

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

**Response to Comments**

for the Public Hearing held on February 24, 2022 and Written Comments  
on the Proposed Action to Revise

COMAR 26.10 Oil Pollution Control and Storage Tank Management

Introduction: On January 28, 2022, the Maryland Department of the Environment (“MDE” or “the Department”) proposed to repeal and replace the State’s oil pollution control and storage tank management regulations. The purpose of the regulatory proposal (i.e., “proposed action” or “proposed regulations”) was to:

- a. Incorporate the U.S. Environmental Protection Agency’s (EPA) underground oil and hazardous substance storage tank system regulations into State regulations;
- b. Establish new regulatory requirements for registering, constructing, and operating aboveground oil storage tank systems;
- c. Revise reimbursement limits for certain homeowners under MDE’s Residential Heating Oil Tank Site Rehabilitation Reimbursement Program; and
- d. Establish new State regulations for high risk oil storage facilities that dispense motor fuel, marina motor fuel dispensing facilities, and the transportation and storage of heating oil.

The public comment period on the proposed action ended on February 28, 2022. Responses to written and oral comments received on the proposed action comments are provided in this document. On May 24, 2022, after reviewing the public comments, the Secretary of the Environment adopted the regulations as proposed with nonsubstantive changes. The Notice of Final Action was published in the June 3, 2022 issue of the *Maryland Register* and the regulations become effective on June 13, 2022.

Purpose of Hearing: The purpose of the public hearing was to allow for public comment on MDE’s proposed action, published in the *Maryland Register* on January 28, 2022, to repeal existing regulations and adopt new regulations under Code of Maryland Regulations (COMAR) 26.10.01 through 26.10.16, and to adopt new regulations under new chapters, COMAR 26.10.17 and 26.10.18 (49:03 Md. R. 151-247).

Date and Location: MDE held a public hearing on the proposed action on February 24, 2022 at 11:00 a.m., at MDE headquarters, 1800 Washington Blvd., Baltimore, MD 21230.

Hearing Attendance: Bernard Bigham, Chesapeake Environmental Group, Inc; Courtney Healy, Peapod Digital Labs, LLC; David Langseder, Donna Fabrizio, and Lance Martin, Constellation Energy Resources, LLC; Donna Marrow, Maryland Department of Natural Resources’ (DNR) Clean Marina Initiative; Jason Baer, University of Maryland (UMD) Office of Environmental Affairs; Mike O’Halloran, Mid-Atlantic Petroleum Distributors Association (MAPDA); Ross Infeld, Giant Food of Maryland, LLC; Stephen Doyle, Sunoco LP; and other interested parties.

Statement: Christopher Ralston, Oil Control Program Manager of the Land and Materials Administration served as Hearing Officer and read MDE’s statement.

Comments: MDE received written and oral comments on the proposed action from a total of 14 entities and individuals. The topics of the comments received and the name and affiliation of the commenter, as well as MDE’s responses, are given below, with comments regarding related topics addressed with a single response. The whole text of each comment received on the proposed action is included in the appendix of this document, as well as a copy of the published Notice of Proposed Action and an accompanying small business compliance guide for the proposed regulations.

1. **Comment Topic:** Updated Guidance Documents or Fact Sheets on Proposed Regulations  
**Commenter(s) Name and Affiliation:** Katherine Hresko, McCormick Taylor, Inc.  
**COMAR Citation(s):** N/A

**MDE Response:** McCormick Taylor inquired “will the Department be publishing any other guidance documents or fact sheets regarding the proposed regulations, other than what has already been published on the ‘Proposed Land Regulations’ website”? (Pages 20 and 21 of the Appendix). MDE is in the process of updating its current fact sheets to discuss new requirements and provide updated regulatory citations for revised or existing requirements that have been moved. MDE will create new fact sheets for new requirements that are not addressed in the current materials (e.g., monthly underground storage tank walkthrough inspections). This will be an ongoing process and the latest versions will be posted on the Oil Control Program’s Fact Sheets and Publications webpage.<sup>1</sup> In addition to updated fact sheets and guidance documents, MDE will also provide compliance assistance to assist affected businesses in achieving compliance with the new regulatory requirements. As always, affected entities and the public may contact the Oil Control Program during business hours at (410) 537-3442 or (800) 633-6101 x3442 and [chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov).

2. **Comment Topic:** “Oil” Definition and Requirement to Report Oil Discharges  
**Commenter(s) Name and Affiliation:** Jason Baer, UMD Office of Environmental Affairs  
**COMAR Citation(s):** COMAR 26.10.01.02B(47) and .05A(1)

**MDE Response:** UMD Office of Environmental Affairs’ comment generally suggested that MDE bring the proposed definition of “oil” and oil discharge reporting requirements in line with the federal Oil Pollution Prevention Rule under 40 Code of Federal Regulations (CFR) Part 112 (*see* page 4 of Appendix A). The definition of “oil” and the requirement to report discharges of oil are consistent with the statute (i.e., Annotated Code of Maryland). Environment Article, §4-401(h), Annotated Code of Maryland defines “oil” as, in general, to be petroleum-based and to exclude edible oils unless those edible oils are incorporated into a petroleum-based oil such that the total substance is considered oil. Regulatory definitions cannot be substantially different from those in statute, therefore MDE cannot adopt a definition of “oil” in COMAR 26.10 more expansive than the statutory definition.

In response to the comment that “the way that the regulations are written currently, a drop of oil is technically reportable”, MDE would like to clarify the existing and new oil discharge reporting requirements (*see* page 4 of Appendix A). Existing law requires any person discharging or permitting the discharge of oil, or who either actively or passively participates in the discharge of oil to report the incident immediately, or no later than 2 hours upon detection, to MDE.<sup>2</sup> The regulations adopted as part of this final action do not alter this requirement. MDE’s regulations also require that, within 10 working days after completing oil removal work, a person responsible for the discharge must prepare and submit to MDE a written report of the occurrence. Under the previous regulations, a person responsible for the discharge was required to prepare and submit a written report of the occurrence for all oil discharges. Under the new regulations, a person responsible for the discharge must prepare and submit a written report of occurrence if: 5 gallons or more of oil was spilled, released, or discharged; oil was discharged to waters of the State; or the person is directed by MDE to submit a written report of the occurrence.

It should be noted that, while the definition of “oil” under Environment Article, §4-401(h), Annotated Code of Maryland and COMAR 26.10.01.02B(47) does exclude edible oils and therefore excludes spills of these materials from the oil pollution control and storage tank management requirements of COMAR 26.10, edible oil spills particularly into waters of the State may still be of concern to MDE. State law prohibits the unpermitted discharge of any pollutant or waste into the waters of the State.<sup>3</sup> Therefore, even if the discharge of edible oil is not reportable to MDE under COMAR 26.10, the discharge may be reportable to MDE under its

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<sup>1</sup> Visit the Oil Control Program’s Fact Sheets and Publications webpage at:  
<https://mde.maryland.gov/programs/land/OilControl/Pages/factsheetspublications.aspx>.

<sup>2</sup> Environment Article, §4-410(b), Annotated Code of Maryland and COMAR 26.10.01.05A(1)

<sup>3</sup> Environment Article, §9-323, Annotated Code of Maryland and COMAR 26.08.04.01B(1)

State discharge and National Pollution Discharge Elimination System (NPDES) program regulations (i.e., COMAR 26.08.01—26.08.04 and 26.08.08). Reporting of these types of spills is encouraged. A person may report any suspected or known discharge of edible oil to MDE during business hours at 410-537-3510 or during non-business hours at 1-866-MDE GO TO (633-4686).

As an overall response, the EPA Oil Pollution Prevention Rule (i.e., 40 CFR Part 112) and associated Spill Prevention, Control, and Countermeasures (SPCC) requirements are not part of any delegated EPA program. Therefore, Maryland does not have the authority to implement the requirements under 40 CFR Part 112. EPA's rules in this regard do not supersede Maryland's but are in addition to COMAR 26.10. However, EPA does delegate its underground storage tank (UST) regulatory program to states (*see* 40 CFR Parts 280 and 281), and Maryland has State Program Approval to implement a state UST program as stringent as the federal program. So, in that instance, Maryland's UST regulations have been determined to be as stringent as or more so than the federal UST requirements under 40 CFR Part 280. The result is that owners of federally regulated USTs have one set of rules to comply with.

**3. Comment Topic:** Aboveground Oil Storage Tanks - "AST" Definition Exclusions and Exemptions from New Shop-Fabricated and Field-Erected AST Regulatory Requirements

**Commenter(s) Name and Affiliation:** Christopher Phillips, MAMWA, David Frederick, FirstEnergy Corp. and Jason Baer, UMD Office of Environmental Affairs

**COMAR Citation(s):** COMAR 26.10.01.02B(1), 26.10.17, and 26.10.18

**MDE Response:** MAMWA, FirstEnergy, and UMD Office of Environmental Affairs submitted comments suggesting revisions to the proposed definition for "AST".<sup>4</sup> FirstEnergy recommended that MDE expand COMAR 26.10.01.02B(1)(b) to exclude ASTs "with a capacity of 1,100 gallons or less that store motor fuel or motor oil including lubricating and operational fluids for mechanical components associated with the engine, including hydraulic, transmission, gear, and braking systems for noncommercial purposes" (page 9 of Appendix A). The proposed action defined "oil-filled operational equipment" as "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". Oil-filled operational equipment, including hydraulic systems and lubricating systems for rotating equipment, is already excluded from the definition of "AST". If an aboveground oil storage tank or container used to store motor fuel or motor oil, etc. is greater than 250 gallons in capacity and does not otherwise meet the definition of "oil-filled operational equipment", then the storage tank or container would be considered an "AST".

MAMWA recommended that MDE revise the definition of "AST" to exclude tanks used for wastewater treatment purposes (in addition to wastewater collection), or as an alternative to either exclude ASTs owned by a public entity or agency from the new AST requirements in COMAR 26.10.17 and 26.10.18 or provide a public entity and agency two years from the effective date of the regulations (or another period approved by MDE) to submit a plan that includes a timeframe for coming into compliance (*see* page 24 of Appendix A). The proposed definition of "AST" already excludes wastewater collection systems; however, other storage tanks not a part of the wastewater collection system located at a wastewater treatment facility may be considered an AST if they otherwise meet the definition of an "AST". MDE has incorporated a 2-year

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<sup>4</sup> COMAR 26.10.01.01B(1) Aboveground Storage Tank (AST).

(a) AST means a storage tank that: currently stores oil; previously stored oil, except for a storage tank placed out-of-service to store a non-oil product in accordance with COMAR 26.10.17 or 26.10.18; has a storage capacity of greater than 250 gallons; is designed to operate at pressures from atmospheric pressure to a gauge pressure of 1.0 psi (6.9 kPa) measured at the top of the storage tank; is constructed more than 90 percent above the surface of the ground, excluding piping; and may be installed in an underground vault, a basement, or a sub-surface building.

(b) AST does not include: an aboveground residential heating oil tank; 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; a septic tank, surface impoundment, pit, pond, or lagoon; a stormwater or wastewater collection system; a flow-through process tank; oil-filled operational equipment; 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; and a liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

compliance time period, or another time period approved by MDE, for owners, operators, and persons in charge of AST systems with shop-fabricated and field-erected ASTs to comply with the new requirements under COMAR 26.10.17 and 26.10.18. These provisions are intended to accommodate AST owners, operators, and persons in charge who need to come into compliance with these new requirements.

UMD Office of Environmental Affairs recommended bringing the definition of AST in line with the federal Oil Pollution Prevention Rule and defining an “AST” as anything 55 gallons or greater (*see* page 5 of Appendix A). MAMWA recommended that MDE revise the AST definition to exclude tanks smaller than 500 gallons (versus the proposed 250 gallons), as an alternative to the recommendation to exclude tanks used for wastewater treatment purposes (*see* page 24 of Appendix A). When drafting the proposal, MDE researched the regulatory definitions of “AST” adopted by other states located in EPA Region 3.<sup>5</sup> For states with “AST” regulatory definitions, greater than 250 gallons was the lowest minimal capacity size under which a storage tank was defined as an “AST”. MDE incorporated this storage tank capacity in its definition of an AST. The proposed action provides that a storage tank must have a storage capacity of greater than 250 gallons to be defined as an “AST”. In regard to MDE making the minimum size capacity for an AST under its regulations consistent with the federal Oil Pollution Prevention Rule, the federal regulations do not define an “AST” but instead exclude any container with an oil storage capacity less than 55 gallons from being subject to 40 CFR Part 112.<sup>6</sup>

**4. Comment Topic:** “Cargo Tank” Definition

**Commenter(s) Name and Affiliation:** Aleta Finney, Pepco Holdings, Inc.

**COMAR Citation(s):** COMAR 26.10.01.02B(11)

**MDE Response:** Pepco Holdings submitted a comment asking “[is] the definition of a cargo tank as described in COMAR 26.10.01.02B(11) meant to describe tanker trucks only, or is it meant to include something like tanks associated with portable emergency generators or other portable tanks?” (Page 31 of Appendix A). A cargo tank is a vehicle-mounted tank used for carrying oil that has a liquid capacity greater than 110 gallons and does not include a tank used solely for the purpose of supplying fuel for the propulsion of a vehicle. A cargo tank includes a tank car moved by locomotive power along a railroad system, a tank attached through a fifth-wheel connection to a transport, and a tank mounted permanently onto a truck tank.<sup>7</sup>

**5. Comment Topic:** Area Subject to Flooding

**Commenter(s) Name and Affiliation:** Donna Marrow, DNR Clean Marina Initiative

**COMAR Citation(s):** COMAR 26.10.01.14B

**MDE Response:** The DNR Clean Marina Initiative submitted the following comment regarding COMAR 26.10.01.14B:

*“And likewise under Section 14, Marinas, Section B says if a marina is located in an area subject to flooding, the owner must make sure that everything is anchored securely to prevent the AST from floating. That is not defined that I can find anywhere, the areas subject to flooding.”* (Page 4 of Appendix A).

As proposed, COMAR 26.10.01.14B states, “[if] a marina is located in an area subject to flooding, 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, releasing, or discharging oil”. The requirement to secure an AST and dispenser if a marina is located

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<sup>5</sup> States located in EPA Region 3 include Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and Washington, D.C.

<sup>6</sup> *See* 40 CFR §112.1(d)

<sup>7</sup> The terms “cargo tank”, “tank car”, “transport”, and “truck tank” are defined under COMAR 26.10.01.02B(11), (82), (87), and (89), respectively.

in an area subject to flooding was adapted from requirements established in National Fire Protection Association (NFPA) and Petroleum Equipment Institute (PEI) industry standards.<sup>8</sup>

- Section 22.5.2 of NFPA 30 requires when an AST is located in an area subject to flooding, provisions are taken to prevent the AST, whether full or empty, from floating or sliding during a rise in water level up to the established maximum flood stage, and Section 22.14 generally requires that an AST located in an area subject to flooding where a significant portion of the storage tank capacity will be submerged at the flood stage to be secured from floating.
- Section 6.3.4 of NFPA 30A requires all dispensing devices at motor fuel dispensing facilities be securely bolted in place.
- For a marina fueling system, Section 3.3 of PEI Recommended Practice 1000 recommends, if the storage tank is subject to flooding, designing a storage tank anchoring system that will withstand maximum anticipated flood conditions with the storage tank empty of product.

As these NFPA and PEI standards are incorporated by reference under COMAR 26.10.01.02B, the standards and their requirements are a part of the adopted regulations. If a marina owner or operator is unsure whether the anchoring requirements apply to their facility, they may contact MDE for assistance.

**6. Comment Topic:** Suggested Definitions for “Motor Oil” and “Noncommercial Purposes”

**Commenter(s) Name and Affiliation:** David Frederick, FirstEnergy Corp.

**COMAR Citation(s):** COMAR 26.10.01.02B(47) and 26.10.02.02B(24)

**MDE Response:** FirstEnergy commented that “COMAR 26.10.01.02B should be amended to include new definitions for ‘non-commercial purposes’ and ‘motor oil’. An appropriate definition for motor oil would be, ‘A petroleum product used to lubricate the internal parts of an engine. The term includes lubricating and operation fluids for the mechanical components associated with the engine, including any hydraulic, transmission, gear or braking systems. An appropriate definition for non-commercial purposes would be, ‘with respect to motor fuel, motor fuel not for resale’” (page 9 of Appendix A).

Because the proposed definition of “oil” is inclusive of “motor oil”, MDE adopted the definition as proposed (*see* COMAR 26.10.01.02B(47)). Additionally, “noncommercial purposes” was already defined in the proposed action as “motor fuel not for resale”; this definition has been adopted as part of the final action (*see* COMAR 26.10.02.02B(24)).

**7. Comment Topic:** Portable Tanks for Emergency Generators

**Commenter(s) Name and Affiliation:** Aleta Finney, Pepco Holdings, Inc.

**COMAR Citation(s):** COMAR 26.10.01.02B(1) and (11)

**MDE Response:** Pepco Holdings submitted a comment asking if the definitions of “AST” or “cargo tank” include portable tanks associated with portable emergency generators (*see* page 31 of Appendix A)? A portable tank that is integral to a portable emergency generator is not considered an “AST” or “cargo tank” but is considered “oil-filled operational equipment”, which is defined as “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”.<sup>9</sup>

**8. Comment Topic:** Oil Transfer License and Fee

**Commenter(s) Name and Affiliation:** Chelsea Rouen, Exxon Mobil Corporation

**COMAR Citation(s):** COMAR 26.10.01.08

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<sup>8</sup> *See* the Flammable and Combustible Liquids Code (NFPA 30, 2021 Edition), Code for Motor Fuel Dispensing Facilities and Repair Garages (NFPA 30A, 2021 Edition), and Recommended Practices for the Installation of Marina Fueling Systems (PEI/RP1000-14, 2014 Edition).

<sup>9</sup> COMAR 26.10.01.02B(48) “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: hydraulic systems; lubricating systems for pumps, compressors and other rotating equipment; gear boxes; machining coolant systems; heat transfer systems; transformers; circuit breakers; electrical switches; and other systems containing oil solely to enable the operation of the device.

**MDE Response:** Exxon Mobil submitted the following comment regarding the oil transfer license and fee:

*“I noticed that the terminology remains the same, ‘(3) The licensee that offloads or onloads oil at the first point of transfer in the State is responsible for paying the fee.’ From my understanding, prior to me becoming Exxon’s MD Advisor– various industry members discussed with the MD Oil Transfer fee when leaving the Colonial Pipeline with the State. Colonial Pipeline Company issues 2 reports: one with the “Shipper” information and another one with the ‘Consignee’ information. The State is currently using the “Shipper” information to reconcile the gallons reported by each licensee but discussion was done in regards to changing this to the consignee information, as they know if product is removed from pipeline in MD or exported out via pipeline. Could you please provide an update on where the State is in regards to this and if it will be discussed in this year’s legislative session as I did not see any clear indication in the above link I was able to access.” (Page 13 of Appendix A).*

The oil transfer license and fee provisions proposed under COMAR 26.10.01.08 are consistent with those requirements established under Environment Article, §4-411, Annotated Code of Maryland. A person other than a vessel or barge may not transfer oil in the State without a license (i.e., an Oil Transfer License) issued by MDE. The statute and adopted regulations define “transfer” to mean the offloading or unloading of oil in the State from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means used for transporting oil. If a person, which is not a vessel or barge, engages in the transfer of oil as defined under State law, they would be required to obtain an Oil Transfer License.

By statute, an oil transfer fee is imposed on each barrel of oil transferred in the State, assessed only once at the first point of transfer in the State, to be paid by an oil transfer licensee. Therefore, the fee must be paid by the first person who offloads or onloads oil to or from the State, whether that person is the consignee or position holder, or another entity. During the 2022 legislative session of the General Assembly of Maryland, no bills were introduced that proposed to amend this statutory provision.

**9. Comment Topic:** Oil Transfer Facility

**Commenter(s) Name and Affiliation:** Lance Martin, Constellation Energy Resources, LLC

**COMAR Citation(s):** COMAR 26.10.01.08

**MDE Response:** Constellation Energy Resources asked if two USTs (one diesel and one gasoline) and fuel stations used for only fueling company vehicles at one of their energy generating plants would be considered an oil transfer facility (*see* page 7 of Appendix A)? The statute does not define an “oil transfer facility”, and MDE did not propose to define the term in regulation. While this motor fuel dispensing operation would likely not be considered as an oil “transfer”, the plant may be required to obtain an Oil Transfer License if activities at the facility otherwise meet the requirements of Environment Article, §4-411, Annotated Code of Maryland and COMAR 26.10.01.08.

**10. Comment Topic:** Rationale and Necessity for New AST-related Regulatory Requirements

**Commenter(s) Name and Affiliation:** Michael Berkow, Norman Creek Marina

**COMAR Citation(s):** COMAR 26.10.01, 26.10.17, and 26.10.18

**MDE Response:** Michael Berkow of Norman Creek Marina submitted the following comment regarding the new AST requirements proposed by MDE:

*“I understand that there are some new proposed regulations for ABOVE GROUND tanks and I am trying to determine if they would apply to me and what the impact would be. I have a 2k gallon above ground diesel tank.*

*I am very curious about the rationale and necessity for new regulations. My second tank is a 6k underground tank that comes with a very heavy assortment of requirements (e.g. constant testing, daily dipping, reporting, million dollar insurance policy, etc.). Hence, my working theory was to work on an*

*ABOVE GROUND tank replacement. If the same regulations are going to apply, then the incentive to upgrade and change is gone.” (Page 30 of Appendix A).*

In the past, MDE regulated the use and management of oil containing ASTs primarily through a combination of industry codes and practices that were incorporated by reference into previous regulations and through environmental permits. Under the former regulations, an owner or operator of an oil storage facility with a certain aboveground oil storage capacity was required to obtain an Oil Operations Permit and to install, operate and maintain AST systems in accordance with aboveground oil storage facilities requirements established in a single regulation. Under this regulatory scheme, existing AST systems were not always subject to the direct regulatory oversight of MDE’s Oil Control Program. Inspections performed at oil storage facilities operating under an Oil Operations Permit revealed that a large number of existing AST systems are in contact with the ground and/or may not be properly protected against corrosion. The continued aging of these existing AST systems without cathodic protection (i.e., protected against corrosion) poses a significant risk of an oil release impacting the environment. In regard to AST systems located at marinas, these storage tank systems store flammable and combustible liquids that pose a risk to the public and the environment if the liquids are improperly stored, dispensed, and maintained.

MDE decided to develop comprehensive regulations for the safe use of ASTs throughout Maryland that would make the AST requirements clearer and more transparent to the regulated community and ensure a consistent level of environmental protection in regard to all oil storage tank systems. MDE proposed, and adopted with this final action, AST system registration, permitting, and technical provisions within the regulatory requirements. The registration of AST systems will provide MDE with a permanent record of each AST system’s ownership, location, construction material, operation and maintenance, and compliance with State laws and regulations. The adopted regulations require all marinas with an AST that is part of a motor fuel dispensing facility to obtain an Individual Oil Operations Permit and include new standards for the installation and operation of AST systems that are specific to marinas with motor fuel dispensing. The two new regulatory chapters dedicated to AST systems with shop-fabricated and field-erected ASTs establish definitions and performance standards for constructing, operating, inspecting and testing, and temporarily and permanently closing these AST systems.

**11. Comment Topic:** ASTs and Applicable Regulatory Requirements

**Commenter(s) Name and Affiliation:** Aleta Finney, Pepco Holdings, Inc., Katherine Hresko, McCormick Taylor, Inc., and Michael Berkow, Norman Creek Marina

**COMAR Citation(s):** COMAR 26.10.01, 26.10.17, and 26.10.18

**MDE Response:** Owners, operators, and persons in charge of ASTs may be subject to several authorization, construction, operation, and maintenance requirements established in the adopted regulations. In this response, MDE directly addresses three questions posed by commenters regarding which requirements of the proposed action are applicable to ASTs. The full text of the comments can be found in Appendix A of this document.

*“And just to confirm, regarding the new chapters (Chapter 17 and 18) that address ASTs, would these new regulations be applicable to both new and existing ASTs?” (McCormick Taylor, page 20 of Appendix A).*

Yes, that is correct. Unless exempted under the regulations, all existing and new shop-fabricated ASTs and field-erected ASTs located at Maryland oil storage or handling facilities will need to meet the requirements of the new regulatory chapters COMAR 26.10.17 and 26.10.18, respectively. Generally, the regulations provide a 2-year period for owners, operators, and persons in charge to bring existing ASTs into compliance, unless another time period is determined by MDE.

*“The definition of an AST as defined in COMAR 26.10.01.02B(1) is one that has a storage capacity of 250 gallons or more. When considering if a facility is subject to either obtaining an individual or general oil operations permit, is the facility only to include in the summation those tanks onsite that have a storage capacity of 250 gallons or more or should they include the storage capacity of all ASTs onsite irrespective of tank size?” (Pepco Holdings, page 31 of Appendix A).*

COMAR 26.10.01.02B(1) defines an AST, among other things, as having a storage capacity greater than 250 gallons. COMAR 26.10.01.02B(2) defines aggregate storage capacity as being the total oil storage capacity of all ASTs on the property. So, only those aboveground oil storage tanks having a capacity of greater than 250 gallons (i.e., meeting the definition of an AST) are used to calculate the aggregate storage capacity for the facility. The aggregate storage capacity is then used to determine whether the facility is required to obtain an Individual Oil Operations Permit in accordance with COMAR 26.10.01.09A(1)(a) or (c).

*“I understand that there are some new proposed regulations for ABOVE GROUND tanks and I am trying to determine if they would apply to me and what the impact would be. I have a 2k gallon above ground diesel tank.”* (Michael Berkow, page 30 of Appendix A).

Because this commenter shared that they own a marina, the regulatory requirements identified are those applicable to a 2,000-gallon diesel AST installed at a marina. Assuming the AST is a part of a motor fuel dispensing facility, COMAR 26.10.01.09 requires marina motor fuel dispensing facilities to be covered under an Individual Oil Operations Permit, regardless of aboveground storage capacity associated with the motor fuel dispensing facility. The AST system would also need to be registered with MDE in accordance with COMAR 26.10.01.10. An AST system will be registered through the Individual Oil Operations Permit application process, so no separate registration process would be required. Because the regulations require existing AST systems to be registered within 18 months after June 13, 2022, a person in charge of the facility would need to obtain a new permit or amend the conditions of an existing permit to include the AST system registration by December 13, 2023. Additionally, aboveground and underground storage tank systems used for fueling vessels will need to meet the specific requirements for marina fueling systems under COMAR 26.10.01.14, with existing storage tank systems being in compliance with the regulatory changes by June 13, 2025.

COMAR 26.10.17 establishes new regulatory requirements for the installation, operation, maintenance, and closure of an AST system with a shop-fabricated AST; many of these are consistent with and incorporate current industry standards and practices. The shop-fabricated AST and connected piping must meet the performance standards under COMAR 26.10.17.05 and .06, including requirements of industry standards referenced within these regulations. The shop-fabricated AST must be operated with spill and overflow prevention measures, provided with methods of release detection, protected from corrosion, and ensured to have normal and emergency venting in accordance with the requirements under COMAR 26.10.17.08—.11. The shop-fabricated AST must be inspected in accordance with procedures and frequencies established under COMAR 26.10.01.12 and the Steel Tank Institute/Steel Plate Fabricators Association (STI/SPFA) SP001 Standard for the Inspection of Aboveground Storage Tanks. MDE will provide inspection forms online to assist with this requirement. Because the AST system described in the comment is required to be registered with MDE under COMAR 26.10.01.10, placing the shop-fabricated AST out-of-service or permanently closing the AST must be conducted in accordance with COMAR 26.10.17.13. In addition to the aforementioned technical requirements, the general requirements and recordkeeping provisions under COMAR 26.10.01.03 and .04 and COMAR 26.10.17.14 also apply.

- 12. Comment Topic:** Implementation of New Oil Operations Permit Requirements  
**Commenter(s) Name and Affiliation:** Lance Martin, Constellation Energy Resources, LLC  
**COMAR Citation(s):** COMAR 26.10.01.09, .11, and .12

**MDE Response:** Constellation Energy Resources submitted a comment asking “[after] amendment adoption, if there are regulations that apply but they are not specifically spelled out or referenced in a renewed post adoption Oil Operations Permit are we expected to follow the regulations or our Permit requirements” (page 7 of Appendix A)? The term of an Oil Operations Permit issued before the effective date of the regulations will not be impacted by the final action, and MDE does not intend to issue new permits to persons with existing permit coverage as a result of the regulations. To the extent that certain conditions of an existing permit are not consistent with the revised or new requirements of the adopted regulations, these regulatory requirements will supersede those existing permit conditions. MDE intends to cooperatively work with permittees to bring existing storage tank systems and other related facilities into compliance with any revised or new regulatory



requirements. Generally, MDE incorporated a 2-year period in which permittees in charge of existing AST systems must come into compliance with the new shop-fabricated AST and field-erected AST requirements under COMAR 26.10.17 and 26.10.18, respectively.

**13. Comment Topic:** Individual Oil Operations Permit Application Requirements

**Commenter(s) Name and Affiliation:** Bernard Bigham, Chesapeake Environmental Group, Inc. and Donna Morrow, DNR Clean Marina Initiative

**COMAR Citation(s):** COMAR 26.10.01.11

**MDE Response:** Under COMAR 26.10.01.09A(1)(b), owners, operators, and persons in charge of marinas with an AST system that is part of a motor fuel dispensing facility will be required to obtain an Individual Oil Operations Permit. The DNR Clean Marina Initiative submitted a comment asking how application forms will be provided to marinas that are now required to obtain an Individual Oil Operations Permit (*see* page 4 of Appendix A). The Oil Control Program has developed a list of Maryland marina trade associations and individual marinas compiled using information provided by the commenter and applications submitted for MDE's General Permit for Discharges from Marinas.<sup>10</sup> MDE will send a notice to all marinas on this list to inform them of the potential obligations under the adopted regulations. MDE will also conduct outreach to related industry groups to aid in getting this message out to potentially affected marinas. The Individual Oil Operations Permit application forms will be available on MDE's website under the Oil Control Program's webpage.

The DNR Clean Marina Initiative also asked whether MDE will inspect each marina that is newly required to have an Individual Oil Operations Permit under the regulations (*see* page 4 of Appendix A). COMAR 26.10.01.11G(2) states that MDE will conduct an inspection of each oil storage or handling facility as part of the Individual Oil Operations Permit application process, which would also include marinas applying for the permit. This is an existing practice for MDE when issuing an Oil Operations Permit (i.e., renamed Individual Oil Operations Permit under the adopted regulations), and MDE finds that this is a key component to compliance assistance for the permitted facility. MDE inspectors are trained to inspect the AST systems at a proposed facility and identify areas that need correction to be compliant with applicable regulations.

Chesapeake Environmental Group submitted the following comments regarding the permit application requirements:

*“Generally I find the proposed regulations consistent with the industry practices and codes with which I’m familiar and endorse the adoption of the package. I do however have several suggestions MDE may want to consider.*

**1. In COMAR 26.10.01.11 B. (1)**

*I suggest the requirement for satisfactory zoning evidence be for new Individual Oil Operation Permits only. It is difficult enough to get local zoning officials to provide written documentation as to whether a tank is allowed to be placed as it is for new facilities. It shouldn't be a requirement for renewals of the Individual Oil Operations Permit. Once proof of zoning for the initial permit is provided and the permit issued, OOP will have the documentation of zoning in your files.*

**2. In COMAR 26.10.01.11 (C) (4)**

*This reads: ‘Confirmation the facility has an up-to-date federal SPCC Plan;’ There should be a definition for what is meant by ‘up-to-date.’*

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<sup>10</sup> Learn more about the General Permit for Discharges from Marinas by reviewing the permit fact sheet available at <https://mde.maryland.gov/programs/permits/watermanagementpermits/pages/marinas.aspx>.

As part of the application process for a new or renewal Individual Oil Operations Permit prescribed under the adopted regulations, owners, operators, and persons in charge of oil storage or handling facilities must submit to MDE satisfactory evidence that the facility is in compliance with all applicable county zoning and land use requirements.<sup>11</sup> In addition to the permit application form, a plan for notification, containment, and removal of a spill, release, or discharge of oil must be submitted to MDE that includes confirmation of an up-to-date SPCC Plan.<sup>12</sup> As a general response to comments 1 and 2, the application requirements are consistent with the underlying statute; therefore, MDE adopted these application requirements as proposed.

Environment Article, §4-405(b), Annotated Code of Maryland prohibits a person other than a vessel or barge from engaging in any commercial or industrial operation involving the transfer, storage, separating, removing, treating, transporting, or disposing of oil unless the person has submitted to MDE satisfactory evidence that the operation meets all applicable county zoning and land use requirements, and obtained a permit from MDE indicating that the oil activities are in conformity with MDE's regulations prescribing approved methods, facilities, standards, and devices for these oil activities to prevent pollution of waters of the State.

Environment Article, §4-405(b)(2)(i), Annotated Code of Maryland requires that information regarding compliance with county zoning and land use requirements be submitted to MDE for the permittee to engage in the type of oil-related activity they are seeking a permit for. The law does not specify that the satisfactory evidence that the operation meets all applicable county zoning and land use requirements be submitted contemporaneously to the permit application. The proposed regulations do not specify this either. Therefore, there does not seem to be a specific restriction to the permittee submitting evidence previously provided in a prior application for the same activity at the facility. However, it should be noted that the applicant in signing the application is indicating that the evidence provided is accurate at the time of application submission. If, for example, a prior letter from the appropriate local zoning department were no longer accurate due to some change in operations, then the permittee may be found in violation of state law. Therefore, the applicant must be certain that there are no changes to operations that would be cause for a different zoning determination than what was previously rendered.

