

US EPA ARCHIVE DOCUMENT

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Notice of Proposed Action

[00-202-P]

The Secretary of the Environment proposes to:

(1) Amend Regulations .01, .03, .04, and .05 under COMAR 26.13.01 Hazardous Waste Management System: General;

(2) Amend Regulations .01 — .04, .04-1, .04-4, .04-5, .05, .06, .12, .14, .15 — .17, .19, .23, and .24, repeal Regulations .21, .22, and .25, and adopt Regulations .21 and .22 under COMAR 26.13.02 Identification and Listing of Hazardous Waste;

(3) Amend Regulations .01, .04 — .07, .07-1, .07-2, and .07-4 under COMAR 26.13.03 Standards Applicable to Generators of Hazardous Waste;

(4) Amend Regulations .01, .02, .05, .06, .06-2, .06-3, .07, .08, .10, .10-2, .10-4, .10-6, .11, .12, .14, .16-1, .19, and .20, repeal Regulations .15, .17, and .18, and recodify Regulation .01 under COMAR 26.13.06 Site Selection for CHS Facilities to be Regulation .02-1 under COMAR 26.13.05 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities;

(5) Adopt Regulations .01 — .27 under COMAR 26.13.06 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities;

(6) Amend Regulations .01, .02, .02-1, .02-3, .02-5, .02-6, .03, .04 — .06, .13-1, .13-2, .13-3, .14, .17, and .20, and adopt new Regulations .03-1 and .23 under COMAR 26.13.07 Permits for CHS Facilities;

(7) Repeal Regulation .01 under COMAR 26.13.09 Enforcement; and

(8) Amend Regulations .01 — .04 under COMAR 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.

Statement of Purpose

The purpose of this action is to revise requirements governing the management of hazardous waste during the period of "interim status". This refers to a period following the effective date of a statutory or regulatory amendment that subjects a facility to permit requirements for activities that the facility was engaged in on the effective date of the amendment. Interim status standards provide a mechanism for the facility to continue to operate until final action is completed on permitting with respect to the new requirements.

In general, this action is not a substantial change from current requirements. The principal effect is to revise the State's regulations so that their structure is closer to corresponding federal regulations. In addition, a number of minor changes to the State's regulations have been made to remove inconsistencies with corresponding federal regulations, or to make the State's regulations at least as stringent as corresponding federal regulations.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed regulation, but the proposed regulation is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing concerning the adoption of these amendments on August 1 at 9:30 a.m. in the State Office Building Auditorium located at 300 W. Preston Street, Baltimore, Maryland 21201.

All interested persons are invited to attend and give their views. Any hearing impaired person may request an interpreter to be present at the hearing by giving 5 working days notice to Gail Castleman at (410) 631-3441.

Comments may be sent to Gail Castleman, WAS Regulations Coordinator, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224. These comments must be received not later than July 31, 2000.

26.13.01 Hazardous Waste Management System: General

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.01 General.

A. (text unchanged)

B. In this chapter:

(1) — (3) (text unchanged)

(4) Regulation .04B establishes procedures for petitioning the Department to approve testing methods as equivalent to those prescribed in COMAR 26.13.02 [or], 26.13.05, or 26.13.06.

(5) (text unchanged)

C. (text unchanged)

.03 Definitions.

A. (text unchanged).

B. Terms Defined.

(1) — (10) (text unchanged)

(10-1) "Controlled hazardous substance" means a hazardous waste as defined in COMAR 26.13.02, except as provided in COMAR 26.13.02.06.

[(10-1)] (10-2) (text unchanged)

(11) (text unchanged)

(12) "Designated facility" means a hazardous waste treatment, storage, [or] disposal, or recycling facility which [is authorized under federal and applicable State law for treatment, storage, or disposal of the hazardous waste it is accepting, and] has been designated on the manifest by the generator under COMAR 26.13.03.04[.] and:

(a) Has received a permit or interim status in accordance with the requirements of COMAR 26.13.07, or 40 CFR 270 and 124;

(b) Is located in a state authorized in accordance with 40 CFR 271 which:

(i) Has received a permit or interim status, or

(ii) Is allowed by the state to accept the waste that is being shipped, if the state has not yet obtained authorization to regulate that particular waste as hazardous;

(c) Has received a permit or interim status from a state authorized in accordance with 40 CFR 271; or

(d) Is regulated under COMAR 26.13.02.06C(2), COMAR 26.13.10.04, 40 CFR §261.6(c)(2), 40 CFR Part 266, Subpart F, or analogous authorities in other states.

(13) — (22-1) (text unchanged)

(22-2) "Explosive or munitions emergency" means a situation that:

(a) In the professional opinion of an explosive or munitions emergency response specialist, creates an actual or imminent threat to:

(i) Human health, including safety, or

(ii) The environment, including property; and

(b) May require immediate and expeditious action by an explosives or munitions specialist to control, mitigate, or eliminate the threat involving the suspected or detected presence of:

(i) Unexploded ordnance (UXO),

(ii) Damaged explosives or munitions,

(iii) Deteriorated explosives or munitions,

(iv) An improvised explosive device (IED),

(v) Some other material or device that is potentially explosive, or

(vi) Some other potentially harmful military chemical munition or device.

(22-3) "Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency, including:

(a) For example, the following activities:

(i) In-place render-safe procedures,

(ii) Treatment or destruction of explosives or munitions, or

(iii) Transporting explosives or munitions to another location to be rendered safe, treated, or destroyed;

(b) Activities undertaken to deal with an explosives or munitions emergency after a reasonable delay caused by a necessary, unforeseen, or uncontrollable circumstance; and

(c) Activities undertaken to deal with an explosives or munitions emergency on public lands, on private lands, at RCRA facilities, and at locations that are not RCRA facilities.

(22-4) "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques, including:

(a) Department of Defense (DOD) emergency explosive ordnance disposal (EOD) personnel;

(b) DOD technical escort unit (TEU) personnel;

(c) DOD-certified civilian or contractor personnel; and

(d) Other federal, State, or local government or civilian personnel trained in explosives or munitions emergency responses similar to the individuals identified in §B(22-4)(a) — (c) of this regulation.

(23) — (24) (text unchanged)

(25) "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under COMAR 26.13.05 and 26.13.06 are no [no] longer conducted at the facility unless subject to the provisions in COMAR 26.13.03.05E.

(26) — (32) (text unchanged)

(33) "Hazardous waste incinerator" means [an enclosed device using controlled flame combustion, which is used to thermally break down hazardous waste and which is subject to the performance requirements of COMAR 26.13.05.15 or .16 and neither meets the criteria for classification as a boiler nor is listed as an industrial furnace. Examples are rotary kiln hazardous waste incinerators, fluidized bed hazardous waste incinerators, and liquid injection hazardous waste incinerators.] an enclosed device that:

(a) Uses controlled flame combustion, does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, and is not listed as an industrial furnace; or

(b) Meets the definition of infrared incinerator or plasma arc incinerator.

(34) — (40) (text unchanged)

(40-1) "Infrared incinerator" means an enclosed device that:

(a) Uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion; and

(b) Is not listed as an industrial furnace.

[(40-1)] (40-2) (text unchanged)

(41) — (42-1) (text unchanged)

(42-2) "Interim status" means:

(a) The period of time beginning when the owner or operator complies with COMAR 26.13.06.01B(2), and ending when the owner or operator:

(i) Obtains a CHS permit under COMAR 26.13.07,

(ii) Meets the requirements of COMAR 26.13.06.07 — .15, or

(iii) Has the interim status terminated under COMAR 26.13.07.23D; or

(b) A designation by the Secretary that the owner or operator of an affected hazardous waste management facility has met the requirements of COMAR 26.13.06.01B(2) — (4) and 26.13.07.23A.

(43) — (50) (text unchanged)

(51) "Manifest document number" means the combination of the U.S. EPA 12-digit identification number assigned to a generator and the serially increasing number assigned to the manifest by the generator for recording and reporting purposes.

(52) — (59) (text unchanged)

(59-1) "Part A" means information submitted to satisfy the informational requirements of COMAR 26.13.07.02D(1) — (14).

(59-2) "Part B" means information submitted to satisfy the informational requirements of COMAR 26.13.07.02D(15) — (38), .02-1 — .02-11, and any additional information requested by the Secretary in connection with an application for a CHS facility permit.

(60) "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of COMAR 26.13.05 and 26.13.06 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

(61) (text unchanged)

(62) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous

te facility, and whose actions or failure to act may result in noncompliance with the requirements of COMAR 26.13.05 or 26.13.06.

(62-1) "Plasma arc incinerator" means an enclosed device that:

(a) Uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion; and

(b) Is not listed as an industrial furnace.

(63) — (64) (text unchanged)

(64-1) "Primary exporter" means a person who is:

(a) Required to originate the manifest for a shipment of hazardous waste in accordance with COMAR 26.13.03.04, [40 CFR §262.20, or equivalent provision of another state's regulations,] who specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent; or

(b) (text unchanged)

(65) (text unchanged)

(65-1) "Qualified ground water scientist" means a scientist or engineer who:

(a) Has received a baccalaureate or a post-graduate degree in the natural sciences or engineering;

(b) Is able to make sound professional judgements regarding ground water monitoring and contaminant fate and transport as a result of having obtained sufficient training and experience in ground water hydrology and related fields; and

(c) Is able to demonstrate the capability described in §B(65-1)(b) of this regulation by having:

(i) Obtained relevant state registration,

(ii) Obtained relevant professional certifications, or

(iii) Completed relevant accredited university

courses.

(66) — (72) (text unchanged)

(72-1) "Sludge dryer" means an enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu per pound of sludge treated on a wet-weight basis.

(73) — (84) (text unchanged)

(85) Treatability Study.

(a) "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine whether the waste is amenable to the treatment process, what pretreatment if any is required, the optimal process conditions needed to achieve the desired treatment, the efficiency of a treatment process for a specific waste or wastes, or the [characteristic] characteristics and volumes of residuals from a particular treatment process.

(b) (text unchanged)

(86) — (96) (text unchanged)

.04 Rulemaking Petitions.

A. General.

(1) Any person may petition the Secretary to modify or revoke any provision in this subtitle. This section sets forth the general requirements which apply to these petitions. Section B sets forth additional requirements for petitions to add a testing or analytical method to COMAR 26.13.02 [or, 26.13.05, or 26.13.06. Section C sets forth additional requirements for petitions to exclude a waste at a particular facility from COMAR 26.13.02.03 or the lists of hazardous wastes in COMAR 26.13.02.15 — .19.

(2) — (5) (text unchanged)

B. Petitions for Equivalent Testing or Analytical Methods.

(1) Any person seeking to add a testing or analytical method to COMAR 26.13.02 [or, 26.13.05, or 26.13.06] may petition for a regulatory amendment under this section and §A[, above] of this regulation. To be successful, the person [must] shall demonstrate to the satisfaction of the Secretary that the proposed method is equal to or superior to the corresponding method prescribed in COMAR 26.13.02, [or] 26.13.05, or 26.13.06 in terms of its sensitivity, accuracy, and precision[()], that is, its reproducibility[()].

(2) Each petition shall include, in addition to the information required by §A(2) of this regulation:

(a) — (b) (text unchanged)

(c) Comparative results obtained from using the relevant or corresponding methods prescribed in COMAR 26.13.02 [or, 26.13.05, or 26.13.06];

(d) — (e) (text unchanged)

(3) (text unchanged)

C. Petitions to Amend COMAR 26.13.02 to Exclude a Waste Produced at a Particular Facility.

(1) — (3) (text unchanged)

(4) For waste listed with code "T" in COMAR 26.13.02.15 — .19:

(a) The petitioner shall demonstrate that the waste:

(i) Does not contain the constituent or constituents, as defined in COMAR [26.13.02.24] 26.13.02.23, that caused the Secretary to list the waste, using the appropriate test methods prescribed in [COMAR 26.13.02.22] "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in Regulation .05 of this chapter, or

(ii) (text unchanged)

(b) — (d) (text unchanged)

(5) — (10) (text unchanged)

[(11) The Secretary may (but is not required to) grant a temporary exclusion before making a final decision under Regulation .04A(4) whenever he finds that there is a substantial likelihood that an exclusion will be finally granted. The Secretary will publish notice of a temporary exclusion in the Maryland register.]

D. (text unchanged)

E. Standards and Criteria for Variances from Classification as a Solid Waste.

(1) The Secretary may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The Secretary's decision will be based on all of the following standards and criteria:

(a) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur[. For], as evidenced by, for example, [because of] past practices, market factors, the nature of the material, or contractual arrangements for recycling.

(b) — (e) (text unchanged)

(2) The Secretary may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part

of the production process. This determination will be based on the following criteria:

(a) — (e) (text unchanged)

(f) Whether the reclaimed material is used for the [purposes] purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(g) — (h) (text unchanged)

(3) (text unchanged)

F. — H. (text unchanged)

I. Procedures for Case-By-Case Regulation of Hazardous Waste Recycling Activities. The Secretary shall use the following procedures when determining whether to regulate hazardous waste recycling activities described in COMAR 26.13.02.06A(2)(b)(iii), under the provisions of COMAR 26.13.02.06B and C, rather than under the provisions of COMAR [26.13.10] 26.13.10.03:

(1) If a generator is accumulating the waste[, the]:

(a) The Secretary [will] shall issue a notice setting forth the factual basis for the decision to regulate and stating that the person shall comply with the applicable requirements of COMAR 26.13.03.01 — .03 and .05 — .07[.];

(b) The notice referred to in §I(1)(a) of this regulation [shall become] becomes final within 30 days, unless the person served challenges the decision[.]; and

(c) [Upon challenge] If the person who is served a notice under §I(1)(a) of this regulation challenges the serving of the notice, the Secretary shall:

(i) Hold a public hearing[.];

(ii) [will provide] Provide notice of the public hearing to the public and allow public participation at the hearing[.];

(iii) [The Secretary shall issue] Issue a final order after the public hearing stating whether or not compliance with COMAR 26.13.03 is required[.];

(iv) [The order becomes] Make the order required by §I(1)(c)(iii) of this regulation effective 30 days after [receipt of the decision] it is received by the person to whom it is directed, unless the Secretary specifies a later date.

(2) If the person is accumulating the recyclable material as a storage facility, the Secretary shall issue a notice [shall state] stating that the person shall obtain a permit in accordance with all applicable provisions of COMAR 26.13.07. [The owner or operator of the facility shall apply for a permit within not less than 60 days and not more than 6 months of notice, as specified in the notice.]

(3) The following additional requirements apply in instances when the person is accumulating the recyclable material as a storage facility:

(a) The owner or operator of the facility shall apply for a permit within not less than 60 days and not more than 6 months of notice under §I(2) of this regulation, as specified in the notice;

(b) The owner or operator of the facility may challenge the Secretary's decision under §I(2) of this regulation to require a permit in:

(i) The permit application,

(ii) A public hearing held on the draft permit, or

(iii) Comments filed on the draft permit or the notice of intent to deny the permit;

(c) The Secretary shall specify in the fact sheet accompanying the permit for the storage facility the reasons for the Secretary's determination that a permit is required; and

(d) The question of whether the Secretary's decision to require a permit was proper remains open for consideration during the public comment period associated with the permit and in any subsequent hearing on the permit.

.05 Incorporation by Reference.

A. When used in COMAR 26.13.01 — 26.13.10, the following publications are incorporated by reference:

(1) — (3) (text unchanged)

(4) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, Third Edition (1986), as amended by Update I (July, 1992), Update II (September, 1994), Update IIA (August, 1993), and Update IIB (January, 1995). Refer to 40 CFR §260.11 for information on availability of these documents.

B. [(Reserved)] Incorporation of Federal Regulations by Reference.

(1) As qualified by §B(2) of this regulation, certain federal regulations are incorporated by reference as follows:

(a) When used in COMAR 26.13.05, 40 CFR §§144.3 and 264.140 — 264.151 as of July 1, 1998, are incorporated by reference;

(b) When used in COMAR 26.13.06, the federal regulations as of July 1, 1998, in 40 CFR §§265.90 — 265.94, 265.140 — 265.148, 265.270 — 265.282, 265.340 — 265.351, 265.370 — 265.382, and 265.400 — 265.406 are incorporated by reference; and

(c) When used in COMAR 26.13.01 — 26.13.10, the federal regulations as of July 1, 1998, in 40 CFR Part 264, Appendix IX Ground Water Monitoring List, 40 CFR Part 261, Appendix III Chemical Analysis Test Methods, and 49 CFR 173, 178, and 179 are incorporated by reference.

(2) References to Other Federal Regulations in Federal Regulations That Have Been Incorporated by Reference.

(a) For the purposes of this subtitle, a reference to a federal regulation within a federal regulation that has been incorporated by reference in §B(1) of this regulation shall be to the analogous provision within the Code of Maryland Regulations.

(b) The following table lists federal regulations and the analogous provisions within the Code of Maryland Regulations:

40 CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision
§122.72(c). Note that, although there is a cross-reference to this citation in 40 CFR §265.276, it has been recodified. The current citation for this provision is 40 CFR §270.72(a)(3).	26.13.07.23C(1)(c)
§124.5	26.13.07.20B
§144.62(a) — (c)	No analog. Maryland prohibits underground injection.
§144.70(f)	No analog. Maryland prohibits underground injection.
§260.10	26.13.01.03
§261.3(c) and (d)	26.13.02.03C and D
Part 261, Subpart C	26.13.02.10 — .14
§261.21	26.13.02.11
§261.22	26.13.02.12
§261.23	26.13.02.13
§261.23(a)(4) and (5)	26.13.02.13A(4) and (5)
§261.23(a)(1) — (3) and (6) — (8)	26.13.02.13A(1) — (3) and (6) — (8)

CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision	40 CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision
§ 61.24	26.13.02.14	§265.178	Maryland has not adopted regulations governing organic air emissions from containers. Use 40 CFR §265.178.
Part 261, Subpart D	26.13.02.15 — .19		
Part 261, Appendix VIII	26.13.02.24		
Part 262	26.13.03		
Part 263	26.13.04		
Part 264	26.13.05	Part 265, Subpart J	26.13.06.18
§264.1	26.13.05.01A	§265.197	26.13.06.18D
§264.17(b)	26.13.05.02H(2)	Part 265, Subpart K	26.13.06.19
§264.111	26.13.05.07B	§265.228	26.13.06.19B(4) and
§264.112	26.13.05.07C		26.13.05.11G(1) — (2)
§264.112(b)	26.13.05.07C(2)	§265.258	26.13.06.20B(6) and
§264.113	26.13.05.07D		26.13.05.12I(1) — (2)
§264.113(d)	26.13.05.07D(6)	§§265.270 — 265.282 (Part	26.13.06.21
§264.114	26.13.05.07E	265, Subpart M)	
§264.115	26.13.05.07F	§265.310	26.13.06.22B(3) and
§264.117	26.13.05.07G		26.13.05.14J
§264.118	26.13.05.07H	§§265.340 — 265.351 (Part	26.13.06.23
§264.119	26.13.05.07I	265, Subpart O)	
§264.120	26.13.05.07J	§§265.370 — 265.382 (Part	26.13.06.24
§§264.140 — 264.151 (Part	26.13.05.08	265, Subpart P)	26.13.06.25
264, Subpart H)		§§265.400 — 265.406 (Part	
§264.178	26.13.05.09I	265, Subpart Q)	
§264.197	26.13.05.10-7	Part 265, Appendix III	No analog. Use 40 CFR Part
§264.228	26.13.05.11G		265, Appendix III.
§264.258	26.13.05.12I	Part 265, Appendix V	No analog. Use 40 CFR Part
§264.280	26.13.05.13K		265, Appendix V.
§264.310	26.13.05.14J	Part 266	26.13.10
Part 264, Subpart O	26.13.05.16	Part 268	No analog. Use 40 CFR 268.
§264.351	26.13.05.16E	§270.14	26.13.07.02D(15) — (19) and
§264.601 — 264.603 (Part	26.13.05.16-1		(20) — (38), and 26.13.07.02-
4, Subpart X)			1 — .02-11
Part 265	26.13.06	§270.19	26.13.07.02-6
§265.1	26.13.06.01A	§270.41(a)(5)	26.13.07.11B(4)
§265.13	26.13.06.02A — C and	§270.62	26.13.07.17
	26.13.05.02D		
§265.15(c)	26.13.06.02A, D, E and		
	26.13.05.02F		
§265.17(b)	26.13.06.02A and		
	26.13.05.02H(2)		
§265.21	26.13.02.11		
§265.73	26.13.06.05A, B(1) — (4), C		
	and 26.13.05.05D		
§§265.90 — 265.94 (Part	26.13.06.06		
265, Subpart F)			
§265.111	26.13.06.07B		
§265.112	26.13.06.08		
§265.112(b)	26.13.06.08B — C		
§265.113	26.13.06.09		
§265.113(d)	26.13.06.09H		
§265.114	26.13.06.10		
§265.115	26.13.06.11		
Part 265, Subpart G	26.13.06.12		
§265.117	26.13.06.12C		
§265.118	26.13.06.13		
§265.119	26.13.06.14		
§265.120	26.13.06.15		
§§265.140 — 265.148 (Part	26.13.06.16		
265, Subpart H)			

C. When used in COMAR 26.13.01 — 26.13.10, the following federal statutory provisions are incorporated by reference:

(1) The minimum technological requirements of:

(a) §3004(o)(1) of RCRA.

(b) §3004(o)(2) and (3) of RCRA, except that "the Administrator" shall be replaced by "the Administrator or the Secretary";

(2) The requirements concerning interim status surface impoundments in:

(a) §3005(j)(1) — (4) of RCRA, and

(b) §3005(j)(13) of RCRA, except that the phrase "The Administrator may modify the requirements of paragraph (1)" shall be replaced by the phrase "The Administrator or the Secretary may modify the requirements of paragraph (1)";

(3) The notification requirements of §3010 of RCRA; and

(4) The requirements concerning exposure information in §3019 of RCRA.

26.13.02 Identification and Listing of Hazardous Waste

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.01 Purpose and Scope.

A. This chapter identifies those solid wastes which are subject to regulation as hazardous wastes under COMAR 26.13.03 — [26.13.05] 26.13.10.

B. In this chapter:

(1) Regulations .01 — [.06] .07 define the terms "solid waste" and "hazardous waste", [identifies] *identify*, those wastes which are excluded from regulation under COMAR 26.13.03 — [.05] 26.13.07 and 26.13.10 and [establishes], *establish* special management requirements for hazardous waste produced by small quantity generators and hazardous waste which is used, re-used, recycled, or reclaimed.

(2) — (4) (text unchanged)

C. (text unchanged)

.02 Definitions of Solid Waste.

A. — (text unchanged)

F. Documentation of Claims That Materials Are Not Solid Wastes or Are Conditionally Exempt from Regulation.

(1) [respondents] A respondent in [actions] an action to enforce regulations implementing Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, who [raise] *raises* a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, shall demonstrate that:

(a) [there] *There* is a known market or disposition for the material[.]; and

(b) [they] *The respondent* [meet] *meets* the terms of the exclusion or exemption.

(2) [In doing so, they] *To satisfy the requirements of §F(1) of this regulation, a person shall provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process to demonstrate that the material is not a waste, or is exempt from regulation.*

(3) In addition to meeting the requirements of §F(2) of this regulation, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment to do so.

G. (text unchanged)

.03 Definition of Hazardous Waste.

A. (text unchanged)

A-1. Any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under Regulation .04-1A(7) of this chapter and any other solid waste which exhibits a characteristic of hazardous waste under Regulations .10 — .14 of this chapter, is a hazardous waste only under the following circumstances:

(1) The mixture exhibits a characteristic that would not have been exhibited by the excluded waste alone if this mixture had not occurred; [or]

(2) The mixture continues to exhibit any of the characteristics exhibited by the non-excluded wastes before mixture[.]; or

(3) *The mixture exhibits the characteristic of toxicity and either of the following conditions hold:*

(a) *one or more of the contaminants that cause the mixture to exhibit the characteristic of toxicity, the maximum concentration listed in Table 1 of Regulation .14B of this chapter would not have been exceeded by the excluded waste alone had the mixture not occurred, or*

(b) *For any contaminant that caused the nonexempt waste to exhibit the characteristic of toxicity before the mixture occurred, the mixture continues to exceed the maximum concentration for that contaminant listed in Table 1 of Regulation .14B of this chapter.*

B. — D. (text unchanged)

.04 Materials Which Are Not Solid Wastes.

