

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 of this chapter for obtaining an identification number;
 - (3) Regulation .06A(3) and (4) of this chapter for record keeping;
 - (4) Regulation .06D of this chapter for additional reporting;
 - (5) If applicable, Regulation .07-4 of this chapter for farmers; and
 - (6) Regulation .05E of this chapter 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 October 1, 2007.
- 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.
- J. Persons responding to an explosives or munitions emergency in accordance with the following are not required to comply with the standards of this chapter:
- (1) COMAR 26.13.07.01A; and
 - (2) Any of the following:
 - (a) COMAR 26.13.05.01A(3)(h)(iv);
 - (b) COMAR 26.13.05.01D(5) and (6);
 - (c) COMAR 26.13.06.01A(4)(h)(iv); or
 - (d) COMAR 26.13.06.01A(5)(b) and (c).

.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.

C. A generator may not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

.04 The Manifest.

A. General Requirements.

(1) A generator who transports, or offers for transport, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, or disposal facility who offers for transport a rejected hazardous waste load, shall prepare a manifest (OMB control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to 40 CFR Part 262 before the waste is transported off-site.

(2) A generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(3) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste if an emergency prevents delivery of the waste to the primary designated facility.

(4) A generator whose manifest for an interstate shipment has not been returned to the generator within the prescribed time (45 days) shall give notice of that to the State in which the designated facility is located, the State in which the shipment may have been delivered (or to the EPA in the case of an unauthorized State), and to the Department.

(5) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator shall either designate another facility or instruct the transporter to return the waste.

(6) Contiguous Property.

(a) The requirements of this regulation and Regulation .05C(2) of this chapter do not apply to the transport on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if this contiguous property is divided by a public or private right-of-way.

(b) Notwithstanding COMAR 26.13.04.01A(1), the generator or transporter shall comply with the requirements for transporters in COMAR 26.13.04.03 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Manifest Printing Requirements for Registrants.**(1) General Requirements.**

(a) In this section, the following terms have the meanings indicated:

(i) "Registrant" means a person that seeks approval to print, or have printed, the manifest for use or distribution; and

(ii) "Approved registrant" means a person that has received approval from the EPA Director of the Office of Solid Waste to print, or have printed, the manifest for use or distribution.

(b) A registrant may not print, or have printed, the manifest for use or distribution unless the registrant has received approval from the EPA Director of the Office of Solid Waste to do so.

(c) An approved registrant is responsible for:

(i) Ensuring that the organizations identified in the registrant's approved application are in compliance with the procedures described in the approved application; and

(ii) Assigning manifest tracking numbers to its manifests.

(d) The procedures the EPA will follow in determining whether to grant approval to a registrant are found in 40 CFR §262.21(c)–(e).

(e) An approved registrant shall print the manifest and continuation sheet according to the:

(i) Registrant's application as approved under 40 CFR §262.21(c);

(ii) Manifest specifications given in 40 CFR §262.21(f); and

(iii) Paper type, paper weight, and ink color of the manifest instructions, and binding method of the registrant's approved forms.

(2) Procedures for Becoming an Approved Registrant.

(a) A registrant shall submit an initial application to become an approved registrant:

(i) To the EPA Director of the Office of Solid Waste; and

(ii) That contains the information specified in 40 CFR §262.21(b).

(b) Following approval by the EPA of the initial application submitted under §B(2)(a) of this regulation, the registrant shall submit the information and sample manifests required by 40 CFR §262.21(d) to the EPA Director of the Office of Solid Waste.

(c) As described in 40 CFR §262.21(j), a registrant may request that the EPA exempt the registrant from the requirement of §B(2)(b) of this regulation to submit form samples.

(d) The procedures the EPA uses in designating a registrant to be an approved registrant are described in 40 CFR §262.21(e).

(3) Modifications or Changes After a Registrant has been Designated an Approved Registrant.

(a) Updating of Information in the Initial Application to Become an Approved Registrant.