Additionally, the statute authorizes MDE to include, in the regulations, a requirement for spill contingency plans for oil storage facilities, vessels, and barges, which is known under the adopted regulations as a plan for notification, containment, and removal of a spill, release, or discharge of oil. Under the proposed action, MDE added that the plan include confirmation of an "up-to-date" SPCC Plan. MDE did not define "up-to-date" in the adopted regulations because what is considered an up-to-date SPCC plan is established under the federal Oil Prevention Rule. EPA amended the rule in 2010 and 2011, establishing under 40 CFR §112.3 new compliance dates by which certain facilities and farms must prepare or amend and implement their SPCC Plans.<sup>13</sup> Individual Oil Operations Permit applicants should consult EPA's regulations to determine if their SPCC Plan is up-to-date when complying with the new confirmation requirement.<sup>14</sup>

- 14. Comment Topic:** Administratively Extended Individual Oil Operations Permit Coverage  
**Commenter(s) Name and Affiliation:** Bernard Bigham, Chesapeake Environmental Group, Inc.  
**COMAR Citation(s):** COMAR 26.10.01.11

**MDE Response:** Chesapeake Environmental Group submitted a comment suggesting the following language be added to COMAR 26.10.01.11:

*"I suggest that a new section (I) be added. There have been situations where the MDE/OOP permit engineers have not been able to process the applications for renewals prior to the last effective date on the permit. MDE/OOP has explained that only means the existing permit remains in effect. That satisfies the*

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<sup>11</sup> See COMAR 26.10.01.11B(1).

<sup>12</sup> See COMAR 26.10.01.11C(4).

<sup>13</sup> See 75 FR 63093 (2010) and 76 FR 72120 (2011).

<sup>14</sup> EPA has published online charts and other guidance regarding SPCC Plan compliance dates, available at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-compliance-dates>.

owner/operator to some extent, but doesn't satisfy lawyers, bankers, and those doing facility audits. It would be helpful to have a regulation that could be shown to those questioning whether a facility is truly legally operating. It should read something like this:

*'I. An Individual Oil Operations Permit remains in effect past the effective date on the Permit provided the following is done:*

- 1. A timely renewal application was submitted to MDE, and*
- 2. The Oil Operation Permit was not otherwise terminated or revoked by MDE.'*" (Page 6 of Appendix A).

Current Oil Operations Permits include the following language as General Condition Q "[this] permit shall expire at midnight on the expiration date of the permit. In order to receive authorization to continue operation of these oil operations facilities beyond the above date of expiration, the permittee shall submit such information, and/or forms as are required by the Department no later than 60 days prior to the above date of expiration". Additionally, the Oil Operations Permit for Treatment of Oil Contaminated Soils issued before the effective date of these regulations include similar language as General Condition J, except that the permittee must submit the application at least 90 days prior to the permit expiration. These general permit conditions already allow a permittee to continue operations while their timely application is reviewed by MDE. The Department intends to continue to include this type of general condition in Individual Oil Operations Permits issued on or after June 13, 2022. Interested parties may, at any time contact MDE to inquire about the status of a permitted facility or its permit status. Currently, MDE is developing various search portals on MDE's Open MDE webpage that will allow an interested party to search for a facility and see its current permit status.

#### **15. Comment Topic:** Spill Control for Oil Transfers at Facilities

**Commenter(s) Name and Affiliation:** Bernard Bigham, Chesapeake Environmental Group, Inc., David Frederick, FirstEnergy Corp., Howard County, Bureau of Environmental Services, and Mike O'Halloran, MAPDA

**COMAR Citation(s):** COMAR 26.10.01.18

**MDE Response:** Before responding to comments received about the spill control requirements under COMAR 26.10.01.18B, it is important to be clear on the purpose of these requirements and the types of facilities subject to them. MDE's previous regulations already required oil facilities with loading racks, with the term "loading rack" undefined, to implement certain spill control measures. Because the applicability of these spill control measures was limited to facilities with loading racks, they didn't apply to facilities that frequently conduct bulk oil transfers to and from tank cars and some of these facilities' oil transfer activities were not covered under an Oil Operations Permit. To address this issue, MDE proposed to adopt the following regulatory changes: expanding the applicability of the spill control requirements to oil storage and handling facilities with transfer areas and adding additional spill control measures under COMAR 26.10.01.18 and requiring oil transfers at oil storage and handling facilities with loading/unloading racks or transfer areas to be covered under an Individual Oil Operations Permit (*see* COMAR 26.10.01.09A(1)(e)).<sup>15</sup>

Some of the comments received showed there was confusion regarding what areas of an oil storage or handling facility were considered a "transfer area". An excerpt of comments regarding this topic are quoted below, the full comment text is available in Appendix A of this document.

*"[COMAR 26.10.01.18B] requires that a transfer area be paved, 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*

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<sup>15</sup> Environment Article, §4-405(b), Annotated Code of Maryland prohibits a person other than a vessel or barge from engaging in any commercial or industrial operation involving, among other oil activities, the transfer of oil unless the person has obtained a permit from MDE indicating the activity is in conformity with the Department's regulations prescribing approved methods, facilities, standards, and devices for the activity to prevent pollution of waters of the State.

field. Please also clarify whether these requirements apply to motor fuel dispensing facilities.” (Howard County, page 18 of Appendix A).

*“We believe this regulation’s primary intention is for public fueling stations to have a canopy installed over the transfer area and fueling dispensers...The Proposed Rule is likely intended for fueling stations with underground storage tanks systems where fuel transfer activities take place at the point of delivery and should be amended to reflect such.”* (FirstEnergy, pages 9 and 10 of Appendix A).

Before responding to these comments, MDE would like to clarify what is considered a loading/unloading rack and a transfer area. The adopted regulations define loading/unloading rack as 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.<sup>16</sup> A loading/unloading rack may include a combination of the following features: piping assemblages; valves; pumps; shut-off devices; overfill sensors; and personnel safety devices (*see* COMAR 26.10.01.02B(36)). Loading/unloading racks as defined are typically used at oil terminals and similar industrial oil storage facilities to conduct frequent bulk oil transfers to and from truck tanks and transports.

Transfer area as defined specifically refers to areas of an oil storage or handling facility where oil is transferred to or from a tank car. A tank car is a cargo tank that is moved by locomotive power along a railroad system. On October 18, 2021, MDE shared with the public a draft version of the regulatory proposal that contained a broader definition of “transfer area”, which included any area of an oil storage or 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* (emphasis added).<sup>17</sup> However, MDE proposed a narrowed definition as part of its regulatory proposal published on January 28, 2022. The adopted regulations define transfer area as 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 tank car” (*see* COMAR 26.10.01.02B(86)). Several commenters asked whether the spill control requirements would apply to motor fuel dispensing facilities. Operations involving loading/unloading racks or transfer areas are not typical of motor fuel dispensing facilities, and COMAR 26.10.01.18B specifically does not require motor fuel dispensing facilities to comply with its spill control requirements.

MAPDA submitted a comment suggesting that MDE strike from the regulatory proposal COMAR 26.10.01.18B in its entirety, stating that “for a business to come into compliance with this new mandate would cost approximately \$150,000” and that “the requirement would be applicable regardless of storage tank capacity or gallons delivered” (page 28 of Appendix A). Chesapeake Environmental Group in their comment urged MDE to keep in place COMAR 26.10.01.18B as proposed without changes (*see* page 6 of Appendix A). As described above, the former regulation already contained spill control requirements for oil transfers occurring at facilities with loading racks, some of which are unchanged or were clarified in the newly adopted regulation. The spill control requirements under the former COMAR 26.10.01.18B were as follows:

**COMAR 26.10.01.18 Requirements for Oil Transfer Facilities.**

**B. Requirements for Spill Control.**

- (1) The area of the loading rack in which a spill can occur shall be paved.
- (2) Containment curbs, trenching, or other reasonable spill control systems shall be used for rail tank car, truck tank, and transport transfer areas.
- (3) Oil spilled within the containment area shall be removed immediately and disposed of in a manner and location in accordance with all State, federal, and local codes.
- (4) Containment facilities shall be designed to prevent the entrance of surface water runoff.
- (5) Clean-up materials, such as sorbents, appropriate for the grades of oil being stored, shall be available at the facility for use in the cleanup and removal of spilled oil.

The newly adopted COMAR 26.10.01.18B updates the spill control requirements for loading/unloading rack and transfer areas (i.e., the areas) as follows.

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<sup>16</sup> The terms “tank car”, “transport”, and “truck tank” are defined under COMAR 26.10.01.02B(82), (87), and (89), respectively.

<sup>17</sup> Comments on the draft regulatory proposal are discussed in a separate document available at:

<https://mde.maryland.gov/programs/land/OilControl/Pages/index.aspx>.

- Clarifies the requirement under §B(1) of the former regulation to pave the areas by specifying the hydraulic transmissivity of the pavement material, requiring the pavement material be resistant to oil, and requiring the paved areas be maintained to prevent holes and cracks (*see* §B(1)(a) and (b) of the new regulation).
- Requires the areas to be covered by a roof (*see* §B(1)(d) of the new regulation). While this is a new requirement, nearly all oil storage and handling facilities with loading/unloading racks that have been issued Oil Operations Permits under the former regulation already meet the requirement. In the rare occasion in which MDE found that a facility did not have a roof covering the area of its loading rack, MDE required a roof as a special condition in the facility's Oil Operations Permit.
- Requires the areas be designed with certain spill control measures to prevent the entrance of wastewater runoff into the areas, in addition to the existing requirement under §B(4) of the former regulation to prevent the entrance of stormwater into the areas (*see* §B(1)(c) of the new regulation).
- In addition to being required under §B(2) of the former regulation to design the areas with curbing, trenches or other spill control systems, the new regulation requires the areas also include a containment system that prevents oil or oil-contaminated stormwater from discharging into waters of the State by being designed to hold an oil spill from the largest single compartment of any tank car, truck tank, or transport loading or unloading oil at the facility (*see* §B(1)(e)(ii) of the new regulation). This revised requirement is consistent with spill control measures already required by MDE as a condition of Oil Operations Permits.
- Requires the installation of one or more specified measures in the areas to prevent oil spills, consistent with conditions generally included in Oil Operations Permits and existing requirements under Chapter 28 of NFPA 30 Flammable and Combustible Liquids Code (*see* §B(1)(f) of the new regulation).
- Clarifies the existing requirement under §B(3) of the former regulation to immediately remove and dispose of spilled oil in accordance with federal, state, and local law by referencing existing oil spill reporting, response, and removal requirements in COMAR 26.10.01.05A and .06 (*see* §B(3) of the new regulation).
- Clarifies the existing requirement that removal materials be available in the areas by adding that these materials must be appropriate for the most probable size of an anticipated oil spill (*see* §B(4)(a)(i) of the new regulation).
- References the existing discharge permitting requirement under state law that may be applicable to oil transfer operations (*see* §B(2) of the new regulation).

In review, the new spill control requirements are largely clarifications of existing regulatory requirements and referenced industry codes and practices, applicable to federal SPCC requirements, and consistent with current requirements of existing Oil Operations Permits (now the Individual Oil Operations Permit). Deleting all of the spill control measures under COMAR 26.10.01.18B as suggested would make the newly adopted regulation less protective against oil spills than the former regulation. In fact, MDE believes that the majority of oil storage and handling facilities with loading/unloading racks may already implement spill control measures that comply with newly adopted COMAR 26.10.01.18B. Additionally, facilities required to comply with EPA's general requirements for SPCC Plans prescribed under 40 CFR §112.7 may already implement measures that satisfy the spill control requirements under COMAR 26.10.01.18B. Therefore, MDE is not aware of any need for the owner of an oil storage or handling facility currently in compliance with the existing regulatory and permit requirements to spend up to \$150,000 to bring a facility into compliance with the new regulation. For these reasons, MDE adopted the spill control requirements for oil transfers under COMAR 26.10.01.18B as proposed.

In order to come into compliance, owners and operators of oil storage and handling facilities with transfer areas may need to make certain site upgrades. Additionally, any owner or operator of an oil storage or handling facility with loading/unloading racks and transfer areas will need to obtain an Individual Oil Operations Permit if they do not already have one. While the new and revised spill control requirements under COMAR 26.10.01.18B become effective on June 13, 2022, MDE will establish facility-specific time frames for compliance as a condition of the facility's existing or new Individual Oil Operations Permit. MDE will

also be available to discuss with owners and operators of facilities any site-specific issues that may affect their ability to achieve compliance.

**16. Comment Topic:** Motor Fuel Dispensing Facilities

**Commenter(s) Name and Affiliation:** Aleta Finney, Pepco Holdings, Inc., Howard County, Bureau of Environmental Services, Lance Martin, Constellation Energy Resources, LLC, and Louis Campion, Maryland Motor Truck Association

**COMAR Citation(s):** COMAR 26.10.01.20

**MDE Response:** MDE received the following comments regarding whether the commenters' oil operations are considered a motor fuel dispensing facility, as well as which category of motor fuel dispensing facility their operation fell under. The full text of the comments received is available in Appendix A of this document.

*“At one of our plants we have two USTS one gasoline and one diesel Fuel stations we use for company vehicles only, no outside personnel use it, only station vehicles. Is this considered a Motor Fuel Dispensing Facility?”* (Constellation Energy Resources, page 7 of Appendix A).

*“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.”* (Howard County, page 18 of Appendix A).

*“As I read the compliance guide, it suggests that if you have a tank over 1,100 gallons it would have to be an ‘attended’ facility unless you got approval otherwise. In the regulatory definitions of ‘attended’ it says, ‘Attended’ means there is an attendant or an employee that is on duty and available to customers at a motor fuel dispensing facility. If this is a private tank, only being filled by the owner’s drivers filling their trucks with no ‘customers’, would another employee be required as an attendant? I don’t think that’s the intention. The driver of the truck (who is filling the vehicle) is an on-duty employee and he would seem to meet that qualification automatically.”* (Maryland Motor Truck Association, page 29 of Appendix A).<sup>18</sup>

*“Will a Motor Fuel Dispensing Facility need to formally gain concurrence from MDE via written documentation for those facilities that fall under the following exemption located at [COMAR 26.10.01.20C(3)?]”* (Pepco Holdings, page 31 of Appendix A).

MDE proposed to define motor fuel dispensing facility as “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” (see COMAR 26.10.01.02B(46)). This term was not defined in MDE’s former oil control regulations, but the term was defined and referred to in NFPA 30A *Code for Motor Fuel Dispensing Facilities and Repair Garages*. The 2008 edition of this code was incorporated by reference and enforceable under the former regulations. In response to Constellation Energy Resources’ question regarding if the two USTs (one diesel and one gasoline) and fuel stations used for only fueling company vehicles at one of their energy generating plants is considered a motor fuel dispensing facility, this portion of the plant would be considered a motor fuel dispensing facility.

MDE also proposed to adopt a regulation dedicated to motor fuel dispensing facilities under COMAR 26.10.01.20 that incorporates facility-specific requirements from the 2021 edition of NFPA 30A, a code that sets specific requirements for different types of operations that dispense motor fuels. A description of each follows:

***Attended Operation.*** Attended motor fuel dispensing facilities are operations that may dispense motor fuel only if there is an attendant or an employee on duty and available to customers at the facility. An attended

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<sup>18</sup> MDE prepared a document that provides guidance on how a small business may comply with applicable requirements of the proposed regulation. A copy of the compliance guide is available in Appendix C of this document.

motor fuel dispensing facility describes most self-service stations where fuel is dispensed to paying customers and there is at least one attendant onsite during operating hours.

***Unattended Operation.*** Unattended motor fuel dispensing facilities are operations that, with MDE’s written approval, may dispense motor fuel without an attendant or employee on duty and available to customers at the facility. An unattended motor fuel dispensing facility describes self-service stations in which the owner or operator of the property (1) provides customers with a unique authorization (e.g., a key card or membership card) that must be used when dispensing fuel and (2) meets certain technical requirements specified under COMAR 26.10.01.20E.

***Commercial, Industrial, Governmental, or Manufacturing Operation.*** The third category of operations are motor fuel dispensing facilities located at a commercial, industrial, governmental, or manufacturing property where motor fuel is dispensed into the fuel tanks of motor vehicles or vessels that are owned or controlled by persons in charge of the property (i.e., fleet vehicles) and used by employees in connection with the business or operation of that property. Generally, these operations are not involved in dispensing motor fuel to customers for the generation of profit.

Howard County, Constellation Energy Resources, and Maryland Motor Truck Association sought clarity as to whether their motor fuel dispensing facilities were attended or unattended operations. Each of these entities described operations that were neither attended nor unattended, but would be considered the third operation category described above (i.e., a Commercial, Industrial, Governmental, or Manufacturing Operation). In response to Pepco Holdings’ comment, a motor fuel dispensing facility that falls into this category does not need to submit documentation to MDE to verify their status under this category.

- 17. Comment Topic:** Motor Fuel Dispensing Facilities – Oil-Bearing Waste and Wastewater  
**Commenter(s) Name and Affiliation:** Howard County, Bureau of Environmental Services  
**COMAR Citation(s):** COMAR 26.10.01.20G

**MDE Response:** This commenter asked when requirements regarding oil-bearing waste or wastewater from motor fuel dispensing facilities would become effective (*see* page 19 of Appendix A). Under the adopted regulations, a motor fuel dispensing facility with a sanitary sewer or storm drain connection receiving oil-bearing waste or wastewater from operations at the facility must (1) obtain a Pretreatment Permit if the oil-bearing waste or wastewater enters a publicly-owned wastewater treatment system (POTWs) or install an oil/water separating system meeting certain requirements if the oil-bearing waste or wastewater enters into a storm drain system, and (2) obtain all the permits required under federal, State, and local laws for the sanitary sewer or storm drain connections receiving the oil-bearing waste or wastewater. These are existing State regulatory requirements applicable to Maryland motor fuel dispensing facilities.

The former oil control regulations under COMAR 26.10.01 required that all sewers and drains that received oil-bearing wastes or wastewaters from service stations and similar oil-handling facilities be provided with adequate and properly maintained oil separating systems. Under existing state law, any industrial, commercial, or institutional facility that discharges wastewater to surface waters of Maryland may be required to obtain a combined federal and State Industrial Surface Water Discharge Permit. A separate Pretreatment Permit is required for certain facilities that seek to discharge non-domestic wastewater to POTWs, which may be issued by a local municipality with delegated authority or MDE. The existing regulations for issuing these approvals are found under COMAR 26.08.01—26.08.04 and 26.08.08. COMAR 26.10.01.20 as adopted now includes all of the requirements for oil-bearing waste and wastewater from motor fueling dispensing facilities into a single regulation as a measure of consistency.

**18. Comment Topic:** Release Detection for Formally Deferred UST Systems

**Commenter(s) Name and Affiliation:** Howard County, Bureau of Environmental Services

**COMAR Citation(s):** COMAR 26.10.02.01F, 26.10.05.01F, and 26.10.12.01 and .05

**MDE Response:** Under the authority provided in Subtitle I of the federal Solid Waste Disposal Act, MDE's Oil Control Program implements an EPA-approved state UST regulatory program in lieu of the federal UST regulatory program. In 2015, EPA published a final rule that revised federal UST regulations to ensure the proper operation and maintenance of release prevention and detection equipment and to improve parity in UST program implementation nationwide.<sup>19</sup> The primary purpose of MDE's proposed action was to update Maryland's UST regulations to be consistent with the provisions established in the 2015 final rule, which is necessary to retain EPA's approval to implement a Maryland UST regulatory program.

The proposed action required that owners and operators of the following previously deferred UST systems provide a method of release detection that meets the requirements of COMAR 26.10.05 not later than October 13, 2022: airport hydrant fuel distribution systems, field-constructed tanks, and UST systems that stores fuel for use by an emergency power generator. In reference to the October 13, 2022 date, this commenter asked MDE to "[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" (page 19 of Appendix A). The October 13, 2022 compliance date was established by EPA, and was adopted in the regulations as proposed. In regard to owners and operators of UST systems subject to this compliance date, MDE will evaluate compliance with implementing the required release detection methods and available compliance options on a facility-by-facility basis.

**19. Comment Topic:** Approval of Revised Certification Programs for UST System Technicians, Removers, and Inspectors

**Commenter(s) Name and Affiliation:** Howard County, Bureau of Environmental Services

**COMAR Citation(s):** COMAR 26.10.06

**MDE Response:** This commenter asked MDE to "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" (page 19 of Appendix A). COMAR 26.10.06 establishes certification requirements for the following professionals: UST system technicians that install, upgrade, repair, close, and perform change-in-services on UST systems; heating oil technicians that install, upgrade, repair, and close noncommercial and 2,000-gallon or less heating oil UST systems; UST system removers that close and perform change-in-services on UST systems; and UST system inspectors. COMAR 26.10.06 did not propose specific dates by which existing MDE-approved courses must be revised and resubmitted to MDE for reapproval. However, MDE has contacted all training companies that have approved courses regarding the process for submitting revised training materials for review and approval by MDE. MDE maintains a current list of those programs online at [https://mde.maryland.gov/programs/land/OilControl/Pages/ustcertification\\_programs.aspx](https://mde.maryland.gov/programs/land/OilControl/Pages/ustcertification_programs.aspx).

**20. Comment Topic:** Trained Operators for Regulated Substance Storage Facilities

**Commenter(s) Name and Affiliation:** David Frederick, FirstEnergy Corp. and Howard County, Bureau of Environmental Services

**COMAR Citation(s):** 26.10.16

**MDE Response:** COMAR 26.10.16 establishes the Class A, Class B, and Class C operator classifications for regulated substance storage facilities, as well as the requirements applicable to owners and operators of UST systems that employ, train, and certify operators that operate and maintain UST systems at regulated substance storage facilities.<sup>20</sup> The former and adopted regulations authorize MDE to allow a Class A or Class B operator certification from another state to satisfy the requirements of COMAR 26.10.16. FirstEnergy's comment expressed their support of this reciprocity training requirement due to their company operating in multiple

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<sup>19</sup> 80 FR 41566 (2015).

<sup>20</sup> A regulated substance as defined includes a hazardous substance and oil (*see* COMAR 26.10.01.02B(61)).



states and welcomed the opportunity for “the potential of reciprocity to simplify the operator training program, process, and recordkeeping” (pages 10 and 11 of Appendix A).

Upon the effectiveness of a new or revised UST system regulation, COMAR 26.10.16.06D requires MDE to notify persons implementing currently approved training programs that the person must update their training program and submit the revised training program material for approval. A person is prohibited from implementing an updated training program that has not been approved by MDE. Howard County asked in their comment for MDE to “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” (page 19 of Appendix A).

Only those training companies that offer currently approved training programs that were compliant with MDE’s former UST system and operator regulations are required to submit revised training program materials for review by MDE if they plan to continue offering operator training. COMAR 26.10.16 did not propose specific dates by which these existing programs must be revised and training materials resubmitted to MDE for approval. MDE has contacted all training companies that have approved training programs regarding the process for submitting revised training materials for review and approval by MDE.

All owners and operators of currently registered UST systems will receive a letter from MDE advising them of the updated requirements under the newly adopted regulations. In lieu of requiring all currently designated Class A, Class B, and Class C operators to be retrained, MDE will require owners and operators to confirm that their designated Class A, Class B, and Class C operators are knowledgeable of the revised UST-specific regulations, as required under COMAR 26.10.16. MDE maintains a current list of operator training programs online at: [https://mde.maryland.gov/programs/land/OilControl/Pages/ustcertification\\_programs.aspx](https://mde.maryland.gov/programs/land/OilControl/Pages/ustcertification_programs.aspx).

- 21. Comment Topic:** Reporting Evidence of an Oil Spill, Release, or Discharge – Due Diligence Investigation  
**Commenter(s) Name and Affiliation:** Howard County, Bureau of Environmental Services  
**COMAR Citation(s):** COMAR 26.10.08.01B

**MDE Response:** MDE proposed to formalize a current Department practice for reporting evidence of oil contamination 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. Evidence of a spill, release, or discharge includes the visual detection of free product or 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 MDE for the petroleum constituent and media type. The person conducting an environmental assessment and the owner of the property would be required to report the suspected spill, release, or discharge to MDE immediately, but not later than 2 hours after the visual detection of free product or within 48 hours of receiving an analytical laboratory report described above. The commenter found this reporting timeline to be unrealistic and recommended that MDE increase the window for reporting (*see* page 18 of Appendix A). A person discharging or permitting the discharge of oil, or who either actively or passively participates in the discharge of oil is required under state law to report the incident to MDE immediately, with the former and adopted regulations requiring the person to report no later than 2 hours upon discovery.<sup>21</sup> The proposed reporting timeframe for analytical-based evidence to be within 48 hours of receiving an analytical report is not unreasonable when considering the information may be critical to identifying an unknown and ongoing human health or environmental impact.

Howard County stated in their comment that “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” and asked MDE to clarify that this exemption has not been removed as part of the proposal (page 18 of Appendix A). MDE is not aware of the exemption for municipalities referenced by the commenter. A county or municipality is considered a “person” by the former and newly adopted regulations.<sup>22</sup> A county government

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<sup>21</sup> Environment Article, §4-410(b), Annotated Code of Maryland and COMAR 26.10.01.05A(1) and 26.10.08.01.

<sup>22</sup> Under COMAR 26.10.01.02B(55) as adopted, “person” means: an individual; a receiver, trustee, guardian, executor, administrator, fiduciary, trust, or representative of any kind; a partnership, firm, joint stock company, association, public or private corporation, joint

can own oil storage tanks and can be the person responsible for the discharge of oil from those tanks. If a government entity discovers evidence of a spill, release, or discharge of oil on a property it owns or is otherwise aware of, the government entity has the same obligation to report the evidence to MDE as a private citizen or business entity.

As to whether the owner of the property or the person conducting the environmental assessment is responsible for reporting evidence of a spill, release, or discharge under COMAR 26.10.08.01B, unless otherwise stated, whenever the adopted regulations place a requirement on more than one person, the following applies: MDE may hold all or each person individually liable for a violation; at least one of the persons listed shall meet the requirement; and each person listed shall ensure the requirement is met (*see* COMAR 26.10.01.01A). To ensure the new reporting requirement does not disincentivize the performance of environmental assessments as part of a due diligence investigation, the regulations establish that the person performing the environmental assessment or the owner of the property subject to the environmental assessment where evidence of a spill, release, or discharge was discovered may not be considered a person responsible for the discharge solely as a result of the discovery or reporting of the oil contamination unless the person meets the criteria for a person responsible for the discharge established in statute.<sup>23</sup>

- 22. Comment Topic:** Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program  
**Commenter(s) Name and Affiliation:** Frank Biddinger, GreenTrax, Inc.  
**COMAR Citation(s):** COMAR 26.10.14

**MDE Response:** GreenTrax submitted a comment that expressed several concerns regarding the proposed changes to the Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program (the Program). The full text of this comment is available on pages 15-17 of Appendix A.

The Program is funded by the Oil Contaminated Site Environmental Cleanup Fund (Reimbursement Fund). The Reimbursement Fund receives a 0.25-cent portion of an 8-cent per barrel oil transfer fee collected under Environment Article, §4-411, Annotated Code of Maryland, which is assessed on each barrel of oil first transferred within the state. The annual revenue into the Program through the oil transfer fee for state fiscal year 2021 (FY21) was \$193,893.19. The annual revenue for the Program is directly affected by the quantity of oil transferred in the State within a given fiscal year.

There is currently a significant wait time of up to several years for applicants to receive reimbursements through the Program. GreenTrax alluded to this delay in their comment, expressing “[we] feel the MDE has to do everything possible to reduce the waiting time it takes for customers to get their money back, to less than 1 year” (page 15 of Appendix A). As required by state law, MDE numerically ranks applications to the Program based on the date a completed application was received by the Department; the earliest application receives the highest rank. MDE’s reimbursement of an application is subject to the availability of revenues within the Reimbursement Fund, and MDE reimburses allocations for approved applications in order of their numerical ranking. As soon as funds become available to reimburse an application, MDE begins processing the application. However, in recent years MDE has received more applications than can be reimbursed with the revenue received each fiscal year. This has resulted in the current considerable delay in reimbursing approved applications. During FY21, MDE received an additional 171 applications to the Program and reimbursed 69 approved applications in the amount of \$522,516.47 (note, these approved applications were received during fiscal years 2017 and 2018). At the conclusion of FY21, there were 650 applications awaiting reimbursement.

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venture, commercial entity, or consortium; the United States Government and any federal agency; the State or a county, municipality, municipal corporation, or other political subdivision of the State, or any of their units; a commission or any interstate body; or any other entity (emphasis added).

<sup>23</sup> COMAR 26.10.01.02B(57) defines person responsible for the discharge as 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.

Under existing state law, the maximum reimbursement from the Reimbursement Fund for an approved application may not exceed \$20,000, minus a \$500 deductible.<sup>24</sup> Due to the limitations on funding to the Program, MDE proposed limits to the maximum reimbursement for applications received after June 30, 2022 that are based on the readily available property value of the applicant's residential property, as determined by the most recent State Department of Assessment and Taxation (SDAT) assessment of the property (*see* COMAR 26.10.14.08B). A residential heating oil tank owner applying to the Program after June 30, 2022 would be required to submit as part of the application a copy of the online SDAT property database's search results page for the site or the most recent property tax assessment notice mailed by SDAT to the site owner (*see* COMAR 26.10.14.06B(4)). In their comment, GreenTrax stated their objection to the proposed reimbursement limits and accompanying application requirement being implemented, and requested these proposed changes be removed from the adopted version of COMAR 26.10.14 (*see* page 16 of Appendix A). These revised reimbursement limits under COMAR 26.10.14.08B are meant to better distribute the funding in the Program so that reimbursements can be made to more applicants per fiscal year under the current level of funding. The intent of this is to reduce the delays in reimbursement that currently occur because of the requested reimbursements exceeding the available revenue for the Program. Therefore, MDE has adopted these reimbursement limits and application requirements as proposed.

MDE also proposed to specify that costs associated with the following activities are ineligible for reimbursement under the Program:

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 MDE (*see* COMAR 26.10.14.05B).

In their comment, GreenTrax stated that "...we do NOT agree at all that these should be ineligible costs, and we ask [MDE] to reconsider, and stricken them from proposed rules" (*see* page 15 of Appendix B). MDE would like to note that under the statute establishing the Program, not all costs incurred by a residential heating oil tank owner may be eligible for reimbursement under the Program.<sup>25</sup> Existing state law mandates that the Reimbursement Fund be used to reimburse a residential owner of a heating oil tank for *site rehabilitation* costs resulting from contamination caused by releases from a heating oil tank and, as defined, 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.<sup>26</sup> Also under state law, an eligible residential owner of a heating oil tank may apply to the Reimbursement Fund for reimbursement after the completion of rehabilitation for usual, customary, and reasonable costs incurred in performing the site rehabilitation.<sup>27</sup> The regulations adopted as proposed describe costs that are eligible and ineligible for reimbursement that are consistent with the underlying statute.

The commenter generally expressed their belief that the proposed changes to the Program will disincentivize residential heating oil tank owners from remediating oil contamination resulting from a heating oil release. MDE does not agree. The existence of the Program or a residential heating oil tank owner's eligibility to apply for reimbursement has no bearing on the person's existing obligation to comply with requirements under state law for managing a residential heating oil tank or remediating a heating oil release. In fact, Environment Article, §4-703, Annotated Code of Maryland states that the underlying state law establishing the Program may not be construed as altering the rights, responsibilities, or liabilities of a party responsible for the discharge of oil. The regulations under COMAR 26.10, consistent with state law, require an owner of a residential heating oil tank to remove a heating oil tank once heating oil is no longer used as a source of heat for the residence,

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<sup>24</sup> *See* Environment Article, §4-705(c), Annotated Code of Maryland.

<sup>25</sup> The underlying authority for the Program is found under Environment Article, Title 4, Subtitle 7, Annotated Code of Maryland.

<sup>26</sup> *See* Environment Article, §§4-701(e) and 4-704(b)(1)(iii), Annotated Code of Maryland.

<sup>27</sup> *See* Environment Article, §4-705(b), Annotated Code of Maryland.

prohibit a person from discharging or allowing the discharge of oil into waters of this State, and establish that the owner of discharged oil is responsible for the remediation of the discharged oil.<sup>28</sup> MDE is authorized to enforce these requirements when necessary, even when the residential heating oil tank owner is an individual homeowner.<sup>29</sup>

**23. Comment Topic:** Determination if Used Oil is a Hazardous Waste

**Commenter(s) Name and Affiliation:** Howard County, Bureau of Environmental Services

**COMAR Citation(s):** COMAR 26.10.15.05

**MDE Response:** Before a person recycles, processes, re-refines, burns as fuel, or disposes used oil, the person must determine that the used oil has not been mixed with a halogenated hazardous waste. It is important to note that this is an existing requirement under federal and state regulations.<sup>30</sup> In fact, all of the used oil management requirements under COMAR 26.10.15 are existing federal and state requirements. The revised regulatory chapter was meant to be more thorough than the former regulations by directing the reader to the applicable state and federal regulations related to the management of used oil.

In regard to this particular requirement, Howard County submitted the following comment:

*“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 pickup? If so, that may require us to construct redundant storage facilities.” (Page 18 of Appendix A).*

In response to part A) of the comment, MDE provides the following.

There are two separate issues that are being combined in the comment: 1) the obligation of the generator to correctly characterize the waste oil upon generation to determine whether the oil can be managed under the used oil management standards or whether it has to be managed as hazardous waste; and 2) the generator’s obligations if someone tests the oil and finds it to have a total halogen concentration that exceeds 1,000 parts per million (ppm).

