CODE OF MARYLAND REGULATIONS
Title 26
Department of the Environment
Part 3
VOLUME XXIV-A

Supplement No. 14
(U26P314S)

Instructions

The instructions below should be followed carefully. Remove the obsolete pages listed under the column "Remove Pages". Insert the new or replacement pages listed under the column "Insert Pages". The obsolete pages may be retained in a separate place for legal research.

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CERTIFICATE

Supplement No. 14

As provided in State Government Article, §7-205, Annotated Code of Maryland, I certify that COMAR Title 26, Subtitles 13–18, Department of the Environment, contains all regulations promulgated and effective as of June 1, 2003. New, amended, or repealed regulations effective after this date appear in the Maryland Register. Consult the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" in the most recent issue of the Maryland Register.

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B. Terms Defined.

(1) "Above-ground tank" means a tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank, including the tank bottom, is able to be visually inspected.

(1-1) "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Secretary receives certification of final closure.

(2) "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of this subtitle and which is not a closed portion.

(2-1) "Ancillary equipment" means a device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank or tanks, between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

(3) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(4) "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (that is, part of a facility); for example, the plant manager, superintendent, or person of equivalent responsibility.

(4-1) "Battery" means:

(a) A device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy; or

(b) An intact, unbroken device which would otherwise meet the definition of battery in §B(4-1)(a) of this regulation from which the electrolyte has been removed.

(5) "Boiler" means an enclosed device using controlled flame combustion and having one of the following characteristics:

(a) The unit satisfies all of the following criteria:

(i) The unit shall have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.

(ii) The unit's combustion chamber and primary energy recovery section or sections shall be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section or sections, such as waterwalls and superheaters, shall be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section or sections are joined only by ducts or connections carrying flue gas is not integrally designed. However, secondary energy recovery equipment such as economizers or air preheaters need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. Process heaters which are units that transfer energy directly to a process stream and fluidized bed combustion units are not precluded from being boilers solely because they are not of integral design.

(iii) While in operation, the unit shall maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel.

(iv) The unit shall export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, credit may not be given for recovered heat used internally in the same unit. Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.

(b) The unit is one which the Secretary has determined, on a case-by-case basis, to be a boiler, after considering the standards in Regulation .04F of this chapter.

(6) "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

(6-1) "Component" means either the tank or ancillary equipment of a tank system.

(7) "Confined aquifer" means an aquifer:

(a) Bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself;

(b) Containing confined ground water.

(7-1) "Consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which a hazardous waste will be sent.

(8) "Constituent" or "hazardous waste constituent" means a constituent which caused the Secretary to list the hazardous waste in COMAR 26.13.02.15—.19 or a constituent listed in Table 1 of COMAR 26.13.02.14.

(9) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(10) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

(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.

(10-2) "Corrosion expert" means an individual who is:

(a) Qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks by reason of that individual's knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience; and

(b) Certified as being qualified by the National Association of Corrosion Engineers (NACE), or who is a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(11) "Department" means the Department of the Environment.

(12) "Designated facility" means a hazardous waste treatment, storage, disposal, or recycling facility which 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.

(12-1) Destination Facility.

(a) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except as provided in §B(12-1)(b) of this regulation.

(b) "Destination facility" does not mean:

(i) A facility for which the treatment, disposal, or recycling of a particular category of universal waste consists only of the management activities described in COMAR 26.13.10.12, .14, or .15B(3), including large quantity handlers of universal waste that are made subject to these requirements in COMAR 26.13.10.20A, C, and D; or

(ii) A facility at which a particular category of universal waste is only accumulated, with respect to that category of universal waste.

(13) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

(13-1) "Dioxins" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins.

(14) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

(15) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(16) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

(16-1) "Drip pad" means an engineered structure consisting of a curbed, free-draining base which is constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood-preserving plants.

(16-2) "Electrochemical cell" means a system consisting of an anode, a cathode, an electrolyte, and any electrical or mechanical connections that may be needed to allow the system to deliver or receive electrical energy.

(17) "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are hazardous waste only because they exhibit the corrosivity characteristic defined in COMAR 26.13.02.12, or are listed in COMAR 26.13.02.16—.19 only for this reason; and

(b) Is a tank, tank system, container, transport vehicle, or vessel.

(17-1) "EPA Acknowledgement of Consent" means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept a hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

(18) "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in COMAR 26.13.02.15—.19, and to each characteristic identified in COMAR 26.13.02.10—.14.

(19) "EPA identification number" means the number assigned by EPA or by a state acting on EPA's behalf to each generator, transporter, and treatment, storage, or disposal facility.

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one or more landfills, surface impoundments, or combinations of them).

(24) "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation, and the Government Printing Office.

(24-1) "FFDCA" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§321—394.

(24-2) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136—136y.

(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 longer conducted at the facility unless subject to the provisions in COMAR 26.13.03.05E.

(26) "Food-chain crops" means tobacco, crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.

(27) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained in it.

(28) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(29) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in COMAR 26.13.02 or whose act first causes a hazardous waste to become subject to regulation.

(30) "Ground water" means water below the land surface in a zone of saturation.

(31) "Hazardous waste" means a hazardous waste as defined in COMAR 26.13.02. Hazardous waste shall be synonymous with Controlled Hazardous Substance or CHS, except as provided in COMAR 26.13.02.06.

(32) "Hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste or a material listed in COMAR 26.13.02.19 which, because it is discharged, becomes a hazardous waste, onto or into the land or water.

(33) "Hazardous waste incinerator" means an enclosed device used to thermally treat or decompose a hazard waste 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) "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit. The unit includes containers and the land or pad upon which they are placed.

(35) "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

(36) "Inactive disposal facility" means a disposal facility that is no longer operated but is maintained to permanently contain CHS.

(37) "Inactive portion" means that portion of a facility which is not operated after the effective date of this subtitle. (See also "active portion" and "closed portion").

(38) "Incompatible waste" means a hazardous waste which is unsuitable for:

(a) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (for example, container inner liners or tank walls); or

(b) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases (see COMAR 26.13.05.24 for examples).

(39) "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more

sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

(40) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

(a) Cement kilns;

(b) Lime kilns;

(c) Aggregate kilns;

(d) Phosphate kilns;

(e) Coke ovens;

(f) Blast furnaces;

(g) Smelting, melting and refining furnaces including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces;

(h) Titanium dioxide chloride process oxidation reactor;

(i) Methane reforming furnaces;

(j) Pulping liquor recovery furnace;

(k) Combustion devices used in the recovery of sulfur values from spent sulfuric acid; and

(l) Such other devices as the Secretary may, by regulation, add to this list on the basis of one or more of the following factors:

(i) The design and use of the devices primarily to accomplish recovery of material products,

(ii) The use of the device to burn or reduce raw materials to make a material product,

(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks,

(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product,

(v) The use of the device in common industrial practice to provide a material product, and

(vi) Other factors, as appropriate.

(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.

(40-2) "In-ground tank" means a tank which has a portion of the tank wall situated to any degree within the ground, thereby preventing visual inspection of the external surface area of the tank that is in the ground.

(41) "Injection well" means a well into which fluids are injected. (See also "underground injection".)

(42) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

(42-1) "Installation inspector" means an individual who is qualified to supervise the installation of tank systems by reason of that individual's knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience.

(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) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(43-1) "Kick-back" means the excessive preservative that exudes slowly from pressure-treated wood as the wood is removed from a treatment vessel and gradually returns to atmospheric pressure.

(43-2) "Lamp" means an item that is:

(a) The bulb or tube portion of an electric lighting device; and

(b) Specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum.

(44) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

(45) "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(46) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface. These facilities are disposal facilities if the waste will remain after closure.

(46-1) "Large quantity handler of universal waste" means a universal waste handler which accumulates 5,000 kilograms or more of universal waste at any time during a calendar year.

(47) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

(47-1) "Leak-detection system" means a system, capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure, which:

(a) Employs operational controls, such as daily visual inspections for releases into the secondary containment system of above-ground tanks; or

(b) Consists of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

(48) "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste constituents, or leachate.

(49) "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(50) "Manifest" means the shipping document originated and signed by the generator which contains the information required by COMAR 26.13.03.04. The document shall be provided by or approved by the Department.

(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) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

(53) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well, or unit eligible for a research, development, and demonstration permit under COMAR 26.13.07.19.

(54) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(55) "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 18, 1980. (See also "existing hazardous waste management facility".)

(55-1) "New tank system" or "new tank system component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is:

(a) An underground tank which cannot be entered for inspection for which installation has begun after July 14, 1986, with the beginning of installation being determined by the criteria of COMAR 26.13.05.10A(4); or

(b) A tank for which installation has begun after July 1, 1993, and is either an underground tank which can be entered for inspection, an above-ground tank, an in-ground tank, or an on-ground tank.

(55-2) "On-ground tank" means a tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

(56) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties, owned by the same person but connected by a right-of-way which the property owner controls and to which the public does not have access, are also considered on-site property.

(57) "Open burning" means the combustion of any material without the following characteristics:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of emission of the gaseous combustion products. (See also "thermal destruction" and "thermal treatment".)

(58) "Operator" means the person responsible for the overall operation of a facility.

(59) "Owner" means the person who owns a facility or part of a facility.

(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.

(60-1) "PCB-containing lamp ballast" means a device that:

(a) Limits the lamp current of fluorescent or mercury lamps to the value required for proper operation by means of inductance, capacitance, or resistance, singly or in combination;

(b) Provides for low-voltage cathode heating for rapid-start lamps;

(c) May include capacitor-discharge resistors and a capacitor for power-factor correction; and

(d) Incorporates polychlorinated biphenyls (PCBs) as an element of the device's composition.

(61) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(62) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of COMAR 26.13.05 or 23.13.06.

(62-1) Pesticide.

(a) "Pesticide" means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than the substances identified in §B(62-1)(b) of this regulation;

(b) "Pesticide" does not mean:

(i) A new animal drug under §201(w) of FFDCA;

(ii) An animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or

(iii) An animal feed under §201(x) of FFDCA that bears or contains any substances identified in §B(62-1)(b)(i)—(ii) of this regulation.

(63) "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(63-1) "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.

(64) "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(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, 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) An intermediary arranging for the export of a hazardous waste to a receiving country.

(65) "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial waste of a liquid nature which is owned by a State or municipality (as defined by Section 502(4) of the CWA).

(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) "RCRA" means the Solid Waste Disposal Act, as amended (42 U.S.C. §§6901—6991i).

(66-1) "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal, except short-term storage incidental to transportation.

(67) "Representative sample" means a sample of a universe or whole (for example, waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

(68) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(69) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(70) "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

(71) "Secretary" means the Secretary of the Environment or the designee of the Secretary of the Environment.

(72) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(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.

(72-2) "Small quantity handler of universal waste" means a universal waste handler that does not accumulate 5,000 kilograms or more of universal waste at any time during a calendar year.

(73) "Solid waste" means a solid waste as defined in COMAR 26.13.02.

(74) "Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or onto any land or water.

(75) "State" means any of several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(76) "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

(76-1) "Sump" means any pit or reservoir that is a tank, and the troughs or trenches connected to it, that serves to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities.

(77) "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(78) "Tank" means a stationary device, designed to contain an accumulation of hazardous wastes which is constructed primarily of nonearthen materials (for example, wood, concrete, steel, plastic) which provide structural support.

(78-1) "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

(79) "Thermal destruction" means thermal treatment using controlled flame combustion. "Thermally destroy" or "incinerate" means the act of thermal destruction.

(80) "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "hazardous waste incinerator" and "open burning".)

(80-1) "Thermostat" means:

(a) A temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element; or

(b) A mercury-containing ampule that has been removed from a temperature control device described in §B(80-1)(a) of this regulation in accordance with the requirements of COMAR 26.13.10.14B(2), either by:

(i) A small quantity handler of universal waste; or

(ii) A large quantity handler of universal waste operating in compliance with COMAR 26.13.10.20C.

(81) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent of hazardous waste into the environment during treatment.

(81-1) "Transit country" means a foreign country, other than a receiving country, through which a hazardous waste is transported.

(82) "Transportation" means the movement of hazardous waste by air, rail, highway, or water.

(83) "Transport vehicle" means a motor vehicle, vessel, or rail car used for the transportation of hazardous waste by any mode. Each cargo-carrying body (trailer, railroad car, etc.) is a separate transport vehicle.

(84) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

(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 characteristics and volumes of residuals from a particular treatment process.

(b) "Treatability study" also includes, for the purpose of the exemptions of COMAR 26.13.02.04-4 and .04-5, liner compatibility, corrosion, and other material compatibility studies, and toxicological and health effects studies.

(86) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so far as to:

(a) Neutralize the waste;

(b) Recover energy or material resources from the waste;

(c) Render the waste:

(i) Nonhazardous or less hazardous,

(ii) Safer to transport, store, or dispose of, or

(iii) Amenable for recovery, amenable for storage, or reduced in volume.

(87) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well".)

(87-1) "Underground tank" means a tank that has its entire surface area totally below the surface of and covered by the ground.

(87-2) "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be capable no longer of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(88) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

(89) "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(89-1) "Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of COMAR 26.13.10.06—.25:

(a) Batteries as described in COMAR 26.13.10.07;

(b) Pesticides as described in COMAR 26.13.10.08; or

(c) Thermostats, lamps, or PCB-containing lamp ballasts, each as described in COMAR 26.13.10.09.

(89-2) Universal Waste Handler.

(a) "Universal waste handler" means:

(i) A generator of universal waste;

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, a destination facility, or a foreign destination; or

(iii) A person that treats universal waste as described in COMAR 26.13.10.12, .14, or .15B(3)(c), including large quantity handlers as described in COMAR 26.13.10.20A, B, or D.

(b) "Universal waste handler" does not mean a:

(i) Person that treats universal waste, except for persons identified in §B(89-2)(a)(iii) of this regulation;

(ii) Person that disposes of universal waste;

(iii) Person that recycles universal waste;

(iv) Person engaged in the off-site transportation of universal waste by air, rail, highway, or water; or

(v) Universal waste transfer facility.

(89-3) "Universal waste transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas, where shipments of universal waste are held during the normal course of transportation.

(89-4) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

(90) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facilities' property boundary.

(90-1) "Used oil" means oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of the use, is contaminated by physical or chemical impurities.

(90-2) "Used oil re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil.

(91) "Vessel" means every description of watercraft used, or capable of being used, as a means of transportation on the water.

(92) "Wastewater treatment unit" means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either §402 or 307(b) of the Clean Water Act;

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in COMAR 26.13.02 or generates and accumulates a wastewater treatment sludge which is hazardous waste as defined in COMAR 26.13.02 or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in COMAR 26.13.02; and

(c) Is a tank or tank system.

(93) "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

(94) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

(95) "Well injection" (see "underground injection").

(96) "Zone of engineering control" means an area under the control of an owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up before any hazardous waste or hazardous constituents are released to ground water or surface water.

.04 Rule-Making Petitions.

A. General.

(1) Any person may petition the Secretary to modify or revoke any provision in this subtitle. This section sets forth general requirements which apply to these petitions. Section B of this regulation sets forth additional requirements for petitions to add a testing or analytical method to COMAR 26.13.02, 26.13.05, or 26.13.06. Section C of this regulation 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. Section J of this regulation sets forth additional requirements for petitions to amend COMAR 26.13.10.06—.25 to include additional hazardous waste as universal waste.

(2) Each petition shall be submitted to the Secretary by certified mail and shall include:

(See page 867)

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

(2) The procedures for this decision are set forth in §I of this regulation.

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 26.13.10.03:

(1) If a generator is accumulating the waste:

(a) The Secretary 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 becomes final within 30 days, unless the person served challenges the decision; and

(c) 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) Provide notice of the public hearing to the public and allow public participation at the hearing,

(iii) Issue a final order after the public hearing stating whether or not compliance with COMAR 26.13.03 is required,

(iv) Make the order required by §I(1)(c)(iii) of this regulation effective 30 days after 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 at a storage facility, the Secretary shall issue a notice stating that the person shall obtain a permit in accordance with all applicable provisions of COMAR 26.13.07.

(3) The following additional requirements apply in instances when the person is accumulating the recyclable material at 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.

J. Petitions to Amend COMAR 26.13.10.06—.25 to Include Additional Hazardous Wastes as Universal Wastes.

(1) A person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of COMAR 26.13.10.06—.25 may petition for a regulatory amendment under this section, §A of this regulation, and COMAR 26.13.10.25.

(2) To be successful, a petitioner shall:

(a) Demonstrate to the satisfaction of the Secretary that regulation under the universal waste regulations of COMAR 26.13.10.06—.25:

(i) Is appropriate for the waste or category of waste;

(ii) Will improve management practices for the waste or category of waste; and

(iii) Will improve implementation of the hazardous waste program;

(b) Include in the petition the information required by §A(2) of this regulation; and

(c) Address in the petition as many of the factors listed in COMAR 26.13.10.25B as are appropriate for the waste or category of waste that is the subject of the petition.

(3) The Secretary shall:

(a) Grant or deny a petition to include additional hazardous wastes as universal wastes using the factors listed in COMAR 26.13.10.25B to evaluate the merits of the petition;

(b) Base the decision to grant or deny the petition on the weight of evidence showing that regulation under COMAR 26.13.10.06—.25:

(i) Is appropriate for the waste or category of waste;

(ii) Will improve management practices for the waste or category of waste; and

(iii) Will improve implementation of the hazardous waste program.

(4) The Secretary may request additional information to evaluate the merits of a petition to include additional hazardous wastes as universal wastes.

.05 Incorporation by Reference.

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

(1) "ASTM Standard Test Methods of Flash Point of Liquids by Setaflash Closed Tester." ASTM Standard D-3278-78 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(2) "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(3) "NFPA 30 Flammable and Combustible Liquids Code" (1990), available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(4) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA 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. 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;

(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; and

(d) When used in COMAR 26.13.03.07-5, the federal regulations as of July 1, 2001, in 40 CFR §§262.81—262.89 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)	
§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.

40 CFR Provision Referenced	*State of Maryland Analog to the Referenced 40 CFR Provision*
§260.10	26.13.01.03
§261.3	26.13.02.03
§261.3(c) and (d)	26.13.02.03C and D
Part 261, Subpart C	26.13.02.10—.14
Part 261, Subpart D	26.13.02.15—.19-5
§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)
§261.24	26.13.02.14
Part 261, Appendix VIII	26.13.02.24
Part 262	26.13.03
Part 262, Subpart B	26.13.03.04
Part 262, Subpart F	26.13.03.07-3
§262.23(c) and (d)	26.13.03.04E(4) and (5)
§262.41	26.13.03.06B
§262.42	26.13.03.06C
§262.51	26.13.01.03B
§262.54(a)—(d) and (i)	26.13.03.07-2A(1)—(4) and (10)
§262.58	26.13.03.07-5A—D
§262.58(a)(1) and (2)	26.13.03.07-5C(1) and (2)
§262.80(a)	26.13.03.07-5A
Part 263	26.13.04
Part 264	26.13.05
§264.1	26.13.05.01A
§264.17(b)	26.13.05.02H(2)
§264.111	26.13.05.07B
§264.112	26.13.05.07C
§264.112(b)	26.13.05.07C(2)
§264.113	26.13.05.07D
§264.113(d)	26.13.05.07D(6)
§264.114	26.13.05.07E
§264.115	26.13.05.07F
§264.117	26.13.05.07G
§264.118	26.13.05.07H
§264.119	26.13.05.07I

40 CFR Provision Referenced	*State of Maryland Analog to the Referenced 40 CFR Provision*
§264.120	26.13.05.07J
§264.140—264.151 (Part 264, Subpart H)	26.13.05.08
§264.178	26.13.05.09I
§264.197	26.13.05.10-7
§264.228	26.13.05.11G
§264.258	26.13.05.12I
§264.280	26.13.05.13K
§264.310	26.13.05.14J
Part 264, Subpart O	26.13.05.16
§264.351	26.13.05.16E
§§264.601—264.603 (Part 264, Subpart X)	26.13.05.16-1
Part 265	26.13.06
§265.1	26.13.06.01A
§265.13	26.13.06.02A—C and 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 265, Subpart F)	26.13.06.06
§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

40 CFR Provision Referenced	*State of Maryland Analog to the Referenced 40 CFR Provision*
§265.120	26.13.06.15
§265.140—265.148 (Part 265, Subpart H)	26.13.06.16
§265.178	Maryland has not adopted regulations governing organic air emissions from containers. Use 40 CFR §265.178
Part 265, Subpart J	26.13.06.18
§265.197	26.13.06.18D
Part 265, Subpart K	26.13.06.19
§265.228	26.13.06.19B(4) and 26.13.05.11G(1) and (2)
§265.258	26.13.06.20B(6) and 26.13.05.12I(1)—(2)
§§265.270—265.282 (Part 265, Subpart M)	26.13.06.21
§265.310	26.13.06.22B(3) and 26.13.05.14J
§§265.340—265.351 (Part 265, Subpart O)	26.13.06.23
§§265.370—265.382 (Part 265, Subpart P)	26.13.06.24
§§265.400—265.406 (Part 265, Subpart Q)	26.13.06.25
Part 265, Appendix III	No analog. Use 40 CFR Part 265, Appendix III
Part 265, Appendix V	No analog. Use 40 CFR Part 265, Appendix V
Part 266	26.13.10
Part 268	No analog. Use 40 CFR 268
§270.14	26.13.07.02D(15)—(19), (20)—(38), and 26.13.07.02-1—.02-11
§270.19	26.13.07.02-6
§270.41(a)(5)	26.13.07.11B(4)
§270.62	26.13.07.17

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.

Administrative History

Effective date:
Regulations .01—.04 adopted as an emergency provision effective November 18, 1980 (7:25 Md. R. S-1); adopted permanently effective April 3, 1981 (8:7 Md. R. 642)
Regulations .02A and .03B amended effective January 18, 1982 (9:1 Md. R. 20)
Regulation .02A-1 adopted effective February 13, 1984 (11:3 Md. R. 202)
Regulation .02D adopted effective January 18, 1982 (9:1 Md. R. 20)
Regulation .03B amended effective January 31, 1983 (10:2 Md. R. 110); February 13, 1984 (11:3 Md. R. 202); July 30, 1984 (11:15 Md. R. 1330); April 18, 1988 (15:8 Md. R. 1009)
Regulation .04C amended, D—I adopted effective April 18, 1988 (15:8 Md. R. 1009)
Regulation .05 adopted effective January 31, 1983 (10:2 Md. R. 110)
Regulation .05A amended effective April 18, 1988 (15:8 Md. R. 1009)

Chapter recodified from COMAR 10.51.01 to COMAR 26.13.01
Regulation .01B amended effective October 16, 2000 (27:20 Md. R. 1843)
Regulation .03B amended effective April 1, 1991 (18:6 Md. R. 690); December 23, 1991 (18:25 Md. R. 2759); May 24, 1993 (20:10 Md. R. 853); April 11, 1994 (21:7 Md. R. 533); August 28, 1995 (22:17 Md. R. 1321); September 10, 1997 (24:5 Md. R. 413); September 7, 1998 (25:18 Md. R. 1438); October 16, 2000 (27:20 Md. R. 1843); November 1, 2002 (29:21 Md. R. 1647)
Regulation .04 amended effective October 16, 2000 (27:20 Md. R. 1843); November 1, 2002 (29:21 Md. R. 1647)
Regulation .04F amended effective May 24, 1993 (20:10 Md. R. 853)
Regulation .04I amended effective December 23, 1991 (18:25 Md. R. 2759); October 16, 2000 (27:20 Md. R. 1843)

Regulation .05A amended effective December 23, 1991 (18:25 Md. R. 2759); May 24, 1993 (20:10 Md. R. 853); September 10, 1997 (24:5 Md. R. 413); October 16, 2000 (27:20 Md. R. 1843)
Regulation .05B amended effective October 16, 2000 (27:20 Md. R. 1843); November 1, 2002 (29:21 Md. R. 1647)
Regulation .05C adopted effective October 16, 2000 (27:20 Md. R. 1843)

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Chapter 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—26.13.10.

