AST system with a field-erected AST and a responsible party shall:*

- (1) Report and investigate a spill, release, or discharge from the AST system or an overflow; and*
- (2) Remediate the spill, release, or discharge or the overflow.*

*D. Delivery and Transfer Operations. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:*

- (1) Confirm that the ullage available in the AST is greater than the volume of oil to be transferred to the AST before a delivery or transfer begins;*
- (2) During a delivery or transfer operation, ensure:*
  - (a) A spill, release, or discharge of oil does not occur due to overfilling the AST or spilling oil during the transfer; and*
  - (b) The delivery or transfer operation is constantly monitored to prevent overfilling of the AST and spilling of oil;*
  - (3) Ensure the delivery or transfer operation is conducted in accordance with the requirements in COMAR 26.10.01.16–.18 and NFPA 385 “Standard for Tank Vehicles for Flammable and Combustible Liquids”; and*
  - (4) If the delivery is by truck tank or transport with a cargo tank capacity of 500 gallons or greater, confirm the company making an oil delivery or transfer holds a valid Individual Oil Operations Permit from the Department in accordance with COMAR 26.10.01.09.*

*E. Liquid Level Measurements. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:*

- (1) Gauge the liquid level and record the measurements in writing before filling the AST; and*
- (2) Maintain the records required under §E(1) of this regulation in accordance with Regulation .13 of this chapter.*

*F. Tank Gauge. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:*

- (1) Equip the field-erected AST with a tank gauge or other equivalent monitoring device that is:*
  - (a) Directly visible during a transfer operation;*
  - (b) Accurately measures the level or quantity of oil in the AST;*
  - (c) Independent of any overflow prevention equipment; and*
  - (d) Maintained in working order;*
- (2) Install and maintain the tank gauge or other equivalent monitoring device in accordance with manufacture’s specifications; and*
- (3) Inspect and calibrate the tank gauge or other equivalent monitoring device at least once per year.*

*G. Except as provided in §H of this regulation, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall install the following overflow prevention equipment on the AST:*

- (1) A high-high level alarm that:*
  - (a) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;*
  - (b) Consists of a visual alarm and an audible alarm that alerts an individual involved in the oil delivery or transfer; and*
  - (c) Goes into alarm when the liquid level reaches the high-high level of the AST and upon the failure or malfunction of the device; and*
- (2) An automatic shut-off device that:*
  - (a) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;*
  - (b) Automatically shuts off the flow of oil into an AST when the liquid level reaches 95 percent of the critical high level of the AST; and*
  - (c) Is equipped with a fail-safe mechanism that will trigger an alarm and shut off the flow of oil into an AST in the event of a device failure or malfunction.*

*H. Overflow Prevention System.*

- (1) In accordance with ANSI/API Standard 2350 “Overflow Prevention for Storage Tanks in Petroleum Facilities”, an owner, an operator, and a person in charge of the following AST systems with a field-erected AST shall comply with the requirements of this section:*
  - (a) An AST system that receives Class I or Class II liquids by interstate pipeline, intrastate pipeline, or marine vessel transfers; or*
  - (b) An AST system that is otherwise subject to the requirements of ANSI/API Standard 2350 “Overflow Prevention for Storage Tanks in Petroleum Facilities”.*
- (2) An owner, an operator, and a person in charge of a AST system with a field-erected AST listed in §H(1) of this regulation shall create and implement a comprehensive overflow prevention system that incorporates the following components:*
  - (a) A documented management system;*
  - (b) A risk assessment for each AST subject to an overflow;*

(c) Defined operational parameters, including levels of concern within the AST, response times, and periodic reviews of the levels of concern and response times;

(d) Written procedures for:

(i) Receiving and terminating transfers;

(ii) Emergencies and abnormal conditions;

(iii) Training personnel on the overfill prevention system;

(iv) Testing, inspecting, and maintaining overfill prevention equipment and associated training of personnel; and

(v) Maintenance of records, including records for testing and maintenance of overfill prevention equipment, storage tank alarm history, actuation of overfill prevention equipment, and overfills; and

(e) The physical overfill prevention equipment.