To do the initial characterization of the oil, the generator could analyze every batch, but that is not necessarily required. The generator could use “generator knowledge” for the basis of the characterization, such as:

- Periodic sampling and analysis;
- Analysis that others have done on similar oil that is representative of the oil that the generator has;
- Information on other process inputs that are not halogenated solvents but that increase the halogen content of the oil; or
- Knowledge about the properties of the oil and safeguards that the generator has in place to prevent cross-contamination or deliberate mixing with other materials.

If “generator knowledge” is what is being relied upon as the basis for the characterization, to minimize potential liabilities, the generator should keep detailed records that document the basis for the “generator knowledge”, providing clear and compelling evidence for the generator’s conclusion that the oil is not hazardous waste.

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<sup>28</sup> See Environment Article, §§4-410(a) and 4-420, Annotated Code of Maryland and COMAR 26.10.01.04D, .06, and .13D.

<sup>29</sup> See Environment Article, §4-410(c), Annotated Code of Maryland and COMAR 26.10.01.24.

<sup>30</sup> See 40 CFR §279.10(b) and COMAR 26.13.10.05.

If circumstances are such that the waste oil is loosely controlled by the generator, with a significant opportunity for mixing with halogenated solvents, then a program of more frequent sampling and analysis is appropriate. This would not necessarily have to involve sophisticated laboratory analyses, there are screening kits commercially available that check whether the halogen content exceeds 1,000 ppm.

If testing of the oil finds a total halogen content that exceeds 1,000 ppm, then the used oil must be managed as hazardous waste, unless the generator can rebut the presumption that the oil has been mixed with chlorinated solvents. The generator is not obligated to try to rebut the presumption that the oil is hazardous waste, the generator can just accept the presumption that the oil is hazardous waste and manage it as such. If the generator chooses to rebut the hazardous waste presumption, COMAR 26.10.15.05A provides direction to the generator to follow the applicable requirements found in COMAR 26.13.02.04-1A(11) and COMAR 26.13.10.05C(2).

COMAR 26.10.15.05A(2) directs a person to follow the existing requirements in COMAR 26.13.10.05C(2) to determine whether the used oil is presumed to be hazardous waste due to the total halogenated content of the used oil. COMAR 26.13.10.05C(2) states “except as provided in COMAR 26.13.02.04-1A(11), used oil containing more than 1,000 parts per million total halogens is regulated as a hazardous waste because it is presumed to have been mixed with halogenated hazardous waste listed in COMAR 26.13.02.16—19”. Just like under COMAR 26.10.15.05A(1), this section directs the reader to COMAR 26.13.02.04-1A(11) to determine whether the used oil meets the conditions to rebut the presumption that the used oil does not contain hazardous waste, which states the following:

**COMAR 26.13.02.04-1 Solid Wastes Which Are Not Hazardous Wastes.**

A. The following solid wastes are not hazardous wastes:

(11) Used oil which contains more than 1,000 parts per million total halogens if:

(a) The used oil:

(i) Has been demonstrated not to contain hazardous waste through the use of an analytical method, or some other means acceptable to the Secretary, to show, to the Secretary's satisfaction, that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Regulation .24 of this chapter,

(ii) Is a metalworking oil or metalworking fluid which contains chlorinated paraffins and is processed, through a tolling agreement, to reclaim metalworking oil or fluid, or

(iii) Is contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units and the CFCs are destined for reclamation; and

(b) The used oil is not regulated as hazardous for any other reason.

COMAR 26.13.02.04-1A(11)(a)(i) allows for demonstration through an analytical method or some other means acceptable to the Secretary, to show, to the Secretary's satisfaction, that the used oil does not contain significant concentrations of halogenated hazardous constituents, a hazardous constituent defined under COMAR 26.13.02.24 as any of the substances listed in Appendix VIII of 40 CFR Part 261. If the generator elects to not use analytical methods to attempt to rebut the presumption, the generator could provide other information to attempt to demonstrate that the elevated halogen level is not the result of mixing the oil with chlorinated solvents, such as process information showing that the source of the halogens is something other than a chlorinated solvent, but MDE may not necessarily agree with the generator's contention.

In response to part B) of the comment, MDE provides the following.

The other concern that was raised has to do with used oil collected from county residents. If there are safeguards in place so that the collected used oil is limited to used oil generated from “do-it-yourselfers”, then the oil is excluded from being regulated as hazardous waste under the household hazardous waste exclusion provided under COMAR 26.13.02.04-1A(1).<sup>31</sup> However, the facility that collects/receives the

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<sup>31</sup> Under COMAR 26.13.02.04-1B, “household waste” is defined as “any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas)”.

residential used oil from the county facility may have its own waste acceptance criteria that go beyond what the regulations specify. If the program for residents to drop off used oil is poorly controlled, such that commercial generators may be mixing their used oil with the residents' used oil, it may be harder to rebut the presumption that a load of the used oil with a total halogen content greater than 1,000 ppm is hazardous waste.

EPA developed a guidance document on the rebuttable presumption, which is available online at <https://www.epa.gov/sites/default/files/2016-01/documents/905-r-03-005.pdf>. Note, however, that Maryland's hazardous waste regulations are more stringent than the federal regulations in that MDE does not allow deliberate mixing of hazardous waste into used oil by Maryland-defined small quantity generators.

**24. Comment Topic:** Overfill Prevention and Release Detection Requirements for ASTs

**Commenter(s) Name and Affiliation:** David Frederick, FirstEnergy Corp.

**COMAR Citation(s):** COMAR 26.10.08, 26.10.09 and 26.10.17

**MDE Response:** FirstEnergy submitted a comment stating the following:

*“COMAR 26.10.08 (Spill and Overfill Prevention), COMAR 26.10.09 (Release Detection), and COMAR 26.10.17 (Shop-Fabricated Aboveground Storage Tanks) should not apply to aboveground storage tanks with a capacity of 1,100 gallons or less that store motor oil including lubricating and operational fluids for mechanical components associated with the engine, including hydraulic, transmission, gear, and braking systems for non-commercial purposes.*

*These tanks are typically filled in small increments, usually 55 gallons or less, which minimizes the potential amount to be spilled. They are typically located indoors where the building will function as containment and keeps them out of the weather, thereby reducing exterior corrosion. Additionally, they are typically located in work areas where employees visually observe them throughout the work period during which small leaks or spills will be readily noticed and cleaned up.” (Page 10 of Appendix A).*

It is not clear from the comment whether the concern is with COMAR 26.10.08 (entitled “Spill, Release, and Discharge Reporting, Investigation, and Confirmation”) and COMAR 26.10.09 (entitled “Spill, Release, and Discharge Response and Corrective Action”), or with Regulations .08 and .09 under COMAR 26.10.17 (entitled “Spill and Overfill Prevention” and “Release Detection”, respectively). For the sake of thoroughness, responses to both possibilities are provided.

The requirements of COMAR 26.10.08 and 26.10.09 apply to all scenarios where a spill, release, or discharge of oil from an AST has occurred, regardless of the size or construction type of the AST. These chapters require certain steps for reporting, investigating, and confirming a suspected or actual oil spill, release, or discharge, and if necessary certain responses (e.g., oil recovery) and corrective actions to mitigate and remediate an oil spill, release, or discharge. The requirements in these chapters are consistent with the current Maryland law and current practices by the Oil Control Program.

Regulations .08 and .09 within COMAR 26.10.17 require certain spill and overfill prevention requirements and certain release detection requirements, respectively, that are specific to shop-fabricated ASTs. The requirements listed in these regulations are generally consistent with NFPA 30, NFPA 30A, and PEI/RP 600 requirements.<sup>32</sup> These industry practices and codes are incorporated by reference into MDE's former and newly adopted regulations; therefore, the spill and overfill prevention and release detection requirements spelled out in the adopted regulations were previously applicable to Maryland aboveground oil storage facilities. By adopting COMAR 26.10.17.08 and .09, these particular requirements are more clearly stated in

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<sup>32</sup> Flammable and Combustible Liquids Code (NFPA 30, 2021 Edition), Code for Motor Fuel Dispensing Facilities and Repair Garages (NFPA 30A, 2021 Edition), and Recommended Practices for Overfill Prevention for Shop-Fabricated Aboveground Tanks (PEI/RP600-18, 2018 Edition).

the regulations for the regulated community and the regulators rather than only in the incorporated by reference documents.

**25. Comment Topic:** Field-erected AST Regulatory Requirements

**Commenter(s) Name and Affiliation:** Stephen Doyle, Sunoco LP

**COMAR Citation(s):** COMAR 26.10.18

**MDE Response:** The following responds to several Sunoco comments quoted below regarding COMAR 26.10.18 requirements that are specific to AST systems that have field-erected ASTs. The responses to these comments are organized by regulation. As a general response, unless stated otherwise in the regulations, any requirement established in industry standards and practices that are incorporated by reference in the adopted regulations under COMAR 26.10.01.03 and referenced within COMAR 26.10.18 are applicable and enforceable, even if the requirement is not explicitly included as text within a regulation of COMAR 26.10.18.

Sunoco submitted the following comment regarding the spill and overflow prevention requirements in COMAR 26.10.18.07D:

*“a. ‘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.’ **COMMENT** – please clarify what MDE database or resource is to be used by Operators to confirm the company making an oil delivery or transfer holds a valid Individual Oil Operations Permit from the Department.”* (Page 32 of Appendix A).

COMAR 26.10.18.07D requires that a person must confirm that a company delivering or transferring oil to a field-erected AST holds a valid Individual Oil Operations Permit if the company delivers or transfers oil by truck tank or transport with a cargo tank capacity of 500 gallons or more. A person can confirm the permitting status of an oil delivery or transfer company by directly asking the delivery or transfer company to provide evidence of their MDE-issued permit or by contacting MDE. Additionally, MDE is currently developing various search portals on MDE’s Open MDE webpage that will allow an interested party to search for a company and see its current permit status.

Sunoco submitted the following comments (b. and c.) regarding the spill and overflow prevention requirements in COMAR 26.10.18.07G and H:

*“b. Under G. Overflow Prevention Equipment. ‘Except as provided in §H of this regulation...’ **COMMENT** – this wording is confusing as written. Please consider rewording to make it more clear that complying with §H of this regulation [is] compliant in lieu of meeting requirements of §G of this regulation.*

*c. **COMMENT** - Under H. Overflow Prevention System. (2), are the requirements set forth in letters ‘a through e’ directly from ANSI/API Standard 2350 and listed for reference only? OR are the requirements different than what ANSI/API Standard 2350 specifies? Please consider just wording this section by referring to the API Standard and in the regulation just call out what is different (if anything) about the regulation MDE is proposing.”* (Page 32 of Appendix A).

Regulation .07 of COMAR 26.10.18 establishes certain requirements for installing, operating, inspecting, maintaining, and testing overflow prevention equipment for a field-erected AST. Unless the owner, operator, or person in charge of a field-erected AST is required to implement a certain overflow prevention system (*see* COMAR 26.10.18.07H), then the field-erected AST must be equipped with a high-high level alarm and an automatic shut-off device that is calibrated and maintained in compliance with COMAR 26.10.18.07G. However, COMAR 26.10.18.07H requires the implementation of a comprehensive overflow prevention system, rather than the installation of the overflow prevention equipment described under COMAR 26.10.18.07G, if the AST system either (1) receives Class I liquids or Class II liquids by interstate pipeline, intrastate pipeline, or marine vessel transfers, or (2) is otherwise subject to the

requirements of American National Standards Institute (ANSI) accredited American Petroleum Institute (API) Standard 2350.

In response to comments “b.” and “c.”, owners, operators, and persons in charge of a field-erected AST required to implement an overflow prevention system must comply with the requirements under COMAR 26.10.18.07H and ANSI/API Standard 2350. The required overflow prevention system components listed as items (a) through (e) under COMAR 26.10.18.07H(2) are the same components required under ANSI/API Standard 2350; however, the API standard provides detailed instructions on how to incorporate the required overflow prevention system components.

Sunoco submitted the following comment regarding the release detection requirements in COMAR 26.10.18.08:

*“Under ‘A’, does completion of requirement listed in (1) comply with ‘A’ or is (2) or (3) also required? Consider rewording to clarify such as ‘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 at least one of the following methods[.]”* (Page 32 of Appendix A).

AST systems with a field-erected AST are required to be provided with a method of release detection that detects an oil spill, release, or discharge through (1) visual inspections of the AST system in accordance with COMAR 26.10.18.11, (2) a continuous electronic release detection system, or (3) a continuous mechanical release detection system. Compliance with this requirement can be achieved by implementing just one of these release detection methods or a combination of two or more of these release detection methods.

Sunoco submitted the following comment regarding the normal and emergency venting requirements in COMAR 26.10.18.10:

*“**COMMENT** – if a deficiency is found where an emergency vent is not in place, what is the timing of corrective measures? [Corrected] at next scheduled out of service inspection required under 26.10.18 Field-Erected Aboveground Storage Tanks[?]”* (Page 32 of Appendix A).

Owners, operators, and persons in charge of AST systems with a field-erected AST are required to ensure the normal venting and emergency venting for the field-erected AST meets certain design and construction requirements. If a deficiency is found where an emergency vent is not in place, MDE will inform the owner or operator of the AST system of the timeframe for performing corrective measures.

Sunoco submitted the following comment regarding the inspection requirements in COMAR 26.10.18.11:

*“**COMMENT** – if complying with the API-653 and STI SP001 inspection standards are acceptable compliance options under this Section, consider just wording this section by referring to the Standards and in the regulation just call out what is different (if anything) about the regulation MDE is proposing.”* (Page 32 of Appendix A).

Periodic visual inspections must be performed on an AST system with a field-erected AST in accordance with either the inspection procedures listed in COMAR 26.10.18.11B(2), or the inspection procedures established in Steel Tank Institute/Steel Plate Fabricators Association (STI/SPFA) SP001 Standard (if the AST does not exceed the dimensions of 30 x 40 feet) or the “Tank In-service Inspection Checklist” in Annex C of API Standard 653.<sup>33</sup> A person choosing to comply with the visual inspection requirements by implementing the inspection procedures in the STI/SPFA and API standards will need to complete the

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<sup>33</sup> Tank Inspection, Repair, Alteration, and Reconstruction (API Standard 653, 5th Edition, November 2014), and Standard for the Inspection of Aboveground Storage Tanks (STI/SPFA SP001, 6th Edition, January 2018).



inspection procedures as described in the industry standards. Because the STI/SPFA and API standards provide detailed and nuanced inspection procedures, MDE has chosen not to list or describe them within the text of the regulation.

Sunoco submitted the following comment regarding the out-of-service and permanent closure requirements in COMAR 26.10.18.12:

*“COMMENT – please consider removing reference to the term ‘permanently closed’ as this is a term in EPA’s SPCC regulation and the requirements conflict (MDE proposed regulation vs EPA SPCC rule). Under EPA’s SPCC regulation, Permanently closed means ‘any container or facility for which (1) All liquid and sludge has been removed from each container and connecting line; and (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure’. This Permanently closed EPA definition seems similar to the requirements in MDE’s proposed regulation for ‘OUT OF SERVICE’ or ‘EMPTY’. Please consider wording that allows for ‘tanks meeting the requirements of SPCC’s permanently closed definition are considered compliant with MDE’s regulation for ‘OUT OF SERVICE’ or ‘EMPTY’ requirements.” (Page 32 of Appendix A).*

An AST system with a field-erected AST must be placed out-of-service (i.e., emptied of all oil and sludge) or permanently closed (i.e., placed out-of-service and the AST and associated piping removed from the site) in accordance with the requirements of COMAR 26.10.18.12. As with many provisions of the adopted regulations, an owner or operator of a field-erected AST may be subject to Maryland’s storage tank management conditions under COMAR 26.10 and the federal Oil Pollution Prevention Rule, including 40 CFR Part 112 conditions under which an oil container is considered permanently closed.<sup>34</sup> MDE is developing and will publish online guidance on how to comply with COMAR 26.10.18.12 to assist owners and operators of AST systems subject to both the state and federal regulations.

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<sup>34</sup> 40 CFR §112.2 defines “permanently closed” as “any container or facility for which: (1) All liquid and sludge has been removed from each container and connecting line; and (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except for ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure”.

## **Appendix A**

### **Hearing Transcript and Written Comments**

**In the Matter of:**

Maryland Department of the Environment

*February 24, 2022*  
*Public Hearing*

**Condensed Transcript with Word Index**



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1 MARYLAND DEPARTMENT OF THE ENVIRONMENT  
 2 LAND AND MATERIALS ADMINISTRATION  
 3  
 4  
 5 PUBLIC HEARING  
 6 FOR THE PROPOSED ACTION TO MODIFY COMAR 26.10  
 7 OIL POLLUTION CONTROL  
 8 and  
 9 STORAGE TANK MANAGEMENT  
 10  
 11  
 12  
 13  
 14 The hearing in the above matter commenced on  
 15 Thursday, February 24, 2022, at the Maryland Department  
 16 of the Environment, 1800 Washington Boulevard, Baltimore,  
 17 Maryland, 21230.  
 18  
 19  
 20 Before: Chris Ralston, Hearing Officer  
 21  
 22 Reported by: Karen Willoughby, CER

2

1 A T T E N D E E S  
 2 Chris Ralston, MDE  
 3 Tom Walter, Division Chief, Compliance Program, MDE  
 4 Julie Kuspa, Assistant Attorney General  
 5 Donna Morrow, Department of Natural Resources  
 6 Kaley Laleker, Director Land and Materials Administration  
 7  
 8 Jason Baer, University of Maryland  
 9 Mike O'Halloran, MAPDA  
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1 P R O C E E D I N G S  
 2 - - - - -  
 3 MR. RALSTON: So good morning, everybody. My  
 4 name is Chris Ralston.  
 5 I'm going to go through a couple of rehearsed  
 6 and prepared -- well, not rehearsed, but prepared  
 7 statements here.  
 8 So we are gathered here today for the Maryland  
 9 Department of the Environment Land and Materials  
 10 Administration Public Hearing for the Proposed Action to  
 11 Modify COMAR 26.10, Oil Pollution Control and Storage  
 12 Tank Management.  
 13 A couple preliminary reminders. In case of an  
 14 emergency, the closest exit is through the rear doors, so  
 15 any of these three, and then out there's a side door  
 16 immediately to your left into the parking lot, and as far  
 17 as you can towards Washington Boulevard, in that corner.  
 18 Restrooms are located through the back doors  
 19 and towards the right. There's a men's and women's or --  
 20 there's at least two bathrooms down that way.  
 21 The notice of proposed action, the small  
 22 business compliance guide and the guided copy of proposed

4

1 regulations are all available on MDE's Proposed Land  
 2 Regulations web page. You can also link to that from the  
 3 Oil Control Program's home page, that will take you to  
 4 those same websites.  
 5 Please turn your cell phones to silent or just  
 6 turn them off altogether. I'll do the same. If you do  
 7 need to take a call, please excuse yourself into one of  
 8 the hallways and then return whenever you're ready.  
 9 Okay. The scope of the hearing. So we're  
 10 going to start the record at this point. So we'll do  
 11 some introductions here.  
 12 Good afternoon, everyone. This hearing is now  
 13 called to order. The time is 11:03 on Thursday, February  
 14 24, 2022. I would like to welcome you all to today's  
 15 proceedings.  
 16 My name again is Chris Ralston. I am the  
 17 Program Manager of the Oil Control Program, a part of the  
 18 Land and Materials Administration within the Maryland  
 19 Department of the Environment. I am MDE's Hearing  
 20 Officer for this proceeding.  
 21 The folks I have listed here to introduce are  
 22 not present, but I will introduce Tom Walter, he's our

5

1 Division Chief of the Compliance Program; Ms. Julie  
 2 Kuspa, she's our Assistant Attorney General that assists  
 3 with these; Ms. Donna Morrow, she's with DNR, the Clean  
 4 Marina Program.  
 5 Do we have any elected officials present this  
 6 morning?  
 7 (No response.)  
 8 MR. RALSTON: Okay. Then we'll carry on. So  
 9 the purpose of the hearing today is to receive public  
 10 comments on MDE'S proposal to revise MDE's Oil Control --  
 11 Oil Pollution Control and Storage Tank Management  
 12 Regulations.  
 13 Let me pause there. Coming into the room is  
 14 Ms. Kaley Laleker, she is the Director of the Land and  
 15 Materials Administration, so I just wanted to introduce  
 16 her.  
 17 And picking back up, MDE will continue to  
 18 accept written comments or telephone public comments  
 19 through close of business on February 28, 2022. Detailed  
 20 information on how to submit comments can be found by  
 21 visiting again MDE's Proposed Land Regulations webpage.  
 22 So, again, explanation of the proposed action.

6

1 The purpose of the action is to repeal and replace the  
 2 existing chapters in COMAR 26.10 and add two new chapters  
 3 to comprehensively modernize the State's oil pollution  
 4 control and storage tank management regulations.  
 5 Specifically, this proposed action would update  
 6 Maryland's underground storage tank regulations to be  
 7 consistent with the Federal UST regulations; establish  
 8 new aboveground storage tank regulations, including an  
 9 AST system registration requirement; change how a high  
 10 risk oil storage facility is defined, and establish  
 11 release prevention and detection requirements for  
 12 facilities with a large storage capacity or high  
 13 throughput; update State-specific requirements for  
 14 storage, delivery, transfer and transportation of oil to  
 15 ensure these activities are conducted in a manner that  
 16 prevents releases or the severity of releases into the  
 17 environment; revise reimbursement limits for certain  
 18 homeowners under MDE's Residential Heating Oil Tank  
 19 Reimbursement Program, and remove obsolete provisions  
 20 regarding the reimbursement of commercial UST owners and  
 21 operators from the fund; repeal obsolete regulations  
 22 regarding hydrostatic tests and Underground Storage Tank

7

1 Upgrade and Replacement Fund Loan Program; establish new  
 2 State regulations for marina motor fuel dispensing  
 3 facilities; and update the codes and practices and  
 4 standards incorporated by reference and make necessary  
 5 clarifying amendments to the regulations.  
 6 Okay. So today's hearing is being transcribed  
 7 for the administrative record. To ensure we capture  
 8 everyone's testimony, I request that those persons  
 9 commenting for the record approach the podium and  
 10 microphone and before beginning your testimony please  
 11 identify yourself by stating your first and last name,  
 12 the organization you are affiliated with, if any, and  
 13 email or mailing address, including zip code, if you  
 14 would like to receive a copy of MDE's written responses  
 15 to the comments. Those written responses will also be  
 16 posted to MDE's Regulations and Oil Control Program  
 17 webpages.  
 18 Other instructions, I ask that you limit --  
 19 well, because of the number of people here we don't  
 20 really need to limit any time at the podium, so we'll  
 21 skip that step.  
 22 If you have already submitted written comments

8

1 to MDE, the comments have been recorded as part of the  
 2 administrative record; therefore, you do not need to  
 3 state anything additional for the record unless you  
 4 choose to do so.  
 5 There is a sign-in sheet up here, so if you are  
 6 going to be providing comments today, it would be helpful  
 7 to also sign in, that helps with matching up comments to  
 8 the individuals.  
 9 And so with that, I'm going to ask if anybody  
 10 would like to come up. I'll start from the top here to  
 11 allow folks to come up and provide their comments. So  
 12 first on the list is Donna, you indicated no comments for  
 13 yourself. Looks like the first possible is Jason Baer.  
 14 MR. BAER: Put me down as a maybe, because I  
 15 kind of wanted to see where the conversation went.  
 16 MR. RALSTON: Okay. We have Mike O'Halloran.  
 17 I'm butchering your last name, but come on up, sir.  
 18 MR. O'HALLORAN: That's all right. There's  
 19 only one day a year I require getting it right.  
 20 Good morning. Right? We're still morning.  
 21 For the record, my name is Mike O'Halloran, here today on  
 22 behalf of the MidAtlantic Petroleum Distributors

9

1 Association.

2 I will supply written comments, but for

3 simplicity sake, I'd direct your attention to

4 26.10.01.18. Our recommendations or our comments,

5 rather, are to strike Paragraph B in full, or at least

6 amend it to apply only to facilities receiving large

7 deliveries of product by rail or barge.

8 The reason being, for businesses to come into

9 compliance with this new mandate will cost approximately

10 \$150,000. The requirement would be applicable regardless

11 of storage tank capacity or gallons delivered.

12 Thank you.

13 MR. RALSTON: You're welcome. All right, next

14 on the list that wanted to provide comments, Ms. Donna

15 Morrow.

16 MS. MORROW: Sure. I have questions, as much

17 as anything, so -- if that's appropriate.

18 Good morning. Donna Morrow, Maryland

19 Department of Natural Resources, Clean Marina Program.

20 One comment I had, or question that I had, relating to

21 the requirement under Section 11, Requirements for

22 Application and Issuance of Individual Oil Operations

10

1 Permit -- was how will these forms be provided to these

2 marinas that are now required.

3 Likewise, under Section E of that area -- I'm

4 sorry, under G, when issuing the individual oil

5 operations permit, the Department shall inspect each oil

6 storage facility. Does that mean that for these new

7 businesses you will be sending someone out to each

8 facility to inspect those marinas that are now newly

9 required to have this permit?

10 And likewise under Section 14, Marinas, Section

11 B says if a marina is located in an area subject to

12 flooding, the owner must make sure that everything is

13 anchored securely to prevent the AST from floating. That

14 is not defined that I can find anywhere, the areas

15 subject to flooding. So I know we talked about areas of

16 special flooding hazards and so forth, but that did not

17 seem to be defined.

18 And let me double-check my notes here. I think

19 that really is all the questions that I have. So, thank

20 you.

21 MR. RALSTON: Thank you, Donna. Does anyone

22 else have any comments they would like to state into the

11

1 administrative record? Jason?

2 MR. BAER: Jason Baer, I'm with the University

3 of Maryland. I had a number of comments that I sent you

4 on the proposed regulations by way of email. But I guess

5 one of the main concerns that I have is some of the

6 definitions used, as far as what oil is. MDE

7 specifically defines oil as petroleum products and

8 excludes vegetable oils, food grade oils, edible oils,

9 things like that, which is inconsistent with the Federal

10 regulations.

11 The Oil Pollution Act in 40 CFR 112 defines oil

12 as inclusive of those types of oils, food grade oils,

13 edible oils, et cetera. Which creates an issue sometimes

14 because you may have spills that are reportable at a

15 Federal level, but not a State level.

16 And the other thing I would bring up is the

17 concept of any spill that MDE uses for reporting, which

18 is fairly absurd because the way that the regulations are

19 written currently, a drop of oil is technically

20 reportable. And I've actually had, personally, multiple

21 situations where I've contacted MDE's spill hotline to

22 report a spill of, you know, less than a quart of oil,

12

1 and have gotten the response of why are you contacting me

2 about this. I'm like, well, because that's what the

3 regulations say. It says "any" and I have two hours to

4 do it, so I'm simply complying with the rule.

5 I would recommend highly that MDE consider

6 bringing the regulations into line with the Federal, as

7 far as discharge reporting requirements, as well as the

8 definition of oil. I did have a situation where we had

9 greater than 42 gallons of edible oil spilled and I had

10 to contact the National Response Center to report that.

11 However, when I contacted MDE to report it, I was kind of

12 chastised by the person on the phone, sort of, you know,

13 why are you contacting me with this. And I'm like, well,

14 because technically it's oil under the Federal rules,

15 even though it's not under yours. And the Federal rules

16 supersede it, so I'm hereby letting you know that we

17 spilled oil and it went into a waterway and it was

18 greater than 42 gallons, so take note. If you don't care

19 to do anything, fine.

20 But, you know, there seems to be a disconnect

21 there between the State and Federal regulations. And I

22 just would recommend that you highly consider bringing

13

1 them in line.  
 2 And also, with regard to the size of things.  
 3 You know, ASTs -- an AST is not defined, as far as size  
 4 or anything else. A lot of people's lives would be  
 5 simplified if you brought that in line with, again, Oil  
 6 Pollution Act in 40 CFR 112 and defined it as anything  
 7 greater than or equal to 55 gallons. That way, if you  
 8 have an SPCC plan or anything else, your list of tanks  
 9 matches. Because technically a five gallon bucket could  
 10 be considered an aboveground storage tank under State  
 11 law.  
 12 So that's my comment. Thank you.  
 13 MR. RALSTON: Thank you. Would anybody else  
 14 like to enter a comment into the administrative record?  
 15 (No response.)  
 16 MR. RALSTON: Okay. Well, the purpose again of  
 17 today's hearing was to receive comments into the  
 18 administrative record. Seeing that nobody else here  
 19 would like to submit a comment into the record, I'm going  
 20 to move to conclude the hearing.  
 21 As stated earlier, the public comment period  
 22 will be open until close of business on February 28,

14

1 2022.  
 2 I would like to thank all for taking the time  
 3 to attend and giving comments at these proceedings.  
 4 Let the record reflect that the public hearing  
 5 concluded at 11:16 a.m. and that would be the end.  
 6 (Whereupon, the hearing was  
 7 concluded at 11:16 a.m.)  
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1 CERTIFICATE OF COURT REPORTER  
 2  
 3 I, Karen Willoughby, do hereby certify that the  
 4 foregoing transcription was reduced to typewriting via  
 5 audio recorded by me; that I am neither counsel for, nor  
 6 related to, nor employed by any of the parties to the  
 7 case in which these proceedings were transcribed; that I  
 8 am not a relative or employee of any attorney or counsel  
 9 employed by the parties hereto, nor financially or  
 10 otherwise interested in the outcome of the action.  
 11  
 12  
 13  
 14  
 15  
 16 KAREN WILLOUGHBY  
 17 Court Reporter  
 18  
 19  
 20  
 21  
 22



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

**Comments on COMAR 26.10.01**

1 message

**bernardbigham@comcast.net** <bernardbigham@comcast.net>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>

Mon, Feb 28, 2022 at 9:19 AM

February 28, 2022

Chris Ralston

Oil Control Program Manager

Land and Materials Administration

Maryland Department of the Environment

Dear Mr. Ralston:

Thank you for the opportunity to comment on the proposed new COMAR 26.10.01 Oil Pollution Control and Storage Tank Management. Generally I find the proposed regulations consistent with the industry practices and codes with which I'm familiar and endorse the adoption of the package. I do however have several suggestions MDE may want to consider.

**1. In COMAR 26.10.01.11 B. (1)**

I suggest the requirement for satisfactory zoning evidence be for new Individual Oil Operation Permits only. It is difficult enough to get local zoning officials to provide written documentation as to whether a tank is allowed to be placed as it is for new facilities. It shouldn't be a requirement for renewals of the Individual Oil Operations Permit. Once proof of zoning for the initial permit is provided and the permit issued, OOP will have the documentation of zoning in your files.

**2. In COMAR 26.10.01.11 (C) (4)**

This reads: "*Confirmation the facility has an up-to-date federal SPCC Plan;*" There should be a definition for what is meant by "up-to-date."

**3. In COMAR 26.10.01.11**

I suggest that a new section **(I)** be added. There have been situations where the MDE/OOP permit engineers have not been able to process the applications for renewals prior to the last effective date on the permit. MDE/OOP has explained that only means the existing permit remains in effect. That satisfies the owner/operator to some extent, but doesn't satisfy lawyers, bankers, and those doing facility audits. It would be helpful to have a regulation that could be shown to those questioning whether a facility is truly legally operating. It should read something like this:

**"1. An Individual Oil Operations Permit remains in effect past the effective date on the Permit provided the following is done:**

- 1. A timely renewal application was submitted to MDE, and**
- 2. The Oil Operation Permit was not otherwise terminated or revoked by MDE."**

**4. COMAR 26.10.01.18**

I strongly urge MDE to keep in place proposed COMAR 26.10.01.18 B. as it appeared in the Maryland Register, without changes.

40 CFR §112.7 requires essentially the same from a facility with tanks as what appears in this proposed regulation. Your proposal follows the federal requirement without requiring additional controls. Since the federal regulations have been in place for many years, facilities should have already had these protections in place.

In addition NFPA 30 (28.9) requires that facilities have drainage systems or other means to control spills, The standard you are proposing is one that is protective of water and groundwater and is important from a fire and safety perspective.

Again, thank you for the opportunity to make these comments.

Bernard Bigham

Chesapeake Environmental Group, Inc.





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

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**Oil Pollution Control and Storage Tank Proposed Reg changes - a couple questions.**

1 message

**Martin, Lance J:(Constellation Nuclear)** <lance.martin@constellation.com>

Thu, Feb 24, 2022 at 8:00 AM

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

I have started to review the changes for its affect on some of our plant operations. I have a few questions as I am relatively new to the Maryland regulations.

1. 26.10.01.08 - At one of our plants we have two USTS one gasoline and one diesel Fuel stations we use for company vehicles only, no outside personnel use it, only station vehicles. Is this considered an oil transfer facility?
2. 26.10.01.20 -At one of our plants we have two USTS one gasoline and one diesel Fuel stations we use for company vehicles only, no outside personnel use it, only station vehicles. Is this considered a Motor Fuel Dispensing Facility?
3. When the regulations are finalized, will MDE be issuing new Oil Pollution Operation Permits or just wait and do within the regular permit renewal cycles for each Permit?
4. Along the same lines, When the regulations amendments are finalized I understand the timelines for adoption but I am still a little confused being new. After amendment adoption, if there are regulations that apply but they are not specifically spelled out or referenced in a renewed post adoption Oil Operations Permit are we expected to follow the regulations or our Permit requirements?

Thanks any information that you could provide to help would be appreciated as I review the proposed regulatory changes.

