



# Maryland Register

Issue Date: July 2, 2021

Volume 48 • Issue 14 • Pages 527—584

## IN THIS ISSUE

**Governor  
Judiciary  
Regulations  
Special Documents  
General Notices**

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before June 14, 2021, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of June 14, 2021.

Gail S. Klakring  
Administrator, Division of State Documents  
Office of the Secretary of State



# Information About the Maryland Register and COMAR

## MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
- Agency Hearing and Meeting Notices
- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

## CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

## CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

## CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: COMAR 10.08.01.03 refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

## DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the Maryland Register by an Editor's Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the Maryland Register published each year. For further information, call 410-974-2486.

## HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at <http://www.dsd.state.md.us/PDF/CumulativeTable.pdf>. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

## SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

## CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see "Opportunity for Public Comment" at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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**Lawrence J. Hogan, Jr.**, Governor; **John C. Wobensmith**, Secretary of State; **Gail S. Klakring**, Administrator; **Mary D. MacDonald**, Senior Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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Illustrations by Carolyn Anderson, Dept. of General Services

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## PERSONS WITH DISABILITIES

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## COMAR Online

The Code of Maryland Regulations is available at [www.dsd.state.md.us](http://www.dsd.state.md.us) as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at [www.dsd.state.md.us](http://www.dsd.state.md.us).

For additional information, visit [www.dsd.state.md.us](http://www.dsd.state.md.us), Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

## Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title "Maryland Documents". This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. "Maryland Documents" also includes local publications.

Anyone wishing to receive "Maryland Documents" should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

## CLOSING DATES AND ISSUE DATES THROUGH JANUARY 2022

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Notices, etc. 10:30 a.m.	Final Regulations 10:30 a.m.
<b>2021</b>			
July 16	June 28	July 2**	July 7
July 30	July 12	July 19	July 21
August 13	July 26	August 2	August 4
August 27	August 9	August 16	August 18
September 10	August 23	August 30	September 1
September 24	September 3**	September 13	September 15
October 8	September 20	September 27	September 29
October 22	October 4	October 8**	October 13
November 5	October 18	October 25	October 27
November 19	November 1	November 8	November 10
December 3	November 15	November 22	November 24
December 17	November 29	December 6	December 8
<b>2022</b>			
January 3***	December 13	December 20	December 22
January 14	December 27	January 3	January 5
January 28	January 10	January 14**	January 19

\* Deadlines are for submissions to **DSD** for publication in the Maryland Register and do not take into account the 15-day AELR review period. Due date for documents containing 8 to 18 pages is 48 hours before the date listed; due date for documents exceeding 18 pages is 1 week before the date listed.

**NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9-POINT, SINGLE-SPACED FORMAT. THE PAGE COUNT REFLECTS THIS FORMATTING.**

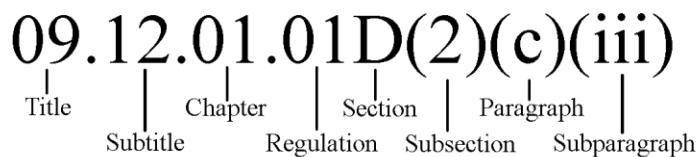
\*\* Note closing date changes.

\*\*\* Note issue date changes.

The regular closing date for Proposals and Emergencies is Monday.

## REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.



A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

## Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at [www.dsd.state.md.us](http://www.dsd.state.md.us).

### Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by "(err)". Regulations referencing a document incorporated by reference are followed by "(ibr)". None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

#### **03 COMPTROLLER OF THE TREASURY**

**03.02.04.01** • 48:1 Md. R. 13 (1-4-21)

#### **08 DEPARTMENT OF NATURAL RESOURCES**

**08.03.02.28** • 48:14 Md. R. 539 (7-2-21)

#### **09 MARYLAND DEPARTMENT OF LABOR**

**09.10.01.07** • 48:10 Md. R. 403 (5-7-21)

**09.10.01.17** • 48:12 Md. R. 476 (6-4-21)

**09.10.03.08** • 48:7 Md. R. 261 (3-26-21)

**09.26.02.06** • 46:21. R. 898 (10-11-19)

#### **10 MARYLAND DEPARTMENT OF HEALTH**

##### **Subtitles 01—08 (1st volume)**

**10** • 48:4 Md. R. 190 (2-12-21) (err)

##### **Subtitle 09 (2nd volume)**

**10.09.92.08** • 48:3 Md. R. 104 (1-29-21)

48:4 Md. R. 190 (2-12-21) (err)

##### **Subtitles 10 — 22 (3rd Volume)**

**10.10.13.12** • 48:3 Md. R. 105 (1-29-21)

##### **Subtitles 23—36 (4th volume)**

**10.24.07.01,02** • 48:10 Md. R. 403 (5-7-21) (ibr)

**10.24.21.01** • 48:10 Md. R. 404 (5-7-21) (ibr)

**10.27.01.01,05,10** • 47:23 Md. R. 987 (11-6-20)

##### **Subtitles 37—68 (5th volume)**

**10.52.12.05** • 48:3 Md. R. 105 (1-29-21)

**10.62.01.01** • 48:12 Md. R. 476 (6-4-21)  
**10.62.03.01** • 48:12 Md. R. 476 (6-4-21)  
**10.62.04.04,05** • 48:12 Md. R. 476 (6-4-21)  
**10.62.08.02,05,10** • 48:12 Md. R. 476 (6-4-21)  
**10.62.10.02** • 48:12 Md. R. 476 (6-4-21)  
**10.62.15.08** • 48:12 Md. R. 476 (6-4-21)  
**10.62.16.06** • 48:12 Md. R. 476 (6-4-21)  
**10.62.18.01,04—10** • 48:12 Md. R. 476 (6-4-21)  
**10.62.19.02,04,09** • 48:12 Md. R. 476 (6-4-21)  
**10.62.21.02** • 48:12 Md. R. 476 (6-4-21)  
**10.62.22.02,03,06,07** • 48:12 Md. R. 476 (6-4-21)  
**10.62.25.02,05,10** • 48:12 Md. R. 476 (6-4-21)  
**10.62.27.02,08—10** • 48:12 Md. R. 476 (6-4-21)  
**10.62.28.02,03** • 48:12 Md. R. 476 (6-4-21)  
**10.62.30.04,08,09** • 48:12 Md. R. 476 (6-4-21)  
**10.62.35.01** • 48:12 Md. R. 476 (6-4-21)  
**10.62.36.01** • 48:12 Md. R. 476 (6-4-21)  
**10.64.02.01—03** • 47:23 Md. R. 1002 (11-6-20)

#### **11 DEPARTMENT OF TRANSPORTATION**

##### **Subtitles 01—10**

**11.02.09.01—03** • 48:11 Md. R. 429 (5-21-21)

#### **12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

**12.02.29.01—04** • 48:14 Md. R. 540 (7-2-21)

**12.08.01.17,18,23** • 48:14 Md. R. 540 (7-2-21)

#### **13A STATE BOARD OF EDUCATION**

**13A.03.08.01—08** • 48:9 Md. R. 364 (4-23-21)

#### **13B MARYLAND HIGHER EDUCATION COMMISSION**

**13B.03.01.01,03,04,13,14** • 48:11 Md. R. 431 (5-21-21) (ibr)

**14 INDEPENDENT AGENCIES**

**14.01.01.01** • 48:14 Md. R. 543 (7-2-21)  
**14.01.02.01—.05** • 48:14 Md. R. 544 (7-2-21)  
**14.22.01.09** • 48:14 Md. R. 545 (7-2-21)  
**14.27.02.01,.02,.25** • 48:14 Md. R. 546 (7-2-21)  
**14.27.03.03,.04** • 48:14 Md. R. 546 (7-2-21)

**15 MARYLAND DEPARTMENT OF AGRICULTURE**

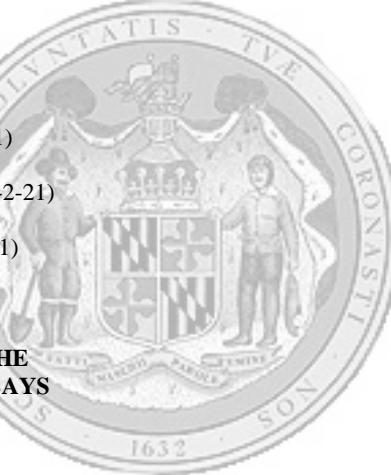
**15.15.11.03—.05,.06** • 48:10 Md. R. 405 (5-7-21)  
**15.15.16.02** • 48:10 Md. R. 408 (5-7-21)

**20 PUBLIC SERVICE COMMISSION**

**20.31.05.01,.05,.07—.09** • 48:10 Md. R. 407 (5-7-21)  
**20.79.01.05—.11** • 48:13 Md. R. 511 (6-18-21)  
**20.79.02.01,.02** • 48:13 Md. R. 515 (6-18-21)  
**20.79.03.01—.07** • 48:13 Md. R. 516 (6-18-21)

**26 DEPARTMENT OF THE ENVIRONMENT****Subtitles 13 — 18 (Part 3)**

**26.13.01.02,.03,.03-1,.04,.05** • 48:14 Md. R. 547 (7-2-21)  
**26.13.02.01,.02,.04,.04-3,.04-4,.05,.06,.10,.15,.17,.19-1—.19-8,.23** • 48:14 Md. R. 547 (7-2-21)  
**26.13.03.01,.04,.06,.07—.07-5** • 48:14 Md. R. 547 (7-2-21)  
**26.13.04.01,.02** • 48:14 Md. R. 547 (7-2-21)  
**26.13.05,.01,.02,.02-2,.05,.11—.14** • 48:14 Md. R. 547 (7-2-21)  
**26.13.06.01,.02,.19—.22,.25** • 48:14 Md. R. 547 (7-2-21)  
**26.13.07.02-4,.02-5,.02-8,.13-2** • 48:14 Md. R. 547 (7-2-21)  
**26.13.09.01—.03** • 48:14 Md. R. 547 (7-2-21)  
**26.13.10.03,.04,.18,.21—.24** • 48:14 Md. R. 547 (7-2-21)

**27 CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS**

**27.01.01.01** • 48:9 Md. R. 371 (4-23-21)  
**27.01.06.01—.03** • 48:9 Md. R. 371 (4-23-21)  
**27.01.09.01-6** • 48:9 Md. R. 371 (4-23-21)  
**27.01.14.02-1,.03** • 48:13 Md. R. 519 (6-18-21)  
**27.02.01.01** • 48:9 Md. R. 371 (4-23-21)  
**27.02.03.01** • 48:9 Md. R. 371 (4-23-21)  
**27.02.05.07,.09** • 48:9 Md. R. 371 (4-23-21)  
**27.02.07.02,.02-1** • 48:13 Md. R. 519 (6-18-21)  
**27.03.01.01** • 48:9 Md. R. 371 (4-23-21)  
**27.03.01.04** • 48:13 Md. R. 519 (6-18-21)

**30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)**

**30.08.11.15** • 48:12 Md. R. 483 (6-4-21)

**31 MARYLAND INSURANCE ADMINISTRATION**

**31.03.13.02,.04** • 48:11 Md. R. 432 (5-21-21)  
**31.04.14.01—.03** • 48:13 Md. R. 520 (6-18-21)  
**31.05.08.24,.28** • 48:8 Md. R. 322 (4-9-21)

# The Governor

## ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 21-06-15-01

### Terminating Various Emergency Orders

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, and December 23, 2020, and January 21, February 19, March 18, April 16, May 12 and June 12, 2021, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Termination of Certain Orders, Effective July 1, 2021. Each of the orders listed below in this section I shall be rescinded and of no further effect as of 12:01 a.m. on July 1, 2021:

a. the Order of the Governor of the State of Maryland number 21-05-14-01, entitled “Amending and Restating the Order of May 12, 2021, Requiring Use of Face Coverings in Certain Circumstances”;

b. the Order of the Governor of the State of Maryland, dated March 12, 2020, entitled “For the Implementation of Elevated Level II of Pandemic Flu and Other Infectious Diseases Attendance and Leave Policy for Executive Branch State Employees”;

c. the Order of the Governor of the State of Maryland number 20-12-17-01, entitled “Authorizing Quarantine and/or Testing of Travelers”;

d. the Order of the Governor of the State of Maryland number 21-05-12-02, entitled “Amending and Restating Order No. 20-05-29-01, Enabling Alternative Alcohol Services”;

e. the Order of the Governor of the State of Maryland number 20-06-11-01, entitled “Authorizing Suspension of Alcoholic Beverage License Fees”;

f. the Order of the Governor of the State of Maryland number 20-04-01-01, entitled “Amending and Restating Order No. 20-03-20-01 to Further Authorize Additional Telehealth Services”;

g. the Order of the Governor of the State of Maryland number 20-04-14-01, entitled “Preserving the Supply of Necessary Drugs”;

h. the Order of the Governor of the State of Maryland number 20-11-17-03, entitled “Implementing Alternative Correctional Detention and Supervision”;

i. the Order of the Governor of the State of Maryland number 20-04-29-03, entitled “Prohibiting Garnishment of CARES Act Recovery Rebates”;

j. the Order of the Governor of the State of Maryland number 21-03-15-01, entitled “Prohibiting Garnishment of American Rescue Plan Act of 2021 Rebates”;

k. the Order of the Governor of the State of Maryland number 20-03-23-02, entitled “Initiating a Process for Authorization of Laboratories in Maryland to Develop and Perform COVID-19 Testing”;

l. the Order of the Governor of the State of Maryland number 20-03-31-01, entitled “Adjusting the Timing of Certain Tax Deadlines and Oaths of Office”;

m. the Order of the Governor of the State of Maryland number 20-03-31-02, entitled “Determining that Disability Services Personnel are Health Care Providers Necessary for Maryland’s Response to COVID-19”;

n. the Order of the Governor of the State of Maryland number 2020-05-13-02, entitled “Enabling Alternative Processes for Marriage Applications and Ceremonies”;

o. the Order of the Governor of the State of Maryland number 20-03-25-01, entitled “Amending and Restating the Order of March 13, 2020, Controlling Child Care Access”;

p. the Order of the Governor of the State of Maryland number 21-01-28-02, entitled “Facilitating Meetings of Stockholders of Maryland Corporations and Meetings of Shareholders of Maryland Real Estate Investment Trusts by Remote Communication”;

q. the Order of the Governor of the State of Maryland number 20-03-30-03, entitled “Enabling Municipalities to Postpone Elections”; and

r. the Order of the Governor of the State of Maryland number 20-12-17-03, entitled “Exempting Santa Claus and His Affiliated Elves and Reindeer from Traveler Testing and Quarantine Requirements”.

II. Termination of Certain Orders, Effective August 15, 2021. Each of the orders listed below in this section II shall be rescinded and of no further effect as of 11:59 p.m. on August 15, 2021:

a. the Order of the Governor of the State of Maryland number 21-05-12-03, entitled “Delaying Expiration of Certain Motor Vehicle Administration Licenses, Permits, and Identification Cards”;

b. the Order of the Governor of the State of Maryland number 20-12-17-02, entitled “Amending and Restating the Order Dated October 16, 2020, Temporarily Prohibiting Evictions of Tenants Suffering Substantial Loss of Income Due to COVID-19, and Additionally Prohibiting Certain Repossessions, Restricting Initiation of Residential Mortgage Foreclosures, and Prohibiting Commercial Evictions”;

c. the Order of the Governor of the State of Maryland dated March 12, 2020, entitled “Calling the Maryland National Guard into State Active Duty”;

d. the Order of the Governor of the State of Maryland number 20-04-29-01, entitled “Amending and Restating the Order Dated April 5, 2020 Authorizing Various Actions Related to Nursing Homes and Other Health Care Facilities”;

e. the Order of the Governor of the State of Maryland number 20-05-19-01, entitled “Authorizing COVID-19 Testing by Licensed Pharmacists”;

f. the Order of the Governor of the State of Maryland number 20-11-17-02, entitled “Establishing Alternate Care Sites and Authorizing Regulation of Patient Care Space in Health Care Facilities”;

g. the Order of the Governor of the State of Maryland number 21-01-05-01, entitled “Requiring Reporting of COVID-19 Vaccine Administration”;

h. the Order of the Governor of the State of Maryland number 21-03-09-02, entitled “Amending and Restating the Order of March 16, 2020 Relating to Various Health Care Matters”;

i. the Order of the Governor of the State of Maryland number 20-03-30-02, entitled “Waiving Family Contributions for the Maryland Children’s Health Program”;

j. the Order of the Governor of the State of Maryland number 20-03-19-03, entitled “Augmenting the Emergency Medical Services Workforce”;

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k. the Order of the Governor of the State of Maryland number 20-09-29-02, entitled "Permitting Video and Electronic Maryland Insurance Administration Hearings";

l. the Order of the Governor of the State of Maryland number 20-09-29-01, entitled "Amending the Order of March 30, 2020, Authorizing Remote Notarizations";

m. the Order of the Governor of the State of Maryland number 20-04-10-01, entitled "Authorizing Remote Witnessing and Electronic Signing of Certain Documents"; and

n. the Order of the Governor of the State of Maryland number 21-03-09-03, entitled "Amending and Restating the Order of June 19, 2020, Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements".

### III. General Provisions.

a. This Order remains effective until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.

b. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.

c. The underlined section headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

d. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED under my hand this 15th day of June, 2021.

LAWRENCE J. HOGAN, JR.  
Governor

[21-14-18]

## ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 21-06-15-02

### Authorizing Suspension of Certain Legal Time Requirements by the Comptroller of Maryland

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, and December 23, 2020, and January 21, February 19, March 18, April 16, May 12 and June 12, 2021, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;

WHEREAS, During the state of emergency and catastrophic health emergency, social distancing can reduce the spread of COVID-19, and is particularly recommended for unvaccinated persons;

WHEREAS, The Comptroller of Maryland reports that, in response to the outbreak of COVID-19, his office has experienced a large volume of remote interactions with taxpayers, including telephone calls, emails, and virtual appointments, disrupting normal operations;

WHEREAS, This disruption of operations has impacted the Comptroller's ability to comply with legal or procedural deadlines, due dates, times of default, time expirations, periods of time, and other times of acts or events set forth in Title 13 of the Tax-General Article of the Maryland Code; and

WHEREAS, To reduce the threat to human health caused by transmission of COVID-19 in Maryland, and to protect and save lives, it is necessary and reasonable that the Comptroller suspend certain time requirements of the Tax-General Article of the Maryland Code;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

### I. Authorization for Comptroller to Suspend Legal Time Requirements.

a. The Comptroller of Maryland (the "Comptroller") may, upon a finding that the suspension will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event set forth in Title 13 of the Tax-General Article of the Maryland Code. The Comptroller shall provide reasonable public notice of any such suspension.

b. Each such suspension may, at the discretion of the Comptroller and to the extent that it will not endanger public health, welfare, or safety, continue until no later than August 15, 2021.

### II. General Provisions.

a. This Order shall terminate at 11:59 p.m. on August 15, 2021.

b. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.

c. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

d. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED under my hand this 15th day of June, 2021, and effective immediately.

LAWRENCE J. HOGAN, JR.  
Governor

[21-14-19]

## ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 21-06-15-03

### Delaying Expiration of Nursing Licenses

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, and December 23, 2020, and January 21, February 19, March 18, April 16, May 12, and June 12, 2021, to

control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;

WHEREAS, During the state of emergency and catastrophic health emergency, social distancing can reduce the spread of COVID-19, and is particularly recommended for unvaccinated persons;

WHEREAS, The State Board of Nursing has yet to fully restore normal business operations as a result of alternative working arrangements and remote interactions with the public in response to the outbreak of COVID-19;

WHEREAS, The effects of COVID-19's disruption of operations have impacted the timely processing of renewals of expiring licenses, permits, registrations, and other authorizations issued pursuant to Title 8 of the Health Occupations Article of the Maryland Code; and

WHEREAS, To reduce the threat to human health caused by transmission of COVID-19 in Maryland, and to protect and save lives, it is necessary and reasonable that licenses, permits, registrations, and other authorizations issued pursuant to Title 8 of the Health Occupations Article of the Maryland Code be extended during the state of emergency and catastrophic health emergency;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Expiration dates are extended until August 15, 2021, for all licenses, permits, registrations, and other authorizations that are issued by the State Board of Nursing pursuant to Title 8 of the Health Occupations Article of the Maryland Code and that would otherwise:

a. Expire prior to August 15, 2021, during the state of emergency and catastrophic health emergency; and  
b. Be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.

**II. General Provisions**

a. This Order shall terminate at 11:59 p.m. on August 15, 2021.  
b. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.  
c. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.  
d. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED under my hand this 15th day of June, 2021, and effective immediately.

LAWRENCE J. HOGAN, JR.  
Governor

[21-14-20]

## PROCLAMATION

### Renewal of Declaration of State of Emergency and Existence of Catastrophic Health Emergency — COVID-19

WHEREAS, on March 5, 2020, a state of emergency and catastrophic health emergency was, pursuant to the Maryland Constitution and Laws of Maryland, including but not limited to Title 14 of the Public Safety Article, and in an effort to control and prevent the spread of COVID-19, proclaimed within the entire State of Maryland;

WHEREAS, COVID-19 is a highly infectious respiratory disease that spreads easily from person to person and may result in serious illness or death;

WHEREAS, COVID-19 is a public health catastrophe and has been confirmed in all Maryland counties;

WHEREAS, rates of COVID-19 infection remain elevated in all 50 states, and the risk of further spread back to Maryland remains high;

WHEREAS, COVID-19 infection outbreaks continue to occur in Maryland through community transmission and because of travelers returning from out-of-state;

WHEREAS, since the declaration of a state of emergency and the existence of a catastrophic health emergency on March 5, 2020, there have been more than 460,000 laboratory-confirmed positive COVID-19 cases and more than 9,400 related deaths in Maryland, with increases in new confirmed cases daily;

WHEREAS, the proclamation declaring the emergencies was renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, March 18, 2021, April 16, 2021, and May 12, 2021;

WHEREAS, the spread of COVID-19 and variants in the state continues to pose an immediate threat to all Marylanders of extensive loss of life or serious disability;

WHEREAS, the emergency conditions, state of emergency, and catastrophic health emergency continue to exist;

WHEREAS, all levels of government in Maryland must deploy resources to protect public health and safety;

WHEREAS, continued emergency response by the State is needed to maintain and further progress through the Maryland Strong: Roadmap for Recovery, including expanding COVID-19 testing capacity, maintaining adequate patient surge capacity, supplying sufficient personal protective equipment, and executing a robust contact-tracing operation, and continuing the deployment and administration of COVID-19 vaccines; and

WHEREAS, to reduce the spread of COVID-19, the U.S. Centers for Disease Control and Prevention and the Maryland Department of Health recommend the use of face coverings for unvaccinated people in indoor public settings to the extent possible, continued social distancing, and avoiding large gatherings;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE MARYLAND CONSTITUTION AND THE LAWS OF MARYLAND,

THE GOVERNOR

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INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, HEREBY DECLARE THAT A STATE OF EMERGENCY AND CATASTROPHIC HEALTH EMERGENCY CONTINUES TO EXIST WITHIN THE ENTIRE STATE OF MARYLAND, RENEW THE MARCH 5, 2020, PROCLAMATION, AND FURTHER PROVIDE AND ORDER, EFFECTIVE IMMEDIATELY:

Health care providers who act in good faith under this catastrophic health emergency proclamation, including orders issued under the proclamation by the Governor and by other State officials acting at the direction of or under delegated authority from the Governor, have the immunity provided by § 14-3A-06 of the Public Safety Article of the Maryland Code.

GIVEN Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this 12th day of June, 2021.

LAWRENCE J. HOGAN, JR.  
Governor

ATTEST:

JOHN C. WOBENSMITH  
Secretary of State  
[21-14-21]



## The Judiciary

### COURT OF APPEALS OF MARYLAND DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated June 7, 2021, **SARAH RUTH BARNWELL** (CPF# 0806170018), 10411 Motor City Drive, Suite 750, Bethesda, Maryland 20817, has been replaced upon the register of attorneys in the Court of Appeals by an Order of the Court on June 7, 2021. Notice of this action is certified in accordance with (Maryland Rule 19-761).

