

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES
Chapter 08 Right of Condemnation

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

.01 Determination by the Department.

The Department, pursuant to the applicable provisions of the Real Property Article, may condemn any land or facility used for disposal of CHS if it determines any of the following:

- A. The condemnation is necessary to provide for proper perpetual care and monitoring of the facility;
- B. Future disturbance of the land poses a substantial threat to the natural resources of the State; or
- C. The facility poses a substantial threat to the public health.

Administrative History

Effective date:

Regulation .01 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)

Chapter recodified from COMAR 10.51.09 to COMAR 26.13.08

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Title 26
DEPARTMENT OF THE ENVIRONMENT
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Chapter 09 Enforcement — Repealed

Administrative History

Effective date:

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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, §6-906.3 and 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) Except as provided in §A(4) and (5) of this regulation, 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:

(a) The recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means; and

(b) For each recyclable material, that is, hazardous waste, that the product contains, the product meets the applicable:

(i) Treatment standards in 40 CFR Part 268, Subpart D; or

(ii) Prohibition levels in 40 CFR §268.32 or RCRA §3004(d), if no treatment standards have been established under 40 CFR Part 268, Subpart D.

(4) Slags that are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, and that are used as an antiskid agent or deicing agent in a manner that constitutes disposal, are not covered by the exemption in §A(3) of this regulation.

(5) A fertilizer that contains recyclable materials is not subject to regulation as hazardous waste when used for its intended purpose if the fertilizer meets the applicable treatment standard in 40 CFR Part 268, Subpart D, for each recyclable material, that is, hazardous waste, that it contains.

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, except that these requirements do not apply to products which contain these recyclable materials under the provisions of §A(3) 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

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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.

B. Prohibitions.

(1) A person may market hazardous waste fuel only:

(a) To persons who have notified the State of their hazardous waste fuel activities and have a U.S. EPA identification number; and

(b) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in §B(2) of this regulation.

(2) Hazardous waste fuel may be burned for energy recovery only in devices identified in COMAR 26.13.05.16C(3).

(3) Fuel which contains any hazardous waste may not be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000 (based on the most recent census statistics) unless the kiln fully complies with regulations under this subtitle that are applicable to incinerators.

C. Standards Applicable to Generators of Hazardous Waste Fuel.

(1) Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to the requirements of COMAR 26.13.03.

(2) Generators who market hazardous waste fuel to a burner also are subject to §E of this regulation.

D. Standards Applicable to Transporters of Hazardous Waste Fuel. Transporters of hazardous waste fuel, and hazardous waste that is used to produce a fuel are subject to COMAR 26.13.04.

E. Standards Applicable to Marketers of Hazardous Waste Fuel. Persons who market hazardous waste fuel are termed "marketers". Marketers include generators who market hazardous waste fuel directly to a burner, persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes, and persons who distribute but do not process or blend hazardous waste fuel. These persons are subject to the following requirements:

(1) Prohibitions. The prohibitions under §B.

(2) Notification. Notification requirements under Section 3010 of RCRA for hazardous waste fuel activities. Even if a marketer has previously notified EPA of his hazardous waste management activities and obtained a U.S. EPA identification number he shall renotify the U.S. EPA and the Secretary to identify his hazardous waste fuel activities.

(3) Storage. COMAR 26.13.03.05E, 26.13.05.01—12, and 26.13.07.

(4) Off-site Shipment. The standards for generators in COMAR 26.13.03 when a marketer initiates a shipment of hazardous waste fuel.

(5) Required Notices.

(a) Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, he shall obtain a one-time written and signed notice from the burner or marketer certifying that:

(i) The burner or marketer has notified EPA and the Secretary under §3010 of RCRA and identified his waste-as-fuel activities; and

(ii) If the recipient is a burner, the burner will burn the hazardous waste fuel in a facility permitted under COMAR 26.13.05.15 or .16 and COMAR 26.13.07.05.

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(b) Before a marketer accepts the first shipment of hazardous waste fuel from another marketer, he shall provide the other marketer with a one-time written and signed certification that he has notified EPA and the Secretary under Section 3010 of RCRA and identified his hazardous waste fuel activities.