## Lance Martin

Sr. Environmental Specialist

Constellation Energy Generation – Nuclear

267-533-1470

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February 28, 2022

Chris Ralston  
Oil Control Program Manager  
Maryland Department of the Environment  
1800 Washington Blvd., Suite 620  
Baltimore, MD 21230  
Email: *chris.ralston@maryland.gov*

Submitted via email and UPS Next Day Air

**RE: FirstEnergy Corp. Comments  
Proposed Changes to Title 26, Subtitle 10 of the Maryland Code of Regulations  
49:3 Maryland Register 127-268 (January 28, 2022)**

Mr. Ralston:

FirstEnergy Corp. (“FirstEnergy”) submits these comments, on behalf of Potomac Edison, a FirstEnergy Company, in response to the Maryland Department of Environment’s (“MDE”) proposed rule to make significant changes to the Oil Pollution Control and Storage Management regulations (“Proposed Rule”) with a Docket ID 49:3 Maryland Register 139 (January 28, 2022).

### **FirstEnergy Overview**

Potomac Edison is one of ten operating companies that form FirstEnergy a forward-thinking electric utility dedicated to safety, reliability and operational excellence, and services customers in six states, including Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia. Potomac Edison serves 400,000 customers within 5,500 square miles in Maryland and West Virginia which is part of FirstEnergy’s service to approximately 6 million customers over a 65,000 square mile area. This electric service is provided through thousands of miles of distribution and transmission circuits. Potomac Edison helped to facilitate over 4,000 new jobs and \$2.5 billion in investment over the last decade within its service territory. FirstEnergy is committed to generating and providing its customers with safe, reliable and cost-effective electricity while ensuring the protection of the environment and therefore have a vested interest in the proposed rule.

### **Proposed Changes Overview**

The proposed changes to Maryland Code of Regulations Title 26, Subtitle 10 (COMAR 26.10) by MDE concern FirstEnergy because they may impose undue burden on critical infrastructure that also provides benefits to the citizens of Maryland. The changes are an extensive review of existing regulations, and the 30-day comment period provides for limited review and input on the Proposed Rule. Specifically, the expansion of tanks definition and requirements for the expanded group of tanks that the Proposed Rule would now include creates additional burden without necessarily creating a clear environmental benefit as the comments detail below.

## Comments on Proposed Rule COMAR 26.10.01.02

COMAR 26.10.01.02B(1)(b)(ii) should be expanded to include aboveground storage tanks with a capacity of 1,100 gallons or less that store motor fuel or motor oil including lubricating and operational fluids for mechanical components associated with the engine, including hydraulic, transmission, gear, and braking systems for noncommercial purposes.

Additionally, the COMAR 26.10.01.02B should be amended to include new definitions for “non-commercial purposes” and “motor oil”. An appropriate definition for motor oil would be, “A petroleum product used to lubricate the internal parts of an engine. The term includes lubricating and operation fluids for the mechanical components associated with the engine, including any hydraulic, transmission, gear or braking systems. An appropriate definition for non-commercial purposes would be, “with respect to motor fuel, motor fuel not for resale”.

The modifications to exemptions and definitions proposed above is aligned and consistent with Pennsylvania’s storage tank regulations (PA Code Title 25, Chapter 245). Pennsylvania’s aboveground storage tank regulations are some of the most established in the Country and provide a basis for appropriately regulating aboveground storage tanks.

The intent of storage tank regulations is to prevent a release to the environment during delivery or in the event of a catastrophic failure. In the case of noncommercial motor fuel or motor oil tanks that are less than 1,100 gallons, the environmental risk is already low. These tanks are typically filled in small increments, usually 55 gallons or less, and filled in less frequency compared to retail (or commercial) facility which minimizes the potential amount to be spilled. Many of these tanks are located indoors where the building will function as containment and keeps them out of the weather, thereby reducing exterior corrosion. Additionally, they are typically located in work areas where employees visually observe them throughout the work period during which small leaks or spills will be readily noticed and cleaned up.

## Comment on Proposed Rule COMAR 26.10.18

COMAR 26.10.01.18B states:

*(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:*

...

*(d) Cover the loading/unloading rack or transfer area with a roof;*

...

*(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<sup>-7</sup> centimeters/second or less; or*

*(iii) An emergency underground holding tank that remains empty unless a spill, release, or discharge*

Based on the definition of “transfer area” and “oil storage facility,” FirstEnergy believes it is subject to all requirements included in this section. Particularly troublesome are the arbitrary, capricious, and overly burdensome found in COMAR 26.10.01.18B(1)(d) which require a roof over the transfer area. We believe this regulation’s primary intention is for public fueling stations to have a canopy installed over the transfer area and fueling dispensers. Most FirstEnergy-owned transfer areas consist of one aboveground storage tank with one, but never more than two, fuel dispensers located directly next to the aboveground storage tank. Constructing a new roof over an existing aboveground storage tank does

nothing to prevent an oil spill event. At FirstEnergy facilities, it creates a safety hazard for the large trucks, which are different sizes and many have booms, that come in to fill their fuel tanks. All other release and overfill protection standards and regulations are meant to prevent an oil spill event whereas COMAR 26.10.01.18B(1)(d) does not. Even if the requirement is trying to prevent stormwater mixing with oil product and transporting it to a storm drain, MDE already has comprehensive spill reporting and prompt restoration requirements that null the purpose of the requirement. To summarize, Proposed Rule is meant to prevent spills, the addition of COMAR 26.10.01.18B(1)(d) makes no difference and will be overly burdensome to comply.

COMAR 26.10.01.18B(1)(f) requirements is also flawed in its ability to prevent spills. First, it makes no consideration for the relative proximity of a tank's location in relation to a regulated environmental feature (i.e., stream, wetland, etc.). Also, there is also no consideration for the use of a double-walled aboveground storage tank which may be one of the most important features to prevent a catastrophic failure of a tank. It's important to clarify that various industry standards and other spill prevention regulations (i.e., 40 CFR 112) and testing requirements already provide substantial protections against a failure or spill. Further troubling is that the requirements very prescriptive and provide limited options which hurts overall environmental protection by limiting innovation. COMAR 26.10.01.18B(1)(f) did not acknowledge that other options exist (i.e., fuel pump timers, etc.), so tank owners will be forced to install a limited set of technologies that may not provide the best protections for a given site. Additionally, as new technologies are commercially available, tank owners will not be able to install these advanced environmental protections, because the regulation is so prescriptive. Furthermore, there are existing standards and regulations for overfill protection which include alarms, procedures, and testing to prevent overfills during transfer activities (fuel deliveries). In the unlikely event a spill does occur, the aforementioned safeguards will provide more than sufficient spill response tools. Any installation of the following options would be arbitrary, capricious, and overly burdensome. While an oil water separator, underground holding tank, or diked/bermed catchment area, with a permeability of  $10^{-7}$  centimeters/second or less, may be useful for a single-walled aboveground storage tank, it is not necessary for a double-walled aboveground storage tank. The Proposed Rule is likely intended for fueling stations with underground storage tanks systems where fuel transfer activities take place at the point of delivery and should be amended to reflect such.

### **Comments on Proposed Rule Overfill Prevention and Release Detection Requirements**

COMAR 26.10.08 (Spill and Overfill Prevention), COMAR 26.10.09 (Release Detection), and COMAR 26.10.17 (Shop-Fabricated Aboveground Storage Tanks) should not apply to aboveground storage tanks with a capacity of 1,100 gallons or less that store motor oil including lubricating and operational fluids for mechanical components associated with the engine, including hydraulic, transmission, gear, and braking systems for non-commercial purposes.

These tanks are typically filled in small increments, usually 55 gallons or less, which minimizes the potential amount to be spilled. They are typically located indoors where the building will function as containment and keeps them out of the weather, thereby reducing exterior corrosion. Additionally, they are typically located in work areas where employees visually observe them throughout the work period during which small leaks or spills will be readily noticed and cleaned up.

### **Comment on Proposed Rule COMAR 26.10.16.07**

COMAR 26.10.16.07.F. states:

...

*(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.*

FirstEnergy supports the proposed rule for reciprocity of operator training requirements due to operating in multiple states. Therefore, FirstEnergy welcomes the opportunity for the potential of reciprocity to simplify the operator training program, process, and recordkeeping.

FirstEnergy appreciates the opportunity to provide on the Proposed Rule and looks forward to the incorporation into a final rule. If you have any questions, please contact me at (330) 315-7367.

Sincerely,



David A. Frederick  
Director, Environment



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

## Potential new regulations under COMAR 26.10 Oil Pollution Control and Storage Tank Management

4 messages

**Rouen, Chelsea Marie** <chelsea.m.rouen@exxonmobil.com>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>

Thu, Feb 3, 2022 at 4:43 PM

Hi Chris,

I see that as of November 2021, the State of MD was working on a draft regulatory proposal in regards to new regulations under COMAR 26.10 Oil Pollution Control and Storage Tank Management. Are you able to provide a copy of the proposal the State is looking to pass? Will the proposal be included in the year's MD legislative session? Any details you could provide would be appreciated.

Thank you,  
Chelsea Rouen  
Indirect Tax Advisor  
Tax Reporting & Analysis Center (TRAC)

Exxon Mobil Corporation  
22777 Springwoods Village Parkway - S1.4A.535  
Spring, TX 77389  
(832) 625-0198  
[chelsea.m.rouen@exxonmobil.com](mailto:chelsea.m.rouen@exxonmobil.com)

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;
- \* 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 such as testing and sampling of monitoring wells and petroleum products and by-products; or
- \* Participate in any combination of the above activities.

Public comments on the draft regulatory proposal will be accepted by MDE through November 2, 2021.

Please visit the following website to access a copy of the draft proposed regulations, a compliance guide regarding how the regulated community can comply with the regulatory changes, and procedures on how to submit comments to MDE: <https://mde.maryland.gov/programs/Regulations/HB1124/Pages/Land.aspx> <<https://inks.gd//eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkjoxMDAsInVyaSI6ImJwMjpbGjJaylsmJ1bGxldGluX2lkjoiMjAyMTEwMTguNDc1MjY0NTEiLCJ1cmwiOiJodHRwczovL21kZS5tYXJ5bGFuZC5nb3YvcHJvZ3JhbXMvUmVndWxhdGlvbnMvSEIxBTI0L1BhZ2VzL0xhbmQuYXNweCJ9.1JmLGHSeIAlZ7GpvZzXQnKofoh6QCAiBxdXlsvLWSU/s/1849705214/br/114169322787-l->>>

General information about MDE's Oil Control Program can be viewed on the following webpage:

<https://mde.maryland.gov/programs/LAND/OilControl/Pages/index.aspx> <<https://inks.gd//eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkjoxMDEsInVyaSI6ImJwMjpbGjJaylsmJ1bGxldGluX2lkjoiMjAyMTEwMTguNDc1MjY0NTEiLCJ1cmwiOiJodHRwczovL21kZS5tYXJ5bGFuZC5nb3YvcHJvZ3JhbXMvUmVndWxhdGlvbnMvSEIxBTI0L1BhZ2VzL0xhbmQuYXNweCJ9.1JmLGHSeIAlZ7GpvZzXQnKofoh6QCAiBxdXlsvLWSU/s/1849705214/br/114169322787-l->>>

**Chris Ralston -MDE-** <chris.ralston@maryland.gov>  
To: "Rouen, Chelsea Marie" <chelsea.m.rouen@exxonmobil.com>

Thu, Feb 3, 2022 at 5:06 PM

Chelsea,

Please see information and embedded links on the Oil Control Program's webpage: <https://mde.maryland.gov/programs/LAND/OilControl/Pages/index.aspx>.

Also, you can locate information directly on MDE's regulations webpage: <https://mde.maryland.gov/programs/Regulations/land/Pages/Proposed.aspx>.

**Christopher Ralston**  
Program Manager, Oil Control Program

3/1/22, 10:30 AM

State of Maryland Mail - Potential new regulations under COMAR 26.10 Oil Pollution Control and Storage Tank Management



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](#).

[Quoted text hidden]

**Rouen, Chelsea Marie** <[chelsea.m.rouen@exxonmobil.com](mailto:chelsea.m.rouen@exxonmobil.com)>  
To: Chris Ralston -MDE- <[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)>

Fri, Feb 18, 2022 at 6:24 PM

Hi Chris,

I apologize for not getting back to you sooner but I had to work with Exxon's IT department to get the MDE sites listed below unblocked for some reason. While I am still having some access issues I was able to view [http://www.dsd.state.md.us/MDR/4903/Assembled.htm#\\_Toc93997322](http://www.dsd.state.md.us/MDR/4903/Assembled.htm#_Toc93997322) and search by the "oil transfer fee." I noticed that the terminology remains the same, "(3) The licensee that offloads or onloads oil at the first point of transfer in the State is responsible for paying the fee."

From my understanding, prior to me becoming Exxon's MD Advisor— various industry members discussed with the MD Oil Transfer fee when leaving the Colonial Pipeline with the State. Colonial Pipeline Company issues 2 reports: one with the "Shipper" information and another one with the "Consignee" information. The State is currently using the "Shipper" information to reconcile the gallons reported by each licensee but discussion was done in regards to changing this to the consignee information, as they know if product is removed from pipeline in MD or exported out via pipeline. Could you please provide an update on where the State is in regards to this and if it will be discussed in this year's legislative session as I did not see any clear indication in the above link I was able to access. Any clarifications you can provide would be greatly appreciated.

Thank you,

**Chelsea Rouen**

Indirect Tax Advisor

Tax Reporting & Analysis Center (TRAC)

**Exxon Mobil Corporation**

22777 Springwoods Village Parkway – S1.4A.535

Spring, TX 77389

(832) 625-0198

[chelsea.m.rouen@exxonmobil.com](mailto:chelsea.m.rouen@exxonmobil.com)

---

**From:** Chris Ralston -MDE- [<mailto:chris.ralston@maryland.gov>]  
**Sent:** Thursday, February 3, 2022 4:07 PM  
**To:** Rouen, Chelsea Marie <[chelsea.m.rouen@exxonmobil.com](mailto:chelsea.m.rouen@exxonmobil.com)>  
**Subject:** Re: Potential new regulations under COMAR 26.10 Oil Pollution Control and Storage Tank Management

**External Email - Think Before You Click**

Chelsea,

Please see information and embedded links on the Oil Control Program's webpage: <https://mde.maryland.gov/programs/LAND/OilControl/Pages/index.aspx>.

Also, you can locate information directly on MDE's regulations webpage: <https://mde.maryland.gov/programs/Regulations/land/Pages/Proposed.aspx>.

**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](#)

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[Quoted text hidden]

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**Chris Ralston -MDE-** <[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)>  
To: "Rouen, Chelsea Marie" <[chelsea.m.rouen@exxonmobil.com](mailto:chelsea.m.rouen@exxonmobil.com)>  
Cc: Erica Chapman <[erica.chapman@maryland.gov](mailto:erica.chapman@maryland.gov)>

Thu, Feb 24, 2022 at 6:32 PM

Chelsea,

Thank you for your comment on the proposed regulations. A formal response will be provided as part of the administrative record.

In the meantime, I can provide the following. The section of the proposed regulation that you highlighted is consistent with the relevant statute in the Environment Article that establishes the oil transfer license and oil transfer fee (EA 4-411). While the proposed action is for changes to our regulations, there is no accompanying proposed legislation to make changes to the relevant statutes governing the oil transfer fee.

I think the prior discussions you are referring to were related to whether the first position holder and/or consignee should be responsible for the oil transfer fee. The current statute does not distinguish who is responsible to pay the oil transfer fee other than the licensee. Our regulations cannot change the underlying law

Not sure why the sites would be blocked, but attached is the "guided" version of the proposed regulations.



**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](#).

[Quoted text hidden]

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 **Guided Copy\_COMAR 26.10 Oil Pollution Control & Storage Tank Management.pdf**  
1459K





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

## RE: Oil pollution control & storage tank management regulations - COMMENTS

1 message

Frank Biddinger <frank@greentraxinc.com>

Mon, Feb 28, 2022 at 11:22 AM

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

Cc: Erica Chapman <erica.chapman@maryland.gov>

Good Morning Mr. Ralston,

I was unable to make it to the meeting last week due to dealing with a bad spill on a customer property with Shane Rozelle. I understand today is the last day for comments on the proposed changes so I would like to submit the following information below. First I would like to say, myself and my company have extensive history in Maryland dealing with residential heating oil tanks and spills. My company GreenTrax, Inc. and my system company Biddinger Contracting, Inc., and between myself (Frank Biddinger Jr) and my father Frank Biddinger Sr., we have been performing residential oil tank removals for 30 years in Maryland. I feel confident in saying that we are in the top 5 (if not the top 3) busiest residential oil tank removers in Maryland. We have extensive history with the Homeowner reimbursement fund, even back in the day of early 2000's before the fund was taken away. And it used to only take on average 6 – 9 months for customers to get their money back from spill cleanups. But when the fund was taken away for 1 year in 2013 & 2014, and then brought back, something changed and the backlog of applications has grown to an unacceptable amount. So I don't know what changed after 2015, but for customers to have to wait 4+ years to get money back is not acceptable. It gives the homeowners ZERO incentive to WANT to perform the legal, proper cleanups. Especially when the program is funded from tax money.

We wont talk about before 2014 as that was a different time, So (Since 2014) My company has submitted HUNDREDS of reimbursement applications on behalf of our customers. And I know for a fact that out of the hundreds of licensed tank removal contractors in Maryland, in terms of applications submitted to MDE, (based on the RHO #'s being issued today) for one company, GreenTrax has one of the most, if not thee most applications to the MDE either on our customers behalf, (or our customers did directly with GreenTrax performing the work). So this is something we have extensive knowledge of, and the reimbursement directly affects our business.

We feel the MDE has to do everything possible to reduce the waiting time it takes for customers to get their money back, to less than 1 year. That would allow many people who do not have money to afford the cleanup, to put the contractor cost on a credit card, and float the cleanup costs on credit, until the reimbursement check comes back.

Are you aware that the Virginia, also has a cleanup fund, but they pay the contractor directly, so I know it does not take that long to get money to contractors, otherwise no one would do it. Not that I think Maryland should pay contractors, but their has got to be a way to get the waiting time to a reasonable amount of time. Anything more than 1 year is too long.

Regarding Section 26.10.14 Residential heating oil tank system site reimbursement program

.04 – Reimbursement Process

B. Ineligible costs

(1) – Closure in place of UST.... I know this has been a long standing policy of MDE to NOT reimburse owners for a closure in place. However GreenTrax has seen many times where, we CANNOT perform a removal but the tank is leaking and the MDE inspector requires additional work. We always try to perform a removal when possible, but if tank is under a large deck, under a house or structure, in an area where there is zero access for equipment to actually perform the removal, and thus have to perform a closure in place. If the tank is leaking and the inspector requires additional soil samples, well samples, subsurface investigation, delineation, geoprobe, direct push or other work. This work can cost upwards of \$3000 additional, and usually between \$5000 - \$10,000. So we feel this time of expensive work required by MDE should also qualify for reimbursement even if tank cannot be removed for various reasons. And if needed the MDE inspector should verify there is no way to remove tank, and its not just because the property owner wants to leave tank in place. These small percentage of homeowners in the bad situation of not being able to remove a leaking tank, but have to perform additional work, are NOT the original owners of the property when tank was installed. And sometimes they have no clue about the UST. Either they didn't know when they bought the property, their real estate agent didn't say anything, and the home inspector didn't say anything, and now the new property owners are stuck with a large bill and have no way to get money back. We feel this should be corrected and they should qualify for reimbursement.

Next I would like to discuss the following 3 items.....

(3) – Third party contractor mobilization

(4) – preparation of application

(5) – performance of activities NOT related to remediation etc etc.

I do not how many contractors charge for these specific things, but I do hear from your processor Caprice Mclaughlin that GreenTrax has thee best or one of the best invoice formats. We break everything out clearly, as we know what the MDE wants to see. However I don't know if some of these proposed changes are in direct correlation to GreenTrax invoices, or maybe a combination of some other contractors as well. But we do NOT agree at all that these should be ineligible costs, and we ask you to reconsider, and stricken them from proposed rules.

The reason (3) 3<sup>rd</sup> party mobilization is important = the soil disposal facilities will not accept contaminated soil without being tested by a lab. So the soil can never be hauled offsite the first day of tank removal. So it is almost mandatory that every job have at least 2 different days onsite. So a mobilization fee is a fair, reasonable, NECESSARY cost in order to remove the contaminated soil from the property. A 2<sup>nd</sup> day, ie. mob fee would NOT be needed if NOT for contaminated soil. And what's the difference if the mob fee is broken out separately OR just built in to the price of contaminated soil removal either a flat fee to start, daily price, or a price per ton. Either way the MDE would end of reimbursing owner for that either directly or indirectly.

(4) – Preparation if application - GreenTrax used to fill out and submit application of customers behalf to make it easy, but we no longer want to handle sensitive personal information, such as name, address, with social security numbers. (so what we do now is)-This takes time for the contractor to do, and again in the cases of GreenTrax, Inc. we fill out all the technical parts of the application for property owners, but we also provide detailed instructions and checklists to them so that way before they mail the packet out to MDE they get it right the first time. What you guys are missing is that MANY (not all, but MANY) properties with buried oil tanks are owned by elderly people. They cant fill out these long difficult applications by themselves. AND the way we see it, the easier we make it for the homeowner, the easier we make it for Caprice to process the application. So we see our process as a benefit to MDE and a time saver, because if Caprice Mclaughlin has to go back

and forth with each applicant multiple times, she wont be able to keep up with them all. So we think this section should also be removed and still be allowed as eligible.

(5) – performance of other activities = to me this is way to vague language and open to too much interpretation. So I don't know exactly what things you may be talking about, but for example: We deal with a ton of people that HAVE to do extra work STRICTLY due to the remediation & cleanup of contaminated soil. I don o think you are taking into account how messy some of these jobs are, how tight some properties are, how mush landscaping some people have and how much disturbance is required to move 20 – 40 tons of contaminated soil out of the ground, out to the truck and then backfill with clean fill.

- Some tanks may be under a deck and owners have to remove part or all of deck JUST to get out contaminated soil
- Many tanks are under an AC unit and the unit has to be disconnected and put back later after contaminated soil removed
- If tanks are under a concrete pad, driveway, asphalt area, brick paver area, flagstone patio etc etc – the property has to be restored – if the owner wont get any of that money back to fix this stuff, you are encouraging people to perform an ILLEGAL tank abandonment in place, or to hire unlicensed contractors to perform illegal tank removal and fill hole in with no soil testing and no contaminated soil remediation
- You don't know how many people I talk to and the ONLY reason they agree to pay me to remove contaminated soil is because of reimbursement fund. So if I tell them no you wont get the ie. \$3000 back to patch your patio, they will tell me fine don't do it fill the hole in and leave it. And I know from current experience the MDE has NO power, ZERO authority to MAKE or force the homeowner dig our or remove contaminated soil from a residential property if the owner doesn't want to do it. I am dealing with a case right now, and I have a list of them, the MDE cannot force homeowners. So if you change this rule and do away with them getting all the money back for their out-of-pocket costs related to contaminated soil. Mark my word – you will see an increase in ILLEGAL tank removals, illegal tank abandonments, and an increase in homeowners who have their tank removed BUT don't remove contaminated soil. So you are then being counterproductive to the MDE's actual mission of protecting soil, groundwaters etc in the state. I personally perform hundreds of residential UST and leaking Aboveground tanks jobs every year. I know how homeowners are, and this one rule alone WILL end up causing your more headache and problems. I strenuously object to this rule being implemented. We need to keep the current rules as-is, and let any reasonable costs be paid that are related to contaminated soil remediation & putting property back close to as we found it.
- You are also missing that due to the amount of work required on some of these properties and the size of equipment required to do it, that some damage is unavoidable. Tanks are close to well water and well electric lines, water or sewer or irrigation pipes go over top of tanks or are in way of digging out contaminated soil. Phone and cable lines are often broken, due to heavy trucks, equipment etc, sidewalks, driveways, patios etc etc and other property obstructions are often if the way or damaged accidentally or unavoidably in order to get out contaminated soil. So again if you are going to start to DIS-incentivize people to do the right thing, why even have rules for homeowners and licensed tank removers? Just let owners fill in tanks themselves and no one ever digs out contaminated soil and just leave it all in place..... It will be a big mess!

The next section I would like to discuss is .06 Application requirements (4) – a and b, and then section .09 Reimbursement limits and deductibles. Letter (B).

I see you are thinking about make MAJOR! Changes to the reimbursement program. I am TOTALLY 100% against this. I think this is a TERRIBLE IDEA. It amounts to class warfare.

First – you guys are NOT basing these changes on real world work we do in the field every day. The value of someone house should NO BEARING! On how much money they can get back. Not only that, you are NOT realizing that in the areas of MAJOR buried tank concentrations almost NO ONE WILL qualify for the max \$20,000 under these proposed changes. I work in almost every county in Maryland except far western Maryland and far eastern shore. And in central Maryland area – the largest concentrations of buried oil tanks are in Annapolis, and parts south in Anne Arundel county, Baltimore county, Montgomery county and certain parts of Prince Georges county, and certain parts of Baltimore City. So in almost every area I work in where I know there are MANY MANY UST's the houses are ALL OVER \$300K in value. So no one will qualify for full \$20K reimbursement. AND on top of that, any property in Annapolis, Severna park, Montgomery county and much of Baltimore county wont even qualify for \$10,000 in reimbursement! You are forcing to many people into the \$5,000 only eligibility. This is NOT right, that is NOT what the legislators intended when they implemented and the Governor signed this into law. With mandated by law minimum wage increases to \$15 per hour, labor shortages, supply chain crisis & truck driver shortages. This is a TERRIBLE time to reduce how much people can qualify for, when ALL costs across the board are INCREASING, And when homeowners are DOING the RIGHT THING to clean up the soil this is not right to deny them full claim ability like the last 15+ years.

How much someone's house has no bearing on what they can afford. Again – thru my experience, generally speaking, it is older, or elderly people that have buried oil tanks. Many of these people are living on a fixed income, they are counting on that reimbursement.

Again with regards to the reimbursement amount, please refer to my comments in the above bullet points for # (5). You are taking incentive away for people to do the right thing and follow the law AND keep the environment and groundwater clean.

The problem is NOT the money, the problem is the delay in pay applicants! The state of MD just had like a \$6 billion surplus! Why didn't MDE ask for some of that money to pay reimbursement applications, that money is due to those people already. I feel these proposes changes to step payments and step qualifications are a TERRIBLE idea for our state. I object to them being implemented. And I request they be removed from the final version. It is not fair, it is unjust, and it is NOT a correct way to g about paying reimbursement.

Just so you know where I am coming from.....TO give you a good example of why this is a bad idea!..... I have a lady right now I am working with, with Shane Rozelle on job, she unfortunately had an aboveground heating oil tank leak, no one noticed because her husband was ill and just passed away, she is probably in her 70's and now a widow from a month ago. We had to remediate about 100 tons of contaminated soil, remove 2000 gallons of contaminated groundwater, test the well, take multiple soil samples, install monitoring well, and we will be performing subsurface investigation and geoprobe/direct push. Her final cost of job I'm sure will exceed \$30,000.

The house is for sure worth more than \$600,000. So house is that fair that she would only get \$5K back and not \$20K out of a \$30K bill!! You are penalizing people who worked hard, saved up and bought a nice property and unfortunately had a leaking tank. Or if they fixed up the house and spent hard earned money on upkeep, or an addition, or garage, or any other upgrades. Why should those people get less! Again CLASS WARFARE, welfare..... we do NOT live in a WELFARE STATE in MARYLAND to reward those with less money with more reimbursement and penalize those with a nicer house. Where in the law that was passed for this fund, say anything about value of houses. I KNOW that was NOT the legislators intent when they created this fund.

So I do not agree with these changes. I think more of the public should know about this. I do not think they will be very happy. So I feel that if these proposed changes I have listed are enacted to the reimbursement fund. People should know. So I would then be contacting the Governor, all my legislators in Annapolis, The Baltimore Sun and Gazette Newspapers, channel 2, channel 11, channel 5 and channel 13 news stations. Someone will want this story, and amid all the rising costs of everything and inflation, I do not think NOW is the time anyone will want to hear about the MDE incentivizing people to pollute more and perform LESS cleanups. I do not suspect MDE would be too popular.

I would be more than willing to discuss this topic in greater detail or with anyone that's willing to discuss it. I feel that if any changes are made you need to STRENGTHEN the MDE's ability to force homeowners to perform site cleanups and remediation where necessary. Right now if the owner says they never operated the tank they cannot be made to perform cleanup. Which to me is a load of BULL, every owner if they knew that could say " I never used that tank" so I'm not doing cleanup! That's would save owners a ton of money.

3/1/22, 10:23 AM

State of Maryland Mail - RE: Oil pollution control & storage tank management regulations - COMMENTS

I am in this business to remove tank and keep the environment clean. The MDE needs to EVERYTHING it can force, incentivize, help, plead etc anything it can to make people WANT to do the right thing and remove AST and UST tanks legally and to perform a thorough cleanup when appropriate. Too many of these rules I am reading will do the Opposite of that.

Thank you

Frank Biddinger

GreenTrax, Inc.

410-439-085

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**From:** Chris Ralston -MDE- <[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)>  
**Sent:** Monday, February 14, 2022 1:47 PM  
**To:** Frank Biddinger <[frank@greentraxinc.com](mailto:frank@greentraxinc.com)>  
**Cc:** Erica Chapman <[erica.chapman@maryland.gov](mailto:erica.chapman@maryland.gov)>  
**Subject:** Re: Oil pollution control & storage tank management regulations

Frank,

There is nothing required to be submitted in advance. You may arrive that day with a question or statement. At the hearing, there will be a sign in sheet for attendees wishing to make a comment. Also note, that you may submit comments without attending the public hearing. Please see the webpage link below for additional details.

<https://mde.maryland.gov/programs/Regulations/land/Pages/reqcomments.aspx>



**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](#).

On Mon, Feb 14, 2022 at 1:26 PM Frank Biddinger <[frank@greentraxinc.com](mailto:frank@greentraxinc.com)> wrote:

For the hearing on 2/24/22 at 11:00 am – I would like to attend. I may have questions or concerns. Do I have to submit something in advance? Or Can I arrive that day with a question or statement?

Thank you

Frank Biddinger

410-439-1085



**Howard County's Comments on Proposed Oil Regs (2/23/22)**

Topic	Citation	Comment/Question
Oil Contamination Reporting	26.10.08.01.B	<p>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.</p> <p>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.</p> <p>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.</p> <p>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 acquisition.</p>
Requirements for Oil Transfers at Facilities	26.10.01.18.B	<p>This section requires that a transfer area be paved, 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 also clarify whether these requirements apply to motor fuel dispensing facilities. How long after the regulations go into affect would facilities have to install these features?</p>
Definition of "Attended"	26.10.01.02.B(5)	<p>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.</p>
Used Oil Analytical Requirements	26.10.15.05.A(2)	<p>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</p>

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	26.10.16	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	26.10.16	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.
Oil Transfer	26.10.01.18	This section requires that transfer areas prevent the entrance of stormwater, be covered with a roof, include a containment system, and either contain or treat oil to prevent a release. Does this include all motor fuel dispensing facilities? When would these requirements become effective?
Motor Fuel Dispensing Facilities	26.10.01.20	This section includes requirements for the discharge of oil-bearing wastewater to the sanitary sewer or storm sewer. When would these requirements become effective?



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

**Fwd: Question on Proposed Oil Pollution Control and Storage Tank Management Regulations**

**Ed Hammerberg -MDE-** <ed.hammerberg@maryland.gov>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>

Thu, Feb 17, 2022 at 11:07 AM

Hi, Chris. Could you respond to this?

Thanks.



**Ed Hammerberg**  
Technical Specialist/RCE Supervisor  
Land and Materials Administration/SWP  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, Maryland 21230  
[ed.hammerberg@maryland.gov](mailto:ed.hammerberg@maryland.gov)  
(410) 537-3356 (O)  
[Website](#) | [Facebook](#) | [Twitter](#)

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

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

From: **Hresko, Katherine M.** <[KMHresko@mccormicktaylor.com](mailto:KMHresko@mccormicktaylor.com)>  
Date: Thu, Feb 17, 2022 at 11:05 AM  
Subject: Question on Proposed Oil Pollution Control and Storage Tank Management Regulations  
To: [ed.hammerberg@maryland.gov](mailto:ed.hammerberg@maryland.gov) <[ed.hammerberg@maryland.gov](mailto:ed.hammerberg@maryland.gov)>  
Cc: Welling, Megan A. <[MAWelling@mccormicktaylor.com](mailto:MAWelling@mccormicktaylor.com)>

Hi Ed,

I wanted to reach out to see if you could possibly provide an estimated date on when the new regulations for Oil Pollution Control and Storage Tank Management would go into effect? I see that the public comment period ends later this month.

Also, will the Department be publishing any other guidance documents or fact sheets regarding the proposed regulations, other than what has already been published on the 'Proposed Land Regulations' website?

And just to confirm, regarding the new chapters (Chapter 17 and 18) that address ASTs, would these new regulations be applicable to both new and existing ASTs?

Thank you for your time!!

Katie

**Katherine Hresko**  
Environmental Scientist III  
O 410.662.7400 | D 667.219.3303 | C 443.834.4112  
[kmhresko@mccormicktaylor.com](mailto:kmhresko@mccormicktaylor.com)

McCormick Taylor | 509 South Exeter Street, 4th Floor | Baltimore, MD 21202  
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Chris Ralston -MDE- <chris.ralston@maryland.gov>

### Question on Proposed Oil Pollution Control and Storage Tank Management Regulations

2 messages

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

Fri, Feb 18, 2022 at 10:11 AM

To: KMHresko@mccormicktaylor.com

Cc: Ed Hammerberg -MDE- <ed.hammerberg@maryland.gov>, Erica Chapman <erica.chapman@maryland.gov>

Katie,

Ed forwarded your email to me to respond to. The public comment period ends February 28, 2022. After that, we will need to review and respond to the comments received. If there are no changes needed to the regulations based on public comments, we are targeting an effective date in late spring or early summer. If changes need to be made to the substance of the regulations, they would need to be re-proposed and the effective date would be delayed.