B. In this chapter:

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

(2) Regulations .08 and .0 set forth the criteria used by the Department to identify characteristics of hazardous waste and to list particular hazardous wastes.

(3) Regulations .10—.14 identify characteristics of hazardous waste.

(4) Regulations .15—.19 list particular hazardous wastes.

C. General.

(1) The definition of solid waste contained in this chapter applies only to wastes that also are hazardous for purposes of this subtitle. For example, it does not apply to materials such as nonhazardous scrap, paper, textiles, or rubber that are not otherwise hazardous wastes and that are recycled.

(2) This chapter identifies only some of the materials which are solid wastes and hazardous wastes under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland.

(3) Definitions. For the purposes of Regulations .02 and .06 of this chapter:

(a) "By-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form produced by the process.

(b) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

(c) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries, and includes, for example, turnings, cuttings, punchings, and borings.

(d) Processed Scrap Metal.

(i) "Processed scrap metal" is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials.

(ii) "Processed scrap metal" includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type, and fines, drosses, and related materials which have been agglomerated.

(iii) "Processed scrap metal" does not include shredded circuit boards being sent for recycling, which are excluded from the definition of solid waste under Regulation .04A(12) of this chapter.

(e) "Prompt scrap metal", also known as "industrial scrap metal" or "new scrap metal", is scrap metal as generated by the metal working or metal fabrication industries, and includes scrap metal such as turnings, cuttings, punchings, and borings.

(f) "Reclaimed material" is material that is processed to recover a usable product or is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

(g) "Recycled material" is material that is used, reused, or reclaimed.

(h) "Reused or used material" is a material that is employed in either one of the following:

(i) As an ingredient including use as an intermediate, in an industrial process to make a product, such as distillation bottoms from one process used as feedstock in another process. However, a material does not satisfy this condition if distinct components of the material are recovered as separate end products, as when metals are recovered from metal-containing secondary materials.

(ii) In a particular function or application as an effective substitute for a commercial product such as spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment.

(i) "Scrap metal" is bits and pieces of metal parts such as bars, turnings, rods, sheets, or wire or metal pieces that may be combined together with bolts or soldering such as radiators, scrap automobiles, or railroad box cars, which when worn or superfluous can be recycled.

(j) "Sludge" has the same meaning as specified in COMAR 26.13.01.03B(72).

(k) "Spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

(l) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being

(See page 873)

G. Table 1.

	Use Constituting Disposal (1)	*Energy Recovery/ Fuel* (2)	*Reclamation* (3)	*Speculative Accumulation* (4)
Spent materials	(*)	(*)	(*)	(*)
Sludges (listed in Regulation .16, .17, or .18 of this chapter)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
By-products (listed in Regulation .17, or .18 of this chapter)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
Commercial chemical products (listed in Regulation .19 of this chapter)	(*)	(*)	—	—
Commercial chemical products exhibiting a characteristic of hazardous waste	(*)	(*)	—	—
Scrap metal other than excluded scrap metal, which is defined in Regulation .01C(3)(b) of this chapter	(*)	(*)	(*)	(*)

NOTE—The terms "spent materials", "sludges", "by-products", and "scrap metal" are defined in Regulation .01 of this chapter.

.03 Definition of Hazardous Waste.

A. A solid waste, as defined in Regulation .02, is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under Regulation .04-1 of this chapter; and

(2) It meets any of the following criteria:

(a) It exhibits any of the characteristics of hazardous waste identified in this chapter.

(b) It is listed in Regulations .15—.19 and has not been excluded from the lists by COMAR 26.13.01.04A and C.

(c) It is a mixture of solid waste and a hazardous waste that is listed in this chapter solely because it exhibits one or more of the characteristics of hazardous waste identified in this chapter unless the:

(i) Resultant mixture no longer exhibits any characteristic of hazardous waste as identified in this chapter; or

C. Unless and until it meets the criteria of §D:

(1) A hazardous waste will remain a hazardous waste.

(2) Except as otherwise provided in §C(3), any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate but not including precipitation runoff, is a hazardous waste. However, materials that are reclaimed from solid waste and that are used beneficially are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(3) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332) is not a hazardous waste even though it is generated from the treatment, storage, or disposal of a hazardous waste, unless it exhibits one or more of the characteristics of hazardous waste.

D. Any solid waste described in §C is not a hazardous waste if it meets the following criteria:

(1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in Regulations .10—.14;

(2) In the case of a waste which is a listed waste under Regulations .15—.19, contains a waste(s) listed under Regulations .15—.19 or is derived from a waste listed in Regulations .15—.19, it also has been excluded from §C under COMAR 26.13.01.04A(3) and C.

.04 Materials Which Are Not Solid Wastes.

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

(1) Domestic sewage, as defined in §B of this regulation, that passes through a sewer system to a publicly owned treatment work for treatment;

(2) Industrial wastewater discharges that are point source discharges permitted pursuant to §402 of the Clean Water Act, as amended, or permitted pursuant to Environment Article, §§9-324—9-332, Annotated Code of Maryland;

(3) Irrigation return flows;

(4) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process;

(5) 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) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in Regulation .01C(3)(h) of this chapter;

(7) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process if:

(a) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance,

(b) Reclamation does not involve controlled flame combustion, such as occurs in boilers, industrial furnaces, or incinerators,

(c) The secondary materials are never accumulated in the tanks for over 12 months without being reclaimed, and

(d) The reclaimed material is neither used to produce a fuel, nor used to produce products that are used in a manner constituting disposal;

(8) EPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic (TC) specified in Regulation .14 of this chapter if:

(a) Subsequent to generation, these materials are recycled to coke ovens or to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar before the tar's sale or refining, and

(b) There is no land disposal of the wastes from the point at which they are generated to the point at which they are mixed with coal tar, or the point at which they are recycled to coke ovens, tar recovery processes, or tar refining processes;

(9) The following wastes from wood preserving, as qualified by §C of this regulation:

(a) Spent wood-preserving solutions that have been reclaimed and are reused for their original intended purpose;

(b) Wastewaters from the wood-preserving process that have been reclaimed and are reused to treat wood; and

(c) Before reuse, the wood-preserving wastewaters and spent wood-preserving solutions described in §A(9)(a) and (b) of this regulation if they meet all of the following conditions:

(i) The wood-preserving wastewaters and spent wood-preserving solutions are generated from processes that use waterborne preservatives;

(ii) The wood-preserving wastewaters and spent wood-preserving solutions are reused on-site in the production process for their originally intended purpose at plants using waterborne preservatives in the production process;

(iii) Before reuse, the wastewaters and spent wood-preserving solutions are managed to prevent release to land and ground water;

(iv) Any unit used to manage wastewaters or spent wood-preserving solutions or both before reuse can be evaluated visually or by other means to verify that the unit is capable of containing and preventing these materials from being released to the environment;

(v) Any drip pad used to manage the wastewaters, spent wood-preserving solutions, or both before reuse is in compliance with the standards of COMAR 26.13.06.26, regardless of whether the plant generates a total of less than 100 kilograms per month of hazardous waste;

(vi) Before operating under the exclusion provided by §A(9)(c) of this regulation, the plant owner or operator submits a one-time notification to the Secretary stating that the plant intends to claim the exclusion and giving the date on which the plant intends to begin operating under the exclusion;

(vii) The plant owner or operator includes, in the notification required by §A(9)(c)(vi) of this regulation, the following statement: "I have read the applicable regulation establishing an exclusion for wood-preserving wastewaters and spent wood-preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation."; and

(viii) The plant maintains a copy of the notification required by §A(9)(c)(vi) of this regulation in its on-site records for a period of not less than 3 years from the date specified in the notification;

(10) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, if this material is:

(a) Shipped in drums if it is shipped; and

(b) Not land-disposed before recovery;

(11) Excluded scrap metal being recycled, including the following as defined and qualified in Regulation .01C(3)(c)—(e) of this chapter:

(a) Processed scrap metal;

(b) Unprocessed home scrap metal; and

(c) Unprocessed prompt scrap metal;

(12) Shredded circuit boards being recycled if they are:

(a) Stored in containers sufficient to prevent a release to the environment before recovery; and

(b) Free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries; and

(13) Comparable fuels or comparable syngas fuels that meet the requirements of Regulations .19-1—.19-5 of this chapter.

B. Definition. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

C. Qualifiers on Exclusions of Materials from Regulation as Solid Waste.

(1) The exclusion of §A(9)(c) of this regulation, concerning wood-preserving wastewaters and spent wood-preserving solutions that are to be reused, applies only as long as the plant at which the exclusion is being applied meets all of the conditions of §A(9)(c)(i)—(vii) of this regulation.

(2) Reinstatement of Eligibility for Exclusion.

(a) If a plant goes out of compliance with any of the conditions of §A(9)(c)(i)—(vii) of this regulation, the owner or operator of the plant may apply to the Secretary for reinstatement of eligibility for the exclusion of §A(9)(c) of this regulation.

(b) The Secretary may reinstate eligibility for the exclusion of §A(9)(c) of this regulation if the Secretary finds that the plant has returned to compliance with the requirements of §A(9)(c)(i)—(vii) of this regulation and that violations are not likely to recur.

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

A. The following solid wastes are not hazardous wastes:

(1) Household waste, as defined in §B of this regulation, including household waste that has been collected, transported, stored, treated, disposed of, recovered (for example, refuse-derived fuel), or reused;

(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

(a) The growing and harvesting of agricultural crops,

(b) The raising of animals, including animal manures;

(3) Mining overburden returned to the mine site;

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;

(6) Contaminated soils and other solids recovered from spills or removed from old disposal sites containing PCB at concentrations of less than 50 ppm which shall be disposed of at approved sites only if they do not qualify as a hazardous waste under any other section of this regulation;

(7) Solid waste from the extraction, and beneficiation and processing of ores and minerals 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) Cement kiln dust waste;

(See page 881)

(g) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number;

(8) The facility keeps on-site a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study;

(9) The facility prepares and submits a report to the Secretary by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes all of the following information for the previous calendar year:

(a) The name, address, and EPA identification number of the facility conducting the treatability studies,

(b) The types, by process, of treatability studies conducted,

(c) The names and addresses of persons for whom studies have been conducted, including their EPA identification numbers,

(d) The total quantity of waste in storage each day,

(e) The quantity and types of waste subjected to treatability studies,

(f) When each treatability study was conducted, and

(g) The final disposition of residues and unused sample from each treatability study;

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Regulation .03 of this chapter;

(11) The facility manages any unused samples or residues generated by the treatability study that are determined to be hazardous waste in accordance with the requirements of this chapter and COMAR 26.13.03—26.13.10 unless the residues and unused samples are returned to the sample originator under the exemption of Regulation .04-4 of this chapter;

(12) The facility notifies the Secretary by letter when the facility is no longer planning to conduct any treatability studies at the site; and

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

B. A mobile treatment unit may qualify as a testing facility subject to §A of this regulation. When a group of mobile treatment units are located at the same site, the limitations specified in §A of this regulation apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

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

A. Exemptions.

(1) Except for those wastes identified in §§B, 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—26.13.07 and 26.13.10 and the notification requirements of §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;

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

(f) Universal waste managed under Regulation .07-1 of this chapter and COMAR 26.13.10.06—.25.

(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 26.13.05.16, 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, those wastes are subject to regulation under COMAR 26.13.03—26.13.07 and 26.13.10:

(1) One kilogram of any commercial product or manufacturing chemical intermediate having the generic name listed in Regulation .19E or F of this chapter;

(2) One kilogram of any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in Regulation .19E or F;

(3) Any containers identified in Regulation .19C of this chapter that are larger than 20 liters in capacity;

(4) 10 kilograms of inner liners from containers identified under Regulation .19C of this chapter;

(5) 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or onto any land or water, of any acute hazardous waste listed in Regulation .16, .17, .18, or .19 of this chapter;

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

(a) F020, F021, F022, F023, F026, and F027 as identified in Regulation .16 of this chapter, and

(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.

(See page 885)

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

(1) Shall comply with COMAR 26.13.03.02.

(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) Permitted by EPA under 40 CFR 270, or by a state with a hazardous waste management program authorized under 40 CFR 271;

(b) In interim status under:

(i) 40 CFR 270 and 265, or

(ii) COMAR 26.13.06 and 26.13.07;

(c) A facility that is:

(i) Permitted, licensed, or registered by a state to manage municipal solid waste or nonmunicipal, nonhazardous solid waste;

(ii) In compliance with the requirements of 40 CFR 258 or equivalent state regulations, if the waste is managed in a municipal solid waste landfill;

(iii) In compliance with the requirements of 40 CFR §§257.5—257.30 or equivalent state regulations, if the waste is managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998; and

(iv) Permitted to accept the waste;

(d) Permitted under COMAR 26.11.02.13 (air quality operating permit) and has a limited facility permit;

(e) A generating station that has been constructed by an electric company and that has a limited facility permit;

(f) A facility which:

(i) Beneficially uses or reuses, or legitimately recycles or reclaims its waste, or

(ii) Treats its waste before beneficial use or reuse, or legitimate recycling or reclamation; or

(g) For universal waste managed under COMAR 26.13.10.06—.25, a universal waste handler or destination facility subject to the requirements of COMAR 26.13.10.06 — .25.

(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—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—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) Except as provided in §E(2), hazardous waste subject to the reduced requirements of this chapter may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this chapter, unless the mixture meets any of the characteristics of hazardous waste identified in Regulations .10—.14 of this chapter.

(2) If a generator's hazardous waste is mixed with used oil, the mixture is subject to regulation under applicable provisions of COMAR 26.10.15, 26.11.09, 26.13.04.01D(4), and 26.13.10.05, if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

(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. Hazardous waste subject to the requirements of COMAR 26.13.10.01—.03 or 26.13.02.06B and C is included in the quantity determination of this section and is subject to the requirements of this regulation.

.06 Requirements for Recyclable Materials.

A. General.

(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of §§B and C except for the materials listed in §A(2) and (3) of this regulation. Hazardous wastes that are recycled will be known as "recyclable materials". Recyclable materials, except as otherwise provided in §A(2) or (3), §C(1), or COMAR 26.13.10 are not controlled hazardous substances (CHS) for purposes of COMAR 26.13.07.

(2) Exemption From Regulation.

(a) The following recyclable materials are not CHS for 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—.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, 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 26.13.10 and all applicable provisions in COMAR 26.13.07:

(i) Recyclable materials used in a manner constituting disposal;

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

(iii) Recyclable materials from which precious metals are reclaimed; or

(iv) Spent lead-acid batteries that are being reclaimed under COMAR 26.13.10.

(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) Scrap metal that is not excluded under Regulation .04A(11) of this chapter, for purposes of COMAR 26.13.03—26.13.07;

(iii) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if those wastes result from normal petroleum refining, production, and transportation practices, for purposes of COMAR 26.13.03—26.13.07;

(iv) Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices, when the oil is to be refined along with normal process streams at a petroleum refining facility, for purposes of COMAR 26.13.03—26.13.07.

(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) Industrial ethyl alcohol that is reclaimed is not subject to COMAR 26.13.03—26.13.07, except for the requirements specified in §D of this regulation;

(ii) Scrap metal that is not excluded under Regulation .04A(11) of this chapter is not subject to COMAR 26.13.03—26.13.07;

(iii) Used batteries or used battery cells returned to a battery manufacturer for regeneration are not subject to COMAR 26.13.03—26.13.07.

(c) Used oil is not subject to the requirements of COMAR 26.13.03—26.13.04.01D(3) and 26.13.04.01E—26.13.07, but is regulated instead under COMAR 26.13.10.05 and 26.10.15 if it:

(i) Would be regulated as a hazardous waste solely because it exhibits a characteristic of hazardous waste under Regulations .11—.14 of this chapter; and

(ii) Is recycled by being reused, following its original use, for any beneficial purpose, through such means as re-refining, reclamation, burning for energy recovery, or reprocessing.

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

C. Storage of Recyclable Materials.

(1) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of COMAR 26.13.01—.10 and the notification requirements under §3010 of RCRA, except as provided in §A(2) and (3) of this regulation.

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in §A(1) of this regulation:

(a) Notification requirements under §3010 of RCRA; and

(b) COMAR 26.13.05.05B and C.

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)—(e), .07C(4), and .07-2D concerning the responsibilities of a primary exporter;

(b) Export the industrial ethyl alcohol only upon consent of the receiving country, and in conformance with the EPA Acknowledgement of Consent for the shipment obtained under the provisions of COMAR 26.13.03.07B(3); and

(c) Provide a copy of the EPA Acknowledgement of Consent to the transporter who is transporting the shipment for export.

(2) A transporter transporting for export a shipment of industrial ethyl alcohol that is to be reclaimed:

(a) May not accept the shipment if the transporter knows that it does not conform to the EPA Acknowledgement of Consent;

(b) Shall ensure that a copy of the EPA Acknowledgement of Consent accompanies the shipment; and

(c) Shall ensure that the shipment is delivered to the facility designated by the person initiating the shipment.

E. Hazardous waste that is imported from or exported to designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in COMAR 26.13.03.07-5C, for purpose of recovery is subject to the requirements of COMAR 26.13.03.07-5 if it meets the applicability criteria of COMAR 26.13.03.07-5A.

.07 Residues of Hazardous Waste in Empty Containers.

A. General.

(1) Hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in § B of this regulation, is not subject to regulation under this subtitle, unless it is determined by the Secretary that sufficient amounts of the hazardous waste remain to pose a potential threat to human health or the environment.

(2) Any hazardous waste in either a container that is not empty, or an inner liner removed from a container that is not empty, as defined in § B of this regulation, is subject to regulation under this subtitle.

B. Definition of Empty.

(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is compressed gas or that is identified in Regulations .16—.19 of this chapter as an acute hazardous waste is empty if:

(a) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, such as pouring, pumping, and aspirating;

(b) Not more than 2.5 centimeters (1 inch) of residue remain on the bottom of the container or inner liner;

(c) Not more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

(d) Not more than 0.3 percent by weight of the total capacity of the container or inner liner remains in the container or inner liner if the container is greater than 110 gallons in size.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held an acute hazardous waste identified in Regulations .16—.19 is empty if:

(a) The container or inner liner has been triple rinsed using a solvent capable of removing the hazardous waste;

(b) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(c) In the case of a container, the inner liner that prevented contact of the hazardous waste with the container has been removed.

.07-1 Requirements for Universal Waste.

A. Except as specified in COMAR 26.13.10.06—.25, the wastes listed in §B of this regulation are exempt from regulation under COMAR 26.13.03—26.13.07 and COMAR 26.13.10.01—.05, and, therefore, are not fully regulated as hazardous waste.

B. The following wastes are subject to regulation under COMAR 26.13.10.06—.25:

(1) Batteries, as described in COMAR 26.13.10.07;

(2) Pesticides, as described in COMAR 26.13.10.08; and

(3) Thermostats, lamps, or PCB-containing lamp ballasts, each as described in COMAR 26.13.10.09.

.08 Criteria for Identifying the Characteristics of Hazardous Waste.

The Secretary shall identify and define a characteristic of hazardous waste in Regulations .10—.14 only upon determining that:

A. A solid waste that exhibits the characteristic may:

(1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or

(2) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed; and

B. The characteristic can be:

(1) Measured by an available standardized test method which is reasonably within the capability of generators of solid waste or private sector laboratories that are available to serve generators of solid waste, or

(2) Reasonably detected by generators of solid waste through their knowledge of their waste.

.09 Criteria for Listing Hazardous Waste.

A. The Secretary shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

(1) It exhibits any of the characteristics of hazardous waste identified in Regulations .10—.14.

(2) It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to

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have an oral LD_{50} toxicity (rat) of less than 50 milligrams per kilogram, an inhalation LC_{50} toxicity (rat) of less than 2 milligrams per liter, or a dermal LD_{50} toxicity (rabbit) of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness. Waste listed in accordance with these criteria will be designated Acute Hazardous Waste.

(3) It contains any of the toxic constituents listed in Regulation .24 of this chapter and, after considering the following factors, the Secretary concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed:

(a) The nature of the toxicity presented by the constituent.

(b) The concentration of the constituent in the waste.

(c) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in §A(3)(g), below.

(d) The persistence of the constituent or any toxic degradation product of the constituent.

(e) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation.

(f) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.

(g) The plausible types of improper management to which the waste could be subjected.

(h) The quantities of the waste generated at individual generation sites or on a regional or national basis.

(i) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.

(j) Actions taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituents.

(k) Such other factors as may be appropriate.

Industry	*EPA Hazardous Waste Number*	*Hazardous Waste*	*Hazard Code*
	F021	Wastes except wastewater and spent carbon from hydrogen chloride purification from the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of pentachlorophenol, or of intermediates used to produce its derivatives	(H)
	F022	Wastes except wastewater and spent carbon from hydrogen chloride purification from the manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tetra-, penta-, or hexachlorobenzenes under alkaline conditions	(H)
	F023	Wastes except wastewater and spent carbon from hydrogen chloride purification from the production of materials on equipment previously used for the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tri- or tetrachlorophenols. This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol	(T)

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 certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic 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	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon	(T)

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Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
	K993	Waste 3,3-dimethyl-n-but-2-yl methylphosphonofloridate, also known by the common names GD and Soman and the following alternate chemical names: Pinacolyl methylphosphonofluoridate 1,2,2-trimethylpropyl methylphosphonofluoridate Pinacoloxymethylphosphoryl fluoride	(H)
	K994	Waste O-ethyl S-(2-diisopropyl-aminoethyl) methylphosphonothioate also know by the common name VX	(H)
	K995	Waste chlorovinylarsine dichloride, also know by the common names L and Lewisite and the following alternate chemical names: Dichloro (2-chlorovinyl) arsine 2-chlorovinyldichlorarsine	(H)
	K996	Waste phenarsazine chloride, also known by the common names DM and Adamsite	(H)
	K997	Waste bis(2-chloroethyl) sulfide, also known by the common names sulfur mustard, H, HS, and HD, which is distilled sulfur mustard	(H)
	K998	Waste 2-2'-di(3-chloroethylthio)-diethyl ether, also known by the common name T and the following alternate chemical name: Bis-(2-chloroethylthioethyl) ether	(H)
	K999	Waste, lethal, military warfare agents having any substances identified in the listings for hazardous waste numbers K991 through K998 as their active or principal ingredient or ingredients such as HT, which is a mixture of sulfur mustard and bis-(2-chloroethylthioethyl) ether	(H)

.18 Hazardous Waste from Specific Sources (State).

