



# COMPLIANCE GUIDE FOR DRAFT PROPOSED REGULATIONS

## OIL POLLUTION CONTROL & STORAGE TANK MANAGEMENT

This compliance guide for the draft proposed oil pollution control and storage tank management regulations provides a clear and concise explanation of how a small business may comply with the draft proposed regulatory changes. This compliance guide is for informational purposes and should not be construed as legal advice. If the draft proposed regulations are adopted by the Secretary of the Environment and become effective, affected small businesses should consult the law, Environment Article, Annotated Code of Maryland or Code of Maryland Regulations (COMAR), or consult legal counsel. This document is subject to change if the draft proposed regulations are substantively changed during the regulatory proposal process.

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### Summary of the Draft Proposed Regulations

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The purpose of the draft proposal is to comprehensively modernize the State’s oil pollution control and storage tank management regulations. Specifically, the draft proposal would:

- Update state underground storage tank (UST) regulations, primarily to be consistent with the federal UST regulations in order to retain state program approval to continue implementation of the Maryland UST regulatory program;

- Amend how a high risk oil storage facility is defined, and establish release detection requirements for facilities with a large storage capacity or high throughput;
- Establish additional requirements for reporting oil contamination to the Department;
- Establish annual financial responsibility reporting requirements for UST owners;
- Establish a new aboveground storage tank (AST) system registration requirement;
- Establish new AST regulatory provisions;
- Establish permitting and construction standards for marinas with fuel dispensing systems;
- Establish new minimum requirements for residential heating oil tanks;
- Update state-specific requirements for the storage, delivery, transfer, and transportation of oil to ensure these activities are conducted in a manner that prevents releases or the severity of releases into the environment;
- Establish new minimum requirements for motor fuel dispensing facilities;
- Amend the site rehabilitation reimbursement amounts from the Oil Contaminated Site Environmental Cleanup Fund for owners of residential heating oil tank systems after a certain date, and remove obsolete provisions regarding the reimbursement of commercial UST owners and operators from the fund;
- Repeal obsolete regulations regarding hydrostatic tests and the Underground Storage Tank Upgrade and Replacement Fund Loan Program; and
- Update the codes of practices and standards incorporated by reference and make necessary clarifying amendments to the regulations.

**Note: This compliance guide only discusses how an affected small business may comply with newly proposed oil pollution control and storage tank management requirements expected to have a significant impact on small businesses.** A comprehensive and detailed explanation of all proposed regulatory changes and their effect on the entire regulated community and the public will be included in a Notice of Proposed Action that will be published in the *Maryland Register* by the Department in winter 2022.

## Who is affected by the Draft Proposed Regulatory Changes

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The draft proposed action would affect small business across several industry sectors, such as commercial, institutional, marina, manufacturing, transportation, communication and utilities, agriculture, and government. In general, the draft proposed action would affect a small business that:

- Retail motor fuel;
- Owns and operates a motor fuel dispensing facility;
- Owns and operates a service station for vehicles or vessels;
- Owns and operates an oil aboveground and/or underground storage tank system;
- Owns and operates a hazardous substance underground storage tank system;
- Owns and operates an emergency power generator UST system;
- Offers an approved training program for UST system operators;
- Trains and certifies UST system technicians, removers, and inspectors;
- Employs certified Class A, Class B, and Class C Operators;
- Employs certified UST system technicians, removers, and inspectors;
- Installs, maintain, repairs, and closes residential heating oil tanks;
- Performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products; or
- Participates in any combination of the above activities.

## Definition of Key Terms

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The following key terms are defined in the draft proposed regulations and are used in this compliance guide:

**AST (aboveground storage tank)** means a storage tank that meets the following conditions: a storage tank currently storing oil or previously having stored oil; a storage tank constructed more than 90 percent above the surface of the ground, excluding piping; and a storage tank that may be installed in an underground vault, a basement, or a sub-surface building. An AST does not include: a flow-through process tank; a septic tank, surface impoundment, pit, pond, or lagoon; oil-filled operational equipment; and a pipeline breakout tank, including gathering lines, regulated under the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. §§60101 et seq.

**AST System** means an AST, connected aboveground and underground piping, ancillary equipment, and appurtenances, including dispensers, loading racks, and secondary containment.

