



# Maryland Register

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before May 16, 2022 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of May 16, 2022.

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



# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 10 OIL POLLUTION CONTROL AND STORAGE TANK MANAGEMENT

### Notice of Final Action

[22-029-F]

On May 24, 2022, the Secretary of the Environment adopted:

- (1) The repeal of existing Regulations .01—.24 and new Regulations .01—.24 under COMAR 26.10.01 Oil Pollution Control;
- (2) The repeal of existing Regulations .01—.06 and new Regulations .01—.05 under COMAR 26.10.02 Underground Storage Tank Systems;
- (3) The repeal of existing Regulations .01—.10 and new Regulations .01—.10 under COMAR 26.10.03 UST Systems: Design, Construction, Installation, Registration, and Inspection;
- (4) The repeal of existing Regulations .01—.05 and new Regulations .01—.05 under COMAR 26.10.04 UST Systems: General Operating Requirements;
- (5) The repeal of existing Regulations .01—.06 and new Regulations .01—.06 under COMAR 26.10.05 UST Systems: Release Detection;
- (6) The repeal of existing Regulations .01—.12 and new Regulations .01—.09 under COMAR 26.10.06 UST System Technician, Remover, and Inspector Certification;
- (7) The repeal of existing Regulation .01 and new Regulations .01—.08 under COMAR 26.10.07 High Risk Oil Storage Facilities;
- (8) The repeal of existing Regulations .01—.04 and new Regulations .01—.04 under COMAR 26.10.08 Spill, Release, and Discharge Reporting, Investigation, and Confirmation;
- (9) The repeal of existing Regulations .01—.08 and new Regulations .01—.08 under COMAR 26.10.09 Spill, Release, and Discharge Response and Corrective Action;
- (10) The repeal of existing Regulations .01—.05 and new Regulations .01—.05 under COMAR 26.10.10 Out-of-Service UST Systems and Closure;
- (11) The repeal of existing Regulations .01 and .02 and new Regulations .01—.04 under COMAR 26.10.11 UST Financial Responsibility;
- (12) The repeal of existing Regulations .01—.15 and new Regulations .01—.07 under COMAR 26.10.12 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems;
- (13) The repeal of existing Regulations .01—.15 and new Regulations .01—.16 under COMAR 26.10.13 Oil-Contaminated Soil;
- (14) The repeal of existing Regulations .01—.11 and new Regulations .01—.10 under COMAR 26.10.14 Residential Heating Oil Tank System Site Rehabilitation Reimbursement Program;
- (15) The repeal of existing Regulations .01—.06 and new Regulations .01—.07 under COMAR 26.10.15 Management of Used Oil;
- (16) The repeal of existing Regulations .01—.08 and new Regulations .01—.09 under COMAR 26.10.16 Trained Facility Operators;
- (17) New Regulations .01—.14 under a new chapter, COMAR 26.10.17 Shop-Fabricated Aboveground Storage Tanks; and
- (18) New Regulations .01—.13 under a new chapter, COMAR 26.10.18 Field-Erected Aboveground Storage Tanks.

This action, which was proposed for adoption in 49:3 Md. R. 151-247 (January 28, 2022), has been adopted with the nonsubstantive changes shown below.

**Effective Date: June 13, 2022.**

### Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

- COMAR 26.10.01.10D(2)(a), .13C(6), and .14D: Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.01.20E: Clarifying which conditions apply to an owner, an operator, and a person in charge of a motor fuel dispensing facility seeking Department-approval to operate the location as unattended.
- COMAR 26.10.03.02A(1)(c) and .03A(2)(b) and (d)(i), and (3)(c)(iv): Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.03.03A(3)(c): Correcting a numbering error.
- COMAR 26.10.04.03A: Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.05.04A(3): Correcting a numbering error.
- COMAR 26.10.05.05F(1) and (2)(b), and G(1): Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.07.07B(2)(a): Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.12.01A—C, .03A, and .06: Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.17.02B(6) and (12), .03B(1), .06A and B, and .07C(2)(a) and F(1): Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.18.02B(6) and (13), .03B(1), .05A and B, .06B(2)(a) and E(1), and .11E(1) and H(3): Replacing “the effective date of this chapter” with the specific date of “June 13, 2022”.
- COMAR 26.10.18.05B: Correcting a grammar error by deleting an erroneous “a” before “field-erected AST”.

