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Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

CHAPTER 01 OIL POLLUTION

Authority: Environment Article, §§ 4-401, 4-402, 4-405, 4-407—4-411, and 4-415—4-418, Annotated Code of Maryland

.01 Definitions.

A. In these regulations, the terms in §B have the meanings indicated. Terms not defined in §B have the meanings given to them in the relevant statutes or, if not defined in statutes, the meanings attributed by common use.

B. Terms Defined.

(1) "Administration" means the Waste Management Administration.

(2) "Barge" means any vessel not equipped with a means of self propulsion.

(3) "Cargo level monitor system" means a system of fixed level sensing and warning devices used to gauge levels and to warn of change in levels of liquid cargo during the 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 USCG under 33 CFR 157.

(4) "Collecting agents" means chemical or other agents that can gel, congeal, herd, entrap, fix, or make an oil mass more rigid or viscous to facilitate its removal from the water surface.

(5) "Control" means the possession of the power to direct or cause the direction of the actions of a person.

(6) "Department" means the Maryland Department of the Environment.

(7) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, dumping, addition of, introduction of any pollutant into waters of the State, or the placing of any pollutant in a location where it is likely to pollute.

(8) "Dispersants" means those chemical agents or compounds which emulsify, disperse, or solubilize oil or which act to further the surface spreading of oil slicks in order to facilitate dispersal of oil.

(9) "General Oil Operations Permit" means the authorization established by Regulation .08 of this chapter for certain categories of facilities to operate within an individual Oil Operations Permit including:

(a) Service stations, garages, marinas, and other similar oil handling facilities under 10,000 gallons storage;

(b) Apartment buildings under 10,000 gallons storage capacity; or

(c) Any other facilities under 10,000 gallons storage except as otherwise provided in Regulation .07 of this chapter.

(10) "Licensee" means any person who is licensed to transfer oil in the State.

(11) "Marine facility operator" or "operator of a marine facility" means a person who owns, operates, or is responsible for the operation of a marine oil facility.

(12) Marine Oil Facility.

(a) "Marine oil facility" means an on-shore or off-shore 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, but is not limited to, structures, equipment, and appurtenances. In the case of a marine oil facility associated with a factory or power plant, the marine oil facility is limited to those areas used for transfer of oil from a tank vessel.

(b) "Marine oil facility" does not include a vessel.

(13) "Oil Operations Permit" means an individual written authority issued by the Administration pursuant to pertinent law and regulations and describing required performance for specific activities and operations of an oil storage or oil handling facility or vehicle.

(14) "Oil, petroleum products, and their by-products" means oil of any kind and in any liquid form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other waste, crude oils, and every other nonedible liquid hydrocarbon regardless of specific gravity. Oil includes aviation fuel, gasoline, kerosene, light and heavy fuel oils, diesel motor fuels, asphalt, and crude oils, but does not include liquified petroleum gases, such as liquified propane, or any edible oils.

(15) "Oil storage facility" means any facility, above or below ground, in which oil is stored, other than a private residence which stores oil for personal use.

(16) "Operator" means any person owning or operating an oil terminal facility whether by lease, contract, or any other form of agreement.

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

(18) "Permittee" means the person holding a valid Oil Operations Permit or subject to a General Oil Operations Permit issued by the Administration.

(19) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(20) "Person in charge" means the owner or person designated by the owner, an operator, or permittee as the one 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.

(21) "Pollution" means every contamination or alteration of the physical, chemical, or biological properties of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters, or the discharge or deposit of any organic matter, harmful organism, liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds, fish, or other aquatic life.

(22) "Precision test" means a test conducted in accordance with the standards set forth in the "NFPA 329 Underground Leakage of Flammable and Combustible Liquids (1987 Edition)", which is incorporated by reference. For commercial names of tests approved by the Administration, see Regulation .23 of this chapter.

(23) "Public vessel" means a vessel, not engaged in commerce, that is operated by the Government of the United States or a state or political subdivision or a foreign nation.

(24) "Removal" means the act of abatement, containment, cleanup, response, or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare from a discharge or threat of a discharge, including, but not limited to, public and private lands, waters of the State, and natural resources, both living and inert.

(25) "Similar oil handling facility" means any facility that stores and dispenses oil for use as a motor fuel.

(26) "Sinking agents" means those chemicals or other agents that can physically sink oil below the water surface.

(27) "Sorbent" means any substance that takes up and holds oil by either adsorption or absorption.

(28) "Spill (spilling)" means any release of oil.

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

(30) "Storage system" means a storage tank and all associated piping including fill, vents, dispensing, and return line.

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

(32) "Tank vessel" means a vessel constructed or adapted to carry, or that carries oil in bulk as cargo in a quantity of 300 gallons or more. Tank vessel does not include any vessel dedicated to, and engaged only in, removal-related activities, including training or drills.

(33) "Tank vessel operator" or "operator of a tank vessel" means a person including, but not limited to, the owner, the person who charters the vessel by demise, or the person responsible for the operation of the vessel.

(34) "Transfer" means the loading or unloading of oil in the State into or from a tank vessel, transport, truck tank, tank railcar, pipeline, or any other means used for transporting oil.

(35) "Transport" means a tractor-trailer vehicular unit.

(36) "Transporting" means the movement of oil or storage of oil by tank vessel, transport, truck tank, tank railcar, or pipeline, or any other means used for transporting oil, and includes the transfer of oil.

(37) "Truck tank" means a self-contained vehicular unit with a capacity of over 500 gallons, in which the automotive power and the hauling capacity are contained in one complete unit.

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

(39) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of the use is contaminated by physical or chemical impurities.

(40) "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.

(41) "Waters of the State" includes 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, the Chesapeake Bay and its tributaries, and 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. The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency is included as waters of the State.

.01-1 Exemption.

The requirements of this chapter, other than Regulations .02, .03, and .04, do not apply to any vessels, facilities, or equipment when used in activities related to the removal of oil within a response area as defined by the State or federal on-scene coordinator.

.02 Prohibition Against Oil Pollution.

A. A person may not pump, discharge, spill, 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, 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 these prohibitions is subject to sanctions under Environment Article, § 4-417, Annotated Code of Maryland, in addition to the

permit and license modification, suspension, or revocation proceeding and in addition to any other sanctions provided by law.

D. A person is exempted from the prohibitions in A and B of this regulation if there is an emergency imperiling life or property, unavoidable accident, collision, or stranding, and the person has been authorized by the Department to remove an oil discharge from waters of the State.

.03 Report of Oil Spill or Discharge.

A. A person discharging or permitting the discharge of oil, or who either actively or passively participates in the discharge or spilling of oil, either from a land-based installation, including vehicles in transit, or from any vessel, ship, or boat of any kind, shall report the incident immediately to the Administration. He shall remain available until clearance to leave is given by the appropriate officials designated in § C(1) and (2) of this regulation.

B. The report of an oil spill or discharge shall be made to the Administration immediately, but not later than 2 hours after detection of the spill, and shall include:

- (1) Time of discharge;
- (2) Location of discharge;
- (3) Mode of transportation or type of facility involved;
- (4) Type and quantity of oil spilled;
- (5) Assistance required;
- (6) Name, address, and telephone number of the person making the report; and
- (7) Any other pertinent information requested by the Administration.

C. The Department makes the following designation of its authority:

- (1) A representative of the Department may grant permission either by telephone, or at the scene of the spill, for the person responsible for the spill to leave the scene;
- (2) A representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant clearance to leave the scene to the person responsible for an oil spill of less than 250 gallons without first giving notice to the Administration;

(3) A representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant clearance to leave the scene to the person responsible for an oil spill greater than 250 gallons after the representative or police officer gives notice to and receives approval from the Administration.

D. Before release of the person responsible for the oil spill, the designated official shall obtain that person's name and address as well as information on how the spill occurred.

E. Ten working days after the removal and clean-up work has been completed, as required under Regulation .04A of this chapter, the person responsible for the spill shall prepare a completed written report of the occurrence and promptly submit the report to the Administration. The written report shall be on the Administration's "Report of Spill" form or shall be on company letterhead and include the following information:

(1) Date, time, and place of spill;

(2) Amount and type of oil spilled;

(3) A complete description of circumstances contributing to the spill;

(4) A complete description of containment, removal, and clean-up operations including disposal sites and costs of the operations;

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

(6) Any other information considered necessary or required by the Administration for a complete description of the spill incident; and

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

.04 Procedure for Removal.

A. Responsibility for the prompt control, containment, and removal of any oil discharge or threat of discharge shall be with the person responsible for the discharge as defined in Environment Article, §4-401, Annotated Code of Maryland. For discharges occurring from improperly abandoned storage systems, the current land owners, and any person who owned, leased, or was otherwise responsible for a system at the time it was abandoned shall also be responsible. This responsibility shall continue until removal of the discharge or threat of discharge has been accomplished to the satisfaction of the Department or designee specified under Regulation .03C of this chapter.

B. Removal of oil shall be accomplished by physical or mechanical means such as the use of skimming devices or vacuum systems or by the use of inert sorbent material, or by any other method specifically approved by the Department.

C. If sorbent material is employed, the material shall be removed and disposed of in accordance with all State, local, and federal requirements.

D. Collecting agents, dispersants, or sinking agents may not be used except when authorized by the Department.

E. The Department shall assume control, unless the appropriate federal official is directing removal, of any spill situation when it determines that the responsible parties are not acting promptly to remove the spill, or are not undertaking removal or mitigation in a manner appropriate to control or rectify the conditions constituting the emergency or the hazard involved.

F. A response or removal activity shall be considered consistent with Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, as long as the activity is not prohibited by Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, the National Contingency Plan, or by the directions of the Department's or a federal on-scene coordinator.

.05 Site Status Letters.

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

B. A notice of compliance letter shall be issued, upon request, 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. A site condition letter shall be issued, upon request, stating whether the:

- (1) Department requires remedial action at a site; or
- (2) Site is in compliance with the regulations in this subtitle.

D. Cleanup Suspension Letter.

(1) Subject to §F of this regulation, a cleanup suspension letter shall be issued, upon request, if the Department determines that no further treatment of soil or ground water is required for a specific discharge being removed and remediated

under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, Regulation .04 of this chapter, or COMAR 26.10.09.

(2) The person responsible for the discharge of oil or the person performing the cleanup shall continue to monitor the site as may be required by the Department.

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

E. Final Closure Letter.

(1) Subject to §F of this regulation, a final closure letter shall be issued after the Department determines that a site at which a discharge of oil occurred is in compliance with Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, Regulation .04 of this chapter, or COMAR 26.10.09.

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

(3) A final closure letter is applicable to any transferee of title, successor or assign of the person responsible for the discharge of oil, or person who performed the cleanup.

F. The Department may require a person responsible for the discharge to take further remedial action at a site subject to a letter issued under this regulation if it determines that:

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

(2) The discharge recurs as free phase oil product;

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

(4) A new or previously undiscovered discharge of oil is found that would require a corrective action under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, or this subtitle.

G. A purchaser of oil-contaminated property does not become a person responsible for a discharge solely as a result of the purchase of the property, unless the purchaser is otherwise a person responsible for a discharge under Environment Article, §4-401(i), Annotated Code of Maryland.

.06 Oil Transfer License.

- A. A person shall obtain a license to transfer oil in the State.
- B. A license shall be obtained by completing an application form provided by the Administration.
- C. The required license fee shall be as determined by Environment Article, § 4-411(c), Annotated Code of Maryland, and shall be paid monthly. The fee shall be paid not later than the last day of each month or postmarked 2 days before the end of each month for the number of barrels transferred the preceding month.
- D. The number of barrels of oil transferred by the licensee shall be reported on forms provided by the Administration.
- E. Shipment of oil in containers of less than 100 gallons capacity and of any liquid hydrocarbons not listed in § F of this regulation is exempt from the license fee.
- F. The following oil products are subject to the transfer license fee:
 - (1) Gasoline;
 - (2) Gasohol;
 - (3) Kerosene;
 - (4) Diesel fuel;
 - (5) Aviation fuels;
 - (6) Nos. 2, 4, 5, and 6 oil;
 - (7) Crude oil;
 - (8) Asphalts (liquid);
 - (9) Hydraulic oils; and
 - (10) Lubricating oils.

.07 Oil Operations Permit.

A. A person engaging in one or more of the following activities shall obtain an Oil Operations Permit in accordance with Regulations .07—.12 and .16 of this chapter, or approval, when provided for, in COMAR 26.10.13:

(1) Oil storage facilities involving the above-ground storage of oil in quantities of 10,000 U.S. gallons or more (for additional requirements, see Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02 — 26.10.11);

(2) Oil delivery by truck tank or by transport involving the delivery of oil by truck tanks or by transports to or from any point within the State (for additional requirements, see Regulations .02, .03, .04, .06, .16, and .17 of this chapter);

(3) Oil transfer facilities involving the transfer of oil in an onshore facility to or from any truck tank, transport, or tank car (for additional requirements, see Regulations .02, .03, .04, .06, .12, and .18 of this chapter and COMAR 26.10.02—.11);

(4) Facilities for the handling of used oil, involving the handling, reuse, processing, reprocessing, or disposal of any oils that have previously been used, and involving storage capacity of 1,000 gallons or more (for additional requirements, see Regulations .02, .03, .04, .06, .12, and .19 of this chapter and COMAR 26.10.02—.11);

(5) The oil delivery operations of out-of-State facilities which deliver oil to any point within the State (for additional requirements see Regulations .02, .03, .04, .06, .16, and .17 of this chapter);

(6) Facilities or operations of any storage capacity otherwise permitted under Regulation .08 of this chapter, engaged in the transporting or transferring of oil from one location to another, or storage of oil, if the Administration determines that the oil transport, transfer, or storage operation poses a water pollution hazard due to its size, nature, or location (for additional requirements see Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02—.11); or

(7) Oil-contaminated soil facilities as defined in COMAR 26.10.13.02.

B. Except for activities regulated by § A(8) of this regulation, when more than one facility is operated by the same person, that person may file one application for a permit, if the application specifically identifies each facility and contains the

information required by this chapter for all facilities involved. For facilities falling under § A(8) of this regulation, a person shall file an application for a permit for each facility.

.08 General Oil Operations Permit.

A. The following oil handling and oil storage facilities are permitted provided the conditions specified in this regulation for these facilities are met:

(1) Facilities having above-ground storage capacity less than 10,000 gallons shall meet the requirements of Regulations .02, .03, .04, .06, and .12 of this chapter; or

(2) Truck tanks having storage capacity less than 500 gallons shall meet the requirements of Regulations .02, .03, .04, .06, .16, and .17 of this chapter.

B. In addition to the conditions imposed on the categories of facilities set out in §A, above, facilities subject to the General Oil Operations Permit shall:

(1) Make facilities available for reasonable inspection by the Administration;

(2) Make all records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility available for reasonable inspection by the Administration; and

(3) Complete any survey forms or other documents provided by the Administration.

.09 Facilities Exempt from Oil Operations and General Oil Operations Permits; Specially Permitted Activities.

A. Storage facilities at a single family residence and for personal use are exempt from the permit requirements of Regulations .07 and .08 of this chapter, but are subject to the requirements of Regulations .02, .03, and .04 of this chapter.

B. Special Permit.

(1) A person shall obtain a special permit for the testing of oil pollution control measures or equipment.

(2) Before conducting any test or demonstration of equipment and materials for the control of oil pollution or scientific experimentation on the effect of oil spills, a person shall apply to the Administration for a special permit.

(3) A person shall comply with any conditions imposed by the Administration in the special permit upon issuance.

.10 Requirements for Application for an Oil Operations Permit (Not Applicable to General Oil Operations Permit).

A. The person in charge of each facility shall submit a written application for a permit, accompanied by a copy of the facility's comprehensive contingency plan, including a containment and clean-up plan.

B. The plan for containment and clean-up shall include the following information:

(1) List of persons, including names, addresses, and telephone numbers to be notified in the event of a spill at the facility;

(2) Provisions for quick control of an oil spill, including personnel, location, and procedures necessary to obtain equipment available for the containment and removal of a spill;

(3) Communications facilities available for use in control and clean-up operations;

(4) List of qualified contractors, equipment, and facilities available for oil spill clean-up operations; and

(5) Additional information which the Administration deems necessary.

C. An application for a permit shall be submitted on an approved form at least 60 days before the date of intended operation.

.11 Conditions for Issuance of a Permit (Not Applicable to General Oil Operations Permit).

A. After reviewing the oil handling procedures and practices involved and inspecting the facility, if necessary, the Administration shall issue the permit if it determines that the:

(1) Requirements of this chapter can be met;

(2) Facility is properly and adequately equipped to prevent oil pollution and control oil spills; and

(3) Person in charge of the facility has the capability to handle the oil in accordance with the requirements of this chapter.

B. A permit issued by the Administration shall be effective for a period of 5 years unless it is surrendered, suspended, revoked, otherwise terminated, or unless issued by the Administration, for reasons stated, for a shorter period of time.

C. The permittee shall agree to make:

(1) Facilities available for reasonable inspection by the Administration; and

(2) All records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility available for reasonable inspection by the Administration.

.12 Requirements for Above-Ground Oil Storage Facilities.

A. Standards Incorporated by Reference.

(1) Storage tanks, venting, piping, and metering devices installed shall be in accordance with the appropriate standards of the National Fire Protection Association, the American Petroleum Institute, and the Petroleum Equipment Institute. Any underground piping associated with above-ground oil systems shall be installed in accordance with the requirements of COMAR 26.10.03.02.

(2) The following National Fire Protection Association standards are incorporated by reference:

(a) "NFPA 30 Flammable and Combustible Liquids Code 2008 Edition";

(b) "NFPA 31 Standard for the Installation of Oil-Burning Equipment Code 1997 Edition", as incorporated in COMAR 26.10.02.06K; and

(c) "NFPA 30A Code for Motor Fuel Dispensing Facilities and Repair Garages 2008 Edition".

(3) The following American Petroleum Institute Standards are incorporated by reference:

(a) Standard Number 650, 1980, "Welded Steel Tanks for Oil Storage", Seventh Edition;

(b) Standard Number 620, 1982, "Recommended Rules for Design and Construction of Large, Welded, Low-Pressure Storage Tanks", Seventh Edition;

(c) Standard Number 2000, 1982, "Venting Atmospheric and Low-Pressure Storage Tanks (Non-refrigerated and Refrigerated)", Third Edition;

(d) Specification Number 12 B, 1977 (and Supplement 1, 1982), "Specification for Bolted Tanks for Storage of Production Liquids", Twelfth Edition;

(e) Specification Number 12 D, 1982 (and Supplement 1, 1983), "Specification for Field Welded Tanks for Storage of Production Liquids", Ninth Edition;

(f) Specification Number 12 F, 1982 (and Supplement 1, 1983), "Specification for Shop Welded Tanks for Storage of Production Liquids", Eighth Edition.

(4) The following Petroleum Equipment Institute recommended practice is incorporated by reference: PEI/RP200-96 Recommended Practice for Installation of Above-ground Storage Systems for Motor Vehicle Fueling".

B. The following requirements apply to all above-ground oil storage facilities:

(1) Above-ground storage sites with storage capacity of 10,000 gallons or more shall be surrounded with a continuous dike or wall capable of effectively holding the total volume of the largest storage container located within the area enclosed by the dike or wall. The construction and composition of this emergency holding area shall prevent movement of oil from this area into the waters of the State. The nature of the soil and the ground water conditions at the site shall be taken into consideration in the design or location, or both, of this emergency holding area. The floor and walls of the emergency holding areas shall have a permeability of 10^{-4} centimeters/second or less as measured by a test approved by the Department. The Administration reserves the right to require oil storage facilities of less than 10,000 gallons capacity to be diked if the facility is in a location likely to pollute the waters of the State.

(2) The Administration may exempt from this diking requirement any facility that can provide adequate alternative procedures for oil spill control. Request for this exemption shall be submitted to the Administration in writing. The Administration shall advise the person of approval or disapproval in writing.

(3) The construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood plain is prohibited unless a State Wetlands Permit is first obtained from the Department.

(4) Each pipeline which is connected to a tank below the liquid level shall have valves located immediately adjacent to the storage tank.

(5) Seams, rivets, nozzle connections, valves, pumps, and pipelines directly connected to above-ground storage tanks shall be visually examined at least once a month for any oil leaks. Any leaks shall be promptly corrected.

(6) Any oil contaminated surface drainage leaving the containment area shall be passed through an oil separating system approved by the Administration, unless

other oil pollution control measures acceptable to the Administration are provided.

(7) Flapper-type drain valves may not be used to drain diked areas. Drain valves for dikes shall be kept in the closed position, and shall be locked when not used to drain trapped water.

(8) A high liquid level gauge, an alarm system, or a pump cut-off device shall be installed by the owner or person in charge on any oil storage tank, from which the Administration determines an overflow of oil is possible. Since these emergency devices can fail to operate, their use for spill prevention purposes shall be considered only as auxiliary and supplementary to the use of personnel engaged in the transfer operation.

(9) Before each filling of an existing oil storage system, the liquid level shall be gauged and the measurement shall be recorded in writing. The gauging records shall be maintained for 30 days and shall be made available for reasonable inspection by the Administration. This requirement does not apply to any oil storage system installed before April 21, 1978, without provisions for the measurement of content.