**Attended** means there is an attendant or an employee that is on duty and available to customers at a motor fuel dispensing facility.

**Containment Sump** means a liquid-tight container that protects the environment by containing spills, releases, or discharges of a regulated substance from piping, dispensers, pumps and related components in the containment area. A containment sump may be single walled or secondarily contained and located at the top of a storage tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

**Discharge** means the addition, introduction, leaking, spilling, or emitting of oil to waters of the State or the placement of oil in a location where it is likely to reach or pollute waters of the State.

**Existing Gasoline UST System** means a UST system located in a high risk groundwater use area or well head protection area:

- (a) Installed before:
  - (i) January 26, 2005, if located in a high risk groundwater use area; or
  - (ii) January 1, 2010, if located in a well head protection area;
- (b) Containing gasoline, including gasohol, that is used to fuel motor vehicles; and
- (c) That has a storage capacity greater than 2,000 gallons.

**Field-erected AST** means an AST that is welded carbon steel or stainless steel, erected or constructed by assembling the AST on site at an oil storage facility, and erected or constructed for the purpose of storing oil. Field-erected AST includes an AST that has a nameplate or other identifier that indicates it is a field-erected tank or is not identified as a shop-fabricated AST.

**General Oil Operations Permit** means the authorization established under COMAR 26.10.01.09B for certain categories of oil storage and oil handling facilities to operate without an Individual Oil Operations Permit.

**Hazardous Substance** has the meaning stated in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601(14). Hazardous substance does not include a substance that is regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act.

**High Risk Groundwater Use Area (HRGUA)** means an area with a new or existing gasoline UST system:

- (a) In which an individual water supply system, as defined in COMAR 26.04.03.01-1B, serves as the water supply for the new or existing gasoline UST system facility, an adjoining property of the new or existing gasoline UST system facility, or both; and

(b) Located in:

(i) Baltimore, Carroll, Cecil, Frederick, or Harford County; and

(ii) Anne Arundel, Baltimore, Carroll, Cecil, Frederick, or Harford County for the purpose of notifying a property owner of groundwater contamination in accordance with Environment Article, §4-411.2, Annotated Code of Maryland.

**Individual Oil Operations Permit** means an individual written authorization issued by the Department in accordance with COMAR 26.10.01.09A describing required performance for specific activities and operations of an oil storage facility or oil handling facility.

**Maintenance** means the performance of normal operational upkeep to prevent a storage tank system from spilling, releasing, or discharging a regulated substance.

**Marina** means a facility having one or more piers, moorings or bulkheads, and marine motor fuel storage and dispensing systems for boats, vessels, and other marine watercraft used primarily for recreational purposes by the general public. "Marina" does not include a marine oil facility.

**Monthly** means occurring at a frequency of once per calendar month and occurring generally 28 to 31 days between events.

**Motor Fuel** means a complex blend of hydrocarbons that is typically used in the operation of a motor engine or emergency generator. Motor fuel includes: motor gasoline, including gasohol; aviation gasoline; No. 1 or No. 2 diesel fuel, including biodiesel fuel; and any blend containing one or more of these substances.

**Motor Fuel Dispensing Facility** means that portion of an oil storage facility where motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles or vessels or into approved containers, including all equipment used in connection therewith.

**New Gasoline UST System** means a UST system, including a replacement UST system, located in a high risk groundwater use area or well head protection area:

(a) Installed on or after:

(i) January 26, 2005, if located in a high risk groundwater use area; or

(ii) January 1, 2010, if located in a well head protection area; and

(b) Containing gasoline, including gasohol, that is used to fuel motor vehicles.

**Oil** means oil of any kind and in any liquid form including, but not limited to: petroleum and petroleum products; petroleum byproducts; light and heavy fuel oils, including fuel oils that are blended or mixed with biofuels or processed or re-refined used oil; sludge containing oil or oil residues; oil refuse; oil mixed with or added to or otherwise contaminating soil, waste, or any other liquid or solid media; crude oils; aviation fuels; gasoline, including gasohol; kerosene; diesel motor fuel, including biodiesel fuel, regardless of whether the fuel is petroleum based; asphalt; ethanol that is intended to be used as a motor fuel or fuel source; and regardless of specific gravity, every other nonedible, nonsubstituted liquid petroleum fraction unless that fraction is specifically identified as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§9601 et seq.

