

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/14/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/16/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

26 10 06 02 - .05, .09, and .12

3. Name of Promulgating Authority

Department of the Environment

4. Name of Regulations Coordinator

Ed Hammerberg

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5. Name of Person to Call About this Document

Christopher Ralston

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410-537-3470

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6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: 9/2/2015.
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Priscilla Carroll, Assistant Attorney General, (telephone #410-537-3039) on 9/11/2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Benjamin H. Grumbles

Title

Secretary

Telephone No.

410-537-4187

Date

9/11/2015

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

26.10.06 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

Notice of Proposed Action

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The Secretary of the Environment proposes to amend Regulations .02, .03, .04, .05, .09, and .12 under COMAR 26.10.06 Underground Storage System Technician, Remover, and Inspector Certification.

Statement of Purpose

The purpose of this action is to eliminate fees associated with certain certifications issued through the Oil Control Program.

The amendments address the following topics:

COMAR 26.10.06

- MDE Certified Underground Storage System Technician.
The \$200 application fee is being eliminated.
- MDE Certified Underground Storage System Heating Oil Technician.
The \$100 application fee is being eliminated.
- MDE Certified Underground Storage System Remover.
The \$150 application fee is being eliminated.
- MDE Certified Underground Storage System Inspector.
The \$300 application fee is being eliminated.
- Retesting Fees.

The retesting fee (equivalent to the application fee) is being eliminated for all four certification categories.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

Fiscal impacts of the proposed amendments related to the Underground Storage Tank (UST) System certifications are expected to be \$48,270 annually (this was the 5-year average from fiscal years 2011 through 2015 with a range between \$44,300 and \$52,500). The revenue is based upon the application fees paid by contractors to obtain various UST System certifications every two years. The affected industry will benefit by not having to pay these fees.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R-)	\$48,270 annually
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$48,270 annually
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

- A. The proposed amendments will be able to be implemented using existing resources.
- B. Other State agencies are not generally engaged in the activities affected by the proposed amendments.
- C. Local governments are not generally engaged in the activities affected by the proposed amendments.
- D. Persons who apply to obtain these certifications will no longer pay the associated fees.

Economic Impact on Small Businesses

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

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

The intended beneficiaries are primarily businesses and individuals holding certificates for the UST related work.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Not applicable.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

The intended beneficiaries are generally businesses. It is estimated that 25% to 50% of these businesses may be considered small businesses. There are 394 active UST System Certifications at the close of FY2015. Based on the projected revenue reduction and the estimated number of affected small businesses, there is a projected annual savings of \$12,068 to \$24,135 to the small business community in Maryland. The present total payroll or total employment of these small businesses cannot be estimated.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

Disproportionate adverse impacts on Maryland small businesses are not expected.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

The expected positive impacts on small businesses as a result of the proposed action are

the savings in annual fees discussed in 1c.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

No long-term aggravating or mitigating impacts are expected.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

The impacts in the stated categories are expected to be minimal, if any.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Christopher Ralston, Program Administrator, Oil Control Program, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 610, Baltimore, Maryland 21230-1720, or call 410-537-3470, or email to chris.ralston@maryland.gov, or fax to 410-537-3092. Comments will be accepted through November 16, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special: Oil Disaster Containment, Clean-Up, and Contingency Fund.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Small Business Analysis Worksheet

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The intended beneficiaries are primarily businesses and individuals holding certificates for the UST related work.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Not applicable.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

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The expected positive impacts on small businesses as a result of the proposed action are the savings in annual fees discussed in 1c.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

No long-term aggravating or mitigating impacts are expected.

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The impacts in the stated categories are expected to be minimal, if any.

Attached Document:

Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

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

.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; *and*

(2) There is verifiable proof of:

(a) (text unchanged)

(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; *and*

(2) There is verifiable proof of:

(a) (text unchanged)

(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. (text unchanged)

.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] §§ B – C of this regulation are met.

B.—C. (text unchanged)

[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) (text unchanged)

(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; *and*

(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. (text unchanged)

.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.]

An individual who takes but does not pass a test required under Regulation .02, .03, or .04 of this chapter may retest at a scheduled test offering.

.09 Terms and Renewal of Certification.

A.—C. (text unchanged)

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

.12 Reciprocity.

A. (text unchanged)

B. To obtain reciprocity certification, a person shall:

(1) (text unchanged)

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

(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. (text unchanged)