(6) Record Keeping. In addition to the applicable record-keeping requirements of COMAR 26.13.03 and 26.13.05, a marketer shall keep a copy of each certification notice he receives or sends for 3 years from the date he last engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice.

F. Standards Applicable to Burners of Hazardous Waste Fuel. Owners and operators of industrial furnaces and boilers identified in §B(2) that burn hazardous waste fuel for energy recovery are "burners", and are subject to the following requirements:

(1) Prohibitions. The prohibitions under §B.

(2) The substantive and procedural requirements of COMAR 26.13.05.16 and COMAR 26.13.07.05.

(3) Notification. Notification requirements under Section 3010 of RCRA for hazardous waste fuel activities. Even if a burner has previously notified EPA of his hazardous waste management activities and obtained a U.S. EPA identification number, he shall renotify the U.S. EPA and the Secretary to identify his hazardous waste fuel activities.

(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

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(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.

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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.

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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.

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(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, mercury-containing equipment, 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.

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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-Containing Equipment, 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, mercury-containing equipment, 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:

(1) A lamp, mercury-containing equipment, or a PCB-containing lamp ballast if the item is:

(a) Not yet a waste under COMAR 26.13.02, as described in §C of this regulation; and

(b) Not hazardous waste as defined in COMAR 26.13.02.03; and

(2) Mercury-containing equipment from which all mercury-containing components have been removed.

C. Determination of When a Lamp, Mercury-Containing Equipment, or a PCB-Containing Lamp Ballast Becomes a Waste.

(1) A used lamp, used mercury-containing equipment, or a used 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).

(2) An unused lamp, unused mercury-containing equipment, or an unused 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)(e) 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

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(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 Mercury-Containing Equipment — Specific Management Standards.

A. General.

(1) A small quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents release of any universal waste or any component of universal waste to the environment.

(2) For the purposes of this regulation, "open original housing" means a tube or similar object that is open at one end and that holds mercury while the mercury performs a function in a piece of mercury-containing equipment.

B. A small quantity handler of universal waste:

- (1) Shall place any universal waste mercury-containing equipment identified in §B(2) of this regulation 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 mercury-containing equipment;
 - (d) Free of evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

and

(e) Reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means;

(2) Shall place the following universal waste mercury-containing equipment in a container that satisfies the requirements of §B(1)(a)—(c) of this regulation:

(a) Mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(b) Mercury-containing equipment with noncontained elemental mercury, such as equipment that contains mercury in:

(i) An open original housing that has not been sealed in a way that prevents release of mercury to the environment during accumulation or transportation; or

(ii) A part of the device into which mercury has escaped from the part of the device designed to hold mercury, such as a valve that separates mercury in the mercury-containing equipment from the rest of the device; and

(c) Ancillary equipment, such as a valve or other component of mercury-containing equipment that has come into contact with mercury and been removed from the mercury-containing equipment;

(3) May remove mercury-containing ampules from universal waste mercury-containing equipment, if the handler:

(a) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(b) Removes ampules only over or in 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(3)(d) of this regulation;

(d) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device required by §B(3)(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;

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- (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(3)(g) of this regulation;
- (4) May remove an open original housing holding mercury from universal waste mercury-containing equipment if the handler:
- (a) Immediately seals the original housing holding the mercury with an air-tight seal to prevent any release of mercury to the environment; and
 - (b) In handling the open original housing and the original housing after it has been sealed, manages the housing in accordance with the requirements of §B(3) of this regulation that apply to mercury-containing ampules;
- (5) May remove from mercury-containing equipment any ancillary equipment that has come in contact with mercury and may manage it as universal waste mercury-containing equipment if the handler:
- (a) Removes and manages the ancillary equipment in a manner designed to prevent releases of mercury;
 - (b) Removes the ancillary equipment only over or in a containment device, such as a tray or pan, sufficient to collect and contain any mercury that may be released from the ancillary equipment; and
 - (c) Manages the ancillary equipment during and after its removal in accordance with the requirements of §B(3)(c)—(h) of this regulation that apply to intact or broken mercury-containing ampules; and
- (6) Shall comply with the following requirements if the handler removes mercury-containing ampules or ancillary equipment from mercury-containing equipment, or if the handler seals mercury from mercury-containing equipment in its original housing:
- (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, housings, or ancillary equipment, such as the remaining mercury-containing device;
 - (b) If a waste identified in §B(6)(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(6)(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;