Industry	*EPA Hazardous Waste Number*	*Hazardous Waste*	*Hazard Code*
Organic Chemical	MD01	Filter cake and chemical sludge from API separators, generated during the production of phthalate esters	(T)
Military	MD02	Except for those wastes excluded by Regulation .26 of this chapter, reaction products resulting from the decontamination of any of the following compounds, including residues from the decontamination of mixtures containing one or more of these compounds: Ethyl dimethylamidocyanophosphate, also known by the common names GA and Tabun and the following alternate chemical names: Ethyl N,N dimethylphosphoramidocyanidate; and Dimethylamidoethoxyphosphoryl cyanide; Isopropyl methanefluorophosphonate, also known by the common names GB and Sarin and the following alternate chemical names: Isopropyl methylphosphonofluoridate; and Isopropyl ester of methylphosphonofluoridic acid; 3,3-dimethyl-n-but-2-yl methylphosphonofluoridate, also known by the common names GD and Soman and the following alternate chemical names: Pinacolyl methylphosphonofluoridate; 1,2,2-trimethylpropyl methylphosphonofluoridate; and Pinacoloxymethylphosphoryl fluoride;	(T)

Industry	*EPA Hazardous Waste Number*	*Hazardous Waste*	*Hazard Code*
		O-ethyl S-(2-diisopropyl-aminoethyl) methylphosphonothioate, also known by the common name VX; Chlorovinylarsine dichloride, also known by the common names L and Lewisite and the following alternate chemical names: Dichloro (2-chlorovinyl) arsine; and 2-chlorovinyldichlorarsine; Phenarsazine chloride, also known by the common names DM and Adamsite; Bis(2-chloroethyl) sulfide, also known by the common names sulfur mustard, H, HS, and HD; 2-2'-di(3-chloroethylthio)-diethyl ether, also known by the common name T and the following alternate chemical name: Bis-(2-chloroethylthioethyl) ether	
	MD03	Except for those wastes as excluded by Regulation .26 of this chapter: (a) Residues from the treatment of a liquid having one or more of the hazardous waste numbers K991—K999 if the treatment method, to the Secretary's satisfaction, consistently produces no residue that meets the criteria of Regulation .09A(2) of this chapter for listing as an acute hazardous waste; or (b) A solid item that: (i) Is known to or is thought to have contained, on the item's surface or within the item through sorption, one or more of the hazardous wastes K991—K999;	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
		(ii) Has been successfully decontaminated, that is, has been decontaminated sufficiently to allow safe disposition through commercial hazardous waste treatment, storage, and disposal facilities; and (iii) Contains none of the wastes K991—K999 in greater than very small, insignificant amounts.	

Agency note: Once the MD03 hazardous waste number is assigned to a waste, the K hazardous waste number associated with the waste from which the MD03 waste is derived is no longer applicable.

Agency note: A solid item, assigned a hazardous waste number K991—K999 because it contained the corresponding waste, no longer carries the K hazardous waste number if the solid item has been successfully decontaminated and no longer contains the K waste in more than very small, insignificant amounts. A solid item that no longer contains residues from the decontamination of a hazardous waste K991—K999 does not carry the MD03 hazardous waste number.

.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 the 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. Any commercial chemical product, or manufacturing chemical intermediate, having the generic name listed in §E, F, G, or H of this regulation.

B. Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in §E, F, G, or H of this regulation.

C. Any residue remaining in a container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic name listed in §E, F, G, or H of this regulation unless the container or inner liner is empty as defined in Regulation .07B of this chapter.

D. Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical product or manufacturing chemical product or manufacturing chemical intermediate having the generic name listed in §E or G or mixtures containing polychlorinated biphenyls (PCBs) at concentrations greater than 50 ppm. The hazardous waste number for these mixtures is MX 01.

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**
U102	Dimethyl phthalate
	N,N-Dimethyl-N'-2-pyridinyl-N'-(2-thienyl-methyl)-1,2-ethanediamine see U155
U103	Dimethyl sulfate
U105	2,4-Dinitrotoluene
U106	2,6-Dinitrotoluene
U107	Di-n-octyl phthalate
U108	1,4-Dioxane
U109	1,2-Diphenylhydrazine
U110	Dipropylamine (I)
U111	Di-n-propylnitrosamine
	EBDC see U114
	Epichlorohydrine see U041
	1,4-Epoxybutane see U213
	Ethanal (I) see U001
	1,2-Ethanediylbiscarbamodithioic acid, salts and esters see U114
	Ethanethioamide see U218
	2-Ethoxyethanol see U359
	N-(4-Ethoxyphenyl)-acetamide see U187
U112	Ethyl acetate (I)
U113	Ethyl acrylate (I)
U114	Ethylenebisdithiocarbamate acid, salts and esters
	Ethylene dibromide see U067
	Ethylene dichloride see U077
	Ethylene glycol monoethyl ether see U359
U115	Ethylene oxide (I,T)
U116	Ethylene thiourea
U117	Ethyl ether (I)
	Ethylidene dichloride see U076
U118	Ethylmethacrylate
U119	Ethyl methanesulfonate
	Ethylnitrile see U003
	N-Ethyl-N-nitrosoethanamine see U174
	N-Ethyl-N-nitrosourea see U176
	Firemaster T23P see U235
U120	Fluoranthene
	N-9H-Fluoren-2-yl-acetamide see U005

Hazardous Waste Number	*Substance**
U121	Flouorotrichloromethane
U122	Formaldehyde
U123	Formic acid (C,T)
U124	Furan (I)
	2-Furancarboxaldehyde (I) see U125
	2,5-Furandione see U147
U125	Furfural (I)
	Furfuran (I) see U124
U126	Glycidylaldehyde
U127	Hexachlorobenzene
U128	Hexachlorobutadiene
U129	Hexachlorocyclohexane
U130	Hexachlorocyclopentadiene
U131	Hexachloroethane
U132	Hexachlorophene
	Hexahydrobenzene (I) see U056
U133	Hydrazine (R,T)
U134	Hydrofluoric acid (C,T)
U135	Hydrogen sulfide
	Hydroxybenzene see U188
U136	Hydroxydimethyl arsine oxide
	4-Hydroxy-3-(3-oxo-1-phenyl-butyl)-2H-1-benzopyran-2-one and salts, when present at concentrations of 0.3 percent or less see U248
	2-Imidazolidinethione see U116
	4,4′-(Imidocarbonyl)bis(N,N-dimethyl)aniline see U014
U137	Indeno(1,2,3-cd)pyrene
U138	Iodomethane
	1,3-Isobenzofurandione see U190
U140	Isobutyl alcohol (I,T)
U141	Isosafrole
U142	Kepone
U143	Lasiocarpine
U144	Lead acetate
U145	Lead phosphate
U146	Lead subacetate
	Lindane see U129

.19-1 Comparable Fuel and Synthesis Gas Fuel Exclusion.

A. Definitions.

(1) In Regulations .19-1—.19-5 of this chapter, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Comparable fuel" means a waste that is to be burned as a fuel and which has levels of hazardous constituent concentrations and physical properties comparable to those that are found in the fossil fuel that would otherwise be burned.

(b) "Comparable fuel burner or syngas fuel burner" means the person burning the comparable fuel or syngas fuel that qualifies for the exclusion of Regulation .19-2A of this chapter.

(c) "Comparable fuel generator or syngas fuel generator" means the person claiming and qualifying for the exclusion from the definition of solid waste of Regulation .19-2A of this chapter.

(d) "Syngas fuel" means synthesis gas fuel.

B. Fuel Specifications.

(1) Persons shall use the specifications in this regulation to determine if a waste qualifies for exclusion from the definition of a solid waste under Regulation .19-2A of this chapter.

(2) Comparable Fuel Specification. A waste for which an exemption is claimed based on the waste being a comparable fuel shall meet the following:

(a) Physical specifications:

(i) The heating value shall exceed 5,000 Btu/pound (11,500 joules/gram); and

(ii) Viscosity may not exceed 50 centipoise, as fired; and

(b) Constituent specifications:

(i) The concentrations of chemical constituents in the waste may not exceed the concentration limits listed in Table 1 of this regulation, except as provided in §B(2)(b)(ii) of this regulation; and

(ii) If nondetect is the concentration limit for a chemical listed in Table 1 of this regulation, the concentration of the chemical in the

waste may not exceed the minimum required detection limit listed in Table 1 of this regulation.

(3) Syngas Fuel Specification. A waste generated from hazardous waste for which an exemption is claimed based on the waste being a syngas fuel shall meet the following specifications:

(a) Btu value shall be a minimum of 100 Btu/Scf;

(b) Total halogen content shall be less than 1 part per million by volume (ppmv);

(c) Total nitrogen content, other than diatomic nitrogen (N_2), shall be less than 300 ppmv;

(d) Hydrogen sulfide content shall be less than 200 ppmv; and

(e) The content of each hazardous constituent in Regulation .24 of this chapter shall be less than 1 ppmv.

(3) In determining whether a specification of §B(2) or (3) of this regulation is met, a person shall make the determination on the waste:

(a) As it is constituted at the time of generation; or

(b) As it is constituted as a result of blending or treatment, as provided in Regulation .19-2D or E of this chapter.

(See page 933)

Table 1 — Detection and Detection Limit Values for Comparable Fuel Specification

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
Total Nitrogen as N	NA(see note 4 at end of table)	9,000	18,400	4,900.00	*****
Total Halogens as Cl	NA	1,000	18,400	540.00	*****
Total Organic Halogens as Cl	NA	*****	*****	See note 5 at end of table.	*****
Polychlorinated biphenyls, total (Arocolors, total)	1336-36-3	ND (see note 6 at end of table)	*****	ND	1.4
Cyanide, total	57-12-5	ND	*****	ND	1.0
Metals:					
Antimony, total	7440-36-0	ND	*****	12.00	*****
Arsenic, total	7440-38-2	ND	*****	0.23	*****
Barium, total	7440-39-3	ND	*****	23.00	*****
Beryllium, total	7440-41-7	ND	*****	1.20	*****
Cadmium, total	7440-43-9	ND		1.2	
Chromium, total	7440-47-3	ND	*****	2.30	*****
Cobalt	7440-48-4	ND	*****	4.60	*****
Lead, total	7439-92-1	57	18,100	31.00	*****
Manganese	7439-96-5	ND	*****	1.20	*****
Mercury, total	7439-97-6	ND	*****	0.25	*****
Nickel, total	7440-02-0	106	18,400	58.00	*****
Selenium, total	7782-49-2	ND	*****	0.23	*****
Silver, total	7440-22-4	ND	*****	2.30	*****
Thallium, total	7440-28-0	ND	*****	23.00	*****
Hydrocarbons:					
Benzo[a]anthracene	56-55-3	ND	*****	2,400.00	*****
Benzene	71-43-2	8,000	19,600	4,100.00	*****
Benzo[b]fluoranthene	205-99-2	ND	*****	2,400.00	*****

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
Benzidine	92-87-5	ND	*****	ND	2,400.0
Dibenz[a,j]acridine	224-42-0	ND	*****	ND	2,400.0
O,O-Diethyl O-pyrazinyl phosphorothioate (Thionazin)	297-97-2	ND	*****	ND	2,400.0
Dimethoate	60-51-5	ND	*****	ND	2,400.0
p-(Dimethylamino) azobenzene (4-Dimethylaminoazobenzene)	60-11-7	ND	*****	ND	2,400.0
3,3'-Dimethylbenzidine	119-93-7	ND	*****	ND	2,400.0
α, α -Dimethylphenethylamine	122-09-8	ND	*****	ND	2,400.0
3,3'-Dimethoxybenzidine	119-90-4	ND	*****	ND	100.0
1,3-Dinitrobenzene (m-Dinitrobenzene)	99-65-0	ND	*****	ND	2,400.0
4,6-Dinitro-o-cresol	534-52-1	ND	*****	ND	2,400.0
2,4-Dinitrophenol	51-28-5	ND	*****	ND	2,400.0
2,4-Dinitrotoluene	121-14-2	ND	*****	ND	2,400.0
2,6-Dinitrotoluene	606-20-2	ND	*****	ND	2,400.0
Dinoseb (2-sec-Butyl-4,6-dinitrophenol)	88-85-7	ND	*****	ND	2,400.0
Diphenylamine	122-39-4	ND	*****	ND	2,400.0
Ethyl carbamate (Urethane)	51-79-6	ND	*****	ND	100.0
Ethylenethiourea (2-Imidazolidinethione)	96-45-7	ND	*****	ND	110.0
Famphur	52-85-7	ND	*****	ND	2,400.0
Methacrylonitrile	126-98-7	ND	*****	ND	39.0
Methapyrilene	91-80-5	ND	*****	ND	2,400.0
Methomyl	16752-77-5	ND	*****	ND	57.0
2-Methyllactonitrile (Acetone cyanohydrin)	75-86-5	ND	*****	ND	100.0
Methyl parathion	298-00-0	ND	*****	ND	2,400.0

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
MNNG (N-Metyl-N-nitroso-N'-nitroguanidine)	70-25-7	ND	*****	ND	110.0
1-Naphthylamine (α-Naphthylamine)	134-32-7	ND	*****	ND	2,400.0
2-Naphthylamine (β-Naphthylamine)	91-59-8	ND	*****	ND	2,400.0
Nicotine	54-11-5	ND	*****	ND	100.0
4-Nitroaniline (p-Nitroaniline)	100-01-6	ND	*****	ND	2,400.0
Nitrobenzene	98-95-3	ND	*****	ND	2,400.0
p-Nitrophenol (p-Nitrophenol)	100-02-7	ND	*****	ND	2,400.0
5-Nitro-o-toluidine	99-55-8	ND	*****	ND	2,400.0
N-Nitrosodi-n-butylamine	924-16-3	ND	*****	ND	2,400.0
N-Nitrosodiethylamine	55-18-5	ND	*****	ND	2,400.0
N-Nitrosodiphenylamine (Diphenylnitrosamine)	86-30-6	ND	*****	ND	2,400.0
N-Nitroso-N-methylethylamine	10595-95-6	ND	*****	ND	2,400.0
N-Nitrosomorpholine	59-89-2	ND	*****	ND	2,400.0
N-Nitrosopiperidine	100-75-4	ND	*****	ND	2,400.0
N-Nitrosopyrrolidine	930-55-2	ND	*****	ND	2,400.0
2-Nitropropane	79-46-9	ND	*****	ND	30.0
Parathion	56-38-2	ND	*****	ND	2,400.0
Phenacetin	62-44-2	ND	*****	ND	2,400.0
1,4-Phenylene diamine (p-Phenylenediamine)	106-50-3	ND	*****	ND	2,400.0
N-Phenylthiourea	103-85-5	ND	*****	ND	57.0
2-Picoline (alpha-Picoline)	109-06-8	ND	*****	ND	2,400.0
Propylthioracil (6-Propyl-2-thiouracil)	51-52-5	ND	*****	ND	100.0
Pyridine	110-86-1	ND	*****	ND	2,400.0
Strychnine	57-24-9	ND	*****	ND	100.0

Chemical Name	CAS No. (see note 1 at end of table)	Composite value (mg/kg) (see note 2 at end of table)	Heating value (Btu/lb.) (see note 3 at end of table)	Concentration limit (mg/kg at 10,000 Btu/lb.)	Minimum required detection limit (mg/kg)
Thioacetamide	62-55-5	ND	*****	ND	57.0
Thiofanox	39196-18-4	ND	*****	ND	100.0
Thiourea	62-56-6	ND	*****	ND	57.0
Toluene-2,4-diamine (2,4-Diaminotoluene)	95-80-7	ND	*****	ND	57.0
Toluene-2,6-diamine (2,6-Diaminotoluene)	823-40-5	ND	*****	ND	57.0
o-Toluidine	95-53-4	ND	*****	ND	2,400.0
p-Toluidine	106-49-0	ND	*****	ND	100.0
1,3,5-Trinitrobenzene (sym-Trinitobenzene)	99-35-4	ND	*****	ND	2,400.0
Halogenated Organic:					
Allyl chloride	107-05-1	ND	*****	ND	39.0
Aramite	140-57-8	ND	*****	ND	2,400.0
Benzal chloride (Dichloromethyl benzene)	98-87-3	ND	*****	ND	100.0
Benzyl chloride	100-44-77	ND	*****	ND	100.0
bis(2-Chloroethyl)ether (Dichoroethyl ether)	111-44-4	ND	*****	ND	2,400.0
Bromoform (Tribromomethane)	75-25-2	ND	*****	ND	39.0
Bromomethane (Methyl bromide)	74-83-9	ND	*****	ND	39.0
4-Bromophenyl phenyl ether (p-Bromo diphenyl ether)	101-55-3	ND	*****	ND	2,400.0
Carbon tetrachloride	56-23-5	ND	*****	ND	39.0
Chlordane	57-74-9	ND	*****	ND	14.0
p-Chloroaniline	106-47-8	ND	*****	ND	2,400.0
Chlorobenzene	108-90-7	ND	*****	ND	39.0
Chlorobenzilate	510-15-6	ND	*****	ND	2,400.0
p-Chloro-m-cresol	59-50-7	ND	*****	ND	2,400.0

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
2-Chloroethyl vinyl ether	110-75-8	ND	*****	ND	39.0
Chloroform	67-66-3	ND	*****	ND	39.0
Chloromethane (Methyl chloride)	74-87-3	ND	*****	ND	39.0
2-Chloronaphthalene (beta-Chloronaphthalene)	91-58-7	ND	*****	ND	2,400.0
2-Chlorophenol (o-Chlorophenol)	95-57-8	ND	*****	ND	2,400.0
Chloroprene (2-Chloro-1,3-butadiene)	1126-99-8	ND	*****	ND	39.0
2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	ND	*****	ND	7.0
Diallate	2303-15-4	ND	*****	ND	2,400.0
1,2-Dibromo-3-chloropropane	96-12-8	ND	*****	ND	39.0
1,2-Dichlorobenzene (o-Dichlorobenzene)	95-50-1	ND	*****	ND	2,400.0
1,3-Dichlorobenzene (m-Dichlorobenzene)	541-73-1	ND	*****	ND	2,400.0
1,4-Dichlorobenzene (p-Dichlorobenzene)	106-46-7	ND	*****	ND	2,400.0
3,3'-Dichlorobenzidine	91-94-1	ND	*****	ND	2,400.0
Dichlorodifluoromethane (CFC-12)	75-71-8	ND	*****	ND	39.0
1,2-Dichloroethane (Ethylene dichloride)	107-06-2	ND	*****	ND	39.0
1,1-Dichloroethylene (Vinylidene chloride)	75-35-4	ND	*****	ND	39.0
Dichloromethoxy ethane (Bis(2-chloroethoxy) methane)	111-91-1	ND	*****	ND	2,400.0
2,4-Dichlorophenol	120-83-2	ND	*****	ND	2,400.0
2,6-Dichlorophenol	87-65-0	ND	*****	ND	2,400.0
1,2-Dichloropropane (Propylene dichloride)	78-87-5	ND	*****	ND	39.0

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
cis-1,3-Dichloropropylene	10061-01-5	ND	*****	ND	39.0
trans-1,3-Dichloropropylene	10061-02-6	ND	*****	ND	39.0
1,3-Dichloro-2-propanol	96-23-1	ND	*****	ND	30.0
Endosulfan I	959-98-8	ND	*****	ND	1.4
Endosulfan II	33213-65-9	ND	*****	ND	1.4
Endrin	72-20-8	ND	*****	ND	1.4
Endrin aldehyde	7421-93-4	ND	*****	ND	1.4
Endrin Ketone	53494-70-5	ND	*****	ND	1.4
Epichlorohydrin (1-Chloro-2,3-epoxy propane)	106-89-8	ND	*****	ND	30.0
Ethylidene dichloride (1,1-Dichloroethane)	75-34-3	ND	*****	ND	39.0
2-Fluoroacetamide	640-19-7	ND	*****	ND	100.0
Heptachlor	76-44-8	ND	*****	ND	1.4
Heptachlor epoxide	1024-57-3	ND	*****	ND	2.8
Hexachlorobenzene	118-74-1	ND	*****	ND	2,400.0
Hexachloro-1,3-butadiene (Hexachlorobutadiene)	87-68-3	ND	*****	ND	2,400.0
Hexachlorocyclopentadiene	77-47-4	ND	*****	ND	2,400.0
Hexachloroethane	67-72-1	ND	*****	ND	2,400.0
Hexachlorophene	70-30-4	ND	*****	ND	59,000.0
Hexachloropropene (Hexachloropropylene)	1888-71-7	ND	*****	ND	2,400.0
Isodrin	465-73-6	ND	*****	ND	2,400.0
Kepone (Chlordecone)	143-50-0	ND	*****	ND	4,700.0
Lindane (gamma-BHC) (gamma-Hexachlorocyclohexane)	58-89-9	ND	*****	ND	1.4
Methylene chloride (Dichloromethane)	75-09-2	ND	*****	ND	39.0

Chemical Name	*CAS No. (see note 1 at end of table)*	*Composite value (mg/kg) (see note 2 at end of table)*	*Heating value (Btu/lb.) (see note 3 at end of table)*	*Concentration limit (mg/kg at 10,000 Btu/lb.)*	*Minimum required detection limit (mg/kg)*
4,4'-Methylene-bis(2-chloroaniline)	101-14-4	ND	*****	ND	100.0
Methyl iodide (Iodomethane)	74-88-4	ND	*****	ND	39.0
Pentachlorobenzene	608-93-5	ND	*****	ND	2,400.0
Pentachloroethane	76-01-7	ND	*****	ND	39.0
Pentachloronitrobenzene (PCNB) (Quintobenzene) (Quintozene)	82-68-8	ND	*****	ND	2,400.0
Pentachlorophenol	87-86-5	ND	*****	ND	2,400.0
Pronamide	23950-58-5	ND	*****	ND	2,400.0
Silvex (2,4,5-Trichlorophenoxypropionic acid)	93-72-1	ND	*****	ND	7.0
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8- TCDD)	1746-01-6	ND	*****	ND	30.0
1,2,4,5-Tetrachlorobenzene	95-94-3	ND	*****	ND	2,400.0
1,1,2,2-Tetrachloroethane	79-34-5	ND	*****	ND	39.0
Tetrachloroethylene (Perchloroethylene)	127-18-4	ND	*****	ND	39.0
2,3,4,6-Tetrachlorophenol	58-90-2	ND	*****	ND	2,400.0
1,2,4-Trichlorobenzene	120-82-1	ND	*****	ND	2,400.0
1,1,1-Trichloroethane (Methyl chloroform)	71-55-6	ND	*****	ND	39.0
1,1,2-Trichloroethane (Vinyl trichloride)	79-00-5	ND	*****	ND	39.0
Trichloroethylene	79-01-6	ND	*****	ND	39.0
Trichlorofluoromethane (Trichlormonofluoromethane)	75-69-4	ND	*****	ND	39.0
2,4,5-Trichlorophenol	95-95-4	ND	*****	ND	2,400.0
2,4,6-Trichlorophenol	88-06-2	ND	*****	ND	2,400.0
1,2,3-Trichloropropane	96-18-4	ND	*****	ND	39.0
Vinyl Chloride	75-01-4	ND	*****	ND	39.0

Notes:

Note 1: CAS No. — Chemical Abstracts Service number

Note 2: Composite Value — Constituent concentration that was used by EPA as the basis for establishing the concentration limit in the comparable fuel specification. The composite value was determined based on analysis of samples of various types of fuel. Note that in some instances where "ND" appears in the Composite Value column, the constituent was actually detected; however, when the observed concentration was normalized to an acceptable level for a fuel with a heating value of 10,000 Btu/lb., the concentration limit was less than the minimum detection limit for the constituent. In these instances, the comparable fuel specification has been set at the minimum detection limit.