A. The following materials are not solid wastes for the purpose of this chapter:

(1) — (4) (text unchanged)

(5) [Pulping liquors (for example black liquor)] *Black liquor or other pulping liquors* that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in Regulation .01C(3)(h) of this chapter;

(6) — (9) (text unchanged)

B. (text unchanged)

.04-1 Solid Wastes Which Are Not Hazardous Wastes.

A. The following solid wastes are not hazardous wastes:

(1) — (6) (text unchanged)

(7) Solid waste from the extraction, *and* beneficiation [.] and processing of ores and minerals [(including coal)] *as specified in §§E and F of this regulation, including coal, phosphate rock, and overburden from the mining of uranium ore, except that the Secretary, on a case-by-case basis, may impose by Order[,] those requirements of COMAR 26.13[,] determined by the Secretary[,] to be necessary to protect human health and the environment;*

(8) — (9) (text unchanged)

(10) Chromium waste which meets one of the following criteria:

(a) (text unchanged)

(b) Specific wastes which meet the standard in §A(10)(a) of this regulation, so long as they do not fail the test for the toxicity characteristic for any constituent other than chromium, and do not [fail the test for] *exhibit* any other characteristic of hazardous waste, are:

(i) — (viii) (text unchanged)

(11) — (15) (text unchanged)

B. — D. (text unchanged)

E. For the purposes of §A(7) of this regulation, beneficiation of ores and minerals is restricted to the following activities:

(1) — (24) (text unchanged)

F. (text unchanged)

.04-4 Treatability Study Samples.

A. — B. (text unchanged)

C. Allowance for Additional Quantities.

(1) (text unchanged)

(2) The additional quantities allowed are subject to all the provisions of §§A and B of this regulation, *except for §B(1) of this regulation.*

(3) (text unchanged)

.04-5 Samples Undergoing Treatability Studies at Laboratories and Testing Facilities.

A. Samples undergoing treatability studies and the laboratories or testing facility conducting the treatability studies, to the extent those facilities are not otherwise subject to requirements under COMAR 26.13, are not subject to any requirements of COMAR 26.13.02 — [.07] 26.13.07 or 26.13.10, or to the notification requirements of [Section] §3010 of RCRA provided that all of the following conditions are met:

(1) — (12) (text unchanged)

(13) The treatability study is not being used *merely* as means to treat or dispose of hazardous waste.

B. (text unchanged)

.05 Special Requirements for Hazardous Waste Generated by Small Quantity Generators.

A. Exemptions.

(1) Except for those wastes identified in §§B [and], C, D, and E(2) of this regulation, if a person generates, in a calendar month, a total of less than 100 kilograms (approximately 220 pounds) of hazardous wastes, those wastes are not subject to regulation under COMAR 26.13.03 — [.07] 26.13.07 and 26.13.10 and the notification requirements of [Section] §3010 of RCRA, provided the generator complies with the requirements of §§B, D, E, and F of this regulation.

(2) In determining quantities under this chapter and COMAR 26.13.03, a generator shall include all hazardous waste generated, except for hazardous waste that is:

(a) Exempt from regulation under Regulations .04-2 — .04-5, .06A(3)(a), and .07A(1) of this chapter;

(b) Managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in COMAR 26.13.01.03B;

(c) Recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Regulation .06C(2) of this chapter;

(d) Used oil managed under the requirements of COMAR 26.10.15, 26.11.09, 26.13.02.06A(3)(c), and 26.13.10; or

(e) Spent lead-acid batteries managed under the requirements of COMAR 26.13.10.04.

(3) In determining the quantity of hazardous waste generated, a generator need not include:

(a) Hazardous waste when it is removed from on-site storage;

(b) Hazardous waste produced by on-site treatment, including reclamation of the generator's hazardous waste, if the hazardous waste that is treated has been counted once; or

(c) Spent materials that are generated, reclaimed, and subsequently reused on-site, if the spent materials have been counted once.

B. Hazardous waste that is removed from the site of generation and is accumulated for the purpose of thermal destruction or is thermally destroyed in quantities greater than the minimum quantities specified in §§A and C of this regulation may not be excluded from the requirements of COMAR [26.13.05.15 and .16] 26.13.05.16, 26.13.06.16, and 26.13.07.02, .02-6, and .05.

C. If a person generates in a calendar month or accumulates at any time any of the following hazardous wastes in quantities greater than set forth [below], those wastes are subject to regulation under COMAR 26.13.03 — [.07] 26.13.07 and 26.13.10:

(1) — (5) (text unchanged)

(6) One kilogram of any of the following wastes:

(a) (text unchanged)

(b) K991, K992, K993, K994, K995, K996, K997, K998, and K999 as identified in Regulation .17 of this chapter [;] or

(7) One kilogram of any combination of wastes identified in §C(1), (2), and (6) of this regulation.

D. In order for hazardous waste to be excluded from regulation under this chapter, the generator:

(1) (text unchanged)

(2) Shall treat or dispose of the waste in an on-site facility, or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:

(a) (text unchanged)

(b) In interim status under:

(i) 40 CFR 270 and 265, or

(ii) COMAR 26.13.06 and 26.13.07;

(c) — (f) (text unchanged)

(3) May not accumulate hazardous waste on-site if the generator accumulates at any time:

(a) Acute hazardous wastes in quantities greater than those set forth in §C of this regulation. Those accumulated wastes are subject to regulation under COMAR 26.13.03 — [.07] 26.13.07 and 26.13.10 and the applicable notification requirements of §3010 of RCRA. The time period of COMAR 26.13.03.05E for accumulation of wastes on-site begins when the accumulated wastes exceed the applicable exclusion limit.

(b) More than a total of 100 kilograms of any hazardous waste not otherwise regulated under §D(3)(a) of this regulation. Those accumulated wastes are subject to regulation under COMAR 26.13.03 — [.07] 26.13.07 and 26.13.10 and the applicable notification requirements of §3010 of RCRA. The time period of COMAR 26.13.03.05E for accumulation of wastes on-site begins for a generator when the initial waste is generated.

E. Mixed Hazardous Wastes.

(1) — (2) (text unchanged)

(3) If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this regulation, the mixture is subject to full regulation under COMAR 26.13.01 — 26.13.10.

F. (text unchanged)

.06 Requirements for Recyclable Materials.

A. General.

(1) (text unchanged)

(2) Exemption from Regulation.

(a) The following recyclable materials are not CHS for the purposes of the regulations indicated:

(i) Recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these are not CHS for the purposes of COMAR 26.13.05.01 — .04, .05A, D — H, and .06 — [.18] .24, 26.13.06, and 26.13.07, if these materials are not accumulated speculatively as defined in Regulation .01C(3)(h) of this chapter;

(ii) Spent lead-acid batteries that are recyclable materials are not CHS for the purposes of COMAR 26.13.03, 26.13.04, 26.13.05.02D, .05B, C, .13 — .24, and 26.13.06, [and COMAR 26.13.07,] and, for persons who store but do not reclaim, are not CHS for the purposes of COMAR 26.13.05, 26.13.06, and 26.13.07.

(b) The following recyclable materials are not subject to the requirements of this section but are regulated under either COMAR 26.13.05.16, 26.13.06.23, or [COMAR] 26.13.10 and all applicable provisions in COMAR 26.13.07[.02 and .03;]

(i) (text unchanged)

(ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are regulated under COMAR [26.13.05.15 and .16] 26.13.05.16 or 26.13.06.23, and COMAR 26.13.07.05;

(iii) — (iv) (text unchanged)

(3) Exclusions.

(a) The following recyclable materials are not CHS for purposes of the regulations indicated:

(i) Industrial ethyl alcohol that is reclaimed is not a CHS for purposes of COMAR 26.13.03 — 26.13.07, *except for the requirements specified in §D of this regulation*;

(ii) Used batteries or used battery cells returned to a battery manufacturer for regeneration are not CHS for purposes of COMAR [26.13.03 and 26.13.05 — 26.13.07] 26.13.03 — 26.13.07;

(iii) — (v) (text unchanged).

(b) The following recyclable materials are not subject to regulation under COMAR 26.13.03 — 26.13.07 and are not subject to the regulations indicated or the notification requirements of §3010 of RCRA:

(i) — (ii) (text unchanged)

(iii) Used batteries or battery cells returned to a battery manufacturer for regeneration are not subject to COMAR [26.13.03.01 — .03 and .05 — .07 and COMAR 26.13.05 — .07] 26.13.03 — 26.13.07.

(c) (text unchanged)

B. Generators and transporters of recyclable materials are subject to the applicable requirements of COMAR 26.13.03 — [.04] 26.13.04 and the notification requirements under §3010 of RCRA, except as provided in [§A] §A(2) and (3) of this regulation.

C. (text unchanged)

D. Industrial Ethyl Alcohol Reclaimed in a Foreign Country.

(1) A person initiating a shipment of industrial ethyl alcohol that is to be reclaimed in a foreign country, and any intermediary arranging for the shipment shall:

(a) Comply with the requirements of COMAR 26.13.03.07-1, .07-2C(1), .07-2C(2)(a) — [(d) and (g)](e), .07-2C(4), and .07-2D concerning the responsibilities of a primary exporter;

(b) — (c) (text unchanged)

(2) (text unchanged)

.12 Characteristic of Corrosivity.

A. A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

(1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using [either the test method specified in EPA Method 5.2 on "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", or an equivalent test method approved by the Secretary under the procedures set forth in COMAR 26.13.01.04A and B] Method 9040 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in COMAR 26.13.01.05A(4);

(2) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55° C (130° F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69^a as standardized in "Test Methods for [the Evaluation of] Evaluating Solid Waste, Physical/Chemical Methods", or an equivalent test method approved by the Secretary under the procedures set forth in COMAR 26.13.01.04A and B], EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

B. (text unchanged)

.14 Toxicity Characteristic.

A. A solid waste exhibits the characteristic of toxicity if, using the [test methods described in Regulation .25B of this chapter or equivalent methods approved by the Secretary under the procedures set forth in COMAR 26.13.01.04A and B] Toxicity Characteristic Leaching Procedure, Test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4), the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 at the concentration equal to or greater than the respective value given in that table. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in [Regulation .25B of this chapter] Test Method 1311, is considered to be the extract for the purpose of this section.

B. A solid waste that exhibits the characteristic of toxicity, but is not listed as a hazardous waste in Regulations .15 — .19 of this chapter has the EPA hazardous waste number specified in Table 1, which corresponds to the toxic contaminant causing it to be hazardous.

Table 1
Maximum Concentration of Contaminants
for the Toxicity Characteristic

EPA HW No. ¹	Contaminant	CAS No. ²	Regulatory Level (milligrams per liter)
D004 — D037	(text unchanged)		
D038	Pyridine	[100-86-1] 110-86-1	5.0 ³
D010 — D043	(text unchanged)		

Footnotes 1 — 4 (text unchanged)

.15 Lists of Hazardous Wastes: General.

A. — C. (text unchanged)

D. Each hazardous waste listed in Regulations .16 — .19 of this chapter is assigned a Hazardous Waste Number, which precedes the name of the waste. This number shall be used in complying with the notification requirements, and certain record-keeping and reporting requirements under COMAR 26.13.03 — [26.13.05] 26.13.06.

E. The following hazardous wastes also listed in Regulations .16 and .17 of this chapter are subject to the exclusion limits for acute hazardous wastes established in Regulation .05 of this chapter:

(1) F020, F021, F022, F023, F026, and F027 of Regulation .16 of this chapter; and

(2) K991 — K999 of Regulation .17 of this chapter.

.16 Hazardous Waste from Nonspecific Sources.

A. As qualified by §B of this regulation, the following solid wastes are listed as hazardous wastes from nonspecific sources unless they are excluded under COMAR 26.13.01.04A and B and listed in Regulation .26 of this chapter, or they are excluded under §C of this regulation:

EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures or blends used in degreasing and containing, before [or after] use, a total of 10 percent or more, by volume, of any of the above halogenated solvents or those solvents listed in F002, F004, and F005 or any combination of those solvents; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, [orthodichlorobenzene] <i>ortho-dichlorobenzene</i> , and trichlorofluoromethane, all spent solvent mixtures or blends containing, before [or after] use, a total of 10 percent or more, by volume, of any of the above halogenated solvents or those solvents listed in F001, F004, or F005 or any combination of those solvents; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures or blends containing, before [or after] use, only the above spent non-halogenated solvents; and all spent solvent mixtures or blends containing, before [or after] use, any of the above non-halogenated solvents, and a total of 10 percent or more, by volume, of any of those solvents listed in F001, F002, F004, and F005 or any combination of those solvents; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(I)*
F004	The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures or blends containing, before [or after] use, a total of 10 percent or more, by volume, of any of the above non-halogenated solvents or those solvents listed in F001, F002 and F005 or any combination of those solvents; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent [mixtures/blends] <i>mixtures or blends</i> containing, before [or after] use, a total of 10 percent or more, by volume, of any of the above non-halogenated solvents or those solvents listed in F001, F002, or F004 or any combination of those solvents, and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(I,T)
F006 — F009 (text unchanged)		
F010	Quenching bath residue from oil [bath] <i>baths</i> from metal heat treating operation where cyanides are used in the process	(R,T)
F011 — F015 (text unchanged)		
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum <i>except from zirconium phosphating in aluminum can washing when this phosphating is an exclusive conversion coating process</i>	(T)
F020 — F023 (text unchanged)		

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Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
	F024	Process wastes including, but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of <i>certain</i> chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated <i>aliphatic</i> hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in this regulation or Regulation .17 of this chapter	(T)
	F025 — F038 (text unchanged)		

B. Clarifications for Listing of Wastes from Nonspecific Sources.

(1) For the purpose of the F037 and F038 listings in §A of this regulation, "oil/water/solids" means oil, water, or solids, or [all of these] *any combination of these*.

(2) — (5) (text unchanged)

C. Deletion of Certain Hazardous Waste Codes Following Equipment Cleaning and Replacement.

(1) — (2) (text unchanged)

(3) A generator who seeks to have the F032 waste code deleted from a waste shall:

(a) (text unchanged)

(b) Clean or replace all process equipment described in §C(3)(a) of this regulation in a manner that minimizes or eliminates the release of hazardous waste, hazardous waste constituents or decomposition products, leachate, or *contaminated* drippage to the ground water, surface water, or atmosphere.

(c) — (k) (text unchanged)

.17 Hazardous Waste from Specific Sources.

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Wood Preservation — Inorganic Pigments (text unchanged)			
Organic Chemicals	K00 — K118 (text unchanged)		
	[K122	Wastewater from stream regeneration of activated alumina catalyst used in the production of diphenylamine by the condensation of aniline	
	K133	Ammonia produced as a by-product in the production of diphenylamine by the condensation of aniline	
	K134	Heavy and light ends from the distillation/purification of diphenylamine produced by the condensation of aniline]	
	K136 (text unchanged)		
	K149	Distillation bottoms from the production of alpha-chlorinated or methyl-chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. This waste does not include still bottoms from the distillation of benzyl chloride.	(T)
	K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha-chlorinated or methyl-chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)
	K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha-chlorinated or methyl-chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	(T)
Pesticides	K031 — K099 (text unchanged)		
	K123	Process [washwater] wastewater, including supernates, filtrates, and [wastewaters] <i>washwaters</i> from the production of ethylenebisdithiocarbamic acid and its salts	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
	K124 — K132	(text unchanged)	
Explosives — Primary Zinc	(text unchanged)		
Primary Aluminum	K088	Spent [potlines] <i>potliners</i> from primary aluminum reduction	(T)
Ferroalloys — Military	(text unchanged)		

.19 Discarded Commercial Chemical Products, Off-Specification Species, Containers, and Spill Residues of These.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Regulation .02A(2)(a) of this chapter, when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to land instead of their original intended use or when they are contained in products that are applied to the land instead of their original intended use or when, instead of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel:

A. — D. (text unchanged)

E. The commercial chemical products, or manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in §§A — D of this regulation[,] are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in Regulation .05C of this chapter. These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste Number	Substance*
1080 see P058 — Benzyl chloride see P028	(text unchanged)
P015	Beryllium [dust] <i>powder</i>
P016 — CHEMOX P.E. see P020	(text unchanged)
	[CHEM-TOL see P090]
P023 — DOW SELECTIVE WEED KILLER see P020	(text unchanged)
	[DOWICIDE G see P090]
DYANICIDE see P092 — FASCO FASCRAT POWDER see P001	(text unchanged)
	[FEMMA see P091]
P056 — P089 Parathion	(text unchanged)
	[PCP see P090]
PENNCAP-M see P071 — SANASEED see P108	(text unchanged)
	[SANTOBRITE see P090]
	SANTOPHEN see P090
	SANTOPHEN 20 see P090]
SCHRADAN see P085 — TEMIK see P070	(text unchanged)
	[TERM-I-TROL see P090]
P109 — Thiosulfan tionel see P050	(text unchanged)
	[THOMPSON'S WOOD FIX see P090]
TIOVEL see P050 — WARCOUMIN see P001	(text unchanged)
	[WARFARIN SODIUM]
	Warfarin, and salts, when present at concentrations greater than 0.3 percent see P001
Warfarcide see P001 — P121 Zinc Cyanide	(text unchanged)

Hazardous Waste Number	Substance*
P122	Zinc [phosphite] <i>phosphide</i> when present at concentrations greater than 10 percent (R,T)
	ZOOCOUMARIN see P001
P123	Toxaphene

F. (text unchanged)

G. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products, referred to in §§A — D of this regulation, are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in Regulation .05A and C of this chapter. These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste Number	Substance*
U001 AAF see U005 — U188 Phenol	(text unchanged)
	Phenol, pentachloro- see F027
	Phenol, 2,3,4,6-tetrachloro- see F027
	Phenol, 2,4,5-trichloro- see F027
	Phenol, 2,4,6-trichloro- see F027
1-Phenylethanone see U004 — U193 1,3-Propane sultone-	(text unchanged)
	Propane, 2-nitro (I,T) see U171
Propanedinitrile see U149	(text unchanged)
	Propanoic acid 2-(2,4,5-trichlorophenoxy) see F027
2-Propanone (I) see U002 — U359 2-Ethoxyethanol	(text unchanged)
	H. (text unchanged)

.21 Test Procedures — EP Toxicity and Toxicity Characteristic.

A. The EP Toxicity (Method 1310A) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

B. The Toxicity Characteristic Leaching Procedure (TCLP) (Method 1311) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publications SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

.22 Chemical Analysis Test Methods.

A. Appropriate analytical procedures to determine whether a sample contains a given toxic constituent are specified in Chapter Two, "Choosing the Correct Procedure", found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

B. Before selecting a final sampling and analysis method, a person shall consult the specific section or method described in SW-846 for additional guidance on which of the

approved methods should be employed for a specific situation involving sample analysis.

.23 Basis for Listing Hazardous Wastes.

EPA Hazardous Waste Number	Hazardous Constituents for Which Listed
F001 — K148 (text unchanged)	
K149	Benzotrachloride, benzyl chloride, chloroform, chloromethane, chlorobenzene, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, toluene
K150	Carbon tetrachloride, chloroform, chloromethane, 1,4-dichlorobenzene, hexachlorobenzene, pentachlorobenzene, 1,2,4,5-tetrachlorobenzene, 1,1,2,2-tetrachloroethane, tetrachloroethylene, 1,2,4-trichlorobenzene
K151	Benzene, carbon tetrachloride, chloroform, hexachlorobenzene, pentachlorobenzene, toluene, 1,2,4,5-tetrachlorobenzene, tetrachloroethylene

.24 Hazardous Constituents.

Acetophenone — Benzene (text unchanged)
 Benzene, 2-amino-1-methyl(o-toluidine)
 Benzene, 4-amino-1-methyl(p-toluidine)
 Beryllium nearsonic acid — Beryllium and compounds, N.O.S. (text unchanged)
 Beryllium powder
 Bis(2-chloroethoxy) methane — Epichlorohydrin (text unchanged)
 Ethanol, 2-ethoxy
 Ethyl cyanide — Ethyleneimine (text unchanged)
 Ethylene glycol monoethyl ether
 Ethylene oxide — 4-Nitrophenol (text unchanged)
 2-Nitropropane
 4-Nitroquinoline-1-oxide — Pronamide (text unchanged)
 1-Propane, 3-chloro
 Propane, 2-nitro
 1,2-propanediol — Zinc phosphide (text unchanged)

26.13.03 Standards Applicable to Generators of Hazardous Waste

Authority: Environment Article, Title 7, Subtitle 2,
 Annotated Code of Maryland

.01 Purpose, Scope, and Applicability.

A. — C. (text unchanged)

D. A farmer who generates waste pesticides which are hazardous wastes and who complies with all of the requirements of Regulation .07-4 of this chapter is not required to comply with other standards in this chapter or COMAR 26.13.05, 26.13.06, or 26.13.07 with respect to these pesticides.

E. A person who generates a hazardous waste as defined by COMAR 26.13.02 is subject to the compliance requirements and penalties prescribed in [the] Environment Article, [§7-206 inclusive] Title 7, Subtitle 2, Annotated Code of Maryland, if [he] that person does not comply with the requirements of this chapter. [Agency Note:] A generator of a hazardous waste who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in COMAR 26.13.05, 26.13.06, and [COMAR] 26.13.07.

F. — I. (text unchanged)

.04 The Manifest.

A. General Requirements.

(1) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall prepare an approved manifest (OMB control number 2050-0039) on EPA Form 8700-22 or an equivalent state form, and, if necessary, EPA Form 8700-22A or an equivalent state form, according to the instructions included on the form before [transporting] the waste is transported off-site.

(2) — (5) (text unchanged)

B. Acquisition of Manifests.

(1) — (3) (text unchanged)

(4) Use of Maryland Manifests. Maryland requires use of its manifest for shipments of hazardous waste which are sent:

(a) To a destination in Maryland; or

(b) From a generator in Maryland to a state which does not supply the manifest and require its use.

Agency Note: A person may obtain Maryland manifests from the Maryland Department of the Environment's Hazardous Waste Program.

C. — D. (text unchanged)

E. Use of the Manifest.

(1) — (5) (text unchanged)

(6) For shipments of hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator shall assure that:

(a) The owner or operator of the designated facility agrees to sign and return the manifest to the generator; and

(b) Any out-of-State transporter signs and forwards the manifest to the designated facility.

F. — G. (text unchanged)

.05 Pretransport Requirements.

A. — D. (text unchanged)

E. Accumulation Time.

(1) A generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less if:

(a) — (e) (text unchanged)

(f) Each container is:

(i) [is properly] Properly labeled according to §§B and C of this regulation, and

(ii) Labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site;

(g) (text unchanged)

(h) The generator, in accumulating waste in tanks:

(i) Complies with the requirements of COMAR 26.13.05.10 — .10-3, and [10-6] .10-6A, and [10-7] 26.13.06.18D, except for COMAR 26.13.05.10B, [COMAR] 26.13.05.10-3A, and [COMAR 26.13.05.10-7D] 26.13.06.18D(4), and the requirement for the Secretary's approval in COMAR 26.13.05.10-3A,

(ii) Complies with the requirements of COMAR 26.13.05.10-4, except that the generator may not seek a variance from the requirements of COMAR 26.13.05.10-4 under the provisions of COMAR 26.13.05.10-5, [and]

(iii) Inspects overfill controls at least once each operating day[;] and

(iv) Clearly marks or labels the tanks with the words "Hazardous Waste", while waste is being accumulated in the tanks;

(i) — (l) (text unchanged)

(2) A generator who accumulates hazardous waste is an operator of a storage facility and is subject to the requirements of COMAR 26.13.05 or 26.13.06, unless the hazardous waste:

- (a) (text unchanged)
- (b) Accumulated:
 - (i) [is] *Is* less than 500 kilograms,
 - (ii) [contains] *Contains* less than 1 kilogram of acute hazardous waste, [and is]
 - (iii) *Is* accumulated for 180 days or less from the date of initial generation or accumulation, and
 - (iv) *Is* generated by a person who generates less than 1,000 kilograms of hazardous waste in a calendar month.
- (3) (text unchanged)

.06 Record Keeping and Reporting.