I. An owner, an operator, and a person in charge of an AST system with a field-erected AST using overfill prevention equipment shall:

(1) At least monthly, inspect and perform maintenance of overfill protection equipment in accordance with the manufacturer's instructions; and

(2) At least annually, perform functional testing of overfill protection equipment in accordance with the manufacturer's instructions.

J. Labeling. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

(1) Provide the following labeling on the AST system:

(a) The storage capacity of the AST in gallons;

(b) The type of oil stored or last stored in the AST prior to being placed out-of-service;

(c) A proper NFPA 704 "Standard System for the Identification of the Hazards of Materials for Emergency Response" placard; and

(d) If the AST system was placed out-of-service in accordance with Regulation .12 of this chapter, the words "OUT-OF-SERVICE" or "EMPTY"; and

(2) Permanently and clearly mark the field-erected AST with the information listed in §J(1) of this regulation on, not less than two sides of the AST and in locations that are highly visible to employees of the oil storage facility or oil handling facility, contractors, government representatives, and emergency response personnel.

K. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain records related to spill and overfill prevention measures required under this regulation in accordance with Regulation .13 of this chapter.

#### **.08 Release Detection.**

A. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall provide a method or combination of release detection methods that detect a spill, release, or discharge from the AST system through:

(1) Visual inspections of the AST system in accordance with Regulation .11 of this chapter;

(2) A continuous electronic release detection system; or

(3) A continuous mechanical release detection system.

B. An owner, an operator, and a person in charge of an AST system with a field-erected AST using a continuous electronic or mechanical release detection system shall:

(1) Install, calibrate, operate, and maintain the release detection system in accordance with the manufacturer's instructions; and

(2) At least annually:

(a) Perform routine maintenance on the release detection system;

(b) Check the release detection system for operability at scheduled service checks; and

(c) Per the manufacturer's specifications, inspect, field-test, or calibrate the release detection system to verify that the selected release detection method is being maintained and operated properly to detect a spill, release, or discharge.

C. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall monitor underground piping connected to the AST for spill, releases, and discharges in accordance with COMAR 26.10.05.02D.

#### **.09 Corrosion Protection.**

A. An owner, an operator, and a person in charge of an AST system with a field-erected AST that has a capacity less than 10,000 gallons shall install an elevated AST so that the storage tank is not in direct contact with soil or another material that may allow moisture penetration or corrosion.

B. An owner, an operator, and a person in charge of an AST system with a field-erected AST that has a capacity of 10,000 gallons or greater, is not an elevated AST, and in direct contact with soil or another material that may allow moisture penetration or corrosion shall:

(1) Provide one of the following cathodic protection systems:

(a) An impressed current system;

(b) A galvanic system; or

(c) Subject to the approval of the Department, an alternative method of corrosion protection that is:

(i) Designed to prevent a spill, release, or discharge of oil or a threatened spill, release, or discharge of oil in a manner determined by the Department to be not less protective of human health and the environment than the methods in §B(1)(a) and (b) of this regulation; and

(ii) Approved by a corrosion expert; and

(2) Provide a cathodic protection system that is:

(a) Designed by a corrosion expert;

(b) Designed and tested, at a minimum, in accordance with the following industry standards and recommended practices:

(i) NACE SP0169-2013 “Control of External Corrosion on Underground or Submerged Metallic Piping Systems”;

(ii) NACE SP0193-2016 “Application of Cathodic Protection to Control External Corrosion of Carbon Steel On-Grade Storage Tank Bottoms”;

(iii) NACE TM0497-2018 “Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems”; and

(iv) API Recommended Practice 651 “Cathodic Protection of Aboveground Petroleum Storage Tanks”;

(c) Designed and installed to provide continuous corrosion protection to the external portion of the AST and other metal components of the AST system in contact with soil or other materials that may allow corrosion;

(d) Installed with easily identifiable test stations, access points, or other methods to monitor the operation and functionality of the cathodic protection system; and

(e) Continuously operated and maintained for the in-service and out-of-service life of the AST system.