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(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;

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(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;

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(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) Except as provided in §A(3) of this regulation, clearly label or mark each item of universal waste mercury-containing equipment that is not in a container, and each container in which universal waste mercury-containing equipment is being held, with one of the following phrases:

(i) "Universal Waste - Mercury-Containing Equipment";

(ii) "Waste Mercury-Containing Equipment"; or

(iii) "Used Mercury-Containing Equipment";

(c) 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)".

(3) As an alternative to the requirements of §A(2)(d) of this regulation, a small quantity handler of universal waste mercury-containing equipment may clearly label or mark a universal waste mercury-containing thermostat or a container that holds only universal waste mercury-containing thermostats with any of the following phrases:

(a) "Universal Waste - Mercury Thermostats";

(b) "Waste Mercury Thermostat(s)"; or

(c) "Used Mercury Thermostat(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

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(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-transportes 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.

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(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 Acknowledgment 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.

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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, mercury-containing equipment, and lamps"; and
- (v) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time;

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 Mercury-Containing Equipment. A large quantity handler of universal waste shall manage universal waste mercury-containing equipment 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.

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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.

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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, (1) 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.

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.24 Universal Waste — Import Requirements.**A. Applicability.**

(1) This regulation establishes requirements for persons managing universal waste outside the United States 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.

.26 Special Requirements for Fluorescent Lamps.

A. Applicability. This regulation applies to fluorescent lamps that exhibit the toxicity characteristic of COMAR 26.13.02.14 and that are:

(1) Generated by small quantity generators, that is, persons that generate and accumulate hazardous waste in amounts less than those identified in COMAR 26.13.02.05A, C, and D(3); or

(2) Household waste, as defined in COMAR 26.13.02.04-1B.

B. Disposition of Waste Fluorescent Lamps.

(1) A person that generates, in a calendar year, more than 200 kilograms of waste fluorescent lamps meeting the criteria of §A of this regulation shall assure that the waste lamps are delivered to a:

(a) Reclamation facility, as defined in §C of this regulation; or

(b) Destination facility, as defined in COMAR 26.13.01.03B.

Agency note: 200 kilograms represents, for example, approximately 720 4-foot T12 fluorescent lamps.

(2) For the purposes of §B(1) of this regulation, waste fluorescent lamps include lamps that are to be disposed and lamps that are to be recycled.

(3) Unless otherwise provided under federal or State law:

(a) An owner or operator of an industrial or commercial property may assign the responsibility for ensuring compliance with the requirements of §B(1) of this regulation to a tenant who is otherwise responsible for maintaining the property through a written agreement with the tenant; and

(b) If a tenant is responsible for assuring compliance under §B(3)(a) of this regulation and fails to do so, the owner of the property is not liable for the failure to comply.

C. For the purposes of this regulation, "reclamation facility" means a site:

(1) Where equipment is used to recapture mercury from mercury-added fluorescent lamps for the purpose of recycling or reusing the mercury; or

(2) That collects mercury containing components from mercury-added fluorescent lamps for the eventual recapture and recycling or reuse of the mercury.

.27 Military Munitions.

A. Applicability.

(1) This regulation and Regulations .28—.31 of this chapter specify the:

(a) Circumstances under which military munitions become a solid waste; and

(b) Management standards that apply if a military munition is a hazardous waste under this regulation, Regulations .28—.31 of this chapter, or COMAR 26.13.02.

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(2) Unless otherwise specified in this regulation or Regulations .28—.31 of this chapter, all applicable requirements in COMAR 26.13.01—26.13.07 and 26.13.10.01—.04 apply to waste military munitions.