- A. (text unchanged)
- B. Annual or Biennial Reporting.
 - (1) A person who generates hazardous waste and ships it off-site to a facility within the United States shall:
 - (a) — (c) (text unchanged)
 - (d) Assure that the reports required by §B(1)(a) of this regulation contain, at a minimum, the following information:
 - (i) — (vi) (text unchanged)
 - (vii) [A] *Except as provided in §B(4) of this regulation*, a description of the changes in the volume and toxicity of waste actually achieved during the year in comparison to previous years [to the extent the information is available], and
 - (viii) (text unchanged)
 - (2) A generator who treats, stores, or disposes of hazardous waste on-site shall submit an annual or biennial report covering those wastes in accordance with the provisions of COMAR 26.13.05.05F [and], 26.13.06.05A and B(3) and (4), 26.13.07.15E(3), and 26.13.10.
 - (3) (text unchanged)
 - (4) *Information required by §B(1)(d)(vii) of this regulation on changes in volume and toxicity of waste actually achieved in comparison to years before 1984 is only required to the extent that this information is available.*

C. — D. (text unchanged)

.07 Exports of Hazardous Waste — General.

- A. Applicability.
 - (1) This regulation and Regulations .07-1[— .07-3] and .07-2 of this chapter establish requirements applicable to exports of hazardous waste, except for hazardous wastes identified in §A(4) of this regulation.
 - (2) A primary exporter of hazardous waste shall comply with the special requirements of this regulation and Regulations .07-1[— .07-3] and .07-2 of this chapter.
 - (3) (text unchanged)
 - (4) Waste Excluded from these Requirements.
 - (a) (text unchanged)
 - (b) The waste codes for the wastes referred to in §A(4)(a) of this regulation, and the sections of COMAR where the waste codes are assigned are:
 - (i) [K122, K133, K134, K136, and] K991 — K999: COMAR 26.13.02.17;
 - (ii) — (v) (text unchanged)
- B. General Requirements.
 - (1) Exports of hazardous waste are prohibited unless the exports are in compliance with this regulation, Regula-

tions .07-1[— .07-3] and .07-2 of this chapter, and COMAR 26.13.04.

(2) — (4) (text unchanged)

.07-1 Export Notification.

- A. Notification of Intent to Export.
 - (1) — (5) (text unchanged)
 - (6) A primary exporter shall submit copies of the notification of intent to export to the Secretary and to the U.S. Environmental Protection Agency. The exporter shall send the copy to the U.S. EPA to the Office of Waste Programs Enforcement (OWPE), RCRA Enforcement Division (OS-520), United States Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 with "Attention: Notification of Intent to Export Hazardous Waste" displayed prominently on the front of the envelope.
 - (7) (text unchanged)
- B. (text unchanged)

.07-2 Exports of Hazardous Waste — Manifesting, Reporting and Record Keeping.

- A. Special Manifest Requirements. A primary exporter as defined in COMAR 26.13.01.03, or other person defined as a primary exporter under 40 CFR §262.20 or an equivalent provision of another state's regulations shall comply with the manifest requirements of Regulation .04A, D, and E of this chapter, except that the primary exporter:
 - (1) — (7) (text unchanged)
 - (8) [Shall] *Instead of complying with the requirements of COMAR 26.13.03.04A(5), shall*, if a shipment cannot be delivered to the designated or alternate consignee:
 - (a) — (b) (text unchanged)
 - (9) — (10) (text unchanged)

(a) — (b) (text unchanged)

(9) — (10) (text unchanged)

B. (text unchanged)

C. Annual Reports.

(1) — (2) (text unchanged)

(3) Waste Minimization.

(a) Except as provided in §C(3)(b) of this regulation, a person who exports 1,000 kilograms or more of hazardous waste in a calendar month shall include, in even numbered years, the following information with the report required by this section:

- (i) (text unchanged)
- (ii) [A] *Except as provided in §C(3)(c) of this regulation*, a description of the changes in the volume and toxicity of waste actually achieved during the year in comparison to previous years[, to the extent that the information on previous years is available].

(b) (text unchanged)

(c) *The information required by §C(3)(a)(ii) of this regulation on changes in volume and toxicity of waste actually achieved in comparison to years before 1984 is only required to the extent that this information is available.*

(4) The primary exporter shall submit the report required by this section to the Secretary and to the Office of Waste Programs Enforcement (OWPE), RCRA Enforcement Division (OS-520), United States Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

D. (text unchanged)

E. *Transporters' Responsibilities Concerning EPA Acknowledgement of Consent.* A transporter of a shipment of hazardous waste destined for export shall assure that the EPA Acknowledgement of Consent accompanies the shipment.

.07-4 Farmers.

A farmer disposing of waste pesticides from [his] the farmer's own use which are hazardous wastes is not re-

quired to comply with the standards of this chapter or other standards in COMAR 26.13.05, 26.13.06, or 26.13.07 for those wastes provided the farmer triple rinses each emptied pesticide container in accordance with COMAR [26.13.02.19C] 26.13.02.07B(3) and disposes of the pesticide residues on [his] the farmer's own farm in a manner consistent with disposal instructions on the pesticide label.

26.13.05 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Authority: Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland

.01 General.

A. Purpose, Scope, and Applicability.

(1) (text unchanged)

(2) The standards in this chapter apply to owners and operators of facilities which treat, store, or dispose of hazardous waste. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities or at inactive facilities [after the effective date of these regulations], except as specifically provided otherwise in this chapter, [or] COMAR 26.13.02, or 26.13.06. These standards apply to inactive disposal facilities when the Department determines that a substantial present or potential hazard to human health or the environment exists.

(3) The requirements of this chapter do not apply to:

(a) — (b) (text unchanged)

(c) The owner or operator of a facility managing recyclable materials described in COMAR 26.13.02.06A(2) and (3), except to the extent required in this chapter or by COMAR 26.13.10;

(d) — (g) (text unchanged)

(h) [Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to these activities, the appropriate requirements of Regulations .03 and .04 of this chapter are applicable to owners and operators of treatment, storage, and disposal facilities otherwise subject to this part. (Comment. This paragraph only applies to activities taken in response to a spill. After the immediate response activities are completed, the applicable regulations of this chapter apply fully to the management of any spill residue or debris which is a hazardous waste under COMAR 26.13.02).] A person engaged in treatment or containment activities during immediate response to any of the following situations, except as provided in §D of this regulation:

(i) A discharge of a hazardous waste,

(ii) An imminent and substantial threat of a discharge of a hazardous waste,

(iii) A discharge of a material which, if discharged, becomes a hazardous waste, or

(iv) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of conventional military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in COMAR 26.13.01.03B.

(i) The owner or operator of a publicly owned treatment works (POTW) [complying with the following regulations in this chapter] if the owner or operator:

(i) [Regulation .02B, and] Has an NPDES permit,

(ii) [Regulation .05B, C, D(1) and (2)(a), F, and G.] Complies with the conditions of the facility's NPDES permit, and

(iii) Complies with Regulations .02B, .05B, C, D(1) and D(2)(a), F, and G of this chapter.

B. Relationship to Interim Status Standards. A facility owner or operator who has fully complied with the requirements for interim status, as defined in §3005(e) of RCRA and COMAR 26.13.07.23A, shall comply with the regulations specified in COMAR 26.13.06 in place of the regulations in this chapter, until final administrative disposition of the owner or operator's permit application is made.

[B.] C. Imminent Hazard Action. Notwithstanding any other provisions of these regulations, enforcement actions may be brought [pursuant to] under Environment Article, [§7-206] Title 7, Subtitle 2, Annotated Code of Maryland.

[C. Incorporation by Reference.

(1) 40 CFR §§264.140 — 264.151, promulgated as of July 1, 1995, are incorporated by reference.

(2) 40 CFR 265, promulgated as of July 1, 1995, is incorporated by reference.]

D. Clarifications Concerning Responses to Emergencies.

(1) The owner or operator of a facility exempted under §A(3)(h) of this regulation but otherwise subject to the requirements of this chapter shall comply with all applicable requirements of Regulations .03 and .04 of this chapter.

(2) A person exempted from the requirements of this chapter under §A(3)(h) of this regulation who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter and COMAR 26.13.07 with respect to those activities.

(3) The exemptions of §A(3)(h)(i) — (iii) of this regulation only apply to activities taken in response to a discharge or an imminent and substantial threat of a discharge. After the immediate response activities are completed, the applicable regulations of this chapter apply fully to the management of any spill residue or debris which is a hazardous waste under COMAR 26.13.02.

(4) The Secretary may:

(a) Require a person to comply with the requirements of this chapter even though the person is otherwise exempted from complying with these requirements under §A(3)(h) of this regulation if the Secretary determines that requiring compliance is necessary for the protection of human health or the environment; and

(b) Consider the following in making the determination under §D(4)(a) of this regulation that a treatment or containment activity shall be subject to the requirements of this chapter:

(i) The volume of the waste or material that is the subject of the treatment or containment activity,

(ii) The toxicity of the waste or material that is the subject of the treatment or containment activity, or

(iii) The risks associated with the treatment or containment activity.

.02 General Facility Standards.

A. — B. (text unchanged)

C. Required Notices.

(1) — (2) (text unchanged)

(3) The owner or operator of a facility that receives hazardous waste from an off-site source, [(except if] unless the owner or operator is also the generator[)], shall inform the generator in writing that [he has] the appropriate permit or permits for[,] the facility have been obtained, or that the facility has qualified for interim status, and [will accept,]

that the waste the generator is shipping will be accepted. The owner or operator shall keep a copy of this written notice as part of the operating record.

D. General Waste Analysis.

(1) Chemical and Physical Analysis.

(a) Before an owner or operator treats, stores, or disposes of any hazardous waste, or non-hazardous waste if applicable under Regulation .07D(6) of this chapter, [he] the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis shall contain all the information which [shall be known] is needed to treat, store, or dispose of the waste in accordance with the requirements of this chapter or with the conditions of a permit issued pursuant to COMAR 26.13.07.

(b) (text unchanged)

(c) The owner or operator shall repeat the analysis required by §D(1)(a) of this regulation [shall be repeated] to ensure that it is accurate and up to date[. At], and, in doing so, repeat the analysis at a minimum [the analysis shall be repeated]:

(i) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste, or non-hazardous waste if applicable under Regulation .07D(6) of this chapter, has changed; and

(ii) (text unchanged)

(d) (text unchanged)

(2) Written Analysis. The owner or operator shall:

(a) [The owner or operator shall develop] Develop and follow a written waste analysis plan which describes the procedures which the owner or operator will carry out to comply with §D(1)[, above.] of this regulation; [The owner shall keep this plan at the facility. At a minimum, the plan shall specify:]

(b) Keep the waste analysis plan required by §D(2)(a) of this regulation at the facility;

(c) Assure that the plan required by §D(2) of this regulation specifies, at a minimum:

(i) The parameters for which each hazardous waste, or non-hazardous waste if applicable under Regulation .07D(6) of this chapter, will be analyzed and the rationale for the selection of these parameters, [that is,] explaining how analysis for these parameters will provide sufficient information on the waste's properties to comply with §D(1)[, above.] of this regulation[.];

(ii) The test methods which will be used to test for these parameters[.];

(iii) The sampling method which will be used to obtain a representative sample of the waste to be analyzed[. A representative sample may be obtained using], which may be either:

(aa) One] one of the sampling methods described in COMAR 26.13.02.20[; or

(bb) An] or an equivalent sampling method[.];

(iv) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date[.];

(v) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply[.]; and

(vi) When applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in §H of this regulation and Regulations .14N and [.15] .16D of this chapter[.]; and

[(b)] (d) [For] Assure that, for off-site facilities, the waste analysis plan required in §D(2)(a)[, above.] of this regulation at a minimum [shall also specify]:

(i) Specifies the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper[.]; [At a minimum, the plan shall describe:]

[(i)] (ii) [The] Describes the procedures which will be used to determine the identity of each movement of waste managed at the facility[.]; and

[(ii)] (iii) [The] Describes the sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

E. (text unchanged)

F. General Inspection Requirements.

(1) (text unchanged)

(2) Development of a Written Schedule.

(a) — (c) (text unchanged)

(d) The owner or operator:

(i) May develop an inspection schedule on which [The] the frequency of inspection [may vary] for the items on the schedule varies[.]; [However, it should be based]

(ii) Shall base the frequency of inspection on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections[.];

(iii) [Areas] Shall inspect areas subject to spills, such as loading and unloading areas, [shall be inspected] daily when in use[.]; and

(iv) Shall include in the inspection schedule, [At] at a minimum, [the inspection schedule shall include] the items and frequencies called for in Regulations .09E, .10D, .10-4G, .11F, .12E, .13D, .14C, [.15D,] .16I, and .16-1C[. .17D, and .18D] of this chapter.

(3) — (4) (text unchanged)

G. — J. (text unchanged)

[26.13.06] .02-1 Site Selection for CHS Facilities.

[.01 General Regulation.]

A. — F. (text unchanged)

.05 Manifest System, Record Keeping, and Reporting.

A. (text unchanged)

B. Use of Manifest System.

(1) (text unchanged)

(2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, shall:

(a) (text unchanged)

(b) Note any significant discrepancies in the shipping paper, [(as defined in §B(1))] §C(1) of this regulation, on each copy of the shipping paper.

(c) — (e) (text unchanged)

(3) (text unchanged)

C. (text unchanged)

D. Operating Record.

(1) (text unchanged)

(2) The owner or operator shall record the following information [shall be recorded] as it becomes available, and

[maintained] *maintain it* in the operating record until closure of the facility:

(a) (text unchanged)

(b) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste shall be recorded on a map or diagram of each cell or disposal area. For all facilities, this information shall include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest.]

(b) Information on the inventory of hazardous waste at the facility, including:

(i) The location of each hazardous waste within the facility;

(ii) The quantity of hazardous waste at each location;

(iii) For the information required by §D(2)(b)(i) and (ii) of this regulation, cross-references to the specific manifest document number, if the waste was accompanied by a manifest; and

(iv) For disposal facilities, a map or diagram of each cell or disposal area on which has been recorded the location and quantity of each hazardous waste.

(c) Records and results of waste analysis performed as specified in Regulations .02D and H, .14N, and [.15C] .16D of this chapter.

(d) — (i) (text unchanged)

E. (text unchanged)

F. Annual or Biennial Reporting. An owner or operator shall:

(1) Periodically, submit reports to the Secretary concerning hazardous waste generated during the preceding calendar year on EPA or State Form [8700-13A] 8700-13B, or an alternate form provided by the Secretary;

(2) — (3) (text unchanged)

(4) Assure that the reports required by §F(1) of this regulation contain, at a minimum, the following information:

(a) — (j) (text unchanged)

(k) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in the volume and toxicity of waste actually achieved during the year in comparison to previous years, *except that comparison to years before 1984 is only required to the extent that this information is available.*

G. Unmanifested Waste Report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in COMAR 26.13.04.02A(5)(b), and if the waste is not excluded from the manifest requirement by COMAR 26.13.02.05, then the owner or operator shall prepare and submit a single copy of a report to the Secretary within 15 days after receiving the waste. [The report form and instructions in Regulation .21 shall be used for this report. The report shall include the following information:] *The owner or operator shall ensure that the report is clearly marked with the words "unmanifested waste report", and includes the following information:*

(1) — (7) (text unchanged)

H. (text unchanged)

.06 Ground Water Protection — General; Incorporation by Reference];

A. Applicability.

(1) — (3) (text unchanged)

(4) Requirements for Disposal Units that Received Last Volume of Waste before July 26, 1982.

(a) [Except as modified by §A(4)(b) — (c) of this regulation, the Department adopts as its requirements for all hazardous waste landfills, land treatment facilities, surface impoundments, and waste piles that received the last volume of hazardous waste before July 26, 1982, the federal regulations at 40 CFR §§265.90 — 265.94, 265.110 — 265.120, 265.220 — 265.230, 265.250 — 265.257, and 265.300 — 265.325, adopted as of July 1, 1993, which are incorporated by reference] *An owner or operator of a hazardous waste landfill, land treatment facility, surface impoundment, or waste pile who received the last volume of hazardous waste before July 26, 1982, shall comply with all applicable requirements of COMAR 26.13.06.06 — .15, and .19 — .22.*

(b) The federal regulations incorporated by reference in §A(4)(a) of this regulation are modified as follows:

(i) Substitute "Secretary" for "Regional Administrator"; and

(ii) Substitute "Department" for "Environmental Protection Agency" or "Agency".]

[(c)] (b) (text unchanged)

(5) — (7) (text unchanged)

B. (text unchanged)

.06-2 General Ground Water Monitoring Requirements.

For any ground water monitoring program developed to satisfy Regulation .06-4, .06-5, or .06-6 of this chapter, the owner or operator shall:

A. — K (text unchanged)

L. Maintain, as part of the facility operating record, ground water monitoring data collected in accordance with §§J and K of this regulation, *including actual levels of constituents;*

M. (text unchanged)

.06-3 Statistical Methods for Evaluating Ground Water Monitoring Data.

A. General.

(1) — (3) (text unchanged)

(4) If a practical quantification limit (pql) is to be used in a statistical method specified under this section to comply with the performance standards of [§C] §C(9) of this regulation, the owner or operator shall propose the pql to the Secretary for approval.

(5) (text unchanged)

B. — C. (text unchanged)

.07 Closure and Post-Closure.

A. Applicability. Except as Regulation .01 of this chapter otherwise provides:

(1) Sections B — [F] F(1) of this regulation[(I), which concern closure[]], apply to the owners and operators of all hazardous waste facilities; and

(2) Sections [G] F(2) — J of this regulation [(I), which concern post-closure care[]], apply to the owners and operators of:

(a) — (c) (text unchanged)

B. Closure Performance Standard. The owner or operator of a facility shall close [his] the facility in a manner that minimizes the need for further maintenance, and controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the ground water, or surface waters, or to the atmosphere, and

complies with the closure requirements including, but not limited to, Regulations .09I, .10-7, .11G, .12I, .13K, .14J, .15E, .16L, and .16-1B - D[, .17E, and .18E] of this chapter.

C. Closure Plan; Amendment of Plan.

(1) Written Plan.

(a) (text unchanged)

(b) The Secretary's approval of the plan shall ensure that the approved closure plan is consistent with §§B — [F] F(1) of this regulation and the applicable requirements of Regulations .06 — .06-7, .09I, .10-7, .11G, .12I, .13K, .14J, .15E, .16L, and .16-1B, .17E, and .18E] of this chapter. Until final closure is certified in accordance with §F of this regulation, a copy of the approved plan and all approved revisions shall be furnished to the Secretary upon request, including request by mail.

(2) — (3) (text unchanged)

(4) Notification of Partial Closure and Final Closure.

(a) The owner or operator of a facility shall notify the Secretary in writing at least:

(i) 60 days before the date on which [he] the owner or operator expects to begin closure of a surface impoundment, waste pile, land treatment unit or landfill unit, or final closure of a facility with such a unit; and

(ii) 45 days before the date on which [he] the owner or operator expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(b) The date when the owner or operator expects to begin closure shall be either not later than 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous waste, not later than 1 year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit or facility can demonstrate to the Secretary that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Secretary may approve an extension to this 1-year limit.]

(b) For the purpose of §C(4)(a) of this regulation, the date when the owner or operator expects to begin closure shall be:

(i) Within 30 days after the date on which any hazardous waste management unit or facility received the known final volume of hazardous waste;

(ii) Not later than 1 year after the date on which the unit received the most recent volume of hazardous waste, if there is a reasonable possibility that the hazardous waste management unit or facility will receive additional hazardous waste; or

(iii) A later deadline established by the Secretary under §C(4)(c) of this regulation.

(c) The Secretary may approve an extension to the 1-year limit in §C(4)(b)(ii) of this regulation if the owner or operator can demonstrate to the Secretary that:

(i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(ii) The owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

(d) If the owner or operator has been allowed to receive non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous waste as provided by §D(6) of this regulation, the date when the owner or operator expects to begin closure for the purpose of §C(4)(a) of this regulation shall be not later than:

(i) 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes;

(ii) 1 year after the date on which the unit received the most recent volume of non-hazardous waste, if there is a reasonable possibility that the unit will receive additional non-hazardous wastes; or

(iii) A later deadline established by the Secretary under §C(4)(e) of this regulation.

(e) The Secretary may approve an extension to the 1-year limit in §C(4)(d)(ii) of this regulation if the owner or operator can demonstrate to the Secretary that:

(i) The hazardous waste management unit has the capacity to receive additional non-hazardous waste; and

(ii) The owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

[(c)] (f) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, to cease receiving hazardous wastes or to close, then the requirements of [this subsection] §C(4)(a) — (e) of this regulation do not apply. [However] Instead, the owner or operator shall close the facility in accordance with the deadlines established in §D of this regulation.

(5) (text unchanged)

D. Closure; Time Allowed for Closure.

(1) [Within] Except as provided in §D(2) of this regulation, within 90 days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, or the final volume of non-hazardous wastes if the owner or operator complies with all the requirements in §D(6) — (8) of this regulation, the owner or operator shall treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan.

(2) The Secretary may approve a longer period than that specified in §D(1) of this regulation if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, and either:

(a) The activities required to comply with [this subsection] §D(1) of this regulation either will, of necessity, take longer than 90 days to complete; or

(b) The following conditions are met:

(i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the owner or operator complies with the requirements of §D(6) — (8) of this regulation,

(ii) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or the facility within 1 year, and

(iii) (text unchanged)

[(2)] (3) [The] Except as provided in §D(4) of this regulation, the owner or operator shall, within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or the final volume of non-hazardous wastes if the owner or operator complies with the requirements of §D(6) — (8) of this regulation, complete partial and final closure activities in accordance with the approved closure plan [and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility].

(4) The Secretary may approve an extension to the closure period specified in §D(3) of this regulation if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements, and either:

[(a) Either:

(i) The]

(a) The partial or final closure activities will, of necessity, take longer than 180 days to complete[;] or

[(ii) The hazardous waste management unit or facility has the capacity to receive additional hazardous waste, there is reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or the facility within 1 year, and]

(b) The following conditions are met:

(i) [closure] Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site[and],

(ii) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes or has the capacity to receive non-hazardous wastes if the owner or operator complies with the requirements of §D(6) — (8) of this regulation, and

(iii) There is reasonable likelihood that the owner or operator will recommence operation of the hazardous waste management unit or facility within 1 year.

[(b) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.]

[(3)] (5) The demonstrations referred to in [§D(1) and (2)] §D(2) and (4) of this [chapter] regulation shall be made as follows:

(a) The demonstration in [§D(1)] §D(2) of this regulation shall be made at least 30 days before the expiration of the 90-day period in §D(1) of this regulation; and

(b) The demonstration in [§D(2)] §D(4) of this regulation shall be made at least 30 days before the expiration of the 180-day period in [§D(2)] §D(3) of this regulation.

(6) The Secretary may allow an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at the unit if the owner or operator:

(a) Submits a request for a CHS permit modification in accordance with the requirements of COMAR 26.13.07; and

(b) Demonstrates in the request for permit modification required by §D(6)(a) of this regulation that:

(i) The unit has the existing design capacity, as indicated on the part A permit application, to receive non-hazardous wastes,

(ii) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within 1 year after the final receipt of hazardous wastes,

(iii) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the design and operating requirements of the unit or facility,

(iv) Closure of the hazardous waste management unit would be incompatible with the continued operation of the unit or facility, and

(v) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements;

(c) Includes, in the request to modify the permit:

(i) An amended waste analysis plan,

(ii) A ground water monitoring and response program,

(iii) The human exposure assessment required under RCRA §3019, and

(iv) Closure and post-closure plans;

(d) Includes, in the request to modify the permit, updated cost estimates and demonstrations of financial assurance for closure and post-closure as necessary and appropriate to reflect any:

(i) Changes due to the presence of hazardous constituents in the non-hazardous waste, and

(ii) Changes in closure activities, including the expected year of closure if applicable under §C(2)(g) of this regulation, as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

(e) Includes, in the request to modify the permit, all revisions to affected conditions of the permit as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes;

(f) Submits the request to modify the permit and the demonstrations referred to in §D(6)(a) — (d) of this regulation to the Secretary within the later of the following two time periods:

(i) Not later than 120 days before the date on which the owner or operator of the facility received the known final volume of hazardous wastes, or

(ii) Not later than 90 days after the effective date of this regulation;

(g) Complies with the requirements of §D(7) and (8) of this regulation if the owner or operator is seeking to receive additional wastes in a surface impoundment that is not in compliance with the liner and leachate collection system requirements of:

(i) §3004(o)(1) of RCRA, except as otherwise provided in §3004(o)(2) and (3) of RCRA, and

(ii) §3005(j)(1) of RCRA, except as otherwise provided in §3005(j)(2), (3) (4) or (13) of RCRA; and

(h) Complies with applicable requirements to obtain permits under:

(i) COMAR 26.04.07, and

(ii) COMAR 26.11.19.20.