C. Impressed Current System. An owner, an operator, and a person in charge of an AST system with a field-erected AST protected by an impressed current system shall:

(1) Install, operate, maintain, inspect, and test the impressed current system in accordance with the requirements of this section;

(2) Ensure the impressed current source is not de-energized at any time except to perform service work on the AST system;

(3) Ensure the impressed current source is equipped with a continuously operating meter that displays the voltage, amperage, and operating (run) time;

(4) At least once every 60 days:

(a) Inspect the impressed current system to ensure the cathodic protection system is functioning properly by:

(i) Verifying the power to the impressed current system is on; and

(ii) Recording the voltage, amperage, and operating time; and

(b) Record and maintain the inspection results in accordance with Regulation .13 of this chapter;

(5) At least annually:

(a) Have a cathodic protection tester inspect and test:

(i) The impressed current system for electrical shorts, ground connections, meter accuracy, and circuit resistance; and

(ii) The condition of the impressed current system’s isolating devices, continuity bonds, and insulators; and

(b) Record and maintain the results of the inspection and test in accordance with Regulation .13 of this chapter;

(6) Have a corrosion expert inspect the impressed current system in accordance with an industry standard or recommended practice listed in §B(2) of this regulation:

(a) When the impressed current system is 5 years of age; and

(b) Every 5 years thereafter;

(7) Provide a completed report for an inspection performed pursuant to §C(6) of this regulation to the Department and maintain a copy of the report in accordance with Regulation .13 of this chapter;

(8) Except as provided in §C(9) of this regulation, if the protection provided by an impressed current system is determined to be inadequate to properly protect the AST system:

(a) Employ a corrosion expert to determine the cause of the inadequacy within 30 days of the discovery; and

(b) Either:

(i) Complete repairs of the impressed current system within 60 days of the discovery or on a schedule approved by the Department; or

(ii) If repairs cannot return the impressed current system to adequate performance, replace the impressed current system within 120 days of the discovery or on a schedule approved by the Department; and

(9) If an impressed current system determined to be inadequate to provide proper protection to the AST system cannot be repaired or replaced in accordance with §C(8) of this regulation:

(a) Empty all oil in contact with the portion of the AST system inadequately protected by the impressed current system; and

(b) Place the AST system out-of-service in accordance with Regulation .13 of this chapter.

D. Galvanic System. An owner, an operator, and a person in charge of an AST system with a field-erected AST protected by a galvanic system shall:

- (1) Install, operate, maintain, inspect, and test the galvanic system in accordance with the requirements of this section;
- (2) Comply with the following inspection and test requirements:
  - (a) A cathodic protection tester shall inspect and test the galvanic system in accordance with an industry standard or recommended practice listed in §B(2) of this regulation:
    - (i) Within 6 months of installing the galvanic system; and
    - (ii) At least annually thereafter;
  - (b) A cathodic protection tester conducting an annual inspection shall make and record a sufficient number of AST-to-soil and underground piping-to-soil potential measurements to determine if the AST system is completely protected in accordance with an industry standard or recommended practice listed in §B(2) of this regulation; and
  - (c) Maintain records of the AST-to-soil and underground piping-to-soil potential measurements in accordance with Regulation .13 of this chapter;
- (3) Except as provided under §D(4) of this regulation, if the protection provided by a galvanic system is determined to be inadequate to properly protect the AST system:
  - (a) Employ a corrosion expert to determine the cause of the inadequacy within 30 days of the discovery; and
  - (b) Either:
    - (i) Complete repairs of the galvanic system within 60 days of the discovery or on a schedule approved by the Department; or
    - (ii) If repairs cannot return the galvanic system to adequate performance, replace the galvanic system within 120 days of the discovery or on a schedule approved by the Department; and
  - (4) If a galvanic system determined to be inadequate to provide proper protection to the AST system cannot be repaired or replaced in accordance with §D(3) of this regulation:
    - (a) Empty all oil in contact with the portion of the AST system inadequately protected by the galvanic system; and
    - (b) Place the AST system out-of-service in accordance with Regulation .12 of this chapter.