Oil does not include liquefied propane, liquefied natural gas, or any edible oils not intended to be used as a motor fuel or fuel source.

**Oil Handling Facility** means a facility other than an oil storage facility that is responsible for one or more of the following operations: delivery of oil by cargo tank; transfer of oil; management of used oil; storage and treatment of oil-contaminated soils; and oil solidification.

**Oil Storage Facility** means an installation, structure, or premises, including an aboveground or underground storage tank, in which oil has been or is stored.

Oil storage facility does not include: a storage tank on a farm or private residence with a capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial or personal use, or a vessel.

**Operator** means a person in control of a storage tank system, oil storage facility, or oil handling facility or a person that has responsibility over the following activities for a storage tank system, oil storage facility, or oil handling facility: daily or periodic operation; installation, repair, maintenance, and testing of one or more storage tank system; or closure.

**Overfill** means an occurrence when:

- (a) A UST is filled beyond the applicable level specified in COMAR 26.10.03.03A(2)(a), and that may result in a spill, release, or discharge of a regulated substance;
- (b) A shop-fabricated AST is filled beyond the overfill level and may result in a spill, release, or discharge of oil; or
- (c) A field-erected AST is filled beyond its critical high level and may result in a spill, release, or discharge of oil.

**Owner** means a person who: owns a storage tank system, oil storage facility, or oil handling facility; or owned a storage tank system, oil storage facility, or oil handling facility immediately before the discontinuation of its use.

**Person in Charge** means a person designated by an owner, an operator, or a permittee as the person with direct supervisory responsibility for: an activity or operation at a facility, such as the transfer of oil to or from any points in the facility; or the repair, installation, closure, or testing of a storage tank system.

**Regulated Substance** means a hazardous substance and oil.

**Release** means:

- (a) A discharge from a storage tank system, transport, truck tank, tank barge, tank car, or pipeline;
- (b) The discharge, escaping, leaching, spilling, leaking, emitting, or disposing of a regulated substance from a UST system as defined in COMAR 26.10.02.03 into: groundwater, surface water, or surface or subsurface soils; or secondary containment; or
- (c) The discharge, escaping, leaching, spilling, leaking, emitting, or disposing of oil from an AST system to a secondary containment dike as defined in COMAR 26.10.17 and 26.10.18.

**Release Detection** means to determine whether a release of a regulated substance has occurred from a UST system into the environment, into the interstitial space between a UST system and the secondary barrier of the UST system, or into the secondary containment around a UST system.

**Repair** means:

- (a) If a UST system, to restore to proper operating condition a storage tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other component of a UST system that has: caused a release of a regulated substance from the UST system; failed to function properly; or been rendered inoperable in any way; and
- (b) If an AST system, work necessary to maintain or restore a tank or storage tank system to a safe operating condition, including: removing and replacing the roof, shell, or bottom material to maintain tank integrity or ancillary AST equipment; re-leveling of an AST tank shell, bottom, or roof; adding or replacing reinforcing plates to existing shell penetrations; and correcting flaws, such as tears or gouges, by grinding or gouging followed by welding.

**Secondary Containment** means an Underwriters Laboratories (UL) listed or Department-approved system that prevents a release by containing a regulated substance released from the primary tank or piping until it is detected and removed, and detects a release by meeting the requirements of COMAR 26.10.05.05G.

**Shop-fabricated AST** means a welded carbon steel or stainless steel tank fabricated in a manufacturing facility, or an AST not otherwise identified as field-erected.

**Spill** means a release.

**Storage Tank** means a stationary device: designed to contain an accumulation of oil either aboveground or underground, or an accumulation of a hazardous substances underground; and constructed of nonearthen materials such as concrete, steel, fiberglass, and plastic, that provide structural support.

**Storage Tank System** means a storage tank, connected piping, ancillary equipment and appurtenances, including dispensers and secondary containment.

**Training Program** means an informational course, class, or set of training instructions approved by the Department for educating and certifying a Class A, Class B, or Class C operator to comply with the regulations.