Note 3: Heating Value (Btu/lb.) — Heating value of the fuel that exhibited the constituent concentration listed under "Composite Value". The heating value is used to normalize the composite value to a concentration limit for a fuel having a heating value of 10,000 Btu/lb., yielding the figure in the column labeled "Concentration limit (milligram/kilogram at 10,000 Btu/lb.)".

Note 4: NA — Not Applicable.

Note 5: Limit is 25 on total organic halogens, or limits on individual halogenated organics listed in remainder of table, whichever is more stringent.

Note 6: ND — Nondetect.

.19-2 Comparable Fuel and Synthesis Gas Fuel Exclusion—Implementation.

A. A waste that is to be burned as a fuel is excluded from the definition of a solid waste of Regulation .02 of this chapter if:

(1) The waste meets the specifications of:

(a) Regulation .19-1B(2) of this chapter, if the waste is to be burned as a comparable fuel; or

(b) Regulation .19-1B(3) of this chapter, if the waste is to be burned as a syngas fuel;

(2) The waste is burned in one of the following units in compliance with federal, state, and local air emission requirements, including all maximum achievable control technology requirements under the federal Clean Air Act:

(a) Industrial furnaces as defined in COMAR 26.13.01.03B;

(b) Boilers, as defined in COMAR 26.13.01.03B, that are:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(ii) Utility boilers used to produce electric power, steam, heated or cooled air, other gases, or fluids for sale;

(c) Hazardous waste incinerators subject to regulation under COMAR 26.13.05.15, 26.13.06.23, or applicable maximum achievable control technology requirements under the federal Clean Air Act; or

(d) Gas turbines used to produce electric power, steam, heated or cooled air, other gases, or fluids for sale;

(3) The requirements of §B of this regulation are complied with;

(4) The waste is not speculatively accumulated by any person, as described in Regulation .02 of this chapter; and

(5) The waste is not listed as hazardous waste because of the presence of dioxins or furans, as set out in Regulation .23 of this chapter.

B. A person seeking to exclude a waste from being regulated as a solid waste under §A of this regulation shall comply with the requirements of Regulation .19-3 of this chapter and the following requirements:

(1) The person who generates the comparable fuel or syngas fuel shall claim and certify to the exclusion by providing:

(a) To the Secretary two copies of the notice required by §B(2) of this regulation, with a note that one copy of the notice is to be forwarded to the unit within the Department responsible for regulation of hazardous waste management and one copy of the notice is to be forwarded to the unit within the Department responsible for regulation of air quality; and

(b) The notice required by §B(3) of this regulation, if applicable;

(2) The generator shall submit a one-time written notice to the Secretary:

(a) That the exclusion is being claimed;

(b) Identifying where the comparable fuel or syngas fuel will be burned;

(c) Certifying compliance with the conditions of the exclusion under §A of this regulation; and

(d) Providing documentation as required by §B(4) and (5) of this regulation;

(3) If the generator is shipping the comparable fuel or syngas fuel out of the State to be burned, the generator shall also notify, with a one-time written notice that includes the information required in §B(2)(a)—(d) of this regulation:

(a) The state Resource Conservation and Recovery Act and Clean Air Act directors if the state in which the waste is to be burned has a federally authorized waste management program; or

(b) The regional EPA Resource Conservation and Recovery Act and Clean Air Act directors if the state in which the waste is to be burned does not have a federally authorized waste management program;

(4) If the generator is a company that generates comparable fuel or syngas fuel at more than one facility, the generator shall specify, in the notice to the Secretary required by §B(2) of this regulation, at which sites the comparable fuel or syngas fuel will be generated;

(5) The generator of the comparable fuel or syngas fuel shall include, in the notification to the Secretary required by §B(2) of this regulation, the following items:

(a) The name and address of the person claiming the exclusion;

(b) The EPA identification number of the facility at which the waste is generated;

(c) The applicable EPA Hazardous Waste Codes for the hazardous waste that is to be used as a comparable fuel or syngas fuel;

(d) The names and addresses of the units meeting the requirements of §A(2) of this regulation that will burn the comparable fuel or syngas fuel; and

(e) A copy of the following statement signed and submitted by the person claiming the exclusion or by that person's authorized representative: "Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of COMAR 26.13.02.19-1—.19-5 have been met for all waste identified in this notification. Copies of the records and information required in COMAR 26.13.02.19-5A are available at the comparable fuel or syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information 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."; and

(6) Before submitting a notification to the Secretary, a comparable fuel or syngas fuel generator who intends to ship the fuel generated off-site for burning shall obtain a one-time written, signed statement from the burner:

(a) Certifying that the comparable fuel or syngas fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required under §A(2) of this regulation;

(b) Identifying the name and address of the units that will burn the comparable fuel or syngas fuel; and

(c) Certifying that the state in which the burner is located is authorized to exclude wastes as comparable fuel or syngas fuel under the provisions of:

(i) Regulations .19-1—.19-4 of this chapter, if the burner is located in Maryland; or

(ii) 40 CFR §261.38 or the analogous state regulations, if the burner is located in a state other than Maryland.

C. Public Notice Requirements for Burners. Before burning a comparable fuel or syngas fuel excluded from regulation as a solid waste under §A of this regulation, the burner shall:

(1) Publish, in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Comparable Fuel or Syngas Fuel Excluded Under the Resource Conservation and Recovery Act" containing the following information:

(a) The name, address, and EPA identification number of the generating facility;

(b) The name and address of the unit or units that will burn the comparable fuel or syngas fuel;

(c) A brief, general description of the manufacturing, treatment, or other process generating the comparable fuel or syngas fuel;

(d) An estimate of the average and maximum monthly and annual quantity of the waste claimed to be excluded; and

(e) The name and mailing address of the person to whom the claim of eligibility for exclusion from regulation as a solid waste was submitted, which could be the Secretary, a regional administrator of the U.S. Environmental Protection Agency, or the director of another state's hazardous waste management program; and

(2) Before the notice required by §C(1) of this regulation is published, submit the following information to the Secretary:

(a) A copy of the text of the notice;

(b) Information on when and where the notice will be published; and

(c) A note stating that the items in §C(2)(a)—(b) of this regulation are being submitted as required by COMAR 26.13.02.19-2C(2), and should be forwarded to the program within the Department that is responsible for the oversight of hazardous waste management.

D. Blending to Meet the Viscosity Specification. A person seeking to exclude a waste from regulation as a solid waste under §A of this regulation shall ensure that a hazardous waste that is blended to meet the viscosity specification of Regulation .19-1B(2)(a)(ii) of this chapter:

(1) Meets the constituent and heating value specifications of Regulation .19-1B(2)(a)(i) and (b) of this chapter as generated and before any blending, manipulation, or processing;

(2) Is blended at a facility that is subject to the applicable requirements of COMAR 26.13.05—26.13.07 and COMAR 26.13.03.05E; and

(3) Does not violate the dilution prohibition of §G of this regulation.

E. Treatment to Meet the Comparable Fuel Exclusion Specifications.

(1) A person may treat a hazardous waste to meet the exclusion specifications of Regulation .19-1B(2) of this chapter if the treatment:

(a) Destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

(b) Is performed at a facility that is subject to the applicable requirements of COMAR 26.13.05—26.13.07 and COMAR 26.13.03.05E; and

(c) Does not violate the dilution prohibition of §G of this regulation.

(2) Residuals resulting from the treatment of a hazardous waste listed in Regulations .15—.19 of this chapter to generate a comparable fuel remain a hazardous waste.

F. Generation of a Syngas Fuel.

(1) A person may generate a syngas fuel by processing hazardous wastes to meet the exclusion specifications of Regulation .19-1B(3) of this chapter if the processing:

(a) Destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;

(b) Is performed at a facility that is:

(i) Subject to the applicable requirements of COMAR 26.13.05—26.13.07 and COMAR 26.13.03.05E; or

(ii) An exempt recycling unit under Regulation .06C of this chapter; and

(c) Does not violate the dilution prohibition of §G of this regulation.

(2) Residuals resulting from the treatment of a hazardous waste listed in Regulations .15—.19 of this chapter to generate a syngas fuel remain a hazardous waste.

G. A generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility may not dilute a hazardous waste to meet the exclusion specifications of Regulation .19-1B(2) or (3) of this chapter.

.19-3 Comparable Fuel and Syngas Fuel Waste Analysis Plan.

A. The generator of a comparable fuel or syngas fuel excluded from regulation as a solid waste under Regulation .19-2A of this chapter shall develop and follow a written waste analysis plan, which describes the procedures for sampling and analysis of the hazardous waste to be excluded, in accordance with the following requirements:

(1) The waste analysis plan shall be developed in accordance with the applicable sections of the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05, and in accordance with any additional requirements specified by the Secretary;

(2) The waste analysis plan shall be retained at the facility where the excluded waste is generated;

(3) The generator shall ensure that, at a minimum, the plan specifies:

(a) The parameters for which each hazardous waste shall be analyzed and the rationale for the selection of those parameters;

(b) The test methods that shall be used to test for the parameters identified under §A(3)(a) of this regulation;

(c) The sampling method that shall be used to obtain a representative sample of the waste to be analyzed;

(d) The frequency with which the initial analysis of the waste shall be reviewed or repeated to ensure that the analysis is accurate and up-to-date; and

(e) If process knowledge is used in the determination that the waste is excluded from regulation as a solid waste, any information prepared by the generator in making the determination;

(4) The generator shall ensure that the waste analysis plan provides for obtaining and retaining the following information:

(a) The dates and times waste samples are obtained, and the dates the samples are analyzed;

(b) The names and qualifications of the person or persons who obtain samples;

(c) A description of the temporal and spatial locations of all samples obtained in implementing the waste analysis plan;

(d) The name and address of the laboratory facility at which analyses of the samples are performed;

(e) A description of the analytical methods used, including any clean-up and sample preparation methods;

(f) All quantification limits that are achieved and all other quality control results for the analysis, including but not limited to method blanks, duplicate analyses, and matrix spikes, laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;

(g) All laboratory results demonstrating that the exclusion specifications of Regulation .19-1B of this chapter have been met for the waste; and

(h) All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the laboratory to:

(i) Maintain the documentation for the period specified in Regulation .19-5B of this chapter; and

(ii) Make the documentation available to the claimant upon request.

B. Waste Analysis Plan Approval.

(1) A syngas fuel generator shall:

(a) Submit a waste analysis plan to the Secretary for approval before performing sampling, analysis, or any management of a syngas fuel as an excluded waste; and

(b) Ensure that the waste analysis plan required by §B(1)(a) of this regulation contains:

(i) The elements of §A(3) of this regulation; and

(ii) Provisions requiring that the information listed in §A(4) of this regulation is to be collected and maintained.

(2) The Secretary's approval of the waste analysis plan shall be received, in writing, by the facility before the generator conducts sampling and analysis to demonstrate the exclusion of the syngas fuel from regulation as a solid waste.

(3) The Secretary may, in approving the waste analysis plan, require that the generator includes in the waste analysis plan those provisions and conditions that the Secretary considers appropriate.

.19-4 Comparable Fuel or Syngas Fuel Exclusion Sampling and Analysis.

A. General.

(1) For each waste for which an exclusion from regulation as a solid waste is claimed under Regulation .19-2A of this chapter, the generator of the hazardous waste shall test for all the constituents in Regulation .24 of this chapter, except those that the generator determines should not be present in the waste, based on testing or knowledge.

(2) The generator shall document the basis for each determination made under §A(1) of this regulation that a constituent should not be present.

(3) The generator may not make a determination under §A(1) of this regulation that any of the following categories of constituents should not be present:

(a) A constituent that triggered the toxicity characteristic for the waste constituents that were the basis of the listing of the waste stream, or constituents for which there is a treatment standard for the waste code in 40 CFR §268.40;

(b) A constituent detected in previous analysis of the waste;

(c) Constituents introduced into the process that generates the waste; or

(d) Constituents that are generated as byproducts or as a result of side-reactions of the process that generates the waste.

(4) A generator making a claim under this regulation shall ensure that the claim is valid and accurate for all hazardous constituents.

(5) A generator that makes a determination not to test for a hazardous constituent under §A(1) of this regulation is not shielded from liability if that constituent is later found in the waste at levels above the exclusion specifications.

B. For a waste for which an exclusion from regulation as a solid waste is claimed under Regulation .19-2A of this chapter, if the generator of the comparable fuel or syngas fuel is not the original generator of the hazardous waste, the generator of the comparable fuel or syngas fuel:

(1) May not use process knowledge to make a determination that a constituent should not be present in the waste as otherwise provided in §A of this regulation; and

(2) Shall test to demonstrate that all of the constituent specifications of Regulation .19-1B(2) or (3) of this chapter, as applicable, have been met.

C. Comparable Fuel or Syngas Fuel Constituent Exclusion.

(1) The comparable fuel or syngas fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels of Regulation .19-1B of this chapter.

(2) The generator shall ensure that the sampling and analysis are unbiased, precise, and representative of the waste.

(3) For the waste to be eligible for exclusion from regulation as a solid waste under Regulation .19-2A of this chapter, a generator shall demonstrate that:

(a) Each constituent of concern is not present in the waste above the specification level of Regulation .19-1B(3)(b)—(e) of this chapter at the 95 percent upper confidence limit around the mean; and

(b) The analysis could have detected the presence of each constituent identified in Regulation .19-1B(3)(b)—(e) of this chapter at or below the specification level at the 95 percent upper confidence limit around the mean.

D. Nothing in Regulations .19-1—.19-5 of this chapter preempts, overrides, or otherwise negates the provision in COMAR 26.13.03.02 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.

E. In an enforcement action, the generator claiming an exemption from regulation as a solid waste under Regulation .19-2A of this chapter shall have the burden of proof to establish conformance with the exclusion specification of Regulation .19-1B of this chapter.

F. The generator shall conduct sampling and analysis in accordance with the waste analysis plan developed under Regulation .19-3 of this chapter.

G. A comparable fuel that has not been blended in order to meet the kinematic viscosity specification of Regulation .19-1B of this chapter shall be analyzed as generated.

H. If a comparable fuel is blended in order to meet the kinematic viscosity specification of Regulation .19-1B of this chapter, the generator shall:

(1) Analyze the fuel as generated to ensure that the fuel meets the constituent and heating value specifications of Regulation .19-1B(2) of this chapter; and

(2) After blending, analyze the fuel again to ensure that the blended fuel continues to meet all comparable fuel specifications of Regulation .19-1B(2) of this chapter.

I. The generator shall ensure that comparable fuel or syngas fuel excluded from regulation as a solid waste under Regulation .19-2A of this chapter is:

(1) Retested, annually, at a minimum; and

(2) Retested after any process change that could change the chemical or physical properties of the waste.

.19-5 Comparable Fuel or Syngas Fuel Exclusion Record Keeping.

A. The generator of a waste excluded from regulation as a solid waste under Regulation .19-2A of this chapter shall maintain records of the following information on-site:

(1) All information required to be submitted to the Secretary as part of the notification of the claim required under Regulation .19-2B(2) of this chapter, including:

(a) The name and address of the person claiming the exclusion;

(b) The EPA identification number of the facility at which the waste is generated;

(c) The applicable EPA Hazardous Waste Codes for each hazardous waste excluded as a fuel; and

(d) The certification required by Regulation .19-2B(5) of this chapter, signed by the person claiming the exclusion or that person's authorized representative;

(2) A brief description of the process that generated the hazardous waste and the process that generated the excluded fuel, if these processes are not the same;

(3) An estimate of the average and maximum monthly and annual quantities generated of each waste claimed to be excluded;

(4) Documentation for any claim that a constituent is not present in the hazardous waste as required under Regulation .19-4A(2) of this chapter;

(5) The results of all analyses and all detection limits achieved as required under Regulation .19-4 of this chapter;

(6) If the excluded waste was generated through treatment or blending, documentation as required under Regulations .19-2D or E of this chapter;

(7) If the waste is to be shipped off-site, a certification from the burner as required under Regulation .19-2B(6) of this chapter;

(8) A waste analysis plan and the results of the sampling and analysis performed in accordance with the waste analysis plan that includes the information required by Regulation .19-3A(4) of this chapter; and

(9) If the generator ships comparable fuel or syngas fuel off-site for burning, the generator shall retain on-site, for each shipment, the following information:

(a) The name and address of the facility receiving the comparable fuel or syngas fuel for burning;

(b) The quantity of comparable fuel or syngas fuel shipped and delivered;

(c) The date of shipment or delivery;

(d) A cross-reference to the record of comparable fuel analysis, syngas fuel analysis, or other information used to make the determination that the comparable fuel or syngas fuel meets the specifications as required under Regulation .19-4 of this chapter; and

(e) A one-time certification by the burner as required under Regulation .19-2B(6) of this chapter.

B. The generator of a waste excluded from regulation as a solid waste under Regulation .19-2A of this chapter shall maintain:

(1) The records identified in §A of this regulation for a period of 3 years from the date the information was obtained;

(2) A current waste analysis plan during the 3-year period of §B(1) of this regulation; and

(3) The records identified in §B(1) and (2) of this regulation as long as the Department has an active enforcement case regarding activities associated with those records.

.20 Representative Sampling Methods.

A. The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed in §B, for sampling waste with properties similar to the indicated materials, will be considered by the Department to be representative of the waste.

B. Sampling Protocols.

(1) Extremely viscous liquid—ASTM Standard D140-70.

(2) Crushed or powdered material—ASTM Standard D346-75.

(3) Soil or rock-like material—ASTM Standard D420-69.

(4) Soil-like material—ASTM Standard D1452-65.

(5) Fly Ash-like material—ASTM Standard D2234-76. (ASTM Standards are available from ASTM, 1916 Race St., Philadelphia, PA 19103.)

(6) Containerized liquid wastes—"COLIWASA" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods"*, U.S. Environmental Protection Agency, Office of Solid Waste, Washington, D.C. 29460 (copies may be obtained from Solid Waste Information, U.S. Environmental Protection Agency, 26 W. St. Clair St., Cincinnati, Ohio 45268).

(7) Liquid waste in pits, ponds, lagoons, and similar reservoirs--"Pond Sampler" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods".*

C. This regulation also contains additional information on application of these protocols.

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* These methods are also described in "Samplers and Sampling Procedures for Hazardous Waste Streams", EPA 600/2-80-018, January 1980.

.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.

(See page 948)

.23 Basis for Listing Hazardous Wastes.

EPA Hazardous Waste Number	*Hazardous Constituents For Which Listed*
F001	tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorinated fluorocarbons, carbon tetrachloride
F002	tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, o-dichlorobenzene, trichlorofluoromethane
F003	N.A.*
F004	cresols and cresylic acid, nitrobenzene
F005	toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane
F006	cadmium, hexavalent chromium, nickel, cyanide (complexed)
F007	cyanide (salts)
F008	cyanide (salts)
F009	cyanide (salts)

N.A.—Waste is hazardous because it meets either the ignitability, corrosivity, or reactivity characteristic.

EPA Hazardous Waste Number	*Hazardous Constituents For Which Listed*
K038	phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters
K039	phosphorodithioic and phosphorothioic acid esters
K040	phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters
K041	toxaphene
K042	hexachlorobenzene, ortho-dichlorobenzene
K043	2,4-dichlorophenol, 2,6-dichlorophenol, 2,4,6-trichlorophenol
K044	N.A.
K045	N.A.
K046	lead
K047	N.A.
K048	hexavalent chromium, lead
K049	hexavalent chromium, lead
K050	hexavalent chromium
K051	hexavalent chromium, lead
K052	lead

EPA Hazardous Waste Number	*Hazardous Constitutents For Which Listed*
K060	cyanide, naphthalene, phenolic compounds, arsenic
K061	hexavalent chromium, lead, cadmium
K062	hexavalent chromium, lead
K064	lead, cadmium
K065	lead, cadmium
K066	lead, cadmium
K069	hexavalent chromium, lead, cadmium
K071	mercury
K073	chloroform, carbon tetrachloride, hexachloroethane, trichloroethane, tetrachloroethylene, dichloroethylene, 1,1,2,2-tetrachloroethane
K083	aniline, nitrobenzene, diphenylamine, phenylenediamine
K084	arsenic
K085	benzene, dichlorobenzenes, trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, benzyl chloride

EPA Hazardous Waste Number	*Hazardous Constitutents For Which Listed*
K118	ethylene dibromide
K123	ethylene thiourea
K124	ethylene thiourea
K125	ethylene thioureae
K126	ethylene thioureae
K131	dimethyl sulfate, methyl bromide
K132	methyl bromide
K136	ethylene dibromidey
K141	Bezene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene
K142	Bezene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene
K143	Bezene, benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene
K144	Bezene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene

EPA Hazardous Waste Number	*Hazardous Constituents For Which Listed*
K145	Benzene, benz(a)anthracene, benzo(a)pyrene, dibenz(a,h)anthracene, naphthalene
K147	Benzene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene
K148	Benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene
K149	Benzotrichloride, 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

(See page 959)

.25 Repealed.

.26 Wastes Excluded Under COMAR 26.13.01.04A and C.

A. Wastes with State Hazardous Waste Number MD02.

(1) In accordance with COMAR 26.13.01.04A and C, wastes that are residuals from the decontamination of the chemical warfare agents identified in §A(2) of this regulation that would otherwise be assigned State Hazardous Waste Number MD02 are excluded from the list of hazardous wastes in Regulation .18 of this chapter if the decontamination:

(a) Has been conducted according to the protocol presented in §4.2 of the report "To Support the Delisting of Decontaminated Liquid Chemical Surety Materials as Listed Hazardous Waste from Specific Sources COMAR 10.51.02.16 and 10.51.02.16-1 K991—K999 and Residues from K991—K999" (U.S. Army Chemical Research, Development and Engineering Center, Aberdeen Proving Ground, Maryland, 1988), which is incorporated by reference; and

(b) Is performed at a facility located at the U.S. Army Aberdeen Proving Ground that is operated by:

(i) The Edgewood Chemical Biological Center or a successor organization; or

(ii) The Medical Research Institute of Chemical Defense or a successor organization.