(10) The Administration may require additional procedures for an oil storage system not having a vent which may be seen by the person positioned at the fill.

.13 Repealed.

.14 Repealed.

.15 Repealed.

.16 Requirements for Oil Delivery by Truck Tank or by Transport.

A. Transfer hose and fittings shall be of a grade suitable for the type of oil product transferred and for the type of delivery.

B. Transfer hoses shall be designed to withstand pressure of the shut-off head of the cargo pump or pump relief valve setting.

C. Any vehicle used in the transport or transfer of oil shall be in compliance with COMAR 11.16.01 and 11.21.01 and NFPA Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids 2000 Edition", which is incorporated by reference.

D. The company holding a valid Oil Operations Permit for delivery by truck tank or by transport shall:

- (1) Perform a driver's safety training program that instructs its drivers on spill reporting and containment;
- (2) Give the training to each driver on an annual basis; and
- (3) Maintain records demonstrating compliance with this subtitle.

.17 Requirements of Drivers of Truck Tanks and Transports.

A. A driver operating a truck tank or transport shall comply with the following requirements:

(1) A driver shall operate a truck tank or transport in accordance with NFPA Standard 385 "Tank Vehicles for Flammable and Combustible Liquids" 2000, which is incorporated by reference;

(2) A driver shall be 21 years old or older as required by Transportation Article, §25-111, Annotated Code of Maryland.

B. A driver shall 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 at all times when loading or unloading oil, and shall stand in a position so as to have the loading or delivery receptacle in full view. If the driver leaves the equipment unattended for any reason, all nozzles, shut-off valves, pumps, and discharge control valves of the dispensing vehicles, as well as those of the receiving facility, shall be turned off or returned to the closed position.

C. A driver shall remain alert while the transfer is in progress and shall report immediately to his or her employer or supervisor any unusual condition involving the transfer operation, such as spills, any obvious discrepancies between the quantities delivered and received, or the existence of any equipment defects or unsafe delivery conditions.

D. A driver shall use proper hoses and fittings in the delivery of the oil.

E. Before beginning any transfer, the driver shall:

(1) Ensure that all hose connections are tight; and

(2) Ensure that the tank will hold the amount of product being delivered by:

(a) Gauging the tank;

(b) Using a functional vent whistle;

- (c) Inquiring of the capacity and contents from the tank owner or operator;
- (d) Using an approved overfill alarm; or
- (e) Using a method approved by the Department.

.18 Requirements for Oil Transfer Facilities.

A. This regulation is applicable only to those facilities with loading racks.

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.

.19 Repealed.

.20 Requirements for Garages, Service Stations, Marinas, and Similar Oil-Handling Facilities.

- A. Storage systems shall be installed and operated in accordance with the requirements of this subtitle.
- B. The oil distribution company shall be responsible for monitoring inventory control of the storage system when the facility operates under the meter marketing plan.
- C. All sewers and drains serving these facilities, and receiving oil-bearing wastes or wastewaters from operations at these facilities, shall be provided with adequate and properly maintained oil separating systems.

D. The ultimate disposal of used oil shall be undertaken in a manner that will prevent water pollution, such as salvaging or sale to a salvage company, or use as fuel, or other methods in accordance with State, federal, and local codes.

E. Marina fuel delivery nozzles shall be equipped with a self-closing valve that will shut off the flow of fuel when the hand is removed from the nozzle. Hold open devices may not be used on these nozzles.

F. Each pipeline conveying oil to a wharf, pier, or dock shall be provided with a readily accessible block valve, located on shore, near the approach to the wharf, pier, or dock, and outside any diked area. Valves shall be grouped at one location.

.21 Effect on Other Government Regulations.

These regulations are not intended to and do not relieve the permittee of the duty to comply with all other valid governmental regulations governing activities regulated under these regulations.

.22 Requirements for Marine Oil Facilities.

A. Required Response Plan.

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

(2) The response plan shall include, at a minimum, training, discharge contingency, and removal equipment elements.

(3) The marine facility operator shall submit a copy of the response plan to the Department within 90 days after the effective date of this regulation or, if the facility is not required to have an approved federal response plan by that date, within 30 days after the appropriate federal compliance date. The marine facility operator shall submit to the Department any changes made to the response plan within 30 days of the change.

(4) A marine facility operator shall implement all the elements of the response plan in accordance with the schedule of compliance in 33 CFR §154.1010.

(5) The marine facility operator is responsible for maintaining the response plan at the marine oil facility, which shall be made available for review by the Department's personnel upon request.

B. Discharge Prevention at Marine Oil Facilities.

(1) Each marine facility operator shall institute safe fill and shutdown procedures to prevent oil discharges during oil transfer operations and the overfilling of facility storage tanks.

(2) The procedures shall include, at a minimum, the following elements:

(a) The marine facility operator shall ensure that the volume available in the receiving storage tanks is greater than the volume of oil to be transferred before the transfer operation commences;

(b) The marine facility operator shall ensure that the oil transfer operation is monitored continually, either by manual or automatic means, until complete;

(c) Each marine facility operator shall ensure that all tank fill valves not in use are secured; and

(d) The marine facility operator shall ensure that the oil is transferred only into the tanks designated to receive the oil.

(3) Shutdown System or Alarm.

(a) Within 180 days after the effective date of this regulation, the marine facility operator shall either:

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

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

(b) The alarm in §B(3)(a)(ii) of this regulation shall consist of a device capable of alerting the marine facility operator both by sight and hearing of an impending tank overfill. The alarm shall cause a warning light and audible signal to activate at the location of a person monitoring or controlling the oil transfer at the marine oil facility, whenever there occurs a failure, malfunction, or power loss during the transfer of oil.

(c) Tanks receiving asphalt (CAS8052424) from a tank vessel are exempt from the requirements of this subsection.

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

procedure in the facility records and shall ensure that all facility personnel involved in the transfer operation are trained in this procedure.

(5) The marine facility operator shall ensure that the automatic shutdown system or the high level alarm system is tested once every 30 days or before a receipt of oil. Records of testing shall be maintained at the marine oil facility and be made available for review by the Department's personnel upon request.

.23 Requirements for Tank Vessels.

A. Required Tank Vessel Response Plan.

(1) Tank vessel operators shall comply with the requirements of §A(2)—(4) of this regulation.

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

(3) The response plan shall include, at a minimum, training, discharge contingency, and removal equipment elements.

(4) The response plan shall be made available for review by the Department's personnel upon request.

B. Detection and Control of Oil Spills from Tank Vessels.

(1) The tank vessel operator shall ensure that not later than 180 days after the effective date of this regulation, each tank vessel, other than a public vessel, transporting oil in the State is accompanied by an all-weather escort vessel. Crew on the escort vessel shall continuously check for any evidence of an oil discharge from the escorted tank vessel. A vessel supplying propulsion to the tank vessel does not fulfill the requirement for an all-weather escort vessel.

(2) Instead of meeting the escort vessel requirement of §B(1) of this regulation, a tank vessel operator shall ensure that a tank vessel shall:

(a) Be equipped with a cargo level monitoring system;

(b) Have double hulls designed in compliance with 33 CFR §157.10d; or

(c) Have a plan, prepared by the tank vessel operator and approved by the Department, providing for the visual or other method of inspection of load lines or draft markings for tank vessels that will determine the existence of an oil discharge from the tank vessel.

(3) A cargo level monitoring system shall be maintained in full working order by the tank vessel operator. Any malfunction of equipment shall be corrected by the tank vessel operator before getting the tank vessel underway.

C. Requirements for Inspection of Tank Vessels.

(1) Each tank vessel, other than a public vessel, transporting oil in the State shall be inspected in accordance with 46 U.S.C. Subtitle II, Part B, and 46 CFR 2. The Department may require additional inspection if it has reason to believe that the tank vessel has been damaged or has been responsible for one or more spills due to structural damage.

(2) The certificate of inspection, issued under 46 U.S.C. Subtitle II, Part B, and 46 CFR 2, shall be displayed by the tank vessel operator in a conspicuous place on the vessel.

.24 Bonding Requirements for Tank Vessels.

A. The operator of a tank vessel, other than a public vessel, upon entering waters of the State to transfer greater than 25 barrels of oil in bulk as cargo shall post a bond, or other security as set forth in §F of this regulation, of \$500 per gross ton of vessel. The bond or other security shall be in a form approved by the Department and shall be obtained by the tank vessel operator.

B. A bond may not be required for a vessel in waters of the State if that vessel is:

(1) Carrying oil that has been removed from waters of the State:

(a) As a result of a discharge, or oil that has been removed from another vessel because of the threat of a discharge into waters of the State, or

(b) At the request of the Department, the federal government, or a person responsible for that discharge; and

(2) Not owned or operated by a person responsible for the discharge resulting in the need for removal of the oil from waters of the State.

C. If the Department determines that oil has been discharged or spilled into waters of the State from the tank vessel, the bond or other security shall be forfeited to the Department to the extent of:

(1) The costs incurred to eliminate the residue of oil discharge or spillage;

(2) Damage caused to the natural and recreational resources of the State; and

(3) Any uncollectible penalty levied against the tank vessel operator.

D. If a bond or other security is forfeited to the Department as described in §C of this regulation, the tank vessel operator shall post a new bond or other security for that tank vessel.

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

F. A tank vessel operator may present other security acceptable to the Department instead of the requirements of §A of this regulation. Other security acceptable to the Department shall meet either §F(1) or (2) of this regulation as follows:

(1) A certification signed by a certified public accountant that the tank vessel operator has all of the following:

(a) Two of the following three ratios:

(i) A ratio of total liabilities to net worth less than 2.0,

(ii) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1, or

(iii) A ratio of current assets to current liabilities greater than 1.5;

(b) Net working capital and tangible net worth each at least six times the amount required for bond posting in §A 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 90 percent of total assets or at least six times the amount required for bond posting in §A of this regulation;

(2) A certification signed by a certified public accountant that the tank vessel operator has:

(a) A current rating for this most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

(b) A parent corporation that meets the requirements of §F(1)(b)—(d) of this regulation; and

(c) An absolute guaranty by the parent corporation of the tank vessel operator.

G. The requirement of this regulation may be satisfied by offering proof to the Department of a current Certificate of Financial Responsibility issued by the USCG under 33 CFR 130 for each tank vessel entering waters of the State.

H. The Department may waive the requirements of this regulation if the Department determines that the bonds or other securities required are not generally available.

CHAPTER 02 UNDERGROUND STORAGE TANKS

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 4-411.2, 4-415.1, 4-417, 4-701 et seq, and 7-201 et seq., Annotated Code of Maryland

.01 Program Scope.

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

B. A person violating these regulations is subject to sanctions under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, in addition to the permit and license modification, suspension, or revocation proceeding and in addition to any other sanctions provided by law.

C. Responsibility for the prompt control, containment, and removal of any released regulated substance shall be with the person responsible for the discharge, the owner of the property, the owner of the regulated substance, the owner and operator of the storage system, and the person-in-charge of the facility, vessel, or vehicle involved in the release. For releases occurring from improperly abandoned storage systems, the current land owner, and any person who owned, leased, or was otherwise responsible for a system at the time it was abandoned shall also be responsible. This responsibility shall continue until removal of the released regulated substance has been accomplished to the satisfaction of the Department.

D. An owner or operator may not allow the selling, receiving, or dispensing of oil or any other regulated substance from an UST system that is not in compliance with COMAR 26.10.02—26.10.11 as determined by the Department. The Department shall notify, in writing, the owner or operator that an UST system is not in compliance and may affix a monitoring device, such as a tag, notice, or locking mechanism, to the UST system until compliance is achieved.

E. These regulations are not intended to and do not relieve the owners or operators of the duty to comply with all other government regulations.

.02 Applicability.

A. Requirements.

(1) The requirements of COMAR 26.10.02—26.10.11 apply to all owners and operators of an UST system, as defined in Regulation .04 of this chapter, that is used or may be used to store a regulated substance, except as otherwise provided in §§B and C of this regulation.

(2) A new or replaced UST, including an emergency generator tank, shall have interstitial monitoring in accordance with COMAR 26.10.05.04H.

(3) New or replaced secondary containment piping shall meet the requirements of COMAR 26.10.05.02D(4).

B. The following UST systems are excluded from the requirements of COMAR 26.10.02—26.10.11:

(1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Resource Conservation and Recovery Act or a mixture of such hazardous waste and other regulated substances;

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under §402 or 307(b) of the Clean Water Act (33 U.S.C. §466 et seq.);

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(4) Any UST system that contains a de minimus concentration of regulated substances;

(5) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(6) Any residential UST system as defined under COMAR 26.10.02.04B(64);

(7) Any farm UST system as defined under COMAR 26.10.02.04B(64).

C. Deferrals.

(1) COMAR 26.10.03—26.10.08, 26.10.10, and 26.10.11 do not apply to wastewater treatment tank systems that do not store a regulated substance.

(2) COMAR 26.10.05 does not apply to an UST system installed or replaced before March 1, 2008, that stores oil solely for use by emergency power generators.

(3) COMAR 26.10.03.08, 26.10.05, and 26.10.11 do not apply to an UST system that stores heating oil only for consumptive use.

.03 High Risk Groundwater Use Area—Definitions.

A. In Regulations .03-1—.03-6 of this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Existing gasoline UST system" means an underground tank system:

(a) Installed before January 26, 2005;

(b) Used to fuel motor vehicles;

(c) That has a storage capacity greater than 2,000 gallons; and

(d) That is equipped with Stage II vapor recovery.

(2) "High risk groundwater use area" means all areas served by individual water supply systems, as defined in COMAR 26.04.03.01-1B(8), in:

(a) Baltimore, Carroll, Cecil, Frederick, and Harford counties;

(b) Anne Arundel, Baltimore, Carroll, Cecil, Frederick, and Harford counties for groundwater contamination notification requirements of Environment Article, §4-411.2, Annotated Code of Maryland.

(3) "Levels of concern" means:

(a) Benzene at (\geq) 5 parts per billion;

(b) Toluene at (\geq) 1,000 parts per billion;

(c) Ethylbenzene at (\geq) 700 parts per billion;

(d) Xylenes at (\geq) 10,000 parts per billion; and

(e) Methyl tertiary Butyl Ether (MtBE) at (\geq) 20 parts per billion.

(4) "Local government" means a county, municipal corporation, or sanitary district.

(5) "New gasoline UST system" means an underground tank system, including a replacement tank system, installed after January 26, 2005 and used to fuel motor vehicles.

(6) "Well" means a hole made in the ground to obtain or monitor ground water.

(7) "Well head protection area" in this chapter means an area in Baltimore, Carroll, Cecil, Frederick, and Harford counties identified and regulated by a local government:

(a) Surrounding one or more wells serving a community water system as defined by COMAR 26.04.01.01B(5); or

(b) Surrounding one or more wells serving a public water system as defined by COMAR 26.04.01.01B(34).

.03-1 Gasoline UST System.

An owner of a gasoline underground storage tank system in a high risk groundwater use area shall:

A. Comply with the requirements of this regulation in addition to all other applicable requirements of COMAR 26.10.02—26.10.11; or

B. Submit the following data to the Department, for its consideration, to demonstrate that the construction, operation, and location of the UST system is not a threat to the groundwater:

(1) A survey of groundwater use within a 1/2 mile radius of the UST site;

(2) A description of the construction materials used for the UST system;

(3) A description of the release detection methods used to protect the groundwater; and

(4) A description of operation and testing methods used to protect the groundwater.

.03-2 New Gasoline UST System.

The owner of a new gasoline UST system in a high-risk groundwater use area shall:

A. Install all piping, including Stage II vapor recovery piping, in accordance with COMAR 26.10.03.02;

B. Install and utilize, on the piping, an interstitial release detector system approved by the National Work Group on Leak Detection Evaluations;

C. For USTs with a capacity of greater than 2,000 gallons or for multiple tanks in a shared tank excavation:

(1) Install four monitoring pipes in accordance with the specifications in COMAR 26.10.03.04B, so that one monitoring pipe is located in each corner of the tank excavation area; and

(2) In conjunction with the monitoring pipes, install a piping system that is designed to allow for active ventilation of the tank excavation area;

D. Before placing the UST system in service, test the system for leaks using a helium pressure test, or other test approved by the Department, in accordance with procedures prescribed by the Department;

E. Implement one of the following:

(1) Install a minimum of three groundwater monitoring wells outside the UST excavation area in locations that will determine groundwater flow and detect a release from the UST system in accordance with COMAR 26.04.04 and Department specifications;

(2) Install a pressure control system that:

(a) Is approved by the Department;

(b) Is continuously operated;

(c) Continuously monitors tank pressures;

(d) Maintains tank pressure at an average negative pressure; and

(e) Prevents the release of gasoline vapors to the environment.

(3) Install a soil vapor extraction system in conjunction with the monitoring pipes that will allow for continuous active ventilation of the tank excavation area; or

(4) Obtain Department approval for an alternative method that will prevent and detect the release of gasoline liquid and vapors from the UST system;

F. In addition to requirements for release detection in COMAR 26.10.05:

(1) Test all spill catchment basins and containment sumps in accordance with COMAR 26.10.03.03;

(2) Within 30 days of the new gasoline UST system installation:

(a) Sample each site supply well and monitoring well using a method approved by the Department; and

(b) Test each sample obtained in §F(2)(a) of this regulation in accordance with Regulation .03-3 of this chapter;

(3) Annually thereafter sample and test as required in §F(2)(a)—(b) of this regulation; and

(4) Test the UST system after any repairs are completed in accordance with Regulation .03-4 A(2) of this chapter.

.03-3 Analytical Testing Methods—New or Existing Gasoline UST Systems.

Owners of new or existing gasoline UST systems shall:

A. Analyze each monitoring well in accordance with U.S. Environmental Protection Agency (EPA) Method 8260 for gasoline constituents, including MtBE; and

B. Analyze each site supply well in accordance with EPA Method 524.2.

.03-4 Existing Gasoline UST System.

A. The owner of an existing gasoline UST system in a high risk groundwater use area served by one or more individual water supply systems, as defined in COMAR 26.04.03.01-1B(8), shall:

(1) Use a method approved by the Department to:

(a) Test all spill catchment basins and containment sumps in accordance with COMAR 26.10.03.03;

(b) Sample each site supply well, and any existing monitoring wells within 180 days of January 26, 2005;

(c) Install, in accordance with COMAR 26.04.04 and sample a minimum of three groundwater monitoring wells outside the UST excavation area in locations that will determine groundwater flow and detect a release from the UST system within 180 days of January 26, 2005;

(d) Test water samples obtained in §A(1)(b) and (c) of this regulation in accordance with Regulation .03-3 of this chapter; and

(e) Sample and test annually thereafter, as required in §A(1)(b)—(d) of this regulation; and

(2) Within 1 year of January 26, 2005, and every 2 years thereafter:

(a) Test all primary piping that does not contain liquid gasoline, including 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; and

(b) Repair any leaks or deficiencies found during the testing required by this regulation and retest in accordance with this subsection to insure the system does not leak.

B. The owner of an existing gasoline UST system in a well head protection area, as defined in Regulation .03B(7) of this chapter, shall:

(1) Use a method approved by the Department to:

(a) Test all spill catchment basins and containment sumps in accordance with COMAR 26.10.03.03;

(b) Sample any existing monitoring wells by January 1, 2010;

(c) By January 1, 2010, install, in accordance with COMAR 26.04.04, and sample a minimum of three groundwater monitoring wells outside the UST excavation area in locations that will determine groundwater flow and detect a release from the UST system;

(d) Test water samples obtained in §B(1)(b) and (c) of this regulation in accordance with Regulation .03-3 of this chapter; and

(e) Sample and test annually thereafter, as required in §B(1)(c)—(d) of this regulation; and

(2) By January 1, 2010, and every 2 years thereafter:

(a) Test all primary piping that does not contain liquid gasoline, including 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; and

(b) Repair any leaks or deficiencies found during the testing required by this regulation and retest in accordance with this subsection to insure the system does not leak

.03-5 Detection of Levels of Concern.

A. If the concentrations of gasoline constituents in site groundwater sampling and testing required by this regulation are less than the levels of concern as defined in this chapter, the owner of the UST system shall continue to sample and test in accordance with this chapter.

B. If the concentrations of gasoline constituents in site groundwater sampling and testing required by this chapter are equal to or greater than the levels of concern as defined in Regulation .03B of this chapter, the owner shall:

(1) Report the concentrations to the Department within 24 hours;

(2) Initiate an investigation within 48 hours to determine the impacts to groundwater, both on-site and off-site, in accordance with Regulation .03-4B and COMAR 26.10.08.02—.04; and;

(3) Develop a Corrective Action Plan, as directed by the Department and in accordance with COMAR 26.10.09.07.

.03-6 Record Keeping.

A. Owners and operators shall maintain and make available to the Department records of all testing required by this chapter for 1 year at the UST facility and for 5 years at a location designated by the owner.

B. A person may not make any false statement, representation, or certification on any record, report, plan, or other document filed or required to be maintained by this chapter

.04 Definitions.