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

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

UST does not include:

(a) Except for a farm or residential tank no longer in use and subject to the requirements under COMAR 26.10.10, a farm or residential tank with the capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial purposes;

(b) A septic tank;

(c) A pipeline facility, including gathering lines, regulated under 49 U.S.C. §§60101—60141, or an intrastate pipeline facility regulated under State law as provided under 49 U.S.C. §§60101—60141 and determined by the federal Secretary of Transportation to be connected to a pipeline, or operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(d) A surface impoundment, pit, pond, or lagoon;

(e) A stormwater or wastewater collection system;

(f) A flow-through process tank;

(g) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(h) If a storage tank is situated upon or above the surface of the floor, a storage tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel; or

(i) Pipes connected to a tank.

**UST System** means a UST, connected underground piping, underground ancillary equipment, and, if any, containment systems.

**Well Head Protection Area (WHPA)** means an area in Baltimore, Carroll, Cecil, Frederick, or Harford County identified and regulated by a local government surrounding one or more wells serving a:

(a) Community water system, as defined by COMAR 26.04.01.01B; or

(b) Public water system, as defined by COMAR 26.04.01.01B.

## Release Detection for Previously Deferred UST Systems

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### New Requirements

COMAR 26.10.02.01 and 26.10.05 would require owners and operators of UST systems storing fuel for an emergency power generator to maintain an approved method or combination of approved methods of release detection. Approved methods of release detection include automatic tank gauging, manual tank gauging, interstitial monitoring, precision tightness testing, groundwater monitoring, or another method approved by the Department. Owners and operators of emergency power generator USTs that do not have release detection must implement release detection for the UST system by October 13, 2022.

### Affected Small Businesses

Any small business that owns or operates a UST system that stores fuel for an emergency power generator, such as medical facilities, private schools, communication and utility businesses, and any other small business that rely on backup power sources.

## Spill & Overfill Prevention Equipment

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### New Requirements

COMAR 26.10.03.03 would establish the following spill and overfill prevention specifications for regulated substance UST systems.

1. UST system owners and operators may not install a flow restrictor overfill device in vent pipes as new or replacement overfill prevention equipment.
2. UST system owners and operators must use a certified UST system inspector, certified UST system technician, or a certified precision tightness tester to inspect and conduct a functional test of overfill prevention equipment to ensure the equipment is set to:
  - (a) Automatically shut off flow into a UST when the UST is 95 percent full; or
  - (b) Alert the transfer operator when a UST is 90 percent full by restricting the flow of a regulated substance into the UST or triggering a high level alarm.
3. UST system owners and operators must have the overfill prevention equipment inspection and functional tests conducted, using a Department approved method, at the following frequency:
  - (a) Unless an inspection and functional test was conducted before the effective date of the regulations, within 1 year;
  - (b) Upon the installation or repair of overfill prevention equipment; and
  - (c) At least every 3 years after the most recent inspection and functional test was conducted.
4. The schedule for containment sump testing will be revised from every 5 years to every 3 years. UST system owners and operators must test containment sumps using a Department approved method at the following frequency:
  - (a) Within 30 days of installing a containment sump;
  - (b) Upon repair of a containment sump;
  - (c) If the most recent test was conducted before the effective date of the regulations, within 5 years of the most recent test; and
  - (d) At least every 3 years after any most recent test.

### Affected Small Businesses

Any small business that owns or operates a regulated substance UST system.

## Periodic Operation & Maintenance Walkthrough Inspections

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### New Requirements

COMAR 26.10.04.03 would establish periodic operation and maintenance walkthrough inspection requirements that UST system owners and operators must begin doing not later than 90 days after the effective date of these regulations.

On a monthly basis (or prior to each delivery if deliveries are received at intervals greater than 30 days), UST system owners and operators must perform periodic operation and maintenance walkthrough inspections as follows:

1. Inspect spill prevention equipment by:
  - (a) Visually checking the spill prevention equipment for damage;
  - (b) Removing liquid and debris from the spill prevention equipment;
  - (c) Checking for and removing obstructions in the fill pipe;
  - (d) Checking the fill cap to ensure the cap is securely on the fill pipe;
  - (e) For double walled spill prevention equipment with interstitial monitoring, checking for a release in the interstitial area; and
2. Inspect release detection equipment to ensure:
  - a. The release detection equipment is operating with no alarms or other unusual operating conditions present; and
  - b. The records of release detection testing are reviewed and current.