**.10 Normal and Emergency Venting.**

A. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall ensure the normal venting for the field-erected AST meets the following requirements:

- (1) Design and construct normal venting in accordance with the following industry standards:
  - (a) NFPA 30 “Flammable and Combustible Liquids Code”; and
  - (b) An API standard applicable to field-erected ASTs incorporated by reference in COMAR 26.10.01.03; and
- (2) Vent an atmospheric pressure AST to prevent the development of vacuum or pressure above a 1.0 psi (6.9 kPa) maximum operating pressure.

B. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall ensure the emergency venting for the field-erected AST meets the following requirements:

- (1) Design and construct emergency venting in accordance with the following industry standards:
  - (a) NFPA 30 “Flammable and Combustible Liquids”; and
  - (b) API Standard 2000 “Venting Atmospheric and Low-pressure Storage Tanks”; and
- (2) The field-erected AST has one of the following emergency relief venting designs:
  - (a) A floating roof;
  - (b) A lifter roof;
  - (c) A weak roof-to-shell seam; or
  - (d) Another industry approved pressure-relieving device.

**.11 Inspection Requirements for an AST System.**

A. Definitions.

- (1) In this regulation, the following terms have the meanings stated.
- (2) Terms Defined.
  - (a) “Remaining corrosion allowance” or “RCA” means the difference between the measured shell thickness and the minimum required thickness of an AST, measured in millimeters.
  - (b) “N” means the shell corrosion rate of an AST, measured in millimeters per year.

B. Periodic Visual Inspections.

- (1) An owner, an operator, and a person in charge of an AST system with a field-erected AST shall conduct periodic visual inspections in accordance with:
  - (a) The inspection procedures under §B(2) or (3) of this regulation; and
  - (b) The recordkeeping requirements under §B(4) and (5) of this regulation.
- (2) An owner, an operator, and a person in charge of an AST system with a field-erected AST may meet the visual inspections requirement in §B(1) of this regulation by, at a minimum:
  - (a) Inspecting for the following conditions monthly:
    - (i) Signs of spills, releases, or discharges from any portion of the AST system;
    - (ii) Water in the secondary containment dike and AST or, if a double-walled AST, the primary storage tank and interstice;