A. In COMAR 26.10.02—26.10.11, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Aboveground release" means any release, discharge, or spill on to the surface of the land or surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

- (2) "Administration" means the Waste Management Administration of the Maryland Department of the Environment.
- (3) "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.
- (4) "Belowground release" means any release or discharge to the subsurface of the land or to ground water, or both. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.
- (5) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.
- (6) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.
- (7) "Cathodic protection tester" means a person who 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 tank systems. At a minimum, this person shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.
- (8) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- (9) "Combustible liquid" means a liquid having a closed cup flash point at or above 100°F.
- (10) "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 the tank system under conditions likely to be encountered in the UST.
- (10-1) "Completion" means the final grade for an underground oil storage facility is finished including all concrete pads and asphalt paving.
- (11) "Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is

connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(12) "Consumptive use" with respect to heating oil means consumed on the premises.

(13) "Control" means the power to direct or cause the direction of the actions of a person, place, or thing.

(14) "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 piping systems and metal tanks. This person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

(15) "Department" means the Maryland Department of the Environment.

(16) "Discharge" means a discharge as defined in Environment Article, §4-401(d), Annotated Code of Maryland.

(17) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system such as the tank from the piping.

(18) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(19) "Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(20) "Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation commenced on or before December 22, 1988.

(21) "Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank shall be located on the farm property and for sole use in farm activities. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations.

(22) "Flammable liquid" means a liquid having a closed cup flash point below 100°F.

(23) "Flow-through process tank" is 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. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the production process or for the storage of finished products or byproducts from the production process.

(24) "Free product" refers to a regulated substance that is present as a nonaqueous phase liquid.

(25) "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.

(25-1) Groundwater Drain System.

(a) "Groundwater drain system" means a permanent installation of a horizontal pipe or gravel trench intercepting an underground storage tank excavation for the purpose of removing, directing, or relieving groundwater accumulation to an alternative location.

(b) "Groundwater drain system" does not mean a temporary sump pump or temporary well point dewatering system.

(26) "Hazardous substance" has the meaning stated in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(27) "Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance or any mixture of the hazardous substance and petroleum, and which is not a petroleum UST system or a hazardous waste tank as regulated under Subtitle C of RCRA.

(28) Heating Oil.

(a) "Heating oil" means petroleum that is:

(i) No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy, and No. 6 technical grades of fuel oil;

(ii) Other residual fuel oils including Navy Special fuel oil and bunker C; and

(iii) Other fuels when used as substitutes for one of these fuel oils.

(b) Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(29) "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.

(30) "Implementing agency" means the Maryland Department of the Environment.

(31) "Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations, including gas production plants, for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(32) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing oil or regulated substance.

(33) "Motor fuel" means petroleum or a petroleum-based substance that is:

(a) Motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol; and

(b) Typically used in the operation of a motor engine.

(34) "New tank system" means a tank system that shall be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.

(35) "Noncommercial purposes" with respect to motor fuel means not for resale.

(36) "Oil" has the meaning stated in Environment Article, §4-401(g), Annotated Code of Maryland.

(37) Oil Storage Facility.

(a) "Oil storage facility" means any installation, structure, or premises, aboveground or underground, in which oil has been or is stored.

(b) "Oil storage facility" does not include any farm tank or residential tank which stores 1,100 gallons or less of oil for noncommercial or personal use.

(38) "On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

(39) "Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under these regulations.

(40) "Operator" means a person in control of, or having responsibility for, the daily or periodic operation, or the repair, maintenance, closure, testing, or installation, of the UST system.

(41) "Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

(42) "Owner" includes a person who:

(a) Owns an oil storage facility or UST system, or both, used for storage, use, or dispensing of regulated substances; or

(b) Owned the UST system immediately before the discontinuation of its use.

(43) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, State, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

(44) "Person-in-charge" means the person designated by an owner, operator, or permittee as the one 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 the UST system.

(45) "Person responsible for the discharge" means:

(a) The owner of the discharged oil;

(b) The owner, operator, or person-in-charge of the oil storage facility, vessel, or vehicle involved in the discharge at the time of or immediately before the discharge; and

(c) Any other person who through act of omission causes the discharge.

(46) "Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimus quantities of other regulated substances. This system includes those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, heating oils, lubricants, petroleum solvents, and used oils.

(47) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(48) "Pipeline facilities", including gathering lines, means new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

(49) "Precision test" means a test:

(a) For UST system tightness approved by the Department;

(b) Conducted in accordance with the standards approved by the Department;
and

(c) Capable of detecting a 0.05 gallon per hour leak rate from any portion of a tank system with a capacity of up to 12,500 gallons, while accounting for the effects of:

(i) Thermal expansion,

(ii) Contraction of the liquid,

(iii) Vapor pockets,

(iv) Tank deformation,

(v) Evaporation,

(vi) Water, and

(vii) Any subsurface water contacting the underground storage tank.

(50) "Regulated substance" means any substance identified as follows:

(a) A hazardous substance as defined in this regulation; and

(b) Oil as defined in Environment Article, §4-401(g), Annotated Code of Maryland.

(51) "Release" means any discharge as defined in this regulation, including the discharge of a regulated substance from an UST into ground water, surface water, subsurface soils, or into a secondary containment system.

(52) "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

(53) "Repair" means to restore a tank or UST system component that has caused a release of a regulated substance from the UST system that has malfunctioned, or has been rendered inoperable in any way.

(53-1) "Replace" means to remove and install any of the following:

(a) An underground tank; or

(b) 40 percent or more of piping connected to a single underground storage tank.

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

(55) "SARA" means Superfund Amendments and Reauthorization Act of 1986.

(56) "Secretary" means the Secretary of the Environment.

(56-1) "Secondary containment" means a UL listed or Department-approved system that:

(a) Prevents a release by containing a regulated substance released from the primary tank or piping until it is detected and removed; and

(b) Detects a release by meeting the requirements of COMAR 26.10.05.04H.

(57) "Septic tank" means a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from this receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(58) "Similar oil handling facility" means any facility that stores and dispenses oil for use as a motor fuel.

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

(60) "Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(61) "Surface impoundment" is 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.

(62) "Tank" means a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials such as concrete, steel, fiberglass, and plastic, that provide structural support.

(62-1) "Under-dispenser containment" means containment underneath a dispenser that shall:

(a) Prevent leaks from the dispenser from reaching soil or groundwater;

(b) Be liquid-tight on its sides, bottom, and at any penetrations;

(c) Be compatible with the substance conveyed by the piping;

(d) Be tested in accordance with COMAR 26.10.03.03; and

(e) Allow for access to the components in the containment system or be monitored.

(63) "Underground oil storage facility" means a single location that has an underground storage tank regulated by this subtitle.

(64) Underground Storage Tank (UST).

(a) "Underground storage tank (UST)" means any one or combination of tanks, including underground pipes connected to the tank, and the volume of which, including the volume of underground pipes connected to it, is 10 percent or more beneath the surface of the ground.

(b) "Underground storage tank" does not include a:

(i) Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel or heating oil for noncommercial purposes unless it is no longer in use, in which case a farm or residential tank shall comply with COMAR 26.10.10;

(ii) Septic tank;

(iii) Pipeline facility, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. App. §1671 et seq.; the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. App. §2001 et seq.; or, for an intrastate pipeline facility, State laws comparable to the provisions of the laws referred to in §B(64)(c)(i) or (ii) of this regulation;

(iv) Surface impoundment, pit, pond, or lagoon;

(v) Storm water or wastewater collection system;

(vi) Flow-through process tank;

(vii) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(viii) Storage tank situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or pipes connected to any tank which is described in §B(64)(a)—(h) of this regulation.

(65) "Upgrade" means the addition or retrofit of some systems such as interior lining, cathodic protection, spill and overflow controls, or the replacement of 40 percent or more of piping connected to a single underground storage tank.

(66) "UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(67) "Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

(68) "Waters of the State" include:

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

(b) The Chesapeake Bay and its tributaries;

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

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

.05 General Operations Permit.

All underground storage systems regulated under this subtitle are permitted if the following conditions are met:

A. All applicable requirements of COMAR 26.10.02—26.10.11 are met;

B. Components and appurtenances connected to an UST system that are not operational are removed or properly decommissioned to:

(1) Ensure proper operation of all spill and overflow, corrosion protection, and release detection equipment of the UST system; and

(2) Prevent a release;

C. The facility where the UST system is located is made available for inspection by the Department;

D. All records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility are available for inspection by the Department; and

E. Any surveys or other documents required by the Department are completed in a timely manner.

.06 Incorporation by Reference.

In this subtitle, the following documents are incorporated by reference:

A. Flammable and Combustible Liquids Code (NFPA 30, 2008 Edition);

B. Code for Motor Fuel Dispensing Facilities and Repair Garages (NFPA 30A, 2008 Edition);

C. Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615, Fifth Edition, March 1996, Reaffirmed November 2001);

D. Closure of Underground Petroleum Storage Tanks (API Recommended Practice 1604, Third Edition, March 1996, Reaffirmed 2001);

E. Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations (API Recommended Practice 1626, First Edition, April 1985);

F. Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations (API Recommended Practice 1627, First Edition, August 1986);

G. Interior Lining and Periodic Inspection of Underground Storage Tanks (API Standard 1631, Fifth Edition, June, 2001);

H. Recommended Practices for Installation of Underground Liquid Storage Systems (Petroleum Equipment Institute Publication, PEI/RP 100-05, 2005);

I. Doing Inventory Control Right for Underground Storage Tanks (United States Environmental Protection Agency Publication 510-B-93-004, November 1993);

J. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals (API Recommended Practice 1637, Third Edition, July 2006); and

K. Standard for the Installation of Oil-Burning Equipment (NFPA 31, 2006 Edition).

CHAPTER 03 UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, NOTIFICATION, AND INSPECTION

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 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 UST Systems.

A. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new or replaced UST systems shall meet the requirements of this chapter.

B. Tanks. Each tank shall be properly designed and constructed, shall have secondary containment, and shall be protected from corrosion, in accordance with one of the following:

(1) A tank that is constructed of fiberglass-reinforced plastic shall be listed by Underwriters Laboratories or approved by the American Society of Testing and Materials;

(2) A tank that is constructed of steel and cathodically protected shall be coated with a suitable dielectric material and shall:

(a) Be protected with an impressed current system:

(i) Designed and installed to allow determination of electrical current operation, and

(ii) Approved by a corrosion expert; or

(b) Have a manufacturer-installed cathodic protection system which is approved by the Steel Tank Institute or is listed with Underwriters Laboratories;

(3) A tank that is constructed of a steel-fiberglass-reinforced-plastic composite shall be listed by Underwriters Laboratories or approved by the Steel Tank Institute;

(4) Alternative methods of tank construction and corrosion protection may be approved if determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than §B(1)—(3) of this regulation.

C. The UST system owner, operator, or person in charge shall notify the Administration in writing 5 working days before beginning the installation of a new or replacement UST system.

.02 Performance Standards for Piping.

A. Piping that routinely contains a petroleum vapor or regulated substance and is installed, upgraded, or replaced on or after January 26, 2005 shall be:

(1) Installed 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 it is detected and removed; and

(b) Prevents the release of the petroleum vapor or regulated substance to the environment;

(2) Connected to the UST in a liquid tight containment sump that is maintained clean and liquid free;

(3) Terminated, when a product dispenser is part of the UST system, in an under-dispenser containment sump that is maintained clean and liquid free; and

(4) Connected, if an intermediate sump is used, in liquid tight containment that is maintained clean and liquid free.

B. Piping that is in contact with the ground shall be properly designed, constructed, and protected from corrosion in accordance with one of the following:

(1) Piping and connectors that are constructed of fiberglass-reinforced plastic or flexible piping shall be listed by Underwriters Laboratories as appropriate piping for the regulated substance stored and for use in an UST system;

(2) Piping that is constructed of steel shall be:

(a) Coated with a suitable dielectric material, and installed with a cathodic protection system designed by a corrosion expert, or

(b) Protected by an impressed current system which is designed to allow determination of current operating status as required in COMAR 26.10.04.02;

(3) Alternative methods of piping construction and corrosion protection may be approved if determined by the Department to be adequate to prevent the release or threatened release of any stored regulated substance in a manner that is not less protective of human health and the environment than the requirements of this regulation.

C. Fiberglass-reinforced plastic piping systems may not be used:

(1) For direct fill lines; or

(2) Aboveground or above grade.

D. Flexible piping systems may not be used for any of the following when new, upgraded, or replaced UST systems are installed after January 1, 2009:

(1) Direct fill lines;

(2) Vent lines; or

(3) Stage II vapor recovery lines.

.03 Spill and Overfill Prevention Equipment.

A. Except as provided in §B of this regulation, owners and operators shall use the following spill and overfill prevention equipment:

(1) Spill prevention equipment that shall prevent release of a regulated substance into the environment when the transfer hose is detached from the fill pipe by use of a spill catchment basin:

(a) That has a minimum capacity of 5 gallons; and

(b) Is tested in a manner approved by the Department:

(i) Within 30 days of installation;

(ii) Upon repair;

(iii) Within 180 days of January 26, 2005; and

(iv) Annually thereafter;

(2) Overfill prevention equipment that shall:

(a) Automatically shut off flow into the tank when the tank is 95 percent full,

(b) Alert the transfer operator when the tank is 90 percent full by restricting the flow into the tank or triggering a high level alarm, or

(c) Alert the operator with an alarm 1 minute before overfilling; and

(3) Containment sumps that shall:

(a) Prevent release of a regulated substance into the environment;

(b) Be used for all connections of piping from the tank to the dispenser; and

(c) Be tested by a method approved by the Department:

(i) Within 30 days of installation:

(ii) Upon repair;

(iii) Within 1 year of January 26, 2005; and

(iv) Every 5 years thereafter.

B. Owners and operators are not required to use the spill and overfill prevention equipment specified in this regulation if:

(1) Alternative equipment or method is used that is determined by the Department to be no less protective of human health and the environment; or

(2) Not more than 25 gallons of a regulated substance is transferred at one time to the UST system.

C. New, replacement, or upgraded UST systems which receive used oil shall be equipped with spill catchment basins with a minimum capacity of 5 gallons.

D. On July 1, 1998, new or complete replacement UST systems, which utilize vapor recovery, shall be equipped to prevent the release of product from the vapor recovery fitting by:

(1) Installing at the stage one fitting a spill catchment basin with a minimum capacity of 5 gallons; or

(2) Utilizing a method that the owner and operator can demonstrate to the satisfaction of the Department to be as effective as a spill catchment basin.

.04 UST System Installation.

A. All tanks and piping shall be properly installed in accordance with:

(1) The codes incorporated under COMAR 26.10.02.06A, B, C, and H;

(2) The manufacturer's instructions;

(3) COMAR 26.10.06; and

(4) Alternative installation methods determined by the Department to be as protective of human health and the environment.

B. Two permanent monitoring pipes shall be installed vertically and in opposing corners of new or replacement storage system installations unless the storage system is constructed in a high risk groundwater use area, as defined in COMAR 26.10.02.03, for which four monitoring pipes are required. The monitoring pipes shall:

(1) Extend to a minimum depth of 2 feet below the bottom of the tanks in the tank field;

(2) Be constructed of schedule 40 PVC;

(3) Be a minimum of 4 inches in diameter;

(4) Be screened from the bottom to within 2 feet of ground surfaces with the remaining 2 feet being solid PVC;

(5) Have a minimum slot size of 0.020 inch and maximum slot size of 0.025 inch with not less than 30 slots per foot;

(6) Be completed by:

(a) Backfilling around the outside with fine pea gravel or wrapping the pipe in an appropriate filter cloth to prevent clogging, and

(b) Sealing around the top 8 inches to ground surface with a bentonite clay, concrete mixture, or other means to prevent the entrance of surface runoff;

(7) Be capped by a liquid-tight threaded cap or removable liquid-tight plug and protected from traffic by manhole and cover;

(8) Be locked or bolted closed and identified to avoid confusion with product fill lines; and

(9) Have a key or locking tool for the monitoring pipes which shall be kept at the tank site.

C. Excavations.

(1) The tank excavation shall be a minimum distance of 5 feet from the base of adjacent structures or property lines.

(2) For steel tanks, excavations shall have a minimum 12-inch distance between tanks and 12-inch clearance between the tanks and all sides of the excavation.

(3) For fiberglass-reinforced plastic tanks, excavations shall have a minimum 18-inch distance between tanks and 18-inch clearance between the tanks and all sides of the excavation.

D. Tanks shall be placed upon a 12-inch bedding of backfill.

E. Backfill Material.

(1) Backfill material shall be:

(a) Pea gravel not larger than 3/4 inch; or

(b) Crushed stone not larger than 1/2 inch.

(2) Clean sand may be used for protected steel and steel-clad tanks.

(3) The same material used for bedding shall also be used for backfilling operations.

(4) There may not be debris or foreign or frozen matter in the backfill.

F. Except where there are 48 inches of clearance between the tanks and all shoring, shoring shall be removed from the tank excavation at the completion of the UST system installation.

G. In areas of high ground water or where tank movement is possible, underground storage tanks shall be safeguarded against movement from high ground water or flood by anchoring, or by other means acceptable to the Department and in compliance with tank manufacturer instructions.

H. When a hold-down pad or anchors made of concrete are used to prevent the movement of an underground storage tank, the new tank and associated backfill

cannot be placed on freshly poured concrete or anchored to the hold-down devices until the concrete has cured for 48 hours.

I. A groundwater drain system may not be installed in a tank excavation area without prior written approval by the Department.

.05 Precision Test.

A. An UST system installed, or replaced, or an existing UST system repaired or upgraded, shall be tested for tightness by the "precision test" as defined in COMAR 26.10.02.04 before operation of the system and completion of the underground oil storage facility.

B. When a precision test is performed, the following information shall be kept on file at the facility or at a location designated by and in control of the owner or operator of the storage system, and shall be made available for inspection by the Department upon request:

- (1) Commercial name of the test equipment;
- (2) The name of the testing company;
- (3) The name of the person conducting the test;
- (4) The data accumulated by the test; and
- (5) The results of the precision test.

.06 Piping.

A. UST system piping which is below the ground surface shall be placed on a 6-inch bedding of appropriate backfill material as described in this chapter.

B. The following clearances shall be maintained when piping is installed:

- (1) At least 4 inches between all piping, and between piping and electrical conduit;
- (2) At least 6 inches between piping and excavation side walls; and
- (3) At least 18 inches between piping and the surface of the ground.

C. Piping shall rise 1/8 inch for each lateral foot from the tank to the piping end point.

D. Manufacturer specifications and installation requirements shall be followed when installing piping.

E. Piping carrying a regulated substance shall be connected to the tank and the dispensing equipment at the end of the piping run by an Underwriters Laboratory-listed flexible connector, installed in accordance with manufacturer specifications. Flexible connectors may not be used at any other point in the piping.

F. Pressurized product piping which dispenses motor fuels shall have an Underwriters Laboratory-listed shear valve placed and be properly anchored at the dispenser.

G. Electrical conduit and other apparatus such as water and air piping unrelated to the UST system may not be installed in the UST piping trenches.

H. Vent lines above the ground surface shall be:

(1) Constructed with at least schedule 40 steel;

(2) Protected from traffic;

(3) Properly anchored; and

(4) Protected from weather and debris.

I. Vents for UST systems storing flammable liquids shall terminate 12 feet above the ground surface and 2 feet above any attached building.

J. Vents for UST systems storing combustible liquids shall terminate at least 3 feet above the ground surface.

.07 Requirements for Garages, Service Stations, Marinas, and Similar Oil-Handling Facilities.

A. Storage systems shall be installed and operated in accordance with the requirements of COMAR 26.10.02—26.10.11 and the documents incorporated in COMAR 26.10.02.06A and B.

B. The owner and operator of the UST system and the owner of the oil shall be responsible for monitoring inventory control of the storage system when the facility operates under the meter marketing plan.

C. Marina fuel delivery nozzles shall be equipped with a self-closing valve that will shut off the flow of fuel when the hand is removed from the nozzle. Hold open devices may not be used on these nozzles.

D. Each pipeline conveying oil from an oil storage facility to a wharf, pier, or dock shall be provided with a readily accessible shut-off valve located on shore, near the approach to the wharf, pier, or dock, and outside any diked area. The shut-off valves shall be grouped at one location and marked "emergency shut-off".

E. Owners and operators shall submit plans for piping systems associated with piers or docks for approval by the Department before the start of installation. A plan may be approved if the Department determines that it is adequate to prevent the discharge of oil.

.08 Upgrading of Existing UST Systems.

A. Not later than December 22, 1998, all UST systems containing a regulated substance, except heating oil for consumptive use, shall comply with one of the following requirements:

- (1) New UST system performance standards under this chapter;
- (2) The upgrading requirements in §§B—D of this regulation; or
- (3) Closure requirements under COMAR 26.10.10, including applicable requirements for corrective action under COMAR 26.10.09.

B. Tank Upgrading Requirements.

(1) Steel UST systems shall meet the requirements of either §B(2) or (3) of this regulation.