(Agency note: The document cited in §A(1)(a) of this regulation was subsequently retitled and republished without other changes by the U. S. Army Chemical Research, Development and Engineering Center as "Support for the Delisting of Decontaminated Liquid Chemical Surety Materials as Listed Hazardous Waste from Specific Sources (State) MD02 in COMAR 10.51.02.16-1", Report Number CRDEC-TR-009, November 1988.)

(2) The exclusion of §A(1) of this regulation is applicable to residuals from the decontamination of the following chemical warfare agents:

(a) Ethyl dimethylamidocyanophosphate, also known by the common names GA and Tabun and the following alternate chemical names:

(i) Ethyl N,N dimethylphosphoramidocyanidate; and

(ii) Dimethylamidoethoxyphosphoryl cyanide;

(b) Isopropyl methanefluorophosphonate, also known by the common names GB and Sarin and the following alternate chemical names:

(i) Isopropyl methylphosphonofluoridate; and

(ii) Isopropyl ester of methylphosphonofluoridic acid;

(c) 3,3-dimethyl-n-but-2-yl methylphosphonofluoridate, also known by the common names GD and Soman and the following alternate chemical names:

(i) Pinacolyl methylphosphonofluoridate;

(ii) 1,2,2-trimethylpropyl methylphosphonofluoridate; and

(iii) Pinacoloxymethylphosphoryl fluoride;

(d) O-ethyl S-(2-diisopropyl-aminoethyl) methylphosphonothioate, also known by the common name VX;

(e) Chlorovinylarsine dichloride, also known by the common names L and Lewisite, and the following alternate chemical names:

(i) Dichloro (2-chlorovinyl) arsine; and

(ii) 2-chlorovinyldichloroarsine; and

(f) Bis(2-chloroethyl) sulfide, also known by the common names sulfur mustard, H, HS, and HD.

B. Wastes with State Hazardous Waste Number MD03. In accordance with COMAR 26.13.01.04A and C, wastes that are residuals from the decontamination and treatment of the waste chemical warfare agents having Hazardous Waste Numbers K991—K995 or K997 that would otherwise be assigned State Waste Hazardous Number MD03 are excluded from the list of hazardous wastes in Regulation .18 of this chapter if the decontamination and treatment:

(1) Has been conducted according to the protocol presented in §4.2 of the report "To Support the Delisting of Decontaminated Liquid Chemical Surety Materials as Listed Hazardous Waste from Specific Sources COMAR 10.51.02.16 and 10.51.02.16-1 K991—K999 and Residues from K991—K999" (U.S. Army Chemical Research, Development and Engineering Center, Aberdeen Proving Ground, Maryland, 1988), which is incorporated by reference; and

(2) Is performed at a facility located at the U.S. Army Aberdeen Proving Ground that is operated by the Edgewood Chemical Biological Center or a successor organization.

(Agency note: The document cited in §B(1) of this regulation was subsequently retitled and republished without other changes by the U. S. Army Chemical Research, Development and Engineering Center as "Support for the Delisting of Decontaminated Liquid Chemical Surety Materials as Listed Hazardous Waste from Specific Sources (State) MD02 in COMAR 10.51.02.16-1", Report Number CRDEC-TR-009, November 1988.)

C. HD Hydrolysate. In accordance with COMAR 26.13.01.04A and C, HD hydrolysate, the effluent from the chemical neutralization by a hydrolysis reaction of waste chemical warfare agent HD (Hazardous

Waste Number K997), that would otherwise be assigned State Hazardous Waste Number MD03, is excluded from the list of hazardous wastes in Regulation .18 of this chapter if:

(1) The HD hydrolysate is produced as a result of a hydrolysis reaction between HD and water in a low temperature, low pressure environment, that is, at a temperature on the order of 200 degrees Fahrenheit and a pressure on the order of 30 pounds per square inch absolute;

(2) Analysis of a representative sample of the HD hydrolysate, using a method acceptable to the Secretary, demonstrates that the concentration of HD in the hydrolysate is nondetect with a method detection limit of 20 parts per billion or less; and

(3) The HD hydrolysate is solely produced at the U.S. Army Aberdeen Proving Ground, Aberdeen Chemical Agent Neutralization Facility, Aberdeen Proving Ground, Maryland under:

(a) A controlled hazardous substances treatment facility permit issued by the Department; or

(b) An order issued under authority of Environment Article, §7-207(a), Annotated Code of Maryland.

D. Exclusion of Wastes Generated by Organizations Not Identified in §§A—C of this Regulation. A waste having State Hazardous Waste Number MD02 or MD03, that is generated by an organization at the U.S. Army Aberdeen Proving Ground not identified in §§A—C of this regulation, may be excluded from the list of hazardous wastes in Regulation .18 of this chapter if the generator of the waste:

(1) Ensures that the waste will be generated from a treatment or decontamination process or will be subjected to a treatment or decontamination process that is identified in §§A—C of this regulation;

(2) Provides the Secretary with a written notification that includes:

(a) A statement that the generator believes that the waste should be excluded from the list of hazardous wastes in Regulation .18 of this chapter;

(b) The identity of the generator and the facility where the waste will be generated, decontaminated, or treated; and

(c) A description of how the waste will be generated, decontaminated, or treated, and why the generator believes it should be excluded from the list of hazardous wastes in Regulation .18 of this chapter;

(3) Provides the Secretary with additional information that the Secretary may consider necessary to evaluate the appropriateness of excluding the waste; and

(4) Receives written approval of the exclusion from the Secretary.

Administrative History

Effective date:

Regulations .01—.17 adopted as an emergency provision effective November 18, 1980 (7:25 Md. R. S-1); adopted permanently effective April 3, 1981 (8:7 Md. R. 642)

Regulations .02C, F; .04A, B, D; .05D, .06B, .15, .16, and .17E, F amended, .05F adopted, and .07C repealed effective February 13, 1984 (11:3 Md. R. 202)

Regulations .02F, .03A. .06B, .13B, .14, .15, .17E—F and Appendices IV and V amended, and .05G adopted effective July 30, 1984 (11:5 Md. R. 1330)

Regulations .02F, .04D, .07C, and .16-1 adopted effective January 31, 1983 (10:2 Md. R. 110)

Regulations .03A, .04A and B, .07A and B, .10A, .11A, .12A, and .17F amended effective January 31, 1983 (10:2 Md. R. 110)

Regulations .04, .05C, .06B, .15, .16, .17E, F, and Appendix IV amended effective January 18, 1982 (9:1 Md. R. 20)

Regulation .05A, B amended effective August 12, 1985 (12:16 Md. R. 1607)

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Regulation .17 amended effective April 18, 1988 (15:8 Md. R. 1009)

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Regulation .06-1 recodified to Regulation .07

Regulations .07—.16 recodified to Regulations .08—.17

Regulation .16-1 recodified to Regulation .18

Regulation .17A—E recodified to Regulation .19A—E
Regulation .17E-1, F, and G recodified to Regulation .19F, G, and H
Appendices I—VI codified as Regulations .20—.25

Chapter recodified from COMAR 10.51.02 to COMAR 26.13.02
Regulation .01C amended effective December 23, 1991 (18:25 Md. R. 2759); May 24, 1993 (20:10 Md. R. 853)
Regulation .02A amended effective August 28, 1995 (22:17 Md. R. 1321)
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Regulation .02C amended effective May 24, 1993 (20:10 Md. R. 853)
Regulation .03A amended effective December 23, 1991 (18:25 Md. R. 2759); September 7, 1998 (25:18 Md. R. 1438)
Regulation .04 amended and recodified to Regulations .04 and .04-1—.04-3 effective December 23, 1991 (18:25 Md. R. 2759)
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Regulations .04-1 amended effective April 11, 1994 (21:7 Md. R. 533); September 7, 1998 (25:18 Md. R. 1438)
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Regulation .06D adopted effective August 28, 1995 (22:17 Md. R. 1321)
Regulation .09A amended effective April 11, 1994 (21:7 Md. R. 533)
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Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Chapter 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. These regulations establish standards for generators of hazardous waste.

B. A generator who treats, stores, or disposes of hazardous wastes on-site shall only comply with the following sections of this chapter with regards to that waste:

(1) Regulation .02 of this chapter for determining whether or not he has a hazardous waste;

(2) Regulation .03 for obtaining an identification number;

(3) Regulation .06A(3) and (4) for record keeping;

(4) Regulation .06D for additional reporting;

(5) If applicable, Regulation .07-4 of this chapter for farmers; and

(6) Regulation .05E for accumulation time.

B-1. To determine the applicability of a provision of this chapter that depends on the amount of hazardous waste generated per calendar month, a person shall use the criteria of COMAR 26.13.02.05A(2) and (3) in calculating the amount of hazardous waste generated.

C. Any person who imports foreign hazardous waste into the State shall comply with the standards applicable to generators established in this chapter.

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 Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, if that person does not comply with the requirements of this chapter. 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 26.13.07.

F. An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in this chapter.

G. Regulation by Reference. Reference to 49 CFR in this chapter is to 49 CFR as it has been adopted as of July 1, 1990.

H. A generator subject to regulation under this chapter shall also comply with the "Emergency Procedures" requirements of COMAR 26.13.05.04G(4).

I. A generator subject to regulation under this chapter shall follow the notification requirements of Section 3010 of RCRA.

.02 Hazardous Waste Determination.

A. A person who generates a solid waste, as defined in COMAR 26.13.02.02, shall determine if that waste is a hazardous waste using the following method:

(1) The person should first determine if the waste is excluded from regulation under COMAR 26.13.02.04—.04-5;

(2) The person shall then determine if the waste is listed as a hazardous waste in COMAR 26.13.02.15—.19;

Agency Note: Even if the waste is listed, the generator still has an opportunity under COMAR 26.13.02.09A(3) to demonstrate to the Secretary that the waste from his particular facility or operation is not a hazardous waste.

(3) If the waste is not listed as a hazardous waste in COMAR 26.13.02.15—.19, the person shall determine whether the waste is identified by either:

(a) Testing the waste according to the methods set forth in COMAR 26.13.02.10—.14, or according to an equivalent method approved by the Secretary under COMAR 26.13.01.04B; or

(b) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

B. If the person determines that the waste is a hazardous waste, the person shall refer to COMAR 26.13.02, 26.13.05, 26.13.06, and 26.13.10 for possible exclusions or restrictions pertaining to management of the specific waste.

.03 EPA Identification Numbers.

A. A generator may not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Secretary.

B. A generator who has not received an EPA identification number may obtain one by applying to the Secretary using EPA Form 8700-12. Upon receiving the request the Secretary will assign an identification number to the generator.

(See page 973)

§C(2) of this regulation. If that state's program is administered by the EPA, the Report shall be forwarded to the EPA Regional Administrator for the region in which the designated facility is located.

D. Additional Reporting. The Secretary, as he deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in COMAR 26.13.02.

.07 Exports of Hazardous Waste—General.

A. Applicability.

(1) This regulation and Regulations .07-1—.07-2 of this chapter establish requirements applicable to exports of hazardous waste, except for hazardous wastes identified in:

(a) §A(4) of this regulation; and

(b) Regulation .07-5 of this chapter.

(2) A primary exporter of hazardous waste shall comply with the special requirements of this regulation and Regulations .07-1 and .07-2 of this chapter.

(3) A transporter transporting hazardous waste for export shall comply with applicable requirements of COMAR 26.13.04.

(4) Waste Excluded from these Requirements.

(a) Wastes that are regulated as hazardous by the State but not by the U.S. EPA are excluded from the requirements of this regulation and Regulations .07-1—.07-3 of this chapter.

(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) K991—K999: COMAR 26.13.02.17;

(ii) MD01—MD02: COMAR 26.13.02.18;

(iii) MX01: COMAR 26.13.02.19D;

(iv) M001: COMAR 26.13.02.19F; and

(v) MT01: COMAR 26.13.02.19H.

B. General Requirements.

(1) Exports of hazardous waste are prohibited unless the exports are in compliance with this regulation, Regulations .07-1 and .07-2 of this chapter, and COMAR 26.13.04.

(2) A person may not export hazardous waste unless the following conditions are met:

(a) The primary exporter has submitted a notification in accordance with Regulation .07-1 of this chapter;

(b) The receiving country has consented to accept the hazardous waste;

(c) A copy of the EPA Acknowledgement of Consent for the shipment accompanies the hazardous waste shipment;

(d) Except for hazardous waste shipments exported by rail or bulk shipments exported by water, a copy of the EPA Acknowledgement of Consent is attached to the manifest;

(e) For bulk shipments exported by water, a copy of the EPA Acknowledgement of Consent is attached to the shipping paper; and

(f) The hazardous waste shipment conforms to the terms of the receiving country's written consent, as reflected in the EPA Acknowledgement of Consent.

(3) As specified in 40 CFR §262.53(e) and (f), the U.S. EPA will handle:

(a) Processing of the notification of intent to export required by §B(2) of this regulation; and

(b) Consent or objections by receiving countries or transit countries, including:

(i) Providing the primary exporter with an EPA Acknowledgement of Consent, and

(ii) Notifying the primary exporter of a receiving country's objections to a shipment, a country's withdrawal of a prior consent for the shipment, or any responses from transit countries.

(4) If more than one person qualifies as a primary exporter for a shipment of hazardous waste:

(a) Only one of the persons may submit the notification of intent to export required by Regulation .07-1 of this chapter and the annual report required by Regulation .07-2B of this chapter on behalf of all of the primary exporters;

(b) The primary exporters shall select one person themselves who will make the submissions described in §B(4)(a) of this regulation on behalf of the others; and

(c) The person who makes the submissions described in §B(4)(a) of this regulation shall provide copies to the other primary exporters on whose behalf the submissions are being made.

.07-1 Export Notification.

A. Notification of Intent to Export.

(1) A primary exporter shall notify the Secretary and the U.S. EPA in writing of the intention to export hazardous waste before the waste is scheduled to leave the United States.

(2) A primary exporter shall submit a complete notification of intent to export not less than 60 days before the initial shipment is expected to be shipped off-site.

(3) The notification required by §A(1) of this regulation may cover export activities extending over a period of 12 months.

(4) A primary exporter shall sign the notification intent to export.

(5) A primary exporter shall include in the notification of intent to export:

(a) The name, mailing address, telephone number, and EPA identification number of the primary exporter; and

(b) The following information, by consignee, for each hazardous waste type:

(i) A description of the hazardous waste and the EPA hazardous waste number from COMAR 26.13.02.10—.19, and for each hazardous waste, the U.S. DOT proper shipping name, hazard class, and identification number as identified in 49 CFR 171—177,

(ii) The estimated frequency or rate at which the waste is to be exported and the period of time over which the waste is to be exported,

(iii) The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form, EPA form number 8700-22,

(iv) All points of entry to and departure from each foreign country through which the hazardous waste will pass,

(v) A description of the mode of transportation by which each shipment of hazardous waste will be transported, such as air, highway, rail, or water, and the type of vessel in which the hazardous waste is contained, such as a drum, box, or tank,

(vi) A description of the manner in which the hazardous waste will be treated, stored, or disposed of in the receiving country, such as land or ocean incineration, other land disposal, ocean dumping, or recycling,

(vii) The name and site address of the consignee and any alternate consignee, and

(viii) The name of any transit countries through which the hazardous waste will be sent, and a description of the approximate length of time the hazardous waste will remain in each country and the nature of its handling while there.

(6) Submission of Notification of Intent to Export. A primary exporter shall:

(a) Submit copies of the notification of intent to export to the Secretary and to the U.S. Environmental Protection Agency;

(b) In submitting the notification of intent to export to the Secretary, indicate in a cover letter that the notification is being submitted in accordance with the requirements of COMAR 26.13.02.07-1;

(c) Prominently display on the front of the envelope used to submit the report to the U.S. Environmental Protection Agency the message: "Attention: Notification of Intent to Export"; and

(d) Submit the copy of the notification of intent to export to the U.S. EPA as instructed in 40 CFR §262.53(b).

(7) Upon request by EPA, a primary exporter shall furnish the EPA with any additional information requested by a receiving country to respond to a notification of intent to export.

B. Renotification.

(1) A primary exporter shall provide the Secretary and the EPA with a written renotification when a condition specified in the original notification of intent to export changes, unless the change concerns one of the following:

(a) The telephone number of the primary exporter;

(b) The mode of transportation or the type of containers to be used, as specified under §A(5)(b)(v) of this regulation; or

(c) A decrease in the quantity of hazardous waste expected to be exported, as specified under §A(5)(b)(iii) of this regulation.

(2) Except as provided in §B(3) of this regulation, a person required under §B(1) of this regulation to submit a renotification of the intent to export hazardous waste may not originate an export shipment of hazardous waste until:

(a) The receiving country has consented to the changes; and

(b) The primary exporter has received an EPA Acknowledgement of Consent reflecting the receiving country's consent to the changes.

(3) The primary exporter need not comply with the requirements of §B(2) of this regulation for the following changes to the original notification of intent to export:

(See page 987)

mate destination of all hazardous waste exported by the primary exporter during the previous calendar year.

(2) The annual reports required by §C(1) of this regulation shall include the following:

(a) The EPA identification number, name, and mailing and site address of the exporter;

(b) The calendar year covered by the report;

(c) The name and site address of each consignee;

(d) By consignee, for each hazardous waste exported:

(i) A description of the hazardous waste,

(ii) The EPA hazardous waste number from COMAR 26.13.02.10—.19,

(iii) The DOT hazard class,

(iv) The name and, if applicable, the U.S. EPA identification number for each transporter used,

(v) The total amount of waste shipped, and

(vi) The number of shipments for each notification made in accordance with Regulation .07-1A of this chapter; and

(e) A certification signed by the primary exporter which states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(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) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) 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.

(b) A person need not include the information required by §C(3)(a) of this regulation if the information has been provided as part of the report required by Regulation .06B of this chapter.

(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:

(a) Submit the report required by this section:

(i) To the Secretary; and

(ii) As instructed in 40 CFR §262.56(b), to the U.S. EPA; and

(b) Note, in a cover letter accompanying the submission to the Secretary required by §C(4)(a)(i) of this regulation, that the report should be forwarded to the program within the Department that is responsible for oversight of hazardous waste management.

D. Record Keeping.

(1) A primary exporter shall keep a copy of:

(a) The notification of intent to export filed in accordance with Regulation .07-1 of this chapter for a period of 3 years from the date the hazardous waste was accepted by the initial transporter;

(b) The EPA Acknowledgement of Consent for a period of 3 years from the date the hazardous waste was accepted by the initial transporter;

(c) Each confirmation of delivery of hazardous waste from the consignee for a period of 3 years from the date the hazardous waste was accepted by the initial transporter; and

(d) The annual report required in §C of this regulation for a period of 3 years from the date the report was due.

(2) A period of retention required in §D(1) of this regulation is extended automatically for any unresolved enforcement actions regarding regulated activity, or as requested by the Secretary or the U.S. Environmental Protection Agency.

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.

.07-3 Imports of Hazardous Waste.

A. A person who imports hazardous waste from a foreign country into the State shall comply with the requirements of this chapter and the specific requirements of this regulation.

B. When importing hazardous waste, a person shall meet all requirements of Regulation .04A of this chapter for the manifest, except that:

(1) In place of the generator's name, address, and EPA identification number, the person shall use the name and address of the foreign generator and the importer's name, address, and EPA identification number; and

(2) In place of the generator's signature on the certification statement, the U.S. importer or the U.S. importer's agent shall sign and date the certification and obtain the signature of the initial transporter.

C. A person who imports hazardous waste shall obtain the manifest form from the consignment state if that state supplies the manifest and requires its use. If the consignment state does not supply the manifest form, then the manifest form may be obtained from any source.

.07-4 Farmers.

A farmer disposing of waste pesticides from the farmer's own use which are hazardous wastes is not required 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 26.13.02.07B(3) and disposes of the pesticide residues on the farmer's own farm in a manner consistent with disposal instructions on the pesticide label.

.07-5 International Agreements Concerning Shipments of Hazardous Waste.

A. Applicability. This regulation applies to any person who exports or imports hazardous waste that is:

(1) Subject to:

(a) Manifest requirements of COMAR 26.13.03.04 or 26.13.05.05;

(b) Federal manifest requirements of 40 CFR 262;

(c) Universal waste management standards of COMAR 26.13.10.06—.25; or

(d) Universal waste management standards of 40 CFR 273;

(2) Regulated as a hazardous waste by:

(a) Both the State and the U.S. EPA; or

(b) The U.S. EPA under the authority of the Hazardous and Solid Waste Amendments of 1984;

(3) Shipped to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in §C(1) of this regulation; and

(4) Imported or exported for purposes of recovery.

B. For persons identified in §A of this regulation, the requirements of Regulations .07—.07-3 of this chapter do not apply to exports or imports of the wastes identified in §A(1)—(4) of this regulation.

C. For the purposes of this regulation:

(1) The designated OECD countries are Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States; and

(2) Canada and Mexico are considered OECD member countries only for the purpose of transit.

D. A person remains subject to the requirements of Regulations .07—.07-3 of this chapter if the person exports hazardous waste to or imports hazardous waste from:

(1) A designated OECD member country for purposes other than recovery, such as incineration or disposal;

(2) Mexico, for any purpose; or

(3) Canada, for any purpose.

E. A person, including a notifier, consignee, or recovery facility operator, who mixes two or more wastes, including hazardous and nonhazardous wastes, or otherwise subjects two or more wastes, including hazardous and nonhazardous wastes, to physical or chemical transformation operations, and thereby creates a new hazardous waste:

(1) Becomes a hazardous waste generator;

(2) Assumes all subsequent generator duties under COMAR 26.13.03 and RCRA; and

(3) Assumes any notifier duties, if applicable, under this regulation.

F. Persons identified in §A of this regulation shall:

(1) Comply with the requirements of 40 CFR §§262.81—262.89, which are incorporated by reference in COMAR 26.13.01.05B(1)(d);

(2) Provide the Secretary with copies of notifications and reports required by:

(a) 40 CFR §262.83(b)(1)(i);

(b) 40 CFR §262.83(b)(2)(i);

(c) 40 CFR §262.84(e); and

(d) 40 CFR §262.87;

(3) Provide the Secretary with the copies of notifications and reports required by §F(2) of this regulation by the deadline associated with submission of the information to the U.S. EPA; and

(4) Note, in a cover letter accompanying the submission to the Secretary required by §F(2) of this regulation, that the notification or report should be forwarded to the program within the Department that is responsible for oversight of hazardous waste management.