- (iii) *The condition of the secondary containment dike, including drain valves;*
  - (iv) *Signs of shell distortion;*
  - (v) *Signs of settlement;*
  - (vi) *Signs of corrosion;*
  - (vii) *The condition of the AST foundation or supports;*
  - (viii) *The condition of the exterior coating of the AST system;*
  - (ix) *The condition of seams, rivets, and nozzle connections;*
  - (x) *The condition of valves, pumps, piping, and other appurtenances directly connected to the AST;*
  - (xi) *The condition of the tank gauge or an equivalent monitoring device;*
  - (xii) *The condition of release detection systems; and*
  - (xiii) *The condition of overflow protection equipment;*
  - (b) *Inspecting containment sumps associated with an underground piping system monthly by:*
    - (i) *Checking for evidence of a spill, release or discharge; and*
    - (ii) *Removing any liquid or debris; and*
  - (c) *Removing any water found during the monthly inspection from the secondary containment dike and AST or, if a double-bottomed AST, the primary storage tank and interstice.*
- (3) *An owner, an operator, and a person in charge of an AST system with a field-erected AST may meet the periodic visual inspections requirement in §B(1) of this regulation by conducting periodic AST inspections in accordance with:*
- (a) *STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks” if the AST does not exceed:*
    - (i) *30 feet in diameter; and*
    - (ii) *40 feet in height; or*
  - (b) *Tank In-service Inspection Checklist in Annex C of API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction”.*
- (4) *An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain the following records related to periodic visual inspections:*
- (a) *If the AST system was inspected in accordance with §B(2) of this regulation, a written log or electronic record that includes:*
    - (i) *The date of the inspection;*
    - (ii) *The name and title of the individual performing the inspection;*
    - (iii) *A description of each deficiency found;*
    - (iv) *The name and title of the individual notified of the deficiencies found; and*
    - (v) *A record of how and when the deficiencies were corrected; and*
  - (b) *If the AST system was inspected in accordance with §B(3) of this regulation, the completed monthly and annual inspection checklists in STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”.*
- (5) *An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain the records required in §B(4) of this regulation in accordance with Regulation .13 of this chapter.*
- C. *An owner, an operator, and a person in charge of an AST system with a field-erected AST shall conduct corrosion protection system inspections in accordance with Regulation .10 of this chapter.*
- D. *An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:*
- (1) *Inspect and clean normal and emergency vents for the field-erected AST annually; and*
  - (2) *Maintain records of the vent inspection and cleaning required in §D(1) of this regulation in accordance with Regulation .13 of this chapter.*
- E. *Ultrasonic Thickness Inspections. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall use ultrasonic thickness measurements of the external AST shell to determine shell integrity according to the following requirements:*
- (1) *If the corrosion rate is unknown for a field-erected AST, complete an initial ultrasonic thickness inspection not later than 2 years after the effective date of this chapter;*
  - (2) *Perform ultrasonic thickness inspections at the lesser of the following intervals:*
    - (a) *RCA/2N years; or*
    - (b) *15 years;*
  - (3) *Include the following information in the inspection records for each ultrasonic thickness inspection performed on an AST:*
    - (a) *The date of the inspection;*
    - (b) *The name and title of individual performing the inspection; and*
    - (c) *The ultrasonic thickness measurements; and*
  - (4) *Maintain the records for ultrasonic thickness inspections required under §E(3) of the regulation in accordance with Regulation .13 of this chapter.*
- F. *External Inspections. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall have an external inspection performed on the field-erected AST according to the following requirements:*
- (1) *An authorized inspector conducts external inspection on the field-erected AST.*
  - (2) *Perform external inspections at the lesser of the following intervals:*

- (a) RCA/4N years; or
  - (b) 5 years;
  - (3) Inspect the following components of a field-erected AST during an external inspection:
    - (a) The AST foundation;
    - (b) The shell and roof of the AST, including shell and roof appurtenances;
    - (c) The AST accessways;
    - (d) The AST grounding system;
    - (e) The wall and roof of an AST having an insulated covering;
    - (f) Connected aboveground piping; and
    - (g) The secondary containment dike;
  - (4) At a minimum, the authorized inspector conducting an external inspection of the field-erected AST shall complete the Tank In-service Inspection Checklist in Annex C of API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction”;
  - (5) Submit a copy of the final external inspection report to the Department within 60 days of completing the external inspection; and
  - (6) Maintain records of completed external inspections in accordance with Regulation .13 of this chapter.
- G. Risk-based Inspection Program.**
- (1) An owner, an operator, and a person in charge of an AST system with a field-erected AST may implement a risk-based inspection program to develop an inspection plan for conducting internal inspections on the field-constructed AST.
  - (2) If implementing a risk-based inspection program, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall:
    - (a) Establish and implement the risk-based inspection program in accordance with API Recommended Practice 580 “Risk-based Inspection”;
    - (b) Prior to implementation, have the risk-based inspection program, including the risk-based inspection assessment and inspection plan, reviewed and approved by an authorized inspector and a storage tank engineer.
  - (3) An owner, an operator, and a person in charge of an AST system with a field-erected AST shall maintain records related to the risk-based inspection program, including copies of the risk-based inspection assessment, inspection plan, and authorized inspector and storage tank engineer approvals, in accordance with the recordkeeping requirements in Regulation .13 of this chapter.
- H. Internal Inspections.** An owner, an operator, and a person in charge of an AST system with a field-erected AST shall have an internal inspection of a field-erected AST performed on the field-erected AST according to the following requirements:
- (1) An authorized inspector shall complete an internal inspection of a field-erected AST;
  - (2) Complete an initial internal inspection on a new field-erected AST not later than:
    - (a) 10 years from the date the AST first contained oil; or
    - (b) A maximum inspection interval established in accordance with API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction” if the following conditions are met:
      - (i) The maximum interval is determined under a risk-based inspection program; and
      - (ii) The AST has one or more of the leak prevention, detection, corrosion mitigation, or containment safeguards listed in Table 6.1–Tank Safeguard in API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction”;
  - (3) Complete an initial internal inspection on an existing field-erected AST that contains oil not later than 2 years after the effective date of this chapter;
  - (4) Complete subsequent internal inspections on a new or existing field-erected AST not later than:
    - (a) 20 years after the date the initial internal inspection required in §H(2) or (3) of this regulation was completed; or
    - (b) A maximum inspection interval determined in accordance with the corrosion rate procedures and the additional risk-based inspection requirements in API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction”;
  - (5) An internal inspection of a field-erected AST includes:
    - (a) An evaluation of, at a minimum, 75 percent of the storage tank bottom plates using magnetic flux leakage scanning;
    - (b) An evaluation of 100 percent of floor plate welds and shell-to-floor welds using one or more of the following testing methods:
      - (i) Vacuum box;
      - (ii) Magnetic particle; and
      - (iii) Liquid penetrant;
    - (c) Verification of a storage tank bottom’s integrity to ensure the storage tank bottom is not severely corroded or there is evidence of a spill, release, or discharge;
    - (d) The collection of data necessary to assess the minimum storage tank bottom and shell thickness, including evaluating data from previous inspections;