(7) In addition to the requirements of §D(6) of this regulation, the owner or operator of a hazardous waste surface impoundment identified in §D(6)(g) of this regulation shall:

(a) Submit, with the request for permit modification required by §D(6)(a) of this regulation:

(i) A contingent corrective measures plan, unless the owner or operator has already submitted a corrective action plan under Regulation .06-5 of this chapter, and

(ii) A plan for removing hazardous wastes in compliance with §D(7)(b) of this regulation;

(b) Remove all hazardous wastes from the unit by removing all hazardous liquids, and removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any;

(c) Complete the removal of hazardous wastes from the unit not later than:

(i) 90 days after the final receipt of hazardous wastes, or

(ii) A later deadline approved by the Secretary if the owner or operator demonstrates that the removal of hazardous wastes will, of necessity, take longer than 90 days to complete, and that an extension beyond the 90-day deadline will not pose a threat to human health and the environment;

(d) Comply with the following requirements if there is a release detected in accordance with the requirements of Regulations .06 — .06-7 of this chapter that is a statistically significant increase over background values for detection monitoring parameters or constituents specified in the permit, that is a statistically significant decrease with respect to background values in the case of pH if pH is specified in the permit, or that exceeds the facility's ground water protection standard at the point of compliance, if applicable:

(i) Implement corrective measures in accordance with the approved contingent corrective measures plan required by §D(7)(a)(i) of this regulation not later than 1 year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(ii) Discontinue receipt of wastes at the unit following detection of the release unless the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action;

(iii) Implement corrective measures in less than 1 year if required by the Secretary on the basis that doing so is necessary to protect human health and the environment, and

(iv) Cease the receipt of wastes if required by the Secretary on the basis that doing so is necessary to protect human health and the environment;

(e) Provide semiannual reports to the Secretary during the period of corrective action that:

(i) Describe the progress of the corrective action program,

(ii) Compile all ground water monitoring data, and

(iii) Evaluate the effect of the continued receipt of non-hazardous waste on the effectiveness of the corrective action; and

(f) Commence closure of the unit if required to do so by the Secretary, based on the owner or operator failing to:

(i) Implement corrective action measures in accordance with the approved contingent corrective measures plan required by §D(7)(a)(i) of this regulation within 1 year, as required by §D(7)(d)(i) of this regulation, or

(ii) Make substantial progress in implementing corrective action and achieving the facility's ground water protection standard, or background levels if the facility has not yet established a ground water protection standard.

(8) The following requirements apply if the owner or operator fails to implement corrective measures as required by §D(7)(d) of this regulation, or if the Secretary determines, under §D(7)(f)(ii) of this regulation, that the owner or opera-

tor has not made substantial progress in implementing corrective action and achieving the goals of the corrective action program:

(a) The Secretary shall notify the owner or operator in writing that the owner or operator shall begin closure in accordance with the deadlines in §D(1) — (4) of this regulation, and provide a detailed statement of the reasons for this determination;

(b) The Secretary shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision described in §D(8)(a) of this regulation not later than 20 days after the date of the notice;

(c) If the Secretary receives no written comments in response to the notice described in §D(8)(b) of this regulation:

(i) The decision described in §D(8)(a) of this regulation becomes final 5 days after the close of the public comment period under §D(8)(b) of this regulation,

(ii) The Secretary shall notify the owner or operator that the decision described in §D(8)(a) of this regulation is final,

(iii) The Secretary shall notify the owner or operator that the owner or operator shall submit a revised closure plan, if necessary, within 15 days of the final notice, and

(iv) The Secretary shall notify the owner or operator that the owner or operator shall begin closure in accordance with the deadlines in §D(1) — (4) of this regulation;

(d) If the Secretary receives written comments in response to the notice described in §D(8)(b) of this regulation, the Secretary shall:

(i) Make a final decision within 30 days after the end of the comment period, and

(ii) Provide a detailed statement of the reasons for the final decision to the owner or operator in writing, and to the public through a newspaper notice;

(e) If the Secretary's decision under §D(8)(d)(i) of this regulation is that the owner or operator has not made substantial progress under §D(7)(f)(ii) of this regulation in implementing corrective action and achieving the goals of the corrective action program, the owner or operator shall initiate closure in accordance with the deadlines in §D(1) — (4) of this regulation; and

(f) The final determinations made by the Secretary under §D(8)(c) and (d) of this regulation are not subject to administrative appeal.

(9) For the purposes of determining deadlines under this section, the date of receiving the final volume of hazardous waste at a hazardous waste management unit or facility includes the date:

(a) The facility's permit is terminated; and

(b) The facility is ordered to cease receiving hazardous waste or to close, as described in §C(4)(f) of this regulation.

E. — G. (text unchanged)

H. Post-Closure Plan; Amendment of Plan.

(1) Written Plan.

(a) The owner or operator of a hazardous waste disposal unit shall have a written post-closure plan.

(b) In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by Regulations .11G(3)(b) and .12I(3)(b) of this chapter to have contingency post-closure plans.

(c) Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under Regulations .11G(3)(b) and .12I(3)(b) of this chapter shall submit a post-closure plan to the Secretary within 90 days from the date that the owner or operator or Secretary determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of §§G — J of this regulation.

(d) The plan shall be submitted with the permit application in accordance with COMAR [26.13.07.02 — .19] 26.13.07.02D(29) and approved by the Secretary as part of the permit issuance procedures under COMAR 26.13.07.20.

(e) In accordance with COMAR 26.13.07.05, the approved post-closure plan will become a condition of any permit issued.

(2) — (4) (text unchanged)

I. Post-Closure Notices.

(1) (text unchanged)

(2) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator shall:

(a) Record a notation on the deed to the facility property, or on some other instrument, which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(i) (text unchanged)

(ii) Its use is restricted under COMAR [26.13.05.06 — .06-7] 26.13.05.07, and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by §§F) §§F(2) and I(1) of this regulation have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Secretary;

(b) (text unchanged)

(3) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, [he] the owner or operator shall request a modification to the post-closure permit in accordance with the applicable requirements in COMAR 26.13.07.

(4) The owner or operator shall demonstrate that any removal of hazardous wastes from a hazardous waste disposal unit will satisfy the criteria of §G(4) of this regulation. By removing hazardous waste, the owner or operator may become a generator of hazardous waste and shall manage it in accordance with all applicable requirements of COMAR 26.13.03. If [he] the owner or operator is granted a permit modification or otherwise granted approval to conduct the removal activities, the owner or operator may request that the Secretary approve either:

(a) — (b) (text unchanged)

J. Certification of Completion of Post-Closure Care.

(1) [No] Not later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator shall submit to the Secretary, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan.

(2) The certification required by §J(1) of this regulation shall be signed by the owner or operator and an independent registered professional engineer.

(3) Documentation supporting the independent registered professional engineer's certification shall be furnished to the Secretary upon request until [he releases] the owner or operator is released from the financial assurance requirements for post-closure care under 40 CFR §264.145(i), as incorporated by reference in Regulation .08 of this chapter.

.08 Financial Requirements.

A. Except as provided in §B of this regulation, the Department adopts as its regulations the federal regulations at 40 CFR §§264.140 — 264.148 and 264.151, which are incorporated by reference in [Regulation .01C(1) of this chapter] COMAR 26.13.01.05B(1)(a).

B. For the purposes of this regulation:

(1) — (2) (text unchanged)

(3) In establishing the financial assurance for closure required by 40 CFR §264.143, a person may not use the financial test or corporate guarantee described in 40 CFR §264.143(f); [and]

(4) In establishing the financial assurance for the post-closure care required by 40 CFR §264.145, a person may not use the financial test or corporate guarantee described in 40 CFR §264.145(f) which is incorporated by reference[.];

(5) 40 CFR §264.140(b)(4) is not incorporated by reference; and

(6) In 40 CFR §264.142(a), the reference to §264.1102 is not applicable.

.10 General Requirements for Hazardous Waste Management in Tank Systems.

A. Applicability.

(1) — (2) (text unchanged)

(3) Tank systems, including sumps as defined in COMAR [26.13.01.02B] 26.13.01.03B, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes, are exempted from the requirements of Regulation .10-4A of this chapter.

(4) — (5) (text unchanged)

B. — E. (text unchanged)

.10-2 Assessment of Existing Tank System's Integrity.

A. (text unchanged)

B. For each existing tank system that does not have secondary containment meeting the requirements of Regulation .10-4 of this chapter, the owner or operator shall:

(1) (text unchanged)

(2) Have the assessment required by §B(1) of this regulation reviewed and certified by an independent, qualified registered professional engineer, in accordance with COMAR 26.13.07.03D;

(3) (text unchanged)

(4) Develop the written assessment required by §B(1) of this regulation, and have it certified in accordance with §B(2) of this regulation, as follows:

(a) For existing underground tanks that cannot be entered for inspection, by [July 1, 1993] January 12, 1988, except that, for tanks that store or treat materials that become regulated as hazardous wastes after July 14, 1986, the owner or operator shall conduct this assessment within 12 months after the date that the waste becomes regulated as hazardous;

(b) (text unchanged)

(5) (text unchanged)

.10-4 Containment and Detection of Releases.

A. Except as allowed for in §F of this regulation and Regulation .10-5 of this chapter, an owner or operator shall

provide secondary containment that meets the requirements of this regulation by the following deadlines:

(1) (text unchanged)
 (2) For all existing tank systems used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that are:

(a) Underground tanks that cannot be entered for inspection, within 2 years after [July 1, 1993] *January 12, 1987*,

(b) — (c) (text unchanged)

(3) Existing underground tank systems that cannot be entered for inspection and that are a known and documented age, [by July 1, 1993] *within 2 years after January 12, 1987*, or when the tank system becomes 15 years old, whichever comes later;

(4) (text unchanged)

(5) Existing tank systems that cannot be entered for inspection, and for which the age cannot be documented:

(a) (text unchanged)

(b) If the age of the facility is greater than 7 years, [by July 1, 1993] *within 2 years after January 12, 1987*, or the time the facility becomes 15 years old, whichever comes later;

(6) — (7) (text unchanged)

B. — E. (text unchanged)

F. The owner or operator shall provide ancillary equipment with secondary containment such as a trench, jacketing, or double-walled piping that meets the requirements of [§B] §§B and C of this regulation except for:

(1) — (4) (text unchanged)

G. (text unchanged)

.10-6 Leaks, Spills, and Disposition of Leaking or Unfit-for-Use Tank Systems.

A. (text unchanged)

B. The owner or operator of a tank system for which a variance from secondary containment has been granted in accordance with Regulation .10-5D of this chapter, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control, as established in the variance, shall:

(1) Comply, except for [§A(6)(b)] §A(6) of this regulation, with the other requirements of §A of this regulation;

(2) — (3) (text unchanged)

C. (text unchanged)

.11 Surface Impoundments.

A. — C. (text unchanged)

D. Containment Systems.

(1) (text unchanged)

(2) [For] *The owner or operator of a surface impoundment, except for an existing portion of a surface impoundment or a surface impoundment covered by COMAR 26.13.06.19D(1) and (2), shall construct a liner system designed to prevent discharge into the land during the life of the surface impoundment [shall be constructed]:*

(a) With:

(i) [a] A highly impermeable liner system in contact with the waste which will prevent the discharge of the waste or leachate into the liner or liners during the life of the surface impoundment based on the liner or liners' thickness, the saturated permeability of the liner or liners, and the pressure head of waste or leachate to which the liner or liners will be exposed, and

(ii) [a] A leachate detection, collection, and removal system beneath the liner or liners in contact with the

waste to detect, contain, collect, and remove any discharge from the liner system in contact with the waste; and

(b) Above the waste table, *which may be controlled to comply with this requirement*, to ensure the detection of any discharge of waste or leachate through the liner system in contact with the waste, prevent the discharge of ground water to the leachate detection, collection, and removal system, and to preserve the structural integrity of the liner or liners. [(The ground water table may be controlled to comply with this requirement.)]

(3) — (11) (text unchanged)

E. — H. (text unchanged)

I. Special Requirements for Ignitable or Reactive Waste. Ignitable or reactive waste may not be placed in a surface impoundment, unless the:

(1) Waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive wastes under COMAR 26.13.02.11[,] or .13, and Regulation [.02H(2)]. *.02H of this chapter is complied with; or*

(2) (text unchanged)

J. — K. (text unchanged)

.12 Waste Piles.

A. Applicability.

(1) [These regulations apply] *This regulation applies to owners and operators of facilities that store or treat hazardous waste in piles, except as Regulation .01 of this chapter provides otherwise.*

(2) (text unchanged)

B. — J. (text unchanged)

.14 Landfills.

A. Applicability. [These regulations apply] *This regulation applies to owners and operators of facilities that dispose of hazardous waste in landfills, except as Regulation .01 of this chapter provides otherwise.*

B. Design and Operating Requirements.

(1) Any landfill not covered by §B(3) of this regulation or COMAR 26.13.06.22C shall have a liner system for all portions of the landfill, except for existing portions of the landfill. The liner system shall:

(a) — (c) (text unchanged)

(2) — (4) (text unchanged)

(5) The double liner requirement set forth in §B(3) of this regulation may be waived by the Secretary for any monofill, if:

(a) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and these wastes do not contain constituents which would render the wastes hazardous for reasons other than exhibiting the toxicity characteristic in COMAR [26.13.02] 26.13.02.14 for one or more of EPA hazardous waste numbers D004 — D017; and

(b) One of the following applies:

(i) The monofill has at least one liner for which there is no evidence that the liner is leaking, the monofill is located more than 1/4 mile from an underground source of drinking water, as defined in 40 CFR §144.3, and the monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under COMAR 26.13.07; or

(ii) (text unchanged)

(6) — (10) (text unchanged)

C. — M. (text unchanged)

N. Special Requirements for Liquid Waste.

(1) [Bulk or noncontainerized liquid waste or waste containing free liquids may not be placed in a landfill.] A person may not place waste which contains free liquids in a landfill, including bulk waste, non-containerized waste, or waste in containers.

(2) To demonstrate the absence or presence of free liquids, a person shall use Method 9095, [() Paint Filter Liquids Test, ()] as described in "Test Methods for Evaluating Solid [Wastes] Waste, Physical/Chemical Methods", EPA Publication SW-846, [as] which is incorporated by reference in COMAR 26.13.01.05A(4).

O. Special Requirements for Containers. Unless the containers are very small[(), such as ampules()], [the containers shall be crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in a landfill.] an owner or operator shall ensure that containers are:

- (1) At least 90 percent full when placed in a landfill; or
- (2) Crushed, shredded, or similarly reduced in volume to the maximum extent practicable before burial in a landfill.

P (text unchanged)

.16-1 Miscellaneous Units.

A. (text unchanged)

B. Environmental Performance Standards.

(1) (text unchanged)

(2) Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate:

- (a) (text unchanged)
- (b) Detection and monitoring requirements; [and]
- (c) Requirements for responses to releases of hazardous waste or hazardous constituents from the unit[.]; and
- (d) All applicable requirements of Regulations .09 — .14 and .16 of this chapter, and COMAR 26.13.07 that are appropriate for the miscellaneous unit being permitted.

(3) (text unchanged)

C. — D. (text unchanged)

.19 Underground Injection Control.

A person may not dispose of hazardous waste by underground injection [(as the term "underground injection" is defined at COMAR 26.08.07 and 40 CFR §143.3)].

.20 Record-Keeping Instructions.

A. The record-keeping provisions of Regulation .05D of this chapter specify that an owner or operator shall keep a written operating record at [his] the facility. This regulation provides additional instructions for keeping portions of the operating record. See Regulation .05D(2) of this chapter for additional record-keeping requirements.

[B. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility in the following manner: records of each hazardous waste received, treated, stored, or disposed of at the facility which include the following:

(1) A description by its common name and the EPA Hazardous Waste Number(s) from COMAR 26.13.02 which apply to the waste. The waste description also shall include the waste's physical form, such as liquid, sludge, solid, or contained gas. If the waste is not listed in COMAR 26.13.02.05 — .19, the description also shall include the process that produced it (for example, solid filter cake from production of _____, EPA Hazardous Waste Number W051). Each hazardous waste listed in COMAR 26.13.02.15 — .19 and each hazardous waste characteristic

defined in COMAR 26.13.02.10 — .14, has a four digit EPA Hazardous Waste Number assigned to it. This number shall be used for record keeping and reporting purposes. When a hazardous waste contains more than one listed hazardous waste, or when more than one hazardous waste characteristic applies to the waste, the waste description shall include all applicable EPA Hazardous Waste Numbers.]

B. For each hazardous waste received, treated, stored, or disposed of at a facility, the owner or operator shall record the following information in the facility's operating record and maintain this information in the operating record until closure of the facility:

(1) A description of the waste, including:

(a) The common name of the waste and the EPA Hazardous Waste Number or Numbers from COMAR 26.13.02 which apply to the waste,

(b) The waste's physical form, such as liquid, sludge, solid, or contained gas,

(c) If the waste is not listed in COMAR 26.13.02.15 — .19, a description of the process that produced it, such as "solid filter cake from production of _____, EPA Hazardous Waste Code W051", and

(d) The EPA or State Hazardous Waste Number from COMAR 26.13.02.10 — .19 that is associated with the waste, or, if the waste contains more than one listed hazardous waste or when more than one hazardous waste characteristic applies to the waste, all applicable EPA or State Hazardous Waste Numbers;

(2) The estimated or manifest-reported weight, or volume and density, when applicable, in one of the units of measure specified in Table 1[.]; and

(3) The [method(s)] method or methods (by handling [code(s)] code or codes as specified in Table 2) and [date(s)] date or dates of treatment, storage, or disposal.

Table 1

Unit of Measure	Symbol*	[Density]
[Pounds	P	—]
[Short Tons (2,000lbs.)	T	—]
Gallons (U.S.)	G	[P/G]
Gallons per hour	E	
Gallons per day	U	
[Cubic Yards	Y	T/Y]
[Kilograms	K	—]
[Tonnes (1,000 kg)	M	—]
Liters	L	[K/L]
Liters per hour	H	
Liters per day	V	
Short tons per hour	D	
Metric tons per hour	W	
Short tons per day	N	
Metric tons per day	S	
Pounds per hour	J	
Kilograms per hour	R	
Cubic yards	Y	
Cubic meters	C	[M/C]
Acres	B	
Acre-feet	A	
Hectares	Q	
Hectare-meter	F	
Btu's per hour	I	

* Single [digit] character symbols are used here for data processing purposes.

Table 2
Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling [code(s)] code or codes listed below that most closely represents the [technique(s)] technique or techniques used at the facility to treat, store, or dispose of each quantity of hazardous waste received.

1. Storage
 - S01 — S04 (text unchanged)
 - S05 [Other (specify)] Drip pad
 - S06 Containment building (storage)
 - S99 Other storage (specify)
2. Treatment
 - (a) Thermal Treatment
 - T06 — T15 (text unchanged)
 - [T16 Cement kiln]
 - [T17 Lime kiln]
 - T18 (text unchanged)
 - (b) Chemical Treatment
 - T19 — T34 (text unchanged)
 - (c) Physical Treatment
 - (1) Separation of [components] Components
 - T35 — T47 (text unchanged)
 - (2) Removal of Specific Components
 - T48 — T66 (text unchanged)
 - (d) Biological Treatment
 - T67 — T69 (text unchanged)
 - (e) Boilers and Industrial Furnaces
 - T70 Anaerobic [lagoon] tank
 - T71 — T79 (text unchanged)
 - T80 Boiler
 - T81 Cement kiln
 - T82 Lime kiln
 - T83 Aggregate kiln
 - T84 Phosphate kiln
 - T85 Coke oven
 - T86 Blast furnace
 - T87 Smelting, melting, or refining furnace
 - T88 Titanium dioxide chloride process oxidation reactor
 - T89 Methane reforming furnace
 - T90 Pulping liquor recovery furnace
 - T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
 - T92 Halogen acid furnaces
 - T93 Other industrial furnaces listed in COMAR 26.13.01.03 (specify)
 - (f) Other Treatment
 - T94 Containment building (treatment)
3. Disposal
 - [D80] D79 — [D84] D83 (text unchanged)
 - [D85] D99 Other disposal (specify)
4. Miscellaneous (Regulation .16-1 of this chapter)
 - X02 Open burning or open detonation
 - X02 Mechanical processing
 - X03 Thermal unit
 - X04 Geologic repository
 - X99 Other miscellaneous under Regulation .16-1 of this chapter (specify)

26.13.06 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Authority: Environment Article, Title 7, Subtitle 2.
Annotated Code of Maryland

.01 General

A. Purpose, Scope, and Applicability.

(1) The purpose of this chapter is to establish minimum State standards, which define the acceptable management of hazardous waste during the period of interim status, and until:

(a) Certification of final closure under Regulations .07 — .11 of this chapter;

(b) Post-closure requirements under Regulations .12 — .15 of this chapter are met, if those requirements apply; or

(c) A final CHS permit is issued under COMAR 26.13.07.

(2) Except as provided in COMAR 26.13.02.05, this chapter applies to owners and operators of the following hazardous waste management facilities that treat, store, or dispose of hazardous waste:

(a) Facilities in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a CHS permit for which the owner or operator has complied with §B(1) of this regulation;

(b) Facilities in existence on November 19, 1980, for which the owner or operator has failed to provide timely notification as required by §3010(a) of RCRA or to file part A of the CHS permit application as required by §B(1) and (2) of this regulation; and

(c) Facilities that were previously required, because of federal regulations promulgated under the authority of the Hazardous and Solid Waste Amendments of 1984, to meet the requirements for interim status under 40 CFR 265 and 270.

(3) This chapter applies to owners and operators of hazardous waste management facilities who are subject to the requirements of §B of this regulation and fail to comply with these requirements.

(4) The requirements of this chapter do not apply to:

(a) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act; .

(b) The owner or operator of a facility permitted, licensed, or registered by the State to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this chapter by COMAR 26.13.02.05;

(c) The owner or operator of a facility managing recyclable materials described in COMAR 26.13.02.06A(2) and (3), except to the extent that the requirements of this chapter are referred to in COMAR 26.13.10.01, .03, and .04;

(d) A generator accumulating waste on-site in compliance with COMAR 26.13.03.05E, except to the extent that COMAR 26.13.03.05E requires the generator to comply with the requirements of this chapter;

(e) A farmer disposing of waste pesticides from the farmer's own use in compliance with COMAR 26.13.03.07-4;

(f) The owner or operator of a totally enclosed treatment facility as defined in COMAR 26.13.01.03B(81);

(g) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in COMAR 26.13.01.03B, unless the unit is used to treat waste from off-site;

(h) Except as provided in §A(5) of this regulation, a person engaged in treatment or containment activities during immediate response to any of the following situations, if the person complies with the otherwise applicable requirements of Regulations .03 and .04 of this chapter:

(i) A discharge of a hazardous waste,

(ii) An imminent and substantial threat of a discharge of a hazardous waste,

(iii) A discharge of a material which, when discharged, becomes a hazardous waste, or

(iv) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of conventional military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in COMAR 26.13.01.03B; or

(i) The owner or operator of a publicly owned treatment works (POTW) which treats, stores, or disposes of hazardous waste.

(5) The exemption under §A(4)(h) of this regulation applies only to immediate response activities taken in response to the circumstances identified in §A(4)(h)(i) — (iv) of this regulation. After the immediate response activities are completed, the applicable regulations of this chapter and COMAR 26.13.07 apply fully to the management of any spill residue or debris which is a hazardous waste under COMAR 26.13.02.

(6) A person may not manage hazardous waste with EPA Hazardous Waste Number F020, F021, F022, F023, F026, or F027 at a facility subject to regulation under this chapter unless:

(a) It is a wastewater treatment sludge generated in a surface impoundment as part of a plant's wastewater treatment system;

(b) The waste is stored in tanks or containers;

(c) The waste is stored or treated in waste piles that meet the requirements of:

(i) COMAR 26.13.05.12A(2), and

(ii) Regulation .20 of this chapter; or

(d) The facility has been issued a permit to do so under COMAR 26.13.07.

B. Required Submissions.

(1) Unless the Secretary establishes a later date as provided in §B(3) of this regulation, an owner or operator of a hazardous waste management facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a CHS permit shall submit part A of the permit application to the Department by the earlier of the following two dates:

(a) 6 months after the publication of the notice of final action on regulations which first require the owner or operator to comply with the standards set forth in this chapter or COMAR 26.13.10; or

(b) 30 days after the date the owner or operator first becomes subject to the standards set forth in this chapter or COMAR 26.13.10.