We are in the process of updating our current fact sheets to reflect new requirements and revised regulatory references where things have moved, etc. We will also have new materials based on new requirements not addressed by our current material (e.g. monthly UST walk throughs). All of that continues to be a work in progress.

You are correct, the new AST chapters will apply to new and existing ASTs. Generally, there will be a 2 year time period to bring existing ASTs into compliance (unless another time period is determined by MDE).

Hopefully, this answers your questions. Please feel free to reach out to us in the future.



**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](#)

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Hresko, Katherine M. <KMHresko@mccormicktaylor.com>

Tue, Feb 22, 2022 at 10:30 AM

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

Cc: Ed Hammerberg -MDE- <ed.hammerberg@maryland.gov>, Erica Chapman <erica.chapman@maryland.gov>

Thank you!!

**Katherine Hresko**

Environmental Scientist III

O 410.662.7400 | D 667.219.3303 | C 443.834.4112

[kmhresko@mccormicktaylor.com](mailto:kmhresko@mccormicktaylor.com)

McCormick Taylor | 509 South Exeter Street, 4th Floor | Baltimore, MD 21202

[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#) | [www.mccormicktaylor.com](http://www.mccormicktaylor.com)



[Quoted text hidden]



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

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**Question: Maryland's oil pollution control and storage tank management regulations**

2 messages

**Kay Toye** <kay.toye@envrg.com>

Tue, Feb 1, 2022 at 11:21 AM

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

Good Morning,

I am contacting you with reference to the notice of proposed action to comprehensively modernize Maryland's oil pollution control and storage tank management regulations under Code of Maryland Regulations (COMAR) 26.10.01—26.10.18., published in Volume 49, Issue 3 of the *Maryland Register* on January 28, 2022.

If the proposed action passes, when will the new regulations go into effect?

Thank you,

Kay

**Kay H. Toye**

Project Manager/Environmental Analyst

Environmental Research Group, LLC

San Antonio, TX |520.903.4363

[www.envrg.com](http://www.envrg.com) | [ergllc@envrg.com](mailto:ergllc@envrg.com)

---

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

Wed, Feb 2, 2022 at 10:15 AM

To: Kay Toye &lt;kay.toye@envrg.com&gt;

Ms. Toye,

The regulations are considered proposed at this time. They are under a 30 day public review period, which ends February 28. After that, MDE must respond to all comments, and provided there are no substantive changes required, publish a notice of final action. The notice of final action could be published at the beginning of April 2022 with a possible effective date for the regulations towards the end of April 2022.

**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](#)

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[Quoted text hidden]





# Maryland Association of Municipal Wastewater Agencies, Inc.

Washington Suburban Sanitary Commission

14501 Sweitzer Lane, 7<sup>th</sup> Floor

Laurel, MD 20707

Tel: 301-206-7008

## MEMBER AGENCIES

February 28, 2022

Allegany County  
Anne Arundel County  
City of Baltimore  
Baltimore County  
Town of Berlin  
Cecil County  
Charles County  
City of Cumberland  
D.C. Water  
Frederick County  
City of Hagerstown  
Harford County  
City of Havre de Grace  
Howard County  
Ocean City  
Pocomoke City  
Queen Anne's County  
City of Salisbury  
Somerset County Sanitary District  
St. Mary's Metro. Comm.  
Washington County  
WSSC Water

**By Electronic Mail (chris.ralston@maryland.gov)**

Mr. Chris Ralston  
Oil Control Program Manager  
Land and Materials Administration  
Maryland Department of the Environment  
1800 Washington Blvd., Suite 620  
Baltimore, MD 21230

**Re: Proposed Oil Pollution Control and Storage Tank Management Regulations**

Dear Mr. Ralston:

On behalf of the Maryland Association of Municipal Wastewater Agencies, Inc. (MAMWA), please find attached our comments regarding the above referenced matter.

Please feel free to call me at 410-222-7092 with any questions regarding this correspondence. Thank you in advance for considering our views and recommendations in this matter.

## CONSULTANT MEMBERS

Black & Veatch  
C.C. Johnson & Malhotra, P.C.  
GHD Inc.  
Greeley and Hansen Engineers  
Hazen & Sawyer  
HDR Engineering, Inc.  
Jacobs  
Ramboll Americas  
Whitman, Requardt & Assoc.  
Xylem, Inc.

Sincerely,

Christopher J. Phipps, P.E.  
Director

## GENERAL COUNSEL

AquaLaw PLC

cc: MAMWA Membership



**COMMENTS OF THE  
MARYLAND ASSOCIATION OF MUNICIPAL WASTEWATER AGENCIES, INC.  
ON PROPOSED OIL POLLUTION CONTROL AND STORAGE TANK MANAGEMENT REGULATIONS  
February 28, 2022**

**I. INTRODUCTION**

On January 28, 2022, the Secretary of the Environment published a Notice of Proposed Action proposing amendments to COMAR 26.10.01, et seq. (Oil Pollution and Tank Management) (Proposed Regulation) and invited public comment through February 28, 2022.

The Maryland Association of Municipal Wastewater Agencies (MAMWA) is a statewide association of owners and operators of municipal wastewater treatment plants (WWTPs), which the Clean Water Act refers to as publicly owned treatment works (POTWs). Many MAMWA members own aboveground storage tanks (ASTs) that they use to store diesel fuel to power emergency generators when there are problems with the PJM regional transmission grid or local power outages. These tanks are critical for the continuing function of the State's POTWs. MAMWA is concerned that the Proposed Regulations would be extraordinarily costly, requiring many plants to completely replace these tanks because they cannot reasonably be retrofitted to comply with the Proposed Regulations.

MAMWA requests that MDE consider the following changes to the Proposed Regulation:

1. **Revise the Definition of AST** – MAMWA recommends that MDE revise the proposed definition of aboveground storage tank in COMAR 26.10.01.02(B)(1)(b) to exclude tanks used for wastewater treatment purposes (in addition to wastewater collection).
2. **In the Alternative, Revise the Definition of AST To Increase Tank Size** – MAMWA recommends that MDE revise the proposed definition of aboveground storage tank in COMAR 26.10.01.02(B)(1)(a) to include a storage capacity greater than 500 gallons (versus the currently proposed 250 gallons).
3. **In the Alternative, Grandfather ASTs Owned by Public Entities** – Given the potentially significant financial impacts on POTWs, MAMWA recommends that MDE exempt any AST owned by a public entity or agency (city, county, town, sewer authority, or commission authorized under the Maryland Code) from new AST requirements in COMAR 26.10.17 and 26.10.18.
4. **In the Alternative, Give Public Entities and Agencies Additional Compliance Time** – Give a public entity or agency two years from the effective date of the chapter or another period approved by MDE to submit a plan that includes a timeframe for coming into compliance based on the practicalities of replacing or retrofitting (if that is possible) existing ASTs.

MAMWA appreciates the opportunity to submit these comments. Additional discussion of each of MAMWA's requests is provided below.

## II. DISCUSSION

The Proposed Regulations state that unless required to obtain an individual permit, an owner, operator, and a person in charge of an oil storage or handling facility is covered by permit by rule if the owner, operator, and person in charge complies, among other things, with new sections 26.10.17 (Shop-fabricated ASTs) and 26.10.18 (Field-erected ASTs), if applicable. COMAR 26.10.01.09(B)(2)(d) and (e). COMAR 26.10.17 and 26.10.18 both include requirements for performance standards, secondary containment, spill and overflow prevention, release detection, corrosion protection, inspections, out-of-service and permanent closure, and recordkeeping.

As noted above, MAMWA members have ASTs that are essential to plant operations. Unless MDE provides some relief from the proposal, many of these tanks will need to be replaced. Retrofitting them to add, for example, release detection and corrosion protection, would not be feasible or cost-effective. Unfortunately, as public entities, we would be obliged to ask our customers to pay for these replacements through their sewer rates. This could not come at a worse time, as our local citizens are still recovering, and in some cases still reeling, from the financial impacts of the COVID pandemic.

For this reason, and on behalf of our customers, MAMWA asks that MDE consider the following textual change that would define AST to exclude ASTs being used for this vital public service:

- (a) "Aboveground storage tank" does not include:
  - (i) An aboveground residential heating oil tank;
  - (ii) 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;
  - (iii) A septic tank, surface impoundment, pit, pond, or lagoon;
  - (iv) A stormwater or wastewater collection system or any part of a wastewater treatment system;
  - (v) A flow-through process tank;
  - (vi) Oil-filled operational equipment;
  - (vii) 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-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; and
  - (viii) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

MAMWA notes that if MDE were to adopt this approach, ASTs would still be required to comply with other sections of the regulations as mandated by COMAR 26.10.01.09(B)(2), including, for example, the requirements of COMAR 26.10.01.03, which incorporate standards by reference.

In the alternative, MAMWA asks that MDE consider the following textual change that would define AST to exclude ASTs less than 500 gallons (a size used by many MAMWA members):

- (1) Aboveground Storage Tank (AST).
  - (b) "Aboveground storage tank" means a storage tank that:
    - (i) Currently stores oil;

- (ii) Previously stored oil, except for a storage tank placed out-of-service to store a non-oil product in accordance with COMAR 26.10.17 or 26.10.18
- (iii) Has a storage capacity of greater than **250 500** gallons;
- (iv) Is designed to operate at pressures from atmospheric pressure to a gauge pressure of 1.0 psi (6.9 kPa) measured at the top of the storage tank;
- (v) Is constructed more than 90 percent above the surface of the ground, excluding piping; and
- (vi) May be installed in an underground vault, a basement, or a sub-surface building.

COMAR 26.10.01.02(B)(1)(a).

As another alternative, MDE could exempt any AST owned by a public entity or agency (city, county, town, sewer authority, or commission authorized under the Maryland Code) from new AST requirements in COMAR 26.10.17 and 26.10.18.

This could be accomplished by making the following textual changes to the Proposed Regulations:

- (c) "Aboveground storage tank" does not include:
  - (ix) An aboveground residential heating oil tank;
  - (x) 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;
  - (xi) A septic tank, surface impoundment, pit, pond, or lagoon;
  - (xii) A stormwater or wastewater collection system;
  - (xiii) A flow-through process tank;
  - (xiv) Oil-filled operational equipment;
  - (xv) 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-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; ~~and~~
  - (xvi) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; ~~and~~
  - (xvii) **A storage tank located on property owned or operated by a city, county, town, sewer authority, or commission authorized under the State Code.**

MAMWA also offers as a third alternative the option for a POTW to provide a plan within two years of the effective date of the regulation or later date if approved by MDE that provides details on how the POTW will come into compliance with the new requirements in COMAR 26.10.17 and COMAR 26.10.18.

MAMWA suggests the following changes to these sections of the Proposed Regulations:

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 **submit a plan to the Department, with a proposed implementation schedule, explaining how it will ensure the existing AST system** ~~meets~~ the requirements of this chapter no later than:

- (1) 2 years after the effective date of this chapter; or

(2) Another time period approved by the Department.

\*\*\*\*\*

F. Once approved by the Department, an owner, an operator, and a person in charge of an existing AST system with a shop-fabricated AST will implement the plan referenced in paragraph B above on the schedule provided therein.

COMAR 26.10.17.03.

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 submit a plan to the Department, with a proposed implementation schedule, explaining how it will ~~ensure the existing AST system~~ meets the requirements of this chapter no later than:

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

\*\*\*\*\*

F. Once approved by the Department, an owner, an operator, and a person in charge of an existing AST system with a field-erected AST will implement the plan referenced in paragraph B above on the schedule provided therein.

COMAR 26.10.18.03.



Mid-Atlantic Petroleum Distributors Association  
P.O. Box 711 ★ Annapolis, MD 21404  
410-693-2226 ★ www.mapda.com

To: Chris Ralston, Oil Control Program Manager  
From: Mike O'Halloran, EVP of Policy and Government Affairs  
Date: February 23, 2022  
Re: Proposed Regulations: Title 26.10 Oil Pollution Control and Storage Tank Management Comments

**26.10.01.18 Requirements for Oil Transfers at Facilities.**

(B.) Strike in full; or amend to apply only to facilities receiving large deliveries of product by rail or barge.

For a business to come into compliance with this new mandate would cost approximately \$150,000. The requirement would be applicable regardless of storage tank capacity or gallons delivered.

**Feeding and fueling the economy through gas, coffee, food, heating oil and propane.**

MAPDA is an association of convenience stores and energy distributors in Maryland, Delaware & the District of Columbia.



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

## Oil Pollution Storage Tank Regulations - Clarification Needed

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

Thu, Feb 3, 2022 at 10:10 AM

To: Louis Campion &lt;louis@mdtrucking.org&gt;

Cc: "tom.walter@maryland.gov" &lt;tom.walter@maryland.gov&gt;, Ellen Valentino &lt;evalentino@cgagroup.com&gt;, Michael O'Halloran &lt;mike@mapda.com&gt;, Brenda Tharp &lt;brenda@mdtrucking.org&gt;

Louis,

Thank you for your question on the proposed regulations. We have incorporated NFPA 30A by reference (in the current and proposed regulations), which sets specific requirements for various types of facilities that dispense motor fuels. In the proposed regulations, we have directly incorporated specific language related to motor fuel dispensing facilities. Please see *COMAR 26.10.01.20 - Requirements for Motor Fuel Dispensing Facilities* in the attached proposed regulations. From what you are describing, I believe the type of facility your member has would be considered by COMAR 26.10.01.20C(3) (below). In this case, the facility is not required to be attended or to receive prior written approval from the Department.

Hopefully, this addresses the concern, but let us know if it does not. Thank you again for the question.

*Proposed COMAR 26.10.01.20*

**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.



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

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On Thu, Feb 3, 2022 at 9:44 AM Louis Campion <louis@mdtrucking.org> wrote:

Chris and Tom,

I was given your name from Ellen Valentino at the Mid-Atlantic Petroleum Distributors Association, whom our organization works closely with. I was reading the proposed changes to the Oil Pollution Storage Tank regulations and a question was raised by one of my member trucking companies who has an on-site tank for filling his own trucks.

As I read the compliance guide, it suggests that if you have a tank over 1,100 gallons it would have to be an "attended" facility unless you got approval otherwise. In the regulatory definitions of "attended" it says, "Attended" means there is an attendant or an employee that is on duty and available to customers at a motor fuel dispensing facility.

If this is a private tank, only being filled by the owner's drivers filling their trucks with no "customers", would another employee be required as an attendant? I don't think that's the intention. The driver of the truck (who is filling the vehicle) is an on-duty employee and he would seem to meet that qualification automatically.

I appreciate your feedback. Thank you.

Louis Campion

President & CEO

**Maryland Motor Truck Association**

9256 Bendix Road, Suite 203, Columbia, MD 21045

Tel: 410-644-4600 | Cell: 443-623-4223

[www.mdtrucking.org](http://www.mdtrucking.org)





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

## Questions About New Regulations

5 messages

**Michael Berkow** <rucmike@yahoo.com>  
To: chris.ralston@maryland.gov

Wed, Feb 23, 2022 at 7:36 AM

Good morning Sir.

My name is Michael Berkow and I own a small marina in Baltimore County (Norman Creek Marina).

I understand that there are some new proposed regulations for ABOVE GROUND tanks and I am trying to determine if they would apply to me and what the impact would be. I have a 2k gallon above ground diesel tank.

I am very curious about the rationale and necessity for new regulations. My second tank is a 6k underground tank that comes with a very heavy assortment of requirements (e.g. constant testing, daily dipping, reporting, million dollar insurance policy, etc.). Hence, my working theory was to work on an ABOVE GROUND tank replacement. If the same regulations are going to apply, then the incentive to upgrade and change is gone.

I would greatly appreciate some better insight and understanding and was directed to you.

Thank you very much for your time and attention.

All the best,

Michael Berkow  
646-246-0909

**Chris Ralston -MDE-** <chris.ralston@maryland.gov>  
To: Michael Berkow <rucmike@yahoo.com>  
Cc: Erica Chapman <erica.chapman@maryland.gov>, Donna Morrow -DNR- <donna.morrow@maryland.gov>

Thu, Feb 24, 2022 at 5:50 PM

Mr. Berkow,

Thank you for your comments and questions. We will formally respond to them as part of the administrative record.

In the meantime, I can provide the following response to you. If your 2,000 gallon aboveground storage tank is used for motor fuel dispensing, then the facility would be required to obtain an individual oil operations permit (no fee and is issued for 5 years). If it is not used for that purpose, then the AST would be operated under a general permit "by rule", meaning that there would not be an actual written permit, but the AST would need to meet certain requirements. Both the individual and general oil operations permit requirements are found in COMAR 26.10.01.09 in the proposed regulations (see attached guided copy).

I have copied Ms. Donna Morrow on this email. She is in charge of the Department of Natural Resources' Clean Marinas Program. She is hosting several seminars next week and the following week (March 2, 3, and 10) where my team will be discussing many of the marina focused requirements. I am sure Donna will be able to provide further details on these events to you.

Again, thank you for the comments / questions. A more thorough response will be provided in MDE's official response to comments document.



**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  
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[Quoted text hidden]

**Guided Copy\_COMAR 26.10 Oil Pollution Control & Storage Tank Management.pdf**  
1459K

**Donna Morrow -DNR-** <donna.morrow@maryland.gov>  
To: Chris Ralston -MDE- <chris.ralston@maryland.gov>  
Cc: Michael Berkow <rucmike@yahoo.com>, Erica Chapman <erica.chapman@maryland.gov>

Fri, Feb 25, 2022 at 9:08 AM

Good morning,

Michael, if you would like to come to a workshop we would be glad to have you come and hear from Mr. Ralston and his team in person. I appreciate your concerns. Details and registration are available here: <https://www.eventbrite.com/cc/2022-clean-marina-seminars-57579?utm-campaign=social&utm-content=creatorshare&utm-medium=discovery&utm-term=odclsxcollection&utm-source=cp&aff=escb>

Annapolis on March 3 is nearly full. There is still plenty of space in Chesapeake City March 10 or Solomons Island March 2.



February 28, 2022

Attn: Chris Ralston, Oil Control Program Manager  
Maryland Department of the Environment  
1800 Washington Blvd, Suite 620  
Baltimore, MD 21230

VIA ELECTRONIC MAIL: [chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)  
Re: Oil Pollution Control & Storage Tank Management Regulations

Dear Mr. Ralston,

Delmarva Power and Light (DPL) and Pepco, both subsidiaries of Pepco Holdings, An Exelon Company, have had the opportunity to review the proposed changes to the Maryland Oil Pollution Control and Storage Tank Management regulations codified at COMAR 26.10 and published in the January 28, 2022 edition of the Maryland Register. At this time, we are providing timely comment on these proposed regulations.

Specifically, as a result of our review, we have several questions which we would like to have clarified. Those questions are as follows:

- 1) The definition of an AST as defined in COMAR 26.10.01.02B(1) is one that has a storage capacity of 250 gallons or more. When considering if a facility is subject to either obtaining an individual or general oil operations permit, is the facility only to include in the summation those tanks onsite that have a storage capacity of 250 gallons or more or should they include the storage capacity of all ASTs onsite irrespective of tank size?
- 2) Does the definition of an AST as defined in COMAR 26.10.01.02B(1) include portable tanks associated with portable emergency generators? The definition as presented in the proposed rule remains silent on the inclusion or exclusion of portable tanks.
- 3) Is the definition of a cargo tank as described in COMAR 26.10.01.02B(11) meant to describe tanker trucks only, or is it meant to include something like tanks associated with portable emergency generators or other portable tanks?
- 4) Will a Motor Fuel Dispensing Facility need to formally gain concurrence from MDE via written documentation for those facilities that fall under the following exemption located at COMAR 26.10.01.20C.3: "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: 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 (1) owned or controlled by the owner, the operator and the person in charge of the facility, and (2) used in connection with the business or operation of that property by persons within the employ of such business or operation"?

Should you have need to contact me regarding this submittal, please email me at [alfinney@pepcoholdings.com](mailto:alfinney@pepcoholdings.com).

Respectfully,



Aleta L. Finney, MS, REP, CHMM  
Senior Environmental Program Manager



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

## Written Comments on "Oil Pollution Control & Storage Tank Management Regulations"

1 message

Doyle, Stephen <stephen.doyle@sunoco.com>  
 To: Chris Ralston -MDE- <chris.ralston@maryland.gov>

Mon, Feb 28, 2022 at 4:49 PM

Chris:

Thank you for the opportunity to provide the following written comments on subject regulations:

1. .07 Spill and Overfill Prevention –
  - a. "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." **COMMENT** – please clarify what MDE database or resource is to be used by Operators to confirm the company making an oil delivery or transfer holds a valid Individual Oil Operations Permit from the Department.
  - b. Under G. Overfill Prevention Equipment. "Except as provided in §H of this regulation..." **COMMENT** – this wording is confusing as written. Please consider rewording to make it more clear that complying with §H of this regulation is compliant in lieu of meeting requirements of §G of this regulation.
  - c. **COMMENT** - Under H. Overfill Prevention System. (2), are the requirements set forth in letters "a through e" directly from ANSI/API Standard 2350 and listed for reference only? OR are the requirements different than what ANSI/API Standard 2350 specifies? Please consider just wording this section by referring to the API Standard and in the regulation just call out what is different (if anything) about the regulation MDE is proposing.
2. .08 Release Detection –
  - a. Under "A", does completion of requirement listed in (1) comply with "A" or is (2) or (3) also required? Consider rewording to clarify such as "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 **at least one of the following methods**":
3. .10 Normal and Emergency Venting. – **COMMENT** – if a deficiency is found where an emergency vent is not in place, what is the timing of corrective measures? corrected at next scheduled out of service inspection required under 26.10.18 Field-Erected Aboveground Storage Tanks
4. .11 Inspection Requirements for an AST System. - **COMMENT** – if complying with the API-653 and STI SP001 inspection standards are acceptable compliance options under this Section, consider just wording this section by referring to the Standards and in the regulation just call out what is different (if anything) about the regulation MDE is proposing.
5. .12 Out-of-Service and Permanent Closure. – **COMMENT** – please consider removing reference to the term "permanently closed" as this is a term in EPA's SPCC regulation and the requirements conflict (MDE proposed regulation vs EPA SPCC rule). Under EPA's SPCC regulation, **Permanently closed** means *"any container or facility for which (1) All liquid and sludge has been removed from each container and connecting line; and (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure"*. This **Permanently closed** EPA definition seems similar to the requirements in MDE's proposed regulation for 'OUT OF SERVICE' or 'EMPTY'. Please consider wording that allows for "tanks meeting the requirements of SPCC's permanently closed definition are considered compliant with MDE's regulation for 'OUT OF SERVICE' or 'EMPTY' requirements.

Thank you again for the opportunity to provide written comments on the subject regulation.

Sincerely,

**Stephen Doyle**

Sr. Manager - Environmental

875 Kings Hwy • West Deptford, NJ 08096

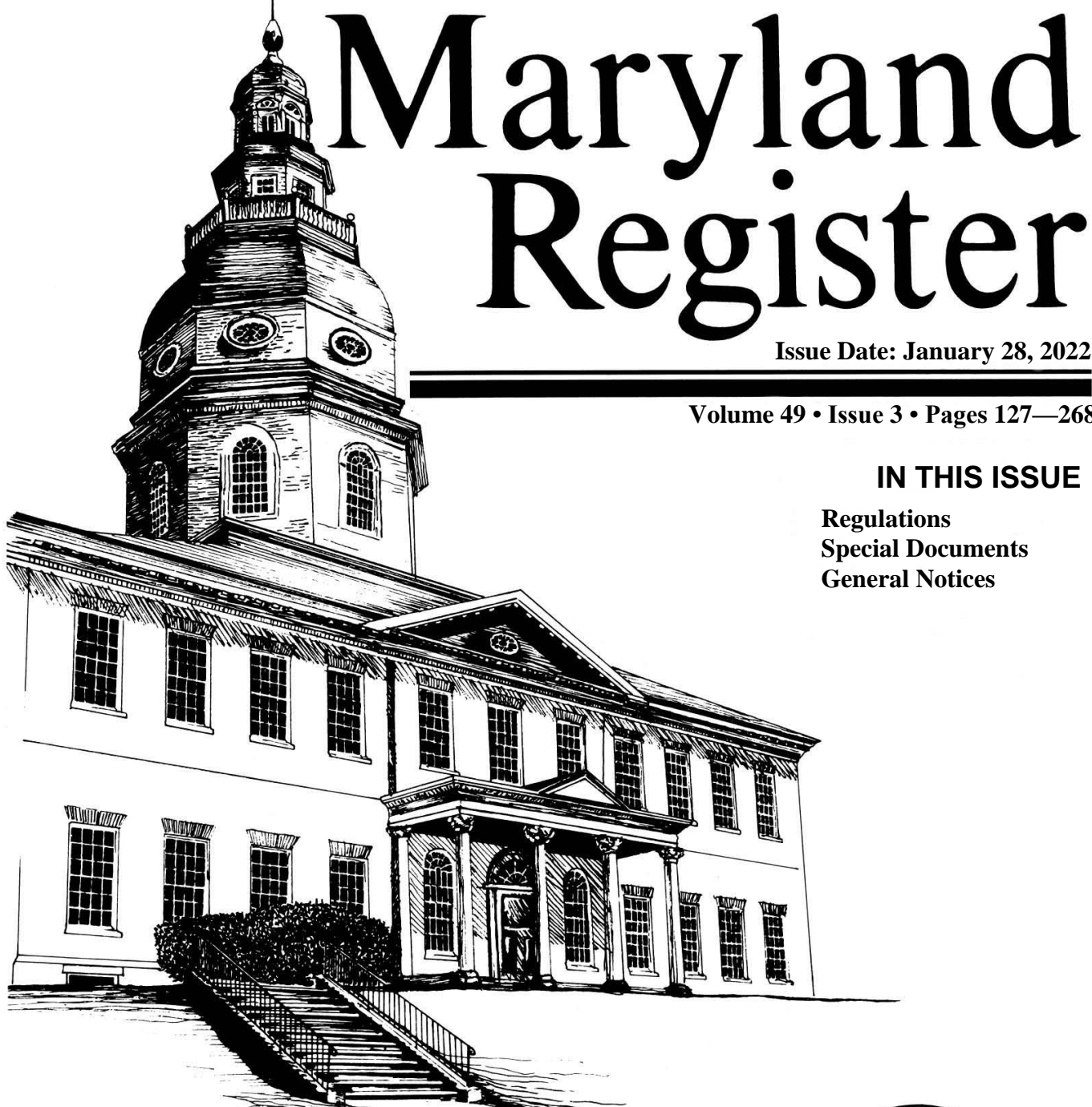
O: 856-579-5063 • M: 856-332-2424

[Stephen.Doyle@sunoco.com](mailto:Stephen.Doyle@sunoco.com)

**SUNOCO LP**  
 Midstream Operations

# **Appendix B**

**Notice of Proposed Action**  
as published on  
**January 28, 2022 in Volume 49, Issue 3**  
of the *Maryland Register*



# Maryland Register

Issue Date: January 28, 2022

Volume 49 • Issue 3 • Pages 127—268

## IN THIS ISSUE

Regulations  
Special Documents  
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before January 10, 2022, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of January 10, 2022.

Gail S. Klakring  
Administrator, Division of State Documents  
Office of the Secretary of State



amount to the More Jobs for Marylanders Tax Credit Reserve Fund established under Tax-General Article, §10-741, Annotated Code of Maryland.

**.13 Real Property Tax Credit.**

A. A qualified business entity may apply to claim a credit against the State's portion of the tax imposed on real property owned by either:

- (1) A new manufacturer that locates in a Tier I Area; or
- (2) A new non-manufacturer that locates in a Maryland opportunity zone.

B. Amount of Real Property Tax Credit.

(1) A new manufacturer in a Tier I area is entitled to a 100 percent credit against the State real property tax.

(2) A new non-manufacturer in a Maryland opportunity zone is entitled to a State real property tax credit of the lesser of:

- (a) 100 percent of the State real property tax; or
- (b) \$250 per qualified position.

C. Request for Credit. The eligible qualified business entity shall submit a request for the credit against the State's portion of the real property tax to the State Department of Assessments and Taxation.

D. Limitations.

(1) A qualified business entity shall be enrolled in the Program under Regulation .06 of this chapter.

(2) A new business that leases a facility does not qualify for the State real property tax credit.

(3) The property tax credit provided under this regulation does not affect the amount of the county or municipal corporation property tax imposed on the property.

**.14 Information Required from Entity.**

A. To be eligible to receive the tax credit, a business entity shall notify the Department in writing of its intention to use the tax credit before hiring the qualified positions necessary for establishing or expanding a facility.

B. To obtain an initial certificate, the qualified business entity shall provide the Department with a completed initial application.

C. To obtain a final certificate, the qualified business entity shall provide the Department with a completed final application.

**.15 Sharing of Information.**

A. The Department shall require that any information provided under this chapter be verified including by an independent certified public accountant that the qualified business entity selects.

B. Any information provided to the Comptroller or the appropriate agency by a qualified business entity in connection with eligibility for a tax credit allowed under this chapter shall be shared by the Comptroller or the appropriate agency with the Department.

C. Information provided under §B of this regulation shall be subject to the confidentiality requirements applicable to the Comptroller or the appropriate agency.

**.16 Waiver.**

The Secretary may waive or vary particular provisions of this chapter to the extent that the waiver is not inconsistent with the Act if:

A. Conformance to the requirement of any federal, State, or local program necessitates waiver or variance of a regulation; or

B. In the determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

R. MICHAEL GILL  
Secretary of Commerce

**Title 26  
DEPARTMENT OF THE  
ENVIRONMENT**

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

**Notice of Proposed Action**

[22-029-P-I]

The Secretary of the Environment proposes to:

(1) Repeal existing Regulations .01—24 and adopt new Regulations .01—24 under **COMAR 26.10.01 Oil Pollution Control;**

(2) Repeal existing Regulations .01—06 and adopt new Regulations .01—05 under **COMAR 26.10.02 Underground Storage Tank Systems;**

(3) Repeal existing Regulations .01—10 and adopt new Regulations .01—10 under **COMAR 26.10.03 UST Systems: Design, Construction, Installation, Registration, and Inspection;**

(4) Repeal existing Regulations .01—05 and adopt new Regulations .01—05 under **COMAR 26.10.04 UST Systems: General Operating Requirements;**

(5) Repeal existing Regulations .01—06 and adopt new Regulations .01—06 under **COMAR 26.10.05 UST Systems: Release Detection;**

(6) Repeal existing Regulations .01—12 and adopt new Regulations .01—09 under **COMAR 26.10.06 UST System Technician, Remover, and Inspector Certification;**

(7) Repeal existing Regulation .01 and adopt new Regulations .01—08 under **COMAR 26.10.07 High Risk Oil Storage Facilities;**

(8) Repeal existing Regulations .01—04 and adopt new Regulations .01—04 under **COMAR 26.10.08 Spill, Release, and Discharge Reporting, Investigation, and Confirmation;**

(9) Repeal existing Regulations .01—08 and adopt new Regulations .01—08 under **COMAR 26.10.09 Spill, Release, and Discharge Response and Corrective Action;**

(10) Repeal existing Regulations .01—05 and adopt new Regulations .01—05 under **COMAR 26.10.10 Out-of-Service UST Systems and Closure;**

(11) Repeal existing Regulations .01 and .02 and adopt new Regulations .01—04 under **COMAR 26.10.11 UST Financial Responsibility;**

(12) Repeal existing Regulations .01—15 and adopt new Regulations .01—07 under **COMAR 26.10.12 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems;**

(13) Repeal existing Regulations .01—15 and adopt new Regulations .01—16 under **COMAR 26.10.13 Oil-Contaminated Soil;**

(14) Repeal existing Regulations .01—11 and adopt new Regulations .01—10 under **COMAR 26.10.14 Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program;**

(15) Repeal existing Regulations .01—06 and adopt new Regulations .01—07 under **COMAR 26.10.15 Management of Used Oil;**

(16) Repeal existing Regulations .01—08 and adopt new Regulations .01—09 under **COMAR 26.10.16 Trained Facility Operators;**



(17) Adopt new Regulations .01—14 under a new chapter, **COMAR 26.10.17 Shop-Fabricated Aboveground Storage Tanks**; and

(18) Adopt new Regulations .01—13 under a new chapter, **COMAR 26.10.18 Field-Erected Aboveground Storage Tanks**.

**Statement of Purpose**

The purpose of this action is to repeal and replace the existing chapters in COMAR 26.10 and add two new chapters to comprehensively modernize the State’s oil pollution control and storage tank management regulations. Specifically this proposed action would:

(1) Update State underground storage tank (UST) regulations to be consistent with the federal UST regulations, required to retain state program approval to continue implementation of the Maryland UST regulatory program;

(2) Establish new aboveground storage tank (AST) regulations, including an AST system registration requirement;

(3) Change how a high risk oil storage facility is defined, and establish release prevention and detection requirements for facilities with a large storage capacity or high throughput;

(4) Update State-specific requirements for the storage, delivery, transfer, and transportation of oil to ensure these activities are conducted in a manner that prevents releases or the severity of releases into the environment;

(5) Amend the site rehabilitation costs eligible for reimbursement from the Oil Contaminated Site Environmental Cleanup Fund for owners of residential heating oil tank systems after a certain date, set limitations on reimbursements for certain applicants, clarify who may be reimbursed for eligible site rehabilitation costs, and remove obsolete provisions regarding the reimbursement of commercial UST owners and operators from the fund;

(6) Repeal obsolete regulations regarding hydrostatic tests and the Underground Storage Tank Upgrade and Replacement Fund Loan Program; and

(7) Update the codes of practices and standards incorporated by reference and make necessary clarifying amendments to the regulations.