### **26.10.01 Oil Pollution Control**

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

#### **.10 Registration of AST Systems.**

A.—C. (proposed text unchanged)

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

(1) (proposed text unchanged)

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

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

(i) If the AST system is installed on or after [[the effective date of this chapter]] June 13, 2022, within 30 days of installing the AST system; and

(ii) If the AST system was installed before ~~[[the effective date of this chapter]]~~ June 13, 2022, not later than 18 months after ~~[[the effective date of this chapter]]~~ June 13, 2022; and

(b) (proposed text unchanged)

(3) (proposed text unchanged)

### **.13 Residential Heating Oil Tanks.**

A.—B. (proposed text unchanged)

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

(1)—(5) (proposed text unchanged)

(6) If installing an underground residential heating oil tank on or after ~~[[the effective date of this chapter]]~~ June 13, 2022, install a storage tank that is:

(a)—(c) (proposed text unchanged)

D. (proposed text unchanged)

### **.14 Marinas.**

A.—C. (proposed text unchanged)

D. An owner, an operator, and a person in charge of an oil storage tank system installed before ~~[[the effective date of this chapter]]~~ June 13, 2022 that is used for fueling vessels at a marina shall comply with §E of this regulation not later than:

(1) 3 years after ~~[[the effective date of this chapter]]~~ June 13, 2022; or

(2) (proposed text unchanged)

E.—F. (proposed text unchanged)

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

A.—D. (proposed text unchanged)

E. ~~[[The]]~~ Pursuant to §C(2) of this regulation, the Department may provide written approval to an owner, an operator, and a person in charge of a motor fuel dispensing facility to operate the location unattended if the owner, the operator, and the person in charge of the facility:

(1)—(10) (proposed text unchanged)

F.—I. (proposed text unchanged)

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

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

### **.02 Performance Standards for Piping.**

A. On or after January 26, 2005, an owner and an operator of a UST system shall install, upgrade, or replace piping that routinely contains petroleum vapor or a regulated substance in accordance with the following requirements:

(1) Install piping in a UL listed or Department approved secondary containment system that:

(a)—(b) (proposed text unchanged)

(c) With the exception of the vent riser, beginning ~~[[the effective date of this chapter]]~~ June 13, 2022, terminates or connects in a liquid tight containment sump with a sump sensor:

(i)—(iii) (proposed text unchanged)

(2)—(4) (proposed text unchanged)

B.—E. (proposed text unchanged)

### **.03 Spill and Overfill Prevention Equipment.**

A. Except as provided under §C of this regulation, an owner and an operator of a UST system shall use spill and overfill prevention equipment that complies with the requirements of this section.

(1) (proposed text unchanged)

(2) *Overfill Prevention Equipment.* An owner and an operator of a UST system:

(a) (proposed text unchanged)

(b) May not install or replace a flow restrictor in a vent line to comply with §A(2)(a) of this regulation after ~~[[the effective date of this chapter]]~~ June 13, 2022:

(c) (proposed text unchanged)

(d) Shall conduct inspections and functional tests of overfill prevention equipment in accordance with the procedures in §A(2)(c) of this regulation at the following frequency:

(i) Unless an inspection and functional test was conducted before ~~[[the effective date of this chapter]]~~ June 13, 2022, within 1 year of ~~[[the effective date of this chapter]]~~ June 13, 2022;

(ii)—(iii) (proposed text unchanged)

(3) *Containment Sumps.* An owner and an operator of a UST system shall:

(a)—(b) (proposed text unchanged)

(c) Test a containment sump for tightness using a method approved by the Department at the following frequency:

(i)—(iii) (proposed text unchanged)

(iv) If the most recent test conducted on the containment sump occurred before ~~[[the effective date of this chapter]]~~ June 13, 2022, within 5 years of the most recent test; and

~~[[iv)]]~~ (v) (proposed text unchanged)

(4) (proposed text unchanged)

B.—D. (proposed text unchanged)

## **26.10.04 UST Systems: General Operating Requirements**

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

**.03 Periodic Operation and Maintenance Walkthrough Inspections.**

A. Beginning not later than 90 days after *[[the effective date of this chapter]]* June 13, 2022, an owner and an operator of a UST system shall conduct a periodic operation and maintenance walkthrough inspection in accordance with:

(1)—(2) (proposed text unchanged)

B.—D. (proposed text unchanged)

**26.10.05 UST Systems: Release Detection**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland*

**.04 Inventory Control.**

A. *Inventory Variations.*

(1)—(2) (proposed text unchanged)

(3) *Reporting and Investigating Inventory Variations.*

(a)—(c) (proposed text unchanged)

*[[b)]]* *[[d)]]* (proposed text unchanged)

B.—C. (proposed text unchanged)

**.05 Method of Release Detection.**

A.—E. (proposed text unchanged)

F. *Groundwater Monitoring.*

(1) Beginning *[[the effective date of this chapter]]* June 13, 2022, an owner and an operator of a UST system may only use groundwater monitoring as a monthly method of release detection with prior written approval from the Department.

(2) An owner and an operator of a UST system shall conduct groundwater monitoring in accordance with the following requirements:

(a) (proposed text unchanged)

(b) Provide a written report of the site assessment to the Department upon request and, beginning *[[the effective date of this chapter]]* June 13, 2022, ensure the written report is signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the Department; and

(c) (proposed text unchanged)

G. *Interstitial Monitoring.*

(1) Beginning *[[the effective date of this chapter]]* June 13, 2022, an owner and an operator of a UST system may only use interstitial monitoring as a monthly method of release detection between a UST system and a secondary barrier as described in §G(2)(b) of this regulation with prior written approval from the Department.

(2) (proposed text unchanged)

H.—I. (proposed text unchanged)

**26.10.07 High Risk Oil Storage Facilities**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, and 4-701 et seq., Annotated Code of Maryland*

**.07 High Risk Underground Oil Storage Facility.**

A. (proposed text unchanged)

B. *Compliance with Monitoring Methods.* An owner of a high risk underground oil storage facility shall:

(1) (proposed text unchanged)

(2) Begin implementing the monitoring method in accordance with the following schedule:

(a) Within 6 months of *[[the effective date of this chapter]]* June 13, 2022, if the facility meets the size and construction conditions of §A(1)(a) of this regulation;

(b)—(c) (proposed text unchanged)

C.—F. (proposed text unchanged)

**26.10.12 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems**

*Authority: Environment Article, §§4-401, 4-402, 4-405, 4-407—4-411.2, 4-415.1, 4-417, 4-701 et seq., and 7-201 et seq., Annotated Code of Maryland*

**.01 General Requirements.**

A. *Implementation of Requirements.* Except as otherwise provided in Regulations .02—.05 of this chapter, an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system shall comply with requirements of this chapter, COMAR 26.10.02—26.10.11 and 26.10.16 in accordance with the following schedule:

(1) For a UST system installed after *[[the effective date of this chapter]]* June 13, 2022, upon installation of the UST system; and

(2) For a UST system installed on or before *[[the effective date of this chapter]]* June 13, 2022:

(a) (proposed text unchanged)

(b) Comply with the following requirements on and after *[[the effective date of this chapter]]* June 13, 2022:

(i)—(v) (proposed text unchanged)

B. Not later than October 13, 2022, an owner, an operator, and a person in charge of a UST system with a field-constructed tank or an airport hydrant system installed before *[[the effective date of this chapter]]* June 13, 2022 shall register the UST system and maintain up-to-date registration of the UST system with the Department in accordance with COMAR 26.10.03.09.