- (f) Identification and evaluation of any storage tank bottom settlement; and
- (g) Assessment of all external and internal aspects of an AST while the storage tank is out-of-service, including an examination and test of the following AST components:
  - (i) Storage tank exterior and interior;
  - (ii) Storage tank bottom, including the liquid side and soil side;
  - (iii) Shell seams, plates, and overflows;
  - (iv) The fixed roof interior, including the surface, support structure, and appurtenances;
  - (v) A floating roof, including the deck, pontoons, cutouts and supports, seal assemblies, and appurtenances;
  - (vi) Common AST appurtenances; and
  - (vii) Access structures;
- (6) At a minimum, an authorized inspector conducting an internal inspection of an AST shall complete the Tank Out-of-service Inspection Checklist in Annex C of API Standard 653 “Tank Inspection, Repair, Alteration, and Reconstruction” in addition to other forms used;
- (7) Submit a copy of the final internal inspection report to the Department within 60 days of completing the internal inspection; and
- (8) Maintain records of each internal inspection conducted for on a field-erected AST in accordance with Regulation .13 of this chapter.

**.12 Out-of-Service and Permanent Closure.**

A. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall complete each of the following steps to place the AST system out-of-service:

- (1) Remove all oil from the AST system;
- (2) Isolate all piping connected to the AST;
- (3) Remove all waste materials from the AST system, including storage tank-bottom sludge, and dispose of these materials in compliance with applicable federal, State, and local laws;
- (4) Purge all petroleum vapors and maintain the AST system vapor free;
- (5) Secure the AST system to prevent unauthorized entrance or tampering;
- (6) Protect the AST system from flotation;
- (7) Continue the operation and maintenance of corrosion protection on the AST system in accordance with Regulation .09 of this chapter;
- (8) Lock the fill port;
- (9) Label the AST using lettering at least 3 inches high, in a readily visible location on the AST, with the following information:
  - (a) Date the AST system was placed out-of-service;
  - (b) Name of product last stored; and
  - (c) The words “OUT-OF-SERVICE” or “EMPTY”; and
- (10) Notify the Department in writing 30 days before placing the AST system out-of-service.

B. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall complete the following steps prior to placing the AST system in-service:

- (1) If a formal inspection was due to occur while the AST system was out-of-service, conduct a formal inspection of the AST system in accordance with STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”;
- (2) Test all connected piping and appurtenances to ensure a spill, release, or discharge will not occur;
- (3) Maintain a copy of all inspection and testing reports, including findings and repairs, and provide a copy to the Department upon request; and
- (4) Notify the Department in writing 30 days before the AST system is placed in-service.

C. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall permanently close the AST system in accordance with the following requirements:

- (1) Place the AST system out-of-service in accordance with §A of this regulation;
- (2) Disconnect and remove all aboveground piping associated with the AST system;
- (3) Disconnect and remove all underground piping associated with the AST system under the continuous on-site presence and direction of a certified UST system technician or remover in accordance with the procedures in COMAR 26.10.10.02D;
- (4) Remove the AST and associated piping from the site;
- (5) At least 30 days before permanently closing the AST system:
  - (a) Notify the Department in writing of the AST system being permanently closed; and
  - (b) Submit, for Department approval, a proposed sampling plan to the Department for a site assessment to determine if there is evidence of a spill, release, or discharge where contamination is most likely be present, including sampling of, at a minimum, the following areas of the AST site:
    - (i) Within and immediately outside of the secondary containment dike, if present;
    - (ii) Within the footprint of the removed AST; and
    - (iii) Beneath underground piping associated with the removed AST; and

(6) Within 45 days of completing the approved site assessment, submit a closure report to the Department detailing:

(a) The AST closure activities; and

(b) The results of the sampling event, including a map identifying sample locations, laboratory results, summary of findings, and conclusions.

D. An owner, an operator, and a person in charge of an AST system with a field-erected AST that is placing the AST system out-of-service in order to store a non-oil product in the AST system shall:

(1) Notify the Department in writing at least 30 days before placing the AST system out-of-service; and

(2) Place the AST system out-of-service in accordance with the requirements of the Department.

E. Upon placing an AST system out-of-service or in-service, or completing the permanent closure of an AST system in accordance with §§A—D of this regulation, an owner, an operator, and a person in charge of an AST system shall:

(1) Within 30 days, amend the AST system registration with the Department in accordance with COMAR 26.10.01.10; and

(2) Apply for a modification to the Individual Oil Operations Permit in accordance with COMAR 26.10.01.12.

### **.13 Recordkeeping.**

An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

A. Maintain the records required under this chapter at the oil storage facility or oil handling facility, or another a readily accessible location;

B. Provide the records to the Department upon request;

C. Retain the following records for a minimum of 5 years:

(1) Records of periodic visual inspections conducted in accordance with Regulation .11B of this chapter;

(2) Records of annual normal and emergency vent inspections and cleaning conducted in accordance with

Regulation .11D of this chapter;

(3) Inventory control records;

(4) Overfill prevention equipment testing records;

(5) Release detection records;

(6) Secondary containment dike drainage logs;

(7) Storage tank gauging device calibration records; and

(8) Testing records for aboveground and underground piping; and

D. Retain the following AST system records for the operational life of an AST system and for at least 5 years after an AST system has been permanently closed in accordance with Regulation .12 of this chapter:

(1) Construction records, including records of:

(a) The AST name plate information;

(b) The original as-built specifications and drawings and any modifications made to the AST system during the operational life of the AST system;

(c) Applicable manufacturer's documentation for ancillary equipment;

(d) Tests conducted upon completing an installation or repair of an AST system component, including hydrostatic testing and pressure tightness testing;

(e) Material tests and analyses, including secondary containment dike permeability tests;

(f) Tank strapping record; and

(g) The names of the companies performing construction activities and a description of the work performed;

(2) Cathodic protection system inspections records for impressed current and galvanic systems, including

records of:

(a) Cathodic protection system design description;

(b) Inspection findings and conclusions;

(c) Recommendations; and

(d) Testing and repair records;

(3) A complete copy of each final formal inspection report;

(4) A complete copy of each ultrasonic thickness inspection report;

(5) Records of AST system repairs and alteration history, including names of companies completing repair work;

(6) Records of secondary containment dike testing and evaluation;

(7) Records of spills, releases, and discharges and written reports of the occurrences required by COMAR

26.10.01.05E; and

(8) A closure report for an AST system permanently closed in accordance with Regulation .12 of this chapter.

BENJAMIN H. GRUMBLES  
Secretary of the Environment