(2) Cathodic Protection. A tank shall be upgraded by cathodic protection if the cathodic protection system meets the requirements of Regulation .01B(2)(a) of this chapter and the integrity of the tank is ensured using one of the following methods:

- (a) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before installing the cathodic protection system.
- (b) The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with COMAR 26.10.05.04E—I.
- (c) The tank has been installed for less than 10 years and is assessed by conducting two tightness tests that meet the requirements of COMAR

26.10.05.04D. The first tightness test shall be conducted before installing the cathodic protection system. The second tightness test shall be conducted between 3 and 6 months following the first operation of the cathodic protection system.

(d) The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than §B(2)(a)—(c) of this regulation.

(3) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection under all of the following conditions:

(a) The lining is installed in accordance with the requirements of COMAR 26.10.04.04 and 26.10.02.06G.

(b) Tanks not meeting the recommendations of API Publication 1631 may not be relined.

(c) A storage system to which an interior lining has been applied shall have a cathodic protection system installed to prevent further corrosion of the system. This system shall be of the impressed current type and the installation shall be designed, inspected, and installed under the supervision of a corrosion expert.

(d) A storage system which has had an interior lining applied shall be tested by a precision test before being placed back into service.

(e) An owner and operator shall determine if there is evidence of a discharge from the UST system where the discharge is most likely to be present before applying interior lining.

(f) The owner of the underground storage system shall maintain a written certification from the contractors performing the work in §B(3) of this regulation. This written certification shall state that all work has been done in accordance with the requirements of this regulation. The certification shall be made available for inspection by the Department.

(g) Within 10 years after lining, and every 5 years after that, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

C. Piping Upgrading Requirements. Metal piping that is in contact with the ground shall be cathodically protected and shall meet the requirements of Regulation .02B(2) of this chapter.

D. Spill and Overfill Prevention Equipment. All existing UST systems shall comply with new UST system spill and overfill prevention requirements specified in Regulation .03 of this chapter.

E. An owner and an operator may not allow a regulated substance to be delivered to or dispensed from an underground storage tank system that is not upgraded in accordance with this chapter.

.09 UST Registration Requirements.

A. The owner, operator, or person-in-charge of an underground storage tank shall register the underground storage tank with the Department on a form provided by the Department.

B. Owners required to submit a registration form under §A of this regulation shall provide a form to the Department for each tank they own. Owners may register several tanks using one registration form, but owners who own tanks located at more than one place of operation shall file a separate registration form for each separate place of operation.

C. Registrations required to be submitted under §A of this regulation shall provide all of the information required on the prescribed form for each tank for which registration is made. Registration for each tank installed after July 1, 1990, shall also provide all of the information in Section VII of the prescribed form.

D. All owners, operators, and persons-in-charge of new UST systems shall register the new system within 30 days and certify in the registration form compliance with the following requirements:

(1) Installation of tanks and piping under this chapter;

(2) Cathodic protection of steel tanks and piping under Regulations .01 and .02 of this chapter;

(3) Financial responsibility under COMAR 26.10.11; and

(4) Release detection under Regulations .01 and .02 of this chapter and COMAR 26.10.05.02 and .03.

E. All owners and operators of new UST systems shall ensure that the installer certifies in the registration form that the methods used to install the tanks and piping comply with the requirements in this chapter.

F. A person who sells a tank intended to be used as an underground storage tank shall inform the purchaser of the registration obligations under §A of this

regulation, and provide the purchaser with a copy of the Department's registration form.

G. Unless an underground storage tank is registered with the Department in accordance with the provisions of §A or B of this regulation, an owner and an operator may not allow the selling, receiving, or dispensing of oil or any other regulated substance from an underground storage tank, with the exception of the minimum amount of a regulated substance necessary to conduct the initial precision test for new storage systems.

H. For the purposes of this regulation, if any underground storage tank registered with the Department under §A or B of this regulation is removed, or no longer in use, the owner, operator, or person-in-charge of the underground storage tank shall notify the Department on an amended form not later than 30 days after the removal or discontinuance of use.

I. The owner and an operator of the UST system shall:

(1) Display at the underground storage tank facility the UST registration certificate issued by the Department; or

(2) Produce the certificate immediately upon request by the Department.

.10 UST Inspection Requirements.

A. An underground motor fuel storage tank owner shall have each underground storage tank system inspected by a certified inspector at the frequency established in §§B—E of this regulation. The inspection shall verify compliance with COMAR 26.10.02—.11 on forms provided by the Department.

B. Initial Inspections.

(1) Within 60 days of notification by the Department, the owner of an underground motor fuel storage tank system installed before January 16, 2006 shall have an inspection completed by a Department certified inspector.

(2) The owner of an underground motor fuel storage tank system installed on or after January 16, 2006 shall have an inspection completed by a Department certified inspector within 6 months of installation.

C. Inspection Schedule.

(1) The owner of an underground motor fuel storage tank system shall complete a certified inspection of that system at least once every 3 years after the initial inspection in §B of this regulation.

(2) After receiving notification by the Department to complete a certified inspection, the owner of an underground motor fuel storage tank system shall have 60 days to correct all deficiencies found, in accordance with COMAR 26.10.02—26.10.11, unless an alternative schedule is approved by the Department.

D. If the UST ownership changes, the new owner shall complete an inspection of each UST system within the first 3 months of operation.

E. The Department may require additional inspections to those in §§B—D of this regulation to verify compliance with COMAR 26.10.02—.11. Additional inspections may not substitute for those inspections required in §§B—D of this regulation.

F. Record Keeping.

(1) Inspection results shall be recorded and signed by the certified inspector on a form provided by the Department.

(2) The owner of the UST motor fuel system shall maintain and make available to the Department records of the certified inspections conducted, including:

(a) A copy of the most recent certified inspection report submitted to the Department not later than 60 days after receiving notification by the Department to conduct the inspection;

(b) A copy of the most recent inspection, that shall be kept at the UST facility; and

(c) Copies of the UST inspections for the past 5 years, kept at a location designated by the owner.

CHAPTER 04 GENERAL OPERATING REQUIREMENTS

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 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. Owners and operators shall ensure that releases due to spilling or overfilling do not occur. The owner and operator shall ensure that the volume available in

the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

B. Overfill catchment basins shall be kept clean and dry.

C. Following each removal of a tank fill cap, the cap shall be secured on the fill pipe to prevent liquid or other matter from entering the UST.

D. An underground storage system shall be designed to permit taking direct measurements of content level by the stick method.

E. The owner or operator shall ensure the liquid level of metered storage systems is measured using a stick or electronic method each day of operation, and shall reconcile the results with pump meter readings and receipt of product. These records shall be kept for 5 years at the facility or a location under the control of and designated by the owner or operator and shall be made available to the Department for inspection. Inventories shall be performed in accordance with "Doing Inventory Control Right", USEPA publication 510-B93-044 1993, incorporated by reference in COMAR 26.10.02.06I.

F. Inventory Variations.

(1) Inventory variations exceeding 1 percent plus 130 gallons of the metered quantity of a regulated substance over a period of 30 consecutive days shall be:

(a) Reported to the owner of the UST system; and

(b) Investigated immediately to determine the cause of the inventory variation.

(2) Daily inventory which shows 7 consecutive days of shortage totalling 80 gallons or more, regardless of percent, shall be:

(a) Reported to the owner of the UST system; and

(b) Investigated immediately to determine the cause of the loss.

(3) If, after investigation, the owner or operator determines that there is no indication of a leak, the owner or operator shall state the cause of the variation in the daily inventory records.

G. If the investigation required by §F of this regulation reveals a leak in the UST system, the owner and operator shall follow the procedures of COMAR 26.10.08.

H. The Department may require a precision test if the owner or operator of an UST system has failed to reconcile daily inventory records as specified in §§E and F of this regulation.

I. The Department may require a precision test of the UST system and installation of monitoring wells or a site assessment if there is reason to believe there is or may have been a loss of regulated substance from an UST system.

J. Except for underground storage systems, regulated by COMAR 26.10.03.08 and protected against corrosion and installed as provided in COMAR 26.10.03, and which have release detection that complies with COMAR 26.10.05, an underground storage tank, which has been buried for 15 years or more, or a storage system for which no installation date can be determined, shall meet the following requirements:

(1) It shall be tested for tightness in accordance with a precision test;

(2) The precision test shall be repeated on a storage system at intervals of not greater than 5 years;

(3) Storage systems with a total capacity of 1,000 gallons or less may be tested in accordance with COMAR 26.10.07.

K. The Department may require additional procedures for an underground storage system not having a vent that can be seen by a person positioned at the fill.

L. A high liquid level gauge, an alarm system, or a pump cut-off device shall be installed by the owner or the operator on any underground storage tank from which the Department determines an overflow of oil is possible. Since these emergency devices can fail to operate, their use for spill prevention purposes shall be considered only as auxiliary and supplementary to the use of personnel engaged in the transfer operation.

M. Before each filling of an underground storage system which is not required to maintain daily inventory reconciliation records and which has provisions for measurement of contents, the liquid level shall be gauged and the measurement shall be recorded in writing. These records shall be maintained for 5 years and shall be made available for inspection by the Department.

N. All fill lines for an underground storage system shall be clearly marked to indicate the size of the tank and the type of regulated substance stored. The markings shall be as follows:

(1) A permanent tag or sign installed immediately adjacent to the fill which states the size of the storage system and the specific type of regulated substance being stored; or

(2) A color code shall conform to the following requirements:

(a) Color markings shall be in accordance with API 1637 "Product Identification", which is incorporated by reference in COMAR 26.10.02.06J, and shall be painted or placed around the fill or manhole cover in a manner that will readily identify the regulated substance in the storage system, and

(b) The color code shall be printed on a sign not less than 8 x 10 inches with letters not less than 5/16 inch high, posted at the facility in a prominent location visible from the fill pipe area, and shall be available for inspection at all times to show the tank size and type of regulated substance.

O. Pipes or other openings may not be marked in any way which could be associated with a regulated substance stored at the facility, unless the pipes or openings are used for the transfer of that substance.

P. The owner, operator, and other responsible parties shall report, investigate, and clean up any spills and overfills in accordance with COMAR 26.10.08.04.

Q. A key or other access device shall be kept at the tank location for access to dispensing equipment.

R. Any UST system that stores flammable product or an UST system with a capacity over 1,100 gallons that stores combustible product shall have a drop-tube installed in the fill pipe in compliance with NFPA 30: Flammable and Combustible Liquids.

.02 Operation and Maintenance of Corrosion Protection.

A. All owners and operators of steel UST systems with corrosion protection shall comply with the requirements of this regulation to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

B. All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that is in contact with the ground.

C. An underground storage system protected by impressed current systems shall be designed so that the impressed current source cannot be de-energized at any time, except to perform service work on the storage system or the impressed current cathodic protection system.

D. All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) All field-installed cathodic protection systems shall be tested within 6 months of installation and at least every year after that;

(2) All factory-installed cathodic protection systems shall be tested within 6 months of installation and at least once every 3 years after that; and

(3) The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with a code of practice developed by the National Association of Corrosion Engineers.

E. If a qualified tester determines that the cathodic protection is inadequate, repairs shall be made to the cathodic protection system within 60 days of the test measurement.

F. Time of Inspection.

(1) UST systems with impressed current cathodic protection systems shall:

(a) Be inspected every 60 days to ensure that the equipment is functioning properly; and

(b) Have a complete assessment of the impressed current system performed by a corrosion expert when the impressed current system reaches 5 years of age and every 5 years thereafter.

(2) The corrosion expert shall follow guidance as established by the National Association of Corrosion Engineers in performing the assessment, under §F(1)(b) of this regulation.

G. For UST systems using cathodic protection, records of the operation of the cathodic protection shall be maintained in accordance with Regulation .05 of this chapter and shall demonstrate compliance with the performance standards in this regulation. These records shall include the following:

(1) The results of the last three inspections and the last assessment required in §F of this regulation; and

(2) The results of testing from the last two inspections required in §D of this regulation.

.03 Compatibility.

- A. Owners and operators shall use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.
- B. Owners and operators storing alcohol blends shall use one of the codes incorporated by reference in COMAR 26.10.02.06E and F to comply with the requirements of this regulation.

.04 Repairs Allowed.

- A. Owners and operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs shall meet the requirements of this chapter.
- B. Repairs to UST systems shall be properly conducted in accordance with the standards incorporated in COMAR 26.10.02.06.
- C. Repairs to fiberglass-reinforced plastic tanks shall be made in accordance with the manufacturer's specifications. All repairs shall be conducted under the supervision of a certified underground storage system technician certified under COMAR 26.10.06.
- D. A tank may not be repaired by installing an internal liner unless written approval is received from the Department.
- E. Metal pipes that have sections or fittings that have released a regulated substance as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings shall be repaired in accordance with the manufacturer's specifications.
- F. Repaired tanks and piping shall be tested for tightness with a precision test before being placed back into service.
- G. Within 6 months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested to ensure that it is operating properly.
- H. UST system owners and operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this regulation.

.05 Reporting, Record Keeping, and Access.

A. Access. Owners, operators, and the person-in-charge of the UST system shall:

(1) Permit the Department to inspect the site, review documents pertaining to the UST or recovery system, and retrieve environmental samples; and

(2) Allow responsible parties, as defined in Environment Article, §4-401(i), Annotated Code of Maryland, access to the site to conduct remedial activities.

B. Reporting. Owners and operators shall submit the following information to the Department:

(1) Registration for all UST systems described in COMAR 26.10.03.09;

(2) Reports of all releases of a regulated substance in the manner required by this subtitle;

(3) Reports of all corrective actions planned or taken including those required in COMAR 26.10.09.03—.07; and

(4) A notification before permanent closure or change-in-service as required by COMAR 26.10.10.02.

C. Record keeping. Owners and operators shall maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if the analysis is required by the Department as part of an alternative method of corrosion protection under COMAR 26.10.03.01B(4) or .02A(3);

(2) Records of operation of corrosion protection equipment pursuant to Regulation .02 of this chapter;

(3) Records of UST system repairs pursuant to Regulation .04G of this chapter;

(4) Records of compliance with release detection required by COMAR 26.10.05.06;

(5) Results of the site investigation conducted at permanent closure pursuant to COMAR 26.10.10.05;

(6) Records of UST system upgrades pursuant to COMAR 26.10.03.08; and

(7) An as-built diagram that includes a layout of the system tanks and piping for UST systems installed after January 1, 2006.

D. Availability and Maintenance of Records.

(1) Owners and operators shall keep the records required either:

(a) At the UST site and immediately available for inspection by the Department;
or

(b) At a readily available alternative site, and these records shall be provided for inspection to the Department upon request.

(2) In the case of permanent closure records required under COMAR 26.10.10.05, owners and operators are also provided with the additional alternative of mailing closure records to the Department if they cannot be kept at the site or an alternative site as indicated in §D(1) of this regulation.

(3) A person may not make any false statement, representation, or certification on any application, record, report, plan, or other document filed or required to be maintained under this subtitle.

CHAPTER 05 RELEASE DETECTION

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 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. Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains a regulated substance;

(2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition;

(3) Meets the performance requirements in Regulation .04 of this chapter as verified by the manufacturer's specifications;

(4) Shall be capable of detecting the leak 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; and

(5) Is inspected, field tested, or calibrated as may be required to ensure that the method is being maintained and operated properly to detect a release in accordance with the requirements of this chapter.

B. When a release detection method operated in accordance with the performance standards in Regulation .04 of this chapter indicates that a release may have occurred, owners and operators shall notify the Department in accordance with COMAR 26.10.08.

C. An existing UST system that cannot apply a method of release detection that complies with the requirements of this chapter shall be closed in accordance with procedures in COMAR 26.10.10.

D. A person may not tamper with, or render inaccurate, any monitoring device or method required to be maintained under this chapter.

.02 Requirements for Petroleum UST Systems.

A. Owners and operators of petroleum UST systems shall provide release detection for tanks and piping as described in this regulation.

B. Tanks. All UST systems shall be inventoried daily as described in COMAR 26.10.04.01E—G. In addition, UST systems shall be monitored at least every 30 days for releases using one of the methods listed in Regulation .04B—I of this chapter.

C. Exceptions. The following constitute exceptions to the requirements in §B of this regulation:

(1) UST systems that meet the performance standards in COMAR 26.10.03.01 and .02, and the daily inventory control requirements in COMAR 26.10.04.01E—G, may use precision tightness testing, in accordance with Regulation .04D of this chapter, at least every 5 years until December 22, 1998;

(2) UST systems that do not meet the performance standards in COMAR 26.10.03.01 or .02 may use daily inventory controls, in accordance with COMAR 26.10.04.01E—G, and annual precision tightness testing in accordance with Regulation .04D of this chapter, until December 22, 1998, when these systems

shall be upgraded under COMAR 26.10.03.08 or permanently closed under COMAR 26.10.10; and

(3) Tanks with a capacity of 550 gallons or less and not metered may use weekly manual tank gauging, conducted in accordance with Regulation .04C of this chapter.

D. Piping.

(1) Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the requirements of this section.

(2) Pressurized Piping. Underground piping that conveys regulated substances under pressure:

(a) Shall be equipped with an automatic line leak detector which is tested annually and which will:

(i) Alert the operator to the presence of a leak by restricting or shutting off the flow of a regulated substance through piping or triggering an alarm, and

(ii) Detect a release of a regulated substance of at least 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour; and

(b) Shall:

(i) Be tested for tightness annually, with a precision test that detects a 0.10 gallon per hour release at 1.5 times the operating pressure, and the test shall be performed for at least 1 hour; or

(ii) Be monitored monthly in accordance with Regulation .04F—I of this chapter.

(3) Suction Piping. Underground piping that conveys regulated substances under suction shall be tested for tightness at least every 2 years with a precision test performed for 1 hour at a pressure between 5 and 15 pounds per square inch that detects a 0.1 gallon per hour release, or be monitored monthly in accordance with Regulation .04F—I of this chapter. Release detection and precision testing are not required for suction piping when:

(a) The piping operates at less than atmospheric pressure;

(b) The piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c) A single check valve is included in each suction line;

(d) The check valve is located directly below and as close as practical to the suction pump; and

(e) A method for visual inspection to determine compliance is provided.

(4) Secondary containment piping shall be tested:

(a) For new, upgraded, or replaced piping before operation of the UST system and completion of the underground oil storage facility; and

(b) Every 5 years thereafter.

.03 Requirements for Hazardous Substance UST Systems.

A. Owners and Operators of hazardous substance UST systems shall provide release detection that meets the requirements of this regulation.

B. Release detection at existing UST systems shall meet the requirements for petroleum UST systems in Regulation .02 of this chapter. By December 22, 1998, all existing hazardous substance UST systems shall meet the release detection requirements for new systems in §C of this regulation.

C. Release Detection. New hazardous substance UST systems shall meet the following requirements:

(1) Secondary containment systems shall be designed, constructed, and installed to:

(a) Contain regulated substances released from the tank system until they are detected and removed,

(b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system, and

(c) Be checked for evidence of a release at least every 30 days;

(2) Double-walled tanks shall be designed, constructed, and installed to:

(a) Contain a release from any portion of the inner tank within the outer wall, and

(b) Detect the failure of the inner wall;

(3) External liners, including vaults, shall be designed, constructed, and installed to:

(a) Contain 100 percent of the capacity of the largest tank within its boundary,

- (b) Prevent precipitation or ground water from entering the liner, and
- (c) Surround the tank completely;
- (4) Underground piping shall be equipped with secondary containment that satisfies the requirements of §C(1)----(3) of this regulation;
- (5) Underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with Regulation .02D(2) of this chapter;
- (6) Other methods of release detection may be used if owners and operators:
 - (a) Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in Regulation .04C----I of this chapter,
 - (b) Provide the Department with information regarding corrective action technologies for the proposed method, chemical and physical properties of the stored substance, associated health risks, and the physical characteristics of the UST site, and
 - (c) Obtain approval from the Department to use the alternate release detection method before the installation and operation of the new UST system.

.04 Method of Release Detection.

A. Owners and operators shall perform daily inventory control as described in COMAR 26.10.04.01. In addition, one of the following methods of release detection shall be performed on a monthly basis.

B. Statistical Inventory Reconciliation.

(1) Product inventory control, or another test of equivalent performance, shall be conducted monthly to detect a release with a probability of detection of at least 0.95 and a probability of false alarm of at most 0.05.

(2) Detection level shall be:

(a) 0.2 gallon per hour leak rate; or

(b) 150 gallons within a month.

(3) Statistical inventory reconciliation shall be performed in the following manner:

(a) Inventory volume measurements shall be performed in accordance with COMAR 26.10.04.01E and F; and

(b) Records are reviewed on a monthly basis by a Department-approved third party to reconcile for inventory variations.

C. Manual Tank Gauging.

(1) Manual tank gauging using equipment maintained in good operating condition, and capable of measuring the level of oil over the full range of the tank's height to the nearest 1/8 inch, shall be performed as follows:

(a) Tank liquid level measurements shall be taken at the beginning and ending of a period of at least 36 hours during which liquid may not be added to or removed from the tank;

(b) Level measurements shall be based on an average of two consecutive stick readings at both the beginning and ending of the period; and

(c) A release is indicated and subject to the requirements of COMAR 26.10.08 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank 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

(2) Only tanks of 550 gallons or less nominal capacity may use manual tank gauging as the sole method of release detection. Tanks of 551 to 2,000 gallons may use manual tank gauging, but only in conjunction with precision tightness testing or hydrostatic testing conducted every 5 years as permitted under COMAR 26.10.07. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this chapter.