\* \* \* \* \*

This is to certify that by an Order of this Court dated June 15, 2021, **JONATHAN DAVID SUSS** (CPF# 8906140236), 901 Ednor Road, Silver Spring, Maryland 20905, has resigned from the further practice of law in this State and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 19-735(e)).

[21-14-15]



# Final Action on Regulations

## Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- Single underline, italic indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- [[Double brackets]] indicate text deleted at the time of final action.

## Title 09

### MARYLAND DEPARTMENT OF LABOR

#### Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL MANAGEMENT COMPANIES, AND HOME INSPECTORS — REAL ESTATE APPRAISERS

##### 09.19.05 Code of Ethics

Authority: Business Occupations and Professions Article, §§16-208(a)(1) and (b), 16-216, and 16-220, Annotated Code of Maryland

###### Notice of Final Action

[21-048-F]

On June 8, 2021, the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors adopted the repeal of existing Regulation .01 and new Regulation .01 under **COMAR 09.19.05 Code of Ethics**. This action, which was proposed for adoption in 48:8 Md. R. 313 — 314 (April 9, 2021), has been adopted as proposed.

**Effective Date: July 12, 2021.**

TODD BLACKISTONE  
Executive Director

## Title 10

### MARYLAND DEPARTMENT OF HEALTH

#### Subtitle 06 DISEASES

##### 10.06.01 Communicable Diseases and Related Conditions of Public Health Importance

Authority: Health-General Article, §§2-104(b), 18-102, 18-103, 18-105, 18-208, and 24-107, Annotated Code of Maryland

###### Notice of Final Action

[21-037-F-I]

On June 9, 2021, the Secretary of Health adopted amendments to Regulations .01, .01-1, and .13 under **COMAR 10.06.01 Communicable Diseases and Related Conditions of Public Health Importance**. This action, which was proposed for adoption in 48:4 Md. R. 181—182 (February 12, 2021), has been adopted as proposed.

**Effective Date: July 12, 2021.**

DENNIS R. SCHRADER  
Secretary of Health

## Subtitle 13 DRUGS

### 10.13.04 Emergency Use Auto-Injectable Epinephrine Program

Authority: Health-General Article, §§2-104 and 13-7A-03, Annotated Code of Maryland

###### Notice of Final Action

[21-036-F]

On June 9, 2021, the Secretary of Health adopted amendments to Regulations .01—.03 under **COMAR 10.13.04 Emergency Use Auto-Injectable Epinephrine Program**. This action, which was proposed for adoption in 48:4 Md. R. 186—187 (February 12, 2021), has been adopted as proposed.

**Effective Date: July 12, 2021.**

DENNIS R. SCHRADER  
Secretary of Health

## Title 13A

### STATE BOARD OF EDUCATION

#### Subtitle 04 SPECIFIC SUBJECTS

##### 13A.04.13 Program in Physical Education

Authority: Education Article, §§2-205(c) and (h), 7-205.2, 7-409, and 7-4B-01—7-4B-06, Annotated Code of Maryland

###### Notice of Final Action

[21-060-F]

On June 22, 2021, the Maryland State Board of Education adopted amendments to Regulation .01 under **COMAR 13A.04.13 Program in Physical Education**. This action, which was proposed for adoption in 48:9 Md. R. 366—367 (April 23, 2021), has been adopted as proposed.

**Effective Date: July 12, 2021.**

MOHAMMED CHOWDHURY  
State Superintendent of Schools

# Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

## Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

## Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

## Title 08 DEPARTMENT OF NATURAL RESOURCES

### Subtitle 03 WILDLIFE

#### 08.03.02 Use of Wildlife Areas

Authority: Natural Resources Article, §§10-205 and 10-808, Annotated Code of Maryland

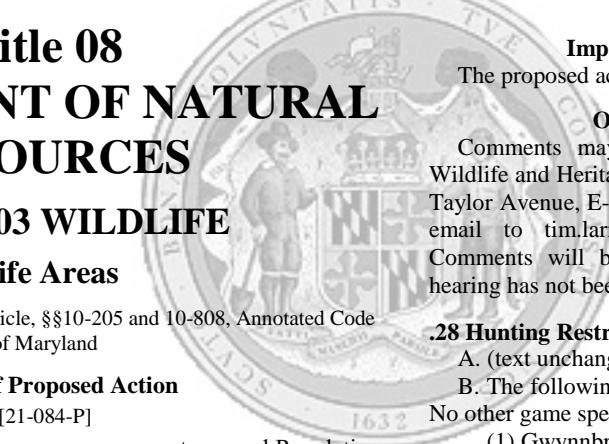
##### Notice of Proposed Action

[21-084-P]

The Secretary of Natural Resources proposes to amend Regulation .28 under COMAR 08.03.02 Use of Wildlife Areas.

##### Statement of Purpose

The purpose of this action is to remove certain prohibitions on wildlife management areas. In order to align deer hunting regulations applicable in wildlife management areas with those applicable in the rest of the State, the restriction on the use of breech loading rifles will be removed to allow the use of rifles shooting straight-walled cartridges. The use of straight-walled cartridges for deer is allowed by COMAR 08.03.04.05, which became effective on August 10, 2020. C&D Canal Lands are exempted from this action at the request of the U.S. Army Corps of Engineers, who owns the property. In addition, this action will open Gwynnbrook and Strider wildlife management areas to archery hunting for all game species, not just deer.



##### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

##### Opportunity for Public Comment

Comments may be sent to Tim Larney, Associate Director, Wildlife and Heritage Service, Department of Natural Resources, 580 Taylor Avenue, E-1, Annapolis, MD 21401, or call 410-260-8567, or email to [tim.larney@maryland.gov](mailto:tim.larney@maryland.gov), or fax to 410-260-8596. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

##### .28 Hunting Restrictions on Certain Wildlife Management Areas.

A. (text unchanged)

B. The following WMAs are open to [deer] archery hunting only[. No other game species may be hunted]:

- (1) Gwynnbrook; and
- (2) Strider.

C. (text unchanged)

[D. Breech loading rifles and handguns no larger than .25 caliber may be used on McKee-Beshers WMA.]

[E.] D. Breech loading rifles may not be used on [any WMA in counties listed in COMAR 08.03.04.05C and on] the [following areas:] C&D Canal Lands.

- (1) Avondale WMA;
- (2) C&D Canal Lands;
- (3) Earleville WMA;
- (4) Grove Farm WMA; and
- (5) Old Bohemia WMA.]

[F.] E.—[J.] I. (text unchanged)

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources

##### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

##### Estimate of Economic Impact

The proposed action has no economic impact.

##### Economic Impact on Small Businesses

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

# Title 12

## DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

### Notice of Proposed Action

[21-078-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Division of Correction and the Maryland Parole Commission, proposes to:

- (1) Adopt new Regulations **.01—.04** under a new chapter, **COMAR 12.02.29 Inmates Convicted as Adults While Younger than 18 Years Old**; and
- (2) Amend Regulations **.17, .18, and .23** under **COMAR 12.08.01 General Regulations**.

#### Statement of Purpose

The purpose of this action is to: (1) establish new procedures and criteria for the parole consideration of a juvenile lifer, who is an inmate convicted as an adult for a crime committed while younger than 18 years old who is serving a life sentence; (2) amend general procedures applicable to parole consideration; and (3) standardize the codification, format, and language of the existing regulatory text. These changes will provide a meaningful opportunity for release on parole, with the understanding that juvenile lifers do not have a liberty interest in being released on parole during their natural lifetime. This action further serves to articulate circumstances and procedures that the Division of Correction will use when determining the security status and program eligibility of a juvenile lifer. None of the proposed changes affect the constitutional or statutory rights of crime victims.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Robert L. Green, Secretary, Department of Public Safety and Correctional Services, c/o Elizabeth Bartholomew, Director of Policy and Regulation, 6776 Reisterstown Road, Ste. 310, Baltimore, MD 21215, or call 410-585-3388, or email to [elizabeth.bartholomew@maryland.gov](mailto:elizabeth.bartholomew@maryland.gov). Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

## Subtitle 02 DIVISION OF CORRECTION

### 12.02.29 Inmates Convicted as Adults While Younger than 18 Years Old

Authority: Correctional Services Article, §§2-109 and 3-205, Annotated Code of Maryland

#### .01 Scope.

A. This regulation applies solely to an inmate convicted of a crime that the inmate committed while younger than 18 years old and for which the inmate was sentenced to life imprisonment.

B. This regulation supersedes any conflicting regulation or policy.

#### .02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

##### B. Terms Defined.

(1) "Case manager" means the case management specialist assigned to an inmate during the case management process.

(2) "Commissioner" means the Commissioner of Correction.

(3) "Division" means the Division of Correction.

(4) "Inmate" has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland.

(5) "Inmate case record" means documentation assembled, maintained, and used under Correctional Services Article, §3-601, Annotated Code of Maryland.

(6) "Juvenile lifer" means an inmate serving a life sentence for a crime committed while younger than 18 years old.

(7) "Outside detail" means a work assignment at a location other than the facility where an inmate is housed, and during which the inmate is under the direct supervision of a correctional officer.

(8) "Programming" means the process of placing an inmate in programs that address the inmate's risks and needs.

##### (9) Release.

(a) "Release" means any type of discharge from custody of the Division.

(b) "Release" includes administrative release, parole, court ordered release, mandatory supervision release, expiration of sentence, work release, and community leave.

(c) "Release" does not include an escape.

(10) "Release date" means the date a juvenile lifer may be released from incarceration if the juvenile lifer:

(a) Has been conditionally approved for parole by the Governor; or

(b) Is entitled to release on mandatory supervision.

(11) "Secretary" means the Secretary of Public Safety and Correctional Services.

(12) "Security" means a correctional facility's physical features which help control inmate behavior and prevent escape.

#### .03 Classification.

##### A. Initial Security Classification.

(1) Upon intake of a juvenile lifer to a Division correctional facility and in accordance with the procedures established in COMAR 12.02.24, a case manager shall use the Division's initial security classification instrument to conduct an individualized assessment of the juvenile lifer to determine an appropriate security level as defined in COMAR 12.02.08.02.

(2) A Division case manager shall assign the juvenile lifer to the least restrictive security level consistent with the:

(a) Outcome of the security classification instrument;

(b) Identified risk and needs;

(c) Public safety; and

(d) Safe and orderly operation of the facility.

(3) After a juvenile lifer's initial classification, eligibility for a less restrictive security level that includes participation in an outside detail, a work release program, or specific programs shall be determined during the juvenile lifer's annual classification status review in accordance with the Case Management Manual and other applicable directives and regulations.

##### B. Security Reclassification and Status Review.

(1) A Division employee shall use the Division's security reclassification instrument to conduct an individualized assessment of the juvenile lifer to determine an appropriate security level as defined in COMAR 12.02.08.02:

(a) Annually in accordance with the Case Management Manual and other applicable directives and regulations; or

(b) Upon the Maryland Parole Commission's request following a hearing conducted in accordance with the provisions established in COMAR 12.08.01 to improve a juvenile lifer's suitability for parole.

(2) A juvenile lifer, regardless of whether the juvenile lifer has a release date, shall be eligible for reclassification to a security level below medium security, if approved by the Commissioner, or a designee of the Commissioner.

(3) A Division employee shall presume that a juvenile lifer is permitted to be assigned to the least restrictive security level, if the juvenile lifer's score on the security reclassification instrument indicates eligibility for a less restrictive security level than the juvenile lifer's current classification.

(4) A Division employee may not apply the mandatory override in the security classification instrument that precludes a juvenile lifer from assignment to a security level below medium security.

(5) Any override of the security classification instrument requires the Division employee to:

(a) Document the reason for the override in the inmate's case record; and

(b) Provide the juvenile lifer with a written explanation of the reason for the decision.

(6) If the Commissioner, or the Commissioner's designee, denies a juvenile lifer assignment to a security level below medium security, the Commissioner, or the Commissioner's designee, shall:

(a) Document the reason for the denial in the inmate's case record; and

(b) Provide the juvenile lifer with a written explanation of the reason for the decision.

(7) In order to improve a juvenile lifer's suitability for parole, a case manager, the warden, and the Commissioner shall give significant weight to the requests or recommendations of the Maryland Parole Commission that a juvenile lifer be permitted to be assigned to a less restrictive security level or participate in specified inmate programming.

(8) A juvenile lifer may not lose a privilege, job, or housing assignment in order to undergo a risk assessment or security status review as requested by the Maryland Parole Commission.

#### **.04 Program Eligibility.**

##### **A. Juvenile Lifer with a Release Date.**

(1) A juvenile lifer who has a release date shall be eligible for an outside detail or the work release program, if approved by the Commissioner, or the Commissioner's designee.

(2) If the Commissioner, or the Commissioner's designee, denies a juvenile lifer's participation in an outside detail or the work release program, the Commissioner, or the Commissioner's designee, shall:

(a) Document the reason for the denial in the inmate's case record; and

(b) Provide the juvenile lifer with a written explanation of the reason for the decision.

##### **B. Juvenile Lifer Without a Release Date.**

(1) If warranted by exceptional circumstances, a juvenile lifer who does not have a release date shall be eligible for an outside detail if recommended by the Commissioner of Correction, or a designee of the Commissioner, and approved by the Secretary.

(2) If the Secretary denies an outside detail for a juvenile lifer, the Secretary or the Secretary's designee shall:

(a) Document the reason for the denial in the inmate's case record; and

(b) Provide the juvenile lifer with a written explanation of the reason for the decision.

## **Subtitle 08 PAROLE COMMISSION**

### **12.08.01 General Regulations**

Correctional Services Article, §§2-109 and 7-207, Annotated Code of Maryland

#### **.17 Preparation for Parole Consideration.**

##### **A. Parole Consideration and Parole Hearings.**

(1)—(6) (text unchanged)

(7) Sentence of Life Imprisonment.

(a)—(g) (text unchanged)

(h) When the Commission determines that an inmate has demonstrated suitability for parole, the Commission may not send to the Governor a recommendation for commutation in lieu of a recommendation for parole.

(8)—(9) (text unchanged)

##### **B. (text unchanged)**

##### **C. Notice to Inmate and Access to Files.**

(1)—(4) (text unchanged)

(5) Review of Parole Commission File.

(a) (text unchanged)

(b) Except as provided in Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland, the inmate [or] and the inmate's representative may, on request, examine a document that the Commission or hearing examiner uses in determining whether the inmate is suitable for parole.

(c) Subject to the provisions stated in Correctional Services Article, §7-303b(1)(ii), Annotated Code of Maryland, the Commission may not withhold from an inmate or an inmate's representative a document or communication from the Office of the State's Attorney concerning an inmate who is being considered for parole unless the Commission believes that releasing the document would compromise the safety of one or more individuals.

[(c)] (d) Subject to the provisions [of] stated in Correctional Service Article, §7-303(b)(2), Annotated Code of Maryland, any documents submitted by a victim or the victim's designated representative shall be available for review by the inmate or the inmate's representative except when prohibited by Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland.

[(d)] (e) If a risk assessment is prepared for the Commission [contains diagnostic opinions, that assessment may not be available for examination, only a summary that does not contain the diagnostic opinions may be prepared and made available, upon request, to the inmate or the inmate's representative], the Commission shall upon receipt provide the inmate with a copy of the inmate's risk assessment or a summary of the risk assessment.

(f) If the Commission withholds any requested documents or portions of requested documents, the Commission shall provide the inmate or the inmate's representative with a list of each withheld document and a summary of the document's contents as required by Correctional Services Article, §7-303(b)(1)(iii), Annotated Code of Maryland.

(6) (text unchanged)

#### **.18 Consideration for Parole.**

##### **A. General.**

(1)—(2) (text unchanged)

(3) When deciding if an inmate serving a life sentence for a crime committed while younger than 18 years old is suitable for parole, the Commission shall consider whether the inmate has adequately demonstrated maturity and rehabilitation since commission of the crime.

[(3)] (4) In addition to the factors contained [under §A(1)—(2)] in §A(1)—(3) of this regulation, the Commission [considers] shall consider the following mitigating factors, to which it affords

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appropriate weight, in determining whether [a prisoner] *an inmate* who committed a crime as a juvenile is suitable for release on parole:

(a) (g) (text unchanged)

[4] (5) To make these determinations the Commission [examines] *shall examine*:

(a) The [offender's] *inmate*'s prior criminal and juvenile record and the [offender's] *inmate*'s response to prior incarceration, parole or probation, or both;

(b) The [offender's] *inmate*'s behavior and adjustment and the [offender's] *inmate*'s participation in institutional and self-help programs, *including progression to Division of Correction facilities with a less restrictive security classification*;

(c) The [offender's] *inmate*'s vocational, educational, and other training;

(d) The [offender's] *inmate*'s current attitude toward society, discipline, and other authority, etc.;

(e) The [offender's] *inmate*'s past use of narcotics, alcohol, or dangerous controlled substances;

(f) Whether the [offender] *inmate* has demonstrated emotional maturity and insight into [his] *the inmate*'s problems;

(g) Any reports or recommendations made by the sentencing judge, the institutional staff, or by a professional consultant such as a physician, psychologist, or psychiatrist;

(h) The [offender's] *inmate*'s employment plans, [his] occupational skills, and [his] job potential;

(i) The [offender's] *inmate*'s family status and stability;

(j) The [offender's] *inmate*'s ability and readiness to assume obligations and undertake responsibilities;

(k) The adequacy of the [offender's] *inmate*'s parole plan and the availability of resources to assist [him] *the inmate*;

(l) *The circumstances surrounding the crime, which diminish in significance as a consideration after the initial parole hearing; and*

[l] (m) Any other factors or information which the Commission may find relevant to the individual [offender's] *inmate*'s consideration for parole.

(6) *The Commission may recommend that an inmate serving a sentence for a crime committed while younger than 18 years old progress to a facility with a less restrictive security classification, as provided in §E(4) of this regulation, and if the inmate:*

(a) *Has completed all programming and treatment options available at the inmate's current security level;*

(b) *Would be afforded the opportunity to demonstrate parole suitability if placed in a lower security classification, or would benefit from the privileges, programming, and treatment programs that are available only at a less restrictive security classification; or*

(c) *Was previously found to be suitable for release by the Commission.*

(7) *Any risk assessment tool used by the Commission for determining the risk of an inmate shall include dynamic risk factors as a method for assessing risk and shall require the healthcare professional administering the tool to exercise independent clinical judgment in assessing risk.*

(8) *In deciding whether to recommend parole for an inmate serving a sentence of life imprisonment, the Commission may not consider whether the inmate has successfully completed a period of work release if the inmate has never been eligible for work release.*

B. (text unchanged)

C. Procedure.

(1) (text unchanged)

(2) [Parole hearings] *A parole hearing conducted by a parole commissioner or hearing [examiners] examiner shall be electronically or stenographically recorded to preserve a record for appeal [unless the inmate waives the recording in writing with an understanding the waiver might preclude an appeal].*

(3) [The record will] *Except as provided in §C(4) of this regulation, the recording shall:*

(i) [be] *Be destroyed 30 days after the hearing unless an appeal has been taken under the provisions of Regulation .19[.] of this chapter; or*

(ii) *In cases of appeal, [the record shall] be destroyed upon conclusion of the appeal hearing.*

(4) *The recording of a parole hearing conducted for an inmate serving a life sentence for a crime committed while younger than 18 years old shall be retained until the conclusion of the inmate's next parole hearing, or until the final disposition of any action seeking judicial review of the Commission's decision, whichever is later.*

[4] (5) *[Insofar as practicable,] Absent any unusual circumstances, the inmate's classification counselor [assigned to the prisoner] shall attend all hearings concerning that [person] inmate.*

(6) *The classification counselor, or other member of the institutional staff [having] who has knowledge of relevant facts, shall [always] be available to provide new information which may have developed since the completion of the reports [furnished] provided to the Commission, and to assist in answering questions which may arise concerning institutional policy.*

D. (text unchanged)

E. Decisions.

(1)—(2) (text unchanged)

(3) *A parole commissioner or hearing examiner issuing a written decision denying parole to an inmate serving a life sentence for a crime committed while younger than 18 years old shall:*

(a) *Include specific findings as to why the inmate has failed to demonstrate suitability for parole;*

(b) *Affirm that the Commission, in reaching the decision to deny parole, considered:*

(i) *The diminished culpability of youth;*

(ii) *The hallmark features of youth; and*

(iii) *An individual's capacity for growth and maturation;*

(c) *State why the Commission has determined that the inmate has not yet demonstrated sufficient maturity and rehabilitation;*

(d) *To the extent possible, provide guidance to the inmate that may improve the inmate's likelihood of demonstrating suitability at the next parole hearing;*

(e) *Provide specific recommendations with regard to programming and treatment, as appropriate; and*

(f) *Notify the inmate of the right to seek judicial review of the decision as permitted by law.*

(4) *If a parole commissioner or hearing examiner determines that an inmate serving a life sentence for a crime committed while younger than 18 years old is nearing suitability for parole, the Commission shall:*

(i) *Indicate that determination within the inmate's parole decision; and*

(ii) *Recommend that the inmate be transferred to a facility with a less restrictive security classification.*

[3] (5) If the Commission's decision [from the hearing] is to rehear the [prisoner's] *inmate*'s case at a later date and if the parole rehearing is open to the public under COMAR 12.08.02, the rehearing may be held up to 90 days later than the rehearing date specified in the decision.

(4) When further information is deemed necessary, the Commission may defer its decision pending receipt of the same. A final decision shall be promptly rendered upon receipt of the information and shall be served as provided by law unless the Commission elects to promptly reinterview the inmate before making its decision.]

[5] (6) (text unchanged)

(7) If the Commission requires additional information, it may defer issuing a decision pending receipt of the information and, upon receipt of the information, shall promptly:

- (a) Render and serve a final decision; or
- (b) Conduct another interview with the inmate before making a final decision.

(8) If the Commission decides not to recommend parole for an inmate serving a life sentence for a crime committed while younger than 18 years old, the Commission shall provide a copy of the decision to the inmate within 18 months of the parole hearing.

(9) If the Commission decides to recommend parole for an inmate serving a life sentence for a crime committed while younger than 18 years old, the Commission shall forward the recommendation to the Governor within 12 months of the parole hearing.

(10) For an inmate serving a life sentence for a crime committed while younger than 18 years old, the Commission shall provide the inmate with timely written notice of the inmate's status in the parole process when:

- (a) A risk assessment has been ordered;
- (b) A risk assessment has been received;
- (c) The case will be considered en banc; and
- (d) The case has been forwarded to the Governor with a recommendation for parole.

(11) Upon request from the inmate or the inmate's representative, the Commission shall disclose to the inmate or the inmate's representative the inmate's current status in the parole process.

(12) The Commission may neither permanently refuse parole to an inmate serving a life sentence for a crime committed while younger than 18 years old, nor schedule any rehearing in excess of 10 years from the date of the previous hearing.

F.—I. (text unchanged)

## .23 Consideration and Review.

A. (text unchanged)

B. Review.

(1)—(5) (text unchanged)

(6) If the Governor disapproves the Commission's recommendation to parole an inmate serving a life sentence for a crime committed while younger than 18 years old, the Commission shall provide timely written notice to the inmate, and consider the inmate for parole en banc within 18 months of the date of the Governor's decision.

(7) In accordance with §B(6) of this regulation, the Commission shall recommend the inmate for parole unless the Commission finds good cause to deny the inmate parole.

(8) If the Commission denies an inmate parole under §B(7) of this regulation, the Commission shall set forth its reasoning in its written decision.

(9) When the Governor has disapproved the Commission's recommendation to parole an inmate serving a life sentence for a crime committed while younger than 18 years old, two parole commissioners shall, in accordance with §B(6) of this regulation:

- (a) Ensure that the written notice of the decision is hand delivered to the inmate;
- (b) Explain the decision to the inmate;

- (c) Consider the inmate for an explicit recommendation to a less restrictive security level to the extent a positive adjustment at a less restrictive security level can help demonstrate parole suitability;

- (d) Provide guidance about what the inmate can do to improve the likelihood of demonstrating suitability for parole at the next parole hearing, and provide specific recommendations as to programming or treatment, as appropriate; and

- (e) Notify the inmate of the right to seek judicial review of the decision as permitted by law.