Administrative History

Effective date:

Regulations .01—.07 adopted as an emergency provision effective November 18, 1980 (7:25 Md. R. S-1); adopted permanently effective April 3, 1981 (8:7 Md. R. 642)

Regulations .01; .04A, D; .05D, E; .07B amended effective January 18, 1982 (9:1 Md. R. 20)

Regulations .01B; .02B; .04A, B, D; .05E; .06A—C; and .07A amended, and .01G and .04E adopted effective July 30, 1984 (11:15 Md. R. 1330)

Regulations .01E and .05E amended effective February 13, 1984 (11:3 Md. R. 202)

Regulations .01F, .04D, .06C, and .07A amended effective January 31, 1983 (10:2 Md. R. 110)

Regulation .05E amended effective August 12, 1985 (12:16 Md. R. 1607)

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Regulation .01B, D amended effective August 28, 1995 (22:17 Md. R. 1321)

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Regulation .02A amended effective December 23, 1991 (18:25 Md. R. 2759)

Regulation .04 amended effective April 18, 1988 (15:8 Md. R. 1009)

Regulation .04A, C amended effective December 23, 1991 (18:25 Md. R. 2759)

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Regulation .06B amended effective April 18, 1988 (15:8 Md. R. 1009); December 23, 1991 (18:25 Md. R. 2759); August 28, 1995 (22:17 Md. R. 1321); May 5, 1997 (24:9 Md. R. 659)
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Regulation .07-2C amended effective November 1, 2002 (29:21 Md. R. 1647)
Regulation .07-5 adopted effective November 1, 2002 (29:21 Md. R. 1647)

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Chapter 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) The purpose of this regulation is to establish minimum State standards which define the acceptable management of hazardous waste.

(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, except as specifically provided otherwise in this chapter, 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) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act and complying with the following regulations:

(i) .02B, and

(ii) .05B, C, D(1) and (2)(a), F, and G;

(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 required in this chapter or by COMAR 26.13.10;

(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 in this chapter;

(e) A farmer disposing of waste pesticides from his 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, unless the unit is used to treat waste from off-site;

(h) 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) if the owner or operator:

(i) Has an NPDES permit,

(ii) Complies with the conditions of the facility's NPDES permit, and

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

(j) The addition of absorbent material to a waste container or the addition of waste to absorbent in a container, if:

(i) The combining of waste and absorbent occurs when waste is first placed in the container;

(ii) Regulation .02H(2) of this chapter, which concerns requirements for ignitable, reactive, or incompatible waste, is complied with;

(iii) Regulation .09B of this chapter, which concerns condition of containers, is complied with; and

(iv) Regulation .09C of this chapter, which concerns compatibility of waste with containers, is complied with;

(k) Universal waste handlers and universal waste transporters handling the following wastes:

(i) Batteries, as described in COMAR 26.13.10.07;

(ii) Pesticides, as described in COMAR 26.13.10.08; and

(iii) Lamps, thermostats, or PCB-containing lamp ballasts, each as described in COMAR 26.13.10.09; or

(l) A person who operates a device to crush mercury-containing lamps if the person who operates the device is in compliance with the requirements of COMAR 26.13.10.15B(3).

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.

C. Imminent Hazard Action. Notwithstanding any other provisions of these regulations, enforcement actions may be brought under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland.

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. Applicability. This regulation applies to owners and operators of all hazardous waste facilities, except as Regulation .01A provides otherwise.

B. Identification Number. Every facility owner or operator shall apply to the State for an EPA identification number.

C. Required Notices.

(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Secretary in writing at least 4 weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure period, the owner or operator shall notify the new owner or operator in writing of the requirements of this chapter and COMAR 26.13.07.

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

(4) Hazardous Waste Received at a Recovery Facility from a Foreign Source.

(a) For the purposes of this subsection:

(i) "Competent authorities" has the meaning stated in 40 CFR §262.81(a);

(ii) "Concerned countries" has the meaning stated in 40 CFR §262.81(b);

(iii) "Notifier" has the meaning stated in 40 CFR §262.81(g);

(iv) "Recovery facility" has the meaning stated in 40 CFR §262.81(j); and

(v) "Tracking document" means a document that meets the requirements of 40 CFR §262.84, which is incorporated by reference in COMAR 26.13.01.05B(1)(d).

(b) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to COMAR 26.13.03.07-5, which deals with international agreements concerning shipments of hazardous waste, shall provide a copy of the tracking document bearing all required signatures, within 3 working days of receipt of the shipment to:

(i) The notifier;

(ii) The U.S. EPA at the address given in 40 CFR §264.12(a)(2); and

(iii) The competent authorities of all other concerned countries.

(c) A person required to distribute copies of a tracking document under §C(4)(b) of this regulation shall maintain the original of the signed tracking document at the facility for at least 3 years.

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, 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 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) The analysis may include data developed under COMAR 26.13.02, existing published or documented data on the hazardous waste or on waste generated from similar processes.

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

(See page 1005)

B. Use of Manifest System.

(1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, shall:

(a) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest as defined in §C(1) of this regulation on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within 30 days after the delivery, send a copy of the manifest to the generator;

(e) Send a completed copy of the manifest to the Department within 10 days after receipt of the hazardous waste; and

(f) Retain at the facility a copy of each manifest for at least 3 years from the date of delivery.

(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) Sign and date each copy of the shipping paper to certify that the hazardous waste covered by the shipping paper was received;

(b) Note any significant discrepancies in the shipping paper as defined in §C(1) of this regulation on each copy of the shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the shipping paper;

(d) Within 30 days after the delivery, send a copy of the shipping paper to the generator; however, if the manifest is received within 30 days after the delivery, the owner or operator, or his agent, shall sign and date the manifest and return it to the generator instead of the shipping paper; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least 3 years from the date of delivery.

(3) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of COMAR 26.13.03.

(4) Hazardous Waste Received at a Recovery Facility from a Foreign Source.

(a) For the purposes of this subsection:

(i) "Competent authorities" has the meaning stated in 40 CFR §262.81(a);

(ii) "Concerned countries" has the meaning stated in 40 CFR §262.81(b);

(iii) "Notifier" has the meaning stated in 40 CFR §262.81(g);

(iv) "Recovery facility" has the meaning stated in 40 CFR §262.81(j); and

(v) "Tracking document" means a document that meets the requirements of 40 CFR §262.84, which is incorporated by reference in COMAR 26.13.01.05B(1)(d).

(b) The owner or operator of a facility that has received hazardous waste subject to COMAR 26.13.03.07-5, which deals with international agreements concerning shipments of hazardous waste, shall provide a copy of the tracking document bearing all required signatures, within 3 working days of receipt of the shipment to:

(i) The notifier;

(ii) The U.S. EPA at the address given in 40 CFR §264.71(d); and

(iii) The competent authorities of all other concerned countries.

(c) A person required to distribute copies of a tracking document under §B(4)(b) of this regulation shall maintain the original of the signed tracking document at the facility for at least 3 years.

C. Manifest Discrepancies.

(1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:

(a) For bulk waste, variations greater than 10 percent in weight; and

(b) For batch waste, any variation in piece count, such as discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste

analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(2) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter (for example, with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

D. Operating Record.

(1) The owner or operator shall keep a written operating record at his facility.

(2) The owner or operator shall record following information as it becomes available, and maintain it in the operating record until closure of the facility:

(a) A description and the quantity of each hazardous waste received, and the methods and dates of its treatment, storage, or disposal at the facility as required by Regulation .20 of this chapter;

(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 numbers, 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.

(See page 1019)

(v) A description of response actions taken or planned;

(7) Close, repair, or provide secondary containment for the tank system in accordance with the following:

(a) Close the tank system in accordance with Regulation .10-7 of this chapter unless the owner or operator satisfies the requirements of §A(7)(b)—(d) of this regulation;

(b) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed, and repairs, if necessary, have been made;

(c) If the cause of the release was a leak from the primary tank system into the secondary containment system, the owner or operator shall repair the tank system before returning it to service;

(d) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator:

(i) Shall provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Regulation .10-4 of this chapter before it is returned to service, unless the source of the leak is an above-ground portion of a tank system that can be inspected visually,

(ii) May, if the source is an above-ground component that can be inspected visually, return the component to service without secondary containment as long as the component is repaired and the requirements of §A(8) and (9) of this regulation are satisfied,

(iii) Shall ensure that, if a component is replaced to comply with the requirements of §A(7) of this regulation, the component satisfies the requirements for new tank systems or components in Regulations .10-3 and .10-4 of this chapter, and

(iv) Shall, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection, such as the bottom of an in-ground or on-ground tank, provide the entire component with secondary containment in accordance with Regulation .10-4 of this chapter before returning the tank system to use;

(8) Before returning to service a tank system that has been repaired in accordance with §A(7) of this regulation and for which the repair has been extensive, such as installation of an internal liner or

repair of a ruptured primary containment or secondary containment vessel, obtain a certification by an independent, qualified, registered professional engineer in accordance with COMAR 26.13.07.03D that the repaired system is capable of handling hazardous wastes without release for the intended life of the system;

(9) Submit the certification required in §A(8) of this regulation to the Secretary not later than 5 days before the tank system is returned to use.

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) of this regulation, with the other requirements of §A of this regulation;

(2) Decontaminate or remove contaminated soil to the extent necessary to:

(a) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had before the release, and

(b) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water; and

(3) Comply with the requirements of Regulation .10-7C of this chapter if contaminated soil cannot be removed or decontaminated in accordance with §B(2) of this regulation.

C. The owner or operator of a tank system for which a variance from secondary containment has been granted in accordance with the requirements of Regulation .10-5D of this chapter, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control, as established in the variance, shall:

(1) Comply with the requirements of §A(1)—(6) of this regulation;

(2) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil;

(2) The Secretary shall:

(a) Review the information submitted;

(b) Make a determination regarding whether the pad is to be removed from service completely or partially until repairs and clean up are complete; and

(c) Notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing all the repairs and implementing the clean up specified in the plan submitted in accordance with §I(1)(e) of this regulation, the owner or operator shall notify the Secretary in writing and provide a certification signed by an independent qualified registered professional engineer that the repairs and clean up have been completed according to the written plan.

J. The owner or operator shall maintain, as part of the facility operating log, documentation of past operating and waste handling practices, including:

(1) Identification of preservative formulations used in the past;

(2) A description of drippage management practices; and

(3) A description of treated wood storage and handling practices.

.17-3 Inspections.

A. During construction or installation, the owner or operator shall ensure that liners and cover systems such as membranes, sheets, or coatings are inspected for uniformity, damage, and imperfections such as holes, cracks, thin spots, or foreign materials.

B. Immediately after construction or installation, the owner or operator shall have the liners inspected and certified as meeting the requirements of Regulation .17-2 of this chapter by an independent qualified registered professional engineer.

C. The owner or operator shall maintain the certification required by §B of this regulation at the facility as part of the facility operating record.

D. After installation, the owner or operator shall:

(1) Inspect liners and covers to ensure tight seams and joints, and the absence of tears, punctures, or blisters; and

(2) Maintain a record of the results of the inspection.

E. Inspection During Operation.

(1) While a drip pad is in operation, the owner or operator shall inspect drip pads weekly and after storms to detect evidence of any of the following:

(a) Deterioration, malfunction, or improper operation of run-on and run-off control systems;

(b) Presence of leakage within and proper functioning of leak detection systems; and

(c) Deterioration or cracking of the drip pad surface.

(2) If deterioration or leakage is detected, the owner or operator shall comply with the requirements of Regulation .17-2I of this chapter.

.17-4 Closure of Drip Pads.

A. At closure, the owner or operator shall:

(1) Remove or decontaminate:

(a) All waste residues,

(b) Contaminated containment system components such as the pad and the liners,

(c) Contaminated subsoils, and

(d) Structures and equipment contaminated with waste and leakage; and

(2) Manage the waste listed in §A(1) of this regulation as hazardous waste.

B. The owner or operator shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills in Regulation .14J of this chapter if the owner or operator:

(1) Has removed or decontaminated all residues and made all reasonable efforts to effect removal of contaminated components, subsoils, structures, and equipment as required in §A of this regulation; and

(2) Finds that not all contaminated subsoils can be practicably removed or decontaminated.

C. For permitted units required to close in accordance with §B of this regulation:

(1) The requirement to have a permit continues throughout the post-closure period; and

Regulation .01A amended effective November 1, 2002 (29:21 Md. R. 1647)
Regulation .02C amended effective November 1, 2002 (29:21 Md. R. 1647)
Regulation .02-1 recodified from COMAR 26.13.06.01 effective October 16, 2000 (27:20 Md. R. 1843)
Regulation .05B amended effective November 1, 2002 (29:21 Md. R. 1647)
Regulation .17-3E amended effective November 1, 2002 (29:21 Md. R. 1647)

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Chapter 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;

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

(j) Universal waste handlers and universal waste transporters handling the following wastes:

(i) Batteries, as described in COMAR 26.13.10.07;

(ii) Pesticides, as described in COMAR 26.13.10.08; and

(iii) Lamps, thermostats, or PCB-containing lamp ballasts, each as described in COMAR 26.13.10.09; or

(k) The addition of absorbent material to a waste container or the addition of waste to absorbent in a container, if:

(i) The combining of waste and absorbent occurs when waste is first placed in the container;

(ii) COMAR 26.13.05.02H(2), which concerns requirements for ignitable, reactive, or incompatible waste, is complied with;

(iii) COMAR 26.13.05.09B, which concerns condition of containers, is complied with; and

(iv) COMAR 26.13.05.09C, which concerns compatibility of waste with containers, is complied with.

(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:

(See page 1134-2)

(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.

Chapter recodified from COMAR 10.51.06 to COMAR 26.13.06
Regulation .01F adopted effective April 18, 1988 (15:8 Md. R. 1009)
Regulation .01 under chapter COMAR 26.13.06, Site Selection for CHS Facilities, recodified as Regulation .02-1 under COMAR 26.13.05 effective October 16, 2000 (27:20 Md. R. 1843)

Regulations .01—.27 under new chapter COMAR 26.13.06, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, adopted effective October 16, 2000 (27:20 Md. R. 1843)
Regulation .01A amended effective November 1, 2002 (29:21 Md. R. 1647)

(5) Compliance Schedules. The Secretary determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

C. The suitability of the facility location may not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

D. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(1) Cause exists for termination under Regulation .12 of this regulation, and the Secretary determines that modification or revocation and reissuance is appropriate;

(2) The Secretary has received notification under Regulation .04M(3) of this chapter of a proposed transfer of the permit.

E. A CHS facility permit can be withdrawn by the Secretary at the request of the owner or operator if the following conditions are complied with:

(1) The Secretary receives a written withdrawal request at least 6 months before expiration of the permit;

(2) The Secretary approves a closure plan for activities regulated by the permit; and

(3) An inspection by a representative of the Department verifies that activities regulated by the CHS facility permit are no longer performed and that a CHS facility permit is not otherwise required.

.12 Termination of Permits.

A. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

(4) Failure to pay the permit fee in a timely manner; or

(5) Failure to comply with any applicable State environmental law or regulation.

B. For purposes of this chapter, the term "termination" means the same as the term "revocation" in Environment Article, Title 7, Annotated Code of Maryland, and Regulation .11 of this chapter.

C. The Secretary shall follow Regulation .20 of this chapter in terminating any permit.

.13 Processing Minor Modifications of Permits.

Upon the consent of the permittee, the Secretary may modify a permit to make the corrections or allowances for changes in the permitted activity identified in Regulations .13-1—.13-3 of this chapter without following the procedures of Regulation .20 of this chapter. Any permit modification not processed as a minor modification under this regulation and Regulations .13-1—.13-3 of this chapter shall be made for cause and with the draft permit and public notice as required in Regulation .11 of this chapter.

.13-1 Minor Modifications—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 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;

(3) The permittee manages the waste in compliance with the requirements of COMAR 26.13.06 and 26.13.10;

(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 this subtitle in managing the newly regulated waste or in operating the newly regulated unit; and

(5) In the case of land disposal units, the permittee certifies that the unit is in compliance with all applicable requirements of 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 certify compliance with the requirements identified in §A(5) of this regulation, the permittee shall lose authority 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) The following changes to general permit provisions:

(a) Correction of typographical errors;

(b) Requirement of more frequent monitoring or reporting by the permittee;

(c) Change in an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allowance for a change in ownership or operational control of a facility as specified in §B, when the Secretary determines that no

other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Secretary.

(e) Administrative and informational changes;

(f) Replacement or upgrading of equipment with equipment or components that are functionally equivalent;

(g) Providing for more frequent sampling or maintenance;

(h) Changes to remove permit conditions that are no longer applicable because the standards on which the permit conditions were based are no longer applicable to the facility;

(2) The following changes related to general facility standards:

(a) Changes to waste sampling or analysis methods to conform with agency guidance or regulations;

(b) Changes to analytical quality assurance/quality control plans to conform with agency guidance or regulations;

(c) Changes in procedures for maintaining the operating record;

(d) Changes in the training plan other than those that affect the type or decrease the amount of training given to employees;

(e) Changes to the contingency plan to accomplish the following:

(i) Upgrade, relocate, or replace with functionally equivalent equipment, emergency equipment listed in the contingency plan,

(ii) Change the name, address, or phone number of a coordinator or other person or agency identified in the plan;

(3) The following changes related to ground water protection:

(a) Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well;

(b) Changes in ground water sampling or analysis procedures;

(c) Changes to the ground water monitoring schedule;

(d) Changes in statistical procedures for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred;

(4) The following changes related to closure:

(a) Changes to estimates of maximum inventory under COMAR 26.13.05.07C(2)(c);

(b) Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the final closure period;

(c) Changes in the expected year of final closure, if other permit conditions are not changed;

(d) Changes in procedures for decontamination of facility equipment or structures; or

(e) Addition of tanks to be used temporarily for closure activities provided that the tanks are used for neutralization, dewatering, phase separation, or component separation;

(5) The following changes related to post-closure:

(a) Changes in the name, address, or phone number of a contact in the post-closure plan;

(b) Changes in the expected year of final closure where other permit conditions are not changed;

(6) Addition of a roof to a container management unit without alteration of the containment system;

(7) The following changes related to tanks:

(a) Addition of a new tank that will operate for up to 90 days using any of the following treatment technologies:

(i) Neutralization,

(ii) Phase separation,

(iii) Dewatering, or

(iv) Component separation;

(b) Replacement of a tank by a tank that meets the same design standards, provided that all of the following conditions are met:

(i) The capacity of the replacement tank is between 90 percent and 110 percent of the capacity of the replaced tank,

(ii) The capacity of the replacement tank is within 1,500 gallons of the capacity of the replaced tank,

(iii) The facility's permitted tank capacity is not increased, and

(iv) The replacement tank meets the same conditions in the permit as the replaced tank;

(c) Management of different wastes in tanks provided that the following conditions are met:

(i) The change does not require the addition of units or a change in the treatment process or management standards,

(ii) The units have previously received wastes of the same type, for example, incinerator scrubber water, and

(iii) The waste is not a dioxin containing waste (F020, F021, F022, F023, F026, F027, and F028);

(8) For waste piles complying with COMAR 26.13.05.12A(2), replacement of the waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit;

(9) The following changes related to land treatment:

(a) Changes to any conditions specified in the permit for land treatment units to reflect the results of the land treatment demonstration, provided performance standards are met.

(b) Allowing a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by COMAR 26.13.05.13C(1), provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration;

(c) Modification of a land treatment unit management practice to decrease the rate of waste application.

(10) The following changes related to incinerators:

(a) Changes to the ranges of the operating requirements set in a hazardous waste incinerator permit to reflect the results of the trial burn, provided that the change is minor;

(b) Changes to the operating requirements set in a hazardous waste incinerator permit for conducting a trial burn, provided that the change is minor;

(c) Granting one extension of the time period for determining operational readiness of a hazardous waste incinerator following completion of construction, for up to 720 hours operating time for incineration of hazardous waste;

(d) Substitution of an alternate type of fuel that is not specified in the permit;

(e) Technology changes needed to meet standards under 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air

Pollutants, or corresponding State requirements, if the facility owner or operator, before submitting a request for a permit modification to the Secretary, complies with:

(i) The Notification of Intent to Comply (NIC) requirements of 40 CFR §63.1210 in effect before May 14, 2001; or

(ii) State requirements corresponding to the requirements referenced in §A(10)(e)(i) of this regulation.

B. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application not later than 90 days before the scheduled change. When

(See page 1170-3)

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;

(g) Addition of newly regulated units under §C(1)(f) of this regulation; and

(h) Changes necessary to comply with standards under 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, or corresponding State regulations.

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.

Administrative History

Effective date:

Regulations .01—.05 adopted as an emergency provision effective November 18, 1980 (7:25 Md. R. S-1); adopted permanently effective April 3, 1981 (8:7 Md. R. 642)

Regulation .01 amended effective January 18, 1982 (9:1 Md. R. 20)

Regulation .02A—F repealed, and new .02A—O adopted effective January 31, 1983 (10:2 Md. R. 110)

Regulations .02A, B, F, J, L, M, N, .03A, B, C, L, M amended and .01C, P, and .05 adopted effective February 13, 1984 (11:3 Md. R. 202)

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Regulation .13-1C adopted effective April 11, 1994 (21:7 Md. R. 533)
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Regulation .11D amended effective November 1, 2002 (29:15 Md. R. 1647)
Regulation .13-2A amended effective November 1, 2002 (29:15 Md. R. 1647)
Regulation .23C amended effective November 1, 2002 (29:15 Md. R. 1647)

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Chapter 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. Applicability.

(1) This regulation applies to recyclable materials that are applied to or placed on the land:

(a) Without mixing with any other substance or substances; or

(b) After mixing or combining with any other substance or substances.

(2) The materials in §A(1) of this regulation are referred to throughout this regulation as "materials used in a manner that constitutes disposal".

(3) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation.

B. Standards Applicable to Generators and Transporters of Materials Used in a Manner That Constitutes Disposal. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of COMAR 26.13.03 and 26.13.04 and the notification requirement of Section 3010 of RCRA.

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, 26.13.05.01—.12, 26.13.06.01—.20, and 26.13.07, and the notification requirement under §3010 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 §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) The use of waste or used oil or other material, which is contaminated with a hazardous waste, for dust suppression or road treatment is prohibited.

.02 Hazardous Waste Burned for Energy Recovery.

A. Applicability.

(1) This regulation applies to hazardous wastes that are burned for energy recovery in any boiler or industrial furnace that is regulated under COMAR 26.13.05.16 except as provided by §A(2). These hazardous wastes burned for energy recovery are termed "hazardous waste fuel". Fuel produced from hazardous waste by processing, blending, or other treatment is also hazardous waste fuel. These regulations do not apply, however, to gas recovered from hazardous waste management activities when the gas is burned for energy recovery.

(2) The following hazardous wastes are not regulated under this regulation:

(a) Hazardous wastes that are exempt from regulation under the provisions of COMAR 26.13.02.04, .04-1, and .06A(3);

(b) Except 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 26.10.15, 26.13.02.06A(3)(c), 26.13.04.01D(4), and 26.13.10.05, rather than this regulation.

(4) Storage.

(a) For short term accumulation by generators who burn their hazardous waste fuel on-site, the applicable provisions of COMAR 26.13.03.05E.

(b) For storage facilities the applicable provisions of COMAR 26.13.05.01—.12 and 26.13.07.

(5) Required Notices. Before a burner accepts the first shipment of hazardous waste fuel from a marketer, he shall provide the marketer a one-time written and signed notice certifying that:

(a) He has notified EPA under Section 3010 of RCRA and identified his waste-as-fuel activities; and

(b) He will burn the fuel only in a boiler or furnace identified in §B of this regulation and COMAR 26.13.05.16.

(6) Record Keeping. In addition to the applicable record-keeping requirements of COMAR 26.13.05, a burner shall keep a copy of each certification notice that he sends to a marketer for 3 years from the date he last received hazardous waste fuel from that marketer.