Federal UST 2015 Final Rule. In 2015, the Environmental Protection Agency (EPA) published a final rule (80 FR 41566 (2015)) that revised federal UST regulations to ensure the proper operation and maintenance of release prevention and detection equipment and improve parity in UST program implementation nationwide.

Under the authority provided in Subtitle I of the federal Solid Waste Disposal Act, the Department’s Oil Control Program implements a state UST regulatory program in lieu of the federal UST regulatory program and receives funding from EPA to aid in the implementation of the state program. The primary purpose of the proposed action is to update Maryland’s UST regulations to be consistent with the provisions established in the 2015 final rule. Adoption of Maryland UST regulations that are as stringent as EPA’s 2015 final rule is necessary for the Oil Control Program to retain state program approval and to continue receiving Subtitle I grant funding.

High Risk Oil Storage Tank Facilities. This proposed action would revise several regulatory provisions regarding high risk oil storage tank facilities, as well as organize requirements specific to these facilities into a single chapter. MDE proposes to remove a condition that the UST system be equipped with stage II vapor recovery in order to be defined as an existing or new gasoline UST system. The widespread use of onboard refueling vapor recovery in newer vehicles led EPA to determine that stage II vapor recovery and onboard refueling vapor recovery are redundant technologies for capturing gasoline vapors emitted while refueling vehicles. EPA

issued a final rule in 2012 that allows states to phase out existing Stage II vapor recovery programs in State Implementation Plans (SIP), an option that MDE implemented with the revised SIP becoming effective in 2019 (see 77 FR 28772 (2012) and 84 FR 49667 (2019)). The proposed revisions to the definitions of existing and new gasoline UST systems will ensure in service gasoline UST systems without stage II vapor recovery systems, including those with decommissioned stage II vapor recovery systems, continue to be subject to release detection requirements when located in a high risk groundwater use area or a well head protection area.

MDE is also proposing to define a new category of oil storage facility, termed “high risk underground oil storage facility”. A high risk underground oil storage facility is a motor fuel dispensing facility with a UST system that has either a large storage capacity and single-walled construction or a high product throughput. The high volume of motor fuel stored in a single-walled UST system or dispensed from a UST system at such a facility poses an increased risk of an oil release, regardless of whether the facility is located in a high risk groundwater use area or well head protection area. Under the proposed action, high risk underground oil storage facilities would be subject to release detection requirements similar to the requirements for new and existing gasoline UST systems located in high risk groundwater use and well head protection areas.

AST System Registration, Permitting, and Technical Requirements. Under existing MDE regulations, an owner or operator of an oil storage facility with a certain aboveground oil storage capacity is required to obtain an Oil Operation Permit and to install, operate and maintain AST systems in accordance with the aboveground oil storage facilities requirements in COMAR 26.10.01.12. These existing regulations do not require owners and operators to register individual AST systems with the Department. Inspections performed at permitted oil storage facilities have revealed a large number of AST systems that are in contact with the ground and/or may not be properly protected against corrosion. Existing regulations do not require all Maryland facilities storing or otherwise handling oil to operate under an Oil Operation Permit, meaning AST systems at these facilities may not be subject to the direct regulatory oversight of the Oil Control Program. The continued aging of existing AST systems without cathodic protection (i.e., protected against corrosion) poses a significant risk of an oil release impacting the environment. The registration of AST systems will provide the Department with a permanent record of each AST system’s ownership, location, construction material, operation and maintenance, and compliance with State laws and regulations. In this action, MDE proposes to require, with limited exceptions, owners and operators of oil storage and handling facilities to register their AST systems with the Department in a manner similar to UST system registration.

Additionally, the proposed action would establish an Individual Oil Operations Permit requirement and standards for AST system installation and operation specific to marinas with a motor fuel dispensing facility. (Note, the Oil Operations Permit is renamed the Individual Oil Operations Permit in the proposed regulations.) AST systems at marinas store flammable and combustible liquids that pose a risk to the public and the environment if the liquids are improperly stored, dispensed, and maintained.

Lastly, MDE is proposing to adopt two new chapters dedicated to AST systems with shop-fabricated and field-erected ASTs. These regulations will establish definitions and performance standards for constructing, operating, inspecting and testing, and temporarily and permanently closing AST systems with shop-fabricated and field-erected ASTs. To date, EPA has not promulgated AST regulations, but Maryland’s regulated community has requested that MDE promulgate comprehensive AST regulations at the state level. The proposed AST system registration, permitting, and technical

provisions ensure a consistent level of environmental protection in regards to all oil storage tank systems.

Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program. Environment Article, §4-705(c), Annotated Code of Maryland authorizes MDE to reimburse from the Oil Contaminated Site Environmental Cleanup Fund reasonable and customary site rehabilitation costs incurred by owners of certain oil storage tanks. COMAR 26.10.14 “Underground Storage Tank Site Cleanup Reimbursement” establishes the application and payment procedures under which reimbursements may occur from the fund, and outlines the site rehabilitation costs that are eligible for reimbursement from the fund. Beginning in 2008, eligibility for reimbursement was limited to only residential owners of residential heating oil tanks (see Chapter 177, Acts of 2005). This proposed action would remove obsolete language in COMAR 26.10.14 related to the reimbursement of owners and operators of commercial USTs, as well as rename the chapter to “Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program” to reflect the current use of the fund to reimburse residential owners of residential heating oil tank systems.

The funding stream for the Oil Contaminated Site Environmental Cleanup Fund consists of revenue from an oil license fee that is imposed on the first transfer of a barrel of oil in the State. MDE currently receives more applications than can be reimbursed with the revenue received each year. This has resulted in a considerable delay in reimbursing approved applications. The proposed action would reduce the average reimbursement paid per approved application by limiting the site rehabilitation costs that are eligible for reimbursement at certain properties for applications received on and after July 1, 2022. Lastly, the proposed action would clarify application requirements that must be satisfied to show compliance with existing reimbursement eligibility requirements.

Repealed Provisions. MDE proposes to repeal the regulatory requirements in existing COMAR 26.10.07 “Hydrostatic Test” and COMAR 26.10.12 “Underground Storage Tank Upgrade and Replacement Fund Loan Program” in their entirety. The hydrostatic test for small USTs of 1,000 gallons or less is obsolete due to advanced technology for conducting precision tightness tests. The Underground Storage Tank Upgrade and Replacement Fund Program ceased in 1998 (see Chapter 532, Acts of 1996).

**Comparison to Federal Standards**

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

COMAR Codification: 26.10.02—26.10.05, 26.10.08—26.10.12, and 26.10.16

Corresponding Federal Standard: 40 CFR Part 280

This action proposes the following standards regarding regulated substance UST systems that are more restrictive or stringent than the corresponding federal standards in 40 CFR Part 280. Note that many of these provisions in the proposed action are replacing similar provisions in the existing regulations and represent areas where the State regulations are already more stringent than the corresponding federal standards.

(a) Spill and Overfill Prevention. COMAR 26.10.03.03A(1)(d) would require testing of spill prevention equipment within 30 days of installation, upon repair, and annually after the most recent test. However, 40 CFR §280.35(a)(1) requires spill prevention equipment be either double-walled with periodic monitoring on a monthly basis, or be tested every 3 years and within 30 days if periodic monitoring of a double-walled spill prevention equipment is discontinued.

Unlike the overfill prevention equipment installation options provided in 40 CFR §280.20(c)(1)(ii)(C), an owner and an operator of a UST system in Maryland would not have the option under COMAR 26.10.03.03A(2) to install overfill prevention equipment that restricts flow 30 minutes prior to a UST overfilling, alerts the transfer operator with a high level alarm one minute before overfilling, or automatically shuts off flow into the UST so that none of the fittings located on top of the storage tank are exposed to product due to overfilling.

COMAR 26.10.03.03A(2)(d) would require testing of overfill prevention equipment upon the completion of a repair, while 40 CFR §280.33(f) requires testing or inspection of overfill prevention equipment within 30 days of the completion of a repair.

(b) Secondary Containment. Both the proposed State and effective federal regulations require owners and operators to ensure containment sumps are operating properly and will prevent releases to the environment. COMAR 26.10.03.03A(3)(c) would require testing of containment sumps for tightness within 30 days of installation and upon a repair, and periodic testing for tightness within 5 years of the most recent test conducted prior to the effective date of the regulations and at least every 3 years thereafter. However, 40 CFR §280.35(a)(1) requires containment sumps used for interstitial monitoring of piping be either: (1) double-walled construction and periodically monitored for damage and evidence of a release during an walkthrough inspection; or (2) tested for tightness every 3 years, and within 30 days of suspending periodic monitoring of a double-walled containment sump.

(c) Corrosion Protection. COMAR 26.10.04.04C(3) would require the replacement of metal piping and fittings in which corrosion or other damage to the piping or fittings resulted in a discharge or release of a regulated substance or an imminent threat of a discharge or release of a regulated substance. 40 CFR §280.33(c) only requires the replacement of metal piping and fittings that have released a regulated substance as the result of corrosion or other damage.

(d) Release Prevention and Detection. COMAR 26.10.02.01A would require an owner and an operator of an emergency generator UST system installed on or after January 12, 2009 to implement one of the methods of UST and piping release detection provided in COMAR 26.10.05.05, as well as implement interstitial monitoring as the primary or secondary method of release detection for the UST system (this is an existing requirement). Whereas, 40 CFR §280.10(a)(1) requires owners and operators of emergency generator UST systems installed on or before October 13, 2015 to implement any method of UST system release detection provided in 40 CFR Part 280, Subpart D, and owners and operators of emergency generator UST systems installed after October 13, 2015 to implement interstitial monitoring as the method of UST system release detection.

COMAR 26.10.05.01A(1) would require an owner and an operator of a UST system to provide a method or combination of methods for release detection that can detect a release from any portion of the storage tank and piping. In contrast, 40 CFR §280.40(a)(1) requires owners and operators of UST systems to provide a method or combination of methods for release detection that can detect a release from any portion of the storage tank and piping that routinely contains a regulated substance.

While 40 CFR §280.40(a)(3) allows the operation and maintenance of release detection equipment to be conducted in accordance with a code of practice developed by an independent testing laboratory, COMAR 26.10.05.01A(3) would not include an option to operate and maintain release detection equipment in accordance with a code of practice developed by an independent testing laboratory.

COMAR 26.10.05.02D(1) would require that an owner and an operator of a UST system monitor underground piping that routinely contains petroleum vapor or a regulated substance, but 40 CFR

§280.41(b) only requires monitoring of piping that routinely contains a regulated substance.

Both the proposed action and 40 CFR Part 280 contain provisions regarding the use of groundwater monitoring as a method of release detection. COMAR 26.10.05.05F would require, before the method is implemented, an owner and an operator of a regulated substance UST system to obtain written approval from the Department to conduct groundwater monitoring. Additionally, the proposed action would require an owner and an operator approved to conduct groundwater monitoring as a method of release detection to perform a site assessment 60 days before implementing the method, and to make an access tool for monitoring wells available onsite and to MDE upon request. The method could only be used for sites where the groundwater is within 15 feet of the ground surface. 40 CFR §280.43(f) allows the use of groundwater monitoring as a method for release detection for petroleum USTs and piping without prior approval, does not specify the time period in which the site assessment must be conducted, restricts the use of groundwater monitoring for sites where the groundwater is within 20 feet of the ground surface, and does not include a requirement to make an access tool for monitoring wells readily available.

COMAR 26.10.05.05G(1) would require an owner and an operator of a UST system to obtain written approval from the Department before implementing interstitial monitoring between a UST system and a secondary barrier in the excavation zone as a method of release detection, but 40 CFR §280.43(g) does not require an owner and operator of a UST system to obtain written approval from the implementing agency.

The proposed action and 40 CFR Part 280 establish several alternative release detection methods that can be implemented for field-constructed tanks with a capacity greater than 50,000 gallons and for underground piping associated with airport hydrant systems and field-constructed tanks with a capacity greater than 50,000 gallons, which were previously deferred under federal regulations from complying with national UST system release detection requirements. As one of the alternative methods, COMAR 26.10.12.05B(2)(b)(v) and C(2)(c)(ii) would allow the use of monthly inventory control in conjunction with monthly groundwater monitoring, while 40 CFR §280.252(d)(1)(v)(B) and (2)(iii)(B) allows the use monthly inventory control in conjunction with either monthly groundwater or vapor monitoring.

(e) Release Response. 40 CFR §280.50 requires owners and operators of UST systems to report a release, monitoring results pointing to a suspected release, or unusual operating conditions to an implementing agency within 24 hours. COMAR 26.10.08.01A proposes to expand the reporting requirement to, in addition to an owner and an operator of a UST system, any responsible party and a person conducting a precision tightness test on the UST system. These persons would be required to report one failed result or two inconclusive precision tightness test results, unusual operating conditions, and a confirmed or suspected regulated substance release to the Department within 2 hours. (The obligation for a person conducting a precision tightness test to report, the circumstances that trigger reporting, and the 2-hour reporting period are existing requirements in COMAR.)

(f) UST System Closure or Change-in-Service. Both the proposed action and 40 CFR Part 280 include the requirement that owners and operators of UST systems perform a site assessment for evidence of a release before completing the permanent closure or change-in-service of UST systems. 40 CFR §280.72(a) allows owners and operators of UST systems to satisfy the site assessment requirement if groundwater or vapor monitoring equipment at the time of closure is operating in accordance with release detection standards and there is no evidence of a release. However, COMAR 26.10.10.03A(1) mandates the performance of a site assessment, providing no

alternative compliance option, and also requires the performance of a site assessment before applying for an extension for temporary closure.

(g) UST System Registration. 40 CFR §280.22(a) and (b) requires an owner of a UST system to submit notification of a storage tank system's existence to an implementing agency within 30 days of bringing the UST system into use or acquisition. COMAR 26.10.03.09A(1) and (2) would require an owner, an operator, or a person in charge of a UST system to register a storage tank system with the Department within 30 days of the following events: acquiring and installing a UST system; upgrading an existing UST system; changing the regulated substance stored; returning a temporarily closed UST system to in-service; and closing or completing a change-in-service of a UST system.

(h) Recordkeeping. COMAR 26.10.04.05C would require the maintenance of additional records compared to those required in 40 CFR §280.34(b), including inventory records, records for previously installed USTs, release detection records for airport hydrant systems and field-constructed USTs, and (as required in existing State regulations) records of a UST system upgrade and an as-built diagram for a UST system installed after January 1, 2006. COMAR 26.10.04.05D and 26.10.05.06A would require records for spill and overfill prevention equipment and containment sumps be maintained for the operational life of the UST system, and interstitial monitoring records be kept for 1 year at the regulated substance storage facility and 5 years at another location designated by the owner. In contrast, 40 CFR §280.35(c)(1) requires testing records for spill catchment basins and containment sumps utilized in piping interstitial monitoring and inspection records for overfill prevention equipment are maintained for 3 years. Lastly, COMAR 26.10.04.03D would require records of periodic operation and maintenance walkthrough inspections be kept for at least 1 year at the regulated substance storage facility and for at least 5 years at another location designated by the owner, with 40 CFR §§280.34 and 280.36(b) only requiring these records be maintained for 1 year at the UST site or readily available at an alternative site.

(2) Benefit to the public health, safety or welfare, or the environment:

The proposed more restrictive or stringent State standards benefit the public health, safety or welfare, or the environment by generally preventing or reducing the possibility of a spill, release, or discharge of regulated substance into the environment and aiding in expeditiously detecting a release or discharge. More specifically, the proposed more restrictive or stringent standards will be beneficial in the following ways:

(a) Spill and Overfill Prevention. The proposed State standards will rely on approved testing methods to determine that protective spill prevention equipment is positively liquid-tight rather than relying on visual or similar inspections, and that testing is conducted immediately following a repair. Additionally, by restricting the available forms of overfill prevention equipment allowed to be used, owners and operators of UST systems are required to install overfill prevention equipment that is readily available and testable. In both situations, the proposed standards will provide stakeholders higher confidence that the installed equipment will perform as intended in the case of a spill, release, or discharge.

(b) Secondary Containment. The proposed State standards will rely on approved testing methods to determine that containment sumps are positively liquid-tight rather than relying on visual or similar inspections, and that testing is conducted immediately following a repair. The proposed standards will provide stakeholders higher confidence that the installed equipment will perform as intended in the case of a spill, release, or discharge.

(c) Corrosion Protection. The proposed State standards require the replacement of metal piping and fittings in which corrosion or other



damage to the piping or fittings indicate to the Department the imminent threat of a discharge or release of a regulated substance occurring, which will aid in preventing such an occurrence from happening in the first place.

(d) Release Prevention and Detection. The proposed State standards require comprehensive release detection for the entire UST and associated underground piping, including petroleum vapor piping. Further, the proposed standards reduce the availability of release detection methods that rely on detecting evidence of a released regulated substance after it has already escaped the UST system. These proposed more restrictive requirements provide a higher degree of protection of the State’s resources and citizens.

(e) Release Response. The proposed expedited reporting requirements (2 hours as opposed to 24 hours) provide for a faster opportunity to control a release so that the potential impacts are minimized. Additionally, the time frame is an existing State requirement in COMAR.

(f) UST System Closure or Change-in-Service. The proposed State standards do not provide for the use of groundwater or vapor monitoring release detection compliance records as satisfactory evidence that a release has not occurred at a facility where a UST system is placed out-of-service or temporarily allowed to remain in the ground for an extended time. The groundwater and vapor monitoring methods of release detection EPA allows in their regulations rely on the detection of a regulated substance after it has already escaped the UST or associated piping. By mandating a site assessment in the proposed regulations, there will be greater confidence that if a release did occur it will be identified and can then be properly remediated.

(g) UST System Registration. The proposed State standards require a UST system to be registered within 30 days of installation rather than within 30 days of bringing the storage tank system into use. Additionally, the Department must be notified when a temporarily closed UST system is returned to service. These measures provide a better opportunity for the Department to ensure installed UST systems are in compliance with State standards that are designed to minimize the possibility of a spill, release, or discharge to the environment.

(h) Recordkeeping. The Department has found that the additional records required by the proposed State standards will greatly assist in responding to known or suspected releases. The additional records allow for a better understanding of where a release or discharge may have originated from, how long it may have been occurring, and the magnitude of the release or discharge.

(3) Analysis of additional burden or cost on the regulated person:

The proposed more restrictive or stringent State standards would result in minimal or no cost or burden to the regulated community. Any expenditures related to the proposed standards would be small in comparison to the monetary and non-monetary cost to remediate a release or discharge of a regulated substance. Many of the proposed more restrictive or stringent standards already exist in the current State regulations. The following provides additional detail:

(a) Spill and Overfill Prevention. The proposed standards are consistent with the current standards. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(b) Secondary Containment. The proposed standards are consistent with the current standards. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(c) Corrosion Protection. The cost to replace severely corroded or damaged metal piping or fittings before a release or discharge occurs is less expensive than conducting the same work after a release or discharge and the significant cost of assessing and remediating a regulated substance release or discharge.

(d) Release Prevention and Detection. The proposed standards are consistent with the current standards. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(e) Release Response. The proposed standards are consistent with the current standards. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(f) UST System Closure or Change-in-Service. The proposed standards are consistent with the current standards. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(g) UST System Registration. The proposed standards are largely consistent with EPA regulations and existing State requirements. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(h) Recordkeeping. The proposed standards are largely consistent with EPA regulations and existing State recordkeeping requirements. There is no anticipated burden or cost increase to UST system owners and operators due to these proposed standards.

(4) Justification for the need for more restrictive standards:

The benefit from the more restrictive standards exceed the negligible burden or cost of the more restrictive standards on the regulated community. In addition, the more stringent standards are necessary to protect the public health, safety, and welfare of Maryland citizens.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed storage tank system requirements would prevent and reduce the severity of releases, in turn reducing costs associated with product loss, the remediation of releases, adverse human health and ecological effects from exposure to oil, oil-contaminated soil, and oil contaminated surface water and groundwater. Owners and operators of storage tank systems would incur costs to comply with some provisions in the proposed regulations; however, as described below many of these costs would also exist in the absence of the proposed action and therefore are not considered impacts of the proposed action.

Economic Impacts Associated with Existing Regulations

The proposed action would repeal and replace all chapters in existing COMAR 26.10. Many provisions in the proposed action are the same or similar to those in the existing regulations, and therefore involve no additional costs for regulated entities or the Department because compliance with those provisions is already required. This includes certain provisions required under the 2005 federal Energy Policy Act that were adopted into State regulations in 2005 and 2009, specifically provisions related to inspections of UST facilities, facility operator training, delivery prohibitions, secondary containment of UST systems or financial responsibility, and remediation of oil releases containing oxygenated fuel additives.

Economic Impacts Associated with Compliance with Federal Regulations

Many of the UST provisions in the proposed action that are in addition to or more stringent than the current regulations are being adopted in conformance with EPA’s 2015 final rulemaking. While compliance with some of these proposed provisions is anticipated to involve costs to regulated entities, it is important to note that these costs would be incurred regardless of the proposed action and cannot be considered economic impacts of the proposed action. Absent this proposed action, MDE would be unable to maintain state program approval to continue implementing its UST regulatory program in Maryland. The result for UST system owners and operators is that they would be required to follow EPA’s regulations and the current State regulations in COMAR 26.10. Under a federal UST regulatory program, Maryland UST system owners and operators would still be

subject to increased compliance costs. Costs related to compliance with the federal regulations are described in more detail below for informational purposes.

(1) Repeal of Emergency Power Generator UST Systems Release Detection Deferral. To be consistent with EPA's 2015 final rule, the proposed action repeals the deferral for emergency power generator UST systems to comply with release detection requirements for UST systems (not including emergency power generator UST systems at nuclear power generation facilities regulated by the Nuclear Regulatory Commission). Owners of the 449 registered emergency power generator UST systems in Maryland would be required to implement a release detection method and conduct release detection monitoring on a monthly basis. Owners of double-walled emergency power generator UST systems can comply with release detection requirements by manually gauging the UST interstice or installing sensors that allow for electronic leak detection monitoring. Costs associated with electronic monitoring of the interstitial space of a double-walled UST system is estimated to be \$4,000 to \$20,000, at an average cost of \$12,000, which includes the one-time cost to install the sensors and monitoring system and the salary for employees trained to conduct manual release detection monitoring.

There are 120 registered single-walled emergency generator USTs in Maryland, which constitutes 1.3 percent of registered UST systems. For single-walled emergency power generator USTs, the owner may be able to comply with the requirements by manually gauging the UST if the storage tank is 550 gallons or less, or by manually gauging the UST and performing a precision tightness test if the storage tank is 551 gallons up to 2,000 gallons. If manual gauging is not an available option, the owner may need to incur an estimated one-time cost of \$4,000 to \$30,000 to install automatic tank gauges, at an average cost of \$17,000, or a minimum of three groundwater monitoring wells (provided that site conditions allow, and the Department approves of it use), at a cost of approximately \$10,000 per well. The actual cost of installing release detection equipment would be dependent on several factors including the equipment selected, the amount of excavation required to install wiring and conduit access to the UST system, and the location of the UST system to utilities and buildings. If an owner installs groundwater monitoring wells, the owner will incur a monthly cost to have the wells gauged for the presence of a regulated substance, which could consist of the salary for employees trained to conduct the groundwater well monitoring.

(2) Spill and Overfill Prevention Equipment Installation and Maintenance. To be consistent with EPA's 2015 final rule, the proposed action would ban an owner and an operator of a UST system from installing a flow restrictor overfill device in vent pipes as new or replacement overfill prevention equipment. The proposed action would also require the following: when installing a new dispenser system, equip the dispenser system with under-dispenser containment and test the equipment for tightness; inspect and conduct functional tests of overfill devices every 3 years; and test spill prevention equipment and containment sumps for tightness every 3 years. Owners installing a new overfill device to replace an existing flow restrictor would incur one-time costs ranging from \$975 to \$1,100. However, the replacement of a flow restrictor vent device would only be necessary when the existing device no longer functions as originally designed and fails the 3-year overfill inspection and functional test. The installation of under-dispenser containment sumps would result in a one-time cost of \$8,000 to \$10,000 per containment sump for owners of UST systems that are not equipped with containment sumps. The testing of containment sumps will have a minimal economic impact on UST system owners to hire a company to test the equipment. Existing State regulations already require testing of containment sumps once every 5 years, and

a change to a 3-year cycle would only add one additional test over a 10-year period.

(3) Periodic Operation and Maintenance Walkthrough Inspections. To be consistent with EPA's 2015 final rule, the proposed action would require an owner or an operator of a UST system to perform monthly walkthrough inspections of spill prevention and release detection equipment, and annual walkthrough inspections of containment sumps and hand held release detection equipment. If walkthrough inspections are performed by an onsite Class A, Class B, or Class C operator employed by the UST system owner or operator, conducting walkthrough inspections would not increase the owner's or operator's costs. However, if the UST system owner or operator hires a third party inspector, the owner and operator could incur a cost of \$100 to \$200 per inspection or \$1,200 to \$1,400 on an annual basis. The actual cost depends upon the size of the site and construction of UST systems installed at the site. There are approximately 7,200 federally regulated USTs located at approximately 2,700 facilities, all of which will be subject to these walkthrough inspection requirements.

Economic Impacts as a Result of the Proposed Action

The following are economic impacts directly attributable to the proposed action, rather than existing State requirements being restated in the proposed regulations or federal requirements being adopted into State regulations.

(1) High Risk Oil Storage Facilities. Motor fuel dispensing facilities with UST systems defined as either a high risk underground oil storage facility or a new or existing gasoline UST system under the proposed action would be required to install at a minimum three groundwater monitoring wells and to annually sample wells to monitor for releases. For motor fuel dispensing facilities without existing groundwater monitoring wells, owners would incur an estimated one-time cost of \$30,000 to install three monitoring wells, and \$2,000 annually to pay a contractor to sample the wells and analyze the samples.

With the exception of yet to be installed new gasoline UST system facilities, existing and new UST systems located in a high risk groundwater usage area or well head protection area have groundwater monitoring wells already being sampled annually under the existing regulations. Removing the Stage II vapor recovery system language from the definitions of new and existing gasoline UST systems may result in a few additional motor fuel dispensing facilities meeting the definition of a new or existing gasoline UST system. MDE believes the economic impact on owners of these facilities to comply with the groundwater monitoring requirements would be limited because the owners are already complying with existing requirements.

MDE estimates that approximately 20 existing large motor fuel dispensing facilities, such as oil terminals, large retail and government facilities, would meet the definition of a high risk underground oil storage facility, and projects one to two newly installed facilities may meet the definition annually on the basis of high throughput of motor fuel. The universe of high risk underground oil storage facilities is likely to decrease over time, since these facilities commonly reduce their storage capacity when upgrading and replacing USTs. Additionally, some existing high risk underground oil storage facilities with high throughput have existing groundwater monitoring wells due to prior releases that are being monitored, and would only incur costs related to implementing an annual groundwater sampling program.

(2) AST System Registration, Construction, and Operation. The proposed action would result in a minimal economic impact to owners, operators, or a person in charge of affected oil AST systems. AST systems that would need to be registered with the Department include those located at oil storage or handling facilities covered under an Individual Oil Operations Permit or, if the facility has an

aggregate storage capacity of greater than 2,500 gallons, a General Oil Operations Permit. There is no fee associated with registering an AST system. Owners and operators of shop-fabricated ASTs and field-erected ASTs would be subject to the installation, operation, monitoring, and testing requirements of the proposed new AST regulations. The proposed action would increase costs for existing AST system owners and operators that, upon registration of their systems, are directed by MDE to come into compliance with new and/or existing State storage tank system requirements. The extent of the economic impact would depend upon the magnitude of capital and operating costs incurred by owners and operators to come into compliance with the proposed action. The exact costs incurred by owners/operators to come into compliance with the proposed action cannot be determined because it will vary based on the existing operating, monitoring, and testing conditions in place at a particular facility.

(3) Marina Motor Fuel Dispensing Facilities. The proposed action would require marinas with AST systems as part of a motor fuel dispensing facility to be covered under an Individual Oil Operations Permit, as well as meet certain motor fuel storage and dispensing system installation and operation standards. The proposed action should result in a minimal economic impact because the construction and operational standards proposed are consistent with current industry standards and code of practices. There are no fees associated with registering AST systems or obtaining an Individual Oil Operations Permit.

(4) Residential Heating Oil Reimbursement. Maryland law authorizes MDE to reimburse from the Oil Contaminated Site Environmental Cleanup Fund site rehabilitation costs incurred by owners of residential heating oil tank systems up to a maximum of \$20,000, less a \$500 deductible paid by the owner. Fund revenue consists of a 0.25-cent portion of an 8-cent per barrel oil transfer fee imposed on the first transfer of a barrel of oil in the State, which is approximately \$230,000 annually. Currently, the Department receives more applications than can be reimbursed with oil transfer fee revenue within the fund. MDE receives an average of 200 applications per fiscal year, and the average cost per reimburse application is \$7,200. The proposed action would reduce the average cost of reimbursement per application, which would enable MDE to reimburse more applications with the current level of revenue. The proposed removal of obsolete language related to the reimbursement of owners and operators of commercial USTs for eligible site rehabilitation costs would have no economic impact since, in accordance with Chapter 17, Acts of 2005, owners and operators of commercial USTs have not been eligible to apply for reimbursement since January 1, 2008.

The proposed action would establish reimbursement allocation limits for certain applications received on or after July 1, 2022, based on residential heating oil tank system owner property values. If the value of an applicant's residential property is greater than \$300,000 and less than or equal to \$600,000, MDE will reimburse 50 percent of eligible site rehabilitation costs, up to a maximum reimbursement allocation of \$10,000, less a \$500 deductible. Moreover, if the value of an applicant's residential property exceeds \$600,000, MDE will reimburse 25 percent of eligible site rehabilitation costs, up to a maximum reimbursement allocation of \$5,000, less a \$500 deductible. MDE will continue to reimburse 100 percent of eligible site rehabilitation costs, up to a maximum of \$20,000, less the \$500 deductible, for applicants with residential property values at or less than \$300,000.

While this proposal would not increase or decrease total revenue or expenditures of the Oil Contaminated Site Environmental Cleanup Fund, under this proposal MDE would be able to reimburse more applications with the current level of revenue. This is because applicants with residential property values that exceed \$300,000

would no longer be reimbursed for 100 percent of their eligible site rehabilitation costs, and their maximum reimbursement allocations would be reduced.

II. Types of Economic Impact	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Oil Control Program expenses	(E+)	Minimal
(2) Emergency response & State-funded remediation	(E-)	Indeterminable
(3) Oil Contaminated Site Environmental Cleanup Fund	NONE	NONE
B. On other State agencies:		
AST system requirements	(E+)	Indeterminable
C. On local governments:		
AST system requirements	(E+)	Indeterminable
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Oil storage facility monitoring well installation	(-)	\$30,000 one-time
(2) Monitoring well sampling and equipment replacement	(-)	\$3,000-\$4,000 annually
(3) AST system requirements	(-)	Indeterminable
E. On other industries or trade groups:	(+)	Meaningful
F. Direct and indirect effects on public:		
(1) Average reimbursement for approved applications	(-)	Indeterminable
(2) Reimbursements payments issued per fiscal year	(+)	Indeterminable
(3) Health, safety, and welfare of the public	(+)	Meaningful

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A(1). The proposed action would have a minimal impact on MDE's Oil Control Program. Expenditures may increase in fiscal years 2022 and 2023 to perform outreach to the regulated community regarding the updated regulations and to implement the new AST system registration requirement. MDE workload would increase to register and oversee AST systems, permit marinas with AST systems that are a part of a motor fuel dispensing facility, and to conduct site visits at newly designated high risk oil storage facilities. MDE is unable to estimate how much expenditures would increase to cover these costs, but they can be covered with existing special funds and federal grant money utilized by the Oil Control Program.

A(2). Because the proposed action would increase regulatory stringency regarding storage tank systems and oil pollution control, it



would reduce the number and size of oil and hazardous substance releases. MDE would benefit from the avoided costs related to emergency responses, oversight of responsible party remediation, State-lead remediation, and associated enforcement activities as a result of prevented releases and the reduced severity of releases. MDE cannot determine at this time the magnitude that MDE's expenditures related to these activities would be reduced.

A(3). The proposed action would not increase total revenue to the Oil Contaminated Site Environmental Cleanup Fund because the oil transfer fee is set in State law and oil transfer fee revenue in the fund is dependent upon the number of barrels of oil transferred into the State in any given fiscal year. MDE would continue to expend all available funding from the Oil Contaminated Site Environmental Cleanup Fund to reimburse approved applications. The reduction in the average reimbursement per application as a result of the proposed action would allow MDE to be able to reimburse more applications with the current level of revenue.

B. The proposed action may increase expenditures for other State agencies with existing AST systems that are directed by MDE to come into compliance with new and/or existing State storage tank system requirements. The exact costs incurred by other State agencies to come into compliance with the proposed action cannot be determined because it will vary based on the existing operating, monitoring, and testing conditions in place at a particular facility.

C. The proposed action may increase expenditures for local governments with existing AST systems that are directed by MDE to come into compliance with new and/or existing State storage tank system requirements. The exact costs incurred by local governments to come into compliance with the proposed action cannot be determined because it will vary based on the existing operating, monitoring, and testing conditions in place at a particular facility.

D(1). The proposed action would increase costs for owners of underground oil storage facilities defined as either a high risk underground oil storage facility or a new or existing gasoline UST system required to install, at a minimum, three groundwater monitoring wells, if monitoring wells aren't already installed at the facility.