C. (text unchanged)

ROBERT L. GREEN  
Secretary of Public Safety and  
Correctional Services

# Title 14

## INDEPENDENT AGENCIES

### Subtitle 01 PRESCRIPTION DRUG AFFORDABILITY BOARD

#### 14.01.01 General Provisions

Authority: Health-General Article, §21-2C-03(f), Annotated Code of Maryland

##### Notice of Proposed Action

[21-082-P]

The Prescription Drug Affordability Board proposes to adopt new Regulation .01 under a new chapter, **COMAR 14.01.01 General Provisions**, under a new subtitle, **Subtitle 01 Prescription Drug Affordability Board**. This action was considered during a public meeting of the Prescription Drug Affordability Board held on May 24, 2021, where it was approved unanimously.

##### Statement of Purpose

The purpose of this action is to define vocabulary used in COMAR 14.01.

##### Comparison to Federal Standards

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

##### Estimate of Economic Impact

The proposed action has no economic impact.

##### Economic Impact on Small Businesses

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

##### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

##### Opportunity for Public Comment

Comments may be sent to Kris Vallecillo, Manager, Policy and Special Projects, Prescription Drug Affordability Board, 16900 Science Drive, Suite 112-114, Bowie, MD 20715, or call 410-804-0413, or email to support.pdab@maryland.gov. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

##### Open Meeting

Final action on the proposal will be considered by Prescription Drug Affordability Board during a public meeting to be held virtually on August 17, 2021 (registration information to be provided).

##### .01 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

###### B. Terms Defined.

- (1) "Biologic" means a biological product, as defined in 42 U.S.C. §262(i)(1).

- (2) "Biosimilar" means a biological product, as defined in 42 U.S.C. §262(i)(2), that is produced or distributed in accordance with a biologics license application approved under 42 U.S.C. §262(k)(3).

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(3) "Board" has the meaning stated in Health-General Article, §21-2C-01, Annotated Code of Maryland.

(4) "Brand name drug" has the meaning stated in Health-General Article, §21-2C-01, Annotated Code of Maryland.

(5) "Carrier" has the meaning stated in Health-General Article, §19-132, Annotated Code of Maryland.

(6) "Chairperson" means the chair of the Board, as provided for in Health-General Article, §21-2C-03, Annotated Code of Maryland.

(7) "Fund" means the Prescription Drug Affordability Fund, as provided for in Health-General Article, §21-2C-11, Annotated Code of Maryland.

(8) "Generic drug" has the meaning stated in Health-General Article, §21-2C-01, Annotated Code of Maryland.

(9) "Manufacturer" has the meaning stated in Health-General Article, §21-2C-01, Annotated Code of Maryland.

(10) "Pharmacy benefit manager" has the meaning stated in Insurance Article, §15-1601, Annotated Code of Maryland.

(11) "Prescription drug product" has the meaning stated in Health-General Article, §21-2C-01, Annotated Code of Maryland.

(12) "Stakeholder Council" means the Prescription Drug Affordability Stakeholder Council, as provided for in Health-General Article, §21-2C-04, Annotated Code of Maryland.

(13) "Wholesale distributor" has the meaning stated in Health Occupations Article, §12-6C-01, Annotated Code of Maryland.

ANDREW YORK  
Executive Director

the assessments would produce between \$750,000 and \$1,500,000 in special fund revenue for the Board's Prescription Drug Affordability Fund. This revenue is the only source of funding for the Board's operation. The proposed action does not impose a mandate on a local government unit.

II. Types of Economic Impact.	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:			
Prescription Drug Affordability Fund Assessment	\$750,000 — (R+)	\$1,500,000	
B. On other State agencies:	NONE		
C. On local governments:	NONE		
	Benefit (+) Cost (-)	Magnitude	
D. On regulated industries or trade groups:			
Prescription Drug Affordability Fund Assessment	\$750,000 — (-)	\$1,500,000	
E. On other industries or trade groups:	NONE		
F. Direct and indirect effects on public:	NONE		

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

A. and D. The proposed regulation levies an annual assessment on certain entities identified in Health-General Article, §21-2C-11, Annotated Code of Maryland. Based on a review of entities licensed or regulated by the Maryland Insurance Administration and the Maryland Board of Pharmacy, the Prescription Drug Affordability Board estimates there are approximately between 750 to 1,500 unique entities subject to the annual assessment. The wide range is due to a few factors, including how entities identified in Health-General Article, §21-2C-11, Annotated Code of Maryland, have structured their businesses for tax purposes, the annual revenue these entities generate, and how many entities will apply for a waiver based on their Maryland revenue. The Prescription Drug Affordability Board also assumes there will be some limited administrative burden associated with either paying the assessment or filing the waiver.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Kris Vallecillo, Manager, Policy and Special Projects, Prescription Drug Affordability Board, 16900 Science Drive, Suite 112-114, Bowie, MD 20715, or call 410-804-0413, or email to kris.vallecillo3@maryland.gov. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by Prescription Drug Affordability Board during a public meeting to be held virtually on August 17, 2021 (registration information to be provided).

**.01 Prescription Drug Affordability Fund.**

A. *The Prescription Drug Affordability Fund is a special, non-lapsing fund that is not subject to State Procurement Article, §7-302, Annotated Code of Maryland.*

B. *The Prescription Drug Affordability Fund consists of:*

- (1) *The assessment provided for by Regulation .02 of this chapter;*
- (2) *Money appropriated by the State budget;*
- (3) *Interest earnings; and*
- (4) *Any other money from any other source accepted for the benefit of the Fund.*

**.02 Assessment of Entities, Notification of Assessment, and Collection of Fees.**

A. *The Board shall collect an annual assessment from the entities identified in Health-General Article, §21-2C-11, Annotated Code of Maryland, and specified in Regulation .03 of this chapter.*

B. *No later than July 15, 2021, and July 15 of every year thereafter, the Board shall issue a notification to these entities of their obligation to pay the annual assessment.*

C. *The Board shall issue invoices no later than October 1, 2021, and October 1 of every year thereafter.*

D. *Any bill not paid within 30 days of the payment due date may be subject to an interest penalty to be determined and collected by the Board.*

E. *In addition to any penalties the Board may impose on an entity that fails to pay the fee assessed by the Board in a timely manner, the Board may also refer an entity's delinquent account to the Department of Budget and Management's Central Collection Unit, pursuant to the procedures in State Finance and Procurement Article, Title 3, Subtitle 3, Annotated Code of Maryland, and COMAR 17.01.01.*

F. *The Board shall waive the fee assessment upon request by an assessed entity, provided that entity demonstrates, through attestation and supporting documentation, that the fee assessment exceeds 1 percent of that entity's revenue earned in the State during the entity's preceding fiscal year.*

**.03 Amount of Assessment.**

A. *Entities identified in Health-General Article, §21-2C-11, Annotated Code of Maryland, shall be subject to the following fee schedule:*

(1) *Manufacturers engaged in wholesale distribution, as defined in Health Occupations Article, §12-6C-01, Annotated Code of Maryland, shall pay an assessment of \$1,000;*

(2) *Wholesale distributors, as defined in Health Occupations Article, §12-6C-01, Annotated Code of Maryland, that distribute prescription drugs shall pay an assessment of \$1,000;*

(3) *Pharmacy benefits managers, as defined in Insurance Article, §15-1601, Annotated Code of Maryland, shall pay an assessment of \$1,000; and*

(4) *Carriers, as defined in Health-General Article, §19-132, Annotated Code of Maryland, shall pay an assessment of \$1,000.*

B. *As provided for in Regulation .02 of this chapter, upon demonstration that the fee assessment exceeds 1 percent of that entity's revenue in the State during their preceding fiscal year, the Board shall waive the fee assessment for that year.*

**.04 Use of Funds.**

A. *The Fund may only be used to finance the operation of the Board, as permitted in Health-General Article, §21-2C-11(c)(6), Annotated Code of Maryland.*

B. *Interest earned from the monies collected through the assessment in Regulation .02 of this chapter shall be retained to the credit of the Fund.*

**.05 Surplus Funds.**

*If the amount of assessed funds collected in a calendar year exceeds the cap identified in Health-General Article, §21-2C-11(B)(4), the Board shall:*

- A. *Issue a notice of such surplus; and*
- B. *Remit the surplus funds in a fair and equitable manner across all qualifying entities that have paid the assessment.*

ANDREW YORK  
Executive Director

## Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

### 14.22.01 General Regulations

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

#### Notice of Proposed Action

[21-079-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation **.09** under **COMAR 14.22.01 General Regulations**. This action was considered by the Maryland State Commission on Criminal Sentencing Policy at an open meeting held on May 11, 2021, notice of which was given in 48:9 Md. R. (April 23, 2021) pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to clarify the scoring of the victim injury component of the offense score in Regulation .09 under COMAR 14.22.01 General Regulations. The added language instructs that permanent victim injury points shall be awarded for offenses involving evidence of child pornography.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Rd., Ste. 309, College Park, MD 20742, or call 301-403-4165, or email to dsoule@umd.edu. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

#### .09 Offense Score.

- A. (text unchanged)
- B. Elements of the Offense Score.
- (1)—(2) (text unchanged)

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### (3) Victim Injury.

(a) Victim injury, whether physical or psychological, shall be based on reasonable proof. Psychological injury shall be based on confirmed medical diagnosis or psychological counseling or treatment. Rape crisis hotlines, clergy conferences, and other similar services are considered psychological counseling or treatment, but the contact with a counselor must be confirmed in writing or otherwise by the counseling or treatment provider. Psychological injury is presumed not permanent unless otherwise demonstrated. Physical injury shall be more than minimal. Physical injuries such as lasting muscle damage or amputation are permanent. *Offenses involving photographic or video evidence of child pornography shall be scored as permanent victim injury.*

(b)—(e) (text unchanged)

(4)—(5) (text unchanged)

C. (text unchanged)

DAVID SOULE  
Executive Director

## Subtitle 27 MARYLAND ENVIRONMENTAL SERVICE

### 14.27.02 Human Resources System

Authority: Natural Resources Article, §§3-103.1 and 3-127, Annotated Code of Maryland

#### Notice of Proposed Action

[21-080-P]

The Maryland Environmental Service proposes to amend Regulations .01, .02, and .25 under **COMAR 14.27.02 Human Resources System**. This action was considered by Maryland Environmental Service at an open meeting of the Board of Directors held on May 27, 2021, notice of which was given by notification on the agency website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to update the agency's regulations, so they are consistent with recent statutory enactments (Ch. 72, Acts of 2021) by clarifying the title of the Executive Director of the agency and clarifying the scope of the regulation.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Pamela Fuller, Senior Paralegal, Maryland Environmental Service, 259 Najoles Road, Millersville, MD 21108, or call 410-729-8243, or email to pfuller@menv.com, or fax to 410-729-8220. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

### .01 Scope.

A. (text unchanged)

B. [These regulations do not apply to the Service's Director, Deputy Director, Treasurer, Secretary, or Board, except that the Director, Deputy Director, Treasurer, and Secretary may participate in the benefits plan provided for employees under Regulation .10 of this chapter.] *These regulations shall apply to the Executive Director, but not to any other member of the Board of Directors.*

C. (text unchanged)

### .02 Definitions.

A. (text unchanged)

#### B. Terms Defined.

(1) — (4) (text unchanged)

(5) "Director" means the *Executive* Director of the Maryland Environmental Service.

(6) — (17) (text unchanged)

### .25 Training.

A. (text unchanged)

#### B. Procedure.

(1) An employee requesting financial assistance for expenses authorized in §A of this regulation shall:

(a) — (b) (text unchanged)

(c) Obtain the approval of the employee's group [executive] managing director and the Chief of the Human Resources Division.

(2) — (3) (text unchanged)

C. (text unchanged)

CHARLES C. GLASS, Ph.D.  
Executive Director

## Subtitle 27 MARYLAND ENVIRONMENTAL SERVICE

### 14.27.03 Procurement

Authority: Natural Resources Article, §3-127, Annotated Code of Maryland

#### Notice of Proposed Action

[21-081-P]

The Maryland Environmental Service proposes to amend Regulations .03 and .04 under **COMAR 14.27.03 Procurement**. This action was considered Maryland Environmental Service at an open meeting of the Board of Directors held on May 27, 2021, notice of which was given by notification on the agency website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to update the agency's regulations so they are consistent with recent statutory enactments (Ch. 72, Acts of 2021) by clarifying the title of the Executive Director of the agency, and modifying the authority of the Board of Directors to provide that the Board will approve procurements that exceed \$200,000, instead of the current \$250,000.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Pamela Fuller, Senior Paralegal, Maryland Environmental Service, 259 Najoles Road, Millersville, MD 21108, or call 410-729-8243, or email to [pfuller@menv.com](mailto:pfuller@menv.com), or fax to 410-729-8220. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

**.03 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1) — (7) (text unchanged)
  - (8) "Director" means the *Executive* Director of the Maryland Environmental Service.
  - (9) — (25) (text unchanged)

**.04 Contract Authority.**

- A. — B. (text unchanged)
- C. Procurement Approval.

(1) If the Service estimates that a procurement will result in the award of a contract that exceeds [\$250,000] \$200,000, the Service may obtain the approval of the Board for contract award before distributing a solicitation notice for the procurement.

(2) The Service shall obtain the approval of the Board before awarding a contract for more than [\$250,000] \$200,000 if the:

- (a) — (b) (text unchanged)

CHARLES C. GLASS, Ph.D.  
Executive Director

# Title 26

## DEPARTMENT OF THE ENVIRONMENT

### Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

#### Notice of Proposed Action

[21-073-P]

The Secretary of the Environment proposes to:

(1) Amend Regulations .02, .03, .04, and .05 and adopt new Regulation .03-1 under **COMAR 26.13.01 Hazardous Waste Management System: General**;

(2) Amend Regulations .01, .02, .04, .04-3, .04-4, .05, .06, .10, .15, .17, .19-6, and .23, repeal existing Regulations .19-1—.19-5, .19-7, and .19-8 and adopt new .19-7 and .19-8 under **COMAR 26.13.02 Identification and Listing of Hazardous Waste**;

(3) Amend Regulations .01, .04, .06, and .07-4, repeal existing Regulations .07—.07-3 and .07-5, and adopt new Regulation .07 under **COMAR 26.13.03 Standards Applicable to Generators of Hazardous Waste**;

(4) Amend Regulations .01 and .02 under **COMAR 26.13.04 Standards Applicable to Transporters of Hazardous Waste**;

(5) Amend Regulations .01, .02, .05, and .11—.14, and adopt new Regulation .02-2 under **COMAR 26.13.05 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**;

(6) Amend Regulations .01, .02, .19 — .22, and .25 under **COMAR 26.13.06 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**;

(7) Amend Regulations .02-4, .02-5, .02-8, and .13-2 under **COMAR 26.13.07 Permits for CHS Facilities**;

(8) Adopt new Regulations .01 — .03 under a new chapter, **COMAR 26.13.09 Land Disposal Restrictions**; and

(9) Amend Regulations .03, .04, .18, and .21—.24 under **COMAR 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities**.

**Statement of Purpose**

The purpose of this action is to modify Maryland's hazardous waste regulations to maintain consistency with the federal hazardous waste regulatory program. The main elements of the proposal are the adoption of land disposal restriction regulations from Title 40 Part 268 of the Code of Federal Regulations (40 CFR Part 268), adoption of criteria for what constitutes "legitimate" recycling of hazardous waste, adoption of federal provisions regarding the national electronic manifest system for hazardous waste tracking, adoption of federal requirements on international shipments of hazardous waste, adoption of additional requirements for liners, leak detection, and leachate collection for hazardous waste land disposal units, repeal of provisions that allowed the burning of certain waste materials if they met criteria to be considered "comparable" to commercial fuels (provisions that were vacated at the federal level as a result of a court decision), addition of a waste in the organic chemicals industry category, and revision of "delisting" provisions for hazardous waste to clarify that the State's authority is limited to wastes listed as hazardous by Maryland but not the EPA.

**Comparison to Federal Standards**

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

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed action is expected to have only a minimal economic impact. Most of the requirements proposed for adoption are already in effect in Maryland as a matter of federal law (compliance with the federal electronic manifest provisions, land disposal restriction requirements, and requirements on international shipments of hazardous waste.) Other requirements affect limited segments of the regulated community.

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
<b>II. Types of Economic Impact.</b>			
A. On issuing agency:			
Implementation costs	(E+)	Minimal	
B. On other State agencies:	NONE	Not applicable	
C. On local governments:	NONE	Not applicable	
	Benefit (+)		
	Cost (-)	Magnitude	
D. On regulated industries or trade groups:	(-)	Minimal	
E. On other industries or trade groups:	NONE	Not applicable	
F. Direct and indirect effects on public:	(+)	Indeterminable	

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

A. The proposed action is not anticipated to require the hiring of any new staff. Implementation is expected to be able to be accomplished using existing resources. Principal implementation costs include the costs associated with compliance monitoring and compliance assistance.

B. No new requirements would be imposed on these entities. Provisions are already in effect in Maryland as a matter of federal law, with the U.S. Environmental Protection Agency having enforcement authority.

C. No new requirements would be imposed on these entities. Provisions are already in effect in Maryland as a matter of federal law, with the U.S. Environmental Protection Agency having enforcement authority.

D. Other than the listing of a waste from the organic chemicals industry as hazardous, no new requirements would be imposed on these entities. Most of the provisions being proposed are already in effect in Maryland as a matter of federal law, with the U.S. Environmental Protection Agency (EPA) having enforcement authority. The waste listing is not expected to affect Maryland entities – the EPA's economic impact analysis for the adoption of the federal listing identified only 37 affected facilities nationwide, none of which was located in Maryland.

E. Not applicable.

F. The public will continue to benefit from the safe management of hazardous waste and the associated avoidance of adverse impacts to human health and the environment, but a specific value for any incremental change in this benefit that would result from the proposed action is impossible to quantify.

### Economic Impact on Small Businesses

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

### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

### Opportunity for Public Comment

Comments may be sent to Edward Hammerberg, Technical Specialist/RCE Supervisor, Maryland Department of the Environment/RMP, 1800 Washington Blvd., Suite 610, Baltimore, MD 21230-1719, or call 410-537-3314, or email to ed.hammerberg@maryland.gov, or fax to 410-537-3321. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

## 26.13.01 Hazardous Waste Management System: General

Authority: Environment Article, §6-905.3 and Title 7, Subtitle 2, Annotated Code of Maryland

### .02 Availability of Information Confidentiality of Information.

A. Except in accordance with §E or F of this regulation, the [department] Department shall protect any information contained in the application, or other records, reports, or plans as confidential upon a showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets, or proprietary business information relating to processes of production, methods of manufacturing, or production volume which are of financial or commercial value.

B. — E. (text unchanged)

### F. Manifest Information.

(1) After August 6, 2014, a person may not assert a claim of business confidentiality with respect to information entered on:

(a) A hazardous waste manifest (EPA Form 8700-22);

(b) A hazardous waste manifest continuation sheet (EPA Form 8700-22A); or

(c) An electronic manifest format that may be prepared and used in accordance with COMAR 26.13.03.04A(1)(b) or 40 CFR §262.20(a)(3).

(2) EPA, as the designated custodian of the electronic manifest system under federal law:

(a) Is responsible for making available to the public any:

(i) Electronic manifest that is prepared and used in accordance with COMAR 26.13.03.04A(1)(b) or 40 CFR §262.20(a)(3); and

(ii) Paper manifest that is submitted to the system under COMAR 26.13.05.05B(1)(e), COMAR 26.13.06.05A, 40 CFR §264.71(a)(6), or 40 CFR §265(a)(6); and

(b) Will make the information identified in §F(2)(a) of this regulation for an electronic or paper manifest that has been submitted to the electronic manifest system available to the public:

(i) When EPA considers the manifest to be a complete and final document, as specified in §F(2)(b)(ii) of this regulation; and

(ii) After 90 days have passed since the delivery of the hazardous waste shipment identified in the manifest to the designated facility, the time at which EPA considers the manifest to be a complete and final document.

### .03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (8) (text unchanged)

(8-1) "Contained" means held in a unit, including a land-based unit, that meets the criteria of Regulation .04L(4) of this chapter;

(9) — (16-2) (text unchanged)

(16-3) "Electronic manifest (e-manifest)" means the electronic format of the hazardous waste manifest that is obtained from EPA's national electronic manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (manifest) and 8700-22A (continuation sheet).

(16-4) "Electronic manifest system (e-manifest system)" means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

(17) — (30-1) (text unchanged)

(30-2) "Hazardous secondary material" means a secondary material, such as a spent material, by-product, or sludge, that, if discarded, would be identified as a hazardous waste under COMAR 26.13.02.

(31) — (43-2) (text unchanged)

(43-3) Land-Based Unit.

(a) "Land-based unit" means an area where a hazardous secondary material is placed in or on the land before recycling.

(b) "Land-based unit" does not include a land-based production unit.

(44) — (49) (text unchanged)

(50) "Manifest" means the shipping document EPA Form 8700-22, including, if necessary, EPA Form 8700-22A, originated and signed [by the generator or offeror] in accordance with the [instructions in the appendix to 40 CFR Part 262 and the] applicable requirements of:

(a) — (c) (text unchanged)

(51) — (66-1) (text unchanged)

(66-2) “*Recognized trader*” means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

(67) — (70) (text unchanged)

(70-1) *Secondary Material*.

(a) “*Secondary material*” means a used or residual waste-like material.

(b) “*Secondary material*” includes:

- (i) A by-product, as defined in COMAR 26.13.02.01D;
- (ii) A commercial chemical product;
- (iii) Sludge;
- (iv) Spent material, as defined in COMAR 26.13.02.01D;

and

(v) Scrap metal, as defined in COMAR 26.13.02.01D.

(71) — (90-4) (text unchanged)

(90-5) “*User of the electronic manifest system*” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person who:

(a) Is required to use a manifest to comply with:

(i) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(ii) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(b) Elects to use the:

(i) Electronic manifest system to obtain, complete, and transmit an electronic manifest format supplied by the EPA electronic manifest system; or

(ii) Paper manifest form and submits information to the electronic manifest system in the form of a paper copy of the manifest or data from a paper copy of the manifest for data processing purposes in accordance with COMAR 26.13.05.05B(1)(e) or COMAR 26.13.06.05A.

(91) — (96) (text unchanged)

#### **.03-1 General Provisions for Manifests.**

A. *Manifest Copy Submission* — Certain Interstate Waste Shipments. If the state in which a waste is generated or the state in which waste will be transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

(1) Complete the facility portion of the applicable manifest;

(2) Sign and date the facility certification;

(3) Submit to the electronic manifest system a final copy of the manifest for data processing purposes; and

(4) Satisfy requirements established and enforced by the federal government to pay the appropriate per-manifest fee to EPA for each manifest submitted to the electronic manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements that are specified in 40 CFR Part 264, Subpart FF.

#### **B. Applicability of E-manifest System and User Fee Requirements — Facilities Receiving State-Only Regulated Waste.**

(1) For the purposes of this section, “state-only regulated waste” means a:

(a) Waste that is not regulated as hazardous under the federal RCRA Subtitle C regulatory program that a state regulates more broadly under its state regulatory program; or

(b) Waste that is regulated as hazardous under the federal RCRA Subtitle C regulatory program that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

(2) If a state requires a manifest as defined in Regulation .03B of this chapter to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving the state-only regulated waste shall:

(a) Comply with the provisions of:

(i) COMAR 26.13.05.05B, regarding use of the manifest;

and

(ii) COMAR 26.13.05.05C, regarding manifest discrepancies; and

(b) Satisfy requirements established and enforced by the federal government to pay the appropriate per-manifest fee to EPA for each manifest submitted to the electronic manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements that are specified in 40 CFR Part 264, Subpart FF.

#### **.04 Rule-Making Petitions.**

A. — B. (text unchanged)

B-1. *Procedures to Amend COMAR 26.13.02 to Exclude a Waste Produced at a Particular Facility.*

(1) This section establishes procedures under which waste from a particular generating facility may be excluded from the lists in COMAR 26.13.02.15—19.