Annually, UST system owners and operators must perform a periodic operation and maintenance walkthrough inspection as follows:

1. Inspect containment sumps by:
  - (a) Visually checking the containment sumps for damage;
  - (b) Checking for a release in the containment area and for a spill, release, or discharge to the environment;
  - (c) Removing liquid and debris from the containment sumps; and
  - (d) For double walled containment sumps with interstitial monitoring, checking for a release in the interstitial area; and
2. Inspect hand held release detection equipment by checking devices such as storage tank gauging sticks and groundwater bailers for operability and serviceability.

Alternatively, UST system owners and operators can follow a code of practice incorporated by reference (e.g. Petroleum Equipment Institute's Recommended Practices for the Inspection and Maintenance of UST Systems (PEI/RP900-17)).

UST system owners and operators must comply with the following recordkeeping requirements.

1. Maintain records for periodic walkthrough inspections for:
  - (a) At least 1 year at the regulated substance storage facility; and
  - (b) At least 5 years at a location designated by the owner.
2. Records for periodic walkthrough inspections include the following information:
  - (a) A list of each area checked during an inspection;
  - (b) Whether an area inspected was acceptable or needed action taken,
  - (c) A description of any action taken to correct an issue, and
  - (d) Delivery records if the spill prevention equipment is checked prior to a delivery because deliveries occur at intervals greater than 30 days.



## Affected Small Businesses

Any small business that owns or operates a regulated substance UST system.

## High Risk Oil Storage Facilities

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### New Requirements

The draft proposal would establish new regulations under COMAR 26.10.07 for owners and operators of motor fuel dispensing facilities with UST systems defined as either high risk underground oil storage facilities, or new or existing gasoline UST systems.

By removing the Stage II vapor recovery system language from the definitions of new and existing gasoline UST systems, there may be a few additional motor fuel dispensing facilities meeting the revised definition. Therefore, owners and operators of such UST systems should review the definitions and determine if they meet the requirements to require enhanced release detection. Generally, this would involve installation of three monitoring wells on the property. The Department will review site conditions during the 3-year UST system inspections and assist UST owners and operators in meeting the requirements as necessary.

With the exception of yet to be installed new gasoline UST system facilities, existing and new UST systems located in a HRGUA or WHPA generally already have groundwater monitoring wells that are being sampled annually under the existing regulations. Therefore, there would be no change for these facilities.

The new category of UST systems introduced by the draft proposal is the high risk underground oil storage facility. Generally, these will be large motor fuel dispensing facilities, such as oil terminals, large retail, and government facilities. This new draft regulation should not affect most small businesses. The draft proposal defines an oil storage facility as a high risk underground oil storage facility in two ways:

1. On the basis of size and construction; and
2. On the basis of throughput.

A facility is considered high risk if it has a total underground capacity of 80,000 gallons or more, and the USTs and/or piping are single-walled construction. Based on existing UST system registration data, the Department has identified approximately 20 UST systems that meet this definition and do not believe they would be considered small business.

To be considered high risk on the basis of throughput, the facility must have a combined monthly throughput for all products stored in UST systems of 750,000 gallons or more when averaged over a rolling 12-month period, or a throughput of 1,000,000 gallons or more in any single month. These conditions are unlikely to affect small businesses. However, all UST system owners and operators must determine if their facility meets the definition of a high risk underground oil storage facility on a throughput basis by conducting a throughput review as follows:

1. Determine the combined monthly oil throughput for all products by evaluating inventory records that document:
  - (a) The average combined monthly oil throughput for all products over the preceding 12 months; and
  - (b) The highest combined monthly oil throughput for all products in the preceding 12 months.
2. Submit the throughput review and supporting inventory documentation to the Department for concurrence:
  - (a) Within 6 months of the effective date of the regulations, if construction of the underground oil storage facility was complete on or before the effective date of the regulations;
  - (b) Not later than 60 days following the first year of operation, if construction of the underground oil storage facility was complete after the effective date of the regulations; or
  - (c) On a schedule determined by the Department.