D. Precision Tightness Testing.

(1) The precision test method as defined under COMAR 26.10.02.04 may be used.

(2) When a precision test is performed, the following table shall be used to determine UST system tightness:

Tanks greater than (gals.) and	Up to and Including (gals.)	Criterion (gph)
0	12,500	0.05
12,500	17,500	0.063
17,500	22,500	0.075
22,500	27,500	0.088
27,500	32,500	0.100
32,500	37,500	0.113
37,500	42,500	0.125
42,500	47,500	0.138
47,500	greater	0.150

(3) Only tests and testing procedures approved by the Department shall be used.

(4) UST systems with an inconclusive test shall be retested within 2 working days.

(5) A second inconclusive test shall be reported to the Department as a failure.

E. Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of regulated substance and conducts inventory control shall meet the following requirements:

(1) The automatic regulated substance level monitor test shall be capable of detecting a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance; and

(2) Inventory control, or another test of equivalent performance, is conducted in accordance with the requirements of §B of this regulation.

F. Vapor monitoring is not an acceptable method of release detection and may not be used after April 1, 2009 unless approved under §I of this regulation.

G. Ground Water Monitoring. An assessment shall be performed 60 days before the implementation of this method. A written report of this assessment shall be provided to the Department upon request and shall demonstrate that the testing or monitoring to detect a regulated substance on the ground water shall meet all of the following requirements:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;

(2) Ground water 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;

(3) The slotted portion of the monitoring well casing shall be 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 ground water conditions;

(4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(5) Monitoring wells or devices shall intercept the UST excavation zone or be positioned as close to it as is technically feasible;

(6) The method of measuring the contents of the well, whether automatic or manual, shall be capable of detecting the presence of at least 1/8 of an inch of free product on top of the ground water in the monitoring wells;

(7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in §G(1)—(5) of this regulation and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains a regulated substance;

(8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(9) A key, a lock combination number, or access tool for all monitoring wells is provided to the Administration upon request and made available on the site where the UST system is located.

H. Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it shall be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains a regulated substance and also meets one of the following requirements:

(1) For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains a regulated substance;

(2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier provided that:

(a) The secondary barrier around and beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable, at least 1×10^{-6} centimeter/second for the regulated substance stored, to direct a release to the monitoring point and permit its detection;

(b) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

(c) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;

(d) The ground water, soil moisture, or rainfall will not make the testing or sampling method used inoperative so that a release could go undetected for more than 30 consecutive days;

(e) The site is assessed to ensure that the secondary barrier is always above the ground water and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under these conditions; and

(f) Monitoring wells are clearly marked and secured with bolts or a lock to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

I. Other Methods. Any other type of release detection method, or combination of methods, can be used if approved by the Department, if:

(1) It 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 at least 0.95 and a probability of false alarm of at most 0.05; or

(2) The owner and operator can demonstrate to the Department that the method can detect a release as effectively as any of the methods allowed in §§D—H of this regulation and in this section.

J. If the method in §I(2) of this regulation is approved, the owner and operator shall comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

.05 Repealed.

.06 Release Detection Record Keeping.

UST system owners and operators shall maintain records in accordance with COMAR 26.10.04.05 demonstrating compliance with the applicable requirements of this chapter. The following records shall be maintained for 1 year by the UST

operator at the UST facility and for 5 years by the UST owner at a location designated by the owner:

- 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; 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.

CHAPTER 06 UNDERGROUND STORAGE SYSTEM TECHNICIAN, REMOVER, AND INSPECTOR CERTIFICATION

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 4-411.2, 4-415.1, 4-417, 4-701 et seq, and 7-201 et seq., Annotated Code of Maryland

.01 General.

A. The Department shall issue certifications to individuals for the following underground storage tank categories:

- (1) Technician;
- (2) Remover; and
- (3) Inspector.

B. Individuals shall only perform work for which they have received Department certification.

C. Individuals may obtain certification in one or more categories if they meet the requirements of this chapter.

D. An underground storage system shall be installed, upgraded, and repaired only in the continuous on-site presence and under the direction of an individual who is a certified underground storage system technician.

E. An underground storage system shall be closed only in the continuous on-site presence and direction of an individual who is an underground storage system technician or remover.

.02 Technician Requirements.

A. A certified technician is allowed to install, upgrade, repair, and close underground storage systems if the following requirements are met:

(1) A score of 90 percent or better is achieved on the underground storage systems technician certification test given by the Department or its representative;

(2) There is verifiable proof of:

(a) At least 2 years of underground storage systems installation experience within the last 36 months, and with a company or organization which installs underground storage systems, and

(b) Direct involvement in a minimum of six underground storage systems installations; and

(3) Payment of a \$200 application fee for certification remitted to the Department, and made payable to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund.

B. An individual may apply to receive a heating oil technician certification that restricts the technician to the installation and removal of heating oil tanks with a capacity of 2,000 gallons or less. For this certification, the following requirements shall be met:

(1) A score of 90 percent or better is achieved on the heating oil technician certification test given by the Department or its representative;

(2) There is verifiable proof of:

(a) At least 2 years of underground storage systems installation experience within the last 36 months with a company or organization which installs underground storage systems; and

(b) Direct involvement in a minimum of six underground storage systems installations; and

(3) Payment of a \$100 application fee for certification remitted to the Department and made payable to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund.

C. The requirements in §§A(2)and B(2) of this regulation may be waived if the applicant has equivalent training or education as determined by the Department.

.03 Remover Requirements.

A. A certified remover is allowed to close underground storage systems in accordance with COMAR 26.10.10 if the requirements in §§B—D of this regulation are met.

B. A score of 90 percent or better is achieved on the underground storage systems remover certification test given by the Department or its representative.

C. Verifiable proof is provided of direct involvement in a minimum of six underground storage system removals within the last 36 months with a company or organization that removes UST systems.

D. Payment of a \$150 application fee for certification is remitted to the Department, and made payable to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund.

.04 Inspector Requirements.

A. A certified inspector is allowed to conduct environmental compliance audits and inspections of underground storage tank systems, including the determination that release detection and overfill devices are functioning correctly, if the following requirements are met:

(1) A score of 90 percent or better is achieved on the underground storage systems inspector certification test given by the Department or its representative; and

(2) There is verifiable proof of completion of all of the following:

(a) One or more nationally recognized or Department approved training courses, classes, examinations, or workshops pertaining to UST design, installation, operation, testing, or inspection;

(b) An inspector orientation course provided by the Department; and

(c) Payment of a \$300 application fee for certification remitted to the Department, and made payable to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund.

B. The requirements in §A(2)(a) of this regulation may be waived if the applicant has equivalent training or education as determined by the Department.

.05 Retesting.

A. In order to retest, an individual receiving a score of between 70 and 90 percent on the test described in Regulations .02, .03, and .04 of this chapter:

(1) Shall retest at a scheduled test offering within 60 days of written notification of the test score; and

(2) May retest once without payment of the fee.

B. In order to retest, an individual receiving a score of less than 70 percent on the test described in Regulations .02, .03, and .04 of this chapter:

(1) Shall pay the test application fee; and

(2) Shall retest at a scheduled test offering.

.06 Proof of Certification.

A certified underground storage system technician, inspector, or remover shall have proof of certification from the Department at all times while at an UST system installation, repair, upgrade, inspection, or closure site.

.07 Refusal, Suspension, or Revocation.

A. Certification obtained under this chapter may be suspended or revoked in accordance with State Government Article, §10-226, Annotated Code of Maryland.

B. The Department may deny an application for certification if the applicant has demonstrated a history of noncompliance with the provisions of this subtitle.

C. The Department may revoke the certification of a technician, inspector, or remover if the individual has done one or more of the following:

(1) Demonstrated a willful disregard or repeated violations of the regulations in this subtitle;

(2) Willfully submitted false information to the Department; or

(3) Committed an act requiring suspension after having certification suspended previously.

D. A certified technician, inspector, or remover shall surrender all State certification documents to the Department upon notification of suspension or revocation

.08 Sanctions.

A. A person whose certification is revoked may not apply for a new certificate for 2 years from the date of revocation.

B. A person is subject to the penalties set forth in Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland that:

(1) Violates any provision of this chapter; or

(2) Does not close, inspect, install, repair, or upgrade an UST system in accordance with the provisions of this subtitle.

.09 Terms and Renewal of Certification.

A. Certification under this chapter is valid for 2 years from the date of issuance.

B. To renew a technician or a remover certification, an applicant shall:

(1) Retest according to COMAR 26.10.06.02 and .03; or

(2) Submit all of the following 30 days before the certification expiration date:

(a) Proof of attendance, within the last 2 years, in a Department-approved underground storage system course,

(b) Verifiable proof, which shall include the facility identification number or other appropriate facility identification, of performing repairs, upgrades, installations, or closures at six UST sites within the last 2 years, and

(c) A completed application form.

C. To renew an inspector certification, an applicant shall:

(1) Retest according to COMAR 26.10.06.04, or

(2) Submit all of the following 30 days before the certification expiration date:

(a) Proof of attendance within the last 2 years of the following:

(i) A minimum of one Department approved training program for compliance inspections of underground storage systems; and

(ii) A Department approved third party inspection update seminar;

(b) Verifiable proof, which shall include the facility identification number or other appropriate facility identification, of performing inspections at 10 UST sites; and

(c) A completed renewal application form.

D. An applicant shall remit the appropriate application fee according to Regulations .02, .03, and .04 of this chapter.

.10 Conflict of Interest.

A. Except as provided in §B of this regulation, a certified inspector may not be:

(1) The owner or operator of the tank;

(2) An employee of the tank owner; or

(3) A certified technician on the same installation, replacement, or upgrade activity for which the technician is a certified inspector.

B. A certified inspector who is also a certified technician may correct deficiencies during a compliance inspection of the operation of an underground storage system.

.11 Standards of Performance.

A certified remover, technician, and inspector:

A. Shall maintain knowledge of COMAR 26.10.02—.11 and all incorporated documents;

B. Shall adhere to equipment manufacturers' instructions, accepted industry standards, and applicable industry codes of practice when performing tank installation, repair, upgrade, closure, tightness testing, or inspection activities;

C. Shall perform certified remover, technician, or inspector activities so that there is no release of regulated substances or contamination of soil, surface, or groundwater caused by regulated substances from a storage tank system or storage tank facility;

D. Shall certify to an owner or operator that a storage tank system project or a component of it is complete only when it complies with COMAR 26.10.02—.11;

E. Shall complete and file with the Department on a form provided by the Department a certification that the tank installation, removal, or inspection activity conducted by the certified remover, technician, or inspector meets the requirements of this regulation;

F. May not affix their signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank installation, removal, or inspection activity, unless:

(1) The repair, upgrade, or replacement of the UST system was accomplished by the certified technician or under the technician's direct, on-site supervision and control;

(2) The removal of the UST system was accomplished by the certified remover or under the remover's direct, on-site supervision and control; or

(3) Inspection activities, as required by this regulation, were conducted on the UST system by the certified inspector, or under the inspector's direct, on-site supervision and control;

G. Shall maintain complete records of tank installation, removal, and inspection activities for a minimum of 5 years; and

H. Shall provide upon request by the Department's representative proof of an individual's certification for the technician, remover, or inspector services being provided.

.12 Reciprocity.

A. The Department may issue a certificate to a person who has an underground storage system technician, remover, or inspector certification from another state if the Department determines that the program in that state is comparable to the requirements of this chapter.

B. To obtain reciprocity certification, a person shall:

(1) Complete the application provided by the Department;

(2) Provide verifiable proof of a minimum of 2 years of UST systems experience within the last 36 months;

(3) Pass, with a score of 90 percent or better, an examination pertaining to Maryland laws and regulations; and

(4) Remit the appropriate application fee according to Regulations .02—.04 of this chapter.

C. A certificate issued under this section is limited to the terms established in this chapter, and is subject to the renewal requirements of Regulation .09 of this chapter.

CHAPTER 07 HYDROSTATIC TEST

Authority: Environment Article, §§4-402, 4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Hydrostatic Test for Underground Storage Tanks with a Total Capacity of 1,000 Gallons or Less.

A. The precision test requirements of this subtitle may be satisfied by the use of a hydrostatic test if the underground tank to be tested has a total capacity of 1,000 gallons or less and does not contain gasoline or other flammable liquid.

B. Test Guidelines.

(1) When a hydrostatic test is conducted, it shall be conducted according to the guidelines in §B(2)-----(5) of this regulation.

(2) Equipment supplied by the tank system shall be turned off. This includes boilers, pumps, engines, etc.

(3) The tank shall be filled to capacity with oil or water.

(4) Use of Calibrated Sight Tube.

(a) A 2-inch diameter calibrated sight tube shall be attached to the tank fill. If necessary, the fill cap assembly may be removed to use the fill pipe threads to achieve a tight connection. If the fill pipe threads cannot be used, the sight tube may be attached to the vent or other tank opening. In this situation, the requirements of §B(4)(b)-----(g) of this regulation apply.

(b) A calibrated sight tube may be fabricated from a 2-inch clear cast acrylic tubing.

(c) The tubing should be glued to the appropriate PVC fittings to provide a liquid-tight connection to the tank.

(d) A side plug or petcock may be incorporated near the bottom of the tubing to facilitate draining of the sight tube after the test.

(e) The tube should be calibrated in 1/4-inch increments to simplify measurements. Taking caution to ensure that tank openings below the test level are liquid-tight, the sight tube shall be filled to 2 feet above the ground with oil or water.

(f) The sight tube shall be shielded from direct sunlight and other adverse weather conditions to reduce thermal expansion and evaporation.

(g) The tank pressure and temperature shall be allowed to stabilize for at least 24 hours before beginning the test.

(5) Test Procedures. Upon beginning the test, the liquid level in the sight tube shall be accurately marked. The liquid level shall then be observed for a 1-hour period during which time any fluctuations in the liquid level shall be accurately marked and documented.

(6) Test Results.

(a) A fluctuation of more than 4 inches in the liquid level in the sight tube during the 1-hour test period constitutes a tank system failure.

(b) Failures shall be reported to the Department within 2 hours.

(c) A written record of all tests shall be kept on file at the facility or a location designated by and in control of the owner or operator of the UST system, and shall be made available to the Department upon request.

CHAPTER 08 RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

Authority: Environment Article, §§4-401, 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 Reporting of Suspected Releases.

A. If a storage system fails a test for tightness, is otherwise determined to be leaking, or there exists evidence of a discharge, the person conducting the test, the owner, and the operator of the storage system shall notify the Department within 2 hours. Two consecutive inconclusive tests are considered a failure and shall be reported as required in this chapter.

B. Circumstances evidencing a discharge that require reporting under §A of this regulation include, but are not limited to, the following:

(1) The discovery of released regulated substances at the UST site or in the surrounding area, such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water;

(2) Unusual operating conditions such as the erratic behavior of product-dispensing equipment, the sudden loss of a regulated substance from the UST system, or an unexplained presence of water in the tank, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced; and

(3) Monitoring results from a release detection method required under COMAR 26.10.05.02 and .03 that indicate a release may have occurred, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

.02 Investigation of Off-Site Impacts.

Owners, operators, and other responsible parties of UST systems shall follow the procedures in Regulation .03 of this chapter to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer and utility lines, and waters of the State.

.03 Release Investigation and Confirmation Steps.

A. Unless corrective action is initiated in accordance with COMAR 26.10.09, owners, operators, and other responsible parties shall immediately investigate all suspected releases of regulated substances requiring reporting under Regulation .01 of this chapter within 48 hours or another time period specified by the Department, and shall comply with §§B and C of this regulation unless otherwise directed by the Department.

B. System Test. Owners and operators shall conduct tests, according to the requirements for tightness testing under COMAR 26.10.05.04D, that determine whether a leak exists in the tank or the piping, or both. When an UST system fails a test for tightness, the person in charge, owner, and operator shall take the following steps:

- (1) Immediately discontinue use of the system and notify the Department;
- (2) Within 48 hours, begin an investigation to determine whether the leak is occurring in the tank or piping system;
- (3) If the tank is determined to be leaking, immediately remove the regulated substance;
- (4) If the piping system is determined to be leaking, immediately drain and discontinue the use of the piping system;

(5) The storage system shall either be repaired or removed in accordance with COMAR 26.10.10; and

(6) After repairs have been made, and before its use, an UST system which has previously failed a test for tightness shall be tested by the precision test method to verify that the condition which caused the original failure of the test has been corrected.

C. Site Check.

(1) Owners, operators, and other responsible parties shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners, operators, and other responsible parties shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence and source of the release.

(2) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners, operators, and other responsible parties shall begin corrective action in accordance with COMAR 26.10.09.

(3) If the test results for the excavation zone or the UST site do not indicate that the release has occurred, the Department will determine if further investigation is required.

(4) Observation, monitoring, and recovery wells shall be constructed:

(a) In compliance with COMAR 26.04.04;

(b) Of polyvinylchloride;

(c) With a proper grout seal and locking cap; and

(d) As required in an approved corrective action plan.

.04 Reporting and Cleanup of Spills and Overfills of a Regulated Substance.

A. Owners, operators, and other responsible parties shall:

(1) Contain and immediately clean up a spill or overfill of a regulated substance and begin corrective action in accordance with COMAR 26.10.09; and

(2) Report to the Department any release of oil within 2 hours.

B. A release of hazardous substance equal to or in excess of its reportable quantity as required in 40 CFR Chapter I, Part 302, shall also be reported immediately to the Department.

CHAPTER 09 RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

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.

Owners, operators, and other responsible parties shall, in response to a confirmed release from the UST system, comply with the requirements of this chapter.

.02 Initial Response.

A. Upon confirmation of a release in accordance with COMAR 26.10.08.03 or after a release from the UST system is identified in any other manner, owners, operators, and other responsible parties shall perform the initial response actions within 2 hours of a release or within a period of time determined by the Department.

B. Initial response actions required in this regulation include:

(1) Report the release to the Department as in COMAR 26.10.08;

(2) Take immediate action to prevent any further release of the regulated substance into the environment; and

(3) Identify and mitigate fire, explosion, and vapor hazards.

.03 Initial Abatement Measures and Site Check.

A. Unless directed to do otherwise by the Department, owners, operators, and other responsible parties shall perform all of the following abatement measures:

(1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment.

(2) Visually inspect any aboveground release or exposed belowground releases and prevent further migration of the released substance into surrounding soils and ground water.

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures, such as sewers or basements.

(4) Begin corrective action in accordance with this chapter if the investigation in COMAR 26.10.08.03 indicates that a leak exists in the system, tank, or piping.

(5) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner, operator, and other responsible parties shall comply with applicable State and local law. Excavated contaminated soils shall be removed from the site within 50 days or treated in accordance with a corrective action plan approved by the Department.

(6) Investigate to determine the location and extent of a release beginning with the area where the contamination is most likely to be present unless the location, extent, and source of the release have been confirmed in accordance with the site check required by COMAR 26.10.08.03B or the closure site assessment of COMAR 26.10.10.03A. In selecting sample types, sample locations, and measurement methods, the owner, operator, and other responsible parties shall consider the nature of the stored substance, site soil characteristics, the type of backfill, depth to ground water, and other factors as appropriate for identifying the presence and source of the release.

(7) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Regulation .05 of this chapter.

B. Within 20 days after release confirmation, or within another period of time required by the Department, owners, operators, and other responsible parties shall submit a report to the Department summarizing the initial abatement steps taken under §A of this regulation and any resulting information or data.

.04 Initial Site Characterization.

A. Unless directed to do otherwise by the Department, owners, operators, and other responsible parties shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Regulations .02 and .03 of this chapter and submit a written report to the Department within 45 days of release confirmation.

B. The information required in §A of this regulation shall include, but is not necessarily limited to, the following:

- (1) Data on the nature and estimated quantity of release;
- (2) Data from available sources or site investigations, or both, concerning the following factors:
 - (a) Surrounding populations,
 - (b) Water quality,
 - (c) Use and approximate locations of wells potentially affected by the release,
 - (d) Subsurface soil conditions,
 - (e) Locations of subsurface utilities,
 - (f) Climatological conditions, and
 - (g) Land use;
- (3) Results of the site check required under Regulation .03A of this chapter; and
- (4) Results of the free product investigations required under Regulation .03A(7) of this chapter.

.05 Free Product Removal.

At sites where free product is present or investigations under Regulation .03A(7) of this chapter indicate the presence of free product, owners, operators, and other responsible parties shall remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Regulations .02—.04 of this chapter or preparing for actions required under Regulations .06 and .07 of this chapter. In meeting the requirements of this regulation, owners, operators, and other responsible parties shall:

A. Conduct free product removal in a manner that contains the spread of contamination from entering previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges, or disposes of recovery byproducts in compliance with applicable local, State, and federal regulations;

B. Use abatement of free product migration as a minimum initial objective for the design of the free product removal system;

C. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

D. Unless directed to do otherwise by the Department, prepare and submit to the Department, within 30 days after confirming a release, a free product removal report that provides at least the following information:

(1) The name of the person or persons responsible for implementing the free product removal measures,

(2) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations,

(3) The types of free product recovery system used,

(4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located,

(5) The type of treatment applied to, and the effluent quality expected from, any discharge,

(6) The steps that have been or are being taken to obtain necessary permits for any discharge, and

(7) The disposition of the recovered free product.