(i) If an approved registrant would like to update any of the information provided in the registrant's application approved under §B(2)(b) of this regulation, such as updating a company phone number or name of a contact person, the registrant shall revise the application and submit it to the EPA Director of the Office of Solid Waste, along with an indication or explanation of the update, as soon as practicable after the change occurs.

(ii) The procedures the EPA will follow in approving or denying the revision are described in 40 CFR §262.21(h)(1).

(b) New Tracking Number Suffix.

(i) If an approved registrant would like a new tracking number suffix, the registrant shall submit a proposed suffix to the EPA Director of the Office of Solid Waste, along with the reason for requesting the new suffix.

(ii) The procedures the EPA will follow in approving or denying the new suffix are described in 40 CFR §262.21(h)(2).

(c) Typesetting Instead of Using Electronic Files for Printing.

(i) If an approved registrant wants to print manifests or continuation sheets using typesetting instead of continuing to use the electronic file of the forms provided by the EPA, the registrant shall seek approval from EPA as described in 40 CFR §262.21(i).

(ii) The registrant may not use or distribute the typeset forms until the EPA approves them.

(d) Other Changes. An approved registrant shall follow the procedures in 40 CFR §262.21(h)(3) if the registrant would like to change any of the following after having been designated as an approved registrant:

- (i) Paper type;
- (ii) Paper weight;
- (iii) Ink color of the manifest instructions;
- (iv) Binding method of the manifest or continuation sheet; or
- (v) Printing firm that prints the manifests.

(e) As described in 40 CFR §262.21(j), a registrant may request that the EPA exempt the registrant from the requirement in 40 CFR §262.21(h)(3) to submit form samples when seeking approval for changes identified in §B(3)(d) of this regulation.

(f) A registrant may not use or distribute revised manifests until the EPA approves the revised forms.

(4) Notification—Duplicate Tracking Numbers. As soon as an approved registrant becomes aware that the registrant has duplicated tracking numbers on any manifests that have been used or distributed to other parties, the registrant shall notify the EPA Office of Solid Waste by phone or email.

(5) Required Modification of Form. As provided in 40 CFR §262.21(l), the EPA has the authority to require an approved registrant to make modifications if the EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory.

(6) Suspension or Revocation of Printing Privileges. Using the procedures described in 40 CFR §262.21(m)(2), the EPA may suspend or revoke a registrant's printing privileges if the registrant:

- (a) Has used or distributed forms that deviate from the registrant's approved form samples in regard to paper type, paper weight, ink color of the instructions, or binding method; or
- (b) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.

C. Obtaining Manifests and Information on State Requirements.

(1) A generator may use manifests printed by any source that has received approval from EPA to print the manifest under the provisions of 40 CFR §262.21(c) and (e).

(2) Examples of entities that may be approved by the EPA to be a source of manifests include state agencies, commercial printers, hazardous waste generators, hazardous waste transporters, hazardous waste treatment, storage, and disposal facilities, and hazardous waste brokers or other persons who prepare or arrange shipments of hazardous waste for transportation.

(3) The generator shall determine whether the generator state or the consignment state for a shipment:

- (a) Regulates any additional wastes beyond those federally regulated as hazardous wastes under the states' authorized hazardous waste regulatory programs; and
- (b) Requires the generator to submit any copies of the manifest to these states.

D. Number and Distribution of Copies.

(1) The manifest consists of six preprinted copies and the additional number of photocopies needed so that copies can be distributed as described in §D(2) of this regulation.

(2) Manifest copies shall be distributed as follows:

- (a) The generator shall retain one copy, in accordance with Regulation .06A(1) of this chapter;

DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

26.13.03.04

(b) Each transporter shall retain one copy in accordance with COMAR 26.13.04.02C, reproducing the preprinted form if necessary:

(c) The designated facility shall retain one copy in accordance with COMAR 26.13.05.05B;

(d) The designated facility shall forward copies as indicated on the manifest to the:

(i) Generator;

(ii) Department, if the generator or designated facility is located in Maryland, in accordance with COMAR 26.13.05.05B;

(iii) Generator state, if the generator state is a state other than Maryland and the generator state requires the designated facility to submit a copy of the manifest; and

(iv) Consignment state, if the consignment state is a state other than Maryland and the consignment state requires the designated facility to submit a copy of the manifest; and

(e) The generator, in accordance with §E(1) and (2) of this regulation:

(i) Shall forward a legible photocopy of the manifest to the consignment state if the consignment state is other than Maryland and the consignment state requires the generator to submit a copy of the manifest; and

(ii) Is not required to submit a copy of the manifest to the Department.