(2) For a waste that is listed as a hazardous waste in both 40 CFR Part 261, Subpart D, and COMAR 26.13.02.15—19:

(a) A person who seeks to exclude the waste from the lists in COMAR 26.13.02.15—19 shall do so by petitioning the Administrator of the U.S. Environmental Protection Agency, following the procedures in 40 CFR §260.22; and

(b) If the petition submitted in accordance with §B-1(2)(a) of this regulation is successful:

(i) EPA will add the waste to the appropriate table in Appendix IX of 40 CFR Part 261; and

(ii) The waste will be excluded from the lists of hazardous wastes in COMAR 26.13.02.15—19 through the action of COMAR 26.13.02.25.

(3) For a waste that is listed as a hazardous waste in COMAR 26.13.02.15—19, but not in 40 CFR Part 261, Subpart D:

(a) A person who seeks to exclude the waste from the lists in COMAR 26.13.02.15—19 shall do so by following the procedures in §C of this regulation; and

(b) If the petition submitted in accordance with §C of this regulation is successful, the Department will identify the waste in COMAR 26.13.02.26.

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

(1) A person seeking to exclude a waste identified in §B-1(3) of this regulation that is generated at a particular generating facility from the lists in COMAR 26.13.02.15—19 may petition for a regulatory amendment under this section and §A of this regulation. To be], but the petitioner shall be successful only if:

(a) The petitioner [shall demonstrate] demonstrates to the satisfaction of the Secretary that the waste produced by a particular

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generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste; [and]

(b) *The petitioner satisfies the requirements of §C(3)—(8) of this regulation; and*

[b] (c) [Based on a complete application, the] *Even if the Secretary [shall determine where he] has a reasonable basis to believe that factors [(including additional constituents)] other than those for which the waste was listed could cause the waste to be a hazardous waste, the Secretary determines that these factors do not warrant retaining the waste as a hazardous waste[], subject to the following:*

(i) *The Secretary's determination shall be based on a petition that is a complete application, in that it includes all information required by this section;*

(ii) *The other factors considered by the Secretary in evaluating whether the waste should be excluded from the waste listing may include the presence of additional constituents in the waste other than those that caused the waste to be listed; and*

(iii) [A waste which is so excluded, however.] *Even if the Secretary concludes that the waste should be excluded from the waste listing, the waste still may be a hazardous waste by operation of COMAR 26.13.02.10—14.*

(2) [The] Procedures.

(a) *Subject to §C(2)(b) of this regulation, a person may use the procedures in this section and §A [may also be used] of this regulation to petition the Secretary for a regulatory amendment to exclude from COMAR 26.13.02.03A(2)(b) or B [which] a waste that is described in those sections and is [either] a waste that:*

(i) *Is listed in COMAR 26.13.02.15—19[];*

(ii) *[contains] Contains a waste listed in COMAR 26.13.02.15—19[]; or*

(iii) *Is derived from a waste listed in COMAR 26.13.02.15—19.*

(b) *The following conditions apply in connection with petitions made under this section:*

(i) *[This] An exclusion granted in response to the petition may only be issued for a particular generating, storage, treatment, or disposal facility[];*

(ii) *The petitioner [must] shall make the same demonstration as required by §C(1) of this regulation, except that [where] if the waste is a mixture of solid waste and one or more listed hazardous wastes or if the waste is derived from one or more hazardous wastes, [his] the petitioner's demonstration may be made with respect to each constituent listed waste or the waste mixture as a whole[]; and*

(iii) *A waste which is [so] excluded as a result of the petition may still be a hazardous waste by operation of COMAR 26.13.02.10—14.*

(3) — (10) (text unchanged)

D. Variances from Classification as a Solid Waste. In accordance with the standards and criteria in §E of this regulation and the procedures in §G of this regulation, the Secretary may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(1) [Materials that are] *Material accumulated speculatively without sufficient amounts being recycled as defined in COMAR [26.13.02.01C(3)(h)]26.13.02.01D;*

(2) Materials that are reclaimed and then reused within the original primary production process in which they were generated; [or]

(3) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered[];

(4) *Hazardous secondary materials that are reclaimed in a continuous industrial process; and*

(5) *Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.*

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

(1) — (2) (text unchanged)

(3) The Secretary [may]:

(a) *May grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed if[], after initial reclamation, the resulting material is commodity-like, even though it is not yet a commercial product, and has to be reclaimed further.] the partial reclamation has produced a commodity-like material; and*

(b) *[This] Shall base a determination [will be based] that a partially reclaimed material is commodity-like on [the following factors] whether the hazardous secondary material is legitimately recycled, as specified in §L of this regulation, and on whether all of the following decision criteria are satisfied:*

(a) (i) [The] *Whether the degree of [processing the material has undergone and the degree of further processing that is required] partial reclamation is substantial, as demonstrated by the partial reclamation being accomplished through use of a partial reclamation process other than the process that generated the hazardous waste;*

(b) (ii) [The] *Whether the partially reclaimed material has sufficient economic value [of the material after it has been reclaimed] so that it will be purchased for further reclamation;*

(c) (iii) [The] *Whether [degree to which] the partially reclaimed material is [similar to an analogous raw material] a viable substitute for a product or intermediate produced from virgin or raw materials, and is used in subsequent production steps;*

(d) (iv) [The extent to which an end] *Whether there is a market for the partially reclaimed material [is guaranteed], as demonstrated by there being a known customer or customers engaged in further reclaiming the material, supported by evidence such as records of sales, contracts, or bills of lading or other indicators of subsequent use; and*

(e) (v) [The extent to which] *Whether the partially reclaimed material is handled to minimize loss[; and].*

(f) Other relevant factors.]

F. (text unchanged)

G. Procedures for Variances from Classification as a Solid Waste or [to be Classified] Classification as a Boiler. The Secretary shall use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed flame combustion devices as boilers:

(1) (text unchanged)

(2) The Secretary [shall]:

(a) *Shall evaluate the application for the variance and issue a draft notice tentatively granting or denying the application[];*

(b) *[Notification] Shall provide notification of this tentative decision [shall be provided] by newspaper advertisement and radio broadcast in the locality where the recycler is located[];*

(c) *Shall [The Secretary will] accept comment on the tentative decision for 45 days[], and may also];*

(d) *May hold a public hearing on the tentative decision upon request or at [his] the Secretary's discretion[. The Secretary]; and*

(e) *[will] Shall issue a final decision after receipt of comments and after any scheduled hearing.*

(3) *If there is a change in circumstances that affects how a hazardous secondary material meets the relevant criteria in §E or F of this regulation upon which a variance had been based, the applicant shall send a description of the change to the Secretary. The Secretary may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance, or may require the applicant to reapply for the variance.*

**(4) Expiration of Variances.**

(a) The Secretary shall specify a fixed term not to exceed 10 years during which a variance is effective.

(b) If a person wishes to continue to operate under a variance, the person shall, no later than 6 months before the end of the fixed term specified under §G(4)(a) of this regulation, reapply for the variance.

(c) If a person submits a complete application within 6 months of the end of the fixed term of the variance, the person may continue to operate under the expired variance until receiving a decision on the reapplication from the Secretary.

(5) A person who receives a variance under this section shall provide notification in accordance with §K of this regulation.

H. — J. (text unchanged)

**K. Notification Requirements for Variances from Classification as a Solid Waste.**

(1) A person managing a hazardous secondary material under a variance granted in accordance with §D of this regulation shall provide notification in accordance with the requirements of this section.

(2) A person providing notification under §K(1) of this regulation shall:

(a) Provide notification to the Department before operating under the variance and by March 1 of each even-numbered year thereafter using EPA Form 8700-12 or another method acceptable to the Department; and

(b) Include the following information in the notification:

(i) The name, address, and, if applicable, the EPA ID number of the facility;

(ii) The name and telephone number of a contact person;

(iii) The NAICS code of the facility;

(iv) The regulation under which the hazardous secondary material will be managed;

(v) The date when the facility expects to begin managing the hazardous secondary material in accordance with the regulation;

(vi) A list of hazardous secondary materials that will be managed according to the regulation, reported as the EPA hazardous waste numbers that would apply if the hazardous secondary material were managed as hazardous waste;

(vii) For each hazardous secondary material, whether the hazardous secondary material, or any portion of the hazardous secondary material, will be managed in a land-based unit;

(viii) The quantity of each hazardous secondary material to be managed annually; and

(ix) The certification included in EPA Form 8700-12 signed and dated by an authorized representative of the facility.

(3) If a person managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials under a variance granted under §D of this regulation, the person shall notify the Department within 30 days using EPA Form 8700-12. For the purposes of this requirement, a facility is considered to have stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under §D of this regulation and does not expect to manage any amount of hazardous secondary materials for at least 1 year.

**L. Legitimate Recycling of Hazardous Secondary Materials.****(1) General Considerations.**

(a) The recycling of a hazardous secondary material may qualify for an exclusion or exemption from the hazardous waste regulations only if the recycling is legitimate, as specified in this section.

(b) A hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste.

(c) To demonstrate that an activity claimed to be recycling is legitimate recycling, a person shall:

(i) Address all the requirements of §L(2) of this regulation; and

(ii) Consider the requirements of §L(3) of this regulation.

(d) The Secretary:

(i) Shall determine that an activity claimed to be recycling is legitimate recycling only if all the criteria of §L(2) of this regulation are met; and

(ii) May determine that an activity claimed to be recycling is not legitimate recycling based on consideration of the supplemental factors identified in §L(3) of this regulation.

(2) **Mandatory Criteria.** In order to be considered legitimate recycling, an activity is required to:

(a) Involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process by:

(i) Contributing valuable ingredients to a product or intermediate;

(ii) Replacing a catalyst or carrier in the recycling process;

(iii) Serving as the source of a valuable constituent that is recovered in the recycling process;

(iv) Being recovered or regenerated by the recycling process; or

(v) Being used as an effective substitute for a commercial product;

(b) Produce a valuable product or intermediate, as indicated by the product or intermediate being:

(i) Sold to a third party; or

(ii) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process; and

(c) Be conducted in a manner that results in the hazardous secondary material being managed as a valuable commodity when it is under the control of the generator and the recycler, as indicated by the generator and recycler:

(i) Managing the hazardous secondary material in a manner consistent with the management of an analogous raw material, if any, or in an equally protective manner as the typical method of management of an analogous raw material;

(ii) Ensuring that the hazardous secondary material is contained, as described in §L(4) of this regulation, if there is no analogous raw material; and

(iii) Immediately recovering any hazardous secondary material that is released to the environment, with any released secondary hazardous material that is not immediately recovered being subject to regulation as a discarded material.

**(3) Supplemental Factors.**

(a) In evaluating whether an activity that is claimed to be recycling is legitimate recycling, a person shall consider whether the product of the recycling process:

(i) Contains significant concentrations of any hazardous constituents identified in COMAR 26.13.02.24 that are not found in analogous products;

(ii) Contains hazardous constituents identified in COMAR 26.13.02.24 at concentrations that are significantly elevated from those found in analogous products; or

(iii) Exhibits a hazardous characteristic as defined in COMAR 26.13.02.10—14 that analogous products do not exhibit.

(b) If one or more of the conditions in §L(3)(a) of this regulation is met by a product of a recycling process:

(i) This may be an indication that the process is not legitimate recycling; or

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(ii) The process may still be classified as legitimate recycling in consideration of other factors related to the presence of hazardous constituents or the exhibiting of a hazardous characteristic, such as potential exposures to toxics in the product, the bioavailability of the toxics in the product, and other relevant considerations.

(4) Criteria to Be Considered Contained.

(a) For the purposes of this section, a hazardous secondary material is considered to be contained if the material is held in a unit, including a land-based unit, that meets the following criteria:

(i) The unit is in good condition;

(ii) The unit has no leaks or other continuing or intermittent releases of hazardous secondary material to the environment, except for releases that are authorized by a permit, such as a permit to discharge to water or air;

(iii) The unit is designed, operated, constructed, and maintained to prevent unpermitted releases to the environment that include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and ground water, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

(iv) The unit is properly labeled or operated with an inventory log or other system to allow the immediate identification of the hazardous secondary material in the unit;

(v) The unit is operated so that only mutually compatible materials are placed in the unit; and

(vi) The materials being held in the unit are compatible with the materials of construction of the unit.

(b) A hazardous secondary material is presumptively contained if it is held in a unit that meets the standards in COMAR 26.13.05 or 26.13.06 that would be applicable to the hazardous secondary material if it were regulated as a hazardous waste.

### **.05 Incorporation by Reference.**

A. (text unchanged)

B. Incorporation of Federal Regulations by Reference.

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

(a) — (c) (text unchanged)

(d) When used in COMAR [26.13.03.07-5] 26.13.03.07, the federal regulations as of July 1, 2019, in 40 CFR §§262.81—262.89 are incorporated by reference;

(e) When used in COMAR 26.13.02, Appendix VIII of 40 CFR Part 261, as amended, and Appendix IX of 40 CFR Part 261, as amended, [is] are incorporated by reference; [and]

(f) When used in COMAR 26.13.01—26.13.10, 49 CFR 171—180, 387, and 396, as amended, are incorporated by reference[.];

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

40 CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision
§122.72(c) — §144.70(f)	(text unchanged)
Part 260	26.13.01
§260.10	(text unchanged)
§260.20	26.13.01.04A
[\$261.3(c) and (d)]	26.13.02.03C and D]
Part 261	26.13.02
Part 261, Subpart C — Part 261, Subpart D	(text unchanged)
§261.2	26.13.02.02
§261.3	26.13.02.03
§261.3(c) and (d)	26.13.02.03C and D

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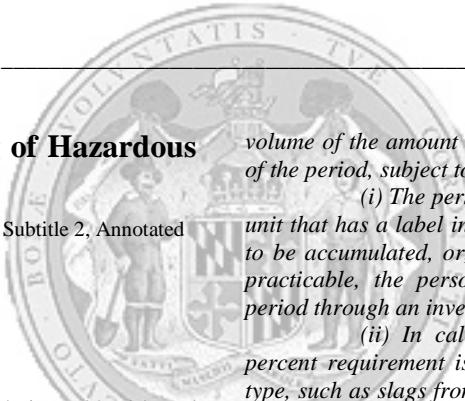
40 CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision
§261.3(f)	26.13.02.03E
§261.3(f)(1)	26.13.02.03E(1)
§261.3(f)(2)	26.13.02.03E(2)
§261.4(a)(2)	26.13.02.04A(2)
§261.21	26.13.02.11
§261.21(a)(1)	26.13.02.11A(1)
§261.21(a)(2)	26.13.02.11A(2)
§261.21(a)(3)	26.13.02.11A(3)
§261.21(a)(4)	26.13.02.11A(4)
§261.22	26.13.02.12
§261.22(a)(1)	26.13.02.12A(1)
§261.22(a)(2)	26.13.02.12A(2)
§261.23 — §261.23(a)(4) and (5)	(text unchanged)
§261.23(a)(1)—[(3) and (6)—](8)	26.13.02.13A(1)—[(3) and (6)—] (8)
§261.24	(text unchanged)
§261.31	26.13.02.16
§261.32	26.13.02.17
§261.33	26.13.02.19
Part 261, Appendix VIII — Part 262, Subpart F	(text unchanged)
262.11	26.13.03.02, .02-1, and .02-2
262.15	26.13.03.03-3
262.16	26.13.03.03-4—.03-10, .05E, .05-1, and .05-2
262.17	26.13.03.03-4—.03-11, .05E, .05-1, and .05-2
262.20(e)	Not applicable. No corresponding provision in COMAR 26.13.
§262.23(c) and (d) — Part 264	(text unchanged)
Part 264, Subpart F	26.13.05.06—.06-7
Part 264, Subpart O	26.13.05.16
§264.1	(text unchanged)
§264.13	26.13.05.02D
§264.17(b)	(text unchanged)
§264.73	26.13.05.05D
§264.111 — §264.197	(text unchanged)
§264.221(a)	26.13.05.11D(10)
§264.221(c)	26.13.05.11D(4)
§264.221(d)	26.13.05.11B(6)
§264.221(e)	26.13.05.11D(6)
§264.228 — §264.280	(text unchanged)
§264.301(c)	26.13.05.14B(3)
§264.301(d)	26.13.05.14B(4)
§264.301(e)	26.13.05.14B(5)
§264.310	(text unchanged)
§264.316	26.13.05.14N
[Part 264, Subpart O	26.13.05.16]
§264.351	(text unchanged)
§264.554	Not applicable. No corresponding provision in COMAR 26.13.
§§264.601—264.603 (Part 264, Subpart X) — Part 265	(text unchanged)
Part 265, Subpart F	26.13.06.06
Part 265, Subpart G	26.13.06.12
Part 265, Subpart H	26.13.06.16
Part 265, Subpart J	26.13.06.18
Part 265, Subpart K	26.13.06.19
Part 265, Subpart M	26.13.06.21
Part 265, Subpart O	26.13.06.23
Part 265, Subpart P	26.13.06.24
Part 265, Subpart Q	26.13.06.25
§265.1 — §265.115	(text unchanged)
[Part 265, Subpart G	26.13.06.12]
§265.117 — §265.178	(text unchanged)

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40 CFR Provision Referenced	State of Maryland Analog to the Referenced 40 CFR Provision
[Part 265, Subpart J	26.13.06.18]
§265.197	(text unchanged)
[Part 265, Subpart K	26.13.06.19]
§265.221(a)	26.13.06.19D(1)
§265.221(d)	26.13.06.19D
§265.221(e)	<i>Not applicable. No corresponding provision in COMAR 26.13.</i>
§265.228 — §§265.270—265.282 (Part 265, Subpart M)	(text unchanged)
§265.301(a)	26.13.06.22C
§265.301(c)	26.13.06.22C
§265.301(d)	26.13.06.22C
§265.301(e)	26.13.06.22E
§265.310	26.13.06.22B(3) and 26.13.05.14J
§265.316	26.13.06.21F
§§265.340—265.351 (Part 265, Subpart O) — Part 266	(text unchanged)
§266.20	26.13.10.01
§266.20(b)	26.13.10.01A(3)
[Part 268	No analog. Use 40 CFR 268.]
§270.14 — §270.62	(text unchanged)
§273.2	26.13.10.07

C. (text unchanged)



## **26.13.02 Identification and Listing of Hazardous Waste**

Authority: Environment Article, §6-905.3 and Title 7, Subtitle 2, Annotated Code of Maryland

### **.01 Purpose and Scope.**

A. — B. (text unchanged)

C. General.

(1) — (2) (text unchanged)

[§3] D. Definitions. For the purposes of Regulations .02, .04, and .06 of this chapter, *the following terms have the meanings indicated:*

[(a)] (1) *By-Product.*

(a) “By-product” [is] means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process[. Examples are process residues], such as slags, [or] distillation column bottoms, or other process residues.

(b) [The term] “By-product” does not include a co-product that is produced for the general public’s use and is ordinarily used in the form produced by the process.

[(b)] (2) “Excluded scrap metal” [is] means processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

[(c)] (3) “Home scrap metal” [is] means scrap metal as generated by steel mills, foundries, and refineries, and includes, for example, turnings, cuttings, punchings, and borings.

(4) *Material Accumulated Speculatively.*

(a) “Material accumulated speculatively” means a material that is accumulated before being recycled.

(b) “Material accumulated speculatively” does not include a material for which the person accumulating the material can show that the material is potentially recyclable and has a feasible means of being recycled, and that during the calendar year which commences on January 1, the amount of material that is recycled or transferred to a different site for recycling equals at least 75 percent by weight or

volume of the amount of that material accumulated at the beginning of the period, subject to the following:

(i) The person shall have placed the material in a storage unit that has a label indicating the first date that the material began to be accumulated, or, if placing a label on the storage unit is not practicable, the person shall have documented the accumulation period through an inventory log or other appropriate method;

(ii) In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type, such as slags from a single smelting process, that is recycled in the same way, such as by recovering the same material from the recyclable material, or by using the material in the same way;

(iii) Materials accumulating in units that would be exempt from regulation under Regulation .04-2 of this chapter are not to be included in making the calculation;

(iv) Materials that are already defined as solid wastes are not to be included in making the calculation; and

(v) A material is no longer in the category of material being accumulated speculatively once it has been removed from accumulation for recycling.

[(d)] (5) *Processed Scrap Metal.*

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

[(ii)] (b) — [(iii)] (c) (text unchanged)

[(e)] (6) *Prompt Scrap Metal.*

(a) “Prompt scrap metal”, also known as “industrial scrap metal” or “new scrap metal”, [is] means scrap metal as generated by the metal working or metal fabrication industries[, and].

(b) “Prompt scrap metal” includes scrap metal such as turnings, cuttings, punchings, and borings.

[(f)] (7) *Reclaimed Material.*

(a) “Reclaimed material” [is] means material that is processed to recover a usable product or is regenerated.

(b) [Examples are] "Reclaimed material" includes, for example, recovery of lead values from spent batteries and regeneration of spent solvents.

[(g)] (8) "Recycled material" [is] means material that is used, reused, or reclaimed.

[(h)] (9) "Reused or used material" [is] means a material that is employed in either one of the following:

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

[(i)] (b) (text unchanged)

[(i)] (10) "Scrap metal" [is] means bits and pieces of metal parts such as bars, turnings, rods, sheets, or wire or metal pieces that may be combined together with bolts or soldering such as radiators, scrap automobiles, or railroad box cars, which when worn or superfluous can be recycled.

[(j)] (11) "Sludge" has the [same] meaning [as specified] stated in COMAR 26.13.01.03B(72).

[(k)] (12) "Spent material" [is] means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

[(l)] A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that

the material is potentially recyclable and has a feasible means of being recycled, and that during the calendar year which commences on January 1, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type, such as slags from a single smelting process, that is recycled in the same way, for example, from which the same material is recovered or that is used in the same way. Materials accumulating in units that would be exempt from regulation under Regulation .04-2 of this chapter are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling.]

## .02 Definitions of Solid Waste.

A. (text unchanged)

B. Materials are solid waste if they are abandoned. For purposes of this subtitle, "abandoned" means:

(1) (text unchanged)

(2) Burned or incinerated; [or]

(3) Accumulated, stored, or treated (but not recycled) before or instead of being abandoned by being disposed of, burned, or incinerated[.]; or

(4) Sham recycled, as explained in §H of this regulation.

C. — F. (text unchanged)

G. Table 1.

	Use Constituting Disposal (1)	Energy Recovery/ Fuel (2)	Reclamation (3)	Speculative Accumulation (4)
Spent materials — Commercial chemical products exhibiting a characteristic of hazardous waste (text unchanged)				
Scrap metal other than excluded scrap metal, which is defined in Regulation [.01C(3)(b)] .01D of this chapter	(*)	(*)	(*)	(*)

NOTE (text unchanged)

### H. Sham Recycling.

(1) A hazardous secondary material found to be sham recycled, as defined in §H(2) of this regulation, is considered discarded and a solid waste.

(2) "Sham recycling" means recycling that is not legitimate, as determined in accordance with COMAR 26.13.01.04L.