.03 Recyclable Materials Utilized for Precious Metal Recovery.

A. This regulation applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

B. Persons who generate, transport, or store recyclable materials regulated by this regulation are subject to the following requirements:

(1) Notification requirements under Section 3010 of RCRA;

(2) COMAR 26.13.02.06C(2), 26.13.03.04, 26.13.04, and 26.13.05.05B and C; and

(3) For precious metal imported or exported for recovery:

(a) COMAR 26.13.03.07-5 and 26.13.05.02C(4), if the precious metal is exported to or imported from designated OECD member countries, as defined in COMAR 26.13.03.07-5C; and

(b) COMAR 26.13.03.07—.07-3, if the precious metal is exported to or imported from countries that are not designated OECD member countries as defined in COMAR 26.13.03.07-5C.

C. Persons who store recycled materials that are regulated under this regulation shall:

(1) Keep the following records to document that they are not accumulating these materials speculatively as defined in COMAR 26.13.02:

(a) Records showing the volume of these materials stored at the beginning of the calendar year,

(b) The amount of these materials generated or received during the calendar year, and

(c) The amounts of materials remaining at the end of the calendar year; and

(2) Comply with the storage requirements for generators found in COMAR 26.13.03.

D. Recyclable materials that are subject to this regulation that are accumulated speculatively, as defined in COMAR 26.13.02.01C(3), are subject to all applicable provisions of COMAR 26.13.03 — 26.13.10.

.04 Spent Lead-Acid Batteries Being Reclaimed.

A. Applicability.

(1) Except as provided in §B of this regulation, this regulation applies to spent lead-acid batteries that are recyclable materials.

(2) For the purposes of this regulation, "spent batteries" means spent lead-acid batteries that are recyclable materials.

B. A person may choose to manage spent lead-acid batteries under the provisions applicable to universal waste batteries in COMAR 26.13.10.06—.25, rather than under the requirements of this regulation.

C. Management Requirements — General.

(1) Persons who manage spent batteries as described in §C(2) of this regulation shall comply with the applicable regulatory requirements in the sections that are cross-referenced.

(2) Persons who manage spent batteries that are to be reclaimed:

(a) By regeneration, shall comply with §D of this regulation; and

(b) By a means other than regeneration and who:

(i) Store the spent batteries at a permitted CHS facility before reclaiming them, shall comply with §E of this regulation;

(ii) Store the spent batteries at an interim status facility before reclaiming them, shall comply with §F of this regulation;

(iii) Do not store the spent batteries before they reclaim them, shall comply with §G of this regulation;

(iv) Store the spent batteries before they are reclaimed by others, shall comply with §H of this regulation; and

(v) Generate, collect, or transport the spent batteries, shall comply with §I of this regulation.

D. Requirements — Reclamation by Regeneration. Persons who manage spent batteries that are to be reclaimed through regeneration, such as by electrolyte replacement, are exempt from the following requirements with respect to management of those batteries, including the regeneration:

(1) COMAR 26.13.03, except for COMAR 26.13.03.02, which concerns hazardous waste determination;

(2) COMAR 26.13.04 — 26.13.07; and

(3) The notification requirements of§3010 of RCRA.

E. Requirements — Permitted Facilities That Reclaim Spent Batteries. Owners or operators of facilities that store spent batteries before reclaiming them by a means other than regeneration are subject to the following requirements:

(1) Notification requirements under §3010 of RCRA;

(2) All applicable provisions of COMAR 26.13.02;

(3) COMAR 26.13.03.02, which concerns hazardous waste determination;

(4) All applicable provisions of COMAR 26.13.05.01 — .12, except for:

(a) COMAR 26.13.05.02D, which concerns waste analysis;

(b) COMAR 26.13.05.05B, which concerns use of manifests; and

(c) COMAR 26.13.05.05C, which concerns manifest discrepancies; and

(5) All applicable provisions of COMAR 26.13.07.

F. Requirements — Interim Status Facilities That Reclaim Spent Batteries. Owners or operators of interim status facilities that store

spent batteries before reclaiming them by a means other than regeneration are subject to the following requirements:

(1) Notification requirements under §3010 of RCRA;

(2) All applicable provisions of COMAR 26.13.02;

(3) COMAR 26.13.03.02, which concerns hazardous waste determination;

(4) All applicable provisions of COMAR 26.13.06, except for:

(a) COMAR 26.13.05.02D, which concerns waste analysis, and which the owner or operator would otherwise be required to comply with by COMAR 26.13.06.02A;

(b) COMAR 26.13.05.05B, which concerns use of manifests, and which the owner or operator would otherwise be required to comply with by COMAR 26.13.06.05; and

(c) COMAR 26.13.05.05C, which concerns manifest discrepancies, and which the owner or operator would otherwise be required to comply with by COMAR 26.13.06.05; and

(5) All applicable provisions of COMAR 26.13.07.

G. Requirements — Reclamation Without Storage. Persons who reclaim spent batteries by a method other than regeneration and do not store the spent batteries before reclaiming them are exempt from the following requirements with respect to those batteries:

(1) COMAR 26.13.03, except for COMAR 26.13.03.02, which concerns hazardous waste determination;

(2) COMAR 26.13.04 — 26.13.07; and

(3) The notification requirements of §3010 of RCRA.

H. Requirements — Storage Before Reclamation by Persons Other Than the Reclaimer. Persons who store spent batteries that are to be reclaimed by a method other than regeneration, and who do not themselves reclaim the batteries are exempt from the following requirements with respect to those batteries:

(1) COMAR 26.13.03, except for COMAR 26.13.03.02, which concerns hazardous waste determination;

(2) COMAR 26.13.04 — 26.13.07; and

(3) The notification requirements of §3010 of RCRA.

I. Requirements — Generation, Collection, and Transport of Batteries That Will Be Reclaimed. Persons who generate, collect, or transport spent batteries that will be reclaimed by a method other than regeneration, or who perform any combination of these activities, are exempt from the following requirements with respect to those batteries:

(1) COMAR 26.13.03, except for COMAR 26.13.03.02, which concerns hazardous waste determination;

(2) COMAR 26.13.04 — 26.13.07; and

(3) The notification requirements of §3010 of RCRA.

.05 Management Standards for Used Oil.

A. Purpose. This regulation identifies circumstances under which used oil is regulated as hazardous waste, and identifies other regulations with which persons managing used oil are required to comply.

B. Applicability. This regulation applies to used oil as defined in COMAR 26.13.01.03B, and to other materials, whether or not the used oil or other materials exhibit any characteristics of hazardous waste identified in COMAR 26.13.02.10—.14.

C. Mixtures of Used Oil and Waste that is Listed as Hazardous.

(1) Mixtures of used oil and waste that is listed as hazardous in COMAR 26.13.02.16—.19 are subject to regulation as hazardous waste under COMAR 26.13.01 —26.13.09 and Regulations .01—.04 of this chapter rather than as used oil under COMAR 26.10.15.

(2) Rebuttable Presumption for Used Oil. Except as provided in COMAR 26.13.02.04-1A(11), used oil containing more than 1,000 parts per million total halogens is regulated as a hazardous waste because it is presumed to have been mixed with halogenated hazardous waste listed in COMAR 26.13.02.16—.19.

D. Mixtures of Used Oil and Characteristic Hazardous Waste. Mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in COMAR 26.13.02.11—.14 are regulated as:

(1) Hazardous waste rather than used oil under COMAR 26.10.15 if the resultant mixture exhibits any of the characteristics of hazardous waste; or

(2) Used oil under COMAR 26.10.15 if the resultant mixture does not exhibit any of the characteristics of hazardous waste.

E. Mixing Used Oil and Characteristic Hazardous Waste.

(1) Except as provided in §E(2) and (3) of this regulation, a person may not mix the following hazardous wastes with used oil as a means of rendering the waste nonhazardous:

(a) Hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in COMAR 26.13.02.11—.14; and

(b) Hazardous waste that is listed in COMAR 26.13.02.16—.19 solely because it exhibits one or more of the hazardous waste characteristics identified in COMAR 26.13.02.11—.14.

(2) Section E(1) of this regulation does not prohibit incidental mixing of oil and characteristic hazardous waste that may occur during the intended use of the oil.

(3) A person may mix used oil with waste that is hazardous solely because it exhibits the characteristic of ignitability as identified in COMAR 26.13.02.11 if the mixture is to be burned for energy recovery.

F. A person who generates hazardous waste that is subject to reduced regulatory requirements under COMAR 26.13.02.05 shall comply with §E of this regulation with respect to mixing the waste with used oil.

G. Materials Containing or Otherwise Contaminated with Used Oil.

(1) Except as provided in §G(2) of this regulation, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible, so that no visible signs of free-flowing oil remain in or on the material; are

(a) Not regulated as used oil; and

(b) Subject to applicable regulations of COMAR 26.13.01—26.13.10.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under COMAR 26.10.15 and 26.11.09.10.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under COMAR 26.10.15.

H. Mixtures of Used Oil with Products.

(1) Except as provided in §H(2) of this regulation, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under COMAR 26.10.15.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this regulation or to COMAR 26.10.15 once the used oil and diesel fuel have been mixed.

(3) Before used oil and diesel fuel are mixed for use in the generator's own vehicles, the used oil is subject to regulation under COMAR 26.10.15.

I. Materials Derived from Used Oil.

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal, such as re-refined lubricants, are not:

(a) Regulated as used oil; and

(b) Solid wastes and are not subject to the hazardous waste regulations of COMAR 26.13.01—26.13.10, as provided in COMAR 26.13.02.03C(2).

(2) Materials produced from used oil that are burned for energy recovery, such as used oil fuels, are subject to regulation as used oil under COMAR 26.10.15 and 26.11.09.10.

(3) Except as provided in COMAR 26.13.02.04-1A(15), materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(a) Solid wastes and are regulated as hazardous waste if they meet the definition of hazardous waste under COMAR 26.13.02.03; and

(b) Not regulated as used oil.

J. A person managing used oil shall also determine if the management of the used oil is regulated under COMAR 26.10.15, as described in COMAR 26.10.15.01.

.06 Scope—Standards for Universal Waste Management.

This regulation and Regulations .07—.25 of this chapter:

A. Establish requirements for managing universal waste;

B. Include standards for managing the following:

(1) Batteries, as described in Regulation .07 of this chapter;

(2) Pesticides, as described in Regulation .08 of this chapter; and

(3) Lamps, thermostats, or PCB-containing lamp ballasts, each as described in Regulation .09 of this chapter; and

C. Provide an alternative set of management standards to COMAR 26.13.01—26.13.09 and Regulations .01—.05 of this chapter.

.07 Applicability—Batteries.

A. Except as provided in §B of this regulation, the requirements of Regulations .06—.25 of this chapter apply to persons managing:

(1) Batteries, as defined in COMAR 26.13.01.03B; and

(2) Spent lead-acid batteries, which are not managed under Regulation .04 of this chapter.

B. The requirements of Regulations .06—.25 of this chapter do not apply to the management of the following batteries:

(1) Spent lead-acid batteries that are managed under Regulation .04 of this chapter;

(2) Batteries as defined in COMAR 26.13.01.03B that are not yet wastes under COMAR 26.13.02, including batteries that do not meet the criteria for waste generation in §C of this regulation; and

(3) Batteries as defined in COMAR 26.13.01.03B that do not meet the definition of hazardous waste in COMAR 26.13.02.03.

C. Generation of Waste Batteries.

(1) A used battery becomes a waste on the date it is discarded, as defined by the criteria in COMAR 26.13.02.02A(2).

(2) An unused battery becomes a waste on the date the handler decides to discard it.

.08 Applicability—Pesticides.

A. Except for pesticides in §B of this regulation, the requirements of Regulations .06—.25 of this chapter apply to persons managing pesticides, as defined in COMAR 26.13.01.03B, meeting the following conditions:

(1) Recalled pesticides that are stocks of:

(a) A suspended and canceled pesticide that is part of a voluntary or mandatory recall under §19(b) of FIFRA, including, but not limited to, those owned by the registrant responsible for conducting the recall; or

(b) A suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, that is part of a voluntary recall by the registrant; and

(2) Stocks of unused pesticide products, other than those identified in §A(1) of this regulation, that are collected and managed as part of a waste pesticide collection program.

B. The requirements of Regulations .06—.25 of this chapter do not apply to management of the following pesticides:

(1) Recalled pesticides described in §A(1) of this regulation, and unused pesticide products described in §A(2) of this regulation, that are managed by farmers in compliance with COMAR 26.13.03.07-4, which addresses disposal of pesticides by a farmer on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label;

(2) Pesticides not meeting the conditions of §A of this regulation, which shall instead be managed in compliance with the hazardous waste regulations in COMAR 26.13.01—26.13.10.05;

(3) Pesticides that are not wastes under COMAR 26.13.02, including pesticides that:

(a) Do not meet the criteria for waste generation in §C of this regulation; or

(b) Are not wastes as described in §D of this regulation; and

(4) Pesticides that do not meet the definition of hazardous waste in COMAR 26.13.02.03.

C. Determining When a Pesticide Becomes a Waste.

(1) A recalled pesticide described in §A(1) of this regulation becomes a waste on the first date on which both of the following conditions apply:

(a) The generator of the recalled pesticide agrees to participate in the recall; and

(b) The person conducting the recall decides to discard the pesticide, with "discard" being defined by the criteria in COMAR 26.13.02.02A(2).

(2) An unused pesticide product described in §A(2) of this regulation becomes a waste on the date that the generator decides to discard it.

D. Pesticides That Are Not Wastes.

(1) Recalled Pesticides.

(a) Recalled pesticides described in §A(1) of this regulation are not wastes, if the person conducting the recall:

(i) Has not made a decision to discard the pesticide, with "discard" being defined by the criteria of COMAR 26.13.02.02A(2); or

(ii) Has made a decision to use a management option that, under COMAR 26.13.02.02, 40 CFR §261.2, or an equivalent regulation in another state, does not cause the pesticide to be a solid waste.

(b) Until a decision to discard a pesticide is made in accordance with §D(1)(a)(i) of this regulation, the pesticide:

(i) Is not a solid waste and therefore, is not a hazardous waste subject to hazardous waste requirements, including the standards for universal waste management in Regulations .06—.24 of this chapter; and

(ii) Remains subject to the requirements of FIFRA.

(c) If a decision is made to manage a pesticide in a manner that does not cause the pesticide to be a solid waste, in accordance with §D(1)(a)(ii) of this regulation, the pesticide:

(i) Is not a hazardous waste and is not subject to hazardous waste requirements, including the standards for universal waste management in Regulations .06—.24 of this chapter; and

(ii) Remains subject to the requirements of FIFRA, even if it is to be exported to a foreign destination for use or reuse.

(2) Unused Pesticide Products.

(a) An unused pesticide product described in §A(2) of this regulation is not a waste if the generator of the unused pesticide product has not decided to discard it, with "discard" being defined by the criteria of COMAR 26.13.02.02A(2).

(b) The unused pesticide products described in §D(2)(a) of this regulation remain subject to the requirements of FIFRA.

.09 Applicability—Lamps, Mercury Thermostats, and PCB-Containing Lamp Ballasts.

A. Except as provided in §B of this regulation, the requirements of Regulations .06—.25 of this chapter apply to persons managing

lamps, thermostats, or PCB-containing lamp ballasts as defined in COMAR 26.13.01.03B.

B. The requirements of Regulations .06—.25 of this chapter do not apply to management of an item that is a lamp, thermostat, or PCB-containing lamp ballast if the item is:

(1) Not yet a waste under COMAR 26.13.02, as described in §C of this regulation; and

(2) Not hazardous waste as defined in COMAR 26.13.02.03.

C. Determination of When a Lamp, Thermostat, or PCB-Containing Lamp Ballast Becomes a Waste.

(1) A used lamp, thermostat, or PCB-containing lamp ballast becomes a waste on the date it is discarded, with "discard" being defined by the criteria in COMAR 26.13.02.02A(2); and

(2) An unused lamp, thermostat, or PCB-containing lamp ballast becomes a waste on the date the handler decides to discard it.

.10 Applicability—Household and Small Quantity Generator Waste.

A. A person managing the following wastes may, at the person's option, manage the waste under the requirements of Regulations .06—.25 of this chapter:

(1) Household wastes that are exempt under COMAR 26.13.02.04-1A(1) and are also identified among the universal wastes listed in Regulation .06B of this chapter; and

(2) Hazardous wastes that are generated by small quantity generators as described in COMAR 26.13.02.05A and are also identified among the universal wastes listed in Regulation .06B of this chapter.

B. If a person commingles a waste described in §A of this regulation with universal waste regulated under Regulations .06—.25 of this chapter, the person shall manage the commingled waste under the requirements of Regulations .06—.25 of this chapter.

.11 Small Quantity Handlers of Universal Waste—General Requirements.

A. Applicability. This regulation and Regulations .12—.18 of this chapter apply to small quantity handlers of universal waste, as defined in COMAR 26.13.01.03B.

B. Prohibitions. A small quantity handler of universal waste may not:

(1) Dispose of universal waste, unless the handler does so under authority of a hazardous waste disposal facility permit; or

(2) Dilute or treat universal waste, except:

(a) In responding to releases as provided in Regulation .17D of this chapter;

(b) As provided in Regulations .12—.16 of this chapter; or

(c) In accordance with a hazardous waste treatment facility permit.

C. Notification. Except as provided in Regulation .15B(3) of this chapter, concerning crushing of lamps, a small quantity handler of universal waste is not required to notify the Department or the U.S. Environmental Protection Agency of universal waste handling activities.

.12 Small Quantity Handlers of Universal Waste Batteries—Specific Management Standards.

A small quantity handler of universal waste:

A. Shall manage universal waste batteries:

(1) In a way that prevents release of any universal waste or any component of universal waste to the environment; and

(2) In compliance with the requirements of this regulation;

B. Shall place any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container that is:

(1) Kept closed unless waste is being added to or removed from the container;

(2) Structurally sound;

(3) Compatible with the contents of the battery; and

(4) Free of evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

C. May conduct any of the following activities if the conditions of §D of this regulation are met:

(1) Sorting batteries by type;

(2) Mixing battery types in one container;

(3) Discharging batteries to remove the batteries' electric charge;

(4) Regenerating used batteries;

(5) Disassembling batteries or battery packs into individual batteries or cells;

(6) Removing batteries from consumer products; and

(7) Removing electrolyte from batteries;

D. Shall, in conducting the activities identified in §C of this regulation, assure that the casing of each individual battery cell is not breached and remains intact and closed, except that a cell may be opened to remove electrolyte if the cell is immediately closed after the electrolyte is removed;

E. Shall determine if the following items meet the definition of hazardous waste in COMAR 26.13.02.03:

(1) Each solid waste generated in conducting the activities identified in §C of this regulation; and

(2) Any electrolyte the handler removes from batteries;

F. Shall:

(1) Manage any of the items identified in §E of this regulation that meet the definition of hazardous waste in accordance with all applicable requirements of COMAR 26.13.01—26.13.10;

(2) Be considered the generator of the hazardous electrolyte or other hazardous waste identified in §F(1) of this regulation; and

(3) Comply with the requirements of COMAR 26.13.03 in managing the hazardous electrolyte or other hazardous waste identified in §F(1) of this regulation; and

G. May manage electrolyte or other solid waste identified in §E of this regulation that does not meet the definition of hazardous waste in any manner that is in compliance with applicable federal, state and local solid waste regulations.

.13 Small Quantity Handlers of Universal Waste Pesticides—Specific Management Standards.

A. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste shall contain universal waste pesticides in:

(1) A container that:

(a) Remains closed, except when adding or removing waste;

(b) Is structurally sound;

(c) Is compatible with the pesticide that it is being used to contain; and

(d) Shows no evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(2) A container that does not meet the requirements of §B(1) of this regulation but is overpacked in a container that does meet the requirements of §B(1) of this regulation;

(3) A tank that meets the requirements of COMAR 26.13.06.18, except for:

(a) COMAR 26.13.06.18D(4), which concerns additional requirements for tanks that do not have secondary containment; and

(b) COMAR 26.13.05.10B, which concerns waste analysis and trial tests and is cross-referenced by COMAR 26.13.06.18A; or

(4) A transport vehicle or vessel that:

(a) Remains closed, except when adding or removing waste;

(b) Is structurally sound;

(c) Is compatible with the pesticide that it is being used to contain; and

(d) Shows no evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

.14 Small Quantity Handlers of Universal Waste Thermostats—Specific Management Standards.

A. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents release of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste:

(1) Shall place any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container that is:

(a) Kept closed, unless waste is being added to or removed from the container;

(b) Structurally sound;

(c) Compatible with the contents of the thermostat; and

(d) Free of evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(2) May remove mercury-containing ampules from universal waste thermostats, if the handler:

(a) Removes the ampules in a manner designed to prevent breakage of the ampules;

(b) Removes ampules only over a containment device, such as a tray or pan, sufficient to collect and contain any mercury released from an ampule if the ampule were to break;

(c) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks, as required by §B(2)(d) of this regulation;

(d) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device required by §B(2)(b) of this regulation to a container that meets the requirements of COMAR 26.13.03.05E;

(e) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable exposure levels for mercury established by the federal Occupational Safety and Health Administration (OSHA) and the Maryland Occupational Safety and Health (MOSH) program;

(f) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) Stores removed ampules in closed, nonleaking containers that are in good condition; and

(h) Ensures that packing materials adequate to prevent breakage during storage, handling, and transportation are used in packing removed ampules in the container required by §B(2)(g) of this regulation; and

(3) Shall, if the handler removes mercury-containing ampules from thermostats, comply with the following requirements:

(a) Determine whether the following meet the definition of hazardous waste in COMAR 26.13.02.03:

(i) Mercury or clean-up residues resulting from spills or leaks; and

(ii) Other solid waste generated as a result of the removal of mercury-containing ampules, such as remaining thermostat units;

(b) If a waste identified in §B(3)(a) of this regulation meets the definition of hazardous waste in COMAR 26.13.02.03, the handler:

(i) Shall manage the waste in compliance with all applicable requirements of COMAR 26.13.01—26.13.10; and

(ii) Is considered to be the generator of the waste and shall manage it in accordance with the requirements of COMAR 26.13.03; and

(c) If a waste identified in §B(3)(a) of this regulation does not meet the definition of hazardous waste in COMAR 26.13.02.03, the handler shall manage the waste in compliance with applicable federal, State, or local solid waste regulations.

.15 Small Quantity Handlers of Universal Waste Lamps—Specific Management Standards.