B. Definition of Military Munitions as Solid Waste.

(1) A military munition is not a solid waste when:

(a) Used for its intended purpose, including:

(i) Use in training military personnel or explosives and munitions emergency response specialists, including training in proper destruction of unused propellant or other munitions;

(ii) Use in research, development, testing, and evaluation of military munitions, weapons, or weapons systems; or

(iii) Recovery, collection, and on-range destruction of conventional unexploded ordnance, munitions, and munitions fragments during range clearance activities at active or inactive ranges; or

(b) An unused munition, or component of it, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to material recovery activities, and none of these activities involve:

(i) Disposal as defined in COMAR 26.13.02.02C(1); or

(ii) Burning for energy recovery as defined in COMAR 26.13.02.02C(2).

(2) For the purposes of §B(1)(a) of this regulation, "used for its intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(3) An unused military munition is a solid waste when any of the following occurs:

(a) The munition is abandoned by being:

(i) Disposed of;

(ii) Burned;

(iii) Detonated, except during intended use as specified in §B(1) of this regulation;

(iv) Incinerated;

(v) Treated; or

(vi) Treated before disposal;

(b) The munition is removed from storage in a military magazine or other storage area for the purpose of being:

(i) Disposed of;

(ii) Burned or incinerated;

(iii) Treated; or

(iv) Treated before disposal;

(c) The integrity of the munition is compromised by cracks, leaks, or other damage or the munition is otherwise deteriorated or damaged, to the point that the munition cannot be:

(i) Put into serviceable condition; or

(ii) Reasonably recycled or used for other purposes; or

(d) The munition has been declared a solid waste by an authorized military official.

(4) A used or fired military munition is a solid waste:

(a) When transported off-range, or from the site of use where the site of use is not a range, for the purposes of:

(i) Disposal;

(ii) Reclamation;

(iii) Storage;

(iv) Treatment; or

- (v) Treatment before disposal; or
- (b) If recovered, collected, and disposed of by burial or landfilling either on-range or off-range.
- (5) Used or Fired Military Munitions Landing Off-Range.
 - (a) For the purposes of RCRA §1004(27), a used or fired military munition is a solid waste, and, therefore, if the munition lands off-range and is not promptly rendered safe, retrieved, or both, is potentially subject to:
 - (i) RCRA corrective action authorities under RCRA §§3004(u) and (v) and 3008(h) and analogous State authorities; or
 - (ii) Imminent and substantial endangerment authorities under RCRA §7003, or analogous State authorities.
 - (b) A person who is responsible for causing a used or fired military munition to land off-range shall address any imminent and substantial threats associated with any remaining material from the munition.
 - (c) If remedial action to address threats associated with the landing of a used or fired military munition off-range is infeasible, the operator of the range shall:
 - (i) Maintain a record of the event for at least as long as any threat remains; and
 - (ii) Include as part of the record of the event specific information on the type of munition and the location of the munition, to the extent the location is known.

.28 Standards Applicable to the Transport of Solid Waste Military Munitions.

A. Scope and Applicability. This regulation:

- (1) Applies to the transport of military munitions by:
 - (a) The military; and
 - (b) Commercial carriers who are under contract with the military and have signed a contractual compliance agreement with the Military Traffic Management Command or its successor; and
- (2) Does not apply to the transport of waste military munitions by persons who are not required by the U.S. Department of Defense (DOD) to comply with DOD military munitions shipping controls.