### .04 Materials Which Are Not Solid Wastes.

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

(1) — (4) (text unchanged)

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

(6) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is a material accumulated speculatively as defined in Regulation [.01C(3)(l)] .01D of this chapter;

(7) — (10) (text unchanged)

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

(a) — (c) (text unchanged)

(12) (text unchanged)

(13) [Comparable fuels or comparable syngas fuels that meet the requirements of Regulations .19-1—.19-5 of this chapter;] Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic acid or naphthenic acid if the spent caustic solutions are not:

(a) Placed on the land; or

(b) Material accumulated speculatively as defined in Regulation .01D of this chapter;

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(14) (text unchanged)

(15) Oil-bearing hazardous secondary materials, that is, sludges, byproducts, or spent materials, that are generated at a petroleum refinery (SIC code 2911), when:

(a) (text unchanged)

(b) The material, *before it is inserted into the petroleum refining process*:

(i) [is] Is not placed on the land [or]; and

(ii) Is not a material accumulated speculatively [accumulated] as defined in Regulation [.01C(3)(l)] .01D of this chapter [before it is inserted into the petroleum refining process];

(c) If the material is inserted into a thermal cracking unit, the coke product does not exhibit a characteristic of hazardous waste defined in Regulations .10—.14 of this chapter; and

(d) — (f) (text unchanged)

(16) (text unchanged)

(17) Petrochemical recovered oil from an associated organic chemical manufacturing facility that is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refining process streams, subject to the following:

(a) — (c) (text unchanged)

(d) Before the oil generated by the organic chemical manufacturing facility is recycled into the petroleum refining process, it is not:

(i) (text unchanged)

(ii) [Accumulated] A material accumulated speculatively as defined in Regulation [.01C(3)(l)] .01D of this chapter; and

[(18) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic acid or naphthenic acid if the spent caustic solutions are not:

(a) Placed on the land; or

(b) Accumulated speculatively as defined in Regulation .01C(3)(l) of this chapter; and]

[(19)] (18) A used cathode ray tube (CRT) under the following conditions:

(a) A used, intact CRT, as defined in COMAR 26.13.01.03B, that is within the United States [and] that [has not been]:

(i) [Disposed] Has not been disposed; [or] and

(ii) [Accumulated] Is not material accumulated speculatively, as defined in Regulation [.01C(3)(l)] .01D of this chapter, by a CRT collector or a facility engaged in CRT processing;

(b) — (d) (text unchanged)

B. — C. (text unchanged)

### .04-3 Samples.

A. Except as provided in [§B] §§B and D of this regulation, a sample of solid waste or a sample of water, soil, or air, the quantity of which is to be determined by the Department, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirement of this chapter, [or] COMAR 26.13.03—26.13.07, or COMAR 26.13.09, or to the notification requirements of §3010 of the Resource Conservation and Recovery Act, when the sample is being:

(1) — (6) (text unchanged)

B. — C. (text unchanged)

D. In order to qualify for the exemption in §A(1) and (2) of this regulation, the mass of a sample that will be exported to a foreign country or that will be imported to a U.S. laboratory from a foreign source may not exceed 25 kilograms.

### .04-4 Treatability Study Samples.

A. Except as provided in [§B] §§B and F of this regulation, persons who generate or collect samples for the purpose of conducting treatability studies as defined in COMAR 26.13.01.03B are not subject to any requirement of COMAR 26.13.02—.04 or to

the notification requirements of Section 3010 of RCRA, nor are those samples included in the quantity determinations of Regulation .05 of this chapter and COMAR 26.13.03.03-4C(3) when one of the following conditions is met:

(1) — (3) (text unchanged)

B. — E. (text unchanged)

F. In order to qualify for the exemption in §A(1) of this regulation, the mass of a sample that will be exported to a foreign laboratory or testing facility or that will be imported to a U.S. laboratory or testing facility from a foreign source may not exceed 25 kilograms.

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

#### A. Exemptions.

(1) Except for those wastes identified in §§B, C, D, and E(2) of this regulation, and except as specified in §G of this regulation and COMAR 26.13.03.01A-3, if a person generates, in a calendar month, a total of less than 100 kilograms (approximately 220 pounds) of hazardous wastes, those wastes are not subject to regulation under COMAR 26.13.03—26.13.07, 26.13.09, [and] or 26.13.10 [and] or to the notification requirements of §3010 of RCRA, provided the generator complies with the requirements of §§B, D, E, and F of this regulation.

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

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

(b) — (c) (text unchanged)

(d) Used oil managed under the requirements of COMAR 26.10.15, 26.11.09, [26.13.02.06A(3)(c)] Regulation .06A-1(3) of this chapter, and COMAR 26.13.10;

(e) — (g) (text unchanged)

(3) (text unchanged)

B. — G. (text unchanged)

### .06 Requirements for Recyclable Materials.

#### A. General.

(1) (text unchanged)

(2) Exemption from Regulation.

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

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

(ii) (text unchanged)

(b) The following recyclable materials are not subject to the requirements of this section but are regulated under either COMAR 26.13.05.16, 26.13.06.23, or 26.13.10 and all applicable provisions in COMAR 26.13.07 and 26.13.09:

(i) — (iv) (text unchanged)

#### A-1. Exclusions.

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

(a) Industrial ethyl alcohol that is reclaimed is not a CHS for purposes of COMAR 26.13.03—[26.13.07] 26.13.09, except [for the requirements specified in §D of this regulation] that exports and imports are subject to the requirements of 40 CFR Part 262, Subpart H, as made applicable in COMAR 26.13.03.07;

(b) — (c) (text unchanged)

(2) — (3) (text unchanged)

B. — C. (text unchanged)

## [D. Industrial Ethyl Alcohol Reclaimed in a Foreign Country.

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

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

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

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

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

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

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

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

E. Hazardous waste that is imported from or exported to designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in COMAR

26.13.03.07-5C, for purpose of recovery is subject to the requirements of COMAR 26.13.03.07-5 if it meets the applicability criteria of COMAR 26.13.03.07-5A.]

**.10 General Characteristics of Hazardous Waste.**

A. (text unchanged)

B. A hazardous waste which is identified by a characteristic in Regulations .10—.14 of this chapter is assigned every EPA Hazardous Waste Number that is applicable as set forth in the respective characteristic. This number or these numbers shall be used in complying with the notification requirement of §3010 of RCRA and with certain record keeping and reporting requirements under COMAR 26.13.03—26.13.07 and 26.13.09.

C. (text unchanged)

**.15 Lists of Hazardous Wastes: General.**

A. — C. (text unchanged)

D. Each hazardous waste listed in Regulations .16—.19 of this chapter is assigned a Hazardous Waste Number which precedes the name of the waste. This number shall be used in complying with the notification requirements, and certain record-keeping and reporting requirements under COMAR 26.13.03—26.13.06 and 26.13.09.

E. (text unchanged)

**.17 Hazardous Waste from Specific Sources.**

A. As qualified by §B of this regulation, the following solid wastes are listed as hazardous wastes from specific sources unless they are excluded under:

(1) — (2) (text unchanged)

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Wood Preservation — Inorganic Pigments (text unchanged)			
Organic Chemicals	K009 — K175 (text unchanged)		
	K181	<i>Except for wastes demonstrated not to be regulated as K181 using the procedures in §D of this regulation, waste, as qualified by §B(3) of this regulation, that consists of nonwastewaters from the production of dyes or pigments or both, including nonwastewaters commingled at the point of generation with nonwastewaters from other processes, that, at the point of generation, contains mass loadings of any of the constituents identified in §C of this regulation that are equal to or greater than the corresponding levels specified in §C of this regulation, as determined on a calendar year basis.</i>	(T)
Pesticides — Secondary Lead (text unchanged)			
Inorganic Chemicals	K071 — K176 (text unchanged)		
	K177	Slag from the production of antimony oxide that is <i>material</i> accumulated speculatively as defined in Regulation [.01C(3)(l)] .01D of this chapter or disposed of, including slag from the production of intermediates, such as, for example, antimony metal or crude antimony oxide.	(T)
	K178 (text unchanged)		
Ink Formulation — Military (text unchanged)			

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**B. Qualifiers Concerning Hazardous Waste from Specific Sources.**

(1) — (2) (text unchanged)

(3) *The following qualifiers apply to Hazardous Waste Number K181 listed under the organic chemicals industry in the table in §A of this regulation:*

(a) *A nonwastewater that otherwise meets the listing for K181 in §A of this regulation does not meet that waste listing if the nonwastewater is:*

(i) *Disposed in a RCRA Subtitle D landfill unit subject to the design criteria in 40 CFR§258.40 or equivalent state regulations;*

(ii) *Disposed in a RCRA Subtitle C landfill unit subject to either 40 CFR§264.301, 40 CFR §265.301, or equivalent state regulations;*

(iii) *Disposed in other RCRA Subtitle D landfill units that meet the design criteria in 40 CFR §258.40, 40 CFR §264.301, 40 CFR§265.301, or equivalent state regulations; or*

(iv) *Treated in a combustion unit that is permitted under RCRA Subtitle C or is an on-site combustion unit that is permitted under the Clean Air Act.*

(b) *The scope of "dyes and pigments production" for the purposes of the K181 waste listing includes the manufacture of the following product classes:*

(i) *Dyes;*

(ii) *Pigments; or*

(iii) *FDA certified colors that are classified as azo, triarylmethane, perylene or anthraquinone classes.*

(c) *In identifying applicable product classes under §B(3)(b) of this regulation:*

(i) *Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products; and*

(ii) *Triarylmethane products include both triarylmethane and triphenylmethane products.*

(d) *The K181 listing does not apply to the following wastes:*

(i) *Wastes that are not generated at a dyes or pigments manufacturing site, such as wastes from the off-site use, formulation, and packaging of dyes or pigments;*

(ii) *Wastes that are otherwise identified as hazardous under COMAR 26.13.02.11—.14 and 26.13.02.16—.19 at the point of generation; and*

(iii) *Wastes generated before any annual mass loading limit is met.*

**C. K181 Listing Levels.**

(1) *Unless the conditions in the K181 listing are met, nonwastewaters are subject to the K181 listing if, during any calendar year, they contain constituents in amounts equal to or exceeding the levels listed in Table 1 in §C(2) of this regulation.*

(2) *Table 1.*

Constituent	Chemical Abstracts Service Number.	Mass Levels (kilograms per year)
Aniline	62-53-3	9,300
<i>o</i> -Anisidine	90-04-0	110
4-Chloroaniline	106-47-8	4,800
<i>p</i> -Cresidine	120-71-8	660
2,4-Dimethylaniline	95-68-1	100
1,2-Phenylenediamine	95-54-5	710
1,3-Phenylenediamine	108-45-2	1,200

*D. To demonstrate that a nonwastewater does not qualify as for the K181 listing in the organic chemicals industry category, a person shall follow the procedures in 40 CFR §261.32(d).*

**.19-6 Conditional Exclusion — Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.**

**A. General.**

(1) — (2) (text unchanged)

(3) *Speculative Accumulation.* A used, broken CRT or glass from a used CRT that is *material* accumulated speculatively, as [described] *defined* in Regulation [.01C(3)(l)].01D of this chapter, is a solid waste when recycled unless otherwise excluded from the definition of solid waste by Regulation .02 of this chapter.

(4) (text unchanged)

B. — C. (text unchanged)

D. *Requirements for Processed CRT Glass.* Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is *material* accumulated speculatively as [described] *defined* in Regulation [.01C(3)(l)].01D of this chapter.

**.19-7 Exports — Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.**

**A. General.**

(1) *This regulation establishes requirements concerning exports of used, broken CRTs being recycled that must be met in order for the used, broken CRTs to be excluded from the definition of solid waste.*

(2) *The requirements of this regulation are in addition to the requirements of Regulation .19-6 of this chapter.*

(3) *Processed CRT glass, that is, CRT glass that has been sorted or otherwise managed under the definition of CRT processing in COMAR 26.13.01.03B, is not subject to the export notification requirements of this regulation.*

(4) *Unsorted CRT glass is considered to be a used, broken CRT for the purposes of this regulation.*

B. *A person engaged in the export of used, broken CRTs for recycling:*

(1) *Shall comply with applicable requirements of 40 CFR §261.39(a)(5); and*

(2) *In complying with the requirements of 40 CFR §261.39(a)(5), shall:*

(a) *Comply with provisions in the Code of Federal Regulations as referenced rather than analogous provisions in COMAR; and*

(b) *Make the required notification to EPA as specified, rather than to the Department.*

**.19-8 Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling or Reuse.**

A. *A used, intact CRT exported for recycling is not a solid waste if the used, intact CRT:*

(1) *Is managed in accordance with the requirements concerning notice and consent that apply to used, broken CRTs in Regulation .19-7B of this chapter; and*

(2) *Is not material accumulated speculatively as defined in Regulation .01D of this chapter.*

**B. Notification and Record Keeping.**

(1) *As qualified by §B(2) of this regulation, a CRT exporter who exports used, intact CRTs for reuse shall comply with the notification and record-keeping requirements of 40 CFR §261.41; and*

(2) *In complying with the notification requirements of 40 CFR §261.41, a person shall make the required notification to EPA as specified, rather than to the Department.*

**.23 Basis for Listing Hazardous Wastes.**

EPA Hazardous Waste Number	Hazardous Constituents for Which Listed
F001 — K178 (text unchanged)	
K181	Aniline, <i>o</i> -anisidine, 4-chloroaniline, <i>p</i> -cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, 1,3-phenylenediamine.

**26.13.03 Standards Applicable to Generators of Hazardous Waste**

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

**.01 Purpose, Scope, and Applicability.**

A. — C. (text unchanged)

D. A farmer who generates waste pesticides which are hazardous wastes and who complies with all of the requirements of Regulation .07-4 of this chapter is not required to comply with other standards in this chapter or COMAR 26.13.05, 26.13.06, [or] 26.13.07, or 26.13.09 with respect to these pesticides.

E. — J. (text unchanged)

**.04 The Manifest.**

A. General Requirements.

(1) A generator who transports, or offers for transport, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, or disposal facility who offers for transport a rejected hazardous waste load[, shall]:

(a) Shall prepare a manifest (OMB control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A[, according to the instructions included in the appendix to 40 CFR Part 262 before the waste is transported off-site.]; or

(b) May, instead of using the manifest forms specified in §A(1)(a) of this regulation, prepare and use an electronic manifest if the person complies with the requirements of:

(i) §E-1 of this regulation for use of electronic manifests; and

(ii) 40 CFR §3.10 for the reporting of electronic documents to EPA.

(2) (text unchanged)

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

(4) A generator whose manifest for an interstate shipment has not been returned to the generator within the prescribed time [(of 45 days)] shall give notice of that to the:

(a) State in which the designated facility is located[.];

(b) [the] State in which the shipment may have been delivered [(], or to the EPA in the case of an unauthorized [State,] state; and

(c) [to the] Department.

(5) — (6) (text unchanged)

**B. Manifest Printing—Requirements for Registrants.**

(1) General Requirements.

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

(i) (text unchanged)

(ii) "Approved registrant" means a person that has received approval from the EPA Director of the Office of [Solid Waste] Resource Conservation and Recovery or other authorized EPA official to print, or have printed, the manifest for use or distribution.

(b) A registrant may not print, or have printed, the manifest for use or distribution unless the registrant has received approval from the EPA Director of the Office of [Solid Waste] Resource Conservation and Recovery or other authorized EPA official to do so.

(c) An approved registrant is responsible for:

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

(ii) Assigning manifest tracking numbers to its manifests.

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

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

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

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

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

**(2) Procedures for Becoming an Approved Registrant.**

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

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

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

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

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

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

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

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

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

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

(b) New Tracking Number Suffix.

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

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

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

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

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

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

- (i) Paper type;
- (ii) Paper weight;
- (iii) Ink color of the manifest instructions;
- (iv) Binding method of the manifest or continuation sheet; or

(v) Printing firm that prints the manifests.

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

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

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

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

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

(a) Has used or distributed forms that deviate from the registrant's approved form samples in regard to paper type, paper weight, ink color of the instructions, or binding method; or

(b) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.]

### (2) Approval Process for Registrants.

(a) *EPA implements the program of review and approval of requests to print, or have printed, the manifest for use or distribution.*

(b) *A person who seeks to print, or have printed, the manifest for use or distribution shall apply to the EPA to become an approved registrant, following the procedures and subject to the requirements in 40 CFR §262.21(a)—(f) and 40 CFR §262.21(h)—(m).*

(c) *EPA is the implementing authority for the requirements referenced in §B(2)(b) of this regulation and does not delegate this authority to states. In complying with §B(2)(b) of this regulation, the person shall comply with the referenced requirements in 40 CFR §262.21 as written, rather than substituting "the Department" for "EPA".*

C. (text unchanged)

### D. Number and Distribution of Copies.

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

#### (2) Manifest copies shall be distributed as follows:

(a) — (c) (text unchanged)

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

(i) Generator; and

(ii) [Department, if the generator or designated facility is located in Maryland, in accordance with COMAR 26.13.05.05B;] *Electronic manifest system, in accordance with COMAR 26.13.05.05B if the designated facility is located in Maryland, or in*

*accordance with 40 CFR §264.71(a)(2)(v)(B) if the designated facility is not located in Maryland; and*

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

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

(e) (text unchanged)

### E. Use of the Manifest.

(1) — (6) (text unchanged)

(7) *For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility in accordance with the requirements of COMAR 26.13.05.05C, COMAR 26.13.06.05A, or analogous regulations effective in the state in which the destination facility is located, the generator shall:*

(a) *Sign either:*

*(i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or*

*(ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;*

*(b) Provide the transporter with a copy of the manifest;*

*(c) Within 30 days of delivery of the rejected shipment or container residues contained in the non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and*

*(d) Retain at the generator's site a copy each manifest for at least 3 years from the date of delivery.*

### E-1. Use of the Electronic Manifest.

(1) *Legal Equivalence to Paper Manifests. For the purposes of COMAR 26.13.01—10:*

(a) *An electronic manifest that is obtained, completed, and transmitted in accordance with §A(1)(b) of this regulation, and used in accordance with this section instead of using EPA Forms 8700-22 and 8700-22A, is the legal equivalent of paper manifest forms bearing handwritten signatures and satisfies for all purposes any requirement to obtain, complete, sign, provide, use, or retain a manifest;*

(b) *A requirement to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of §E-2 of this regulation;*

(c) *A requirement to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the electronic manifest system;*

(d) *A requirement for a generator to keep or retain a copy of a manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national electronic manifest system if the copy is readily available for viewing and production if requested by an inspector representing the Department or EPA; and*

(e) *If a generator is unable to produce an electronic manifest for inspection in accordance with §E-1(1)(d) of this regulation, the generator is not considered to be in violation of the requirement to have a copy of the manifest readily available if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.*

(2) *Accessing the Electronic Manifest System. A generator may participate in the electronic manifest system either by accessing the electronic manifest system from the generator's own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter*

who accepts the hazardous waste shipment from the generator for off-site transportation.

(3) *Restriction on Use of Electronic Manifests.*

(a) Except as provided in §E-1(3)(b) of this regulation, a generator may use an electronic manifest for the tracking of waste shipments involving any hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest.

(b) A generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, instead of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(4) *Requirement for One Printed Copy.* To the extent that the U.S. Department of Transportation hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR §177.817, a generator originating an electronic manifest shall also provide the initial transporter with one printed copy of the electronic manifest.

(5) *Special Procedures When the Electronic Manifest System Is Unavailable.* If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason before the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator shall:

(a) Obtain and complete a paper manifest and, if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions; and

(b) Use the paper forms identified in §E-1(5)(a) of this regulation from this point forward for the shipment in accordance with the requirements of §E of this regulation.

(6) *Special Procedures for Electronic Signature Methods Undergoing Tests.* If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the certification of the generator or offeror on the printed copy of the manifest provided under §E-1(4) of this regulation.

(7) *Post-Receipt Manifest Data Corrections.*

(a) After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person named on the manifest, such as a waste handler; and

(b) Generators may participate electronically in the post-receipt data corrections process by following the process described in COMAR 26.13.05.05B(11), which applies to corrections made to either paper or electronic manifest records.

E-2. *Electronic Manifest Signatures.* An electronic signature method used in connection with the electronic manifest system is acceptable only if:

(1) Use of the method results in the creation of a legally valid and enforceable signature under applicable EPA and other federal requirements pertaining to electronic signatures; and

(2) The method has been designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

F. (text unchanged)

**.06 Record Keeping and Reporting.**

A. — B. (text unchanged)

C. *Exception Reporting.*

(1) — (3) (text unchanged)

(4) For a rejected shipment of hazardous waste or container residues contained in non-empty containers that a designated facility forwards to an alternate facility using a new manifest, following the procedures of COMAR 26.13.05.05C(5)(b)(i)—(ix), the generator shall:

(a) Comply with the requirements of §C(1) and (2) of this regulation for the shipment that is forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility; and

(b) In complying with §C(1) and (2) of this regulation with respect to the shipment to the alternate facility:

(i) Take the required actions based on whether the generator has received, by the specified deadlines, a copy of the manifest with the handwritten signature of the owner or operator of the alternate facility rather than a copy of the manifest with the handwritten signature of the owner or operator of the original designated facility; and

(ii) Determine whether the 35-day and 45-day deadlines have passed by comparing the current date to the date that the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

D. (text unchanged)

**.07 Transboundary Movements of Hazardous Waste for Recovery or Disposal.**

A. *Applicability.*

(1) Except as provided in §A(3) of this regulation, this regulation applies to transboundary movements of hazardous wastes.

(2) The requirements identified in §B(1) of this regulation are administered by the U.S. Environmental Protection Agency as a foreign policy matter and are not delegated to the states.

(3) *State Wastes Excluded from this Regulation.*

(a) Except for a waste that exhibits one or more of the characteristics of hazardous waste identified in COMAR 26.13.02.10—14, this regulation does not apply to a waste that is listed as a hazardous waste by the State but not by the U.S. Environmental Protection Agency.

(b) The waste codes for the wastes referred to in §B(3)(a) of this regulation that are listed as hazardous by the State but not by EPA, and the sections of COMAR where the waste codes are assigned are:

- (i) MD01, MD02, and MD03, assigned in COMAR 26.13.02.17;
- (ii) MX01, assigned in COMAR 26.13.02.19D;
- (iii) M001, assigned in COMAR 26.13.02.19F; and
- (iv) MT01, assigned in COMAR 26.13.02.19H.

B. *Requirements.*

(1) A person involved in the transboundary movement of hazardous waste shall comply with the requirements of 40 CFR Part 262, Subpart H, as qualified by §B(2) of this regulation.

(2) In complying with the requirements of 40 CFR Part 262, Subpart H, a person shall comply with provisions in the Code of Federal Regulations as referenced rather than analogous provisions in COMAR, except in instances when the federal reference includes the qualifier “or the state equivalent”.

**.07-4 Farmers.**

A farmer disposing of waste pesticides from the farmer’s own use which are hazardous wastes is not required to comply with the standards of this chapter or other standards in COMAR 26.13.05, 26.13.06, [or] 26.13.07, or 26.13.09 for those wastes, provided the farmer triple rinses each emptied pesticide container in accordance with COMAR 26.13.02.07B(3) and disposes of the pesticide residues on the farmer’s own farm in a manner consistent with disposal instructions on the pesticide label.

## 26.13.04 Standards Applicable to Transporters of Hazardous Waste

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

### .01 General.

#### A. Scope.

(1) — (2) (text unchanged)

(3) A transporter of hazardous waste shall also comply with COMAR 26.13.03, Standards Applicable to Generators of Hazardous Waste, if [he] *the generator*:

(a) — (b) (text unchanged)

(4) — (5) (text unchanged)

(6) *A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this chapter and to all other relevant requirements of 40 CFR Part 262, Subpart H, as made applicable in COMAR 26.13.03.07, including, but not limited to, 40 CFR 262.83(d) and 262.84(d) for movement documents.*

B. — F. (text unchanged)

### .02 Compliance with the Manifest System and Record Keeping.

#### A. The Manifest System.

(1) A transporter:

(a) May not accept hazardous waste from a generator unless the transporter is also provided with:

(i) [a] A manifest signed in accordance with the provisions of COMAR 26.13.03.04E; or

(ii) *An electronic manifest that is obtained, completed, and transmitted in accordance with COMAR 26.13.03.04A(1)(b), and signed with a valid and enforceable electronic signature as described in COMAR 26.13.03.04E-2; and*

(b) May only accept hazardous waste intended for export that is [not] subject to [40 CFR Part 262, Subpart H,] *COMAR 26.13.03.07* if:

(i) *The waste is accompanied by a manifest [is] signed in accordance with COMAR 26.13.03.04A;*

(ii) *[A copy of the EPA Acknowledgement of Consent accompanies the shipment] For exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, the waste is accompanied by a movement document that includes all information required by 40 CFR §262.83(d); and*

(iii) *A copy of the EPA Acknowledgement of Consent is attached to the shipping paper if the shipment is a bulk shipment by water, or is attached to the manifest if the shipment is neither by rail nor a bulk shipment by water[; and].*

(c) May not accept hazardous waste intended for export if the waste is not subject to 40 CFR Part 262, Subpart H, and the transporter knows the shipment does not conform to the EPA Acknowledgement of Consent.