D(2). The proposed action would increase costs for owners of high risk underground oil storage facilities and new and existing gasoline UST systems to pay a contractor at least \$2,000 annually to sample installed groundwater monitoring wells and to analyze the samples. There may be additional costs to replace equipment related to implementing the groundwater monitoring program, estimated to be between \$1,000 and \$4,000.

D(3). The proposed action may increase costs for regulated industries with existing AST systems that are directed by MDE to come into compliance with new and/or existing State storage tank system requirements. The exact costs incurred by regulated industries to come into compliance with the proposed action cannot be determined because it will vary based on the existing operating, monitoring, and testing conditions in place at a particular facility.

E. The proposed requirements for high risk oil storage facilities may have an economic benefit for other companies such as well drilling companies to install groundwater monitoring wells. Environmental companies and laboratories may also have an economic benefit if contracted to collect and analyze groundwater samples. Engineering firms may have an economic benefit if contracted to design field-constructed storage tank systems, airport hydrant systems, and marina motor fuel dispensing facilities. Upon registering existing AST systems and MDE identifying compliance issues with these storage tank systems, AST system owners and operators may need to use qualified contractors to make necessary repairs and perform necessary testing.

F(1). Residential heating oil tank system owners that apply for reimbursement of eligible site rehabilitation costs from the Oil Contaminated Site Environmental Cleanup Fund on or after July 1, 2022, and whose residential property values exceed \$300,000 would be subject to the reimbursement allocation limits under this proposal. Consequently, these applicants' reimbursement payments would be reduced. The magnitude of the impact on these approved applicants cannot be provided because the site rehabilitation costs submitted by each applicant will vary, and not all site rehabilitation costs submitted will be eligible for reimbursement.

F(2). Under the proposal, MDE would be able to reimburse more applicants per fiscal year. MDE assumes that revenue to the Oil Contaminated Site Environmental Cleanup Fund will remain at or near current levels. The average amount of reimbursement per application would decrease under this proposal for applicants with property values higher than \$300,000 who apply and are approved for reimbursement on or after July 1, 2022, which would allow MDE to reimburse additional applications at the current level of revenue. MDE cannot estimate the exact number of additional approved applicants that would be reimbursed for eligible site rehabilitation costs per fiscal year.

F(3). Because the proposed action would increase regulatory stringency regarding the construction, operation, and maintenance of storage tank systems and reduce the number and size of releases, the public would benefit from the reduce exposure to contaminated environmental media and accompanying health risks.

**Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action would have a meaningful economic impact on small businesses that own and operate storage tank systems, design storage tank systems and marina motor fuel dispensing facilities, train regulated substance storage facility operators or certified UST system professionals, and perform environmental services for oil storage and handling facilities. The types of small businesses MDE believes would be most impacted are motor fuel stations, trucking companies, farms, and service stations with underground and aboveground oil storage tank systems, environmental contractors, and UST-related training providers. A more detailed discussion of the economic impact on all businesses, including small businesses, affected by the proposed action is provided in the Estimate of Economic Impact Section of this notice.

A small business owner and operator in charge of an emergency power generator UST system would incur expenses to install release detection equipment on single-walled UST systems and to begin performing release detection monitoring on all emergency power generator UST systems. Any small business UST system owner or operator costs would increase to comply with the proposed action's installation and testing of spill and overfill prevention equipment provisions and periodic operation and maintenance walkthrough inspection requirements. Note, however, that these additional UST-related costs are necessitated by federal regulations and even in the absence of the proposed action, UST system owners and operators would have to comply with federal regulations. Small businesses that train and certify UST system operators and certified UST system inspectors, removers, and technicians and heating oil technicians would experience increased profits as they are hired to train professionals on the proposed new UST system provisions. Additionally, small business environmental contractors that conduct sampling and testing for oil storage and handling facilities and install, perform maintenance, inspect, and remove storage tank systems would see increased profits as owners and operators of storage tank

systems hire these companies to bring their facilities into compliance with the proposed action.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Chris Ralston, Oil Control Program Manager, Land and Materials Administration, Maryland Department of the Environment, 1800 Washington Blvd., Suite 620, Baltimore, MD 21230, or call (410) 537-3442, or email to chris.ralston@maryland.gov, or fax to 410-537-3092. Comments will be accepted through February 28, 2022. A public hearing will be held on February 24, 2022, beginning at 11:00 a.m. at the Maryland Department of the Environment in the lobby conference rooms, located at 1800 Washington Blvd., Baltimore, MD 21230.

**Editor’s Note on Incorporation by Reference**

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the following documents have been declared documents generally available to the public and appropriate for incorporation 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)
- (13) Overfill Protection for Storage Tanks in Petroleum Facilities (ANSI/API Standard 2350, 5th Edition, September 2020)
- (14) Control of External Corrosion on Underground or Submerged Metallic Piping Systems (NACE SP0169-2013, Approved April 1969, Revised October 2013)
- (15) 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)
- (16) Corrosion Control of Underground Storage Tank Systems by Cathodic Protection (NACE SP0285-2011, Approved March 1985, Revised March 2011)

- (17) Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems (NACE Standard TM0101-2012, Approved November 2001, Revised March 2012)
- (18) Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems (NACE TM0497-2018, Approved September 2018)
- (19) Flammable and Combustible Liquids Code (NFPA 30, 2021 Edition)
- (20) Code for Motor Fuel Dispensing Facilities and Repair Garages (NFPA 30A, 2021 Edition)
- (21) Standard for the Installation of Oil-Burning Equipment (NFPA 31, 2020 Edition)
- (22) National Electrical Code (NFPA 70, 2020 Edition)
- (23) Standard for Tank Vehicles for Flammable and Combustible Liquids (NFPA 385, 2017 Edition)
- (24) Standard System for the Identification of the Hazards of Materials for Emergency Response (NFPA 704, 2022 Edition)
- (25) Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP100-20, 2020 Edition)
- (26) Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling (PEI/RP200-19, 2019 Edition)
- (27) Recommended Practices for Overfill Prevention for Shop-Fabricated Aboveground Tanks (PEI/RP600-18, 2018 Edition)
- (28) Recommended Practices for Installation of Bulk Storage Plants (PEI/RP800-20, 2020 Edition)
- (29) Recommended Practices for the Inspection and Maintenance of UST Systems (PEI/RP900-17, 2017 Edition)
- (30) Recommended Practices for the Installation of Marina Fueling Systems (PEI/RP1000-14, 2014 Edition)
- (31) Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities (PEI/RP1200-19, 2019 Edition)
- (32) Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems (PEI/RP1700-18, 2018 Edition)
- (33) Standard for the Inspection of Aboveground Storage Tanks (STI/SPFA SP001, 6th Edition, January 2018)
- (34) Cathodic Protection Testing Procedures for sti-P3 USTs (STI/SPFA R051, Revised April 2017)
- (35) Recommended Practice for the Addition of Supplemental Anodes to sti-P3 USTs (STI/SFPA R972, Revised December 2010)
- (36) Standard for Safety, Steel Aboveground Tanks for Flammable and Combustible Liquids (UL 142, 10th Edition, May 2019, Revised January 2021)
- (37) Standard for Safety, Special Purpose Aboveground Tanks for Specific Flammable or Combustible Liquids (UL 142A, 1st Edition, May 2018, Revised January 2021)
- (38) USEPA Doing Inventory Control Right for Underground Storage Tanks (USEPA 510-B-93-004, November 1993)
- (39) USEPA Test Method 1311 - Toxicity Characteristic Leaching Procedure (July 1992, Revision 0), Test Methods for Evaluating Solid Waste, Physical/Chemical Methods Compendium (USEPA SW-846, 3rd Edition)
- (40) USEPA Test Method 8015C - Nonhalogenated Organics by Gas Chromatography (February 2007, Revision 3), Test Methods for Evaluating Solid Waste, Physical/Chemical Methods Compendium (USEPA SW-846, 3rd Edition)
- (41) USEPA Test Method 8082A - Polychlorinated Biphenyls (PCBs) by Gas Chromatography (February 2007, Revision 1), Test Methods for Evaluating Solid Waste, Physical/Chemical Methods Compendium (USEPA SW-846, 3rd Edition)

(42) USEPA Test Method 8260D - Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (June 2018, Revision 4), Test Methods for Evaluating Solid Waste, Physical/Chemical Methods Compendium (USEPA SW-846, 3rd Edition)

(43) USEPA Test Method 524.2 - Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry (1995 Edition, Revision 4.1), Selected Analytical Methods for Environmental Remediation and Recovery (SAM) 2017 (USEPA/600/R-17/356, 2017)

(44) USEPA Test Method 8015D - Nonhalogenated Organics Using GC/FID (June 2003, Revision 4), Selected Analytical Methods for Environmental Remediation and Recovery (SAM) 2017 (USEPA/600/R-17/356, 2017)

Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 49:1 Md. R. 9 (January 3, 2022), and is available online at [www.dsd.state.md.us](http://www.dsd.state.md.us). These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**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;
- (ii) Previously stored oil, except for a storage tank placed out-of-service to store a non-oil product in accordance with COMAR 26.10.17 or 26.10.18;

- (iii) Has a storage capacity of greater than 250 gallons;
- (iv) Is designed to operate at pressures from atmospheric pressure to a gauge pressure of 1.0 psi (6.9 kPa) measured at the top of the storage tank;

- (v) Is constructed more than 90 percent above the surface of the ground, excluding piping; and

- (vi) May be installed in an underground vault, a basement, or a sub-surface building.

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

- (i) An aboveground residential heating oil tank;
- (ii) 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;
- (iii) A septic tank, surface impoundment, pit, pond, or lagoon;

- (iv) A stormwater or wastewater collection system;

- (v) A flow-through process tank;

- (vi) Oil-filled operational equipment;

- (vii) 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; and

- (viii) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(2) "Aggregate storage capacity" means the total oil storage capacity of all 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

- (ii) 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(47) 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 professional engineer 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(65) 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) "Floodplain" has the meaning stated in COMAR 26.17.04.02B.

(29) 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.

(30) "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(30)(a) and (b) of this regulation; and

(d) Heating oil as defined under §B(35) of this regulation.

(31) “Fund” means the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund.

(32) “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.

(33) “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.

(34) 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.

(35) “Heating oil” means a fuel oil as defined under §B(30) of this regulation that is typically used in the operation of heating equipment, boilers, or furnaces.

(36) “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.

(37) “Leak” means a loss of pressure within a storage tank system that may result in a spill, release, or discharge.

(38) “Licensee” means a person who holds a valid Oil Transfer License from the Department in accordance with Regulation .08 of this chapter.

(39) “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.

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

(41) 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.

(42) 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.

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

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

(45) 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(45)(b)(i)—(iii) of this regulation.

(46) “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.

(47) 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.

(48) “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.

(49) “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 sludge, oil refuse, or oil mixed with other waste solidification/stabilization.

(50) 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.

(51) "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.

(52) "Other security" means a trust fund, letter of credit, insurance, or other form of financial responsibility approved by the Department.

(53) "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.

(54) "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.

(55) "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.

(56) "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.

(57) "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.

(58) "Pier" means a fixed or floating dock or a wharf constructed on or over waters of the State.

(59) "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.

(60) "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.

(61) "Regulated substance" means:

(a) A hazardous substance as defined under §B(34) of this regulation; and

(b) Oil as defined under §B(47) of this regulation.

(62) 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

(63) "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.

(64) "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.

(65) "Residential heating oil tank" means an aboveground or underground storage tank that is used to store heating oil for use as a fuel in heating a single-family residential property and that meets the criteria for a heating oil tank under Environment Article, §4-401, Annotated Code of Maryland.

(66) "Residential tank" means a storage tank used solely for noncommercial purposes and serving not more than one residence.

(67) "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.

(68) "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.

(69) "Secretary" means the Secretary of the Environment or the Secretary's designee.

(70) "Sinking agent" means a chemical agent or other compound that can physically sink oil below the water surface.

(71) "Solidification/stabilization" means a treatment process that involves combining oil sludge, oil refuse, or oil mixed with other waste with a non-hazardous substance to solidify or eliminate liquid traits of the oil sludge, oil refuse, or oil mixed with other waste.

(72) "Sorbent" means a substance or material that takes up and holds oil by either adsorption or absorption.

(73) "Special flood hazard area" or "area of special flood hazard" has the meaning stated in 44 CFR §59.1.

(74) "Spill" means a release as defined in §B(63) of this regulation.

(75) 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.

(76) "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.

(77) "State" means the State of Maryland.

(78) "Storage capacity" means the primary shell capacity of a storage tank.

(79) "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.

(80) "Storage tank system" means a storage tank, connected piping, ancillary equipment and appurtenances, including dispensers and secondary containment.

(81) "Tank barge" means a tank vessel not equipped with a means of self-propulsion.

(82) "Tank car" means a cargo tank that is moved by locomotive power along a railroad system.

(83) 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.

(84) "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.

(85) "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.

(86) "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 tank car.

(87) "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.

(88) "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.

(89) "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.

(90) "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.

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

(92) "USCG" means the United States Coast Guard.

(93) "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.

(94) "USEPA" means the United States Environmental Protection Agency.

(95) "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.

(96) "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 floodplain 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 floodplain of free-flowing waters, as described under Regulation .02B(96)(d) of this chapter.

(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) A person responsible for the discharge shall submit a written report of the occurrence in accordance with the requirements of this section if:

(a) 5 gallons or more of oil was spilled, released, or discharged;

(b) Oil was discharged to waters of the State, regardless of the amount of oil spilled, released, or discharged; or

(c) Directed by the Department to submit a written report of the occurrence.

(2) 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.

(3) A person responsible for the discharge shall prepare the written report of the occurrence 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, if not required, a certificate of compliance with the Maryland Workers' Compensation Act; 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 not later than 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 that meets one or more of the following conditions 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 an aggregate 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 aggregate storage capacity of 1,000 gallons or greater of used oil;

(d) 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 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/stabilization 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/stabilization 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 aggregate 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 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 oil storage facility or oil handling facility is not required to register an AST system located at the facility with the Department if:

(a) The oil storage facility is a single-family residential property;

(b) The oil storage facility or oil handling facility has an aggregate storage capacity of 2,500 gallons or less and operates under a General Oil Operations Permit, as required under Regulation .09B of this chapter; or

(c) The AST system stores oil for less than six consecutive months.

(2) To address a special circumstance at a facility, the Department may approve a written request for an exemption from the AST system registration requirement under §B of this regulation submitted by an owner, an operator, or a person in charge of an oil storage facility or oil handling facility otherwise required to register an AST system with the Department.

**B. Registration Requirement.**

(1) Except as provided under §A of this regulation, an owner, an operator, and a person in charge of an oil storage facility or oil handling facility:

(a) Shall register, and maintain current registration of, each AST system located at the facility with the Department; and

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

(2) Prior to selling or transferring ownership of an oil storage facility or oil handling facility or an AST system intended to be used by a purchaser or transferee for the storage of oil in Maryland, an owner, an operator, and a person in charge of an oil storage facility or oil handling facility required to register an AST system under §B(1) of this regulation shall:

(a) Inform the purchaser or transferee of the registration requirements under this regulation; and

(b) If an oil storage facility or oil handling facility described under §D of this regulation, provide the purchaser or transferee with a copy of the current registration form.

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 obtain an Individual Oil Operations Permit under Regulation .09A of this chapter shall register and maintain registration of each AST system located at the facility:

(1) As part of the application process for a new or renewal Individual Oil Operations Permit in accordance with Regulation .11 of this chapter; and

(2) If required under Regulation .12B of this chapter, by requesting a modification of an effective Individual Oil Operations Permit.

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 with an aggregate storage capacity of greater than 2,500 gallons that operates under a General Oil Operations Permit, as required under Regulation .09B of this chapter, shall register and maintain registration for each AST system located at the facility in accordance with the registration procedures of this section.

(1) Registration Form. An owner, an operator, or a person in charge of an oil storage facility or oil handling facility:

(a) Shall register or amend the registration for each AST system located at the facility using a registration form provided by the Department;

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

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

(d) 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; and

(e) Shall sign and date each registration form submitted to the Department.

(2) Registration Schedule. An owner, an operator, or a person in charge of an oil storage facility or oil handling facility shall:

(a) Register an AST system with the Department in accordance with the following schedule:

(i) If the AST system is installed on or after the effective date of this chapter, within 30 days of installing the AST system; and

(ii) If the AST system was installed before the effective date of this chapter, not later than 18 months after the effective date of this chapter; and

(b) 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:

(i) The sale, transfer of ownership, or change in ownership structure;

(ii) A change in the oil product stored in the AST system;

(iii) A change in status of the AST system from or to in-service, permanently closed or out-of-service, including a change-in-service to store a non-oil product in the AST system; or

(iv) The installation of a new or replacement AST system at the facility.

(3) Recordkeeping. An owner, an operator, or a person in charge of an oil storage facility or oil handling facility shall:

(a) Maintain a copy of each complete AST system registration form at the oil storage facility or oil handling facility; and

(b) Make a copy of a complete AST system registration form available upon request by the Department.

**.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, on forms provided by the Department, and submit 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 or, if not required, a certificate of compliance with the Maryland Workers' Compensation Act;

(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 an oil 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. Registration of an AST System.* An owner, an operator, and a person in charge of an oil storage facility or oil handling facility required under Regulation .10 of this chapter to register each AST system located at the facility shall comply with the registration requirement by submitting a complete permit application in accordance with §§A—C of this regulation.

*G. 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.

*H. 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 a 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) The sale, transfer of ownership, or change in ownership structure of the AST system or the oil storage facility or oil handling facility;

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

(iii) A change in the methods, processes, or operations for the treatment of oil-contaminated soil;

(iv) A change in methods, processes, or operations used for the solidification/stabilization of oil sludge, oil refuse, or oil mixed with other waste;

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

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

(vii) The installation or removal of underground piping associated with an AST system;

(viii) A change in status of the AST system from or to in-service, permanently closed or out-of-service, including a change-in-service to store a non-oil product in the AST system; and

(ix) 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, obtain any applicable wetland and waterways authorization stated in Regulation .04E of this chapter;

(4) If installing an aboveground residential heating oil tank aboveground or inside of a building, install a storage tank that is:

(a) UL listed for aboveground use or a storage tank designed and constructed for aboveground use in accordance with a Department-approved industry standard; and

(b) Placed 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 in an area subject to flooding, 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 storage tank that is:

(a) UL listed for underground use or a storage tank designed and constructed for underground use in accordance with a Department-approved industry standard;

(b) Constructed of corrosion protected steel or fiberglass reinforced plastic; and

(c) Protected from corrosion in accordance with:

(i) NFPA 30 "Flammable and Combustible Liquids Code"; and

(ii) 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 an area subject to flooding, 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, releasing, and discharging 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) Before beginning the installation of the storage tank system, obtain any applicable wetland and waterways authorization stated in Regulation .04E of this chapter;

(2) Comply with §E of this regulation;

(3) 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

(4) At least 60 days prior to the start of installation, submit to the Department for review and approval the storage tank system engineering plans prepared by one or more of the following individuals:

(a) A professional engineer;

(b) An individual certified as a UST system technician in accordance with COMAR 26.10.06;

(c) A certified inspector, as defined in COMAR 26.10.17.02B; or

(d) An authorized inspector, as defined in COMAR 26.10.18.02B.

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 a 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/Stabilization of Oil Waste Materials.**

A. An owner, an operator, and a person in charge of an oil storage facility or oil handling facility shall obtain an Individual Oil Operations Permit to conduct an oil sludge, oil refuse, or oil mixed with other waste solidification/stabilization operation.

B. Permit Application and Issuance Procedures.

(1) An owner, an operator, and a person in charge of an oil storage facility or 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/stabilization 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/stabilization 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/stabilization 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 for each batch of raw material to be solidified/stabilized and for loads of 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/stabilization 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 .11G and H 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 storage facility or 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/stabilization operation; or

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

(5) The Department may modify, or an owner, an operator, and a person in charge of an oil storage facility or oil handling facility may request to modify, the oil solidification/stabilization 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 storage facility or oil handling facility conducting an oil solidification/stabilization 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/stabilization process area into waters of the State;

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

(a) Included in the solidification/stabilization 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/stabilization area of all oily substances; and

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

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

(6) Shall maintain the following records for at least 5 years at the oil storage facility or 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 storage facility or 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/stabilization 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<sup>-7</sup> 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<sup>-7</sup> 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 overflow, 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 overflow; 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.; 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) Beginning 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) Beginning 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, release, or discharge 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:

(a) The addition or retrofit of a system designed to prevent the spill, release, or discharge of product from a UST system, such as an interior lining, cathodic protection, or spill and overflow controls; or

(b) The replacement of any underground piping connected to a storage tank system.

(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 overflow, 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 overflow.

**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) An owner and an operator of a UST system installed after January 11, 2009 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. Beginning 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, beginning 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) Beginning 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) Beginning 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), (2)(d), and (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.

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) Not later than December 22, 1998, an owner and an operator of an existing UST system with a steel UST shall implement of one the following corrosion protection methods under §D(2) or (3) of this regulation.

(2) Cathodic Protection System. Not later than 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. Not later than 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.** Not later than 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 Overfill Prevention Equipment Requirements.** Not later than 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 overfill 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 overflow 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 a spill, release, or discharge 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. Beginning 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) An owner and an operator of a UST system shall notify the Department in accordance with COMAR 26.10.08.01 when a release detection method operated in accordance with one of the following performance standards indicates that a spill, release, or discharge may have occurred:

(a) Regulation .05 of this chapter; or

(b) If the UST system has a field-constructed tank or an airport hydrant system, COMAR 26.10.12.

(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 not later than 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 detectable 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) Beginning 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, beginning 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) Beginning 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 groundwater use area” or “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.

(3) “High risk underground oil storage facility” means an oil storage facility that meets the conditions defined in Regulation .07A of this chapter.

(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) “Well head protection area” or “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 after 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 after 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 after 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) Throughput Review Procedures.

(a) To determine if an underground oil storage facility meets the definition of a high risk underground oil storage facility on a throughput basis, an owner of an underground oil storage facility

shall have a throughput review performed in accordance with §A(2)(b) of this regulation:

(i) At least once every three years during a certified inspection of a UST system required under COMAR 26.10.03.10; or

(ii) If directed by the Department to perform a throughput review.

(b) Using a form provided by the Department, a certified UST system inspector or a person in charge of an underground oil storage facility performing a throughput review shall 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.

(c) An owner of an underground oil storage facility shall submit to the Department the throughput review:

(i) As part of the inspection report required under COMAR 26.10.03.10D if the throughput review was performed during a certified inspection of a UST system; or

(ii) As directed 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 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:

(1) Select, and upon receipt of Department approval, implement one of the following monitoring methods:

(a) Groundwater monitoring method specified under §C of this regulation;

(b) Enhanced testing method specified under §D of this regulation; or

(c) An alternative monitoring method specified under §E of this regulation; and

(2) Begin implementing the monitoring method in accordance with the following schedule:

(a) Within 6 months of the effective date of this chapter, if the facility meets the size and construction conditions of §A(1)(a) of this regulation;

(b) Within 6 months of determining that the facility meets the throughput conditions of §A(1)(b) of this regulation; or

(c) 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:

(a) That are constructed in accordance with the well construction requirements of 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) 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 after 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 a method 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.**

(1) For the purposes of this section, evidence of a spill, release, or discharge include:

(a) The visual detection of free product; or

(b) 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.

(2) 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 environmental assessment and the owner of the property shall report the suspected spill, release, or discharge to the Department:

(a) Immediately, but not later than 2 hours after the visual detection of free product; or

(b) Within 48 hours of receiving an analytical laboratory report described under §B(1) of this regulation.

(3) The person performing an environmental assessment on a property or the owner of the property may not be considered a person responsible for the discharge solely as a result of discovering evidence of a spill, release, or discharge or reporting a suspected spill, release, or discharge to the Department in compliance with §B(1) of this regulation, unless the person performing the environmental assessment or the property owner meets the criteria for a person responsible for the discharge under COMAR 26.10.01.02B.

**.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 overflow 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; and
- (f) The type of regulated substance stored in the UST system.

### 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 Overflow 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 Maximum Leak Detection Rate	Annual Test 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 each 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, special flood hazard areas, and 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 26.10.01.11G and H; 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<sup>-7</sup> 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 26.13.02.04-1A(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 Used Oil.

(1) Except as provided under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland or any other provisions of law, a person may not dispose of, or cause to be disposed of, used oil by:

(a) Discharging, dumping, or depositing the used oil into sewers, drainage systems, surface waters or groundwaters, and any waters of the State;

(b) Incinerating used oil as refuse, not including the burning of used oil as fuel in accordance with this chapter; or

(d) Disposing, dumping, or depositing used oil onto public or private land that is not an approved facility, as provided under §D(2) of this regulation.

(2) A person may dispose of used oil at one of the following approved facilities:

(a) Pursuant to Environment Article, §5-1001, Annotated Code of Maryland, public or private land designated by the State or an agency or political subdivision of the State as a collection facility for used oil in which used oil is placed in a receptacle or container installed or located on the property; or

(b) 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 a storage unit that meets one of the following criteria:

(1) A storage tank system that complies with COMAR 26.10.01—26.10.12 and 26.10.16—26.10.18; or

(2) Depending upon the type of facility where the used oil is stored, a container equipped with a 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 not later than 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 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

(d) 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 overflow 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, overflow 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 overfill 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 overfill 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.

(a) "Out-of-service" means an AST system in which the owner, the operator, and the person in charge of the AST system has:

(i) Emptied the AST system of all oil and sludge; and

(ii) Designated the AST system as out-of-service in accordance with Regulation .13 of this chapter.

(b) "Out-of-service" includes a change-in-service in which an AST system is emptied of all oil and sludge in order to store a non-oil product.

(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 shall:

(1) Prior to installing a new or replacement AST system or secondary containment dike, obtain any applicable wetland and waterways authorization stated in COMAR 26.10.01.04E; and

(2) If installing the AST system in a location subject to flooding, protect the shop-fabricated AST from flotation by anchoring the storage tank in accordance with NFPA 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages".

**.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 for a stationary shop-fabricated AST is:

- (1) Constructed 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 professional engineer using field and laboratory testing and analyses, if the AST system is located in an area subject to flooding;

C. Install 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 completing 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 system is part of a motor fuel dispensing facility, has a storage capacity not greater than 12,000 gallons, and stores a Class I liquid;
  - (b) The AST system is part of a motor fuel dispensing facility, has a storage capacity not greater than 15,000 gallons, and stores a Class II liquid; or

(c) *The AST system is not part of a motor fuel dispensing facility, has a storage capacity not greater than 20,000 gallons, and stores a Class II liquid or Class III liquid.*

**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 professional engineer;*
- (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<sup>-4</sup> 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 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 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 overflow 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 overflow prevention equipment on the AST system:

(1) An overflow 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 overflow level and upon failure or malfunction of the overflow 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 overflow 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 overflow prevention equipment shall:

(1) At least monthly, inspect and perform maintenance of overflow protection equipment in accordance with the manufacturer’s instructions; and

(2) At least annually, perform functional testing of overflow 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 overflow 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 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-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 and Leak Testing. 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 oil storage facility or oil handling facility operating under an Individual Oil Operations Permit required under COMAR 26.10.01.09A shall:

(1) As described in Section 5.0 of STI/SPFA SP001 “Standard for the Inspection of Aboveground Storage Tanks”, determine the formal inspection and leak testing schedule by the shop-fabricated AST size and category;

(2) Have a certified inspector conduct formal external inspections and formal internal inspections on a shop-fabricated AST;

(3) Have properly trained personnel conduct leak tests on a shop-fabricated AST in conjunction with a certified inspector conducting formal inspections on the shop-fabricated AST; and

(4) Comply with the formal inspection report requirements under §E of this regulation.

**E. Formal Inspection Report.**

(1) The certified inspector that conducts a formal external inspection or formal internal 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 an oil storage facility described in §D of this regulation shall:

(a) Include the leak test results and supporting data in the final report for a shop-fabricated AST required under §E(1) of this regulation; and

(b) Maintain the final reports completed for each formal inspection and leak test conducted on a shop-fabricated AST in accordance with Regulation .14 of this chapter.

**.13 Out-of-Service and Permanent Closure.**

A. The requirements of this regulation apply to an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST required under COMAR 26.10.01.10 to register the AST system with the Department.

B. Out-of-Service. 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 placing the AST system out-of-service.

C. Return to In-Service. An owner, an operator, and a person in charge of an out-of-service AST system with a shop-fabricated AST shall complete each of the following steps prior to placing the AST system in-service:

(1) If a formal inspection and leak test was due to occur while the AST system was out-of-service, conduct a formal inspection and leak test of the AST system in accordance with Regulation .12 of this chapter;

(2) Test all connected piping and appurtenances to ensure a spill, release, or discharge will not occur;

(3) Maintain a copy of all corrosion protection system and formal inspection and testing reports, including the findings of inspections and tests and repairs performed, and provide a copy to the Department upon request; and

(4) Notify the Department in writing 30 days before placing the AST system in-service.

D. Permanent Closure. 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) At least 30 days before beginning the permanent closure of the AST system:

(a) Notify the Department in writing of the planned AST system permanent closure; and

(b) Submit to the Department for approval a proposed sampling plan for a site assessment to determine if there is evidence of a spill, release, or discharge where contamination is most likely to be present, which 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;

(2) Place the AST system out-of-service in accordance with §B of this regulation;

(3) Comply with PEI RP 1700 "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems";

(4) Disconnect and remove all aboveground piping associated with the AST system;

(5) Disconnect and remove all underground piping associated with the AST system:

(a) Under the continuous on-site presence and direction of a certified UST system technician or remover; and

(b) In accordance with the UST system permanent closure procedures in COMAR 26.10.10.02D;

(6) Remove the AST and associated piping from the site; and

(7) Within 45 days of completing the permanent closure and 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.

E. Change-in-Service. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST 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.

F. Upon completing an out-of-service activity specified §§B—E 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) If the oil storage facility or oil handling facility is required under COMAR 26.10.01.09 to be operated under an Individual Oil Operation Permit, submit a request to modify 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 established under Regulation .07 of this chapter that:*

- (a) *Is sufficiently below the critical high level of the AST; and*
- (b) *Enables the termination of an oil delivery or transfer before the critical high level in the AST is reached.*

(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.*

(a) *“Out-of-service” means an AST system in which the owner, the operator, and the person in charge of the AST system has:*

- (i) *Emptied the AST system of all oil and sludge; and*
- (ii) *Designated the AST system as out-of-service in accordance with Regulation .12 of this chapter.*

(b) *“Out-of-service” includes a change-in-service in which an AST system is emptied of all oil and sludge in order to store a non-oil product.*

(15) *“Overfill” 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 shall:*

(1) *Prior to installing a new or replacement AST system or secondary containment dike, obtain any applicable wetland and waterways authorization stated in COMAR 26.10.01.04E; and*

(2) *If installing the AST system in a location subject to flooding, protect the field-erected AST from flotation by anchoring the storage tank in accordance with NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”.*

**.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 professional engineer;
- (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 professional engineer;

(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 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 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 overfill 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. Overfill Prevention Equipment. 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:

(1) Install the following overfill prevention equipment on the AST:

(a) A high-high level alarm that:

(i) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;

(ii) Consists of a visual alarm and an audible alarm that alerts an individual involved in the oil delivery or transfer; and

(iii) Goes into alarm when the liquid level reaches the high-high level of the AST established in §G(2) of this regulation and upon the failure or malfunction of the device; and

(b) An automatic shut-off device that:

(i) Has a test function to allow the operability of the device to be confirmed prior to each delivery or transfer of oil;

(ii) Automatically shuts off the flow of oil into an AST when the liquid level reaches the automatic shut off level of the AST established in §G(2) of this regulation; and

(iii) 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;

(2) Set the levels at which the overfill prevention equipment activates as follows:

(a) For a field-erected AST with a capacity of less than 200,000 gallons:

(i) The high-high level may not be greater than 90 percent of the critical high level of the AST; and

(ii) The automatic shut off level may not be greater than 95 percent of the critical high level of the AST;

(b) For a field-erected AST with a capacity of 200,000 gallons or greater but less than 1,000,000 gallons:

(i) The high-high level may not be greater than 95 percent of the critical high level of the AST; and

(ii) The automatic shut off level may not be greater than 98 percent of the critical high level of the AST; and

(c) For a field-erected AST with a capacity of 1,000,000 gallons or greater:

(i) The high-high level may not be less than 6 inches below the critical high level of the AST; and

(ii) The automatic shut off level may not be less than 3 inches below the critical high level of the AST;

(3) At least monthly, inspect and perform maintenance of overfill protection equipment in accordance with the manufacturer's instructions; and

(4) At least annually, perform functional testing of overfill protection equipment in accordance with the manufacturer's instructions.

**H. Overfill Prevention System.**

(1) 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 liquids 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 "Overfill Prevention for Storage Tanks in Petroleum Facilities".

(2) In accordance with ANSI/API Standard 2350 "Overfill Prevention for Storage Tanks in Petroleum Facilities", 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 overfill prevention system that incorporates the following components:

(a) A documented management system;

(b) A risk assessment for each AST subject to an overfill;

(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. 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 §I(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.

J. 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. *Out-of-Service.* 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) Notify the Department in writing 30 days before placing the AST system out-of-service;

(2) Remove all oil from the AST system;

(3) Isolate all piping connected to the AST;

(4) 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;

(5) Purge all petroleum vapors and maintain the AST system vapor free;

(6) Secure the AST system to prevent unauthorized entrance or tampering;

(7) Protect the AST system from flotation;

(8) Continue the operation and maintenance of corrosion protection on the AST system in accordance with Regulation .09 of this chapter;

(9) Lock the fill port; and

(10) 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".