(2) If an owner or operator of a hazardous waste management facility has filed part A of a CHS permit application and has not yet filed part B of the CHS permit application, the owner or operator shall file an amended part A application with the Secretary:

(a) Not later than the effective date of regulatory provisions listing or designating additional wastes as hazardous, if the facility is treating, storing, or disposing of any of these newly listed or designated hazardous wastes;

(b) As necessary to comply with COMAR 26.13.07.23C for changes during interim status; or

(c) By the deadline established under §B(3) of this regulation.

(3) Extension of Deadlines for Submission of Part A Application.

(a) The Secretary may, by publishing a notice in the Maryland Register, extend the date by which owners or operators of existing hazardous waste management facilities in a specified class of facilities are required to submit part A of the CHS permit application if the Secretary finds that:

(i) There has been substantial confusion as to whether the owners and operators of those facilities were required to file a permit application; and

(ii) The confusion over whether owners and operators were required to file a permit application is the result of ambiguities in COMAR 26.13.01, 26.13.02, or this chapter.

(b) The Secretary may, by compliance order, extend the date by which the owner or operator of an existing hazardous waste management facility is required to submit part A of the CHS permit application.

(4) The owner or operator of a facility that fails to comply with the updating requirements of §B(2) of this regulation has interim status only for the wastes covered by part A CHS permit applications filed in accordance with the requirements of this section.

(5) The Secretary may require the owner or operator of a facility operating under interim status to file a part B CHS permit application by a certain deadline. If the facility owner or operator fails to furnish a requested part B CHS permit application by the required deadline, or fails to furnish in full the information required to be included in the part B CHS permit application, the Secretary may terminate interim status under COMAR 26.13.07.

C. Imminent Hazard Action. Notwithstanding any other provisions of this chapter, enforcement actions may be brought under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, or other applicable State authority.

.02 General Facility Standards.

A. Except as provided in §§B — F of this regulation, the owner or operator of a facility subject to this chapter shall meet the requirements of COMAR 26.13.05.02.

B. The requirements of COMAR 26.13.05.02D(2)(c)(vi), which concern additional waste analysis requirements, are not applicable.

C. In the waste analysis plan, the owner or operator shall specify, when applicable, the methods which will be used to satisfy the additional provisions for waste analysis for specific waste management methods as specified in:

(1) COMAR 26.13.05.10B, with which the owner or operator is required to comply in Regulation .18A of this chapter;

(2) COMAR 26.13.05.11E, with which the owner or operator is required to comply in Regulation .19B of this chapter;

(3) COMAR 26.13.05.12C, with which the owner or operator is required to comply in Regulation .20B(2) of this chapter;

(4) Regulations .22C and .22F of this chapter; and

(5) 40 CFR §§265.273, 265.341, 265.375, and 265.402, which are incorporated by reference in Regulations .21A, .23A, .24A, and .25A of this chapter, respectively.

D. Except as provided in §E of this regulation, an owner or operator shall comply with COMAR 26.13.05.02F(2)(d).

E. An owner or operator shall ensure that the inspection schedule required in §D of this regulation includes, at a minimum, the items and frequencies called for in:

(1) COMAR 26.13.05.09E, with which the owner or operator is required to comply in Regulation .17 of this chapter;

(2) COMAR 26.13.05.10D and .10-4, with which the owner or operator is required to comply in Regulation .18A of this chapter;

(3) COMAR 26.13.05.12E, with which the owner or operator is required to comply in Regulation .20B of this chapter;

(4) Regulation .19G of this chapter; and

(5) 40 CFR §§265.278, 265.347, 265.377, and 265.402, which are incorporated by reference in Regulations .21A, .23A, .24A, and .25A of this chapter, respectively.

F. For the purposes of this chapter, an owner or operator:

(1) May substitute the word "unless" for the words "unless it can be demonstrated to the Secretary" in COMAR 26.13.05.02E(1); and

(2) Is not required to comply with COMAR 26.13.05.02H(3) or I(2), which concern documentation of compliance with general requirements for ignitable, reactive, or incompatible wastes, and aisle space requirements, respectively.

G. Location Standard. The placement of any hazardous waste in a salt dome, salt bed formation, or underground mine or cave is prohibited.

.03 Preparedness and Prevention.

A. Except as provided in §§B and D of this regulation, an owner or operator of a facility subject to this chapter shall comply with COMAR 26.13.05.03.

B. An owner or operator of a facility shall comply with §C of this regulation instead of COMAR 26.13.05.03B during the period of interim status.

C. Facility Operation. The owner or operator shall maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

D. An owner or operator who is subject to this chapter is not required to make the demonstrations to the Secretary required in COMAR 26.13.05.03C and F, concerning required equipment for use in emergencies and required aisle space, respectively.

.04 Contingency Plan and Emergency Procedures.

A. Except as provided in §B of this regulation, an owner or operator of a facility subject to this chapter shall comply with COMAR 26.13.05.04.

B. For the purposes of this chapter, in COMAR 26.13.05.04E(1), "Facility permit is revised" is replaced with "Applicable regulations are revised".

.05 Manifest System, Record Keeping, and Reporting.

A. Except as provided in §§B and C of this regulation, the owner or operator of a facility subject to this chapter shall comply with COMAR 26.13.05.05.

B. For the purpose of complying with this regulation, the owner or operator of a facility subject to this chapter shall:

(1) In place of the requirement of COMAR 26.13.05.05D(2)(c), record and maintain in the operating

record the results of waste analyses, waste determinations, and trial tests performed as specified in:

(a) Regulations .02 and .22F of this chapter,

(b) COMAR 26.13.05.10B, with which the owner or operator is required to comply in Regulation .18A of this chapter,

(c) COMAR 26.13.05.11E, with which the owner or operator is required to comply in Regulation .19B(3) of this chapter,

(d) COMAR 26.13.05.12C, with which the owner or operator is required to comply in Regulation .20B(2) of this chapter, and

(e) 40 CFR §§265.273, 265.341, 265.375, and 265.402, which are incorporated by reference in Regulations .21A, .23B, .24A, and .25A of this chapter, respectively;

(2) Comply with COMAR 26.13.05.05D(2)(g) and F(4)(i), except that the references to Regulations .12 — .15 of this chapter are to Regulation .16 of this chapter;

(3) In place of the requirement of COMAR 26.13.05.05D(2)(h), record and maintain in the operating record monitoring, testing, or analytical data, and corrective action when required by Regulations .02, .06, and .18 — .24 of this chapter;

(4) Submit with the biennial report required by COMAR 26.13.05.05F monitoring data under 40 CFR §§265.94(a)(2)(ii), (iii), and (b)(2), which are incorporated by reference in Regulation .06A of this chapter; and

(5) In place of the requirement of COMAR 26.13.05.05H(4), report to the Secretary as otherwise required by Regulations .06 and .19 — .22 of this chapter.

C. The owner or operator of a facility subject to this chapter is not required to comply with COMAR 26.13.05.05D(2)(i).

.06 Ground Water Protection.

A. Except as provided in §B of this regulation, the Department adopts as its regulations the federal regulations at 40 CFR §§265.90 — 265.94, adopted as of July 1, 1998, which are incorporated by reference.

B. For the purposes of this regulation, substitute "Secretary" for "Regional Administrator".

.07 Closure — General.

A. Applicability. Except as provided in Regulation .01 of this chapter, this regulation and Regulations .08 — .11 of this chapter apply to the owners and operators of all interim status facilities.

B. Closure Performance Standard. The owner or operator shall close the facility in a manner that:

(1) Minimizes the need for further maintenance;

(2) Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste; hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(3) Complies with the closure requirements of this chapter, including, but not limited to, those contained in Regulations .17 — .26 of this chapter.

.08 Closure — Amendment of Plan.

A. Written Plan. The following requirements apply to the owner or operator of an interim status facility:

(1) By May 19, 1981, or by 6 months after the effective date of the regulation that first subjects a facility to the provisions of this regulation, the owner or operator shall have a written closure plan;

(2) Until final closure is completed and certified in accordance with Regulation .11 of this chapter, the owner or operator shall furnish a copy of the most current plan to the Secretary upon request, including request by mail; and

(3) For facilities without approved closure plans, the owner or operator shall provide a copy of the closure plan during site inspections, on the day of the inspection, to any officer, employee, or representative of the Department who is designated by the Secretary.

B. The owner or operator shall assure that the closure plan identifies the steps necessary to perform partial or final closure of the facility, or both, at any point during its active life.

C. Content of the Closure Plan. The owner or operator shall assure that the closure plan includes, at least:

(1) A description of how each hazardous waste management unit at the facility will be closed in accordance with §B of this regulation;

(2) A description of how final closure of the facility will be conducted in accordance with §B of this regulation, which shall identify the maximum extent of the operations that will be conducted during interim status during the active life of the facility;

(3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility;

(4) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes;

(5) An identification of the type or types of the off-site hazardous waste management units to be used, if applicable;

(6) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to:

(a) Procedures for cleaning equipment and removing contaminated soils,

(b) Methods for sampling and testing surrounding soils, and

(c) Criteria for determining the extent of decontamination necessary to satisfy the closure performance standard;

(7) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including but not limited to ground water monitoring, leachate collection, and run-on and run-off control;

(8) A schedule for closure of each hazardous waste management unit, and for final closure of the facility, which includes, at a minimum:

(a) The total time required to close each hazardous waste management unit, and

(b) The time required for intervening closure activities which will allow tracking of the progress of partial and final closure;

(9) For a landfill unit, as part of the schedule required by §C(8) of this regulation, estimates of the time required to treat or dispose of all hazardous waste inventory, and of the time required to place a final cover; and

(10) An estimate of the expected year of final closure if the facility:

(a) Uses trust funds to demonstrate financial assurance under 40 CFR §265.143 or 265.145, which are incorpo-

rated by reference in Regulation .16 of this chapter, and has a remaining operating life that is less than 20 years, or

(b) Does not have an approved closure plan.

D. Amendment of Plan.

(1) The owner or operator may amend the closure plan at any time before the notification of partial or final closure of the facility under §E of this regulation.

(2) An owner or operator with an approved closure plan seeking to amend the plan shall:

(a) Submit a written request to the Secretary to authorize a change to the approved closure plan; and

(b) Include a copy of the amended closure plan with the written request for approval by the Secretary.

(3) The owner or operator shall amend the closure plan whenever:

(a) Changes in operating plans or facility design affect the closure plan;

(b) There is a change in the expected year of closure, if applicable; or

(c) In conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(4) The owner or operator shall amend the closure plan:

(a) At least 60 days before the proposed change in facility design or operation; or

(b) Except as provided in §D(5) of this regulation, not later than 60 days after an unexpected event occurs which has affected the closure plan.

(5) If an unexpected event occurs during the partial or final closure period that requires a modification of the closure plan, the owner or operator shall amend the closure plan not later than 30 days after the unexpected event.

(6) The provisions of §D(4) and (5) of this regulation also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Regulation .22B(3) of this chapter.

(7) An owner or operator with an approved closure plan shall submit a modified plan to the Secretary:

(a) At least 60 days before the proposed change in facility design or operation; or

(b) Except as provided in §D(8) of this regulation, not more than 60 days after an unexpected event occurs which has affected the closure plan.

(8) If an unexpected event has occurred during the partial or final closure period, the owner or operator shall submit the modified plan not more than 30 days after the unexpected event.

(9) The provisions of §D(7) and (8) of this regulation also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Regulation .22B(3) of this chapter. Unless the amendment to the plan is a minor modification according to the criteria in COMAR 26.13.07.13 — .13-3, the request for modification will be processed according to the procedures in §E(8), (9), and (10) of this regulation.

(10) Modifications at the Request of the Secretary.

(a) The Secretary may request modifications to the closure plan under the conditions described in §D(3) of this regulation.

(b) An owner or operator with an approved closure plan shall submit the modified plan within 60 days of the request from the Secretary, or within 30 days if the Secretary has made the request as a result of an unexpected event occurring during partial or final closure.

(c) Unless the amendment to the plan is a minor modification according to the criteria in COMAR 6.13.07.13 — 13-3, the request for modification will be processed according to the procedures in §D(8), (9), and (10) of this regulation.

E. Notification of Partial Closure and Final Closure.

(1) The owner or operator of a facility without an approved closure plan shall submit the closure plan to the Secretary at least:

(a) 180 days before the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment unit, or landfill unit;

(b) 180 days before the date on which the owner or operator expects to begin final closure if it involves a surface impoundment, waste pile, land treatment unit, or landfill unit;

(c) 45 days before the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace; and

(d) 45 days before the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(2) An owner or operator with an approved closure plan shall notify the Secretary in writing at least:

(a) 60 days before the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit;

(b) 60 days before the date on which the owner or operator expects to begin final closure of a facility involving a surface impoundment, waste pile, landfill, or land treatment unit;

(c) 45 days before the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace; and

(d) 45 days before the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(3) For the purposes of §E(1) and (2) of this regulation, the date when the owner or operator expects to begin partial or final closure shall be:

(a) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes;

(b) Not later than 1 year after the date on which the hazardous waste management unit received the most recent volume of hazardous waste, if there is a reasonable possibility that the unit will receive additional hazardous wastes, or by a later deadline established by the Secretary under §E(4) of this regulation; or

(c) As provided in §E(5) of this regulation.

(4) The Secretary may approve an extension to the 1-year limit in §E(3)(b) of this regulation if the owner or operator of the facility can demonstrate to the Secretary that:

(a) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(b) The owner or operator of the facility has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements.

(5) If an owner or operator of a facility has been allowed to receive non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous waste as provided by Regulation .09H of this chapter, the date when the owner or operator expects to begin closure for the purposes of §E(1) and (2) of this regulation shall be not later than:

(a) 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes; or

(b) 1 year after the date on which the unit received the most recent volume of non-hazardous waste, if there is a reasonable possibility that the unit will receive additional non-hazardous wastes, or by a later deadline established by the Secretary under §E(6) of this regulation.

(6) The Secretary may approve an extension to the 1-year limit in §E(5)(b) of this regulation if the owner or operator of the facility can demonstrate to the Secretary that:

(a) The hazardous waste management unit has the capacity to receive additional non-hazardous wastes; and

(b) The owner or operator of the facility has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(7) The owner or operator of the facility shall submit the closure plan to the Secretary not later than 15 days after:

(a) Termination of interim status except when a permit is issued simultaneously with termination of interim status; or

(b) Issuance of a judicial decree or final order under §3008 of RCRA or Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, to cease receiving hazardous wastes or close.

(8) Following submission of the closure plan by the owner or operator of the facility, or written notification of intent to begin closure under §E(1) or (2) of this regulation, the Secretary shall provide the owner or operator of the facility and the public, through a newspaper notice, the opportunity to do any of the following for up to 30 days from the date of the newspaper notice:

(a) Submit written comments on the closure plan;

(b) Request modifications to the closure plan; or

(c) Request a public hearing on the closure plan.

(9) Public Hearing.

(a) In response to a request, the Secretary shall hold a public hearing whenever a hearing might clarify one or more issues concerning a closure plan.

(b) In the absence of a request for a public hearing, a hearing may be scheduled at the Secretary's discretion.

(c) The Secretary shall give public notice of the hearing at least 30 days before the hearing occurs.

(d) Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(10) Secretarial Approval, Modification, or Disapproval of Closure Plan.

(a) The Secretary shall approve, modify, or disapprove the plan within 90 days of the receipt of the plan.

(b) If the Secretary does not approve the closure plan, the Secretary shall give the owner or operator a detailed written statement of reasons for the refusal.

(c) The owner or operator shall modify the closure plan or submit a new plan for approval within 30 days after receiving the written statement provided under §E(10)(b) of this regulation.

(d) The Secretary shall approve or modify the new or revised closure plan submitted under §E(10)(c) of this regulation in writing within 60 days. If the Secretary modifies the closure plan, this modified closure plan becomes the approved closure plan.

(e) The Secretary shall assure that the approved closure plan is consistent with Regulations .07B and .08 — .11 of this chapter, the applicable requirements of Regulations

.06, .18D, .19B(4), .20B(6), and .22B(3) of this chapter, and 40 CFR §§265.280, 265.351, 265.381, and 265.404, which are incorporated by reference in Regulations .21A, .23A, .24A, and .25A of this chapter, respectively.

(f) If the Secretary modifies the closure plan, a copy of the modified closure plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

(11) **Removal of Wastes and Decontamination or Dismantling of Equipment.** This regulation does not preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

.09 Closure — Time Allowed for Closure.

A. Before the later of the following two dates, the owner or operator shall treat, remove from the hazardous waste management unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan:

(1) 90 days after receiving the final volume of:

(a) Hazardous wastes, or
(b) Non-hazardous wastes if the requirements of §§H — O of this regulation are met; or

(2) 90 days after approval of the closure plan.

B. Subject to the requirements of §§C and G(1) of this regulation, the Secretary may approve a longer period for closure than that specified in §A of this regulation if the owner or operator demonstrates that:

(1) The activities required to comply with §A of this regulation will, of necessity, take longer than 90 days to complete; or

(2) The following conditions are met:

(a) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the facility owner or operator complies with §§H — O of this regulation,

(b) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or facility within 1 year, and

(c) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site.

C. In addition to the requirements of §B of this regulation, the owner or operator requesting a longer time for closure shall demonstrate that all steps necessary to prevent threats to human health and the environment have been taken and will continue to be taken, including compliance with all applicable interim status requirements.

D. The owner or operator shall complete partial and final closure activities:

(1) In accordance with the approved closure plan; and

(2) Before the later of the following two dates:

(a) 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or the final volume of non-hazardous wastes if the owner or operator complies with the requirements of §§H — O of this regulation, or

(b) 180 days after approval of the closure plan.

E. Subject to the requirements of §F of this regulation, the Secretary may approve an extension to the closure period specified in §D of this regulation if the owner or operator demonstrates that:

(1) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(2) The following conditions are met:

(a) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous waste if the facility owner or operator complies with the requirements of §§H — O of this regulation,

(b) There is reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or facility within 1 year, and

(c) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site.

F. In addition to the requirements of §E of this regulation, the owner or operator requesting a longer closure period shall demonstrate that all steps necessary to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility have been taken and will continue to be taken, including compliance with all applicable interim status requirements.

G. The owner or operator shall make the demonstration referred to in:

(1) §B of this regulation at least 30 days before the expiration of the 90-day period specified in §A of this regulation; and

(2) §E of this regulation at least 30 days before the expiration of the 180-day period specified in §D of this regulation, unless the owner or operator is otherwise subject to the deadlines in §H of this regulation.

H. The Secretary may allow an owner or operator to receive non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at the unit if the owner or operator:

(1) Submits an amended part B CHS permit application, or a part B CHS permit application, if not previously required;

(2) Demonstrates that:

(a) The unit has the existing design capacity as indicated on the part A CHS permit application to receive non-hazardous wastes,

(b) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within 1 year after the final receipt of hazardous wastes,

(c) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit or with the facility design and operating requirements of the unit or facility under this chapter,

(d) Closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility, and

(e) The owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements;

(3) Includes, in the part B CHS permit application:

(a) An amended waste analysis plan,

(b) A ground water monitoring and response program,

(c) The human exposure assessment required under RCRA §3019, and

(d) Closure and post-closure plans;

(4) Includes, in the part B CHS permit application, updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate to reflect any:

(a) Changes due to the presence of hazardous constituents in the non-hazardous wastes, and

(b) Changes in closure activities, including the expected year of closure if applicable under Regulation .08C(10) of this chapter, as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

(5) Amends the part B CHS permit application, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes;

(6) Submits the part B CHS permit application and the demonstrations referred to in §H(1) — (4) of this regulation to the Secretary by the later of the following two dates:

(a) 180 days before the date on which the owner or operator of the facility receives the known final volume of hazardous wastes, or

(b) 90 days after the effective date of this regulation;

(7) Complies with the requirements of §I of this regulation if the owner or operator is seeking to receive additional non-hazardous wastes in a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements of:

(a) §3004(o)(1) of RCRA, except as otherwise provided in §3004(o)(2) or (3) of RCRA, and

(b) §3005(j)(1) of RCRA, except as otherwise provided in §3005(j)(2), (3), (4), or (13) of RCRA; and

(8) Complies with the applicable requirements to obtain permits under:

(a) COMAR 26.04.07; and

(b) COMAR 26.11.19.20.

I. In addition to the requirements in §H of this regulation, an owner or operator of a hazardous waste surface impoundment identified in §H(7) of this regulation shall:

(1) Submit with the part B CHS permit application:

(a) A contingent corrective measures plan, and

(b) A plan for removing hazardous wastes in compliance with §I(2) of this regulation;

(2) Remove all hazardous wastes from the unit by removing all hazardous liquids, and removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any;

(3) Complete removal of hazardous wastes not later than 90 days after the final receipt of hazardous wastes, unless the Secretary approves an extension to this deadline based upon a demonstration by the owner or operator that:

(a) The removal of hazardous wastes will, of necessity, take longer than the allotted period of time to complete, and

(b) An extension will not pose a threat to human health and the environment;

(4) Comply with the following requirements if a release that is a statistically significant increase over background levels, or decrease in the case of pH, in hazardous constituents is detected in accordance with the requirements of Regulation .06 of this chapter:

(a) Implement corrective measures in accordance with the approved contingent corrective measures plan required by §I(1) of this regulation not later than 1 year after detection of the release, or approval of the contingent corrective measures plan, whichever is later,

(b) Elect to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action, and

(c) Implement corrective measures in less than 1 year, or cease receipt of wastes until corrective measures have been implemented if required to do so by the Secretary, based on a determination by the Secretary that the corrective measures are necessary to protect human health and the environment; and

(5) Perform the following activities during the period of corrective action:

(a) Provide semiannual reports to the Secretary which describe the progress of the corrective action program,

(b) Compile all ground water monitoring data, and

(c) Evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

J. The Secretary may require the owner or operator of a surface impoundment unit regulated under §I of this regulation to commence closure of the unit if the owner or operator:

(1) Fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within 1 year as required in §I(4) of this regulation; or

(2) Fails to make substantial progress in implementing corrective action and achieving the facility's background levels.

K. If the owner or operator fails to implement corrective measures as required in §I(4) of this regulation, or if the Secretary determines that substantial progress has not been made under §J of this regulation, the Secretary shall:

(1) Notify the owner or operator in writing that the owner or operator shall begin closure in accordance with the deadlines in §§A — F of this regulation;

(2) Provide the owner or operator with a detailed statement of reasons for the Secretary's determination; and

(3) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the Secretary's decision not later than 20 days after the date of the notice.

L. If the Secretary does not receive any written comments in response to the determination in §K(1) of this regulation that the owner or operator shall begin closure, then:

(1) The Secretary's decision described in §K(1) of this regulation becomes final 5 days after the close of the comment period; and

(2) The Secretary shall notify the owner or operator that:

(a) The decision is final,

(b) A revised closure plan, if necessary, shall be submitted by the owner or operator to the Secretary within 15 days of the final notice, and

(c) Closure is required to begin in accordance with the deadlines in §§A — F of this regulation.

M. If the Secretary receives written comments in response to the determination in §K(1) of this regulation, the Secretary shall:

(1) Make a final decision within 30 days after the end of the comment period; and

(2) Provide the owner or operator in writing, and the public through a newspaper notice, a detailed statement of reasons for the final decision.

N. If the Secretary determines under §J(2) of this regulation that the owner or operator has not made substantial progress in implementing corrective action and achieving the facility's background levels, then the owner or operator shall begin closure in accordance with the deadlines in §§A — F of this regulation.

O. The final determinations made by the Secretary under §§L and M of this regulation are not subject to administrative appeal.

.10 Closure — Disposal or Decontamination of Equipment, Structures, and Soils.

A. During the partial and final closure periods, the owner or operator shall properly dispose of or decontaminate all contaminated equipment, structures, and soil unless specified otherwise in Regulations .18D, .19B(4), .20B(6), or .22B(3) of this chapter, or in 40 CFR §265.280, which is incorporated by reference in Regulation .21A of this chapter.

B. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that hazardous waste in accordance with all applicable requirements of COMAR 26.13.03.

.11 Certification of Closure.

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment unit, and landfill unit, and within 60 days of completion of final closure, the owner or operator shall submit to the Secretary, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan.

B. The certification required in §A of this regulation shall be signed by the owner or operator and by an independent registered professional engineer.

C. The owner or operator shall furnish documentation supporting the independent registered professional engineer's certification to the Secretary upon request until the owner or operator is released from the financial assurance requirements for closure under 40 CFR §265.143(h), which is incorporated by reference in Regulation .16 of this chapter.