.06 Investigations for Soil and Ground Water Cleanup.

A. In order to determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the ground water, owners, operators, and other responsible parties shall conduct investigations of the release, the release site, and the surrounding area potentially affected by the release if any of the following conditions exist:

(1) There is evidence that ground water wells have been affected by the release;

(2) Free product is present;

(3) There is evidence that contaminated soils may contaminate ground water; and

(4) The Department requests an investigation, based on the potential effects of contaminated soil or ground water on nearby surface water and ground water resources.

B. Owners, operators, and other responsible parties shall submit the information collected under §A of this regulation as soon as practicable, but not later than 60 days after confirmation of the discharge, or in accordance with a schedule established by the Department.

.07 Corrective Action Plan.

A. The Department may require owners, operators, and other responsible parties to submit additional information or to develop and submit a corrective action plan for responding to contaminated soil and ground water. If a plan is required, owners, operators, and other responsible parties shall submit the plan according to a schedule and format established by the Department. Additionally, owners, operators, and other responsible parties may, after fulfilling the requirements of Regulations .02-----.04 of this chapter, be required to submit a corrective action plan for responding to contaminated soil and ground water. In either case, owners, operators, and other responsible parties are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet this standard.

B. The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the Department may consider the following factors as appropriate:

- (1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
- (2) The hydrogeologic characteristics of the facility and the surrounding area;
- (3) The proximity, quality, and current and future uses of nearby surface water and ground water;
- (4) The potential effects of contamination remaining at the conclusion of the planned corrective action on nearby surface water and ground water;
- (5) A human health exposure assessment; and
- (6) Any information assembled in compliance with this regulation.

C. Upon approval of the corrective action plan or as directed by the Department, owners, operators, and other responsible parties shall implement the plan, including modifications to the plan made by the Department. They shall monitor, evaluate, and report the results, implementing the plan in accordance with a schedule and in a format established by the Department.

D. In the interest of minimum environmental contamination and promoting more effective cleanup, owners, operators, and other responsible parties shall begin cleanup of soil and ground water before the corrective action plan is approved provided that they:

(1) Notify the Department of their intention to begin cleanup;

(2) Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and

(3) Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval.

E. Remediation activities shall continue until removal of the released regulated substance has been accomplished to the satisfaction of the Department.

.08 Public Participation.

A. Notice to Affected Public.

(1) For each confirmed release that requires a corrective action plan, the Department, in cooperation with the responsible parties, shall provide notice to the public. The notice shall be provided to those members of the public directly affected by the release and the planned corrective action, as determined by the Department.

(2) Notice may be accomplished by any of the following means:

(a) Publication in local newspapers;

(b) Block advertisements;

(c) Public service announcements;

(d) Publication in the Maryland Register;

(e) Letters to individual households; or

(f) Personal contacts by field staff.

B. Before approving a corrective action plan, the Department may hold a public meeting to consider comments on the proposed corrective action plan.

C. If the Department considers terminating the remedial work under a plan before achievement of any of the goals set forth in the plan, the Department shall notify the affected public in the manner set forth in §A of this regulation.

CHAPTER 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 an UST system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with COMAR 26.10.04.02, and any release detection method in accordance with COMAR 26.10.05. COMAR 26.10.08 and 26.10.09 shall be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (approximately 1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.

B. When an UST system is temporarily closed for 3 months or more, owners and operators shall also comply with the following requirements:

(1) Leave vent line open and functioning; and

(2) Cap and secure all other lines, pumps, manways, and ancillary equipment.

C. When an UST system is temporarily closed for more than 6 months, owners and operators shall permanently close the UST system if it does not meet either performance standards in COMAR 26.10.03.01 for new UST systems or the upgrading requirements in COMAR 26.10.03.08, except that the spill and overflow equipment requirements do not have to be met. Owners and operators shall permanently close the substandard UST systems at the end of this 6-month period in accordance with Regulations 02-----05 of this chapter, unless the Department provides an extension of the 6-month temporary closure period. Owners and operators shall complete a site assessment in accordance with Regulation .03 of this chapter before an application for an extension can be made.

D. An UST system that has been temporarily closed for 1 year, and meets the performance standards in COMAR 26.10.03.01 or the upgrading requirements in COMAR 26.10.03.08, shall be permanently closed by the owner and operator in accordance with Regulations .02-----05 of this chapter, unless the Department finds that reasonable factors exist to extend the 1-year closure period. The owner and operator shall complete a site assessment in accordance with Regulation .03 of this chapter before an application for an extension can be made

.02 Permanent Closure and Changes-in-Service.

A. At least 30 days before beginning either permanent closure or a change-in-service under B and C of this regulation, or within another reasonable time period determined by the Department, owners, and operators shall notify the Department in writing of their intent to permanently close or make the change-in-service, unless this action is in response to corrective action. Owners and operators shall confirm the planned closure with the Department 48 hours in advance. The required assessment of the excavation zone under Regulation .03 of this chapter shall be performed after notifying the Department but before completion of the permanent closure or a change-in-service.

B. To permanently close a tank, the following actions are required:

- (1) Immediately before closure, owners and operators shall empty and clean the tank by removing all liquids and accumulated sludges;
- (2) All lines shall be emptied and removed unless otherwise directed by the Department; and
- (3) Aboveground portions of vent lines shall be removed and the remaining lines capped at their bases.

C. Tanks Permanently Out-of-Service.

- (1) All tanks taken out-of-service permanently shall be removed from the ground.
- (2) The Department may give permission to fill a tank in place with a solid inert material upon request by the owner.

D. If the tank is removed, the following shall be done immediately before removal:

- (1) All flammable, combustible, or other liquids shall be removed from the system;
- (2) The tank shall be purged of all explosive vapors and monitored with an appropriate meter for vapors before and during removal;
- (3) All lines shall be disconnected and removed; and
- (4) All regulated substances or soils saturated with a regulated substance found in the tank excavation shall be removed and disposed of as required by the Department.

E. When the tank is removed, the following shall be done:

- (1) It shall be retested for flammable vapors and, if necessary, purged of all explosive vapors;
- (2) Holes or openings shall be made in the tank to make it unfit for further use;
- (3) Tanks may not be crushed or cut up on-site if the operation poses a threat to public safety;
- (4) Tanks shall be disposed of at a location acceptable to the Department;
- (5) The former tank excavation shall be filled to grade with an appropriate fill material; and
- (6) The document incorporated in COMAR 26.10.02.06D shall be followed when complying with this chapter.

F. A previously used tank which is removed from the ground may not be reinstalled unless a tank manufacturer provides a written certification that the used tank is suitable for service. The manufacturer's written certification shall be kept on file at the facility or at a location designated by the owner or person in charge of the storage system and be made available for reasonable inspection by the Department for the life of the storage system. All installation requirements of this subtitle shall apply when a previously used tank is installed.

G. Continued use of an UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Regulation .03 of this chapter.

.03 Assessing the Site at Closure or Change-in-Service.

A. Before permanent closure or a change-in-service is completed:

- (1) Owners and operators shall determine if there is evidence of a release where contamination would most likely be present at the UST site;
- (2) In selecting sample types, sample locations, and measurement methods, owners and operators shall consider:
 - (a) The method of closure,
 - (b) The nature of the stored substance,
 - (c) The type of backfill,

(d) The depth to ground water, and

(e) Other factors appropriate for identifying the presence of a release.

B. The requirements of §A of this regulation are satisfied if one of the external release detection methods allowed in COMAR 26.10.05 is operating in accordance with the requirements in that chapter at the time of closure, and indicates no release has occurred.

C. If contaminated soils, contaminated ground water, or free product as liquid or vapor is discovered under §A or B of this regulation or by any other manner, owners and operators shall begin corrective action in accordance with COMAR 26.10.09.

.04 Applicability to Previously Closed UST Systems.

When directed by the Department, the owner and operator of an UST system permanently closed before December 22, 1988, shall assess the closure site and close the UST system in accordance with Regulation .03 of this chapter if the UST system or releases from the UST may, in the judgment of the Department, pose a current or potential threat to human health or the environment.

.05 Closure Records.

A. Owners and operators shall maintain records in accordance with COMAR 26.10.04.05 that demonstrate compliance with closure requirements under this chapter.

B. The results of the assessment required in Regulation .03 of this chapter shall be maintained for at least 5 years after completion of permanent closure or change-in-service in one of the following ways:

(1) By the owners and operators who took the UST system out of service;

(2) By the current owners and operators of the UST system site; or

(3) By mailing these records to the Department if they cannot be maintained at the closed facility.

C. Records which document temporary and permanent closure of underground storage systems shall be kept and made available for reasonable inspection by the Department at the facility or at a location designated by the owner or operator, and shall contain the following information:

(1) Tank size;

- (2) Location of the tank on the property;
- (3) Date of closure;
- (4) Method or methods used for closure of the system;
- (5) The name of the contractors who performed the work;
- (6) A receipt documenting proper disposal of the UST system; and
- (7) A receipt documenting proper disposal of removed oil-contaminated soils.

CHAPTER 11 UNDERGROUND STORAGE TANK FINANCIAL RESPONSIBILITY

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 4-411.2, 4-415.1, 4-417, 4-701 et seq, and 7-201 et seq., Annotated Code of Maryland

.01 Incorporation by Reference.

A. The Department incorporates by reference the provisions contained in 40 CFR §§280.90—280.116, as amended through February 18, 1993, with the exceptions contained in §B of this regulation.

B. Exceptions.

(1) "Director of the Implementing Agency" or "Director of the EPA" means the Secretary of the Environment.

(2) "EPA" or "Environmental Protection Agency" means the State of Maryland.

(3) The requirements for "owner or operator" as contained in 40 CFR §§280.90—280.116, are to be assumed solely by the "owner", as defined in 40 CFR §280.12 and COMAR 26.10.02.04.

.02 Additional Mechanism for Local Governments to Demonstrate Financial Responsibility.

A. To demonstrate financial responsibility under this chapter, a local government may use any one or a combination of the mechanisms incorporated in Regulation .01 of this chapter, and the additional mechanism set forth in this regulation.

B. Local governments may satisfy the financial responsibility requirements of this chapter by obtaining environmental liability coverage from an insurance pool established under Article 48A, §482B, Annotated Code of Maryland. The insurance pool providing coverage shall be one that the Secretary of the Environment has determined to be financially sound and at least equivalent to one or more of the financial assurance mechanisms provided in 40 CFR 280.90--280.116. When determining financial soundness, the Secretary 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 accidental releases arising from operation of petroleum underground storage tanks, as set forth in 40 CFR §280.93.

C. An insurance pool approved under this chapter shall annually provide any information the Department considers necessary to assess whether the insurance pool remains financially sound.

D. A local government using an insurance pool approved under this chapter to demonstrate financial responsibility shall obtain a separate endorsement, certificate, or similar document worded in accordance with the forms set forth in 40 CFR §280.97(b).

E. A local government using an insurance pool approved under this chapter to demonstrate financial responsibility, and an approved insurance pool, shall comply with all applicable provisions of 40 CFR 280.90-----280.116, incorporated by reference in Regulation .01 of this chapter, including those imposing requirements for reporting and record keeping.

CHAPTER 12 UNDERGROUND STORAGE TANK UPGRADE AND REPLACEMENT FUND LOAN PROGRAM

Authority: Environment Article, Title 4, Subtitle 6, Annotated Code of Maryland

THIS PROGRAM IS NO LONGER AVAILABLE TO UST OWNERS.

CHAPTER 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. These regulations apply to those persons who own or operate an oil-contaminated soil facility.
- B. These regulations are not intended to and do not relieve owners and operators of oil-contaminated soil facilities of the duty to comply with all other regulations.
- C. These regulations are not intended to and do not affect the Department's authority to direct corrective action in response to a release from an underground storage system under COMAR 26.10.09 and 26.10.10.

.02 Definitions.

- A. Terms not defined in this regulation have the meanings given to them in the relevant statutes or, if not defined in statutes, the meanings attributed by common use.
- B. Terms Defined.
 - (1) "Approval" means written permission, other than an Oil Operations Permit, from the Department granted to an applicant to perform certain activities in accordance with the regulations in this chapter.
 - (2) "Bioremediation" means the breakdown of petroleum hydrocarbons through biological activity.
 - (3) "BTEX" means the chemical constituents benzene, toluene, ethylbenzene, and total xylenes.
 - (4) "Department" means the Maryland Department of the Environment.
 - (5) "Land farming" means the process of controlled spreading of oil-contaminated soil to allow the enhanced biological degradation of petroleum compounds through volatilization, aeration, biodegradation, and photolysis.
 - (6) "Mobile treatment oil-contaminated soil facility" means equipment that is:
 - (a) Capable of being moved from place to place;

(b) Capable of treating oil-contaminated soil after it is excavated; and

(c) Used on-site.

(7) "Oil-contaminated soil" means soil that has been in contact with oil except for oil-contaminated soil that has been treated to a TPH concentration of 10 ppm or less.

(8) "Oil-contaminated soil facility" means a facility that receives oil-contaminated soil for treatment and storage.

(9) "Oil Operations Permit" means a permit issued pursuant to this chapter.

(10) "On site" means the immediate location where the oil-contaminated soil has been generated.

(11) "Pilot project" means an experimental oil-contaminated soil treatment project of less than 90 days in duration conducted under terms and conditions of an approval granted in accordance with this chapter.

(12) "Post-treatment soil" means oil-contaminated soil that has been treated to a TPH concentration of 10 ppm or less.

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

(14) "Shelter" means a freestanding structure that includes a roof, or an equivalent protective cover, and prevents the infiltration of rainwater.

(15) "TCLP" means the toxicity characteristic leaching procedure as defined in 40 CFR 261, Appendix II.

(16) "TPH" means total petroleum hydrocarbons.

(17) "Treatment" means any activity or process at an oil-contaminated soil facility that decreases, stabilizes, or is intended to decrease or stabilize the level of oil contaminants in oil-contaminated soil.

(18) "Used oil" means a petroleum-based oil or synthetic oil such as an engine lubricant, engine oil, motor oil, or lubricating oil for use in an internal combustion engine, or a lubricant for motor vehicle transmissions, gears, or axles which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

.03 Permits, Approvals, and Prohibitions.

A. A person may only store oil-contaminated soil at a permitted oil-contaminated soil facility.

B. A person who treats oil-contaminated soil at an oil-contaminated soil facility, including treatment by a mobile treatment oil-contaminated soil facility or a land-farming oil-contaminated soil facility, shall obtain an Oil Operations Permit.

C. A person who treats oil-contaminated soil using a pilot project shall obtain an approval.

D. An Oil Operations Permit issued in accordance with this chapter is valid for up to 5 years.

E. An approval issued pursuant to this chapter is valid for the length of time specified in the approval, but may not exceed 1 year.

.04 Application Requirements.

A. To obtain an Oil Operations Permit or an approval required in Regulation .03 of this chapter, an applicant shall submit an application containing a description of the proposed activity and facility, on a form supplied by the Department. The application shall contain the following information:

(1) Name and address of the owner of the oil-contaminated soil facility;

(2) Name and address of the owner of property on which the oil-contaminated soil facility or activity will be located;

(3) Type and scope of the proposed activity;

(4) Size of property or properties on which the oil-contaminated soil facility will be located; and

(5) One copy of the following:

(a) A map that delineates property boundaries, the area to be used for treatment or storage of oil-contaminated soil, existing and proposed structures, and roads;

(b) A description of vehicle weighing facilities, communications equipment including telephones and radios, maintenance facilities, equipment storage facilities, and locations of water supply and sewerage systems;

(c) A description of the soil types and sources of the oil-contaminated soil proposed to be accepted and rejected by the facility;

- (d) A description of the type of storage to be provided in accordance with Regulation .06 of this chapter for oil-contaminated soils before and after treatment to prevent contamination of waters of the State;
- (e) A description of the sampling and analytical protocols to be used for analyzing oil-contaminated soil;
- (f) The maximum and anticipated quantity of oil-contaminated soil to be accepted or stored at the facility at any one time, including the maximum quantity of soil to be stored at the facility after treatment;
- (g) The proposed method of controlling unauthorized access to the facility;
- (h) Proposed operating procedures including:
 - (i) Hours and days of operation,
 - (ii) Type and number of pieces of equipment to be used,
 - (iii) Number of employees and description of individual employee duties,
 - (iv) Provisions for fire prevention and control,
 - (v) Provisions for wet weather operation,
 - (vi) Method of controlling the drainage from the facility and drainage onto the facility from adjoining areas, and
 - (vii) Erosion and sediment control provisions;
- (i) An operations manual that includes standard operating procedures for the oil-contaminated soil facility, key personnel, maintenance procedures, and a quality assurance/quality control plan; and
- (j) A closure plan that meets the requirements of Regulation .12 of this chapter, although applicants for mobile oil-contaminated soil treatment facilities are exempt from this requirement.

B. Based upon the information required by this regulation, the Department shall determine whether an Oil Operations Permit or approval is required for the proposed facility or activity and, if necessary, specify additional information required to enable the Department to review the proposed facility or activity to determine whether the proposed facility or activity is consistent with State laws and regulations. The Department, in writing, shall notify the applicant of these findings.

.05 Permit Requirements.

A. Except as provided in § D of this regulation, an Oil Operations Permit shall specify the following requirements:

- (1) Maximum quantities of oil-contaminated soil and post-treatment soil to be stored at the facility at any one time;
- (2) Method to be used for storage of untreated and post-treatment soil;
- (3) Method of stormwater run-on/run-off control;
- (4) Maintenance of sampling and testing records for accepted oil-contaminated soil;
- (5) Manner of record keeping and location of records at the oil-contaminated soil facility;
- (6) Closure plan as required in Regulation .12 of this chapter; and
- (7) A schedule for testing and a description of the field and laboratory analytical methods to be used to monitor the quality of waters of the State at the site, including the location and types of monitoring stations and monitoring well construction methods.

B. The owner or operator of a facility shall:

- (1) Maintain a current operations manual at the oil-contaminated soil facility and make that manual available to all personnel;
- (2) Train all personnel at the oil-contaminated soil facility in facility operations and contingency plans;
- (3) Restrict unloading or loading of oil-contaminated soil to normal working hours;
- (4) Maintain adequate personnel and equipment at the oil-contaminated soil facility at all times to ensure proper operation and prompt response to problems associated with loading, unloading, and storage of oil-contaminated soil;
- (5) Keep all records required under this chapter for a minimum of 3 years;
- (6) Notify the Department within 2 hours of any operational malfunction that results in the placement of oil in a position likely to reach waters of the State;

(7) 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) Quantity of oil-contaminated soil received,

(b) Origin of oil-contaminated soil received, and

(c) Quantity of oil-contaminated soil treated and converted into a product at an oil-contaminated soil facility.

C. Additional special conditions may be specified under § A of this regulation in an Oil Operations Permit if necessary to protect public health or the environment.

D. In addition to the requirements of § A of this regulation, an Oil Operations Permit for a mobile treatment oil-contaminated soil facility shall specify the following requirements:

(1) Method to be used for staging of untreated oil-contaminated soil on-site;

(2) Sampling and testing requirements for oil-contaminated soil;

(3) The following closure plan requirements:

(a) Procedures for the removal of all untreated oil-contaminated soil on-site,

(b) Procedures for the removal of all post-treatment soil on-site and not returned to the excavation.

.06 Storage Requirements.

A. Owner's or Operator's Responsibilities.

(1) The owner or operator of an oil-contaminated soil facility shall meet the storage requirements in § A(2) and (3) of this regulation.

(2) All oil-contaminated soil shall be stored on an impermeable base meeting a maximum permeability of 10^{-7} centimeters per second and under a shelter. If the owner or operator demonstrates to the satisfaction of the Department that the oil is physically and chemically bound in a product or the product does not leach contaminants, that product is exempt from this requirement.

(3) The oil-contaminated soil facility shall be limited to a storage volume of oil-contaminated soil not to exceed a 90-day treatment capacity as approved by the Department, unless the owner or operator of an oil-contaminated soil treatment

facility can demonstrate in writing to the Department that the facility can adequately store and treat an additional storage volume for a specified time period.

B. The owner or operator of an oil-contaminated soil facility may not receive or store oil-contaminated soil that does not meet the requirements of Regulation .07 of this chapter.

C. If oil-contaminated soil has been stored in Maryland before January 18, 1993, a person may continue to store that soil for up to 180 days after January 18, 1993 if a plan detailing the provisions for removal or disposal to a permitted or authorized facility is submitted to and approved by the Department.

D. The plan used to meet the requirements of § C of this regulation shall include the following:

(1) Quantity of oil-contaminated soil;

(2) Quantity of oil-contaminated soil to be removed and dates by which the oil-contaminated soil will be removed;

(3) Location to which any oil-contaminated soil will be removed;

(4) Verification from a permitted oil-contaminated soil facility or other authorized facility that the oil-contaminated soil planned to be removed will be accepted by that facility; and

(5) Verification that stored oil-contaminated soil is not a controlled hazardous substance as defined in Environment Article, Title 7, Annotated Code of Maryland.