(d) May not accept hazardous waste subject to the requirements of 40 CFR Part 262, Subpart H, without a tracking document that includes all information required by 40 CFR §262.84.]

(2) (text unchanged)

(3) The transporter shall:

(a) [ensure] *Ensure that the manifest accompanies the hazardous waste [and,];*

(b) [for] *For exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, ensure that a [copy of the EPA Acknowledgement of Consent] movement document that includes all the information required by 40 CFR §262.83(d) also accompanies the hazardous waste[.]; and*

(c) *In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or*

*after December 31, 2016, ensure that a movement document that includes all information required by 40 CFR §262.84(d) also accompanies the hazardous waste.*

(4) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall:

(a) (text unchanged)

(b) Retain one copy of the manifest in accordance with §C of this regulation; *and*

(c) Within 10 days of delivery of hazardous waste outside of Maryland to another transporter or to a facility, provide to the Department a completed copy of the manifest for that shipment; and]

[(d)] (c) (text unchanged)

(5) The requirements of §A(3), (4), and (6) of this regulation do not apply to water (bulk shipment) transporters if:

(a) (text unchanged)

(b) The hazardous waste is accompanied by:

(i) [a] A shipping paper containing all the information required on the manifest, [(excluding the EPA identification numbers, generator certification, and signatures[]); and,]

(ii) [for] *For exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, [an EPA Acknowledgement of Consent] a movement document that includes all information required by 40 CFR §262.83(d) or 262.84(d);*

(c) — (e) (text unchanged)

(6) [Requirements] *Rail Shipments.* For shipments involving rail transportation, the requirements of §A(3)—(5) of this regulation do not apply[. The], *but* the following requirements do apply:

(a) (text unchanged)

(b) Rail transporters shall ensure that:

(i) [a] A shipping paper containing all the information required on the manifest, [(excluding the EPA identification numbers, generator certification, and signatures[]); and,]

(ii) [for] *For exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, [an EPA Acknowledgement of Consent] a movement document that includes all information required by 40 CFR §262.83(d) or 262.84(d) accompanies the hazardous waste at all times.*

(c) — (f) (text unchanged)

(7) Transporters who transport hazardous waste out of the [State to a foreign destination] *United States* shall:

(a) — (c) (text unchanged)

(d) *[Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States] For paper manifests only, send a copy of the manifest to the e-manifest system in accordance with the allowable methods specified in 40 CFR §264.71(a)(2)(v).*

#### A-1. Use of Electronic Manifest.

(1) *Legal Equivalence to Paper Forms for Participating Transporters. For the purposes of COMAR 26.13.01—10:*

(a) *An electronic manifest that is obtained, completed, and transmitted in accordance with COMAR 26.13.03.04A(1)(b), and used in accordance with this section instead of using EPA Forms 8700-22 and 8700-22A, is the legal equivalent of paper manifest forms bearing handwritten signatures and satisfies for all purposes any requirement to obtain, complete, sign, provide, use, or retain a manifest;*

(b) *A requirement to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of COMAR 26.13.03.04E-2;*

(c) *A requirement to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the electronic manifest system;*

(d) A requirement for a manifest to accompany a hazardous waste shipment:

(i) Except as provided in §A-1(1)(d)(ii) of this regulation, is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment; and

(ii) Includes a requirement for a transporter to carry one printed copy of the electronic manifest on the transport vehicle to the extent that the U.S. Department of Transportation hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR §177.817;

(e) A requirement for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the national electronic manifest system if the copy is readily available for viewing and production if requested by an inspector representing the Department or EPA; and

(f) If a transporter is unable to produce an electronic manifest for inspection in accordance with §A-1(1)(e) of this regulation, the generator is not considered to be in violation of the requirement to have a copy of the manifest readily available if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(2) Accessing the Electronic Manifest System. A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(3) Special Procedures When the Electronic Manifest System Is Unavailable. If, after a manifest has been originated electronically and signed electronically by the initial transporter, the electronic manifest system becomes unavailable for any reason, then:

(a) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce:

(i) A copy of the printed manifest that is carried on the transport vehicle in accordance with §A-1(1)(d)(ii) of this regulation, or obtain and complete another paper manifest for this purpose; and

(ii) Sufficient copies of the document identified in §A-1(3)(a)(i) of this regulation to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste;

(b) On each printed copy being used to substitute for the unavailable electronic manifest, the transporter shall include:

(i) A notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the electronic manifest system;

(ii) If not pre-printed on the replacement manifest, the manifest tracking number of the electronic manifest that is replaced by the paper manifest; and

(iii) A brief explanation of why the electronic manifest was not available for completing the tracking of the shipment electronically;

(c) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste shall ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy; and

(d) From the point at which the electronic manifest is no longer available for tracking the waste shipment, each transporter shall ensure that the paper replacement manifest copies are carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

(4) Special Procedures for Electronic Signature Methods Undergoing Tests. If a transporter using an electronic manifest signs the manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall:

(a) Sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with §A-1(1)(d)(ii) of this regulation;

(b) Present the printed copy of the manifest bearing the generator's and transporter's ink signatures to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies; and

(c) After the owner or operator of the designated facility has signed the printed manifest copy with the owner or operator's ink signature, deliver the printed manifest copy to the designated facility with the waste materials.

(5) Post-Receipt Manifest Data Corrections.

(a) After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person named on the manifest, such as a waste handler.

(b) A transporter may participate electronically in the post-receipt data corrections process by following the process described in COMAR 26.13.05.05B(11), which applies to corrections made to either paper or electronic manifest records.

B. Compliance with the Manifest.

(1) (text unchanged)

(2) Emergency Condition. If the hazardous waste cannot be delivered in accordance with §B(1) of this regulation because of an emergency condition other than rejection of the waste by the designated facility, then:

(a) [the] The transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions[.]; and

(b) The requirements of §B(5)—(7) of this regulation apply.

(3) — (4) (text unchanged)

(5) Emergency Condition — Transporters Without Agency Authority.

(a) If, as described in §B(2) of this regulation, hazardous waste is not delivered to the next designated transporter in accordance with §B(1)(c) of this regulation, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter shall contact the generator for further instructions before making any revisions to the transporter designations on the manifest.

(b) The current transporter may, after receiving further instructions from the generator in accordance with §B(5)(a) of this regulation, and receiving authorization from the generator to make proposed revisions to the transporter designations on the manifest, make revisions to the transporter designations on the manifest if:

(i) The hazardous waste is not delivered in accordance with §B(1)(c) of this regulation because of an emergency condition; or

(ii) The current transporter proposes to change the transporter or transporters designated on the manifest by the generator or proposes to add a new transporter during transportation, with the reason for the proposed change being the facilitation of a response to an emergency or for the purposes of transportation efficiency, convenience, or safety.

(6) Emergency Condition — Transporters with Agency Authority. If, as described in §B(2) of this regulation, hazardous waste is not delivered to the next designated transporter in accordance with §B(1)(c) of this regulation, and the current

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transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter or transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, if:

(a) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(b) The transporter enters in Item 14 of each manifest for which a change under this authority is made the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf.;" and

(c) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(7) *Emergency Condition — Generator Liability.* The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under §B(6) of this regulation does not affect the generator's liability or responsibility for complying with any applicable requirement under COMAR 26.13.01—10, or grant any additional authority to the transporter to act on behalf of the generator.

C. (text unchanged)

D. *Electronic Manifest Signatures.* An electronic signature method used in connection with the electronic manifest system is acceptable only if:

(1) Use of the method results in the creation of a legally valid and enforceable signature under applicable EPA and other federal requirements pertaining to electronic signatures; and

(2) The method has been designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

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

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

#### .01 General.

A. Purpose, Scope, and Applicability.

(1) (text unchanged)

(2) The standards in this chapter apply to:

(a) — (c) (text unchanged)

(d) As specified in COMAR 26.13.10.30, the storage of military munitions classified as a solid waste under COMAR 26.13.10.27B; [and]

(e) The treatment and disposal of hazardous waste military munitions[.]; and

(f) *Owners or operators of all facilities that treat, store, or dispose of hazardous wastes referred to in 40 CFR Part 268.*

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

(a) — (f) (text unchanged)

(g) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, [unless the unit is used to treat waste from off-site;] *subject to the following:*

(i) *For a wastewater treatment unit, the exclusion from the requirements of this chapter does not apply with respect to treatment of a hazardous waste from off-site, other than waste delivered to a unit via sanitary sewer in accordance with the requirements of the Clean Water Act;*

(ii) *The owner or operator shall comply with the requirements of Regulation .02H of this chapter if the owner or operator is using the unit to treat a characteristic hazardous waste by dilution to remove the hazardous characteristic from the waste before land disposal, and the waste is either an ignitable hazardous waste described in §A(3)(g)(iii) of this regulation, or a reactive hazardous waste; and*

(iii) *The provisions of §A(3)(g)(ii) of this regulation regarding ignitable hazardous waste apply to an ignitable waste other than a waste in the D001 High TOC Subcategory defined in 40 CFR §268.40;*

(h) — (l) (text unchanged)

B. — D. (text unchanged)

#### .02 General Facility Standards.

A. — B. (text unchanged)

C. Required Notices.

(1) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to 40 CFR Part 262, Subpart H, from a foreign source shall [notify the Secretary in writing at least 4 weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.]:

(a) *Submit the notices required in 40 CFR §264.12(a); and*

(b) *In complying with 40 CFR §264.12(a), comply with provisions in the Code of Federal Regulations as referenced rather than analogous provisions in COMAR.*

(2) — (4) (text unchanged)

D. General Waste Analysis.

(1) Chemical and Physical Analysis.

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

(i) [requirements] Requirements of this chapter and COMAR 26.13.09; or

(ii) [with the conditions] Conditions of a permit issued pursuant to COMAR 26.13.07.

(b) — (d) (text unchanged)

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

(a) — (b) (text unchanged)

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

(i) — (v) (text unchanged)

(vi) When applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in §H of this regulation [and], Regulations .14N and .16D of this chapter, and COMAR 26.13.09; and

(d) (text unchanged)

(3) *Special Requirements for Surface Impoundments.* The owner or operator of a surface impoundment exempted from land disposal restrictions under 40 CFR §268.4(a) shall ensure that the waste analysis plan required by §D(2) of this regulation includes the procedures and schedules for the:

(a) *Sampling of impoundment contents;*

(b) *Analysis of test data; and*

(c) *Annual removal of residues specified in §D(4) of this regulation.*

(4) The requirement of §D(3)(c) of this regulation applies to surface impoundment residues that are regulated as hazardous waste because they exhibit a characteristic of hazardous waste or they have not been delisted under COMAR 26.13.01.04B-1, and either:

(a) Do not meet the applicable treatment standards of 40 CFR Part 268, Subpart D; or

(b) In the absence of treatment standards in 40 CFR Part 268, Subpart D, are prohibited from land disposal under:

- (i) 40 CFR §268.32 or RCRA Section 3004(d); or
- (ii) 40 CFR §268.33(f).

E. — J. (text unchanged)

#### **.02-2 Construction Quality Assurance Program.**

A. This regulation applies to the owner or operator of a:

(1) Surface impoundment that is subject to the requirements of Regulation .11D(4) or (5) of this chapter;

(2) Waste pile that is subject to the requirements of Regulation .12D(1) or (2) of this chapter; or

(3) Landfill unit that is subject to the requirements of Regulation .14B(3) or (4) of this chapter.

B. The owner or operator of a land disposal unit identified in §A of this regulation shall:

(1) Incorporate into facility operations a construction quality assurance program that:

(a) Ensures that the constructed unit meets or exceeds all design criteria and specifications in the facility permit; and

(b) Has been developed and implemented under the direction of a construction quality assurance officer who is a registered professional engineer; and

(2) As qualified by §C of this regulation, ensure that the construction quality assurance program meets the requirements of 40 CFR §264.19(a)(2), (b), and (c).

C. In complying with the requirements of 40 CFR §264.19, the owner or operator shall:

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

(2) Substitute the corresponding regulation or regulations identified in COMAR 26.13.01.05B(2) for the provisions in other sections of the Code of Federal Regulations that are cited within 40 CFR §264.19.

D. Certification. The owner or operator of a unit identified in §A of this regulation:

(1) May not accept waste into the unit until the owner or operator has submitted to the Department by certified mail or hand delivery a certification signed by the construction quality assurance officer that the:

(a) Approved construction quality assurance plan has been successfully carried out;

(b) Unit meets the requirements of:

- (i) Regulation .11D(4) or (5) of this chapter;
- (ii) Regulation .12D(1) or (2) of this chapter; or
- (iii) Regulation .14B(3) or (4) of this chapter; and

(c) Procedure of COMAR 26.13.07.15C(2) and (3) regarding inspection by the Department has been carried out; and

(2) Shall furnish documentation supporting the construction quality assurance officer's certification to the Department upon request.

#### **.05 Manifest System, Record Keeping, and Reporting.**

A. (text unchanged)

B. Use of Manifest System.

(1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or the owner or operator's agent, shall:

(a) — (d) (text unchanged)

[(e) Send a completed copy of the manifest to:

(i) The Department within 10 days after receipt of the hazardous waste; and

(ii) The generator state if the generator state requires the destination facility to submit a copy of the manifest;]

(e) Comply with the following requirements for handling paper manifests:

(i) Transmit the top copy (page 1) and any continuation sheets to the electronic manifest system for data entry and processing by either transmitting an image file of page 1 of the manifest and any continuation sheet, or transmitting both a data file and the image file corresponding to page 1 of the manifest and any continuation sheet;

(ii) Make the transmittal required by §B(1)(e)(i) of this regulation within 30 days of the date of delivery to the facility; and

(iii) Submit copies to the electronic manifest system by directing the copies to the electronic mail submission address specified on the U.S. Environmental Protection Agency's electronic manifest program website's directory of services.

(f) (text unchanged)

(g) For hazardous waste [imported from a foreign source, mail a copy of the manifest, within 30 days of delivery of the waste, to the address given in 40 CFR §264.71(a)(3)] subject to 40 CFR Part 262, Subpart H, from a foreign source:

(i) Additionally, list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b, using, if additional space is needed, one or more continuation sheet (EPA Form 8700-22A); and

(ii) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in 40 CFR §262.82(e) until the facility can submit such a copy to the e-manifest system in accordance with §B(1)(e) of this regulation.

(2) — (3) (text unchanged)

[(4) Hazardous Waste Received at a Recovery Facility from a Foreign Source.

(a) For the purposes of this subsection:

(i) "Competent authorities" has the meaning stated in 40 CFR §262.81(a);

(ii) "Concerned countries" has the meaning stated in 40 CFR §262.81(b);

(iii) "Notifier" has the meaning stated in 40 CFR §262.81(g);

(iv) "Recovery facility" has the meaning stated in 40 CFR §262.81(j); and

(v) "Tracking document" means a document that meets the requirements of 40 CFR §262.84, which is incorporated by reference in COMAR 26.13.01.05B(1)(d).

(b) The owner or operator of a facility that has received hazardous waste subject to COMAR 26.13.03.07-5, which deals with international agreements concerning shipments of hazardous waste, shall provide a copy of the tracking document bearing all required signatures, within 3 working days of receipt of the shipment to:

(i) The notifier;

(ii) The U.S. EPA at the address given in 40 CFR §264.71(d); and

(iii) The competent authorities of all other concerned countries.

(c) A person required to distribute copies of a tracking document under §B(4)(b) of this regulation shall maintain the original of the signed tracking document at the facility for at least 3 years.]

(4) After receiving a shipment of hazardous waste from a foreign source subject to 40 CFR Part 262, Subpart H, the owner or operator of a facility shall comply with the requirements of 40 CFR §264.71(d) regarding the waste tracking system for imports and

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exports that is maintained by EPA under authority that is not delegated to the states.

(5) (text unchanged)

(6) *Legal Equivalence to Paper Manifests.* For the purposes of COMAR 26.13.01—10:

(a) An electronic manifest that is obtained, completed, and transmitted in accordance with COMAR 26.13.03.04A(1)(b), and used in accordance with this section instead of using the paper manifest form, is the legal equivalent of paper manifest forms bearing handwritten signatures and satisfies for all purposes any requirement to obtain, complete, sign, provide, use, or retain a manifest;

(b) A requirement for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of COMAR 26.13.03.04E-2;

(c) A requirement to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person;

(d) A requirement for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment;

(e) A requirement for a facility owner or operator to keep or retain a copy of a manifest is satisfied by retention of the facility's electronic manifest copy in the facility's account on the national electronic manifest system if the copy is readily available for viewing and production if requested by an inspector representing the Department or EPA; and

(f) If a facility owner or operator is unable to produce an electronic manifest for inspection in accordance with §B(6)(e) of this regulation, the owner or operator is not considered to be in violation of the requirement to have a copy of the manifest readily available if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

(7) *Accessing the Electronic Manifest System.* A facility owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner or operator's own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(8) *Special Procedures Applicable to Replacement Manifests.* If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(a) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;

(b) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest;

(c) Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system; and

(d) The owner or operator of the facility shall retain at the facility one copy of the paper replacement manifest for at least 3 years from the date of delivery.

(9) *Special Procedures Applicable to Electronic Signature Methods Undergoing Tests.* If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall:

(a) Also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter; and

(b) Upon executing the owner or operator's ink signature on the printed copy of the manifest provided by the transporter, the owner or operator shall retain this original copy among the facility's records for at least 3 years from the date of delivery of the waste.

(10) *Electronic Manifest Signatures.* An electronic signature method used in connection with the electronic manifest system is acceptable only if:

(a) Use of the method results in the creation of a legally valid and enforceable signature under applicable EPA and other federal requirements pertaining to electronic signatures; and

(b) The method has been designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

(11) *Post-Receipt Manifest Data Corrections.*

(a) After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person shown on the manifest, such as a waste handler.

(b) An interested person shall make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in the electronic manifest system for corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(c) A person submitting a correction shall include the following information as part of the submission:

(i) The manifest tracking number and date of receipt by the facility of each original manifest for which data are being corrected;

(ii) The item number of each original manifest that is the subject of a submitted correction; and

(iii) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(d) A person submitting a correction:

(i) Shall include as part of the submission a statement that the person submitting the corrections certifies that, to the best of the person's knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete;

(ii) Shall execute the certification statement with a valid electronic signature; and

(iii) May submit a batch upload of data corrections under one certification statement.

*Agency Note:* The U.S. Environmental Protection Agency assesses an owner or operator who is a user of the electronic manifest system a user fee as prescribed in 40 CFR §264.311 and determined in 40 CFR §1312. EPA periodically updates the schedule of user fees and publishes the updated fee schedule to ensure that the e-manifest user community is aware of the revisions, as provided in 40 CFR §264.1313. An owner or operator subject to these user fees is required by EPA to make user fee payments in accordance with the requirements of 40 CFR §264.1314, subject to the informal fee

dispute resolution process of 40 CFR §264.1316, and subject to the sanctions for delinquent payments under 40 CFR §264.1315.

C. Manifest Discrepancies.

(1) — (6) (text unchanged)

(7) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility shall also comply with the exception reporting requirements in COMAR 26.13.03.06C.

[(7)] (8) (text unchanged)

D. Operating Record.

(1) (text unchanged)

(2) The owner or operator shall record following information as it becomes available, and maintain it in the operating record until closure of the facility:

(a) (text unchanged)

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

(i) — (iii) (text unchanged)

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

(c) Records and results of waste analysis performed as specified in:

(i) Regulations .02D and H, .14N, and .16D of this chapter[.]; and

(ii) 40 CFR §268.4(a) and 40 CFR §268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan as specified in Regulation .04G(10) of this chapter[.];

(e) Records and results of inspections as required by Regulation .02F(4) of this chapter, [(J]except that these data need be kept only 3 years[.]);

(f) For off-site facilities, notices to generators as specified in Regulation .02C(3) of this chapter[.];

(g) All closure cost estimates under Regulation .08 of this chapter and for disposal facilities all post-closure cost estimates under Regulation .08 of this chapter[.];

(h) Monitoring, testing, or analytical data, and corrective action when required by Regulations .06—.06-7, .10D, .10-2, .10-4, .11F, .12E, .13G, I, K, .14C, I, .16I, and .16-1C of this chapter[.];

(i) A certification by the owner or operator at least annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that he generates to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage, or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment[.];

(j) Records of:

(i) The quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted under 40 CFR §268.5, a petition under 40 CFR §268.6, or a certification under 40 CFR §268.8;

(ii) Monitoring data required in support of a petition under 40 CFR §268.6 that is required to be maintained by 40 CFR §268.6(b)(5); and

(iii) The applicable notice required by a generator under 40 CFR §268.7(a);

(k) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR §268.7 or 40 CFR §268.8;

(l) For an on-site treatment facility, the information contained in the notice, except for the manifest number, and the certification and demonstration, if applicable, required by the

generator or the owner or operator under 40 CFR §268.7 or 40 CFR §268.8;

(m) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR §268.7 or 40 CFR §268.8, whichever is applicable;

(n) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR §268.7, except for the manifest number, and the certification and demonstration, if applicable, required under 40 CFR §268.8, whichever is applicable;

(o) For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR §268.7 or 40 CFR §268.8; and

(p) For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR §268.7 or 40 CFR §268.8.

(3) Special Requirements for Surface Impoundments. The owner or operator of a surface impoundment exempted from land disposal restrictions under 40 CFR §268.4(a) shall ensure that the waste analysis plan required by §D(2) of this regulation includes procedures and schedules for the:

(a) Sampling of impoundment contents;

(b) Analysis of test data; and

(c) Annual removal of residues specified in §D(4) of this regulation that have not been delisted under COMAR 26.13.01.04B-1 or that exhibit a characteristic of hazardous waste.

(4) The requirement of §D(3)(c) of this regulation applies to residues that:

(a) Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or

(b) In the absence of any applicable treatment standards in 40 CFR Part 268, Subpart D, are prohibited from land disposal under:

(i) 40 CFR §268.32 or §3004(d) of RCRA; or

(ii) 40 CFR §268.33(f).

E. — H. (text unchanged)

**.11 Surface Impoundments.**

A. (text unchanged)

B. General Design Requirements.

(1) — (2) (text unchanged)

(3) A surface impoundment shall be designed to prevent discharge into the land and ground water, and to surface water, [(J]except for discharges authorized by a State discharge permit[]], during the life of the impoundment by use of a containment system which complies with §D of this regulation. The Secretary shall include the design of the containment system as a term and condition of the permit.

(4) — (5) (text unchanged)

(6) The Secretary:

(a) May exempt the owner or operator [would be exempted] from the requirements of §B(3)[.] of this regulation[.] if the Secretary finds, based on a demonstration by the owner or operator, [the] that alternate design and operating practices, together with location characteristics, will prevent the migration of the hazardous constituents [(see COMAR 26.13.05.06-1B)], as identified in Regulation .06-1B of this chapter, into the ground water or surface water at any future time[.]; and

(b) [In] Shall, in deciding whether to grant an exemption, [the Secretary will] consider:

[(a)] (i)—[(d)] (iv) (text unchanged)

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(7) (text unchanged)

C. (text unchanged)

D. Containment Systems.

(1) — (3) (text unchanged)

(4) The owner or operator of each new surface impoundment, each new surface impoundment unit at an existing facility, each replacement of an existing surface impoundment unit, and each lateral expansion of an existing surface impoundment unit[,] shall install a *liner system* consisting of two or more liners and a leachate collection and removal system between the liners[.], *subject to the following:*

(a) The liners and leachate collection system shall protect human health and the environment[.];

(b) The requirements of this section shall apply with respect to all waste received after the issuance of the permit[.];

(c) The [requirement for the installation of two or more liners in this subsection may be satisfied by the installation of] *liner system shall include:*

(i) [a] A top liner designed, operated, and constructed of materials to prevent the migration of any constituent into the liner during the period the facility remains in operation, including any post-closure monitoring period[.]; and

(ii) [a] A composite lower liner that meets the requirements of §D(4)(d) of this regulation;

(d) The composite lower liner required by §D(4)(c)(ii) of this regulation shall meet the following requirements:

(i) Be designed, operated, and constructed to prevent the migration of any constituent through the liner during [this] the period[.] of facility operation and post-closure care; [For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy this requirement if it is]

(ii) Consist of at least two components;

(iii) Include an upper component that is designed and constructed of materials to prevent the migration of hazardous constituents into this component during the active life of the facility and the post-closure care period; and

(iv) Include a lower component that is designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur, with the lower component being constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  centimeter per second.