B. Criteria for Hazardous Waste Regulation of Waste Nonchemical Military Munitions in Transportation.

- (1) Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as a hazardous waste under COMAR 26.13.02 are listed or identified as a hazardous waste and are subject to COMAR 26.13.01—26.13.07 and 26.13.10.01—.04, unless all the following conditions are met:
 - (a) The waste military munitions are not chemical agents or chemical munitions;
 - (b) The waste military munitions are:
 - (i) Required by the U.S. Department of Defense (DOD) to be transported in accordance with DOD shipping controls applicable to the transport of military munitions; and
 - (ii) Transported in accordance with DOD shipping controls identified in §D of this regulation;
 - (c) The waste military munitions are transported from an installation owned or operated by the military to a treatment, storage, disposal, or recycling facility owned or operated by the military;
 - (d) The transporter of the waste military munitions provides oral notice to the Secretary within 24 hours from the time the transporter becomes aware of:
 - (i) Any loss or theft of the waste military munitions; or
 - (ii) Any failure to meet a requirement of §B(1) of this regulation that may endanger human health or the environment;
 - (e) The transporter of the waste military munitions provides a written submission to the Secretary:
 - (i) Within 5 days from the time the transporter becomes aware of any loss or theft of the waste military munitions, or any failure to meet a requirement of §B(1) of this regulation; and
 - (ii) Describing the circumstances associated with the events identified in §B(1)(e)(i) of this regulation.

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(2) If any waste military munitions shipped under §B(1) of this regulation are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility shall report this nonreceipt to the Secretary within 5 days.

(3) The exemption in §B(1) of this regulation from regulation as hazardous waste:

(a) Applies only to the transportation of nonchemical waste military munitions; and

(b) Does not affect the regulatory status of waste military munitions as hazardous waste with regard to storage, treatment, or disposal.

(4) The conditional exemption in §B(1) of this regulation applies only as long as all the conditions in §B(1) of this regulation are met.

C. Reinstatement of Exemption.

(1) If any waste military munition loses its exemption under §B(1) of this regulation, a person responsible for managing the munition may file an application with the Secretary for reinstatement of the exemption from hazardous waste transport regulation with respect to the waste military munition as soon as the waste military munition is returned to compliance with the conditions of §B(1) of this regulation.

(2) If the Secretary finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the Secretary may reinstate the exemption under §B(1) of this regulation.

(3) If the Secretary does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be considered to have been granted, retroactive to the date of the application.

(4) The Secretary may terminate a reinstatement of a conditional exemption that occurred by default under §C(3) of this regulation, if the Secretary finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or a failure to demonstrate that the violations are not likely to recur.

(5) In reinstating the exemption under §B(1) of this regulation, the Secretary may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

D. Department of Defense Shipping Controls—Definition and Amendments.

(1) The Department of Defense shipping controls referred to in §B(1)(b) of this regulation are the following, as constituted on November 8, 1995, except as provided in §D(2) of this regulation:

(a) For military transporters:

(i) DD Form 626, "Motor Vehicle Inspection (Transporting Hazardous Materials)";

(ii) DD Form 836, "Dangerous Goods Shipping Papers/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles";

(iii) DD Form 1348-1A, "Issue Release/Receipt Document"; and

(iv) DD Form 1907, "Signature and Tally Record"; and

(b) For commercial carriers who are under contract with the military and have signed a contractual compliance agreement with the Military Traffic Management Command or its successor:

(i) GSA Form 1103, "U.S. Government Bill of Lading";

(ii) DD Form 626, "Motor Vehicle Inspection (Transporting Hazardous Materials)"; and

(iii) DD Form 1907, "Signature and Tally Record".

(2) For the purposes of §B(1)(b) of this regulation, a person shall adhere to the Department of Defense shipping controls identified in §D(1) of this regulation as amended by the Department of Defense, with the effective date of an amendment being the date the Department of Defense publishes notice in the Federal Register that the shipping control has been amended.

.29 Standards Applicable to Emergency Responses.

A. The following requirements are applicable to explosives and munitions emergencies involving military munitions or explosives: COMAR 26.13.03.01J, 26.13.04.01A(4), 26.13.05.01A(3)(h) and D(5)---(6), 26.13.06.01A(4)(h) and (5), and 26.13.07.01A.

B. If not exempted under the regulations cited in §A of this regulation, explosives and munitions emergencies involving military munitions or explosives may be subject to COMAR 26.13.07.14, which concerns emergency permits.

.30 Standards Applicable to the Storage of Solid Waste Military Munitions.