B. *Return to In-Service.* An owner, an operator, and a person in charge of an out-of-service AST system with a field-erected AST shall complete the following steps prior to placing the AST system in-service:

(1) Notify the Department in writing 30 days before placing the AST system in-service;

(2) If an external or internal inspection required under Regulation .11 of this chapter was due to occur while the AST system was out of service, conduct the external or internal inspection of the AST system in accordance with the inspection procedures in Regulation .11F or H of this chapter.

(3) Test all connected piping and appurtenances to ensure a spill, release, or discharge will not occur; and

(4) Maintain a copy of all corrosion protection system and formal inspection and testing reports, including the findings of inspections and tests and repairs performed, and provide a copy to the Department upon request.

C. *Permanent Closure.* 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) At least 30 days before permanently closing the AST system:

(a) Notify the Department in writing of the planned AST system permanent closure; and

(b) Submit to the Department for approval a proposed sampling plan for a site assessment to determine if there is evidence of a spill, release, or discharge where contamination is most likely to 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;

(2) Place the AST system out-of-service in accordance with §A of this regulation;

(3) Disconnect and remove all aboveground piping associated with the AST system;

(4) Disconnect and remove all underground piping associated with the AST system:

(a) Under the continuous on-site presence and direction of a certified UST system technician or remover; and

(b) In accordance with the procedures in COMAR 26.10.10.02D;

(5) Remove the AST and associated piping from the site; and

(6) Within 45 days of completing the permanent closure and 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. *Change-in-Service.* An owner, an operator, and a person in charge of an AST system with a field-erected AST placing the AST system out-of-service in order to store a non-oil product 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 completing an out-of-service activity specified §§A—D of this regulation, an owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

(1) Within 30 days, amend the AST system registration with the Department in accordance with COMAR 26.10.01.10; and

(2) If the oil storage facility or oil handling facility is required under COMAR 26.10.01.09 to be operated under an Individual Oil Operation Permit, submit a request to modify 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

**Title 31**  
**MARYLAND INSURANCE**  
**ADMINISTRATION**  
**Subtitle 09 LIFE INSURANCE AND**  
**ANNUITIES**

**31.09.12 Suitability in Annuity Transactions**

Authority: Insurance Article, §§2-109(a), 4-113, 10-126(a)(13) and (d), 27-102, 27-202, and 27-203, Annotated Code of Maryland

**Notice of Proposed Action**  
[22-031-P]

The Insurance Commissioner proposes to repeal existing Regulations .01—.11 and adopt new Regulations .01—.13 under COMAR 31.09.12 Suitability in Annuity Transactions.

**Statement of Purpose**

The purpose of this action is to repeal current Regulations .01—.11 and adopt new Regulations .01—.13 under COMAR 31.09.12 Suitability in Annuity Transactions to conform to recent changes to the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation #275 which were approved by the NAIC in February 2020. Model Regulation #275 sets forth standards and procedures for recommending annuity products to consumers to ensure their insurance and financial objectives are appropriately addressed.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The revised regulations include new required disclosure forms and acknowledgement forms that insurers and producers must use in connection with sales of annuities. There may be system costs and printing costs to the industry as a result of the new required forms, but these costs should be minimal.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Administrative cost	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. The revised regulations include new required disclosure forms and acknowledgement forms that insurers and producers must use in connection with sales of annuities. There may be systems costs and printing costs to the industry as a result of the new required forms, but these costs should be minimal.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Lisa Larson, Director of Regulations, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2007, or email to [insuranceregreview.mia@maryland.gov](mailto:insuranceregreview.mia@maryland.gov), or fax to 410-468-2020.



## **Appendix C**

# **Small Business Compliance Guide for the Proposed Action to Revise COMAR 26.10**



# COMPLIANCE GUIDE FOR PROPOSED REGULATIONS

## OIL POLLUTION CONTROL & STORAGE TANK MANAGEMENT

This compliance guide for the proposed oil pollution control and storage tank management regulations provides a clear and concise explanation of how a small business may comply with the proposed regulatory changes. This compliance guide is for informational purposes and should not be construed as legal advice. If the proposed regulations are adopted by the Secretary of the Environment and become effective, affected small businesses should consult the law, Environment Article, Annotated Code of Maryland or Code of Maryland Regulations (COMAR), or consult legal counsel. This document is subject to change if the proposed regulations are substantively changed during the regulatory proposal process.

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## Summary of the Proposed Regulations

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The purpose of the proposal is to comprehensively modernize the State’s oil pollution control and storage tank management regulations. Specifically, the proposal would:

- Update state underground storage tank (UST) regulations, primarily to be consistent with the federal UST regulations in order to retain state program approval to continue implementation of the Maryland UST regulatory program;
- Amend how a high risk oil storage facility is defined, and establish release detection requirements for facilities with a large storage capacity or high throughput;
- Establish additional requirements for reporting oil contamination to the Department;
- Establish annual financial responsibility reporting requirements for UST system owners;
- Establish a new aboveground storage tank (AST) system registration requirement;
- Establish new AST regulatory provisions;
- Establish permitting and construction standards for marinas with motor fuel dispensing systems;
- Establish new minimum requirements for residential heating oil tanks;
- Update state-specific requirements for the storage, delivery, transfer, and transportation of oil to ensure these activities are conducted in a manner that prevents releases or the severity of releases into the environment;
- Establish new minimum requirements for motor fuel dispensing facilities;
- Amend the site rehabilitation reimbursement amounts from the Oil Contaminated Site Environmental Cleanup Fund for owners of residential heating oil tank systems after a certain date, and remove obsolete provisions regarding the reimbursement of commercial UST system owners and operators from the fund;
- Repeal obsolete regulations regarding hydrostatic tests and the Underground Storage Tank Upgrade and Replacement Fund Loan Program; and
- Update the codes of practices and standards incorporated by reference and make necessary clarifying amendments to the regulations.

**Note: This compliance guide only discusses how an affected small business may comply with newly proposed oil pollution control and storage tank management requirements expected to have a significant impact on small businesses.** A comprehensive and detailed explanation of all proposed regulatory changes and their effect on the entire regulated community and the public is included in the Notice of Proposed Action published in the *Maryland Register*, a copy of which is available on MDE’s [Proposed Land Regulations](#) webpage.

## Who is affected by the Proposed Regulatory Changes

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The proposed action would affect small businesses across several industry sectors, such as commercial, institutional, marina, manufacturing, transportation, communication and utilities, agriculture, and government. In general, the proposed action would affect a small business that:

- Retail motor fuel;
- Owns and operates a motor fuel dispensing facility;
- Owns and operates a service station for vehicles or vessels;
- Owns and operates an oil aboveground and/or underground storage tank system;
- Owns and operates a hazardous substance underground storage tank system;
- Owns and operates an emergency power generator UST system;
- Offers an approved training program for UST system operators;
- Trains and certifies UST system technicians, removers, and inspectors and heating oil technicians;
- Employs certified Class A, Class B, and Class C Operators;
- Employs certified UST system technicians, removers, and inspectors and heating oil technicians;
- Installs, maintain, repairs, and closes residential heating oil tanks;
- Performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products; or
- Participates in any combination of the above activities.

## Definition of Key Terms

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The following key terms are defined in the proposed regulations and are used in this compliance guide:

**Aboveground Storage Tank (AST)** means a storage tank that: currently stores oil; previously stored oil, except for a storage tank placed out-of-service to store a non-oil product in accordance with COMAR 26.10.17 or 26.10.18; has a storage capacity of greater than 250 gallons; is designed to operate at pressures from atmospheric pressure to a gauge pressure of 1.0 psi (6.9 kPa) measured at the top of the storage tank; is constructed more than 90 percent above the surface of the ground, excluding piping; and may be installed in an underground vault, a basement, or a sub-surface building.

AST does not include: an aboveground residential heating oil tank; 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; a septic tank, surface impoundment, pit, pond, or lagoon; a stormwater or wastewater collection system; a flow-through process tank; oil-filled operational equipment; 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; and a liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

**Aggregate Storage Capacity** means the total oil storage capacity of all ASTs on a property.

**AST System** means an AST, connected aboveground and underground piping, ancillary equipment, and appurtenances, including dispensers, loading racks, and secondary containment.

**Attended** means there is an attendant or an employee that is on duty and available to customers at a motor fuel dispensing facility.

**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. A 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).

**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.

**Existing Gasoline UST System** means a UST system located in a high risk groundwater use area or well head protection area:

- (a) Installed before:
  - (i) January 26, 2005, if located in a high risk groundwater use area; or
  - (ii) January 1, 2010, if located in a well head protection area;
- (b) Containing gasoline, including gasohol, that is used to fuel motor vehicles; and
- (c) That has a storage capacity greater than 2,000 gallons.

**Field-erected AST** means an AST that is welded carbon steel or stainless steel, erected or constructed by assembling the AST on site at an oil storage facility, and erected or constructed for the purpose of storing oil. Field-erected AST includes an AST that has a nameplate or other identifier that indicates it is a field-erected tank or is not identified as a shop-fabricated AST.

**Floodplain** means that area along or adjacent to a stream or a body of water within the waters of the State that is capable of storing or conveying floodwaters.

**Free product** refers to a regulated substance that is present as a nonaqueous phase liquid.

**General Oil Operations Permit** means the authorization established under COMAR 26.10.01.09B for certain categories of oil storage and oil handling facilities to operate without an Individual Oil Operations Permit.

**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). Hazardous substance does not include a substance that is regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act.

**High Risk Groundwater Use Area (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.

**Individual Oil Operations Permit** means an individual written authorization issued by the Department in accordance with COMAR 26.10.01.09A describing required performance for specific activities and operations of an oil storage facility or oil handling facility.

**Maintenance** means the performance of normal operational upkeep to prevent a storage tank system from spilling, releasing, or discharging a regulated substance.

**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. “Marina” does not include a marine oil facility.

**Monthly** means occurring at a frequency of once per calendar month and occurring generally 28 to 31 days between events.

**Motor Fuel** means a complex blend of hydrocarbons that is typically used in the operation of a motor engine or emergency generator. Motor fuel includes: motor gasoline, including gasohol; aviation gasoline; No. 1 or No. 2 diesel fuel, including biodiesel fuel; and any blend containing one or more of these substances.

**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 or vessels or into approved containers, including all equipment used in connection therewith.

**New Gasoline UST System** means a UST system, including a replacement UST system, located in a high risk groundwater use area or well head protection area:

- (a) Installed on or after:
  - (i) January 26, 2005, if located in a high risk groundwater use area; or
  - (ii) January 1, 2010, if located in a well head protection area; and
- (b) Containing gasoline, including gasohol, that is used to fuel motor vehicles.

**Oil** means oil of any kind and in any liquid form including, but not limited to: petroleum and petroleum products; petroleum byproducts; light and heavy fuel oils, including fuel oils that are blended or mixed with biofuels or processed or re-refined used oil; sludge containing oil or oil residues; oil refuse; oil mixed with or added to or otherwise contaminating soil, waste, or any other liquid or solid media; crude oils; aviation fuels; gasoline, including gasohol; kerosene; diesel motor fuel, including biodiesel fuel, regardless of whether the fuel is petroleum based; asphalt; ethanol that is intended to be used as a motor fuel or fuel source; and 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.

Oil does not include liquefied propane, liquefied natural gas, or any edible oils not intended to be used as a motor fuel or fuel source.

**Oil Handling Facility** means a facility other than an oil storage facility that is responsible for one or more of the following operations: delivery of oil by cargo tank; transfer of oil; management of used oil; storage and treatment of oil-contaminated soils; and oil sludge, oil refuse, or oil mixed with other waste solidification/stabilization.

**Oil Storage Facility** means an installation, structure, or premises, including an aboveground or underground storage tank, in which oil has been or is stored.

Oil storage facility does not include: 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 a vessel.

**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: daily or periodic operation; installation, repair, maintenance, and testing of one or more storage tank system; or closure.

**Overfill** means an occurrence when:

- (a) 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;
- (b) A shop-fabricated AST is filled beyond the overfill level and may result in a spill, release, or discharge of oil; or
- (c) A field-erected AST is filled beyond its critical high level and may result in a spill, release, or discharge of oil.

**Owner** means a person who: owns a storage tank system, oil storage facility, or oil handling facility; or owned a storage tank system, oil storage facility, or oil handling facility immediately before the discontinuation of its use.

**Person in Charge** means a person designated by an owner, an operator, or a permittee as the person with direct supervisory responsibility for: an activity or operation at a facility, such as the transfer of oil to or from any points in the facility; or the repair, installation, closure, or testing of a storage tank system.

**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.

**Regulated Substance** means a hazardous substance and oil.

**Release** means:

- (a) A discharge 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 26.10.02.03 into: groundwater, surface water, or surface or subsurface soils; or 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 and 26.10.18.

**Release Detection** means to determine whether a release of a regulated substance has occurred from a UST system into the environment, into the interstitial space between a UST system and the secondary barrier of the UST system, or into the secondary containment around a UST system.

**Repair** means:

- (a) If a UST system, 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: caused a release of a regulated substance from the UST system; failed to function properly; or been rendered inoperable in any way; and
- (b) If an AST system, work necessary to maintain or restore a tank or storage tank system to a safe operating condition, including: removing and replacing the roof, shell, or bottom material to maintain tank integrity or ancillary AST equipment; re-leveling of an AST tank shell, bottom, or roof; adding or replacing reinforcing plates to existing shell penetrations; and correcting flaws, such as tears or gouges, by grinding or gouging followed by welding.

**Residential Heating Oil Tank** means an aboveground or underground storage tank that is used to store heating oil for use as a fuel in heating a single-family residential property and that meets the criteria for a heating oil tank under Environment Article, §4-401, Annotated Code of Maryland.

**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: the owner of the released regulated substance; 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; any other person who through act of omission causes the release; and a person that meets the criteria of a responsible person under Environment Article, §7-201(t), Annotated Code of Maryland.

**Secondary Containment** means an Underwriters Laboratories (UL) listed or Department-approved system that prevents a release by containing a regulated substance released from the primary tank or piping until it is detected and removed, and detects a release by meeting the requirements of COMAR 26.10.05.05G.

**Shop-fabricated AST** means a welded carbon steel or stainless steel tank fabricated in a manufacturing facility, or an AST not otherwise identified as field-erected.

**Solidification/Stabilization** means a treatment process that involves combining oil sludge, oil refuse, or oil mixed with other waste with a non-hazardous substance to solidify or eliminate liquid traits of the oil sludge, oil refuse, or oil mixed with other waste.

**Special Flood Hazard Area** or **Area of Special Flood Hazard** has the meaning stated in 44 CFR §59.1.

**Spill** means a release.

**Storage Tank** means a stationary device: designed to contain an accumulation of oil either aboveground or underground, or an accumulation of a hazardous substances underground; and constructed of nonearthen materials such as concrete, steel, fiberglass, and plastic, that provide structural support.

**Storage Tank System** means a storage tank, connected piping, ancillary equipment and appurtenances, including dispensers and secondary containment.

**Training Program** means an informational course, class, or set of training instructions approved by the Department for educating and certifying a Class A, Class B, or Class C operator to comply with the regulations.

**Unattended** means there is no attendant or employee that is on duty and available to customers at a motor fuel dispensing facility.

**Underground Storage Tank (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.

UST does not include:

- (a) 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;
- (b) A septic tank;
- (c) 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;
- (d) A surface impoundment, pit, pond, or lagoon;
- (e) A stormwater or wastewater collection system;
- (f) A flow-through process tank;
- (g) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
- (h) 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
- (i) Pipes connected to a tank.

**UST System** means a UST, connected underground piping, underground ancillary equipment, and, if any, containment systems.

**Well Head Protection Area (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.

## **Release Detection for Previously Deferred UST Systems**

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### **New Requirements**

COMAR 26.10.02.01 and 26.10.05 would require owners and operators of UST systems storing fuel for an emergency power generator to maintain an approved method or combination of approved methods of release detection. Approved methods of release detection include automatic tank gauging, manual tank gauging, interstitial monitoring, precision tightness testing, groundwater monitoring, or another method approved by the Department. Owners and operators of emergency power generator USTs that do not have release detection must implement release detection for the UST system by October 13, 2022.

### **Affected Small Businesses**

Any small business that owns or operates a UST system that stores fuel for an emergency power generator, such as medical facilities, private schools, communication and utility businesses, and any other small business that relies on backup power sources.

## Spill & Overfill Prevention Equipment

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### New Requirements

COMAR 26.10.03.03 would establish the following spill and overfill prevention specifications for regulated substance UST systems.

1. UST system owners and operators may not install a flow restrictor overfill device in vent pipes as new or replacement overfill prevention equipment.
2. UST system owners and operators must use a certified UST system inspector, certified UST system technician, or a certified precision tightness tester to inspect and conduct a functional test of overfill prevention equipment to ensure the equipment is set to:
  - (a) Automatically shut off flow into a UST when the UST is 95 percent full; or
  - (b) Alert 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.
3. UST system owners and operators must have the overfill prevention equipment inspection and functional tests conducted, using a Department approved method, at the following frequency:
  - (a) Unless an inspection and functional test was conducted before the effective date of the regulations, within 1 year;
  - (b) Upon the installation or repair of overfill prevention equipment; and
  - (c) At least every 3 years after the most recent inspection and functional test was conducted.
4. The schedule for containment sump testing will be revised from every 5 years to every 3 years. UST system owners and operators must test containment sumps using a Department approved method at the following frequency:
  - (a) Within 30 days of installing a containment sump;
  - (b) Upon repair of a containment sump;
  - (c) If the most recent test was conducted before the effective date of the regulations, within 5 years of the most recent test; and
  - (d) At least every 3 years after any most recent test.

### Affected Small Businesses

Any small business that owns or operates a regulated substance UST system.

## Periodic Operation & Maintenance Walkthrough Inspections

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### New Requirements

COMAR 26.10.04.03 would establish periodic operation and maintenance walkthrough inspection requirements that UST system owners and operators must begin doing not later than 90 days after the effective date of these regulations.

On a monthly basis (or prior to each delivery if deliveries are received at intervals greater than 30 days), UST system owners and operators must perform periodic operation and maintenance walkthrough inspections as follows:

1. Inspect spill prevention equipment by:
  - (a) Visually checking the spill prevention equipment for damage;
  - (b) Removing liquid and debris from the spill prevention equipment;
  - (c) Checking for and removing obstructions in the fill pipe;
  - (d) Checking the fill cap to ensure the cap is securely on the fill pipe;
  - (e) For double-walled spill prevention equipment with interstitial monitoring, checking for a release in the interstitial area; and
2. Inspect release detection equipment to ensure:
  - (a) The release detection equipment is operating with no alarms or other unusual operating conditions present; and
  - (b) The records of release detection testing are reviewed and current.

Annually, UST system owners and operators must perform a periodic operation and maintenance walkthrough inspection as follows:

1. Inspect containment sumps by:
  - (a) Visually checking the containment sumps for damage;
  - (b) Checking for a release in the containment area and for a spill, release, or discharge to the environment;
  - (c) Removing liquid and debris from the containment sumps; and
  - (d) For double-walled containment sumps with interstitial monitoring, checking for a release in the interstitial area; and
2. Inspect hand held release detection equipment by checking devices such as storage tank gauging sticks and groundwater bailers for operability and serviceability.

Alternatively, UST system owners and operators can follow a code of practice incorporated by reference (e.g. Petroleum Equipment Institute's Recommended Practices for the Inspection and Maintenance of UST Systems (PEI/RP900-17)).

UST system owners and operators must comply with the following recordkeeping requirements.

1. Maintain records for periodic walkthrough inspections for:
  - (a) At least 1 year at the regulated substance storage facility; and
  - (b) At least 5 years at a location designated by the owner.
2. Records for periodic walkthrough inspections include the following information:
  - (a) A list of each area checked during an inspection;
  - (b) Whether an area inspected was acceptable or needed action taken,
  - (c) A description of any action taken to correct an issue, and



- (d) Delivery records if the spill prevention equipment is checked prior to a delivery because deliveries occur at intervals greater than 30 days.

### **Affected Small Businesses**

Any small business that owns or operates a regulated substance UST system.

## **High Risk Oil Storage Facilities**

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### **New Requirements**

The proposal would establish new regulations under COMAR 26.10.07 for owners and operators of motor fuel dispensing facilities with UST systems defined as either a high risk underground oil storage facility, or a new or existing gasoline UST system.

By removing the Stage II vapor recovery system language from the definitions of new and existing gasoline UST systems, there may be a few additional motor fuel dispensing facilities meeting the revised definition. Therefore, owners and operators of such UST systems should review the definitions and determine if they meet the requirements for enhanced release detection. Generally, this would involve installation of three monitoring wells on the property. The Department will review site conditions during the 3-year UST system inspections and assist UST system owners and operators in meeting the requirements as necessary.

With the exception of yet to be installed new gasoline UST system facilities, existing and new UST systems located in a HRGUA or WHPA generally already have groundwater monitoring wells that are being sampled annually under the existing regulations. Therefore, there would be no change for these facilities.

The new category of high risk oil storage facilities introduced by the proposal is the high risk underground oil storage facility. Generally, these will be large motor fuel dispensing facilities, such as oil terminals, large retail, and government facilities. This new proposed regulation would not affect most small businesses. The proposal defines an oil storage facility as a high risk underground oil storage facility in two ways:

1. On the basis of size and construction; and
2. On the basis of throughput.

An underground oil storage facility is considered high risk if it has a total underground capacity of 80,000 gallons or more, and the USTs and/or piping are single-walled construction. Based on existing UST system registration data, the Department has identified approximately 20 UST system facilities that meet this definition and do not believe they would be considered small business.

To be considered high risk on the basis of throughput, the oil storage facility must have a combined monthly throughput for all products stored in UST systems of 750,000 gallons or more when averaged over a rolling 12-month period, or a throughput of 1,000,000 gallons or more in any single month. These conditions are unlikely to affect small businesses. However, all owners of

underground oil storage facilities must determine if their facility meets the definition of a high risk underground oil storage facility on a throughput basis as follows:

1. Have a throughput review performed for the underground oil storage facility by:
  - (a) A certified UST system inspector during a 3-year certified UST system inspection required under COMAR 26.10.03.10; or
  - (b) A certified UST system inspector or a person in charge of the oil storage facility if directed by the Department to perform a throughput review.
2. Using a form provided by the Department, the individual performing a throughput review must determine the combined monthly oil throughput for all products by evaluating inventory records that document:
  - (a) The average combined monthly oil throughput for all products over the preceding 12 months; and
  - (b) The highest combined monthly oil throughput for all products in the preceding 12 months.

### **Affected Small Businesses**

Any small business that owns or operates an underground oil storage facility, a certified UST system inspector, or that performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products.

## **New Oil Contamination Reporting Requirements**

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### **New Requirements**

The proposal formalizes current Department practices for reporting evidence of oil contamination during property assessment activities. The proposal will require reporting 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. Evidence of a spill, release, or discharge include:

1. The visual detection of free product; or
2. 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.

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 visual detecting free product; or
2. Within 48 hours of receiving an analytical laboratory report described above.

Note: A business performing an environmental assessment that discovers evidence of a spill, release, or discharge or the property owner of a site where evidence of a spill, release, or discharge is discovered may not be considered a person responsible for the discharge solely as a result of

discovering or reporting the oil contamination unless the person meets the criteria for a person responsible for the discharge.

### **Affected Small Businesses**

Any small business that owns a property undergoing an environmental assessment as part of a due diligence investigation, or that performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products.

## **New Financial Responsibility Reporting Requirements**

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### **New Requirements**

The proposal will require UST system owners to provide evidence of a valid financial responsibility for their 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.
2. Additionally, a UST system owner that uses an insurance policy or risk retention group coverage as their financial responsibility mechanism must provide to the Department on an annual basis:
  - (a) An endorsement or certificate of insurance;
  - (b) Any amendments to the insurance policy or risk retention group coverage, including amendments for additional insured; and
  - (c) A UST schedule that includes, at a minimum, the following information:
    - (i) The Department issued regulated substance storage facility identification number;
    - (ii) The registered UST system owner's name and address as insured;
    - (iii) The installation date of the UST system;
    - (iv) The UST system capacity in gallons;
    - (v) A statement that the UST construction is single-walled or double-walled; and
    - (vi) The type of regulated substance stored in the UST system.

### **Affected Small Businesses**

Any small business that owns a regulated substance UST system or offers environmental insurance to owners of regulated substance UST system.

## UST Operator Training & Certification

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### **New Requirements**

Once the proposed regulations are effective, companies currently approved by MDE will need to adjust their training programs to incorporate new regulatory standards and resubmit their training course materials for MDE approval. The Department will notify companies regarding the requirement to submit updated training course materials for MDE approval. Class A, Class B, and Class C operators designated for a regulated substance storage facility will require additional training to become familiar with the new regulatory UST system standards. The Department will provide owners and operators of regulated substance storage facilities guidance regarding retraining Class A, Class B, and Class C operators on the proposed regulations once effective.

### **Affected Small Businesses**

A small business operator training company and any small business that employs Class A, Class B, and Class C operators to operate and maintain UST systems at the regulated substance storage facility.

## Certified UST System Technicians, Removers, & Inspectors

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### **New Requirements**

Once the proposed regulations are effective, UST system technician, remover, and inspector and heating oil technician certification companies currently approved by MDE will need to adjust their certification programs to incorporate new regulatory standards and resubmit their certification course materials for MDE approval. The Department will notify certification companies regarding the requirement to submit updated certification course materials for MDE approval. Certified UST system technicians, removers, and inspectors and heating oil technicians will require additional training to become familiar with the new regulatory UST system standards. The Department will communicate with certified UST system professionals regarding the additional training requirement once the proposed regulations become effective.

### **Affected Small Businesses**

Small business companies that train and certify or employ UST system technicians, removers, and inspectors and heating oil technicians.

## AST System Registration

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### **New Requirements**

With certain exclusions including AST systems on private residences, COMAR 26.10.01.10 would require owners, operators, and a person in charge of oil storage and handling facilities to register, and maintain current registration for, each AST system at a facility with the Department. AST systems that would need to be registered with the Department include those located at oil storage or handling facilities covered under an Individual Oil Operations Permit. Facilities operating under



a General Oil Operations Permit that have an aggregate storage capacity of greater than 2,500 gallons must also register. There is no fee associated with registering an AST system.

### Individual Oil Operations Permittee

A permittee will satisfy the AST system registration requirement by complying with the Individual Oil Operations Permit application and modification processes. COMAR 26.10.01.09 lists the oil storage and handling facilities that require coverage under an Individual Oil Operations Permit, and COMAR 26.10.01.11 and .12 establish the permit application and modification requirements. Basically, no additional steps would need to be taken in order to register, and maintain registration for, an AST system that would be covered under an Individual Oil Operations Permit.

### General Oil Operations Permittee with Greater than a 2,500-gallon Aggregate Storage Capacity

A permittee must satisfy the AST system registration requirement as follows:

1. Register a new AST system within 30 days of installing the AST system, and register an existing AST system not later than 18 months after the effective date of these regulations;
2. Register each AST system located at an oil storage facility or handling facility using a registration form provided by the Department;
3. Complete the registration form by providing all of the information required on the form and signing and dating each form submitted to the Department;
4. A permittee may use one registration form to register multiple AST systems at a single facility;
5. A permittee may not use one registration form to register multiple AST systems located at more than one facility; and
6. Maintain a copy of the registration form at the oil storage facility or handling facility that is available upon request by the Department.

### Additional Requirements

An Individual or General Oil Operations Permittee must amend an AST system registration with the Department if one or more of the following changes to an AST system or an oil storage facility or handling facility occurs:

1. The sale, transfer of ownership, or change in ownership structure;
2. A change in status from or to in-service, out-of-service (including a change-in-service to store a non-oil product in the AST system), or permanently closed;
3. The installation of an AST system at the facility; or
4. A change in the oil product stored.

Prior to an Individual or General Oil Operations Permittee selling or transferring ownership of a registered AST system to be used by the purchaser or transferee for the storage of oil in Maryland, the permittee must:

1. Inform the purchaser or transferee of the registration requirement; and
2. If a General Oil Operations Permittee, provide the purchaser or transferee with a copy of the current AST system registration form.

### **Affected Small Businesses**

A small business that owns or operates AST systems located at:

1. An oil storage or handling facility covered under an Individual Oil Operations Permit; and
2. An oil storage or handling facility with an aggregate storage capacity of greater than 2,500 gallons that is operating under a General Oil Operations Permit.

## **AST System Construction and Operation Standards**

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### **New Requirements**

The proposal would establish new regulations under COMAR 26.10.17 and 26.10.18 dedicated to AST systems with shop-fabricated and field-erected ASTs. An owner, an operator, and a person in charge of an AST system with a shop-fabricated or field-erected AST would be subject to performance standards for constructing, operating, inspecting and testing, and temporarily and permanently closing the AST systems. The performance standards ensure a consistent level of environmental protection in regards to all oil storage tank systems in Maryland. Generally, an owner, an operator, and a person in charge of an AST system with a shop-fabricated or field-erected AST would be required to be in compliance with the new regulations within two years of the effective date of the regulations. Generally, the performance standards in the proposal follow applicable industry standards and recommended practices, and the vast majority of AST systems that currently permitted under an Oil Operations Permit issued by the Department largely meet the proposed regulations.

### **Affected Small Businesses**

Any small business that owns or operates an AST system with a shop-fabricated or field-erected AST that stores oil.

## **Marinas with Motor Fuel Dispensing Facilities**

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### **New Requirements**

The proposal would establish permitting and storage tank system installation and operation requirements specific to marinas with a motor fuel dispensing facility. AST systems at marinas store flammable and combustible liquids that pose a risk to the public and the environment if the liquids are improperly stored, dispensed, and maintained. 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.

### **Permit Requirement**

An owner, an operator, and a person in charge of a marina with an AST system that is part of a motor fuel dispensing facility must obtain an Individual Oil Operations Permit. Individual Oil Operations Permit application requirements and permitting conditions are established in COMAR 26.10.01.09, .11 and .12.

### 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):

1. If a marina fueling system is located in an area subject to flooding, an AST and each dispenser must be anchored securely to prevent the AST or dispenser from floating and spilling, discharging, and releasing oil;
2. If installing a new or replacement marina fueling system, the design and construction of the marina motor fueling system must comply with:
  - (a) Specified National Fire Protection Association (NFPA) codes and the Petroleum Equipment Institute’s “Recommended Practices for the Installation of Marina Fueling Systems”; and
  - (b) Department approved engineering plans certified by a professional engineer, a certified UST system technician, or an AST system certified inspector or authorized inspector;
3. A new, replacement, or existing marina fueling system must comply with all of the design and construction conditions specified in COMAR 26.10.01.14E “Marina Fueling System Requirements”; and
4. The motor fueling system is attended by an individual:
  - (a) That is familiar with the dispensing systems and emergency shutoff controls;
  - (b) Present during vessel fueling activities to prevent the dispensing of oil into improper portable containers and ensure vessels are properly moored;
  - (c) Located within 15 feet of the dispensing controls during a fueling operation; and
  - (d) That maintains a direct, clear, and unobstructed view of both the vessel fuel filler neck and the emergency pump shutoff.

Note: The majority of this proposed regulation is derived from codes set by NFPA, which currently are enforceable under existing state regulations.

### **Affected Small Businesses**

A small business marina with a motor fuel dispensing facility.

## Residential Heating Oil Tank Standards

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### **New Requirements**

The proposal would establish new requirements under COMAR 26.10.01.13 dedicated to residential heating oil tanks. The proposed 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. The requirements are largely based on existing requirements for oil delivery companies in their current permits and existing industry standards. The proposed regulations should not have a substantial impact on small businesses as they capture current industry and regulatory practices. The main purpose is to communicate the requirements clearly and concisely in one location in the regulations.

### **Affected Small Businesses**

Any small business that delivers oil to, installs, maintains, repairs, or closes residential heating oil tanks.

## Updates to Oil Transfer and Delivery Requirements

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### **New Requirements**

The proposal would update regulations related to the safe delivery and transfer of oil under COMAR 26.10.01.16 through .18. The performance standards ensure a consistent level of environmental protection in regards to oil deliveries and transfers at oil storage and handling facilities. Generally, an owner, an operator, and a person in charge of an oil storage or handling facility, an Oil Operations Permittee, or a driver is already required to follow the proposed regulations through applicable industry standards, recommended practices, and current permit conditions under an Oil Operations Permit issued by the Department. Therefore, the proposed regulations should not have a substantial impact on small businesses that are currently in compliance with their permits. The main purpose is to communicate the requirements clearly and concisely in one location in the regulations.

### **Affected Small Businesses**

Any small business that delivers or transfers oil to an oil storage or handling facility.

## Requirements for Motor Fuel Dispensing Facilities

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### **New Requirements**

The proposal would establish new requirements under COMAR 26.10.01.20 dedicated to standards for motor fuel dispensing facilities. These facilities include typical gas stations, marinas, and fleet fueling facilities and are inclusive of facilities that store motor fuel in aboveground and/or underground storage tank systems. The proposed regulation establishes requirements for these facilities to operate as attended facilities and provides the specific conditions under which a facility could operate as an unattended facility.



To operate as an unattended facility, an owner, an operator, and a person in charge of a motor fuel dispensing facility would need to have written approval from the Department. An owner, an operator, and a person in charge of a motor fuel dispensing facility would need to demonstrate that the motor fuel dispensing facility and the overall proposed operation of the facility as unattended meets specific criteria stated in the proposed regulation, which is entirely based on NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”.

Consistent with NFPA 30A, a marina **may not** operate as an unattended motor fuel dispensing facility.

### **Affected Small Businesses**

Any small business that dispenses motor fuels.