

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of the Environment**
(DLS Control No. 15-230)

Overview and Legal and Fiscal Impact

The regulations eliminate application and retesting fees for certain certifications issued through the Department of the Environment's Oil Control Program.

The regulations present no legal issues of concern.

Special fund revenues decrease by approximately \$47,470 annually beginning in fiscal 2016 as a result of the elimination of certain fees.

Regulation of COMAR Affected

Department of the Environment:

Oil Pollution and Tank Management: Underground Storage System Technician, Remover, and Inspector Certification:
COMAR 26.10.06.02-.05, .09, and .12

Legal Analysis

Background

The Oil Control Program (OCP) within the Land Management Administration of the department regulates oil-related activities in the State, such as aboveground and underground oil storage facilities, oil-contaminated soil treatment facilities, and oil transportation. The OCP oversees the installation, maintenance, operation, and removal of oil storage tanks. Although OCP staff handle some of these responsibilities themselves, the OCP also administers a certification program for private underground storage system technicians, heating oil technicians, removers, and inspectors. Currently, applicants for these certifications must pay an application fee ranging from \$100 to \$300, depending on the certification. Application fees are deposited to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund.

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. These regulations, which eliminate application and re-testing fees for the certifications described above, are part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

The regulations eliminate application fees for underground storage system technician, underground storage system heating oil technician, underground storage system remover, and underground storage system inspector certifications. The regulations also eliminate retesting fees for these certifications. All other certification requirements remain the same.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 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 through 4-708, and 7-201 through 7-268 of the Environment Article as statutory authority for the regulations. Of these, §§ 4-405, 4-411, and 4-411.1 are the most relevant. Section 4-405(a)(7) gives the department broad authority to “adopt, modify, repeal, and promulgate, after due notice and hearing, and enforce rules and regulations implementing or effectuating its powers and duties” relating to water pollution control and abatement. Subsection (b) of this section further empowers the department to regulate the transfer and storage of oil and other unctuous substances. Section 4-411(f) establishes the Maryland Oil Disaster Containment, Clean-up and Contingency Fund, and requires all license fees, specified fines, and any other charges related to water pollution control and abatement to be credited to the Fund. Finally, § 4-111.1 authorizes the department to adopt regulations relating to the registration of underground oil storage facilities.

The remaining cited authority is not relevant for these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

Special fund revenues decrease by approximately \$47,470 annually beginning in fiscal 2016 as a result of the elimination of certain fees.

Agency Estimate of Projected Fiscal Impact

The department estimates that special fund revenues to the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund decrease by approximately \$47,470 annually beginning in fiscal 2016 from the elimination of application fees for certifications for underground storage tank technicians (\$200), heating oil technicians (\$100), removers (\$150), and inspectors (\$300). This estimate is based on the average fee revenue from fiscal 2011 to 2015. The Department of Legislative Services concurs.

Impact on Budget

There is no material impact on the State operating or capital budget. The fiscal 2015 closing balance of the Maryland Oil Disaster Containment, Clean-up, and Contingency Fund was \$5.4 million. Thus, the decrease in fee revenue can likely be absorbed with existing resources.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a meaningful economic impact on small businesses in the State. The regulations may affect as many as 197 small businesses in the State and result in cumulative savings of up to \$24,135 annually. The Department of Legislative Services concurs to the extent that small businesses cover certification costs for employees.

Contact Information

Legal Analysis: April M. Morton – (410) 946/(301) 970-5350

Fiscal Analysis: Kathleen P. Kennedy – (410) 946/(301) 970-5510