E. Use of the Manifest.

(1) The generator shall:

(a) Sign the manifest certification by hand;

(b) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(c) Retain one copy, in accordance with Regulation .06A(1) of this chapter.

(2) The generator shall forward a legible photocopy of the manifest to the consignment state if the consignment state:

(a) Is a state other than Maryland; and

(b) Requires the generator to submit a copy of the manifest.

(3) The generator shall give the transporter the remaining copies of the manifest.

(4) For shipment of hazardous waste within the United States solely by water (bulk shipments only), the generator shall send three copies of the manifest dated and signed in accordance with this regulation to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(5) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator shall send at least three copies of the manifest dated and signed in accordance with this section to the:

(a) Next nonrail transporter, if any;

(b) Designated facility if transported solely by rail; or

(c) Last rail transporter to handle the waste in the United States if exported by rail.

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

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

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

F. Waste Minimization Certification.

(1) For the purposes of the certification in §F(2) of this regulation:

(a) "Large quantity generator" means a person that generates, in a calendar month:

(i) 1,000 kilograms or more of hazardous waste; or

26.13.03.05

- (ii) 1 kilogram or more of acute hazardous waste; and
- (b) "Small quantity generator" means a person that generates, in a calendar month:
 - (i) Less than 1,000 kilograms of hazardous waste; and
 - (ii) Less than 1 kilogram of acute hazardous waste.

(2) A generator that initiates a shipment of hazardous waste and that is required to prepare a manifest in accordance with §A of this regulation shall certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment."; or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

.05 Pretransport Requirements.

A. Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR 173, 178, and 179.

B. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator shall label each package in accordance with the applicable Department of Transportation regulations on hazardous materials, under 49 CFR 172.

C. Marking.

(1) Before transporting or offering hazardous waste for transportation off-site, a generator shall mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR 172.

Agency Note: See COMAR 26.13.04.02A(5) or (6) for special provisions for rail or water (bulk shipment) transporters who deliver hazardous waste by rail or water to the designated facility.

(2) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall mark each container of 119 gallons or less used in the transportation with the following words and information displayed in accordance with the requirements of 49 CFR §172.304:

"HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U. S. Environmental Protection Agency.

Generator's Name and Address _____.

Generator's EPA Identification Number _____.

Manifest Tracking Number _____."

D. Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

E. Accumulation Time.

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

- (a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;
- (b) The generator accumulates the waste:
 - (i) In containers,
 - (ii) In tanks,
 - (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on, or
 - (iv) In a containment building;

DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

26.13.03.05

- (c) Containers used to accumulate the waste meet the standards of §A of this regulation;
- (d) The generator accumulates the waste in containers in accordance with COMAR 26.13.05.09;
- (e) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (f) Each container is:
 - (i) Properly labeled according to §§B and C of this regulation, and
 - (ii) Labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site.
- (g) The generator complies with the requirements for owners or operators in COMAR 26.13.05.02G, .03, and .04;
- (h) The generator, in accumulating waste in tanks:
 - (i) Complies with the requirements of COMAR 26.13.05.10A and C—E, .10-1, .10-2, .10-3B, .10-6A, and COMAR 26.13.06.18D(1)—(3);
 - (ii) Complies with the requirements of COMAR 26.13.05.10-4, except that the generator may not seek a variance from the requirements of COMAR 26.13.05.10-4 under the provisions of COMAR 26.13.05.10-5;
 - (iii) Inspects overfill controls at least once each operating day;
 - (iv) Clearly marks or labels the tanks with the words "Hazardous Waste", while waste is being accumulated in the tanks; and
 - (v) Need not obtain approval by the Secretary of the written assessment required by COMAR 26.13.05.10-3B before managing hazardous waste in the tank system;
- (i) The generator, if accumulating hazardous waste in tanks, submits the following information to the Secretary for each tank exempted from permit requirements under this section:
 - (i) Date of installation of the tank, or, if the date of installation is unknown, the age of the facility;
 - (ii) Tank capacity;
 - (iii) Secondary containment capacity;
 - (iv) Whether the tank is an above-ground tank, on-ground tank, in-ground tank, or underground tank;
 - (v) For underground tanks, whether the tank can be entered for inspection; and
 - (vi) Waste code of each waste managed in the tank;
- (j) The generator provides the information required by §E(1)(i) of this regulation by the following deadlines:
 - (i) For existing tanks, by January 1, 1994;
 - (ii) For new tanks, before the tank is used to manage hazardous waste;
- (k) The generator maintains an inspection log or summary in accordance with the following:
 - (i) The log or summary documents inspections performed in accordance with §E(1)(d) and (h) of this regulation;
 - (ii) The log or summary includes the date and time of each inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or other remedial actions taken; and
 - (iii) The generator keeps the log on file for a minimum of 3 years from the date of inspection;
- (l) The generator, if accumulating hazardous waste on drip pads:
 - (i) Accumulates the waste in accordance with COMAR 26.13.05.17-1—.17-4;
 - (ii) Maintains, at the facility, a description of procedures that are followed to ensure that all wastes are removed from the drip pad, the sump, and the collection system at least once every 90 days;
 - (iii) Maintains documentation at the facility, for each waste removal, of the date, the time, and the quantity of waste removed from the drip pad, the sump, and the collection system; and

DEPARTMENT OF THE ENVIRONMENT

26.13.03.05

- (iv) Notifies the Secretary of the intent to close a drip pad at least 45 days before closure begins;
 - (m) The generator, if accumulating waste in a containment building:
 - (i) Complies with the requirements of COMAR 26.13.05.18—.18-3; and
 - (ii) Before accumulating hazardous waste in the unit, obtains and places in the facility's operating record a certification by a qualified registered professional engineer that the containment building design meets the requirements of COMAR 26.13.05.18-1; and
 - (n) The generator maintains records at the facility documenting that hazardous waste is managed for no longer than 90 days in containment buildings, with the records consisting of either:
 - (i) Documentation that the containment building is emptied at least once every 90 days; or
 - (ii) A written description of the procedures that are followed to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices at the facility that shows these practices are consistent with respecting the 90-day limit, and documentation demonstrating that the procedures have been followed.
- (2) A generator who accumulates hazardous waste is an operator of a storage facility and is subject to the requirements of COMAR 26.13.05 or 23.13.06, unless the hazardous waste:
- (a) Is accumulated for 90 days or less; or
 - (b) Accumulated:
 - (i) Is less than 500 kilograms;
 - (ii) Contains less than 1 kilogram of acute hazardous waste;
 - (iii) Is accumulated for 180 days or less from the date of initial generation or accumulation; and
 - (iv) Is generated by a person who generates less than 1,000 kilograms of hazardous waste in a calendar month.
- (3) Satellite Accumulation. A generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with §E(1) provided the generator:
- (a) Complies with COMAR 26.13.05.09B—D; and
 - (b) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
- (4) Returned, Rejected Loads.
- (a) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment or part of that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of COMAR 26.13.05.05C, COMAR 26.13.06.05A, 40 CFR §264.72, 40 CFR §265.72, or analogous regulations of the designated facility's state, may accumulate the returned waste onsite in accordance with §E(1) and (2) of this regulation.
 - (b) Upon receipt of a shipment returned in accordance with §E(4)(a) of this regulation, the generator shall:
 - (i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
 - (ii) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.
- (5) A generator who accumulates hazardous waste under the provisions of §E(1) of this regulation is exempt from the following requirements with respect to that waste:
- (a) COMAR 26.13.06.07A;
 - (b) COMAR 26.13.06.08—.09; and
 - (c) COMAR 26.13.06.11—.16.