A. Criteria for Hazardous Waste Regulation of Waste Nonchemical Military Munitions in Storage.

(1) A waste military munition in storage that exhibits a characteristic of hazardous waste or is listed as hazardous waste under COMAR 26.13.02 is listed or identified as a hazardous waste and is subject to COMAR 26.13.01—26.13.10, unless all the following conditions are met:

(a) The waste military munition is not a chemical agent or chemical munition;

(b) The waste military munition is subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB) or its successor agency;

(c) The waste military munition is stored in accordance with DDESB storage standards applicable to waste military munitions, as identified in §E of this regulation;

(d) The owner of the munition assures that access to the stored waste military munitions is limited to appropriately trained and authorized personnel; and

(e) The owner or operator of the storage unit in which the waste military munition is being managed:

(i) Notifies the Secretary, in writing, of the location of the waste storage unit by January 26, 2009, or within 90 days of when the storage unit is first used to store waste military munitions, whichever is later;

(ii) Provides oral notice to the Secretary within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of §A(1) of this regulation that may endanger human health or the environment;

(iii) Provides a written submission to the Secretary within 5 days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of §A(1) of this regulation, describing the circumstances of the incident;

(iv) Conducts an inventory of the waste military munitions at least once each calendar year, with no more than 365 days elapsing between inventory dates;

(v) Inspects the waste military munitions at least once per quarter for compliance with the conditions of §A(1) of this regulation; and

(vi) Maintains records of the findings of the inventories and inspections required by §A(1)(e)(iv) and (v) of this regulation for at least 3 years.

(2) The conditional exemption in §A(1) of this regulation from regulation as hazardous waste:

(a) Applies only to the storage of nonchemical waste military munitions; and

(b) Does not affect the regulatory status of waste military munitions as hazardous waste with regard to transportation, treatment, or disposal.

(3) The conditional exemption in §A(1) of this regulation applies only as long as all of the conditions in §A(1) of this regulation are met.

B. Notice of Termination of Waste Storage. The owner or operator shall notify the Secretary in writing when a storage unit identified in §A(1)(e)(i) of this regulation will no longer be used to store waste military munitions.

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C. Reinstatement of Conditional Exemption.

(1) If any waste military munition loses its conditional exemption from hazardous waste storage regulations under §A(1) of this regulation, the owner or operator of the unit in which the waste is being stored may file an application with the Secretary for reinstatement of the conditional exemption.

(2) The owner or operator may file the application for reinstatement of the conditional exemption under §C(1) of this regulation as soon as the waste military munition is returned to compliance with the conditions of §A(1) of this regulation.

(3) If the Secretary finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the Secretary may reinstate the conditional exemption under §A(1) of this regulation.

(4) If the Secretary does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement is considered to have been granted, retroactive to the date of the application.

(5) The Secretary may terminate the reinstatement of a conditional exemption that occurred by default under §C(4) of this regulation, if the Secretary finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or a failure to demonstrate that the violations are not likely to recur.

(6) In reinstating the exemption under §A(1) of this regulation, the Secretary may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

D. Waste Chemical Munitions.

(1) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under COMAR 26.13.02 are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of COMAR 26.13.

(2) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as a hazardous waste under COMAR 26.13.02 are not subject to the storage prohibition in RCRA §3004(j), codified at 40 CFR §268.50.

E. Department of Defense Explosive Safety Board (DDESB) Standards—Applicability and Amendments.

(1) The DDESB storage standards applicable to waste military munitions referenced in §A(1)(c) of this regulation are DOD 6055.9-STD, "DOD Ammunition and Explosives Safety Standards" as adopted by the DDESB effective October 5, 2004, except as provided in §E(2) of this regulation.

(2) For the purposes of §A(1)(c) of this regulation, "DDESB storage standards applicable to waste military munitions" become an amended version of the standards referenced in §E(1) of this regulation on the date the Department of Defense publishes notice in the Federal Register that the DDESB standard has been amended.

.31 Standards Applicable to the Treatment and Disposal of Waste Military Munitions.

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in COMAR 26.13.01—26.13.10.

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Regulation .06B amended effective May 1, 2008 (35:8 Md. R. 809)

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Regulation .09 amended effective May 1, 2008 (35:8 Md. R. 809)
Regulation .14 amended effective May 1, 2008 (35:8 Md. R. 809)
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