.12 Post-Closure.

A. Applicability. This regulation and Regulations .13 — .15 of this chapter apply to the owners and operators of:

- (1) All hazardous waste disposal facilities;
- (2) Waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these regulations are made applicable to these facilities in Regulation .19B(4) or .20B(6) of this chapter; and

(3) Tank systems that are required under Regulation .18D of this chapter to meet, under COMAR 26.13.05.10-7C, the requirements for landfills.

B. Survey Plat.

(1) Not later than the date of submission of the certification of closure of each hazardous waste disposal unit, an owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Secretary, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks.

(2) The survey plat shall be prepared and certified by a professional land surveyor.

(3) The survey plat filed with the local zoning authority or the authority with jurisdiction over local land use, as required in §B(1) of this regulation, shall contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable requirements of Regulations .07 — .15 of this chapter.

C. Post-Closure Care and Use of Property.

(1) Post-closure care for each hazardous waste management unit subject to the requirements of this section and

Regulations .13 — .15 of this chapter shall begin after completion of closure of the unit and continue for 30 years after that date.

(2) Post-closure care required in §C(1) of this regulation shall consist of at least the following:

(a) Monitoring and reporting in accordance with the requirements of Regulations .06 and .19 — .22 of this chapter; and

(b) Maintenance and monitoring of waste containment systems in accordance with the requirements of Regulations .06 and .19 — .22 of this chapter.

(3) The Secretary may, in accordance with §C(4) or (5) of this regulation, either shorten or lengthen the post-closure care period applicable to a hazardous waste management unit or facility:

(a) At any time preceding closure of a hazardous waste unit or facility that is subject to post-closure care requirements or final closure; or

(b) At any time during the post-closure period for a particular hazardous waste disposal unit.

(4) The Secretary may shorten the post-closure care period applicable to a hazardous waste management unit or facility if:

(a) All disposal units have been closed; and

(b) The Secretary finds that the reduced period is sufficient to protect human health and the environment, for example, by determining that leachate or ground water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the hazardous waste management unit or facility is secure.

(5) The Secretary may extend the post-closure care period applicable to a hazardous waste management unit or facility if the Secretary finds that the extended period is necessary to protect human health and the environment. For example, the post-closure care period may be extended if leachate or ground water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment.

(6) The Secretary may require, at partial and final closure, continuation of any of the security requirements of Regulation .02 of this chapter during part or all of the post-closure period when:

(a) Hazardous wastes may remain exposed after completion of partial or final closure; or

(b) Access by the public or domestic livestock may pose a hazard to human health.

(7) If hazardous waste remains on or in a property after partial or final closure, a person may not engage in any post-closure use of the property which would disturb the integrity of the final cover, liners, or any other components of the containment system, or the function of the facility's monitoring systems, unless the Secretary finds that the disturbance:

(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(b) Is necessary to reduce a threat to human health or the environment.

(8) All post-closure care activities shall be in accordance with the provisions of the approved post-closure plan as specified in Regulation .13 of this chapter.

.13 Post-Closure Plan; Amendment of Plan.

A. Written Plan.

(1) By May 19, 1981, the owner or operator of a hazardous waste disposal unit shall have a written post-closure plan.

(2) An owner or operator of a surface impoundment or waste pile who intends to remove all hazardous wastes at closure shall prepare a post-closure plan and submit it to the Secretary within 90 days of the date that the owner, operator, or Secretary determines that the hazardous waste management unit or facility shall be closed as a landfill, subject to the requirements of this regulation, Regulation .12C, and Regulations .14 and .15 of this chapter. B. Except as provided in §C of this regulation, until final closure of the facility, the owner or operator shall furnish a copy of the most current post-closure plan to the Secretary upon request, including request by mail.

C. During site inspections, on the day of the inspection, the owner or operator of a facility without an approved post-closure plan shall provide a copy of the most current post-closure plan to any officer, employee, or representative of the Department who is designated by the Secretary.

D. Following certification of final closure, the approved post-closure plan shall be kept by the person or office specified in §E of this regulation during the post-closure period.

E. For each hazardous waste management unit subject to the requirements of this section, the owner or operator shall:

(1) Identify in the post-closure plan the activities that will be carried on after closure of each disposal unit and the frequency of these activities; and

(2) Include in the post-closure plan, at least, the following:

(a) A description of the planned monitoring activities, and frequencies at which they will be performed, to comply with Regulations .06 and .19 — .22 of this chapter during the post-closure care period,

(b) A description of the planned maintenance activities, and frequencies at which they will be performed to ensure the integrity of the cap and final cover or other containment systems in accordance with the requirements of Regulations .19 — .22 of this chapter,

(c) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure the function of the monitoring equipment in accordance with the requirements of Regulations .06 and .19 — .22 of this chapter, and

(d) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

F. Amendment of Plan.

(1) The owner or operator may amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(2) An owner or operator with an approved post-closure plan shall submit a written request to the Secretary to authorize a change to the approved plan. The written request shall include a copy of the amended post-closure plan for approval by the Secretary.

(3) The owner or operator shall amend the post-closure plan whenever:

(a) Changes in operating plans or facility design affect the post-closure plan; or

(b) Events, which occur during the active life of the facility, including partial and final closures, affect the post-closure plan.

(4) The owner or operator shall amend the post-closure plan:

(a) At least 60 days before a proposed change in facility design or operation which will affect the post-closure plan; or

(b) Not later than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(5) An owner or operator with an approved post-closure plan shall submit the amended plan required by §F(3) and (4) of this regulation to the Secretary:

(a) At least 60 days before the proposed change in facility design or operation; or

(b) Not more than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(6) An owner or operator of a surface impoundment who failed to remove all hazardous wastes at closure in accordance with Regulation .19B(4) of this chapter, or an owner or operator of a waste pile who failed to remove all hazardous wastes at closure in accordance with Regulation .20B(6) of this chapter, shall:

(a) Close the unit as a landfill in accordance with Regulation .22B(3) of this chapter; and

(b) Submit a post-closure plan to the Secretary within 90 days of the determination by the owner, operator, or Secretary that the unit is to be closed as a landfill.

(7) Unless the amendment to the post-closure plan is a minor modification according to the criteria in COMAR 26.13.07.13 — .13-3, the modification to the post-closure plan shall be approved according to the procedures in §§J — M of this regulation.

(8) Modification at the Request of the Secretary.

(a) The Secretary may request modifications to the post-closure plan under the conditions described in §F(3)(a) and (b) of this regulation.

(b) An owner or operator with an approved post-closure plan shall submit the modified post-closure plan not later than 60 days after the request from the Secretary.

(c) Unless the amendment to the post-closure plan is considered a minor modification according to the criteria in COMAR 26.13.07.13 — .13-3, the modifications to the post-closure plan shall be approved in accordance with the procedures in §§J — M of this regulation.

(d) If the Secretary determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure is required to close the facility as a landfill, the owner or operator shall submit a post-closure plan for approval to the Secretary within 90 days of the determination.

G. The owner or operator of a facility with hazardous waste management units subject to the requirements of this regulation shall submit a post-closure plan to the Secretary at least 180 days before the date on which the owner or operator expects to begin partial or final closure of the first hazardous waste disposal unit.

H. For the purpose of §G of this regulation, the date on which the owner or operator expects to begin closure of the first hazardous waste disposal unit shall be either:

(1) Within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste; or

(2) If there is a reasonable possibility that the owner or operator of the hazardous waste management unit will place additional hazardous wastes in the unit, not later than 1 year after the date on which the most recent volume of hazardous wastes is placed in the unit.

I. The owner or operator of an interim status facility shall submit a post-closure plan to the Secretary not later than 15 days after:

(1) Termination of interim status, except when a permit is issued to the facility simultaneously with termination of interim status; or

(2) Issuance of a judicial decree or final orders under 3008 of RCRA or the Environment Article, Title 7, Annotated Code of Maryland, to cease receiving wastes or close.

J. The Secretary shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the post-closure plan and request modifications to the plan for up to 30 days from the date of the notice.

K. The Secretary may, in response to a request or at the Secretary's discretion in the absence of a request, hold a public hearing if a hearing might clarify one or more issues concerning a post-closure plan. If a public hearing is held, the Secretary shall give public notice of the hearing at least 30 days before it occurs.

L. The Secretary shall:

(1) Approve, modify, or disapprove the post-closure plan within 90 days of its receipt;

(2) Provide the owner or operator with a detailed written statement of reasons for the disapproval if the Secretary does not approve the post-closure plan, and require that the owner or operator modify the plan or submit a new plan for approval within 30 days after receiving the written statement;

(3) Approve or modify a post-closure plan revised in response to a disapproval under §L(1) of this regulation in writing within 60 days, and, if the Secretary further modifies the plan, designate this modified plan as the approved post-closure plan;

(4) Ensure that the approved post-closure plan is consistent with this section and Regulations .12, .14, and .15 of this chapter; and

(5) Mail to the owner or operator a copy of the plan as modified in §L(3) of this regulation and a detailed statement of reasons for the modifications to the owner or operator.

M. The Secretary may give notice of the public hearing under §K of this regulation at the same time as the notice of the opportunity to submit comments under §J of this regulation, and may combine the two notices.

N. The post-closure plan and length of the post-closure care period may be modified any time before the end of the post-closure care period.

O. The owner or operator or any member of the public may petition the Secretary to:

(1) Extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility used on cause; or

(2) Alter the requirements of the post-closure care period used on cause.

P. A person submitting a petition as described in §O of this regulation shall include in the petition evidence demonstrating that:

(1) The secure nature of the hazardous waste management unit or facility either makes the post-closure care requirements unnecessary, or supports reduction of the post-closure care period specified in the current post-closure plan, based upon information such as leachate or ground water monitoring results, characteristics of the wastes, application of advanced technology, or alternative disposal, treatment, reuse techniques which indicate that the facility is secure;

(2) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment, such as when leachate or ground water monitoring results indicate a potential for migration of hazardous

wastes at levels which may be harmful to human health and the environment.

Q. Consideration of Petitions by the Secretary.

(1) The Secretary shall consider the petitions described in §§O and P of this regulation only if the petitions present new and relevant information not previously considered by the Secretary.

(2) In considering a petition, the Secretary:

(a) Shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments up to 30 days after the date of the notice;

(b) Shall, in response to a request by the owner or operator or the public, hold a public hearing if a hearing might clarify one or more issues concerning the post-closure plan;

(c) May, at the Secretary's discretion if no request is received, hold a public hearing if a hearing might clarify one or more issues concerning the post-closure plan;

(d) Shall give the public notice of a hearing at least 30 days before the public hearing occurs; and

(e) May give public notice of the hearing under §Q(2)(b) and (c) of this regulation at the same time as notice of the opportunity for written public comments under §Q(2)(a) of this regulation, and may combine the two notices.

(3) After considering the public comments, the Secretary shall issue a final determination, based upon the criteria set forth in §P of this regulation.

(4) If the Secretary denies a petition described in §O of this regulation, the Secretary shall send the petitioner a brief written response giving a reason for the denial.

R. The Secretary may:

(1) Tentatively decide to modify the post-closure plan if the Secretary considers modification of the plan to be necessary to prevent threats to human health and the environment; and

(2) Propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the post-closure care period based on cause.

S. The Secretary shall provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments up to 30 days after the date of the notice and the opportunity for a public hearing as described in §Q(2)(b) and (c) of this regulation.

T. After considering the comments received, the Secretary shall issue a final determination that is based upon the same criteria as required for petitions under §P of this regulation.

U. Temporary Suspension.

(1) The Secretary may include, in the final determination under §R of this regulation, a modification of the post-closure plan, which includes, when appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements.

(2) At the end of the specified period of suspension, the Secretary shall determine whether the requirements should be permanently discontinued or reinstated to prevent threats to human health and the environment.

.14 Post-Closure Notices.

A. Not later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Secretary, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator shall identify the type, location, and quantity of the hazardous wastes to the best of

the owner or operator's knowledge and in accordance with the records that the owner or operator has kept.

B. Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator shall:

(1) Record a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(a) The land has been used to manage hazardous wastes.

(b) Its use is restricted under this regulation and Regulations .07 — .15 of this chapter, and

(c) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by Regulation .12B of this chapter and §A of this regulation have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the Secretary; and

(2) Submit to the Secretary:

(a) A certification signed by the owner or operator that the owner or operator has recorded the notation specified in Regulation .14B(1) of this chapter; and

(b) A copy of the document in which the notation has been placed.

C. If the owner, operator, or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, the owner or operator shall:

(1) Request a modification to the approved post-closure plan in accordance with the requirements of Regulation .13N — U of this chapter;

(2) Demonstrate that the removal of hazardous wastes will satisfy the criteria of Regulation .12C(7) of this chapter; and

(3) Manage any hazardous waste generated in these removal activities in accordance with all applicable requirements of this subtitle.

D. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Secretary approve either:

(1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

.15 Certification of Completion of Post-Closure Care.

A. Not later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator shall submit to the Secretary, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan.

B. The certification required in §A of this regulation shall be signed by the owner or operator and an independent registered professional engineer.

C. Documentation supporting the independent registered professional engineer's certification shall be furnished to the Secretary upon request until the Secretary releases the owner or operator from the financial assurance requirements for post-closure care under 40 CFR §265.145(h), which is incorporated by reference in Regulation .16 of this chapter.

.16 Financial Requirements.

A. Except as provided in §B of this regulation, an owner or operator of a facility subject to this chapter shall comply with 40 CFR §§265.140 — 265.148, which is incorporated by reference in COMAR 26.13.01.05B(1)(b).

B. For the purposes of this regulation:

(1) Substitute "Secretary" for "Regional Administrator";

(2) Substitute "Department" for "Environmental Protection Agency";

(3) In establishing the financial assurance for closure required by 40 CFR §265.143, a person may not use the financial test or corporate guarantee described in 40 CFR §265.143(e);

(4) In establishing the financial assurance for post-closure care required by 40 CFR §265.145, a person may not use the financial test or corporate guarantee described in 40 CFR §265.145(e);

(5) 40 CFR §265.140(b)(3) is not incorporated by reference; and

(6) In 40 CFR §265.142(a), the reference to 40 CFR §265.1102 is not applicable.

.17 Use and Management of Containers.

The owner or operator of a facility at which containers are managed and who is subject to this chapter shall comply with COMAR 26.13.05.09.

.18 Requirements for Hazardous Waste Management in Tank Systems.

A. General Requirements. An owner or operator of a tank or tank system who is subject to this chapter shall:

(1) Except as provided in §§A(2), B, and C of this regulation, comply with COMAR 26.13.05.10 — .10-6; and

(2) If otherwise required by COMAR 26.13.05.10 — .10-6 to comply with:

(a) COMAR 26.13.05.10-7, comply instead with the requirements of §D of this regulation, and

(b) COMAR 26.13.05.10-7C, comply instead with the requirements of §D(3) of this regulation.

B. Request for Variance from Secondary Containment; Additional Requirements.

(1) The Secretary shall:

(a) Inform the public, through a newspaper notice, of the availability of the demonstration for a variance required in COMAR 26.13.05.10-5F;

(b) Place the notice in a daily or weekly major local newspaper of general circulation; and

(c) Provide at least 30 days from the date of the notice for the public to review and comment on the demonstration for a variance.

(2) Hearings on Demonstrations for Variances.

(a) The Secretary shall, at the Secretary's discretion or in response to a request for a public hearing, hold a public hearing if a hearing might clarify one or more issues concerning the demonstration for a variance.

(b) Public notice of the hearing:

(i) Shall be given at least 30 days before the date of the public hearing; and

(ii) May be given at the same time as notice of the opportunity for the public to review and comment on the demonstration for a variance.

(3) The public notices required in §B(1)(a) and (2)(b) of this regulation may be combined.

(4) Action on Request for Variance.

(a) The Secretary shall approve or disapprove the written request for a variance within 90 days of receipt of the demonstration from the owner or operator, and shall notify

in writing the owner, operator, and each person who submitted written comments or requested notice of the variance decision.

(b) If the demonstration that is submitted in support of the written request for a variance is incomplete or does not include sufficient information, the 90-day time period under §B(4)(a) of this regulation shall begin when the Secretary receives a complete demonstration, including all information necessary to make a final determination.

(5) If the public comment period in §B(1) of this regulation is extended, the 90-day time period under §B(4)(a) of this regulation shall be similarly extended.

C. An owner or operator of a tank or tank system:

(1) Shall, in place of the requirement of COMAR 26.13.05.10D(1), inspect, if present, overfill or spill control equipment, such as waste-feed cutoff systems, bypass systems, and drainage systems, at least once each operating day to ensure that the equipment is in good working order;

(2) Shall, in place of the requirement of COMAR 26.13.05.10-3B(9), provide the type and degree of corrosion protection necessary, based on the informational requirements of COMAR 26.13.05.10-3B(2)(c), to ensure the integrity of the tank system during its use;

(3) Is not subject to the requirement of COMAR 26.13.05.10-3A that the written assessment required by COMAR 26.13.05.10-3B(1) be approved by the Secretary;

(4) Shall substitute "COMAR 26.13.06.02G" for "40 CFR §264.18(a)" in COMAR 26.13.05.10-3B(2)(e)(ii);

(5) Shall, in addition to the requirements of COMAR 26.13.05.10-4B(4), assure that the secondary containment system has sufficient strength and thickness to prevent failure due to the stress of installation;

(6) Is not required to make the demonstrations to the Secretary required in COMAR 26.13.05.10-4B(6) and C; and

(7) Shall, in place of the requirements of COMAR 26.13.05.10-4G(1) — (4), conduct an annual tank assessment that meets the requirements of COMAR 26.13.05.10-2B(3)(e) for both enterable and non-enterable tanks.

D. Closure and Post-Closure Care of Tank Systems.

(1) At the closure of a tank system, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless COMAR 26.13.02.03D applies.

(2) An owner or operator shall ensure that the closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems meet all of the requirements specified in Regulations .07 — .16 of this chapter.

(3) If an owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in §D(1) of this regulation, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements of Regulation .22 of this chapter which apply to landfills. In addition, for the purposes of closure, post-closure, and financial responsibility, the tank system is then considered to be landfill, and the owner or operator shall meet all of the requirements for landfills specified in Regulations .07 — .16 of this chapter.

(4) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of COMAR 26.13.05.10-4B — F, and has not been granted a variance from the secondary containment requirements in accordance with COMAR 26.13.05.10-5, then the owner or operator shall:

(a) Include in the closure plan for the tank system a:

- (i) Plan for complying with §D(1) of this regulation, and

- (ii) Contingent plan for complying §D(3) of this regulation;

(b) Prepare and submit a contingent post-closure plan for complying with §D(3) of this regulation as part of the part B CHS permit application required under Regulation .01B(5) of this chapter;

(c) Reflect, in the cost estimates calculated for closure and post-closure care, the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under §D(1) of this regulation;

(d) Base financial assurance on the cost estimates developed in accordance with §D(4)(c) of this regulation; and

(e) Ensure that the contingent closure and post-closure plans meet all of the closure, post-closure, and financial responsibility requirements for landfills under Regulations .07 — .16 of this chapter.

.19 Surface Impoundments.

A. Applicability. This regulation applies to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as Regulation .01 of this chapter otherwise provides.

B. An owner or operator of a surface impoundment subject to this regulation shall comply with the following:

(1) COMAR 26.13.05.11C(2), concerning freeboard, except as provided in §C of this regulation;

(2) COMAR 26.13.05.11D(1), concerning protective covers for earthen dikes;

(3) COMAR 26.13.05.11E, concerning waste analysis and trial test;

(4) COMAR 26.13.05.11G(1) and (2), concerning closure and post-closure care, except that the owner or operator:

(a) Shall, for the purposes of COMAR 26.13.05.11G(2), comply with the post-closure requirements of Regulations .12 — .15 of this chapter instead of the requirements of COMAR 26.13.05.07G,

(b) Is not required to comply with the requirement of COMAR 26.13.05.11G(2)(b) to maintain and monitor the leak detection system, and

(c) Shall, for the purposes of compliance with COMAR 26.13.05.11G(2)(c), comply with the ground water monitoring requirements of Regulation .06 of this chapter instead of the requirements of COMAR 26.13.05.06 — .06-7;

(5) COMAR 26.13.05.11I, concerning ignitable or reactive wastes, except that the owner or operator may also place ignitable or reactive waste in a surface impoundment if the owner or operator:

(a) Manages the waste in such a way that it is protected from any material or conditions which may cause it to ignite or react,

(b) Obtains a certification from a qualified chemist or engineer that, to the best of the chemist's or engineer's knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction, and

(c) Maintains, at the facility, the certification required by §B(5)(b) of this regulation and the basis for the certification; and

(6) COMAR 26.13.05.11J, concerning incompatible wastes.

C. Alternate Requirements Concerning Freeboard. The owner or operator:

(1) May maintain a freeboard level less than 60 centimeters (2 feet) in a surface impoundment if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of the engineer's knowledge and opinion, prevent overtopping of the dike; and

(2) Shall, if the owner or operator maintains a freeboard level of less than 60 centimeters, maintain at the facility:

(a) The certification required by §C(1) of this regulation, and

(b) Written identification of alternate design features or operating plans which will prevent overtopping.

D. Design Requirements.

(1) This section applies to each new surface impoundment unit, replacement of an existing surface impoundment unit, or lateral expansion of an existing surface impoundment unit that is within the area identified in the part A permit application, which receives hazardous waste on or after May 8, 1985.

(2) The owner or operator of a unit identified in §D(1) of this regulation shall install two or more liners and a leachate collection system between the liners in accordance with the requirements of COMAR 26.13.05.11D(4) — (8).

E. Notification.

(1) The owner or operator of each unit referred to in §D(1) of this regulation shall notify the Secretary in writing at least 60 days before receiving waste into the unit.

(2) Persons submitting a written notice under §E(1) of this regulation shall file a part B application with the Department within 6 months of the date that the Secretary receives the written notice.

F. Liner and Leachate Collection System Requirements for Initial Permits.

(1) Except as provided in §F(2) of this regulation, the Secretary, when issuing the first permit to a facility for a unit subject to this regulation, may not require the installation of a liner or leachate collection system different from that which was installed under §D(2) of this regulation if the owner or operator performed the installation in good faith compliance with:

(a) The requirements of §D(2) of this regulation; and

(b) Guidance documents governing liners and leachate collection systems under §D(2) of this regulation that have been issued by the Department or the U.S. Environmental Protection Agency, and which were the latest guidance at the time of installation of the system.

(2) The Secretary may require the installation of a new liner if the Secretary has reason to believe that a liner installed in response to the requirements of §D(2) of this regulation is leaking.

G. Inspections. The owner or operator of a surface impoundment shall inspect:

(1) At least once each operating day:

(a) The freeboard level to ensure compliance with COMAR 26.13.05.11C(2), or

(b) The compliance with alternate design features or operating plans that serve to prevent overtopping if freeboard is allowed to be less than 60 centimeters in accordance with §C of this regulation; and

(2) At least once a week, the surface impoundment, including dikes and vegetation surrounding the dikes, to detect any leaks, deterioration, or failures in the impoundment.

.20 Waste Piles.

A. Applicability.

(1) This regulation applies to owners and operators of facilities that store or treat hazardous waste in piles, except as §A(2) of this regulation or Regulation .01 of this chapter otherwise provides.

(2) Instead of complying with the requirements of this regulation for the storage or treatment of hazardous waste in piles, an owner or operator may manage the pile of hazardous waste as a landfill in compliance with the requirements of Regulation .22 of this chapter.

(3) This regulation is not applicable to waste piles that are closed with wastes left in place. Owners or operators of these waste piles shall comply with the requirements of Regulation .22 of this chapter.

B. An owner or operator of a waste pile subject to this regulation shall comply with:

(1) COMAR 26.13.05.12B(6), concerning the control of wind dispersal of particulate matter;

(2) COMAR 26.13.05.12C, concerning waste analysis;

(3) COMAR 26.13.05.12E, concerning inspection and testing;

(4) COMAR 26.13.05.12G, concerning special requirements for ignitable or reactive waste;

(5) COMAR 26.13.05.12H, concerning special requirements for incompatible wastes; and

(6) COMAR 26.13.05.12I(1) and (2), concerning closure and post-closure care.