.06 Record Keeping and Reporting.**A. Record Keeping.**

(1) A generator shall keep a copy of each manifest signed in accordance with Regulation .04A(1) of this chapter for 3 years or until he receives a signed copy from the designated facility which received the waste. This signed copy shall be retained as a record for at least 3 years from the date the waste was accepted by the initial transporter.

(2) A generator shall keep a copy of each annual report or biennial report required under §B of this regulation, and each exception report required under §C of this regulation, for a period of at least 3 years from the due date of the report, or the date the report was submitted, whichever is later.

(3) A generator shall keep records of any test results, waste analyses, or other determinations made in accordance with Regulation .02 of this chapter for at least 3 years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Secretary.

B. Annual or Biennial Reporting.

(1) A person who generates hazardous waste and ships it off-site to a facility within the United States shall:

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

(b) Submit the reports required by §B(1)(a) of this regulation with the following frequency:

(i) Annually, for reporting periods through December 31, 1995, and

(ii) Biennially, for reporting periods beginning January 1, 1997;

(c) Submit the reports required by §B(1)(a) of this regulation not later than:

(i) March 1 of the following year for reporting periods through December 31, 1995; and

(ii) March 1 of each even numbered year for the preceding calendar year for reporting periods beginning January 1, 1997; and

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

(i) The EPA identification number, name, and address of the generator;

(ii) The calendar year covered by the report;

(iii) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

(iv) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;

(v) For shipments of hazardous waste to a treatment, storage, or disposal facility within the United States, the description, the EPA or State hazardous waste number from COMAR 26.13.02, the DOT hazard class, and the quantity of each hazardous waste listed by the EPA identification number of each off-site facility to which waste was shipped;

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

(vii) Except as provided in §B4 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; and

(viii) The certification on EPA or State Form 8700-13A signed by the generator or authorized representative.

(2) A generator who treats, stores, or disposes of hazardous waste on-site shall submit an annual or biennial report covering those wastes in accordance with the provisions of COMAR 26.13.05.05F, 26.13.06.05A and B(3) and (4), 26.13.07.15E(3), and 26.13.10.

26.13.03.07

(3) Information on exports of hazardous waste is not required to be included in the report required by §B(1) and (2) of this regulation. Instead, exporters of hazardous waste shall comply with the annual reporting requirements of Regulation .07-2C of this chapter.

(4) Information required by §B(1)(d)(vii) of this regulation on changes in volume and toxicity of waste actually achieved in comparison to years before 1984 is only required to the extent that this information is available.

C. Exception Reporting.

(1) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter shall contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator shall submit an exception report to the Secretary if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter and include in the exception report the following:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(3) If the designated facility is located out-of-State in a state which administers the federal program, the generator who does not receive a copy of the manifest as described in §C(1) of this regulation, shall submit an exception report to that state's approving authority as specified in §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—MD03: 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(c) 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;

DEPARTMENT OF THE ENVIRONMENT

26.13.03.07

(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:

(a) Changes to the points of entry to or departure from each foreign country in accordance with §A(5)(b)(iv) of this regulation; or

(b) Changes in the identity of transit countries and the length of time the hazardous waste will remain in the countries in accordance with §A(5)(b)(viii) of this regulation.

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

A. Special Manifest Requirements. A primary exporter as defined in COMAR 26.13.01.03, or other person defined as a primary exporter under 40 CFR §262.51 or an equivalent provision of another state's regulations shall comply with the manifest requirements of Regulation .04A, D, and E of this chapter, except that the primary exporter:

(1) Shall enter the name and site address of the consignee, in place of the name, address, and EPA identification number of the designated permitted facility;

(2) May enter the name and site address of any alternate consignee in place of the name, site address, and EPA identification number of an alternate permitted facility;

DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

26.13.03.07

(3) Shall, in the International Shipments block of the manifest, check the export box and enter the name of the city and state where the point of exit from the United States is located;