E. The Secretary may grant an extension to the 180-day limit based on compliance with an approved plan, a demonstration of need by the facility, and if that extended storage does not adversely affect the public health and environment.

.07 Acceptance Requirements.

A. The owner or operator of an oil-contaminated soil facility may not accept oil-contaminated soil that contains a controlled hazardous substance as defined in Environment Article, Title 7, Annotated Code of Maryland.

B. Before acceptance by an oil-contaminated soil facility, oil-contaminated soil shall be analyzed for TPH by an EPA-approved laboratory test method or other equivalent method that is appropriate as determined by the Department, for the substance that was discharged. Each delivery shall be accompanied by:

- (1) A Department Underground Storage Tank Abandonment Document completed by an authorized Maryland representative;
- (2) Another Maryland document or form completed by a Department representative;
- (3) An equivalent document from another state that has on-site regulatory control and inspection requirements equivalent to Maryland's; or
- (4) A document completed by an authorized representative from another appropriate governmental agency, including a local fire department or emergency response unit, if a document permitted in § B(1)--(3) of this regulation cannot be obtained.

C. A document used to satisfy the criteria in § B of this regulation shall state that the Department or other authorized person, if applicable, has reason to believe, based upon evidence presented to that person on-site, that only oil, and not used oil, oil refuse, or oil mixed with waste, was released on-site.

D. Before acceptance, oil-contaminated soil that does not meet the criteria in § B and C of this regulation shall be analyzed for the following:

- (1) TPH by an EPA-approved laboratory test method, or other equivalent method that is appropriate for the type of oil that was discharged, as approved by the Department;
- (2) Polychlorinated biphenyls by EPA method 8080 as defined in 40 CFR § 260.11, or other method approved by the Department; and
- (3) A complete TCLP analysis by EPA method 1311 as defined in 40 CFR 261, Appendix II, or other method approved by the Department, although a TCLP test designed to detect heavy metals only may be performed on oil-contaminated soil that is certified by the generator to be excluded under 40 CFR § 261.4(b)(10).

E. All records, documents, and analytical results required under this regulation shall be maintained by the owner or operator of the oil-contaminated soil facility for a minimum of 3 years.

.08 Refusal Criteria.

A. The owner or operator of an oil-contaminated soil facility shall refuse for acceptance at the facility all oil-contaminated soil not meeting the criteria specified in the Oil Operations Permit. If, after acceptance of oil-contaminated soil, a sample shows that the oil-contaminated soil does not meet the permit criteria or that the oil-contaminated soil contains free liquid oil, the owner or operator of a facility shall keep that oil-contaminated soil segregated and remove

the oil-contaminated soil from the facility within 48 hours. If removed from the facility for disposal, the oil-contaminated soil shall be disposed of in accordance with all applicable regulations.

B. The owner or operator of a facility shall notify the Department by telephone within 24 hours and follow up in writing within 5 days of each occasion that the owner or operator of a facility refuses oil-contaminated soil. That notification shall include the:

(1) Source of the oil-contaminated soil that was refused; and

(2) Transporter who delivered, or attempted to deliver, the oil-contaminated soil to the facility.

.09 Post-Treatment Requirements.

A. All post-treatment soil shall contain a TPH concentration of 10 parts per million or less unless otherwise approved as specified in § B of this regulation. The owner or operator of a facility shall immediately reprocess or remove oil-contaminated soil that contains a TPH concentration greater than 10 parts per million to a permitted or authorized facility. For purpose of Regulation .06 of this chapter, soil required by this section to be immediately reprocessed or removed is not considered to be stored if it is reprocessed or removed from the facility within 1 working day.

B. An oil-contaminated soil facility may be exempt from § A of this regulation if the owner or operator demonstrates to the satisfaction of the Department that the oil is physically and chemically bound in the end product or the end product does not leach contaminants.

C. Approval for removing post-treatment oil-contaminated soil which contains a TPH concentration greater than 10 parts per million shall be granted if the Department determines that the proposed use of the oil-contaminated soil will not adversely effect public health or the environment.

.10 Quality Control, Sample Collection, and Analysis.

A. An owner or operator of an oil-contaminated soil facility shall maintain a quality control program approved by the Department that establishes an adequate tracking mechanism and verification for oil-contaminated soil received by the facility.

B. An owner or operator of an oil-contaminated soil facility shall collect a grab sample for each incoming truckload of oil-contaminated soil, and combine not more than three grab samples to form one composite sample. Each composite sample shall be identified by source, date received, and transporter, and shall be

properly maintained at the oil-contaminated soil facility for a minimum of 90 days. The Department may require an extension of the 90-day requirement if it is determined to be necessary.

C. An owner or operator of a facility shall use a third-party testing laboratory, approved by the Department, to randomly select one composite sample collected pursuant to § B of this regulation, at least every 2 weeks and perform the following analyses on that composite sample:

(1) Polychlorinated biphenyls by EPA method 8080 as defined in 40 CFR § 260.11, or other method approved by the Department; and

(2) A complete TCLP analysis by EPA method 1311 as defined in 40 CFR 261, Appendix II, or other method approved by the Department, although a TCLP test designed to detect heavy metals only may be performed on oil-contaminated soil that is certified by the generator to be excluded under 40 CFR § 261.4(b)(10).

D. The results of the analyses conducted pursuant to § C of this regulation shall be submitted directly to the Department by the third-party testing laboratory.

.11 Post-Treatment Use of Oil-Contaminated Soils.

There is no restriction on the use of oil-contaminated soil that has been treated and:

A. Contains a TPH concentration of 10 parts per million or less;

B. Documentation is maintained which demonstrates that during the treatment process, the equipment is operating at a level that assures the treated oil-contaminated soil contains a TPH concentration of 10 parts per million or less; or

C. The owner or operator demonstrates to the satisfaction of the Department that the oil is physically and chemically bound in the end product or the end product does not leach contaminants.

.12 Closure Requirements.

A. An applicant for an Oil Operations Permit or an approval shall submit a closure plan for the proposed oil-contaminated soil facility to the Department. The closure plan shall be amended as required by the Department following review of the document for compliance with this regulation. Following satisfactory amendment, if any, of the closure plan, the Department shall approve the plan if the Department determines that the plan protects the public health and environment.

B. A closure plan shall contain, at a minimum, the following information:

- (1) Procedures for the removal of all oil-contaminated soil from the oil-contaminated soil facility;
- (2) Procedures for removal of all post-treatment soil from the oil-contaminated soil facility;
- (3) Procedures, schedules, and methods for monitoring the waters of the State at the facility for 5 years after the closure of the facility.

C. The Department may specify other closure plan requirements in the Oil Operations Permit or approval necessary to protect the public health and the environment.

.13 Right of Entry.

An applicant shall agree, as a prerequisite to the issuance of an Oil Operations Permit or approval, to allow the Secretary, at reasonable times and upon presentation of credentials, to enter a facility to:

- A. Inspect or copy records required to be kept by the conditions of the Oil Operations Permit or approval, or by regulation;
- B. Inspect monitoring equipment and methods, treatment systems, pollution management systems, control systems and devices, and transport vehicles needed to operate systems or facilities required by the Oil Operations Permit, approval, or regulation;
- C. Sample waters of the State, soil, oil-contaminated soil, post-treatment soil, or other materials at the oil-contaminated soil facility; and
- D. Obtain photographs or other evidence.

.14 Permit and Approval Suspension, Revocation, Modification, and Renewal.

- A. An Oil Operations Permit or approval may be suspended, revoked, extended, modified, or renewed in accordance with the provisions of § B--D of this regulation.
- B. Suspension or Revocation.

(1) If the Department determines that a violation of any provisions of the Oil Operations Permit or approval, or other applicable federal, State, or local requirements related to oil pollution has occurred, the Department may suspend

or revoke the Oil Operations Permit or approval consistent with the procedures set forth in the Administrative Procedure Act, State Government Article, Title 10, Annotated Code of Maryland.

(2) Once an Oil Operations Permit or approval is suspended, oil-contaminated soil may not be accepted at a facility without the written approval of the Department.

C. Modification.

(1) An owner or operator of an oil-contaminated soil facility, or an approval holder, may apply for a modification of an Oil Operations Permit or approval by submitting a request in writing.

(2) The Department may modify an oil operations permit as necessary to carry out the intent and purpose of this chapter.

(3) An opportunity for an informational meeting as described in Regulation .15 of this chapter shall be provided for substantial modifications, as determined by the Department, to an Oil Operations Permit.

D. Renewal. An applicant for renewal of an Oil Operations Permit or approval renewal shall submit an application 90 days before the expiration of the Oil Operations Permit or approval

.15 Informational Meeting.

A. Before issuing an Oil Operations Permit, an informational meeting shall be conducted. This informational meeting may be consolidated with other Departmental informational meetings.

B. An applicant for an Oil Operations Permit is responsible for providing an approved meeting location, and for properly advertising a notice of the informational meeting in a newspaper of general circulation in the local area of the proposed facility. The notice shall appear twice, at least 1 week apart, and at least 15 days but not longer than 30 days before the date of the informational meeting.

C. Unless suspended or revoked by the Department, a permit re-issuance is not subject to the informational meeting requirements of this regulation.

CHAPTER 14 UNDERGROUND STORAGE TANK SITE CLEANUP REIMBURSEMENT

Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407, 4-408, 4-409, 4-410, 4-411, 4-411.1, 4-411.2, 4-415.1, 4-417, 4-701 et seq, and 7-201 et seq., Annotated Code of Maryland

.01 Scope.

A. This chapter provides the mechanisms for reimbursing an owner or operator of a registered underground oil storage tank system, including one storing heating oil for non-residential use, for certain oil-contaminated site environmental cleanup costs. This chapter also provides the mechanisms for reimbursing an owner of a residential heating oil tank.

B. This chapter may not be construed:

(1) To provide evidence of financial responsibility for owners and operators as required in COMAR 26.10.11 and 40 CFR Part 280, Subpart H;

(2) As altering the rights, responsibilities, or liabilities of a person responsible for the discharge of oil;

(3) As entitling an owner or operator to reimbursement of cleanup costs.

.02 Exclusions.

This chapter does not provide reimbursements for:

A. Environmental cleanup costs incurred before October 1, 1993;

B. Environmental cleanup costs for heating oil tanks incurred before October 1, 2000;

C. Environmental cleanup costs that result from the spill or discharge of oil not originating from a registered underground oil storage tank system or a heating oil tank;

D. Costs resulting from underground storage tank or heating oil tank system removals, upgrades, or replacements unless a residential heating oil tank removal is necessary to accomplish soil treatment;

E. A third-party claim;

F. Environmental cleanup costs that have been paid or are payable under an insurance policy, except that, if otherwise allowable under this chapter:

(1) Environmental cleanup costs paid by the applicant to satisfy the deductible in an insurance policy are not excluded, and

(2) Environmental cleanup costs paid by the applicant's insurer may be submitted to the Department to satisfy the applicant's occurrence deductible set forth in Regulation .07 of this chapter;

G. Underground storage systems owned by:

(1) State;

(2) County;

(3) Municipal corporation; or

(4) Local education agency;

H. An underground storage system installed under Subtitle I of the federal Resource Conservation and Recovery Act; or

I. Owners or operators of underground storage tanks that on December 22, 1998, were not in compliance with the requirements of Subtitle I of the federal Resource Conservation Recovery Act.

.03 Definitions.

A. Terms not defined in this regulation have the meanings given to them in the relevant statutes and in COMAR 26.10.02.04 or, if not defined there, the meanings attributed by common use.

B. Terms Defined.

(1) "Approved application" means an application that has been submitted by a qualified applicant 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) "Heating oil tank" has the meaning stated in Environment Article, §4-401(e), Annotated Code of Maryland.

(5) "Occurrence" means the existence of oil contamination resulting from a release of oil from one or more underground oil storage tanks or from one or more heating oil tanks at a site.

(6) "Oil" has the meaning stated in Environment Article, §4-401(g), Annotated Code of Maryland.

(7) "Reimbursement allocation" means that amount of money from the fund set aside for approved applications to reimburse applicants for site rehabilitation costs incurred, or to be incurred, during cleanup of the site approved on the application as allowed under this chapter.

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

(9) "Site" means a single location where a person or persons own or operate one or more underground oil storage tanks or one or more heating oil tanks.

(10) "Underground oil storage tank" has the meaning stated in Environment Article, §4-401, Annotated Code of Maryland.

.04 Reimbursement Process.

A. An owner or operator seeking reimbursement from the Fund may apply to the Department in accordance with the application requirements in Regulation .06 of this chapter.

B. The Department shall reimburse applicants with approved applications to the extent there are available revenues in the Fund and in accordance with 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 Eligible Site Rehabilitation Costs.

A. Applications Approved before July 1, 1996. The Department shall reimburse an applicant up to the stated limits for the following site rehabilitation costs, if they are cost effective, reasonable, and consistent with an application approved before July 1, 1996:

(1) Soil handling, including excavation, transportation, and proper disposal—up to \$20 per ton up to 100 tons per site;

(2) Soil treatment—up to:

(a) \$30,000 per installation;

- (b) \$10,000 per year for operation and monitoring;
- (3) Ground water pumping and treatment—up to:
 - (a) \$45,000 per installation;
 - (b) \$17,500 per year for operation and monitoring;
- (4) Ground water pumping and treatment, and soil treatment—up to:
 - (a) \$55,000 per installation;
 - (b) \$17,500 per year for operation and monitoring;
- (5) Well bailing or monitoring, or both,—up to \$12,500 per year for operation;
- (6) Subsurface investigation—up to \$8,000.

B. The Department may approve for reimbursement site rehabilitation costs for activities not listed in §A of this regulation, if it determines the costs are for effective and necessary site rehabilitation activities.

C. Applications Approved on or after July 1, 1996. The Department shall reimburse an applicant up to the stated limits for the following site rehabilitation costs, if they are cost effective, reasonable, and consistent with an application approved on or after July 1, 1996:

- (1) Soil treatment, including excavation, transportation, proper disposal, or on-site treatment, such as soil vapor extraction—up to \$40,000 per site;
- (2) Ground water remediation equipment and installation, including soil vapor extraction equipment—up to \$85,000 per site;
- (3) Subsurface investigation, well bailing, recovery system design, operation, or monitoring—up to \$30,000 per year for one or a combination of these activities.

D. For applications approved on or after October 1, 2000, the Department shall reimburse an applicant for site rehabilitation costs in excess of the limits established in §C of this regulation for the same activities or other innovative remedial activities which result in completion of the cleanup within 2 years of the Department's approval of the corrective action plan. The completion of the cleanup is determined by the date of the responsible party's letter requesting closure, which is then approved by the Department without conditions.

E. Residential Heating Oil Tank Applications Received Before July 1, 2005. The Department shall reimburse an applicant for up to a total of \$10,000 for the

following site rehabilitation costs, if they are cost effective, reasonable, and consistent with an application received before July 1, 2005.

(1) Soil treatment, including excavation, transportation, proper disposal, or on-site treatment, such as soil vapor extraction;

(2) Ground water remediation equipment and installation, including soil vapor extraction equipment;

(3) Subsurface investigation, well bailing, recovery system design, operation, or monitoring, or a combination of these activities;

(4) Domestic well replacement; and

(5) Odor abatement activities, such as forced venting and petroleum saturated material removal, replacement, or restoration to a degree as determined by the Department to return the dwelling to a habitable condition.

F. Residential Heating Oil Tank Applications Received On or After July 1, 2005. The Department shall reimburse an applicant for up to a total of \$20,000 for the following site rehabilitation costs, if they are cost effective, reasonable, and consistent with an application received on or after July 1, 2005:

(1) Soil treatment, including excavation, transportation, proper disposal, or on-site treatment such as soil vapor extraction;

(2) Ground water remediation equipment and installation, including soil vapor extraction equipment;

(3) Subsurface investigation, well bailing, recovery system design, operation, monitoring, or a combination of these activities;

(4) Domestic well replacement;

(5) Odor abatement activities, such as forced venting and petroleum saturated material removal, replacement, or restoration to a degree as determined by the Department to return the dwelling to a habitable condition; and

(6) Tank removal necessary to accomplish soil treatment as described in §F(1) of this regulation.

.06 Application Requirements.

A. An owner or operator of an underground oil storage tank as identified in Environment Article, §4-704(b)(1)(i), Annotated Code of Maryland, may apply to

the Department until June 30, 2005 for reimbursement from the Fund, only for site rehabilitation costs incurred on or after October 1, 1993.

B. An owner or operator of an underground oil storage tank as authorized in Environment Article, §4-704(b)(1)(ii), Annotated Code of Maryland, including an underground storage tank system storing heating oil for non-residential use, may apply to the Department until December 31, 2007 for reimbursement from the Fund, only for site rehabilitation costs incurred on or after October 1, 2000.

C. An owner of a residential heating oil tank may apply to the Department until June 30, 2010, and not later than 6 months after site rehabilitation completion, for reimbursement from the Fund, only for site rehabilitation costs incurred on or after October 1, 2000.

D. A person shall submit a complete and accurate application on a form supplied by the Department.

E. To be eligible for reimbursement from the Fund a person shall:

(1) Certify to the Department that the discharge resulted from an underground storage tank registered under Environment Article, §4-411.1, Annotated Code of Maryland, or a residential heating oil tank;

(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 discharge is not the result of a willful or deliberate act;

(4) Be in substantial compliance with all Maryland laws and regulations applicable to oil storage tanks; and

(5) If applicable, submit proof of current financial responsibility as required in COMAR 26.10.11.

F. The filing of an application for reimbursement does not relieve the applicant or any other person of the responsibility to take prompt rehabilitation action in response to a release of oil as required by law or regulation.

.07 Reimbursement Limit for Each Site.

A. Applications Approved before July 1, 1996. Before receiving reimbursement from the Fund, an applicant shall submit to the Department proof that the minimum deductible has been paid for eligible site rehabilitation costs. The deductible for each site application approved before July 1, 1996, is, for a person owning or operating in Maryland, a total of:

- (1) More than 30 underground storage tanks—\$40,000;
- (2) 16 to 30 underground storage tanks—\$30,000;
- (3) Seven to 15 underground storage tanks—\$20,000; or
- (4) Six or fewer underground storage tanks—\$15,000.

B. Applications Approved on or after July 1, 1996. Before receiving reimbursement from the Fund, an applicant shall submit to the Department proof that the minimum deductible has been paid for eligible site rehabilitation costs. The deductible for each site application approved on or after July 1, 1996, is, for a person owning or operating in Maryland, a total of:

- (1) More than 30 underground storage tanks—\$20,000;
- (2) 16 to 30 underground storage tanks—\$15,000;
- (3) Seven to 15 underground storage tanks—\$10,000; or
- (4) Six or fewer underground storage tanks—\$7,500.

C. Applications for Heating Oil Tank Releases Received Before July 1, 2005. Before receiving reimbursement from the Fund, an applicant shall submit to the Department proof that the \$1,000 deductible has been paid for eligible site rehabilitation costs.

D. Applications for Heating Oil Tank Releases Received On or After July 1, 2005. Before receiving reimbursement from the Fund, an applicant shall submit to the Department proof that the \$500 deductible has been paid for eligible site rehabilitation costs.

E. Reimbursements to an approved applicant may not exceed:

- (1) \$125,000 less the applicable deductible for those UST systems meeting the requirements of Regulation .06A and B of this chapter.

(2) For those residential heating oil tanks meeting the requirements of Regulation .06C of this chapter:

(a) \$10,000 less the applicable deductible for applications received before July 1, 2005; or

(b) \$20,000 less the applicable deductible for applications received on or after July 1, 2005.

.08 Reimbursement Approval.

A. The Department shall approve qualifying applications for reimbursement allocations under the Fund that meet the environmental and public health criteria in §B of this regulation.

B. Criteria.

(1) Applications for sites presenting an immediate or substantial threat to human health or the environment, as determined by the Department, may be approved.

(2) Sites presenting the threat referred to in §B(1) of this regulation include, but are not limited to, sites located:

(a) Within 1/2 mile of an individual water supply system;

(b) Within 1 mile or within an approved wellhead protection zone of a community water supply system;

(c) Within 200 feet of an underground utility or surface water body and if there is or has been at least 1/8 inch of free phase oil on the ground water at the site; or

(d) Within a zone that will create an odor of a petroleum product within a dwelling.

(3) Applications shall be assigned 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.

(4) If the Department determines an application is not eligible under the provisions of this chapter, the application shall be returned to the applicant.

C. Subject to the availability of revenues within the Fund, the Department shall approve reimbursement allocations for approved applications in order of their numerical ranking.

D. A separate numerical ranking as described in §B(3) of this regulation shall be maintained for residential heating oil tank applications.

E. An applicant may submit to the Department, and the Department shall approve, not more than the following number of applications for separate sites owned or operated by the same person or persons:

(1) One per State fiscal year for an owner or operator of an underground storage tank or an owner of a residential heating oil tank; and

(2) One for the entire period of home ownership for the owner of a residential heating oil tank.