C. Control of Precipitation, Run-off, and Run-on. If leachate or run-off from a pile is a hazardous waste, then the owner or operator shall ensure that either:

(1) The following requirements are met:

(a) The pile is placed on an impermeable base that is compatible with the waste under the conditions of treatment or storage; and

(b) The facility is in compliance with:

(i) COMAR 26.13.05.12B(3), concerning a run-on control system,

(ii) COMAR 26.13.05.12B(4), concerning a run-off management system, and

(iii) COMAR 26.13.05.12B(5), concerning collection and holding facilities for run-off and run-on; or

(2) The following requirements are met:

(a) The pile is protected from precipitation and run-on by some means other than that required by §C(1) of this regulation; and

(b) Liquids or wastes containing free liquids are not placed in the pile.

D. Design Requirements — Liners and Leachate Collection Systems.

(1) This section applies to each new waste pile unit, replacement of an existing waste pile unit, or lateral expansion of an existing waste pile unit that is within the area identified in the part A permit application, which receives hazardous waste on or after May 8, 1985.

(2) The owner or operator of a unit identified in §D(1) of this regulation shall comply with the requirements of COMAR 26.13.05.12B for liners and leachate collection systems or equivalent protection.

E. Containment System Repairs, Contingency Plans. The owner or operator shall comply with the requirements of COMAR 26.13.05.12F, except that a waste pile that is to be closed under COMAR 26.13.05.12F(6) shall be closed in accordance with COMAR 26.13.05.12I(1) and (2).

.21 Land Treatment.

A. Except as provided in §B of this regulation, an owner or operator of a land treatment facility shall comply with 40 CFR §§265.270 — 265.282, which are incorporated by reference in COMAR 26.13.01.05B(1)(b).

B. For the purposes of this regulation:

- (1) Substitute "Secretary" for "Regional Administrator";
- (2) Substitute "COMAR 26.13.06.01" for "\$265.1";
- (3) In 40 CFR §265.280, substitute "In the closure plan under COMAR 26.13.06.08 and the post-closure plan under COMAR 26.13.06.12B" for "In the closure plan under §265.112 and the post-closure plan under §265.118,";
- (4) In 40 CFR §265.281, substitute "An owner or operator may not apply ignitable or reactive waste to a land treatment zone unless all applicable federal requirements of 40 CFR part 268 are met, and," for "The owner or operator must not apply ignitable or reactive waste to the treatment zone unless the waste and treatment zone meet all applicable requirements of 40 CFR part 268"; and
- (5) In addition to the requirements of 40 CFR §265.272, the owner or operator shall operate and maintain the treatment zone to minimize run-off of hazardous constituents during the active life of the land treatment unit.

.22 Landfills.

A. Applicability.

(1) This regulation applies to facilities that dispose of hazardous waste in landfills, except as Regulation .01 of this chapter otherwise provides.

(2) This regulation also applies to a waste pile used as a disposal facility. A waste pile used as a disposal facility is considered to be a landfill.

B. An owner or operator of a landfill subject to this regulation shall comply with the following:

- (1) COMAR 26.13.05.14B(6) — (9), concerning control of run-on, run-off, and wind dispersal of particulate matter;
- (2) COMAR 26.13.05.14I, concerning surveying and record keeping;
- (3) COMAR 26.13.05.14J, concerning closure and post-closure care, except that:
 - (a) For the purposes of compliance with COMAR 26.13.05.14J(2), the owner or operator shall comply with the requirements of Regulations .12 — .15 of this chapter instead of the requirements of COMAR 26.13.05.07G — J; and
 - (b) For the purposes of compliance with COMAR 26.13.05.14J(2)(c), the owner or operator shall comply with the groundwater monitoring requirements contained in Regulation .06 of this chapter instead of the requirements of COMAR 26.13.05.06 — .06-7;
- (4) COMAR 26.13.05.14L, concerning special requirements for ignitable or reactive waste, except that ignitable waste in a container may be landfilled without meeting the requirements of COMAR 26.13.05.14L if:

- (a) Neither the container nor the waste contains free liquids;
- (b) The waste is disposed of in such a way that it is protected from any materials or conditions which may cause it to ignite;
- (c) At a minimum, the owner or operator assures that:
 - (i) The waste is disposed of in nonleaking containers,
 - (ii) The container in which the waste is packaged is carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition which might cause ignition of the waste,

(iii) The waste is covered daily with soil or other noncombustible material to minimize the potential for ignition of the waste, and

(iv) The waste is not disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste;

(5) COMAR 26.13.05.14M, concerning special requirements for incompatible wastes; and

(6) COMAR 26.13.05.14O, concerning special requirements for containers.

C. Design Requirements.

(1) This section applies to each new landfill unit, replacement of an existing landfill unit, or lateral expansion of an existing landfill unit that is within the area identified in the part A permit application, which receives hazardous waste on or after May 8, 1985.

(2) The owner or operator of a unit identified in §C(1) of this regulation shall install two or more liners and a leachate collection system in accordance with the requirements of COMAR 26.13.05.14B(3) — (5).

D. Notification.

(1) The owner or operator of each unit referred to in §C(1) of this regulation shall notify the Secretary at least 60 days before receiving waste into the unit.

(2) Persons submitting notice under §D(1) of this regulation shall file a part B application with the Department within 6 months of the date that the Secretary receives the notice.

E. Liner and Leachate Collection System — Requirements for Initial Permits.

(1) Except as provided in §E(2) of this regulation, the Secretary, when issuing the first permit to a facility for a unit subject to this regulation, may not require the installation of a liner or leachate collection system different from that which was installed under §C(2) of this regulation if the owner or operator performed the installation in good faith compliance with:

- (a) The requirements of §C(2) of this regulation; and
- (b) Guidance documents governing liners and leachate collection systems under §C(2) of this regulation that have been issued by the Department or the U.S. Environmental Protection Agency, and which were the latest guidance at the time of installation of the system.

(2) The Secretary may require the installation of a new liner if the Secretary has reason to believe that a liner installed in response to the requirements of §C(2) of this regulation is leaking.

F. Special Requirements for Liquid Wastes and Containers.

(1) A person may not place waste containing free liquids in a landfill, including bulk waste, noncontainerized waste, or waste in containers.

(2) To demonstrate the absence or presence of free liquids for the purposes of §F(1) of this regulation, a person shall use Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in COMAR 26.13.01.05A(4).

(3) A person may place in a landfill small containers of hazardous waste in overpacked drums, referred to as "lab packs", if the person assures that the following requirements are met:

- (a) The lab pack does not hold any waste that contains free liquids;
- (b) The hazardous waste is packaged in nonleaking inside containers which:

(i) Will not react dangerously with the waste the inside containers contain,

(ii) Will not be decomposed by the waste the inside containers contain,

(iii) Will not be ignited by the waste the inside containers contain,

(iv) Are tightly and securely sealed, and

(v) Are of the type specified in the U.S. Department of Transportation hazardous materials regulations (49 CFR 173, 178, and 179) if those regulations specify a particular inside-container for the waste;

(c) The inside containers are:

(i) Overpacked in an open head DOT-specification metal shipping container, as described in 49 CFR 178 and 179, which has a capacity of 416 liters (110 gallons) or less, and

(ii) Surrounded by absorbent material such that the metal outer container is full after packing with inside containers and absorbent material;

(d) The absorbent material required by §F(3)(c)(ii) of this regulation is not capable of reacting dangerously with, being decomposed by, or being ignited by, the contents of the inside containers;

(e) Incompatible wastes are not placed in the same outside container; and

(f) Reactive waste is treated or rendered nonreactive before it is packaged in accordance with §F(3)(a) — (e) of this regulation, except that cyanide-bearing or sulfide-bearing waste as described in COMAR 26.13.02.13A(5) may be packaged in accordance with §F(3)(a) — (e) of this regulation without first being treated or rendered nonreactive.

.23 Incinerators.

A. Applicability.

(1) This regulation applies to owners and operators of facilities that incinerate hazardous waste, except as Regulation .01 of this chapter otherwise provides.

(2) The following owners or operators are considered to incinerate hazardous waste:

(a) Owners or operators of hazardous waste incinerators as defined in COMAR 26.13.01.03B; and

(b) Owners or operators who burn hazardous wastes in boilers or in industrial furnaces in order to destroy the wastes.

B. Except as provided in §C of this regulation, an owner or operator of a facility who treats hazardous waste by thermal destruction as defined in COMAR 26.13.01.03B shall comply with 40 CFR §§265.340(b) — 265.351, which is incorporated by reference in COMAR 26.13.01.05B(1)(b).

C. An owner or operator of an incinerator subject to this regulation may not burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027.

.24 Thermal Treatment and Open Burning.

A. Except as provided in §B of this regulation, an owner or operator of a facility in which thermal treatment and open burning is conducted shall comply with 40 CFR §§265.370 — 265.382, which is incorporated by reference in COMAR 26.13.01.05B(1)(b).

B. For the purposes of this regulation:

(1) Owners and operators of thermal treatment devices subject to this regulation may not burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027; and

(2) In 40 CFR §265.370, delete the clause "and Subpart H of part 266, if the unit is a boiler or industrial furnace as defined in §260.10".

.25 Chemical, Physical, and Biological Treatment.

A. Except as provided in §B of this regulation, an owner or operator who treats hazardous waste using chemical, physical, or biological methods shall comply with 40 CFR §§265.400 — 265.406, which is incorporated by reference in COMAR 26.13.01.05B(1)(b).

B. For the purposes of this regulation:

(1) Substitute "COMAR 26.13.06.01" for "\$265.1"; and

(2) In 40 CFR §265.400, substitute "COMAR 26.13.06.18, .19, and .21" for "subparts J, K, and M respectively".

.26 Drip Pads.

A. Except as provided in §B of this regulation, an owner or operator using drip pads who is subject to this chapter shall comply with the requirements of COMAR 26.13.05.17-1 — .17-4.

B. In complying with COMAR 26.13.05.17-4B, the reference to Regulation .22 of this chapter replaces COMAR 26.13.05.14J.

.27 Underground Injection Control.

A person may not dispose of hazardous waste by underground injection.

26.13.07 Permits for CHS Facilities

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.01 Permit Required.

A. Except for persons identified in COMAR 26.13.05.01A(3), 26.13.06.01A(4), or 26.13.07.23A(1), a person may not operate any facilities without first obtaining a valid CHS permit from the Department. A CHS permit will not be issued without the facility first having applied for an EPA identification number.

B. — F. (text unchanged)

[G. Wastes Newly Regulated as Hazardous. A person managing a waste that is newly regulated by being listed or identified as hazardous under COMAR 26.13.02, in a manner that requires a CHS facility permit under this chapter, may continue managing the waste as if the person had a CHS facility permit to manage the waste, if the person:

(1) Was managing the waste that is newly listed or identified as hazardous on or before the effective date of the regulation listing or identifying the waste as hazardous and, if applicable, on or before the date it was regulated as hazardous under 40 CFR 261;

(2) Complies with the notification requirements of §3010 of RCRA;

(3) Manages the waste in compliance with the requirements of COMAR 26.13.05; and

(4) Submits a complete application for a CHS facility permit or a complete application for a CHS facility permit modification within 180 days of the effective date of the regulation listing or identifying the waste as hazardous.]

.02 Application for a Permit.

A. — B. (text unchanged)

C. Completeness. The Secretary may not issue a permit before receiving a complete application for a permit. An application for a permit under a program is complete when the Secretary receives an application form, and any supplemental information, which is completed to [his or her] the Secretary's satisfaction. An application may be deemed by the Secretary as complete, notwithstanding the failure of the owner or operator to submit the exposure information described in §D(37) of this regulation. The Secretary shall

judge the completeness of any application for a permit [shall be judged] independently of the status of any other permit application or permit for the same facility or activity. The Secretary may deny a permit for the active life of a hazardous waste management unit before receiving a complete application for a permit.

D. Permit Information. All applicants[using] shall use the application form provided by the Department[shall provide the following information to the Secretary]. A duplicate of each application shall be submitted at the same time to the EPA. Information shall be signed in accordance with §§A and B of this regulation, and Regulation .03D of this chapter[.]. The applicant shall provide the following information:

(1) — (5) (text unchanged)

(6) A topographic map (or other map if a topographic map is unavailable) extending 1 mile beyond the property boundaries of the source, depicting the facility and:

(a) — (c) (text unchanged)

(d) Those wells, springs, other surface water bodies, and drinking water wells listed in the public records or otherwise known to the applicant within $1\frac{1}{2}$ $\frac{1}{4}$ mile of the facility property boundary.

(7) — (18) (text unchanged)

(19) A copy of the general inspection schedule required by COMAR 26.13.05.02F(2). Include, when applicable, as part of the inspection schedule, specific inspection requirements in COMAR 26.13.05.09E, .10D, .10-4G, .11F, .12E, .13D, .14C, [.15D], .16I, and .16-1C[, .17D, and .18D].

(20) — (26) (text unchanged)

(27) Owners and operators of facilities located in the 100-year flood plain shall provide the following information:

(a) — (b) (text unchanged)

(c) If applicable, and instead of the information required by §D(27)(a) and (b) [above,] of this regulation, a detailed description of procedures to be followed to remove hazardous waste safely before the facility is flooded, including:

(i) [the] The timing of movement relative to flood levels, including estimated time to move the waste, to show that this movement can be completed before flood waters reach the facility;

(ii) [a] A description of the location or locations to which the waste will be moved and a demonstration that those facilities will be eligible to receive hazardous waste in accordance with COMAR 26.13.01 — 26.13.09;

(iii) [the] The planned procedures, equipment, and personnel to be used and the means to ensure that the resources will be available in time for use; and

(iv) [the] The potential for accidental discharges of the waste during movement.

(d) For an existing facility not in compliance with the requirements of COMAR 26.13.05.02-1B(2), a plan showing how the facility will be brought into compliance and a schedule for compliance.

(28) (text unchanged)

(29) A copy of the closure plan and, when applicable, the post-closure plan required by COMAR 26.13.05.07C and H. An owner or operator shall [Include] include, when applicable, as part of the plan, specific requirements in COMAR 26.13.05.09I, .10-7, .11G, .12I, .13K, .14J, [.15E,] .16L, and .16-1B and D[, .17E, and .18E].

(30) (text unchanged)

(31) The most recent closure cost estimate for the facility prepared in accordance with 40 CFR §264.142, as incorporated by reference in COMAR 26.13.05.08, and a copy of

the documentation required to demonstrate financial assurance under 40 CFR §264.143, as incorporated by reference in COMAR 26.13.05.08. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the permit application.

(32) If applicable, the most recent post-closure cost estimate for the facility prepared in accordance with 40 CFR §264.144, as incorporated by reference in COMAR 26.13.05.08, plus a copy of the documentation required to demonstrate financial assurance under 40 CFR §264.145, as incorporated by reference in COMAR 26.13.05.08. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the permit application.

(33) — (36) (text unchanged)

(37) Exposure Information.

(a) After August 8, 1985, any permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill shall be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. [At a minimum, this information shall address:]

(b) The owner or operator shall assure that information submitted in accordance with §D(37)(a) of this regulation includes, at a minimum:

[(a)] (i) — [(c)] (iii) (text unchanged)

(c) The owner or operator of a landfill or a surface impoundment who has already submitted a part B permit application shall submit the exposure information required in §D(37)(a) and (b) of this regulation by August 8, 1985.

(38) (text unchanged)

E. (text unchanged)

.02-1 Additional Information Requirements — Ground Water Protection.

A. (text unchanged)

B. Except as otherwise provided in COMAR 26.13.05.06A(3), a person subject to this regulation shall provide the following additional information regarding protection of ground water as part of the permit application:

(1) — (3) (text unchanged)

(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time the application is submitted that:

(a) (text unchanged)

(b) Identifies the concentration of each constituent from [COMAR 26.13.02.25C] Appendix IX Ground Water Monitoring List of 40 CFR Part 264, which is incorporated by reference in COMAR 26.13.01.05B(1)(c), throughout the plume, or identifies the maximum concentrations of each constituent in the plume;

(5) — (7) (text unchanged)

C. — D. (text unchanged)

.02-3 Specific Information Requirements for Tank Systems.

A. (text unchanged)

B. For facilities that use tanks to store or treat hazardous waste, except as otherwise provided in COMAR 26.13.05.10A, the permit applicant shall provide a description of design and [operation] operating procedures which demonstrate compliance with requirements of all of COMAR 26.13.05.10 — .10-7, including:

- (1) — (2) (text unchanged)
 (3) [Tank] For each tank, the dimensions, capacity, and shell thickness of the tank;
 (4) — (12) (text unchanged)

.02-5 Specific Information Requirements for Waste Piles.

- A. (text unchanged)
 B. For facilities that store or treat hazardous waste in waste piles, except as otherwise provided in COMAR 26.13.05.12, the permit applicant shall provide the following information:
 (1) (text unchanged)
 (2) [A detailed engineering description of the facility design including] Detailed plans and an engineering report which:
 (a) Demonstrate that the design of the waste pile meets the requirements of COMAR 26.13.05.12B and D;
 (b) Demonstrate how the waste pile will be constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.12B and D;
 (c) Include the following information:
 [(a)] (i) — [(f)] (vi) (text unchanged)
 (3) — (10) (text unchanged)
 (11) A list of the hazardous wastes placed, or to be placed, in each waste pile[.];
 (12) If the permit applicant seeks an exemption from the requirements of COMAR 26.13.05.12B and D, and .06 — .06-7, as provided by COMAR 26.13.05.12A(2) or .06A(3)(b), an explanation of how the standards of COMAR 26.13.05.12A(2) will be complied with or detailed plans and an engineering report describing how the requirements of COMAR 26.13.05.06A(3)(b) will be met.

.02-6 Specific Information Requirements for Incinerators.

- A. — B. (text unchanged)
 C. If the permit applicant does not submit a trial burn plan or the results of a trial burn under §B(2) of this regulation, the permit applicant shall submit the following information:
 (1) An analysis, using the analytical techniques specified in 40 CFR Part 261, Appendix III, of each waste or mixture of wastes to be burned including:
 (a) — (c) (text unchanged)
 (d) A list of the constituents excluded from the analysis [under] required by §C(1)(c) of this regulation and the basis for their exclusion;
 (e) (text unchanged)
 (f) A quantification of those hazardous constituents in the waste which may be designated as POHCs [based] under COMAR 26.13.05.16E, based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in COMAR 26.13.05.16F;
 (2) — (8) (text unchanged)
 D. (text unchanged)

.03 Signatories to Permit Applications and Reports.

- A. — C. (text unchanged)
 D. Certification. Any person signing a document under §A or B of this regulation shall make the following certification: [I certify under penalty of law that I personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are sig-

nificant penalties for submitting false information, including the possibility of fine or imprisonment.] I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

.03-1 Permit Denial.

The Secretary may, under the procedures in COMAR 26.13.07.20, deny the permit application either in its entirety, or as to the active life of a hazardous waste management facility or unit only.

.04 Conditions Applicable to All Permits.

A. The [following] conditions described in this regulation apply to all permits, and the Secretary shall incorporate them into the permits either expressly or by reference. [All conditions applicable to all permits, and all additional conditions applicable to all permits for individual programs, shall be incorporated into the permits either expressly or by reference.] If incorporated by reference, a specific citation to these regulations shall be given in the permit.

[A.] B. — [C.] D. (text unchanged)

[D.] E. Duty to Mitigate. [The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.] In the event of noncompliance with the permit, the permittee shall:

(1) Take all reasonable steps to minimize releases to the environment; and

(2) Carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

[E.] F. — [L.] M. (text unchanged)

.05 Establishing Permit Conditions.

A. — C. (text unchanged)

D. Incorporation of Permit Conditions.

(1) The Secretary shall assure that all permit conditions are incorporated into the permit either expressly or by reference.

(2) If a permit condition is incorporated by reference, the Secretary shall assure that the permit gives a specific citation to the applicable regulations or requirements.

.06 Duration of Permits.

A. Permits shall be effective for a fixed term not to exceed [3] 5 years.

B. (text unchanged)

.13-1 Minor Modifications [of Permits to Address] — Newly Regulated Hazardous Wastes or Newly Regulated Units.

A. Permit modifications to allow for the continued management of a waste newly listed or identified as hazardous under COMAR 26.13.02, or to allow for the continued management of hazardous wastes in units newly regulated as hazardous waste management units, may be processed as minor modifications [provided that] if the following conditions are met:

(1) The unit that is the subject of the modification was in existence as a hazardous waste facility with respect to:

(a) *The newly listed or identified waste on the effective date of the regulation listing or identifying the waste, or*

(b) *The newly regulated waste management unit on the effective date of the regulation regulating the unit;*

(2) *The permittee submits a request for a minor modification of the permit on or before:*

(a) *The date on which the waste becomes regulated as hazardous, or*

(b) *The date the unit becomes subject to the new requirements;*

[(1)] (3) *The permittee manages the waste in compliance with the requirements of COMAR [26.13.05] 26.13.06 and 26.13.10;*

[(2)] (4) *The permittee submits, within 180 days after the effective date of the regulation listing or identifying the waste as hazardous or within 180 days after the effective date of the regulation subjecting the unit to regulation under this subtitle, an application for a permit modification to incorporate all changes necessary to achieve compliance with the requirements of [COMAR 26.13] this subtitle in managing the newly regulated waste or in operating the newly regulated unit; and*

[(3)] (5) *In the case of land disposal units, the permittee certifies [by the date 12 months after the effective date of the regulation identifying or listing the waste as hazardous] that the unit is in compliance with all applicable requirements of [COMAR 26.13.05.06 and .08] COMAR 26.13.06 concerning ground water monitoring and financial responsibility by the date 12 months after the effective date of the regulation by:*

(a) *Identifying or listing the waste as hazardous; or*

(b) *Regulating the unit as a hazardous waste management unit.*

B. *If the permittee fails to [demonstrate] certify compliance with [these] the requirements identified in §A(5) of this regulation, the permittee shall lose authority to operate under this regulation.*

[C. *In the case of land disposal units, the permittee shall certify by the date 12 months after the effective date of the regulation identifying or listing the waste as hazardous that the unit is in compliance with all applicable requirements of COMAR 26.13.05.06 — .06-7 and .08. If the permittee fails to demonstrate compliance with these requirements, the permittee loses authorization to operate under this regulation.*]

.13-2 Specific Changes Eligible for Processing as a Minor Permit Modification.

A. *Except as provided in Regulations .13-1 and .13-3 of this chapter, only modifications to accomplish the following may be processed as minor modifications:*

(1) — (3) (text unchanged)

(4) *The following changes related to closure:*

(a) (text unchanged)

(b) *Changes [to estimates of expected year of closure or schedules for final closure under COMAR 26.13.05.07C(2)(f)] in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the final closure period;*

(c) *[Approval of periods longer than 90 days or 180 days under COMAR 26.13.05.07D] Changes in the expected year of final closure, if other permit conditions are not changed;*

(d) — (e) (text unchanged)

(5) *The following changes related to post-closure:*

(a) — (b) (text unchanged)

[(c) *Changes in the post-closure care plan necessitated by events occurring during the active life of the facility, including partial and final closure;*]

(6) *Addition of a roof to a container management unit without alteration of the containment system;*

(7) — (8) (text unchanged)

(9) *The following changes related to land treatment:*

[(a) *Changes to the treatment program requirements for land treatment units made under COMAR 26.13.05.13B to improve treatment of hazardous constituents, provided the change is minor;*]

[(b)] (a) *Changes to any conditions specified in the permit for land treatment units to reflect the results of [field tests or laboratory analyses used in making a treatment demonstration in accordance with Regulation .14B, provided that the change is minor] the land treatment demonstration, provided performance standards are met;*

[(c)] (b) — [(d)] (c) (text unchanged)

(10) (text unchanged)

B. (text unchanged)

.13-3 General Criteria Defining Eligibility for Processing as a Minor Modification.

A. *Requests for Determination of Eligibility for Processing as a Minor Modification.*

(1) *For modifications not listed in Regulation .13-1 or .13-2 of this chapter, the permittee may request a determination by the Secretary that the modification should be processed as a minor modification.*

(2) *The permittee shall provide the Secretary with the information necessary to support the requested determination.*

(3) *The Secretary shall make a decision on a request for determination made under §A(1) of this regulation as promptly as practicable.*

B. — C. (text unchanged)

.14 Emergency Permits, Short Term Permits, and Phased Permits.

A. *Notwithstanding any other provision of this regulation, if the Secretary finds an imminent and substantial endangerment to human health or the environment, the Secretary may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal of hazardous waste for a non-permitted facility or a hazardous waste not covered by the permit for a facility with an effective permit. This emergency permit:*

(1) — (5) (text unchanged)

(6) *Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of COMAR 26.13.05 [and], 26.13.07, and 26.13.10.*

B. — E. (text unchanged)

.17 Hazardous Waste Incinerator Permits.