C. An owner of a UST system with a field-constructed tank or an airport hydrant system in use as of *[[the effective date of this chapter]]* June 13, 2022 shall demonstrate financial responsibility for the UST system at the time of submitting a registration form for the UST system, as required in §B of this regulation.

D. (proposed text unchanged)

**.03 Upgrade Requirements.**

A. Not later than October 13, 2022, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system installed on or before [[the effective date of this chapter]] June 13, 2022 shall comply with the upgrade requirements of this section.

(1)—(2) (proposed text unchanged)

B. (proposed text unchanged)

#### **.06 Applicability of Closure Requirements to Previously Closed UST Systems.**

When directed by the Department, an owner and an operator of a UST system with a field-constructed tank or an airport hydrant system that was permanently closed before [[the effective date of this chapter]] June 13, 2022 shall assess the excavation zone and permanently close the UST system in accordance with COMAR 26.10.10 if a spill, release, or discharge from the UST system may, in the judgment of the Department, pose a current or potential threat to human health and the environment.

### **26.10.17 Shop-Fabricated Aboveground Storage Tanks**

Authority: Environment Article, §§4-401—4-403, 4-405, 4-406, 4-408, 4-410—4-412, 4-415.1—4-418, 4-501, and 4-502, Annotated Code of Maryland

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

A. (proposed text unchanged)

B. *Terms Defined.*

(1)—(5) (proposed text unchanged)

(6) “Existing” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete before [[the effective date of this chapter]] June 13, 2022.

(7)—(11) (proposed text unchanged)

(12) “New” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete on or after [[the effective date of this chapter]] June 13, 2022.

(13)—(21) (proposed text unchanged)

#### **.03 General Requirements.**

A. (proposed text unchanged)

B. Unless otherwise specified in this chapter, an owner, an operator, and a person in charge of an existing AST system with a shop-fabricated AST shall ensure the existing AST system meets the requirements of this chapter not later than:

(1) 2 years after [[the effective date of this chapter]] June 13, 2022; or

(2) (proposed text unchanged)

C.—E. (proposed text unchanged)

#### **.06 Performance Standards for Piping.**

An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST shall:

A. If installing or relocating a shop-fabricated AST on or after [[the effective date of this chapter]] June 13, 2022, install piping that does not penetrate a secondary containment dike, unless otherwise approved by the Department;

B. Ensure an existing shop-fabricated AST meets the following requirements:

(1) For piping connected to an AST penetrating a secondary containment dike:

(a) (proposed text unchanged)

(b) Properly abandon and replace the piping not later than 1 year after [[the effective date of this chapter]] June 13, 2022 with piping that does not penetrate the secondary containment dike; and

(2) For underground piping connected to an AST, ensure the piping complies with the underground piping requirements in §E of this regulation not later than 1 year after [[the effective date of this chapter]] June 13, 2022;

C.—E. (proposed text unchanged)

#### **.07 Secondary Containment.**

A.—B. (proposed text unchanged)

C. *Compliance Schedule.*

(1) (proposed text unchanged)

(2) Unless otherwise provided in this regulation, an owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has an existing secondary containment dike shall meet the requirements in §§D—J of this regulation not later than:

(a) 2 years after [[the effective date of this chapter]] June 13, 2022; or

(b) (proposed text unchanged)

D.—E. (proposed text unchanged)

F. An owner, an operator, and a person in charge of an AST system with a shop-fabricated AST that has an earthen secondary containment dike shall conduct permeability testing on the earthen secondary containment dike according to the following requirements:

(1) For an existing earthen secondary containment dike that has not been previously tested for permeability, test the existing earthen secondary containment dike for permeability using an industry standard approved by the Department not later than 1 year after [[the effective date of this chapter]] June 13, 2022;

(2)—(3) (proposed text unchanged)

G.—J. (proposed text unchanged)

### **26.10.18 Field-Erected Aboveground Storage Tanks**

Authority: Environment Article, §§4-401—4-403, 4-405, 4-406, 4-408, 4-410, 4-411, 4-412, 4-415.1—4-418, 4-501, and 4-502, Annotated Code of Maryland

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

A. (proposed text unchanged)

B. *Terms Defined.*

(1)—(5) (proposed text unchanged)

(6) “Existing” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete before [[the effective date of this chapter]] June 13, 2022.