### **Affected Small Businesses**

Any small business that owns or operates a regulated substance UST system, or that performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products.

## **New Oil Contamination Reporting Requirements**

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### **New Requirements**

The draft proposal formalizes current Department practices for reporting evidence of oil contamination during property assessment activities. The draft proposal will require reporting if evidence of a spill, release, or discharge is discovered during an environmental assessment conducted on a property as part of a due diligence investigation in support of a property transaction or a loan refinancing. The person conducting the assessment and the owner of the property shall report the suspected spill, release, or discharge to the Department:

1. Immediately, but not later than 2 hours after detecting free product; or
2. Within 48 hours of receiving an analytical laboratory report that shows a detection of a petroleum constituent in a soil, groundwater, drinking water, or soil vapor sample at a concentration equal to or exceeding a cleanup standard or action level published by the Department for the petroleum constituent and media type.

### **Affected Small Businesses**

Any small business that owns or operates a regulated substance UST system, or that performs environmental services such as testing and sampling of monitoring wells and petroleum products and by-products.

## **New Financial Responsibility Reporting Requirements**

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### **New Requirements**

The draft proposal will require UST system owners to provide evidence of a valid financial responsibility for their USTs to the Department as follows:

1. Submit evidence of financial responsibility in an electronic format determined by the Department according to the following schedule:
  - (a) Annually, but not later than 90 days following the initiation of coverage under a financial mechanism or the anniversary date of existing coverage under a financial mechanism; and
  - (b) Upon the request of the Department.
2. Additionally, a UST system owner that uses an insurance policy or risk retention group coverage as their financial responsibility mechanism must provide to the Department on an annual basis:
  - (a) An endorsement or certificate of insurance;
  - (b) Any amendments to the insurance policy or risk retention group coverage, including amendments for additional insured; and
  - (c) A UST schedule that includes, at a minimum, the following information:
    - i. The Department issued regulated substance storage facility identification number;
    - ii. The registered UST system owner's name and address as insured;
    - iii. The installation date of the UST system;
    - iv. The UST system capacity in gallons;
    - v. A statement that the UST construction is single-walled or double-walled;
    - vi. The type of regulated substance stored in the UST system; and
    - vii. A statement that the UST has a lined interior or does not have a lined interior.

## **Affected Small Businesses**

Any small business that owns or operates a regulated substance UST system.

## **UST Operator Training & Certification**

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### **New Requirements**

Once the draft proposed regulations are effective, companies currently approved by MDE will need to adjust their training programs to incorporate new regulatory standards and resubmit their training course materials for MDE approval. Class A, Class B, and Class C operators designated for a regulated substance storage facility will require additional training to become familiar with the new regulatory UST system standards.

### **Affected Small Businesses**

A small business operator training company and any small business that employs Class A, Class B, and Class C operators to operate and maintain UST systems at the regulated substance storage facility.

## **Certified UST System Technicians, Removers, & Inspectors**

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### **New Requirements**

Once the draft proposed regulations are effective, UST system technician, remover, and inspector certification companies currently approved by MDE will need to adjust their certification programs to incorporate new regulatory standards and resubmit their certification course materials for MDE approval. Certified UST system technicians, removers, and inspectors will require additional training to become familiar with the new regulatory UST system standards.

### **Affected Small Businesses**

Small business companies that train and certify or employ UST system technicians, removers, and inspectors.

## **AST System Registration**

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### **New Requirements**

With certain exclusions including ASTs on private residences, COMAR 26.10.01.10 would require AST system owners, operators, and a person in charge to register each AST system at a facility with the Department. AST systems that would need to be registered with the Department include those located at oil storage or handling facilities covered under an Individual Oil Operations Permit. Facilities operating under a General Oil Operations Permit that have an AST aggregate storage capacity of greater than 2,500 gallons must also register. There is no fee associated with registering an AST system.

#### Individual Oil Operations Permit

A permittee will satisfy the AST system registration requirement by complying with the Individual Oil Operations Permit application process. COMAR 26.10.01.09 lists the oil storage and oil handling facilities that require coverage under an Individual Oil Operations Permit, and COMAR 26.10.01.11 establishes the permit application requirements. Basically, no additional steps would need to be taken in order to register an AST system that would be covered under an Individual Oil Operations Permit.