(5) Section D(4) of this regulation does not apply if the owner or operator demonstrates to the Secretary and the Secretary finds for the surface impoundment, that alternative design and operating practices, together with location characteristics, will:

(a) [prevent] Prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection systems[.] required by §D(4) of this regulation; and

(b) Allow detection of leaks of hazardous constituents through the top liner at least as effectively as the system described in §D-1(1)—(3) of this regulation.

(6) The double liner requirement set forth in §D(4), of this regulation, may be waived by the Secretary for any monofill, if the monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and the wastes do not contain constituents which would render the wastes hazardous for reasons other than the toxicity characteristic in COMAR 26.13.02, and one of the following applies:

(a) All of the following:

(i) (text unchanged)

(ii) The monofill is located more than 1/4 mile from an underground source of drinking water as that term is defined in 40 CFR §144.3; and

(iii) The monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under COMAR 26.13.07; or

(b) (text unchanged)

(7) — (9) (text unchanged)

(10) Liner systems shall be:

(a) (text unchanged)

(b) Constructed on a foundation capable of providing support to the liner or liners and resistance to the pressure head above the liner or liners to prevent failure of the liner or liners due to settlement, compression, or uplift [(see "Lining of Water Impoundment and Disposal Facilities", EPA/870, September 1980 for data and discussion of liner system materials, design, construction, operation, and maintenance)]; and

(c) (text unchanged)

(11) (text unchanged)

### D-1. Leachate Collection and Removal System.

#### (1) Scope.

(a) This section establishes requirements for a leachate collection and removal system that is required to be installed between liners in accordance with §D(4) of this regulation.

(b) The requirements of this section also apply to a leachate collection and removal system that is immediately above the bottom composite liner in a containment system that includes multiple leachate collection and removal systems.

(2) A leachate collection and removal system identified in §D-1(1) of this regulation is:

(a) Also a leak detection system; and

(b) Required to be capable of detecting, collecting, and removing leaks.

(3) Except as provided in §D-1(4) of this regulation, the facility owner or operator shall ensure that the leachate collection and removal system is designed, constructed, and operated in accordance with the provisions of 40 CFR §264.221(c)(2)(i)—(iv), (3), and (4).

(4) The Secretary may approve alternative design and operating practices to those specified in §D-1(3) of this regulation if the owner or operator demonstrates to the Secretary that the proposed alternate design and alternate operating practices, along with location characteristics, will:

(a) Prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal system specified in §D-1(3) of this regulation; and

(b) Allow detection of leaks of hazardous constituents through the top liner at least as effectively as the design and operating practices specified in §D-1(3) of this regulation.

### D-2. Action Leakage Rate.

(1) This section establishes requirements concerning the maximum design flow rate that the leak detection system required by §§D(4) and D-1 of this regulation can remove without the fluid head on the bottom liner exceeding 1 foot.

(2) For the purposes of this section, "action leakage rate" means the maximum design flow rate described in §D-2(1) of this regulation.

(3) The owner or operator shall provide the Department with the information that the Department considers necessary for the specification of a valid action leakage rate that incorporates an adequate margin of safety to allow for uncertainties, as specified in §D-2(4) of this regulation.

(4) For a surface impoundment subject to §D of this regulation, the Department shall specify an action leakage rate that:

(a) Includes an adequate safety margin, considering:

(i) Uncertainties in the design, construction, operation, and location of the leak detection system;

(ii) The characteristics of the waste and leachate;

(iii) The likelihood that other sources may contribute to liquids in the leak detection system, and the amounts of these liquids; and

(iv) Proposed response actions; and

(b) If exceeded, obligates the owner or operator to respond as specified in §D-3 of this regulation.

(5) To determine if the action leakage rate has been exceeded, the owner or operator shall:

(a) Convert the weekly or monthly flow rate from the monitoring data obtained in accordance with §F(5) of this regulation to an average daily flow rate in gallons per acre per day for each sump; and

(b) Unless the Department approves a different calculation:

(i) Each week, during the active life and closure period for the unit, calculate the average daily flow rate for each sump; and

(ii) For a unit closed in accordance with §G(2) of this regulation, calculate, each month, the average daily flow rate during the post-closure care period if monthly monitoring is required under §F(5) of this regulation.

#### D-3. Response Action Plan.

(1) Before managing waste in a surface impoundment that is subject to §D(4) of this regulation, the owner or operator shall:

(a) Develop a response action plan that meets the requirements of §D-3(2) of this regulation; and

(b) Obtain the approval of the Department for the response action plan.

(2) The owner or operator shall ensure that the response action plan:

(a) At a minimum describes the actions specified in 40 CFR §264.223(b), except that, in complying with 40 CFR §264.223(b), the owner or operator shall substitute "the Department" for "the Regional Administrator"; and

(b) Incorporates the procedures specified in 40 CFR §264.223(c).

(3) If the action leakage rate specified under §D-2 of this regulation is exceeded, then the owner or operator shall respond as specified in the approved response action plan.

E. (text unchanged)

#### F. Inspections and Testing.

##### (1) Liners.

(a) (text unchanged)

(b) During construction [or] and installation, liner systems shall be inspected for uniformity, damage, and imperfections [(for example,] such as holes, cracks, thin spots, and foreign materials[)].

(c) (text unchanged)

(d) [Manufactured] Immediately after construction or installation of a liner:

(i) Manufactured liner materials [(for example,] such as membranes, sheets, and coatings[)] shall be inspected to ensure tight seams and joints and the absence of tears or blisters[.]; and

(ii) Soil-based and admixed liners and covers shall be inspected for imperfections, including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

##### (2) The owner or operator shall inspect:

(a) A surface impoundment which contains free liquids at least once each operating day to ensure compliance with §C(1)—(3), of this regulation, and to detect any leaks or other failures of the impoundment[.]; and

(b) Each surface impoundment, including dikes, berms, and vegetation surrounding the dike, at least once a week and after storms to [detect]:

(i) Detect any evidence of or potential for leaks from the impoundment;

(ii) Detect severe erosion or other signs of deterioration in dikes[,] or other containment devices;

(iii) Detect deterioration, malfunctions, or improper operation of overtopping control systems; and

(iv) [to ensure] Ensure compliance with §C(4) of this regulation.

(3) — (4) (text unchanged)

(5) The owner or operator shall:

(a) Comply with the requirements of 40 CFR §264.226(d) concerning the recording of information about removal of liquids from the leak detection sump; and

(b) In complying with 40 CFR §264.226(d), substitute "Secretary" for "Regional Administrator".

G. — H. (text unchanged)

I. Special Requirements for Ignitable or Reactive Waste. [Ignitable] A person may not place ignitable or reactive waste [may not be placed] in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of 40 CFR Part 268, and the:

(1) — (2) (text unchanged)

J. — K. (text unchanged)

#### .12 Waste Piles.

A. (text unchanged)

#### B. Design and Operating Requirements.

(1) — (2) (text unchanged)

(3) The owner or operator shall:

(a) Install two or more liners and a leachate collection and removal system above and between these liners for each:

(i) New waste pile unit;

(ii) Lateral expansion of a waste pile unit; and

(iii) Replacement of an existing waste pile unit; and

(b) Ensure that the liners and leachate collection and removal system meet the requirements of §D of this regulation.

[3)] (4)—[(6)] (7) (text unchanged)

[7)] (8) The Secretary [will] shall specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

C. (text unchanged)

#### D. Containment Systems.

(1) A containment system shall be designed, constructed, maintained, and operated to prevent discharge into the land, surface water, or ground water during the life of the waste pile. This includes the following:

(a) The system shall consist of a leachate and run-off collection and control system, and either:

(i) A base underlying and in contact with the waste pile that is made of a liner or liners which will prevent discharge into the land, surface water, or ground water during the life of the pile based on the liner or liners' thickness, the permeability of the liner or liners and the characteristics of the waste or leachate to which the liner or liners will be exposed. The liner or liners shall be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile, or to clean and expose the liner surface for inspection.

(ii) A base as in §D(1)(a)(i), of this regulation, except that the liner or liners need not be of sufficient strength and thickness to prevent failure due to physical damage from equipment used to clean and expose the liner surface for inspection, and a leachate detection, collection, and removal system beneath the base to detect,

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contain, collect, and remove any discharge from the base. The leachate detection, collection, and removal system shall be placed above the water table to ensure the detection of any discharge through the base, to prevent any discharge of ground water into the leachate detection, collection, and removal system, and to protect the structural integrity of the base.

(b) A highly impermeable liner beneath the drainage layer is a necessary part of the leachate detection, collection, and removal system. The ground water table may be controlled to comply with this requirement.

(2) A waste pile base shall be constructed:

(a) Of materials that have appropriate chemical properties and strength and of sufficient thickness to prevent failure due to pressure of and physical contact with the waste to which they are exposed, climatic conditions, and the stress of installation; and

(b) On a foundation capable of providing support to the liner or liners and to loads placed or moving above the liner or liners to prevent failure of the liner or liners due to settlement or compression.

(3) A containment system shall be protected from plant growth which could puncture any component of the system.

(4) A containment system shall have a containment life equal to or greater than the life of the pile.]

(1) Except as provided in §D(2) and (3) of this regulation, the owner or operator shall ensure that a waste pile subject to this regulation includes a containment system that:

(a) Incorporates two or more liners and a leachate collection and removal system above and between the liners, with the leachate collection and removal system also serving as a leak detection system; and

(b) Is designed, constructed, and operated in accordance with the requirements of 40 CFR §264.251(c)(1)–(5), except that, in meeting these requirements, the owner or operator shall substitute “Secretary” for “Regional Administrator”.

(2) The Secretary may approve alternative designs and operating practices to those specified in §D(1) of this regulation if the owner or operator demonstrates to the Secretary that the proposed designs and operating practices, together with location characteristics, will:

(a) Prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal systems specified in §D(1) of this regulation; and

(b) Allow detection of leaks of hazardous constituents through the top liner at least as effectively as the design and operating practices specified in §D(1) of this regulation.

(3) The requirements of §D(1)(a) of this regulation do not apply to a monofil that has been granted a waiver by the Secretary in accordance with Regulation .11D(6) of this chapter.

### D-1. Action Leakage Rate.

(1) This section establishes requirements concerning the maximum design flow rate that the leak detection system required by §D(1)(a) of this regulation can remove without the fluid head on the bottom liner exceeding 1 foot.

(2) For the purposes of this section, “action leakage rate” means the maximum design flow rate described in §D-1(1) of this regulation.

(3) The owner or operator shall provide the Department with the information that the Department considers necessary for the specification of a valid action leakage rate that incorporates an adequate margin of safety to allow for uncertainties, as specified in §D-1(4) of this regulation.

(4) For a waste pile subject to §D(1) of this regulation, the Department shall specify an action leakage rate that:

(a) Includes an adequate safety margin, considering:

(i) Uncertainties in the design, construction, operation, and location of the leak detection system;

(ii) The characteristics of the waste and leachate;

(iii) The likelihood that other sources may contribute to liquids in the leak detection system, and the amounts of these liquids; and

(iv) Proposed response actions; and

(b) If exceeded, obligates the owner or operator to respond as specified in §D-2 of this regulation.

(5) To determine if the action leakage rate has been exceeded, the owner or operator shall:

(a) Convert the weekly flow rate from the monitoring data obtained in accordance with §E(3) of this regulation to an average daily flow rate in gallons per acre per day for each sump; and

(b) Unless the Department approves a different calculation, calculate the average daily flow rate for each sump on a weekly basis during the active life and closure period for the unit.

### D-2. Response Action Plan.

(1) Before managing hazardous waste in a waste pile that is subject to §D(1) or (2) of this regulation, the owner or operator shall:

(a) Develop a response action plan that meets the requirements of §D-2(2) of this regulation; and

(b) Obtain the approval of the Department for the response action plan.

(2) The owner or operator shall ensure that the response action plan:

(a) At a minimum describes the actions specified in 40 CFR §264.253(b), except that, in complying with 40 CFR §264.253(b), the owner or operator shall substitute “Department” for “Regional Administrator”; and

(b) Incorporates the procedures specified in 40 CFR §264.253(c).

(3) If the action leakage rate specified under §D-2 of this regulation is exceeded, then the owner or operator shall respond as specified in the approved response action plan.

### E. Inspections and Testing.

(1) [During construction or installation of the waste pile base, except] Except in the case of an existing portion of a waste pile exempt from the requirements of §B(1) of this regulation, the owner or operator shall, during construction and immediately after installation, inspect:

(a) Liner systems and covers [shall be inspected] for uniformity, damage, and imperfections [(for example, such as holes, cracks, thin spots, and foreign materials)];

(b) Manufactured liner materials and covers [(for example, such as membranes, sheets, and coatings)] shall be inspected, to ensure tight seams and joints and the absence of tears or blisters; and

(c) Soil-based and admixed liners and covers [shall be inspected] for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(2) Except as otherwise provided in §E(3), of this regulation, the owner or operator of a waste pile shall include in the inspection plan required under Regulation .02 of this chapter. A schedule of inspection of the devices controlling wind dispersal (if required) and run-on, and the waste pile containment system under §D of this regulation. The inspection schedule shall include periodic removal of the waste pile and testing of the underlying base to ensure that it has not deteriorated to the point where it is no longer capable of containment, is already leaking, or is otherwise in disrepair.

(3) If it is impractical to remove the waste pile and test the underlying base periodically because of the size of the pile or the type of base used (for example, a synthetic membrane which could be damaged during waste removal), the owner or operator may omit the pile base inspection from his inspection plan, provided that the pile

has a leachate detection, collection, and removal system as specified in §D(1)(a)(ii) of this regulation.]

[(4)] (2) While a waste pile is in operation, [it shall be inspected] the owner or operator shall inspect the pile weekly and after storms to detect evidence of any of the following:

(a) — (d) (text unchanged)

(3) For a waste pile required to have a leak detection system under §D(1) of this regulation, the owner or operator shall record the amount of liquid removed from each leak detection sump at least once each week during the active live and closure period of the waste pile.

F. (text unchanged)

G. Special Requirements for Ignitable or Reactive Waste. [Ignitable] A person may not place ignitable or reactive waste [may not be placed] in a pile unless the waste and waste pile satisfy all applicable requirements of 40 CFR Part 268, and:

(1) — (2) (text unchanged)

H. — J. (text unchanged)

#### .13 Land Treatment.

A. — K. (text unchanged)

L. Special Requirements for Ignitable or Reactive Waste. The owner or operator may not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of 40 CFR Part 268, and the waste is:

(1) — (2) (text unchanged)

M. — N. (text unchanged)

#### .14 Landfills.

A. (text unchanged)

##### B. Design and Operating Requirements.

(1) — (2) (text unchanged)

(3) The owner or operator of each new landfill, each new landfill unit at an existing facility, each replacement of an existing landfill unit, and each lateral expansion of an existing landfill unit, shall install two or more liners and a leachate collection and removal system above and between the liners[.], subject to the following:

(a) The liners and leachate collection systems shall protect human health and the environment[.];

(b) The [requirement for the installation of two or more liners in this subsection may be satisfied by the installation of a] liner system shall include:

(i) A top liner designed, operated, and constructed of materials to prevent the migration of any constituent into the liner during the period the facility remains in operation, including any post-closure monitoring period[.]; and

(ii) [a lower] A composite bottom liner, consisting of at least two components, that satisfies the requirements of §B(3)(c) and (d) of this regulation;

(c) The upper component of a composite bottom liner shall be designed[. operated.] and constructed to prevent the migration of any constituent [through] into the [liner] upper component during [this] the active life of the landfill and the post-closure care period[.];

(d) The lower component of a composite bottom liner shall be:

(i) Designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur; and

(ii) [For the purposes of the preceding sentence, a lower liner shall be considered to satisfy this requirement if it is constructed] Constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  centimeter per second[.];

(e) The liners shall meet the requirements of §B(1)(a) of this regulation; and

(f) The leachate collection and removal system immediately above the top liner shall be designed, constructed, operated, and maintained:

(i) To collect and remove leachate from the landfill during the active life and post-closure care period;

(ii) In accordance with conditions specified by the Department in the facility permit to ensure that the leachate depth over the liner does not exceed 30 centimeters (1 foot); and

(iii) In compliance with the requirements of 40 CFR §264.301(c)(3)(iii) and (iv), and the requirements of §D of this regulation.

(4) [Section B(3) will not apply] The Secretary may approve substitution of alternative design and operating practices for the requirements of §B(3) of this regulation if the owner or operator demonstrates to the Secretary [and the Secretary finds for the landfill,] that alternative design and operating practices, together with location characteristics, will:

(a) [prevent] Prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal systems specified in §§B(3) and D of this regulation[.]; and

(b) Allow detection of leaks of hazardous constituents through the top liner at least as effectively as the leak detection system required by §D(2) of this regulation.

(5) — (10) (text unchanged)

C. Monitoring and Inspection. The owner or operator shall:

(1) [During] Inspect, during construction or installation, liners, except in the case of existing portions of liners exempt from §B[.], of this regulation, and cover systems [(for example,] such as membranes, sheets, or coatings[)] shall be inspected] for uniformity, damage, and imperfections [(for example, such as holes, cracks, thin spots, or foreign materials[.]);]

(2) [Immediately] Inspect, immediately after construction or installation:

(a) Synthetic liners and covers [shall be inspected] to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(b) Soil-based and admixed liners and covers [shall be inspected] for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover[.];

(2) (3) While a landfill is in operation, [it shall be inspected] inspect the landfill weekly and after storms to detect evidence of any of the following:

(a) — (c) (text unchanged)

(d) The presence of leachate in and proper functioning of leachate collection and removal systems, when present[.]; and

(4) For a landfill required to have a leak detection system under §B(3) or (4) of this regulation:

(a) During the active live and closure period, record the amount of liquids removed from each leak detection sump at least once each week; and

(b) After the final cover is installed, record the amount of liquid removed from each leak detection system sump in accordance with the schedule specified in 40 CFR §264.303(c), substituting "Secretary" for "Regional Administrator".

D. Leachate Collection and Removal System and Leak Detection.

(1) This section establishes requirements for a leachate collection and removal system required by §B(3) of this regulation.

(2) A leachate collection and removal system identified in §D(1) of this regulation is:

(a) Also a leak detection system; and

(b) Required to be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable

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time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period.

(3) Except as provided in §B(4) of this regulation, the owner or operator shall ensure that a leak detection system is, at a minimum, designed, constructed, and operated in compliance with the requirements of 40 CFR §264.301(c)(3)(i)–(v), (4), and (5).

### E. Action Leakage Rate.

(1) This section establishes requirements concerning the maximum design flow rate that the leak detection system required by §B(3) or (4) of this regulation can remove without the fluid level on the bottom of the liner exceeding 1 foot.

(2) For the purposes of this section, "action leakage rate" means the maximum design flow rate described in §E(1) of this regulation.

(3) The owner or operator shall provide the Department with information that the Department considers necessary for the specification of a valid action leakage rate that incorporates an adequate margin of safety to allow for uncertainties, as described in §E(4) of this regulation.

(4) For a landfill subject to §B(3) of this regulation, the Department shall specify an action leakage rate that:

(a) Includes an adequate safety margin, considering:

(i) Uncertainties in the design, construction, operation, and location of the leak detection system;

(ii) The characteristics of the waste and leachate;

(iii) The likelihood that other sources may contribute to liquids in the leak detection system, and the amounts of these liquids from other sources; and

(iv) Proposed response actions; and

(b) If exceeded, obligates the owner or operator to respond as provided in §F of this regulation.

(5) To determine if the action leakage rate has been exceeded, the owner or operator shall:

(a) Convert the weekly or monthly flow rate from the monitoring data obtained in accordance with §C(4) of this regulation to an average daily flow rate in gallons per acre per day for each sump; and

(b) Unless the Department approves a different calculation, calculate the average daily flow rate for each sump:

(i) Each week, during the active life and closure period; and

(ii) Monthly during the post-closure care period if monthly monitoring is required under 40 CFR §264.303(c).

### F. Response Action Plan.

(1) Before managing waste in a landfill subject to §B(3) or (4) of this regulation, the owner or operator shall:

(a) Develop a response action plan that:

(i) Specifies the actions that will be taken if the action leakage rate has been exceeded; and

(ii) Meets the requirements of §F(2) of this regulation; and

(b) Obtain the approval of the Department for the response action plan.

(2) The owner or operator shall ensure that the response action plan:

(a) At a minimum, describes the actions specified in 40 CFR §264.304(b), except that, in complying with 40 CFR §264.304(b), the owner or operator shall substitute "the Department" for "the Regional Administrator"; and

(b) Incorporates the procedures in 40 CFR §264.303(c).

(3) If the action leakage rate specified under §E of this regulation is exceeded, the owner or operator shall respond as specified in the approved response action plan.

[D.] G.—H. (text unchanged)

I. (text unchanged)

### J. Closure and Post-Closure Care.

(1) (text unchanged)

(2) After final closure, the owner or operator shall comply with all post-closure requirements, contained in Regulation .07G—J of this chapter, including maintenance and monitoring throughout the post-closure care period. The owner or operator shall:

(a) — (c) (text unchanged)

(d) Prevent run-on and run-off from eroding or otherwise damaging the final cover; [and]

(e) Protect and maintain surveyed benchmarks used in complying with §I of this regulation[.];

(f) Maintain and monitor the leak detection system in accordance with 40 CFR §264.301(c)(3)(iv) and, and §C(4) of this regulation; and

(g) Comply with all applicable leak detection system requirements of this chapter.

K. (text unchanged)

### L. Special Requirements for Ignitable or Reactive Waste.

(1) Except as provided in [§L(2)] §L(1)(b) of this regulation, a person may not place ignitable or reactive waste [may not be placed] in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in [a] the landfill so that:

[1)] (a) — [2)] (b) (text unchanged)

(2) Except for prohibited wastes as described in COMAR 26.13.09.02B that remain subject to treatment standards in 40 CFR Part 268, Subpart D, a person may place a container of an ignitable waste in a landfill without meeting the requirements of §L(1) of this regulation if the waste is:

(a) Disposed of in a manner that protects the waste from any materials or conditions that may cause the waste to ignite;

(b) Contained within a nonleaking container;

(c) Carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the waste;

(d) Covered daily with soil or other noncombustible material to minimize the potential for ignition of the waste; and

(e) Not disposed of in cells that contain or will contain other wastes that that may generate heat sufficient to cause ignition of the waste.

M. — P. (text unchanged)

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

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

### .01 General.

#### A. Purpose, Scope, and Applicability.

(1) — (3) (text unchanged)

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

(a) — (f) (text unchanged)

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

(i) For a wastewater treatment unit, the exclusion from the requirements of this chapter does not apply with respect to treatment of a hazardous waste from off-site, other than waste delivered to a unit via sanitary sewer in accordance with the requirements of the Clean Water Act;

(ii) The owner or operator shall comply with the requirements of COMAR 26.13.05.02H if the owner or operator is using the unit to treat a characteristic hazardous waste by dilution to

remove the hazardous characteristic from the waste before land disposal, and the waste is either an ignitable hazardous waste described in §A(3)(g)(iii) of this regulation, or a reactive hazardous waste; and

(iii) The provisions of §A(4)(g)(ii) of this regulation regarding ignitable hazardous waste apply to an ignitable waste other than a waste in the D001 High TOC Subcategory defined in 40 CFR §268.40;

- (h) — (k) (text unchanged)
- (5) — (6) (text unchanged)

(7) *Applicability of Land Disposal Restrictions.*

(a) The requirements of this chapter apply to owners and operators of facilities that treat, store, or dispose of hazardous waste referred to in 40 CFR Part 268; and

(b) The standards in 40 CFR Part 268 are considered material conditions or requirements of the interim status requirements of this chapter.

B. — C. (text unchanged)

**.02 General Facility Standards.**

A. — G. (text unchanged)

H. *Construction Quality Assurance Program.* The owner or operator of a surface impoundment subject to Regulation .19 of this chapter, a waste pile subject to Regulation .20 of this chapter, or a landfill subject to Regulation .22 of this chapter shall comply with the requirements of COMAR 26.13.05.02-2.