F. If the Department determines that an application is ineligible under this chapter, the applicant may submit an application for another site for consideration within that State fiscal year.

.09 Reimbursement Allocations.

A. Once an application is approved for a reimbursement allocation, that amount shall be reserved within the Fund to pay for reimbursements that are otherwise eligible under this chapter. Any reimbursement allocation left unpaid will be released for other Fund uses.

B. An applicant may receive reimbursements from the allocated funds as set forth in Regulation .10 of this chapter.

C. The Department reserves the right to revoke a reimbursement allocation if the Department determines that:

(1) An applicant is disregarding the approved corrective action plan by either taking unapproved actions or eliminating or substantially altering required actions without previous written approval from the Department;

(2) The reimbursements have been or are being used, or site rehabilitation work has been or is being conducted, in a manner inconsistent with the goals of the site rehabilitation;

(3) The applicant is not proceeding with the site rehabilitation or has abandoned the site;

(4) The applicant is not in compliance with all Maryland laws and regulations applicable to oil and underground oil storage tanks; or

(5) The applicant has not submitted any eligible expenditures and support documentation of those expenditures within 90 days after application approval or last expenditure submittal, unless extended in writing by the Department.

.10 Payment Process.

A. After receiving notice of a reimbursement allocation from the Department, an applicant shall submit expenditures eligible for reimbursement under this chapter, on a form supplied by the Department, along with copies of actual invoices or proof of payments, or both. Eligible expenditures shall be submitted at least every 90 days.

B. An applicant shall certify that the expenditures submitted are not excluded under Regulation .02E of this chapter.

.11 Auditing.

A. Upon request of the Department, an applicant shall submit, within 6 months of completing the site rehabilitation or receiving the final payment from the reimbursement allocation, a detailed accounting performed by an independent certified public accountant of all costs incurred and monies reimbursed to date for the site rehabilitation.

B. The Department reserves the right to audit all costs, expenses, or files associated with the Fund.

C. An applicant shall maintain all records associated with the site rehabilitation for at least 3 years after receiving the final payment from the reimbursement allocation, or after completion of the site rehabilitation, whichever occurs first.

D. If an audit reveals any amount of money was improperly paid from the Fund to an applicant, the applicant shall return that amount to the Department within 30 days.

E. An applicant is liable for any expenses incurred by the Department in collecting money owed under §D of this regulation.

CHAPTER 15 MANAGEMENT OF USED OIL

Authority: Environment Article, §§4-402, 4-405, and 4-410, Annotated Code of Maryland

.01 Incorporation by Reference.

A. Except as provided in B-----F of this regulation, 40 CFR 279 (1997) is incorporated by reference.

B. References to 40 CFR 124-----280.12 contained within 40 CFR 279 are cross-referenced to the Code of Maryland Regulations in the table below:

40 CFR Section:	COMAR Equivalent:
124	26.13.07
257	26.04.07
258	26.04.07
260-----266	26.13.01-----.06, .08-----.10
260.10	26.13.01.03
260.20	26.13.01.04A
260.21	26.13.01.04B
261	26.13.02
261.1	26.13.02.01
261.21	26.13.02.11
261.3(c)(2)(i)	26.13.02.03C(2)
261.5	26.13.02.05
261.7	25.13.02.07
261 Subpart C	26.13.02.10-----.14
261 Subpart D	26.13.02.15-----.19
261 Appendix I	26.13.02.20
261 Appendix VIII	26.13.02.24
264	26.13.05
264 Subpart O	26.13.05.16
265	26.13.05
265.310	26.13.05.14J
265 Subpart O	26.13.05.16
268	NONE
270	26.13.07
280.12	26.10.02.04

C. 40 CFR 279.12(b) and 279.82(a) are changed to read: "The use of used oil as a dust suppressant is prohibited."

D. 40 CFR 279.42(b), 279.51(b), and 279.73(b) are changed to read: "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 submitting a completed EPA Form 8700-12, which the Department will provide on request to the Maryland Department of the Environment, Hazardous Waste Program, 2500 Broening Highway, Baltimore, Maryland 21224. Forms can be obtained by calling (410) 631-3344."

E. 40 CFR §279.10(b) is replaced by COMAR 26.13.10.05A-----F.

F. 40 CFR §279.57(b) is replaced by COMAR 26.10.15.04.

.02 Reporting Used Oil Discharges.

A discharge of used oil shall be reported to the Department in accordance with COMAR 26.10.01.03.

.03 Permit Requirements.

Owners or operators of used oil collection centers, used oil transportation facilities, and used oil processing/re-refining facilities shall obtain from the Department and maintain a current oil operations permit, in accordance with COMAR 26.10.01.07A(4). Those facilities without an oil operations permit shall submit an application for an oil operations permit within 90 days after the effective date of this regulation or cease used oil operations.

.04 Reports.

A. Processors/re-refiners and transporters shall submit an annual report of used oil operations on a form available from the Department.

B. Persons required to submit the report required by §A of this regulation shall assure that the report:

(1) Includes the following information:

(a) Quantity of used oil collected in Maryland,

(b) Quantity of used oil exported out of Maryland,

(c) Quantity of used oil imported into Maryland, and

(d) Final disposition of used oil;

(2) Covers the 12-month period from July 1 through June 30, or, for the first report, the period from the effective date of this regulation through June 30 following the effective date of this regulation; and

(3) Is submitted to the Department on or before July 31 following the reporting period.

.05 Closure Requirements.

A. The requirements of this regulation apply to owners and operators of collection centers, transportation facilities, and used oil burning facilities that store used oil in aboveground storage tanks or containers, or both.

B. Aboveground Storage Tanks. On termination of used oil operations, facilities which stored used oil in aboveground storage tanks shall comply with the following system closure requirements:

(1) Remove or decontaminate used oil residues in tanks, containment system components, soils, and structures and equipment, and manage those used oil contaminated wastes as hazardous waste, unless they are not hazardous waste under this chapter or COMAR 26.13.02; or

(2) If it is not practicable to remove or decontaminate all contaminated soils as required in §B(1) of this regulation, then the tank system shall be closed and post-closure care performed in accordance with the closure and post-closure care requirements for hazardous waste landfills in COMAR 26.13.05.07.

C. Containers. Upon termination of used oil operations utilizing containers:

(1) Containers holding used oils or residues of used oil shall be removed from the site; or

(2) Used oil residues shall be removed from containers and the resulting wastes managed as hazardous waste, unless the materials are not hazardous waste under this chapter or COMAR 26.13.02.

.06 Burning Used Oil as Fuel.

A. A person who burns used oil as fuel shall comply with all applicable air pollution control requirements in COMAR 26.11.09.10.

B. The disposal of used oil by incineration is prohibited under Environment Article, §5-1001(f)(1), Annotated Code of Maryland.

Chapter 16 Trained Facility Operators

Authority: Environment Article, §§ 4-401, 4-402, 4-405, 4-408, 4-409, 4-410, 4-411, 4-411.1, 4-412, 4-415, 4-415.1, 4-416, 4-417, 4-418, and 4-419
Annotated Code of Maryland

01 Scope.

A. This chapter applies to a regulated substance storage facility having one or more UST systems that shall comply with the requirements of COMAR 26.10.02—11.

B. This chapter:

- (1) Does not apply to an UST system that stores only heating oil for direct consumptive use;
- (2) Does not alter the definitions of an operator set forth in COMAR 26.10.01.01B and COMAR 26.10.02.04B;
- (3) Does not apply to an individual defined as an operator under COMAR 26.10.01.01B or COMAR 26.10.02.04B unless the owner of a regulated substance storage facility identifies that individual to serve as a Class A, B, or C operator for the facility;
- (4) Does not relieve an owner or an operator of a regulated substance storage facility of the duty to comply with the legal responsibilities under:
 - (a) 40 CFR Part 280;
 - (b) Environment Article, Title 4, Annotated Code of Maryland; or
 - (c) COMAR 26.10.02—.11;
- (5) Does not alter the legal responsibilities under:
 - (a) 40 CFR Part 280;
 - (b) Environment Article, Title 4, Annotated Code of Maryland; or
 - (c) COMAR 26.10.02—.11 for, between, or among owners and operators of regulated substance storage facilities; and
- (6) Does not transfer the legal responsibilities under:
 - (a) 40 CFR Part 280;

(b) Environment Article, Title 4, Annotated Code of Maryland; or

(c) COMAR 26.10.02—.11 for, between, or among owners and operators of regulated substance storage facilities.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Attended regulated substance storage facility” means a single location that has one or more UST systems storing a regulated substance as defined in COMAR 26.10.02.04B at which an attendant or an employee is on duty and available at the location.

(2) “Certification program” means an informational course, class, or set of training instructions approved by the Department for educating and certifying a Class A, B, or C operator to comply with this chapter.

(3) “Regulated substance storage facility” means a single location, either attended or unattended, that has one or more UST systems in which a regulated substance as defined in COMAR 26.10.02.04B is stored.

(4) “Unattended regulated substance storage facility” means a single location that has one or more UST systems storing a regulated substance as defined in COMAR 26.10.02.04B at which no attendant or employee is on duty and available at the location.

.03 Implementation.

A. This chapter establishes a Class A, B, and C operator with required knowledge, duties, skills, training, certifications, and availability.

B. By August 8, 2012, the owner of a regulated substance storage facility shall:

(1) Identify by a written list one or more individuals to serve as the Class A, B, and C operator for the facility;

(2) Ensure that an operator identified in §B(1) of this regulation is trained and certified in accordance with this chapter;

(3) Provide written instructions for the facility's UST systems that are readily accessible at all times to an operator identified in §B(1) of this regulation 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 release, unusual operating conditions, emergencies, and equipment failures; and
- (d) Notify the Department of a release in accordance with:
 - (i) Environment Article, §4-410, Annotated Code of Maryland;
 - (ii) COMAR 26.10.01.03; and
 - (iii) COMAR 26.10.08.01—.04; and
- (4) Provide emergency telephone numbers for contacting persons responsible for the facility in the event of a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures that:
 - (a) For an attended facility, are readily accessible on-site to Class A, B, and C operators and other facility personnel; or
 - (b) For an unattended facility, are conspicuously posted on a sign not less than 8 by 10 inches in size with lettering not less than one inch high and that is visible to the public.

C. On and after August 8, 2012, a regulated substance storage facility may not:

- (1) Dispense or store a regulated substance unless Class A, B, and C operators have been designated, trained, and certified as required by this chapter; and
- (2) For an attended regulated substance storage facility, dispense a regulated substance unless at least one Class A, B, or C operator is present at the facility.

D. On and after August 8, 2012, the owner of a regulated substance storage facility shall ensure that:

- (1) The facility continuously has one or more individuals designated, trained, and certified to serve as the Class A, B, and C operator as required by this chapter;
- (2) New or replacement Class A and Class B operators are trained and certified within 30 days after assuming duties and responsibilities of these classes;
- (3) A new or replacement Class C operator is trained and certified before assuming duties and responsibilities of this class; and

(4) The following documents are updated within 10 business days of a change:

- (a) The written list set forth in §B(1) of this regulation;
- (b) The written instructions set forth in §B(3) of this regulation; and
- (c) The emergency telephone numbers set forth in §B(4) of this regulation.

E. On and after August 8, 2012, the owner of an unattended regulated substance storage facility shall ensure that:

(1) A Class A, B, or C operator inspects the facility for a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures once every 30 days or at a frequency approved by the Department; and

(2) A written record of the inspection is maintained by the owner and made available upon request by the Department or its certified inspectors.

.04 Operator Classes.

A. A person may be designated, trained, and certified to serve in more than one operator class.

B. A Class A operator shall have the knowledge, skills, and training to execute duties that shall include:

(1) Primary responsibility for operating and maintaining one or more UST systems at a regulated substance storage facility;

(2) Routine management of resources and personnel, which may include establishing work assignments;

(3) Ensuring that, in accordance with COMAR 26.10.02—.11:

(a) An UST system is repaired by a qualified person;

(b) An upgraded, new, or replacement UST system is installed by a certified technician;

(c) A qualified person is implementing the operation, maintenance, testing, and record-keeping requirements for an UST system that shall include:

(i) Spill and overfill prevention;

(ii) Release detection, reporting, and emergency response;

- (iii) Corrosion protection;
 - (iv) Product and equipment compatibility;
 - (v) Financial responsibility;
 - (vi) UST notification and registration;
 - (vii) UST temporary and permanent closure; and
 - (viii) Operator training and certification; and
- (d) Records required to demonstrate compliance are maintained and made available upon request by the Department or its certified inspectors;
- (4) Maintaining knowledge of the skills and training requirements for a Class B and a Class C operator;
- (5) Successfully completing operator training required by this chapter and approved by the Department; and
- (6) Being available to respond to a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by meeting the following requirements:
- (a) Be immediately accessible for consultation by telephone when the facility is operating; and
 - (b) Be on-site within 24 hours of a request to respond to the facility by emergency response personnel or the Department or within a time approved by the Department.
- C. A Class B operator shall have the knowledge, skills, and training to execute duties that shall include:
- (1) Primary responsibility for implementation of COMAR 26.10.02—.11 through the daily operation, maintenance, testing, and record keeping of an UST;
 - (2) Ensuring that, in accordance with COMAR 26.10.02—.11:
 - (a) UST release detection methods and release prevention equipment are operational and testing is performed;
 - (b) Release detection reporting requirements are met;

(c) Spill prevention, overfill prevention, and corrosion protection equipment are inspected for proper operation;

(d) UST system equipment tests are performed;

(e) UST equipment manufacturer and third-party performance standards, manuals, and instructions are available and followed;

(f) Records required to demonstrate compliance are maintained and made available upon request by the Department or its certified inspectors; and

(g) A Class C operator is trained to respond properly to a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures in accordance with the requirements in §D of this regulation;

(3) Maintaining knowledge of the skills and training requirements for a Class C operator;

(4) Successfully completing operator training required by this chapter and approved by the Department; and

(5) Being available to respond to a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by meeting the following requirements:

(a) Be immediately accessible for consultation by telephone when the facility is operating; and

(b) Be on-site within 24 hours of a request to respond to the facility by emergency response personnel or the Department or within a time approved by the Department.

D. A Class C operator shall have the knowledge, skills, and training to execute duties that shall include:

(1) Controlling and monitoring the dispensing or sale of a regulated substance;

(2) Immediately responding to alarms, equipment failures, or other indications of emergencies caused by a release or spill from an UST system;

(3) Notifying a Class A or a Class B operator, appropriate emergency response personnel, and the Department in accordance with the written instructions provided by the owner as set forth in Regulation .03B(3) of this chapter;

(4) Successfully completing operator training required by this chapter and approved by the Department; and

(5) Being available to respond to a suspected or confirmed release, unusual operating conditions, emergencies, and equipment failures at a regulated substance storage facility by meeting the following requirements:

(a) For an attended facility, be on-site and readily available whenever the facility is operating; or

(b) For an unattended facility:

(i) Be immediately accessible for consultation by telephone with emergency response personnel or the Department; and

(ii) Be on-site within 2 hours of a request to respond to the facility by emergency response personnel or the Department or within a time approved by the Department.

E. A Class C operator certification shall be facility-specific and is not valid at another regulated substance storage facility.

.05 Certification Programs.

A. The Department shall:

(1) Establish and make available the minimum requirements for any certification programs;

(2) Review and approve certification programs for Class A, B, and C operators; and

(3) Make available a list of approved certification programs.

B. A person implementing a certification program shall:

(1) Provide operator training in accordance with:

(a) The minimum requirements established by the Department;

(b) The requirements of this chapter; and

(c) A Department-approved certification program;

(2) Obtain in writing from the Department approval for a change to an approved program;

(3) For a Class A and a Class B operator, provide a dated certificate to an operator that has successfully completed a program;

(4) Maintain the following records:

(a) Date and location of training;

(b) Names of trainers providing services to the program;

(c) Names of trainees in attendance;

(d) Names of trainees certified as Class A, B, or C operators; and

(e) A copy of the dated certificate identified in §B(3) of this regulation;

(5) Make records available upon request by the Department or its certified inspectors; and

(6) Allow the Department to audit an operator training certification program.

C. Reciprocity.

(1) The Department may allow a Class A or a Class B operator certification from another state to satisfy the requirements of this chapter.

(2) The individual requesting reciprocity shall demonstrate to the satisfaction of the Department that the operator certification requirements and the UST regulations where the individual is presently certified are at least as stringent as COMAR 26.10.02—.11.

.06 Certification.

A. Except for certification received under §C of this regulation, successful completion of training for a Class A or a Class B operator shall include:

(1) Attendance of 100 percent during the certification program; and

(2) A score of 80 percent or better on a written competency test of the information presented.

B. Except for certification received under §C of this regulation, successful completion of training for a Class C operator shall include:

(1) Attendance of 100 percent during the certification program;

(2) A score of 80 percent or better on a written competency test of the information presented;

(3) Demonstrating to a Class A or a Class B operator of the facility an understanding of the written instructions required by Regulation .03B(3) of this chapter; and

(4) Written verification from the Class A or the Class B operator of compliance with §B(3) of this regulation that shall be maintained with the Class C operator's certificate and the owner's records.

C. An operator serving at only one regulated substance storage facility may participate in an operator certification program conducted on-site at the operator's facility by completing training that shall include:

(1) For a Class A operator, demonstrating to the trainer:

(a) Knowledge of regulatory compliance requirements for an UST system;

(b) Competence in the knowledge, duties, and skills described in Regulation .04B of this chapter;

(c) Knowledge of the operation, maintenance, and testing requirements for the UST system equipment at the facility; and

(d) The ability to make informed decisions on regulatory compliance for an UST system;

(2) For a Class B operator, demonstrating to the trainer:

(a) Knowledge of regulatory compliance requirements for an UST system;

(b) Competence in the knowledge, duties, and skills described in Regulation .04C of this chapter; and

(c) Knowledge of the operation, maintenance, and testing requirements for an UST system at the facility, including:

(i) Ancillary equipment and components;

(ii) Construction materials; and

(iii) Release prevention and detection methods; and

(3) For a Class C operator, demonstrating to the trainer:

(a) Competence in the knowledge, duties, and skills described in Regulation .04D of this chapter; and

(b) An understanding of the written instructions required by Regulation .03B(3) of this chapter.

D. A certified Class A or Class B operator for a regulated substance storage facility may train and certify a Class C operator for that facility without approval by the Department by meeting the following requirements:

(1) The training meets the minimum requirements established by the Department for a Class C operator;

(2) The successful completion of the training requires a Class C operator to meet the requirements of §C(3) of this regulation; and

(3) Upon successful completion, the Class A or the Class B operator provides a dated certificate to the Class C operator and the owner for that facility.

.07 Sanctions.

A. Owners.

(1) If the Department determines a regulated substance storage facility is not in compliance with COMAR 26.10.02—.11 the Department shall document the deficiency.

(2) The Department shall require the owner of the facility to implement one or more of the following for a listed operator specified by the Department:

(a) Retraining and recertification under this chapter;

(b) Partial retraining in certain duties, skills, and knowledge areas in a manner specified by the Department; and

(c) On-site retraining in certain duties, skills, and knowledge areas by a Department representative.

(3) The owner shall submit written verification to the Department within 60 days of the Department's directive that retraining under §A(2) of this regulation is completed.

B. Operators.

(1) An operator certification obtained under this chapter may be suspended or revoked in accordance with State Government Article, §10-226(a) and (c), Annotated Code of Maryland.

(2) The Department may suspend or revoke the certification of a Class A, B, or C operator if one or more of the following occurs:

(a) The regulated substance storage facility where the operator is assigned demonstrates repeated violations and noncompliance with COMAR 26.10.02—.11; or

(b) The operator:

(i) Demonstrates noncompliance with Regulation .04 of this chapter;

(ii) Demonstrates disregard or repeated violations of COMAR 26.10.02—.11; or

(iii) Submits false information to the Department.

C. Certification Programs.

(1) The Department may deny an application for a certification program if the applicant has demonstrated a history of noncompliance with the provisions of COMAR 26.10.02—.11.

(2) The Department may suspend or revoke approval of a certification program if the program or a trainer for the program does one or more of the following:

(a) Demonstrates disregard or repeated violations of COMAR 26.10.02—.11; or

(b) Submits false information to the Department.

D. Revocation.

(1) An operator whose certification is revoked may not apply for a new certification for 2 years from the date of revocation.

(2) An owner shall surrender an operator certification document to the Department upon notification of suspension or revocation.

E. In addition to the sanctions provided by this regulation, a person violating a provision of this chapter shall be subject to sanctions under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, and any other sanctions provided by law.

.08 Record Keeping.

The owner of a regulated substance storage facility shall maintain for 5 years at a location designated by the owner, and make available upon request by the Department or its certified inspectors, the following records:

A. A list of certified Class A, B, and C operators currently employed by the owner and required by Regulation .03B(1) of this chapter, which includes:

(1) The operator's name, mailing address, and emergency contact number;

(2) The name of each facility to which the operator is assigned; and

(3) The names and dates of any certification programs completed by the operator;

B. Copies of operator training certificates; and

C. Copies of the inspection records required in Regulation .03E(2) of this chapter.