(4) Shall add the statement "and conforms to the terms of the Attached EPA Acknowledgement of Consent" to the first sentence of the certification in Item 16 of the Uniform Hazardous Waste Manifest Form;

(5) May obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests, such as a state, waste handler, or commercial forms printer;

(6) Shall require the consignee to:

(a) Confirm in writing that the hazardous waste was delivered to the consignee's facility, and

(b) Describe any significant discrepancies, as identified in COMAR 26.13.05.05C, between the manifest and the shipment;

(7) May accept a copy of the manifest signed by the consignee to satisfy the requirement of §A(6)(a) of this regulation;

(8) Instead of complying with the requirements of COMAR 26.13.03.04A(5), shall, if a shipment cannot be delivered to the designated or alternate consignee:

(a) Renotify the EPA and the Secretary of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with Regulation .07-1B of this chapter, and obtain an EPA Acknowledgement of Consent before delivery, or

(b) Instruct the transporter to either return the waste to the primary exporter in the United States or deliver the waste to another designated facility within the United States, and instruct the transporter to revise the manifest in accordance with the primary exporter's instructions;

(9) Shall do the following with the EPA Acknowledgement of Consent:

(a) If the export shipment is by rail, provide a copy to the transporter,

(b) If the export shipment is a bulk shipment by water, attach a copy to the shipping paper, or

(c) In all cases other than those described in §A(9)(a) or (b) of this regulation, attach a copy to the manifest;

(10) Shall provide the transporter with an additional copy of the manifest to be delivered to the U.S. Customs official at the point of departure from the United States in accordance with COMAR 26.13.04.02A(7)(e).

B. Exception Reports. Instead of complying with the requirements of Regulation .06C of this chapter concerning exception reporting, a primary exporter shall file an exception report with the EPA and the Secretary, if:

(1) The primary exporter has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter;

(2) The primary exporter has not, within 90 days from the date the waste was accepted by the initial transporter, received written confirmation from the consignee that the hazardous waste was received; or

(3) The waste is returned to the United States.

C. Annual Reports.

(1) A primary exporter of hazardous waste shall file with the EPA and the Secretary not later than March 1 of each year, a report summarizing the types, quantities, frequency of shipment, and ultimate 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;

26.13.03.07

- (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
- (c) 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;

(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;

(3) In the International Shipments block of the manifest, the importer shall check the import box and enter the name of the city and state where the point of entry into the United States is located; and

(4) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to the U.S. EPA in accordance with COMAR 26.13.05.05B(1)(g) and 26.13.06.05A.

C. A person who imports hazardous waste may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests, such as a state, waste handler, or commercial forms printer.

.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.

DEPARTMENT OF THE ENVIRONMENT

26.13.03.07

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)
Chapter recodified from COMAR 10.51.03 to COMAR 26.13.03
Regulation .01B, D amended effective August 28, 1995 (22:17 Md. R. 1321)
Regulation .01G amended effective December 23, 1991 (18:25 Md. R. 2759)
Regulation .01H and I adopted effective April 18, 1988 (15:8 Md. R. 1009)
Regulation .02A amended effective December 23, 1991 (18:25 Md. R. 2759)
Regulation .04 amended effective April 18, 1988 (15:8 Md. R. 1009); September 11, 2006 (33:18 Md. R. 1507)
Regulation .04A, C amended effective December 23, 1991 (18:25 Md. R. 2759)
Regulation .04A, D, E amended effective May 24, 1993 (20:10 Md. R. 853)
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Regulation .06A amended effective May 5, 1997 (24:9 Md. R. 659)
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26.13.03 Page 16

Effective as of November 12, 2010

DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

26.13.03.07

Regulation .07 repealed and new Regulations .07 and .07-1 .07-4 adopted effective August 28, 1995 (22:17 Md. R. 1321)
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Regulation .02 amended effective November 1, 2002 (29:21 Md. R. 1647)
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Regulation .05 amended effective September 11, 2006 (33:18 Md. R. 1507)
Regulation .05E amended effective May 1, 2008 (35:8 Md. R. 809)
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