A. (text unchanged)

B. *Trial Burn.*

(1) — (2) (text unchanged)

(3) *The trial burn plan shall include the following information:*

(a) *An analysis of each waste or mixture of wastes to be burned which includes:*

(i) — (ii) (text unchanged)

(iii) *An identification of any hazardous organic constituents listed in COMAR 26.13.02.24[,] which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in COMAR*

26.13.02.24[,] which would reasonably not be expected to be found in the waste.

(iv) [The] A listing of any constituents excluded from the analysis [shall be identified] required by §B(3)(a)(iii) of this regulation, and a statement of the basis for their exclusion [stated].

(v) [The waste analysis shall rely on] Use of analytical techniques specified in [40 CFR Part 261, Appendix III] "Test Method for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

[(iv)] (vi) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in [40 CFR Part 261, Appendix III.] "Test Method for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

(b) — (h) (text unchanged)

(4) — (11) (text unchanged)

C. (text unchanged)

D. For the purposes of determining feasibility of compliance with the performance standards of COMAR 26.13.05.16F and of determining adequate operating conditions under COMAR 26.13.05.16H, the applicant for a permit [to] for an existing hazardous waste incinerator [may] shall prepare and submit a trial burn plan and perform a trial burn in accordance with Regulation .02-6B(2)(a) of this chapter and §B(3) — [(9)] (10) of this regulation, or instead, submit other information as specified in Regulation .02-6B(2)(b) of this chapter. Applicants who submit trial burn plans and receive approval before submission of a permit application shall complete the trial burn and submit the results, specified in §B(7) of this regulation, with the permit application. If completion of this process conflicts with the date set for submission of the application, the applicant shall contact the Department to establish a later date for submission of the application or the trial burn results. [If] When the applicant submits a trial burn plan with Part B of the permit application, [the trial burn shall be conducted and the results submitted within a time period to be specified by the Department] the Secretary will specify a time period before permit issuance in which the applicant shall conduct the trial burn and submit the results.

.20 Administrative Procedures.

A. (text unchanged)

B. Modifications, Revocation and Reissuance, or Termination of Permits.

(1) — (4) (text unchanged)

(5) Minor modifications are not subject to the requirements of this regulation. Minor modification is defined in Regulation [.13] .13-1 of this chapter.

(6) (text unchanged)

C. — F. (text unchanged)

G. Public Notice of Permit Actions and Public Comment Period.

(1) — (4) (text unchanged)

(5) Methods.

(a) (text unchanged)

(b) All public notices issued under this section shall contain the following minimum information:

(i) — (v) (text unchanged)

(vi) The location of the administrative record required by §F, the times at which the record will be open for

public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record[.]; and

(vii) Any additional information the Secretary considers necessary or proper.

H. (text unchanged)

I. Public Hearings.

(1) The Secretary [shall]:

(a) Shall hold a public hearing whenever [he or she] the Secretary:

(i) [receives] Receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice[.]; or

(ii) Finds, on the basis of requests, a significant degree of public interest in a draft permit; and

(b) [The Secretary may also] May hold a public hearing at [his or her] the Secretary's discretion, whenever, for instance, a hearing might clarify one or more issues involved in the permit decision[.];

(c) [Public] Shall give public notice of the hearing [shall be given] as specified in §G of this regulation.

(2) — (5) (text unchanged)

J. — K. (text unchanged)

L. Issuance and Effective Date of Permit.

(1) — (2) (text unchanged)

(3) A final permit decision shall become effective 30 days after the service of notice of the decision under §L(1), unless:

(a) (text unchanged)

(b) [Review is requested, or an evidentiary hearing is requested, within 30 days under COMAR 26.08.04.01G] The permit is within the scope of Environment Article, Title 1, Subtitle 6, Annotated Code of Maryland, and a person requests a contested case hearing under Environment Article, §1-605, Annotated Code of Maryland; or

(c) (text unchanged)

M. (text unchanged)

.23 Interim Status.

A. Qualifying for Interim Status.

(1) Except as provided in §A(3) of this regulation, an owner or operator of a facility identified in COMAR 26.13.06.01A may qualify for interim status and may operate as if the owner or operator has a CHS permit if the owner or operator has complied with the requirements of:

(a) §3010(a) of RCRA, pertaining to notification of hazardous waste activity, if applicable;

(b) COMAR 26.13.06.01B, governing submission of part A CHS permit applications; and

(c) §B of this regulation.

(2) Failure to Qualify for Interim Status.

(a) If the Department has reason to believe upon examination of a part A CHS permit application that the application fails to meet the requirements for a part A CHS permit application as defined in COMAR 26.13.01.03B, it shall:

(i) Notify the owner or operator of the facility in writing of the apparent deficiency; and

(ii) Specify in the notice to the owner or operator of the facility the grounds for the Department's belief that the application is deficient.

(b) The owner or operator of the facility shall have 30 days from the date of receipt of the Department's notice to respond in writing to the notice and to explain or rectify the alleged deficiency in the part A CHS permit application.

(c) If, after providing notification and opportunity for response to the owner or operator of the facility, the Depart-

ment determines that the application is deficient, it may take appropriate enforcement action.

(3) Section A(1) of this regulation does not apply to a facility:

- (a) That has previously been denied a CHS permit; or
- (b) For which authority to operate the facility under RCRA or Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, has previously been terminated.

B. Operation During Interim Status.

(1) During the period of interim status, the owner or operator of the facility may not:

- (a) Treat, store, or dispose of hazardous waste not specified in the part A CHS permit application;
- (b) Employ processes not specified in the part A CHS permit application; or
- (c) Exceed the design capacities specified in the part A CHS permit application.

(2) During the period of interim status, the owner or operator of the facility shall comply with the interim status standards in COMAR 26.13.06.

C. Changes During Interim Status.

(1) Permissible Changes. The owner or operator of the facility may make the following changes, if the changes do not involve reconstruction as defined in §C(2) of this regulation:

(a) An owner or operator of the facility may submit a revised part A CHS permit application to obtain approval from the Department to:

- (i) Treat, store, or dispose of new hazardous wastes not previously identified in the part A CHS permit application, and
- (ii) In the case of newly listed or identified wastes, add units to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification;

(b) An owner or operator of the facility may increase the design capacity of processes used at the facility if a revised part A CHS permit application that includes a justification for the change is submitted before the change, and the Secretary approves the changes because:

- (i) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or
- (ii) The change is necessary to comply with a federal, state, or local requirement;

(c) An owner or operator of the facility may make a change in a process for the treatment, storage, or disposal of hazardous waste or may add a process for the treatment, storage, or disposal of hazardous waste if:

- (i) The owner or operator submits a revised part A permit application to the Department before implementing the change,
- (ii) The owner or operator submits a justification explaining the need for the change to the Department, and
- (iii) The Secretary approves the change because the change is necessary to prevent a threat to human health and the environment caused by an emergency situation, or because the change is necessary to comply with a federal, State, or local requirement;

(d) Changes in ownership or operational control may be made in accordance with the following:

- (i) The new owner or operator of the facility shall submit a revised part A CHS permit application not later than 90 days before the scheduled change,
- (ii) When a transfer of operational control of a facility occurs, the former owner or operator of the facility shall comply with the requirements of COMAR 26.13.06.16 until

the new owner or operator of the facility has demonstrated compliance with that regulation to the Secretary,

(iii) The new owner or operator of the facility shall demonstrate compliance with COMAR 26.13.06.16 within 6 months of the date of the change in ownership or operational control of the facility,

(iv) Once the new owner or operator of the facility demonstrates compliance with COMAR 26.13.06.16, the Secretary shall notify the former owner or operator of the facility in writing that, as of the date of the demonstration of compliance by new owner or operator, the former owner or operator no longer needs to comply with COMAR 26.13.06.16,

(v) Interim status duties not specified in §C(1)(d)(i) — (iv) of this regulation are transferred to the new owner or operator of the facility effective immediately upon the date of the change in ownership or operational control of the facility;

(e) Changes limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility which are made in accordance with an interim status corrective action order issued by:

- (i) EPA under §3008(h) of RCRA or other federal authority,
- (ii) The Department, under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, or other applicable State authority, or
- (iii) A court in a judicial action brought by EPA or the Department; and

(f) The addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised part A CHS permit application on or before the date on which the unit becomes subject to the new requirements.

(2) Except as specifically allowed under §C(3) of this regulation, changes listed under §C(1) of this regulation may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility.

(3) If all applicable requirements under this subtitle are met, the following changes may be made even if these changes amount to a reconstruction under §C(2) of this regulation:

(a) Changes made solely for the purposes of complying with the requirements of COMAR 26.13.05.10-4 for tanks and ancillary equipment;

(b) If necessary to comply with federal, State, or local requirements, changes:

- (i) To an existing unit,
- (ii) Solely involving tanks or containers, or
- (iii) Involving addition of replacement surface impoundments that satisfy the standards of RCRA §3004(o);

(c) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the regulation establishing the new listing or identification;

(d) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan;

(e) Changes necessary to comply with an interim status corrective action order issued by EPA under §3008(h) of RCRA or other federal authority, by the Department under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, other applicable State authority, or by a court in

a judicial proceeding brought by EPA or the Department, if the changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

(f) Changes to treat or store, in tanks or containers, hazardous wastes subject to land disposal restrictions imposed by 40 CFR 268 or RCRA §3004, if the changes are made solely for the purpose of complying with 40 CFR 268 or RCRA §3004; and

(g) Addition of newly regulated units under §C(1)(f) of this regulation.

D. Termination of Interim Status.

(1) Interim status terminates:

(a) When final administrative disposition of a CHS permit application is made; or

(b) As provided in COMAR 26.13.06.01B(5).

(2) Termination of Interim Status — Submission of Permit Application and Additional Requirements.

(a) For owners or operators of each land disposal facility, which has been granted interim status before November 8, 1984, interim status terminates on November 8, 1985, unless:

(i) The owner or operator submits a part B CHS permit application for the facility before that date; and

(ii) The owner or operator certifies that the facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(b) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a CHS permit, and which is granted interim status, interim status terminates 12 months after the date on which the facility first becomes subject to the requirement for a CHS permit, unless the owner or operator of the facility:

(i) Submits a part B CHS permit application for the facility not later than 12 months after the date on which the facility first becomes subject to the permitting requirement; and

(ii) Certifies that the facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(c) For owners or operators of a land disposal unit who are required to make changes during interim status to comply with a federal, State, or local requirement, and who are granted authority to operate under §C(1)(a), (b), or (c) of this regulation, interim status terminates on the date 12 months after the effective date of the requirement, unless the owner or operator certifies that the unit is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(d) For owners and operators of each incinerator facility, which has achieved interim status before November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a part B CHS permit application for an incinerator facility by November 8, 1986.

(e) For owners or operators of any facility other than a land disposal or an incinerator facility, which has achieved interim status before to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a part B CHS permit application for the facility by November 8, 1988.

26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.01 Recyclable Materials Used in a Manner Constituting Disposal.

A. — B. (text unchanged)

C. Standards Applicable to Storers of Materials That Are To Be Used in a Manner That Constitutes Disposal, Who Are Not the Ultimate Users. Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of COMAR 26.13.02, [COMAR] 26.13.05.01 — .12, 26.13.06.01 — .20, [COMAR] and 26.13.07, and the notification requirement under §3010 of the Solid Waste Disposal Act, 42 U.S.C. §§6901 — 6991i, of RCRA.

D. Standards Applicable to Users of Materials That Are Used in a Manner That Constitutes Disposal.

(1) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of COMAR 26.13.02, 26.13.05, 26.13.06, and 26.13.07, and [Section] §3010 of RCRA. These requirements do not apply to products which contain these recyclable materials under the provisions of §A(2) of this regulation.

(2) (text unchanged)

.02 Hazardous Waste Burned for Energy Recovery.

A. Applicability.

(1) (text unchanged)

(2) The following hazardous wastes are not regulated under this regulation:

(a) (text unchanged)

(b) Except [for] as provided in §D of this regulation, used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in COMAR 26.13.02. This used oil is subject to regulation under COMAR [26.13.05.15 or .16] 26.10.15, 26.13.02.06A(3)(c), and 26.13.10, rather than this regulation.

B. — F. (text unchanged)

.03 Recyclable Materials Utilized for Precious Metal Recovery.

A. (text unchanged)

B. Persons who generate, transport, or store recyclable materials regulated by this regulation are subject to the following requirements:

(1) (text unchanged)

(2) COMAR 26.13.02.06C(2), 26.13.03.04 [and], 26.13.04, and 26.13.05.05B and C.

C. (text unchanged)

D. Recyclable materials that are subject to this regulation that are accumulated speculatively, as defined in COMAR [26.13.02] 26.13.02.01C(3), are subject to all applicable provisions of COMAR [26.13.03 — .10] 26.13.03 — 26.13.10.

.04 Spent Lead-Acid Batteries Being Reclaimed.

A. (text unchanged)

B. Requirements. [Owners or operators of facilities that store spent batteries before reclaiming them are] If a facil-

ity stores spent batteries before reclaiming them, and the reclamation involves a process other than regeneration, the owner or operator of the facility is subject to the following requirements:

(1) — (3) (text unchanged)

C. [Persons who generate or collect spent batteries before they are reclaimed or who store spent batteries before reclamation but do not reclaim them] *The following persons are not subject to COMAR [26.13.03 — .10] 26.13.03 — 26.13.10 and are not subject to the notification requirements of [Section] §3010 of RCRA:*

(1) *Persons who generate, transport, or collect spent batteries before they are reclaimed;*

(2) *Persons who regenerate spent batteries, or store spent batteries before they are regenerated; and*

(3) *Persons who store spent batteries before reclamation, but do not reclaim them.*

JANE T. NISHIDA

Secretary of the Environment

Title 29

DEPARTMENT OF STATE POLICE

Subtitle 03 WEAPONS REGULATIONS

29.03.03 Handgun Roster Board

Authority: Article 27, §§36-1 and 36J; State Government Article, §10-20
Annotated Code of Maryland.

Notice of Proposed Action

[00-210-P]

The Secretary of State Police proposes to amend Regulations .02, .03, .08, and .15 under COMAR 29.03.03 Handgun Roster Board.

Statement of Purpose

The purpose of this action is to implement the provisions of the Responsible Gun Safety Act of 2000, which altered the composition of the Handgun Roster Board by increasing the number of citizen members of the Board from three to five and required that two of them shall be mechanical or electrical engineers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed regulation.

Estimate of Economic Impact

I. Summary of Economic Impact. Senate Bill 211 requires the Handgun Roster Board to review the status of personalized handgun technology and report its findings to the Governor and to the General Assembly on an annual basis, beginning on or before July 1, 2002. The Maryland State Police may incur additional costs associated with the purchase of publications and periodicals, research costs, and other ancillary costs associated with the review of personalized handgun technology. In addition, Handgun Roster Board members are reimbursed for their actual expenses pursuant to State travel regulations. Adding two more members to the Board will increase Board travel expenses.

II. Types of Economic Impacts.

- A. On issuing agency:
- B. On other State agencies:
- C. On local governments:

Revenue (R+R-) Expenditure (E+E-)	Magnitude
(E+)	Indeterminate
NONE	
NONE	
Benefit (+) Cost (-)	Magnitude

- D. On regulated industries or trade groups: NONE
- E. On other industries or trade groups: NONE
- F. Direct and indirect effects on public: NONE

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

A. Mechanical or electrical engineers may require additional publications and periodicals that address the subject of personalized handgun technology. Also, two additional Handgun Roster Board members attending an average of 6 Board meetings per year will incur expenses of \$372/year, if they drive an average of 100 miles round trip to attend Board meetings (2 members × 6 meetings × 100 miles × \$.31/mile = \$372/year), if they request reimbursement for their travel expenses.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Opportunity for Public Comment

Comments may be sent to Iris Birenbaum, Maryland State Police, Office of Budget, Legislation and Fiscal Administration, 1201 Reisterstown Road, or fax to (410) 653-4250, or call (410) 653-4451. Comments must be received by 4:30 p.m., July 31, 2000. No public hearing is scheduled.

.02 Handgun Roster Board; Handgun Roster.

- A. — B. (text unchanged)
- C. This regulation does not interfere with:

(1) (text unchanged)

(2) The manufacturing in the State of a handgun not on the Handgun Roster by a federally licensed gun manufacturer that [was] is also licensed as a Regulated Firearms Dealer in the State [as of January 1, 1998,] for direct sale to a unit of:

(a) — (d) (text unchanged)

.03 Powers and Duties of the Board.

- A. (text unchanged)
- B. Specific Powers and Duties.

(1) — (2) (text unchanged)

(3) The Board shall send semiannually a copy of the Handgun Roster to all [pistol and revolver] regulated firearms dealers that are licensed under Article 27, §443, Annotated Code of Maryland, and to the main branch of each public library system in the State.

.08 Quorum.

[Five] Six members shall constitute a quorum for all meetings. Decisions shall be by majority vote of the membership of the Board. All votes shall be recorded.

.15 Notification after Adoption of Objectives.

A. If the Board adopts an objection to a handgun which was tentatively placed on the Handgun Roster upon its own initiative, the Board shall:

(1) (text unchanged)

(38) — (53) (proposed text unchanged)
C. — D. (proposed text unchanged)

JANE T. NISHIDA
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.03 Permits, Approvals, and Registration — Part 70 Permits

Authority: Environment Article, §§1-101, 1-404, 2-101 — 2-103,
2-301 — 2-303, 2-401, and 2-404,
Annotated Code of Maryland

Notice of Final Action

(00-215-F)

On September 13, 2000, the Secretary of the Environment adopted amendments to Regulation .01 under COMAR 26.11.03 Permits, Approvals, and Registration — Part 70 Permits. This action, which was proposed for adoption in 27:14 Md. R. 1350 (July 14, 2000), has been adopted as proposed.

Effective Date: October 16, 2000.

JANE T. NISHIDA
Secretary of the Environment

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Notice of Final Action

(00-202-F-I)

On August 21, 2000, the Secretary of the Environment took the final actions listed below:

(1) Under COMAR 26.13.01 Hazardous Waste Management System: General: Amended Regulations .01 and .03 — .05;

(2) Under COMAR 26.13.02 Identification and Listing of Hazardous Waste: Amended Regulations .01 — .04, .04-1, .04-4, .04-5, .05, .06, .12, .14, .15 — .17, .19, .23, and .24, repealed Regulations .21, .22, and .25, and adopted new Regulations .21 and .22;

(3) Under COMAR 26.13.03 Standards Applicable to Generators of Hazardous Waste: Amended Regulations .01, .04 — .07, .07-1, .07-2, and .07-4;

(4) Under COMAR 26.13.05 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: Amended Regulations .01, .02, .05, .06, .06-2, .06-3, .07, .08, .10, .10-2, .10-4, .10-6, .11, .12, .14, .16-1, .19, and .20, repealed Regulations .15, .17, and .18, and recodified Regulation .01 under the previously existing COMAR 26.13.06 to be Regulation .02-1;

(5) Under new COMAR 26.13.06 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: Adopted new Regulations .01 — .27;

(6) Under COMAR 26.13.07 Permits for CHS Facilities: Amended Regulations .01, .02, .02-1, .02-3, .02-5, .02-6, .03 — .06, .13-1 — .13-3, .14, .17, and .20, and adopted new Regulations .03-1 and .23;

(7) Under COMAR 26.13.09 Enforcement: Repealed Regulation .01;

(8) Under COMAR 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities: Amended Regulations .01 — .04.

These actions, which were proposed for adoption in 27:13 Md. R. 1231 — 1274 (June 30, 2000), have been adopted with the nonsubstantive changes shown below.

Effective Date: October 16, 2000.

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 each change and the basis for this conclusion are as follows:

26.13.01.03B(33): This change adds the phrase "used to thermally treat or decompose a hazardous waste" to the definition of a hazardous waste incinerator. This removes an ambiguity in the definition under which the term could be misinterpreted to include all solid waste incinerators.

26.13.05.07D(6)(f)(ii) and 26.13.06.09H(6)(b): These changes delete the temporary text of "the effective date of this regulation", and replace it with the actual effective date of October 16, 2000. This will allow owners 90 days to comply with the regulations.

26.13.07.02-6C(1): This change adds the text "which is incorporated by reference in COMAR 26.13.01.05B(1)(c): This ensures consistency in the text for references to federal regulations that have been incorporated by reference.

26.13.01 Hazardous Waste Management System: General

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.03 Definitions.

A. (proposed text unchanged)

B. Terms Defined.

(1) — (32) (proposed text unchanged)

(33) "Hazardous waste incinerator" means an enclosed device used to thermally treat or decompose a hazardous waste that:

(a) — (b) (proposed text unchanged)

(34) — (96) (proposed text unchanged)

26.13.05 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.07 Closure and Post-Closure.

A. — C. (proposed text unchanged)

D. Closure; Time Allowed for Closure.

(1) — (5) (proposed text unchanged)

(6) *The Secretary may allow an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at the unit if the owner or operator:*

(a) — (e) (proposed text unchanged)

(f) *Submits the request to modify the permit and the demonstrations referred to in §D(6)(a) — (d) of this regulation to the Secretary within the later of the following two time periods:*

- (i) (proposed text unchanged)
- (ii) *Not later than 90 days after* *[[the effective date of this regulation]]* **October 16, 2000;**
- (g) — (h) (proposed text unchanged)
- (7) — (9) (proposed text unchanged)
- E. — J. (proposed text unchanged)

26.13.06 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.09 Closure — Time Allowed for Closure.

- A. — G. (proposed text unchanged)
- H. *The Secretary may allow an owner or operator to receive non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at the unit if the owner or operator:*
 - (1) — (5) (proposed text unchanged)
 - (6) *Submits the part B CHS permit application and the demonstrations referred to in §H(1) — (4) of this regulation to the Secretary by the later of the following two dates:*
 - (a) (proposed text unchanged)
 - (b) *90 days after* *[[the effective date of this regulation]]* **October 16, 2000;**
 - (7) — (8) (proposed text unchanged)
- I. — O. (proposed text unchanged)

26.13.07 Permits for CHS Facilities

Authority: Environment Article, Title 7, Subtitle 2,
Annotated Code of Maryland

.02-6 Specific Information Requirements for Incinerators.

- A. — B. (proposed text unchanged)
- C. *If the permit applicant does not submit a trial burn plan or the results of a trial burn under §B(2) of this regulation, the permit applicant shall submit the following information:*
 - (1) *An analysis, using the analytical techniques specified in 40 CFR Part 261, Appendix III, which is incorporated by reference in COMAR 26.13.01.05B(1)(c), of each waste or mixture of wastes to be burned including:*
 - (a) — (f) (proposed text unchanged).
 - (2) — (8) (proposed text unchanged)
- D. (proposed text unchanged)

JANE T. NISHIDA
Secretary of the Environment

- (2) Adopted new Regulation .01 under C
- 33.13.01 Definitions;**
- (3) Adopted new Regulations .01 — .04 under CC
- 33.13.02 Affidavit of Non-Participation; and**
- (4) Adopted new Regulations .01 — .02 under COMAR
- 33.13.03 Electronic Filing of Reports.**

This action, which was proposed for adoption in 27:15 Md. R. 1472 — 1473 (July 28, 2000), has been adopted as proposed.

Effective Date: October 16, 2000.

LINDA H. LAMONE
Administrator
State Board of Elections

Subtitle 15 PRECINCTS, POLLING PLACES, AND FACILITIES

Notice of Final Action [00-239-F]

On September 20, 2000, the State Board of Elections:

- (1) Adopted new Regulations .01 — .04 under COMAR
- 33.15.01 Maps, Descriptions, and Directories;**
- (2) Adopted new Regulations .01 — .05 under COMAR
- 33.15.02 New or Changed Precincts;**
- (3) Adopted new Regulations .01 — .08 under COMAR
- 33.15.03 Polling Places; and**
- (4) Adopted new Regulations .01 — .03 under COMAR
- 33.15.04 Storage Facilities.**

This action, which was proposed for adoption in 27:15 Md. R. 1473 — 1475 (July 28, 2000), has been adopted as proposed.

Effective Date: October 16, 2000.

LINDA H. LAMONE
Administrator
State Board of Elections

Title 33 STATE BOARD OF ELECTIONS

Subtitle 13 CAMPAIGN FINANCING

Notice of Final Action [00-238-F]

On August 20, 2000 the State Board of Elections:

- (1) Repealed Regulations .01 — .03 under COMAR
- 14.02.10 Affidavits by Political Committees;**