#### General Oil Operations Permit with Greater than 2,500-gallon Aggregate Storage Capacity

A permittee must satisfy the AST system registration requirement as follows:

1. Register a new AST system within 30 days of installing the AST system, and register an existing AST system not later than 18 months after the effective date of these regulations;

2. Register each AST system located at an oil storage facility or oil handling facility using a registration form provided by the Department;
3. Complete the registration form by providing all of the information required on the form and signing and dating each form submitted to the Department;
4. A permittee may use one registration form to register multiple AST systems at a single facility;
5. A permittee may not use one registration form to register multiple AST systems located at more than one facility; and
6. Maintain a copy of the registration form at the oil storage facility or oil handling facility that is available upon request by the Department.

A permittee must submit an amended registration form to the Department within 30 days of one or more of the following changes to an AST system or an oil storage facility or oil handling facility:

1. Sale, transfer of ownership, or change in ownership structure;
2. Change in status from or to in-service, out-of-service (including a change-in-service to store a non-oil product in the AST system), or permanently closed;
3. The addition of an AST system at the facility; or
4. A change in the oil product stored.

If a permittee sells or transfers ownership of a registered AST system to be used by the purchaser or transferee for the storage of oil in Maryland, the permittee must:

1. Inform the purchaser or transferee of the registration requirement; and
2. Provide the purchaser or transferee with a copy of the current AST system registration.

### **Affected Small Businesses**

A small business that owns or operates AST systems located at:

1. An oil storage or handling facility covered under an Individual Oil Operations Permit; and
2. An oil storage or handling facility with an AST aggregate storage capacity of greater than 2,500 gallons that is operating under a General Oil Operations Permit.

## **AST System Construction and Operation Standards**

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### **New Requirements**

The draft proposal would establish new regulations under COMAR 26.10.17 and 26.10.18 dedicated to shop-fabricated AST systems and field-erected AST systems. An owner, an operator, and a person in charge of shop-fabricated AST systems and field-erected AST systems would be subject to performance standards for constructing, operating, inspecting, testing, and temporary and permanent closure of the AST systems. The performance standards ensure a consistent level of environmental protection in regard to all oil storage tank systems in Maryland. Generally, an owner, an operator, and a person in charge of a shop-fabricated AST system or field-erected AST system would be required to be in compliance with the new regulations within two years of the effective date of the regulations. Generally, the performance and inspection standards in the draft proposal follow applicable industry standards and recommended practices, and the vast majority of ASTs that are currently permitted under an Oil Operations Permit issued by the Department largely meet the draft proposed regulations.

### **Affected Small Businesses**

Any small business that owns or operates a shop-fabricated AST systems or field-erected AST system that stores oil.

## Marinas with Motor Fuel Dispensing Facilities

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### New Requirements

The draft proposal would establish permitting and storage tank system installation and operation requirements specific to marinas with a motor fuel dispensing facility. AST systems at marinas store flammable and combustible liquids that pose a risk to the public and the environment if the liquids are improperly stored, dispensed, and maintained. Currently, marina fuel systems are only known to the Department if they have registered UST systems or store 10,000 gallons or more of fuel in ASTs. This leaves a vast majority of marinas operating without oversight by the State's Oil Control Program until there is a reported spill, release, or discharge.

### Permit Requirement

An owner, an operator, and a person in charge of a marina with an AST system that is part of a motor fuel dispensing facility must obtain an Individual Oil Operations Permit. Individual Oil Operations Permit application requirements and permitting conditions are established in COMAR 26.10.01.09 and .11.