(7)—(12) (proposed text unchanged)

(13) “New” means the installation or construction of an AST, an AST system, or a secondary containment dike was complete on or after [[the effective date of this chapter]] June 13, 2022.

(14)—(18) (proposed text unchanged)

### **.03 General Requirements.**

A. (proposed text unchanged)

B. Unless otherwise specified in this chapter, an owner, an operator, and a person in charge of an existing AST system with a field-erected AST shall ensure the AST system meets the requirements of this chapter not later than:

(1) 2 years after [[the effective date of this chapter]] June 13, 2022; or

(2) (proposed text unchanged)

C.—E. (proposed text unchanged)

### **.05 Performance Standards for Piping.**

An owner, an operator, and a person in charge of an AST system with a field-erected AST shall:

A. If installing or relocating a field-erected AST on or after [[the effective date of this chapter]] June 13, 2022, install piping that does not penetrate a secondary containment dike, unless otherwise approved by the Department;

B. Ensure an existing [[a]] field-erected AST meets the following requirements:

(1) For piping connected to an AST penetrating a secondary containment dike:

(a) (proposed text unchanged)

(b) Properly abandon and replace the piping not later than 1 year after [[the effective date of this chapter]] June 13, 2022 with piping that does not penetrate the secondary containment dike; and

(2) For underground piping connected to an AST, ensure the piping complies with the underground piping requirements in §E of this regulation not later than 1 year after [[the effective date of this chapter]] June 13, 2022;

C.—E. (proposed text unchanged)

### **.06 Secondary Containment.**

A. (proposed text unchanged)

B. Compliance Schedule.

(1) (proposed text unchanged)

(2) Unless otherwise provided in this regulation, an owner, an operator, and a person in charge of an AST system with a field-erected AST that has an existing secondary containment dike shall meet the requirements in §§C—H of this regulation not later than:

(a) 2 years after [[the effective date of this chapter]] June 13, 2022; or

(b) (proposed text unchanged)

C.—D. (proposed text unchanged)

E. An owner, an operator, and a person in charge of an AST system with a field-erected AST that has an earthen secondary containment dike shall conduct permeability testing on the earthen secondary containment dike according to the following requirements:

(1) For an existing earthen secondary containment dike that has not been previously tested for permeability, test the existing earthen secondary containment dike for permeability using an industry standard approved by the Department not later than 1 year after [[the effective date of this chapter]] June 13, 2022;

(2)—(3) (proposed text unchanged)

F.—I. (proposed text unchanged)

### **.11 Inspection Requirements for an AST System.**

A.—D. (proposed text unchanged)

E. Ultrasonic Thickness Inspections. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall use ultrasonic thickness measurements of the external AST shell to determine shell integrity according to the following requirements:

(1) If the corrosion rate is unknown for a field-erected AST, complete an initial ultrasonic thickness inspection not later than 2 years after [[the effective date of this chapter]] June 13, 2022;

(2)—(4) (proposed text unchanged)

F.—G. (proposed text unchanged)

H. Internal Inspections. An owner, an operator, and a person in charge of an AST system with a field-erected AST shall have an internal inspection of a field-erected AST performed on the field-erected AST according to the following requirements:

(1)—(2) (proposed text unchanged)

(3) Complete an initial internal inspection on an existing field-erected AST that contains oil not later than 2 years after [[the effective date of this chapter]] June 13, 2022;

(4)—(8) (proposed text unchanged)

BENJAMIN H. GRUMBLES  
Secretary of the Environment