A. A small quantity handler of universal waste shall manage universal waste lamps in a way that prevents release of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste:

(1) Shall contain any lamp that the handler is managing as universal waste in a container or package that is:

(a) Structurally sound;

(b) Adequate to prevent breakage of the contents of the container or package;

(c) Compatible with the contents of the lamps;

(d) Kept closed except when adding waste to, or removing waste from, the container or package; and

(e) Free of evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions;

(2) Shall immediately:

(a) Collect any materials resulting from breakage of a universal waste lamp;

(b) Clean up any contamination and collect any residues resulting from breakage of a universal waste lamp; and

(c) Place the materials identified in §B(2)(a)—(b) of this regulation and any universal waste lamp that shows evidence of breakage,

leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment in a container that is:

(i) Kept closed except when adding waste to, or removing waste from, the container;

(ii) Structurally sound;

(iii) Compatible with the contents of the lamps; and

(iv) Free of evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

(3) May use a device to crush mercury-containing universal waste lamps if:

(a) The handler meets the requirements of §B(2) of this regulation in operating the device;

(b) Use of the device does not cause exceedance of the federal Occupational Safety and Health Administration (OSHA) permissible exposure limit for mercury of 0.10 milligrams per cubic meter of air;

(c) The handler has documentation from the manufacturer of the device or from another organization approved by the Department that demonstrates that the unit:

(i) Is capable of achieving the OSHA permissible exposure limit for mercury of 0.10 milligrams per cubic meter of air, taking into account the conditions in which the device will be operated, such as room size and room ventilation rate; and

(ii) Achieves a particle retention rate of at least 99.7 percent in the HEPA filter or alternate particulate control device, at a particle diameter of 0.3 microns;

(d) The device is equipped with air pollution controls that capture both particulate mercury and vapor phase mercury;

(e) The air pollution controls required by §B(3)(d) of this regulation either:

(i) Include a High Efficiency Particulate Air (HEPA) filter, a filter using activated carbon, and engineering controls that ensure that exhaust pathways other than those going through the filters are at a negative pressure with respect to air outside the device; or

(ii) Capture mercury emissions at least as well as a system that employs the items identified in §B(3)(e)(i) of this regulation;

(f) The handler operates the device indoors;

(g) The handler develops and implements a written procedure detailing how to safely crush mercury-containing lamps that includes:

(i) A description of the equipment that will be used to crush the lamps;

(ii) Requirements to operate and maintain the crushing equipment in accordance with written procedures developed by the manufacturer of the equipment;

(iii) Documentation of maintenance of the crushing equipment in accordance with the manufacturer's recommendations; and

(iv) Training of operators of crushing equipment in operating procedures, waste handling procedures, and emergency procedures;

(h) The handler:

(i) Stores crushed lamps in closed, nonleaking drums or containers that are in good condition; and

(ii) Does not transfer crushed lamps from one container to another;

(i) The handler manages:

(i) The crushed lamps in accordance with the applicable requirements of Regulations .06—.25 of this chapter concerning universal waste lamps; and

(ii) Residues, filter media, or other solid waste generated as part of the crushing operation that are not being reclaimed in accordance with applicable requirements of COMAR 26.13.01—26.13.10;

(j) The handler provides the following information in writing to the Department:

(i) The handler's name, address, telephone number, EPA identification number, if any, and the name of a contact person at the handler; and

(ii) The manufacturer and model number of the device that will be used to crush universal waste lamps;

(k) The handler makes the notification required by §B(3)(j) of this regulation by one of the following deadlines:

(i) Before the lamp crushing device is first used, if the device was not in use before November 1, 2002; or

(ii) January 1, 2003, if the device was used before November 1, 2002; and

(l) The handler makes maintenance records required to be kept by §B(3)(g)(iii) of this regulation available to representatives of the Department upon request.

.16 Small Quantity Handlers of Universal Waste PCB-Containing Lamp Ballasts—Specific Management Standards.

A. A small quantity handler of universal waste shall manage universal waste PCB-containing lamp ballasts in a way that prevents release of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste shall contain any PCB-containing lamp ballast that the handler is managing as universal waste in a container that is:

(1) Structurally sound;

(2) Adequate to prevent damage to the container's contents that could result in a release of hazardous constituents;

(3) Compatible with the contents of the PCB-containing lamp ballast;

(4) Kept closed, except when adding waste to, or removing waste from, the container; and

(5) Free of evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

.17 Small Quantity Handlers of Universal Waste—General Management Standards.

A. Labeling and Marking.

(1) A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified in §A(2) of this regulation.

(2) A small quantity handler of universal waste shall:

(a) Clearly label or mark each universal waste battery that is not in a container, and each container in which universal waste batteries are being held with one of the following phrases:

(i) "Universal Waste—Battery(ies)";

(ii) "Waste Battery(ies)"; or

(iii) "Used Battery(ies)";

(b) Ensure that each container, multiple-container package unit, tank, transport vehicle or vessel which contains recalled universal waste pesticides, as described in Regulation .08A(1) of this chapter, is clearly labeled or marked with:

(i) The label that was on or accompanied the product as sold or distributed; and

(ii) The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";

(c) Ensure that each container, tank, transport vehicle, or vessel containing unused pesticide products as described in Regulation .08A(2) of this chapter is clearly labeled or marked with:

(i) The label that was on the product when purchased, if the label is still legible;

(ii) The appropriate label as required under the U.S. Department of Transportation regulation, 49 CFR 172, if using the label described by §A(2)(c)(i) of this regulation is not feasible;

(iii) Another label prescribed or designated by the waste pesticide collection program administered or recognized by the State, if using the label described by §A(2)(c)(i) or (ii) of this regulation is not feasible; and

(iv) The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";

(d) Clearly label or mark each universal waste thermostat that is not in a container, and each container in which universal waste thermostats are being held, with one of the following phrases:

(i) "Universal Waste—Mercury Thermostat(s)";

(ii) "Waste Mercury Thermostat(s)"; or

(iii) "Used Mercury Thermostat(s)";

(e) Clearly label or mark each universal waste lamp that is not in a container, and each container or package in which universal waste lamps are being held, with one of the following phrases:

(i) "Universal Waste—Lamp(s)";

(ii) "Waste Lamp(s)"; or

(iii) "Used Lamp(s)"; and

(f) Clearly label or mark each universal waste PCB-containing lamp ballast that is not in a container, and each container or package

in which universal waste PCB-containing lamp ballasts are being held, with one of the following phrases:

(i) "Universal Waste—PCB-containing lamp ballast(s)";

(ii) "Waste PCB-containing lamp ballast(s)"; or

(iii) "Used PCB-containing lamp ballast(s)".

B. Accumulation Time Limits.

(1) Unless the requirements of §B(2) of this regulation are met, a small quantity handler of universal waste may accumulate universal waste for not longer than 1 year from the date the universal waste is generated, or received from another universal waste handler.

(2) A small quantity handler of universal waste may accumulate universal waste for longer than 1 year from the date the universal waste is generated, or received from another universal waste handler, if:

(a) Accumulation of the universal waste for a period longer than 1 year is solely for the purpose of accumulation of a quantity of universal waste as necessary to facilitate proper recovery, treatment, or disposal; and

(b) The handler can demonstrate, on request of the Department, and to the satisfaction of the Secretary, that accumulation of the universal waste for more than 1 year is solely for the purpose of accumulation of a quantity of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(3) A small quantity handler of universal waste shall:

(a) Be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received; and

(b) Make the demonstration required by §B(3)(a) of this regulation by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received by the handler;

(ii) Marking or labeling each individual item of universal waste, such as each battery or thermostat, with the date the individual item became a waste or was received by the handler;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received by the handler;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received by the handler;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received by the handler; or

(vi) Using any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received by the handler.

C. Employee Training. A small quantity handler of universal waste shall provide the following information to all employees who handle or have responsibility for managing universal waste:

(1) Proper handling procedures for each type of universal waste handled at the facility; and

(2) Emergency procedures appropriate for the types of universal waste handled at the facility.

D. Response to Release.

(1) A small quantity handler of universal waste shall:

(a) Immediately contain all releases of universal wastes and other residues from universal wastes; and

(b) Determine whether any material resulting from a release associated with the management of universal waste is hazardous waste, and if it is, manage the hazardous waste in compliance with all applicable requirements of COMAR 26.13.01—26.13.10.

(2) If a small quantity handler of universal waste has a release of hazardous waste, the handler:

(a) Is considered the generator of the hazardous waste resulting from the release; and

(b) Shall manage the hazardous waste in compliance with COMAR 26.13.03.

.18 Small Quantity Handlers of Universal Waste—Shipments.

A. Off-Site Shipments.

(1) A small quantity handler of universal waste may not send or take universal waste to a place other than:

(a) Another universal waste handler;

(b) A destination facility; or

(c) A destination outside of the United States.

(2) If a small quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of Regulation .22 of this chapter while transporting the universal waste.

(3) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171—180, a small quantity handler of universal waste shall package, label, mark, and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation regulations under 49 CFR 172—180.

(4) Before sending a shipment of universal waste to another universal waste handler, the originating handler shall verify that the receiving handler agrees to receive the shipment.

(5) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

(a) Receive the waste back when notified that the shipment has been rejected; or

(b) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(6) Rejecting Shipments of Universal Waste.

(a) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that the handler has received from another handler.

(b) If a handler rejects a shipment or a portion of a shipment, the handler shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load.

(c) A small quantity handler of universal waste who rejects a shipment of universal waste shall:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(7) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, and the handler does not have a permit to accept that hazardous waste, the handler shall immediately:

(a) Notify the Department of the illegal shipment;

(b) Provide the Department with the name, address, and phone number of the originating shipper; and

(c) Obtain instructions for managing the hazardous waste from the Department and manage the waste in accordance with those instructions.

(8) If a small quantity handler of universal waste receives a shipment of nonhazardous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, and local solid waste regulations.

B. Tracking Universal Waste Shipments. A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

C. Exports. A small quantity handler of universal waste that sends universal waste to a destination outside the United States:

(1) Other than to those countries of the Organization for Economic Cooperation and Development (OECD) specified in COMAR 26.13.03.07-5C(1), shall:

(a) Comply with the requirements applicable to a primary exporter in COMAR 26.13.03.07-1A, 26.13.03.07-2C(2)(a)—(e), 26.13.03.07-2C(4), and 26.13.03.07-2D;

(b) Export the universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent, as defined in 40 CFR Part 262, Subpart E; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter of the shipment for export.

(2) That is one of the OECD member countries specified in COMAR 26.13.03.07-5C(1) shall comply with the requirements of 40 CFR Part 262, Subpart H.

.19 Large Quantity Handlers of Universal Waste—General Requirements.

A. Applicability.

(1) This regulation and Regulations .20 and .21 of this chapter apply to large quantity handlers of universal waste as defined in COMAR 26.13.01.03B.

(2) A universal waste handler retains the classification of a large quantity handler of universal waste at least until the end of the calendar year in which the handler was classified as a large quantity handler, even if the amount of universal waste that the handler has accumulated becomes less than 5,000 kilograms.

(3) If a handler does not have an accumulation of 5,000 kilograms or more of universal waste on January 1 of a given year, the handler may elect to be regulated as a small quantity handler of universal waste under Regulations .11—.18 of this chapter until the handler accumulates 5,000 kilograms or more of universal waste for the first time in that calendar year.

B. Prohibitions. A large quantity handler of universal waste may not:

(1) Dispose of universal waste, unless the handler does so under authority of a hazardous waste disposal facility permit; or

(2) Dilute or treat universal waste, except:

(a) In responding to releases as provided in Regulation .21D of this chapter;

(b) As provided in Regulation .20 of this chapter; or

(c) In accordance with a hazardous waste treatment facility permit.

C. Notification.

(1) Except as provided in §C(2) of this regulation, a large quantity handler of universal waste, before accumulating 5,000 kilograms of universal waste for the first time, shall:

(a) Send to the Secretary a written notification that includes the following information:

(i) The universal waste handler's name and mailing address;

(ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(iii) The address or location of the universal waste management activities;

(iv) A list of all the types of universal waste managed by the handler, such as "batteries, pesticides, thermostats, and lamps"; and

(v) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and a list of the types of universal waste that the handler is accumulating above this quantity, such as "batteries, pesticides, thermostats, and lamps"; and

(b) Obtain an EPA identification number from the Department.

(2) A large quantity handler of universal waste who has already notified EPA or the Department of the handler's hazardous waste management activities and who has received an EPA identification number is considered to have satisfied the requirements of §C(1) of this regulation.

.20 Large Quantity Handlers of Universal Waste—Specific Management Standards.

A. Universal Waste Batteries. A large quantity handler of universal waste shall manage universal waste batteries in accordance with the requirements established for small quantity handlers in Regulation .12 of this chapter.

B. Universal Waste Pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in accordance with the requirements established for small quantity handlers in Regulation .13 of this chapter.

C. Universal Waste Thermostats. A large quantity handler of universal waste shall manage universal waste thermostats in accordance with the requirements established for small quantity handlers in Regulation .14 of this chapter.

D. Universal Waste Lamps. A large quantity handler of universal waste shall manage universal waste lamps in accordance with the requirements established for small quantity handlers in Regulation .15 of this chapter.

E. Universal Waste PCB-Containing Lamp Ballasts. A large quantity handler of universal waste shall manage universal waste PCB-containing lamp ballasts in accordance with the requirements established for small quantity handlers in Regulation .16 of this chapter.

.21 Large Quantity Handlers of Universal Waste—General Management Standards.

A. Labeling and Marking. A large quantity handler of universal waste shall comply with the requirements established for small quantity handlers of universal waste in Regulation .17A of this chapter.

B. Accumulation Time Limits. A large quantity handler of universal waste shall comply with the requirements established for small quantity handlers of universal waste in Regulation .17B of this chapter.

C. Employee Training. A large quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures pertinent to the employees' responsibilities during normal facility operations and emergencies.

D. Response to Releases. In the event of a release of universal waste or the release of any residues from universal waste, a large quantity handler of universal waste shall comply with the requirements established for small quantity handlers of universal waste in Regulation .17D of this chapter.

E. Off-Site Shipments. A large quantity handler of universal waste shall comply with the requirements established for small quantity handlers of universal waste in Regulation .18A of this chapter.

F. Tracking Universal Waste Shipments.

(1) Receipt of Shipments.

(a) A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility.

(b) The record required by §F(1)(a) of this regulation may take the form of a log, invoice, manifest, bill of lading, or other shipping document.

(c) The handler shall ensure that the record required by §F(1)(a) of this regulation includes the following information:

(i) The name and address of the originating universal waste handler or shipper from outside the United States from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received, for example, the quantities of batteries and thermostats received; and

(iii) The date of receipt of the shipment of universal waste.

(2) Shipments Off-Site.

(a) A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities.

(b) The record required by §F(2)(a) of this regulation may take the form of a log, invoice, manifest, bill of lading, or other shipping document.

(c) The handler shall ensure that the record required by §F(2)(a) of this regulation includes the following information:

(i) The name and address of the universal waste handler, destination facility, or destination outside the United States to which the universal waste was sent;

(ii) The quantity of each type of universal waste, such as batteries and thermostats, sent; and

(iii) The date the shipment of universal waste left the handler's facility.

(3) Record Retention. A large quantity handler of universal waste shall retain the records:

(a) Required by §F(1) of this regulation for a given shipment of universal waste for at least 3 years from the date of receipt of the shipment of universal waste; and

(b) Required by §F(2) of this regulation for a given shipment of universal waste for at least 3 years from the date the shipment of universal waste left the handler's facility.

G. Exports. A large quantity handler of universal waste shall comply with the requirements established for small quantity handlers of universal waste in Regulation .18C of this chapter.

.22 Standards for Universal Waste Transporters.

A. Applicability. This regulation applies to universal waste transporters as defined in COMAR 26.13.01.03B.

B. Prohibitions. A universal waste transporter:

(1) May not dispose of universal waste; and

(2) Except as provided in §E of this regulation, may not dilute or treat universal waste.

C. Waste Management.

(1) For any universal waste that meets the definition of hazardous material in 49 CFR §171.8, or that meets the criteria for one or more hazard classes specified in 49 CFR §173.2, a universal waste transporter shall comply with all applicable U.S. Department of Transportation regulations in 49 CFR 171—180.

(2) Because shipments of universal waste are not required to be accompanied by a hazardous waste manifest:

(a) Universal waste is not considered hazardous waste for purposes of U.S. Department of Transportation regulations; and

(b) A person may not:

(i) Describe universal waste by the U.S. Department of Transportation proper shipping name "hazardous waste, (l) or (s), n.o.s."; and

(ii) Modify the hazardous material's proper shipping name by adding the word "waste".

D. Storage Time Limits.

(1) A universal waste transporter may not store a given item of universal waste at a universal waste transfer facility for more than 10 days.

(2) If a universal waste transporter stores a given item of universal waste for more than 10 days, the transporter:

(a) Becomes a universal waste handler; and

(b) Shall comply with the applicable requirements of Regulations .11—.21 of this chapter while storing the universal waste.

E. Response to Releases. A universal waste transporter shall:

(1) Immediately contain all releases of universal wastes and other residues from universal wastes; and

(2) Determine whether any material resulting from a release associated with the management of universal waste is hazardous waste, and if it is, manage the hazardous waste in compliance with all applicable requirements of COMAR 26.13.01—26.13.10.

F. Off-Site Shipments.

(1) A universal waste transporter may not transport the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(2) If a universal waste being shipped off-site meets the U.S. Department of Transportation's definition of hazardous materials under 49 CFR §171.8, the transporter shall ensure that the shipment is properly described on a shipping paper in accordance with the applicable U.S. Department of Transportation regulations under 49 CFR 172.

G. Exports. A universal waste transporter transporting a shipment of universal waste to a foreign destination outside the United States which is:

(1) In one of the countries of the Organization for Economic Cooperation and Development (OECD) specified in 40 CFR §262.58(a)(1), shall comply with the requirements of COMAR 26.13.03.07-5;

(2) Not in one of the countries of the Organization for Economic Cooperation and Development (OECD) specified in 40 CFR §262.58(a)(1):

(a) May not accept a shipment if the transporter knows that the shipment does not conform to the EPA Acknowledgment of Consent;

(b) Shall ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(c) Shall ensure that the shipment is delivered to the facility that has been designated by the person initiating the shipment.

.23 Standards for Destination Facilities.

A. Applicability.

(1) The owner or operator of a destination facility as defined in COMAR 26.13.01.03B is subject to all applicable requirements of COMAR 26.13.05—26.13.10, and the notification requirement under §3010 of RCRA.

(2) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled, shall comply with COMAR 26.13.02.06C(2).

B. Off-Site Shipments.

(1) The owner or operator of a destination facility may not send or take universal waste to a place other than a universal waste handler, another destination facility, or a destination outside the United States.

(2) Rejection of Shipments.

(a) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste.

(b) If the owner or operator of a destination facility rejects a shipment or a portion of a shipment, the owner or operator shall:

(i) Contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load; and

(ii) Either send the shipment back to the original shipper or, if agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(3) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, and the facility does not have a permit to accept that hazardous waste, the owner or operator of the destination facility shall:

(a) Immediately notify the Department of the illegal shipment;

(b) Provide, as part of the notification required by §B(3)(a) of this regulation, the name, address, and phone number of the shipper; and

(c) Obtain instructions for managing the hazardous waste from the Department and manage the waste in accordance with those instructions.

(4) If the owner or operator of a destination facility receives a shipment of nonhazardous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal, State, and local solid waste regulations.

C. Tracking Universal Waste Shipments.

(1) Receipt of Shipments.

(a) The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility.

(b) The record required by §C(1)(a) of this regulation may be a log, invoice, manifest, bill of lading, or other shipping document.

(c) The owner or operator of a destination facility shall ensure that the record required by §C(1)(a) of this regulation includes the following information:

(i) The name and address of the universal waste handler, destination facility, or shipper outside the United States from whom the universal waste was sent;

(ii) The quantity of each type of universal waste, such as batteries and thermostats, received; and

(iii) The date of receipt of the shipment of universal waste.

(2) Record Retention. The owner or operator of a destination facility shall retain the records required by §C(1) of this regulation for a given shipment of universal waste for at least 3 years from the date of receipt of the shipment of universal waste.

.24 Universal Waste—Import Requirements.

A. Applicability.

(1) This regulation establishes requirements for persons managing universal waste imported from a country outside the United States into the United States.

(2) The requirements of this regulation apply immediately after the universal waste enters the United States.

B. For the management of universal waste that is imported into the United States:

(1) A universal waste transporter is subject to the universal waste transporter requirements of Regulation .22 of this chapter;

(2) A universal waste handler is subject to the following requirements, depending upon whether the handler is classified as a small quantity handler of universal waste or a large quantity handler of universal waste:

(a) Small quantity handlers of universal waste are subject to the requirements of Regulations .11—.18 of this chapter; and

(b) Large quantity handlers of universal waste are subject to the requirements of Regulations .19—.21 of this chapter;

(3) An owner or operator of a destination facility is subject to the requirements of Regulation .23 of this chapter; and

(4) Persons managing universal waste that is imported from an OECD country, as specified in COMAR 26.13.03.07-5C(1), are subject to the requirements of:

(a) §B(1)—(3) of this regulation; and

(b) COMAR 26.13.03.07-5.

.25 Petitions to Include Other Wastes as Universal Wastes.

A. General Requirements.

(1) A person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of COMAR 26.13.10.06—.25 may petition for a regulatory amendment under this regulation and COMAR 26.13.01.04A and J.

(2) General requirements relating to these petitions are established in COMAR 26.13.01.04J.

B. Evaluative Factors for Petitions to Include Other Wastes as Universal Wastes. In considering whether to grant or deny a petition to add a hazardous waste or a category of hazardous waste to the universal waste regulations of Regulations .06—.25 of this chapter, the Secretary shall consider:

(1) The extent to which:

(a) The waste or category of waste, as generated by a large variety of generators, is listed as a hazardous waste in COMAR 26.13.02.15—.19;

(b) A proportion of the waste stream as generated by a large variety of generators, if not listed as a hazardous waste in COMAR 26.13.02.15—.19, exhibits one or more of the characteristics of hazardous waste identified in COMAR 26.13.02.10—.14;

(c) The waste or category of waste is:

(i) Not exclusive to a specific industry or group of industries; and

(ii) Commonly generated by a wide variety of types of establishments, including, for example, households, retail and commercial businesses, office complexes, small quantity generators, small businesses, government organizations, and large industrial facilities;

(d) The waste or category of waste is:

(i) Generated by a large number of generators; and

(ii) Frequently generated in relatively small quantities by each generator;

(e) Systems to be used for collecting the waste or category of waste, including packaging, marking, and labeling practices, would ensure close stewardship of the waste;

(f) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes;

(g) Specific management standards proposed or referenced by the petitioner, such as waste management requirements appropriate to be added to Regulations .12—.16 of this chapter, Regulation .20 of this chapter, Regulation .22C of this chapter, or applicable U.S. Department of Transportation requirements, would be protective of human health and the environment during accumulation and transport;

(h) Regulation of the waste or category of waste under Regulations .06—.24 of this chapter will increase the likelihood that the waste will be diverted from nonhazardous waste management systems, such as the municipal waste stream, nonhazardous industrial or commercial waste stream, municipal sewer or stormwater systems, to recycling, treatment, or disposal in compliance with Subtitle C of RCRA; and

(i) Regulation of the waste or category of waste under Regulations .06—.24 of this chapter will improve implementation of and compliance with the hazardous waste regulatory program; and

(2) Any factors in addition to those identified in §B(1) of this regulation that may be appropriate.

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