### Motor Fuel Dispensing Facility Requirements

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

1. If a marina fueling system is located in a flood hazard area or 100-year floodplain, an AST and each dispenser must be anchored securely to prevent the AST or dispenser from floating and spilling, discharging, and releasing oil;
2. If installing a new or replacement marina fueling system, the design and construction of the marina motor fueling system must comply with specified National Fire Protection Association (NFPA) codes and the Petroleum Equipment Institute's "Recommended Practices for the Installation of Marina Fueling Systems" and Department approved engineering plans certified by a professional engineer;
3. A new, replacement, or existing marina fueling system must comply with all of the design and construction conditions specified in COMAR 26.10.01.14E "Marina Fueling System Requirements";
4. The motor fuel dispensing facility is attended by an individual:
  - (a) That is familiar with the dispensing systems and emergency shutoff controls;
  - (b) Present during vessel fueling activities to prevent the dispensing of oil into improper portable containers and ensure vessels are properly moored;
  - (c) Located within 15 feet of the dispensing controls during a fueling operation; and
  - (d) That maintains a direct, clear, and unobstructed view of both the vessel fuel filler neck and the emergency pump shutoff.

Note: The majority of this new regulation is derived from codes set by NFPA, which currently are enforceable.

### Affected Small Businesses

A small business marina with a motor fuel dispensing facility.

## Residential Heating Oil Tank Standards

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### **New Requirements**

The draft proposal would establish new regulations under COMAR 26.10.01.13 dedicated to residential heating oil tanks. The draft regulation establishes requirements for the delivery of heating oil to a residential heating oil tank and the use, installation, and permanent closure of a residential heating oil tanks. The requirements are largely based on existing requirements for oil delivery companies in their current permits and existing industry standards. The draft proposed regulations should not have a substantial impact on small businesses as they capture current industry and regulatory practices. The main purpose is to communicate the requirements clearly and concisely in one location in the regulations.

### **Affected Small Businesses**

Any small business that delivers oil to, installs, maintains, repairs, or closes residential heating oil tanks.

## Updates to Oil Transfer and Delivery Requirements

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### **New Requirements**

The draft proposal would update regulations related to the safe delivery and transfer of oil under COMAR 26.10.01.16 through .18. The performance standards ensure a consistent level of environmental protection in regards to oil deliveries and transfers at oil storage and oil handling facilities. Generally, an owner, an operator, and a person in charge of an oil storage or handling facility, a permittee, or a driver is already required to follow the draft regulations through applicable industry standards, recommended practices, and current permit conditions under an Oil Operations Permit issued by the Department. Therefore, the draft proposed regulations should not have a substantial impact on small businesses that are currently in compliance with their permits. The main purpose is to communicate the requirements clearly and concisely in one location in the regulations.

### **Affected Small Businesses**

Any small business that delivers or transfers oil to an oil storage or oil handling facility.

## Requirements for Motor Fuel Dispensing Facilities

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### **New Requirements**

The draft proposal would establish new regulations under COMAR 26.10.01.20 dedicated to standards for motor fuel dispensing facilities. These facilities include typical gas stations, marinas, and fleet fueling facilities and are inclusive of facilities that store motor fuel in ASTs and/or USTs. The draft regulation establishes requirements for these facilities to operate as attended facilities and provides the specific conditions under which a facility could operate as an unattended facility.

To operate as an unattended facility, facility owners and operators would need to have written approval from the Department. An owner or operator would need to demonstrate that the facility and overall operation of a proposed unattended motor fuel dispensing facility meets specific criteria stated in the draft regulation, which is entirely based on NFPA 30A “Code for Motor Fuel Dispensing Facilities and Repair Garages”.

Consistent with NFPA 30A, a marina may not operate as an unattended motor fuel dispensing facility.

### **Affected Small Businesses**

Any small business that dispenses motor fuels.

## Opportunity to Submit Comments

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Comments on the draft regulatory proposal may be submitted to MDE via mail, telephone, email, or fax to:

Chris Ralston, Program Manager

Oil Control Program, Land and Materials Administration

Maryland Department of the Environment

1800 Washington Blvd., Suite 620, Baltimore, Maryland 21230-1719

410-537-3442 (telephone)

410-537-3092 (fax)

[chris.ralston@maryland.gov](mailto:chris.ralston@maryland.gov)

If submitting a written comment, please include “Oil Pollution Control and Storage Tank Management Regulations” in the subject line.

Public comments on the draft proposed regulations will be accepted through **November 2, 2021**. Additional public comments will be accepted by MDE during the mandatory 30-day public comment period required by law for each newly proposed regulation, which begins once a proposed regulation is published in the *Maryland Register*.