**.19 Surface Impoundments.**

A.—C. (text unchanged)

D. *Design Requirements.*

- (1) (text unchanged)

(2) The owner or operator of a unit identified in §D(1) of this regulation shall install two or more liners and a leachate collection system between the liners in accordance with the requirements of COMAR 26.13.05.11D(4)—(8) and D-1.

E.—F. (text unchanged)

*F-1. Action Leakage Rate and Response Actions.*

(1) *This section applies to the owner or operator of a surface impoundment unit identified in 40 CFR §265.221(a).*

- (2) *The owner or operator shall:*

(a) *Comply with the requirements of 40 CFR §265.222 and 40 CFR §265.223, subject to §F-1(2)(b) of this regulation; and*

(b) *In complying with 40 CFR §265.222 and 40 CFR §265.223, substitute "Secretary" for "Regional Administrator".*

G. *Inspections.* The owner or operator of a surface impoundment shall [inspect]:

- (1) [At] *Inspect, at least once each operating day:*

(a) (text unchanged)

(b) The compliance with alternate design features or operating plans that serve to prevent overtopping if freeboard is allowed to be less than 60 centimeters in accordance with §C of this regulation; [and]

(2) [At] *Inspect, at least once a week, the surface impoundment, including dikes and vegetation surrounding the dikes, to detect any leaks, deterioration, or failures in the impoundment[.].*

(3) *Comply with the requirements of 40 CFR §265.226(b) concerning the recording of information about the removal of liquids from leak detection system sumps, subject to §G(4) of this regulation; and*

(4) *In complying with 40 CFR §265.226(b), substitute "Secretary" for "Regional Administrator".*

H. (text unchanged)

**.20 Waste Piles.**

A. (text unchanged)

B. An owner or operator of a waste pile subject to this regulation shall comply with:

- (1) — (4) (text unchanged)

(5) COMAR 26.13.05.12H, concerning special requirements for incompatible wastes; [and]

(6) COMAR 26.13.05.12I(1) and (2), concerning closure and post-closure care[.]; and

(7) *The notification requirement of Regulation .19E of this chapter with respect to the waste pile.*

C. (text unchanged)

D. *Design Requirements—Liners and Leachate Collection Systems.*

- (1) (text unchanged)

(2) The owner or operator of a unit identified in §D(1) of this regulation shall comply with the requirements of COMAR 26.13.05.12B and D for liners and leachate collection systems or equivalent protection.

E. (text unchanged)

*F. Action Leakage Rate and Response Actions.*

(1) *This section applies to the owner or operator of a waste pile identified in 40 CFR §265.254.*

- (2) *The owner or operator shall:*

(a) *Comply with the requirements of 40 CFR §265.255 and 40 CFR §265.259, subject to §F(2)(b) of this regulation; and*

(b) *In complying with 40 CFR §265.255 and 40 CFR §265.259, substitute "Secretary" for "Regional Administrator".*

**.21 Land Treatment.**

A. (text unchanged)

B. *For the purposes of this regulation:*

- (1) — (3) (text unchanged)

(4) In 40 CFR §265.281, substitute "An owner or operator may not apply ignitable or reactive waste to a land treatment zone unless all applicable [federal] requirements of 40 CFR part 268 are met, and: " for "The owner or operator must not apply ignitable or reactive waste to the treatment zone unless the waste and treatment zone meet all applicable requirements of 40 CFR part 268, and:"; and

- (5) (text unchanged)

**.22 Landfills.**

A.—B. (text unchanged)

C. *Design Requirements.*

- (1) (text unchanged)

(2) The owner or operator of a unit identified in §C(1) of this regulation shall:

(a) [Install] *Install two or more liners and a leachate collection and removal system above and between the liners; and*

(b) *Ensure that the installation of the liners and the installation and operation of the leachate collection and removal system are conducted in accordance with the requirements of COMAR 26.13.05.14B(3)—(5).*

D.—E. (text unchanged)

*E-1. Action Leakage Rate and Response Actions.*

(1) *This section applies to the owner or operator of a landfill identified in 40 CFR §265.301(a).*

- (2) *The owner or operator shall:*

(a) *Comply with the requirements of 40 CFR §265.302 and 40 CFR §265.303, subject to §E-1(2)(b) of this regulation; and*

(b) *In complying with 40 CFR §265.302 and 40 CFR §265.303, substitute "Secretary" for "Regional Administrator".*

E-2. *Monitoring and Inspection.* The owner or operator of a landfill that is subject to §E-1 of this regulation shall:

(1) *Comply with the requirements of 40 CFR §265.304, subject to §E-2(2) of this regulation; and*

(2) *In complying with 40 CFR §265.304, substitute "Secretary" for "Regional Administrator".*

## F. Special Requirements for Liquid Wastes and Containers.

(1) [A] Except as provided in §F(3) of this regulation, a person may not place waste containing free liquids in a landfill, including bulk waste, noncontainerized waste, or waste in containers.

(2) — (3) (text unchanged)

**.25 Chemical, Physical, and Biological Treatment.**

A. Except as provided in §B of this regulation and COMAR 26.13.01.05B(2), an owner or operator who treats hazardous waste using chemical, physical, or biological methods shall comply with 40 CFR §§265.400—265.406[, which is incorporated by reference in COMAR 26.13.01.05B(1)(b)].

B. (text unchanged)

**26.13.07 Permits for CHS Facilities**

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

**.02-4 Specific Information Requirements for Surface Impoundments.**

A. (text unchanged)

B. For facilities that store, dispose of, or treat hazardous waste in surface impoundments, except as otherwise provided in COMAR 26.13.05.11, the permit applicant shall submit detailed plans and specifications accompanied by an engineering report which shall collectively include the following information:

(1) — (4) (text unchanged)

(5) Detailed design drawings and specifications of liner or liners and the leachate detection, collection, and removal system and the basis of design and design analysis to comply with COMAR 26.13.05.11B(3), (4), (5), and D(2), (3), (4) and (5);

(6) — (17) (text unchanged)

(18) A list of the hazardous wastes placed or to be placed in each surface impoundment[.];

(19) If the leak detection system is located in a saturated zone, detailed plans and an engineering report explaining the leak detection system's design and operation, and the location of the saturated zone in relation to the leak detection system;

(20) The construction quality assurance plan required by COMAR 26.13.05.02-2;

(21) If required under COMAR 26.13.05.11D-2, a proposed action leakage rate with rationale and supporting information; and

(22) If required under COMAR 26.13.05.11D-3, a response action plan.

**.02-5 Specific Information Requirements for Waste Piles.**

A. (text unchanged)

B. For facilities that store or treat hazardous waste in waste piles, except as otherwise provided in COMAR 26.13.05.12, the permit applicant shall provide the following information:

(1) — (4) (text unchanged)

(5) As part of the inspection plan submitted under Regulation .02D(19) of this chapter, a description of how each waste pile, including the *double liner system, leachate collection and removal system, leak detection system, cover system*, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of COMAR 26.13.05.12D and E;

(6) — (11) (text unchanged)

(12) If the permit applicant seeks an exemption from the requirements of COMAR 26.13.05.12B and D, and .06 — .06-7, as provided by COMAR 26.13.05.12A(2) or .06A(3)(b), an explanation of how the standards of COMAR 26.13.05.12A(2) will be complied with or detailed plans and an engineering report describing how the requirements of COMAR 26.13.05.06A(3)(b) will be met[.];

(13) If the leak detection system is located in a saturated zone, detailed plans and an engineering report explaining the leak detection system's design and operation, and the location of the saturated zone in relation to the leak detection system;

(14) The construction quality assurance plan required by COMAR 26.13.05.02-2;

(15) If required under COMAR 26.13.05.12D-1, a proposed action leakage rate with rationale and supporting information; and

(16) If required under COMAR 26.13.05.11D-2, a response action plan.

**.02-8 Specific Information Requirements for Landfills.**

A. (text unchanged)

B. For facilities that dispose of hazardous waste in landfills, except as otherwise provided in COMAR 26.13.05.01, the permit applicant shall provide the following information:

(1) (text unchanged)

(2) A detailed plan and an engineering report that:

(a) Describe how the landfill is or will be designed, constructed, operated, and maintained to comply with the requirements of COMAR [26.13.05.14B] 26.13.05.02-2 and 14B; and

(b) Provide information on the following items as specified in COMAR 26.13.05.14B:

(i) (text unchanged)

(ii) If an exemption from the requirements for a liner and a leachate collection and removal system is sought as provided by COMAR 26.13.05.14B(2) or (4), detailed plans and engineering hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(iii) — (vi) (text unchanged);

(3) A description of how each landfill, including the *double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off* will be inspected in order to meet the requirements of COMAR 26.13.05.14C(1) [and (2)] — (4) as part of the inspection plan submitted under Regulation .02D(19) of this chapter;

(4) — (7) (text unchanged)

(8) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that:

(a) (text unchanged)

(b) Addresses the:

(i) — (iii) (text unchanged)

(iv) Effectiveness of additional treatment, design, or monitoring techniques[.];

(9) If the leak detection system is located in a saturated zone, detailed plans and an engineering report explaining the leak detection system's design and operation, and the location of the saturated zone in relation to the leak detection system;

(10) The construction quality assurance plan required by COMAR 26.13.05.02-2;

(11) If required under COMAR 26.13.05.14E, a proposed action leakage rate with rationale and supporting information; and

(12) If required under COMAR 26.13.05.14F, a response action plan.

**.13-2 Specific Changes Eligible for Processing as a Minor Permit Modification.**

A. Except as provided in Regulations .13-1 and .13-3 of this chapter, only modifications to accomplish the following may be processed as minor modifications:

(1) — (10) (text unchanged)

(11) The removal or amendment of a permit provision restricting the receipt of waste munitions from off-site to allow the continued acceptance of waste military munitions in accordance with Regulation .13-1C of this chapter; [and]

(12) Replacement of a containment building with a containment building that meets the same design standards if:

(a) (text unchanged)

(b) The replacement containment building meets the same conditions in the permit as the unit it is replacing[.]; and

(13) Any other change identified in 40 CFR §270.42 Appendix I as a class 1 modification or a class 1 modification requiring prior agency approval.

## 26.13.09 Land Disposal Restrictions

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

### .01 Purpose and Scope.

A. This chapter:

(1) Identifies certain requirements associated with the management of hazardous wastes that are to be land disposed;

(2) Applies to:

(a) Generators of hazardous waste;

(b) Transporters of hazardous waste; and

(c) Owners and operators of hazardous waste facilities; and

(3) Does not apply to a hazardous waste that is listed in COMAR 26.13.02.16—.19 but is not listed in 40 CFR §§261.30—261.34, unless the waste:

(a) Exhibits a characteristic of hazardous waste; or

(b) Is otherwise subject to the requirements identified in Regulation .03 of this chapter.

### .02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Prohibited characteristic" means a characteristic of hazardous waste identified under COMAR 26.13.02.08 that will cause a solid waste to become a prohibited waste if the waste exhibits that characteristic.

(2) "Prohibited waste" means a hazardous waste that either:

(a) Is prohibited from land disposal by this chapter; or

(b) May be land disposed despite not meeting a treatment standard established by this chapter because of an exemption granted:

(i) Under this chapter; or

(ii) By EPA under 40 CFR Part 268.

(3) "Restricted waste" means a hazardous waste for which restrictions on land disposal are established by this chapter.

### .03 Specific Requirements.

A. As qualified by §B of this regulation, a hazardous waste generator, a hazardous waste transporter, and an owner or operator of a hazardous waste facility shall comply with the requirements of 40 CFR Part 268.

B. In complying with 40 CFR Part 268, a person shall:

(1) Substitute "Secretary" for "Administrator" and "Regional Administrator", except in:

(a) 40 CFR §268.5, which relates to case-by-case extensions of effective dates;

(b) 40 CFR §268.6, which relates to petitions to allow land disposal of certain prohibited wastes;

(e) 40 CFR §268.13, which relates to deadlines imposed on EPA;

(d) 40 CFR §268.40(b) and 40 CFR §268.42(b), which relate to approval of alternate treatment methods; and

(e) 40 CFR §268.44(a)—(g), which relate to approvals of variances from treatment standards;

(2) Substitute "Department" for "EPA", except when "EPA" is being used as a modifier, as in "EPA Publication", or "EPA Hazardous Waste Number";

(3) Interpret the terms "prohibited characteristic", "prohibited waste", and "restricted waste" to have the meanings given in Regulation .02B of this chapter; and

(4) Refer to the table in COMAR 26.13.01.05B(2) to identify references to provisions in COMAR that should be substituted for corresponding references to federal regulations that are made in 40 CFR Part 268.

## 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

Authority: Environment Article, §6-905.3 and Title 7, Subtitle 2, Annotated Code of Maryland

### .03 Recyclable Materials Utilized for Precious Metal Recovery.

A. (text unchanged)

B. Persons who generate, transport, or store recyclable materials regulated by this regulation are subject to the following requirements:

(1) — (2) (text unchanged)

(3) For precious metal imported to or exported from other countries for recovery[.], 40 CFR Part 262, Subpart H, and COMAR 26.13.05.02C.

(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. (text unchanged)

D. [Recyclable materials that are] A recyclable material that is subject to this regulation that [are] is material accumulated speculatively, as defined in COMAR [26.13.02.01C(3)] are 26.13.02.01D, is subject to all applicable provisions of COMAR 26.13.03 — 26.13.10.

### .04 Spent Lead-Acid Batteries Being Reclaimed.

A. — B. (text unchanged)

C. Management Requirements — General.

(1) — (2) (text unchanged)

(3) Persons who export batteries to be reclaimed through regeneration or any other means in a foreign country shall comply with §J of this regulation.

(4) Persons who transport batteries to export them to be reclaimed through regeneration or any other means in a foreign country shall comply with §K 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[.]:

(1) [are] Are exempt from the following requirements with respect to management of those batteries, including the regeneration:

[(1)] (a) (text unchanged)

[(2)] (b) COMAR 26.13.04 [— 26.13.07]—26.13.09; and

[(3)] (c) The notification requirements of §3010 of RCRA[.]; and

(2) Are subject to the requirements of COMAR 26.13.02.

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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) — (3) (text unchanged);

(4) All applicable provisions of COMAR 26.13.05.01 — .12, except for:

(a) — (b) (text unchanged)

(c) COMAR 26.13.05.05C, which concerns manifest discrepancies; [and]

(5) All applicable provisions of COMAR 26.13.07 and .09[.]; and

(6) *If the batteries are imported from a foreign country, 40 CFR Part 262, Subpart H.*

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) — (3) (text unchanged)

(4) All applicable provisions of COMAR 26.13.06, except for:

(a) — (b) (text unchanged)

(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 and .09[.]; and

(6) *If the batteries are imported from a foreign country, 40 CFR Part 262, Subpart H.*

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:

(1) [exempt] *Exempt* from the following requirements with respect to those batteries:

[(1)] (a) — [(2)] (b) (text unchanged)

[(3)] (c) The notification requirements of §3010 of RCRA[.]; and

(2) *Subject to:*

(a) *Applicable requirements of COMAR 26.13.09; and*

(b) *If the batteries are imported from a foreign country, 40 CFR Part 262, Subpart H.*

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:

(1) [exempt] *Exempt* from the following requirements with respect to those batteries:

[(1)] (a) — [(2)] (b) (text unchanged)

[(3)] (c) The notification requirements of §3010 of RCRA[.]; and

(2) *Subject to:*

(a) *Applicable requirements of COMAR 26.13.09; and*

(b) *If the batteries are imported from a foreign country, 40 CFR Part 262, Subpart H.*

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:

(1) [exempt] *Exempt* from the following requirements with respect to those batteries:

[(1)] (a) — [(2)] (b) (text unchanged)

[(3)] (c) The notification requirements of §3010 of RCRA[.]; and

(2) *Subject to the applicable requirements of COMAR 26.13.09.*

J. Requirements — Exports of Batteries That Will Be Reclaimed. Persons who export batteries to be reclaimed through regeneration or any other means in a foreign country are:

(1) *Exempt from the following requirements with respect to those batteries:*

(a) COMAR 26.13.03, except for COMAR 26.13.03.02, which concerns hazardous waste determination;

(b) COMAR 26.13.04—.07 and .09; and

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

(2) *Subject to 40 CFR Part 262, Subpart H.*

K. Requirements — Transport of Batteries That Will Be Exported and Reclaimed. Persons who transport batteries in the U.S. to export them to be reclaimed through regeneration or any other means in a foreign country are:

(1) *Exempt from the following requirements with respect to those batteries:*

(a) COMAR 26.13.04—.07 and .09; and

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

(2) *Subject to 40 CFR Part 262, Subpart H.*

### .18 Small Quantity Handlers of Universal Waste — Shipments.

A. — B. (text unchanged)

C. Exports. A small quantity handler of universal waste that sends universal waste to a *foreign* destination [outside the United States] is subject to the requirements of 40 CFR Part 262, Subpart H[.].

[(1) Other than to those countries of the Organization for Economic Cooperation and Development (OECD) specified in COMAR 26.13.03.07-5C(1), shall:

(a) Comply with the requirements applicable to a primary exporter in COMAR 26.13.03.07-1A, 26.13.03.07-2C(2)(a)—(e), 26.13.03.07-2C(4), and 26.13.03.07-2D;

(b) Export the universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent, as defined in 40 CFR Part 262, Subpart E; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter of the shipment for export.

(2) That is one of the OECD member countries specified in COMAR 26.13.03.07-5C(1) shall comply with the requirements of 40 CFR Part 262, Subpart H.]

### .21 Large Quantity Handlers of Universal Waste — General Management Standards.

A. — E. (text unchanged)

F. Tracking Universal Waste Shipments.

(1) Receipt of Shipments.

(a) (text unchanged)

(b) The record required by §F(1)(a) of this regulation may take the form of a log, invoice, manifest, bill of lading, *movement document*, or other shipping document.

(c) (text unchanged)

(2) Shipments Off-Site.

(a) (text unchanged)

(b) The record required by §F(2)(a) of this regulation may take the form of a log, invoice, manifest, bill of lading, *movement document*, or other shipping document.

(3) text unchanged

G. (text unchanged)

### .22 Standards for Universal Waste Transporters.

A. — F. (text unchanged)

G. Exports. A universal waste transporter transporting a shipment of universal waste to a *foreign* destination [outside the United States which is:] is subject to the requirements of 40 CFR Part 262, Subpart H.

[(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. — B. (text unchanged)

C. Tracking Universal Waste Shipments.

(1) Receipt of Shipments.

(a) (text unchanged)

(b) The record required by §C(1)(a) of this regulation may be a log, invoice, manifest, bill of lading, *movement document*, or other shipping document.

(c) (text unchanged)

(2) (text unchanged)

#### **.24 Universal Waste — Import Requirements.**

A. Applicability.

(1) This regulation establishes requirements for persons managing universal waste [outside the United States] *that is* imported from a country outside the United States into the United States.

(2) (text unchanged)

(3) *A person subject to this regulation is subject to the requirements of 40 CFR Part 262, Subpart H, and the applicable requirements of §B of this regulation.*

B. For the management of universal waste that is imported into the United States:

(1) (text unchanged)

(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) (text unchanged)

(b) Large quantity handlers of universal waste are subject to the requirements of Regulations .19—.21 of this chapter; *and*

(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.]

BENJAMIN H. GRUMBLES  
Secretary of the Environment

## **Title 36**

# **MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

### **Notice of Proposed Action**

[21-085-P]

The Maryland State Lottery and Gaming Control Agency proposes to amend:

(1) Regulation .17 under **COMAR 36.03.02 Investigation and Licensing;**

(2) Regulations .20, .28, and .38 under **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards;**

(3) Regulations .27 and .30 under **COMAR 36.04.01 Video Lottery Technical Standards;**

(4) Regulations .15 and .16 under **COMAR 36.05.02 Table Game Equipment;** and

(5) Regulation .01 under **COMAR 36.05.03 Table Game Procedures.**

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on May 27, 2021, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

### **Statement of Purpose**

The purpose of this action is to:

(1) Under COMAR 36.03.02, update the vendor registration limit from \$10,000 to \$20,000, to be consistent with other sections of this regulation;

(2) Under COMAR 36.03.10, update the check cashing limit from \$25,000 to \$30,000, and increase the amount of a jackpot or credit meter payout that a single preparer can approve from \$5,000 to \$10,000;

(3) Under COMAR 36.04.01, allow cashless wagering systems to be offered at a table game and other wagering accounts, and require a facility to disclose the transfer of a progressive jackpot on the front of a video lottery terminal 14 days prior to the intended date of transfer;

(4) Under COMAR 36.05.02, increase the amount of time that poker cards can remain in play from 3 months to 4 months, and remove the requirement for a Commission compliance representative to sign the Card Discrepancy Report submitted by the facility operator; and

(5) Under COMAR 36.05.03, allow increased flexibility over the supervision of craps table games and house banked table games.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

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

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to James B. Butler, Managing Director, Organizational Compliance, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to [jbutler@maryland.gov](mailto:jbutler@maryland.gov), or fax to 410-230-8727. Comments will be accepted through August 2, 2021. A public hearing has not been scheduled.

**Subtitle 03 GAMING PROVISIONS****36.03.02 Investigation and Licensing**

Authority: State Government Article, §§9-1A-01, 9-1A-02, 9-1A-04, 9-1A-06, 9-1A-07, 9-1A-12—9-1A-16, 9-1A-19, and 9-1A-20, Annotated Code of Maryland

**.17 Vendor Registration and Certification.**

A.—B. (text unchanged)

C. The following persons that provide any of the enumerated services to a video lottery operation applicant or licensee are exempt from vendor registration and certification requirements:

(1)—(14) (text unchanged)

(15) A vendor that provides, or anticipates providing, within a calendar year a combined total value of nongaming related goods and services to State video lottery operation applicants or licensees of less than [\$10,000] \$20,000; or

(16) (text unchanged)

C-1.—L. (text unchanged)

**36.03.10 Video Lottery Facility Minimum Internal Control Standards**

Authority: Family Law Article, §10-113.1; State Government Article, §§9-1A-01(u), 9-1A-02, 9-1A-04, and 9-1A-24; Annotated Code of Maryland

**.20 Checks Accepted from a Player.**

A.—E. (text unchanged)

F. A facility operator may not:

(1) (text unchanged)

(2) Except for a check issued under §§E and J of this regulation, accept from a player under this regulation a check or multiple checks which in the aggregate exceed [\$25,000] \$30,000 during a gaming day.

G.—K. (text unchanged)

**.28 Counter Check Substitution, Consolidation, and Redemption.**

A.—B. (text unchanged)

C. If a personal check is accepted in an amount less than or equal to the amount of a counter check being partially or fully redeemed, the [\$25,000] \$30,000 limitation on acceptance of personal checks in Regulation .20F(2) of this chapter does not apply.

D.—L. (text unchanged)

**.38 Jackpot Payout.**

A.—F. (text unchanged)

G. A facility operator's internal controls shall include:

(1)—(2) (text unchanged)

(3) A provision that only the preparer is required to sign the jackpot or credit meter payout document if:

(a) A jackpot or credit meter payout is less than [\$5,000] \$10,000;

(b)—(d) (text unchanged)

(4)—(15) (text unchanged)

**Subtitle 04 VIDEO LOTTERY TERMINALS****36.04.01 Video Lottery Technical Standards**

Authority: State Government Article, §§9-1A-02, 9-1A-04, 9-1A-15, 9-1A-22, and 9-1A-24, Annotated Code of Maryland

**.27 Cashless Funds Transfer System — Additional Requirements.**

A. (text unchanged)

B. A facility operator shall, in a form and in a time frame specified by the Commission, submit a report to the Commission detailing any adjustment made to the amount of a credit transferred to or from a video lottery terminal, *table game, or wagering account* by means of a cashless funds transfer system.

C. (text unchanged)

D. A facility operator's internal controls shall address:

(1) (text unchanged)

(2) The intended scope of use of a cashless funds transfer system including whether it will be used to:

(a) Transfer credits to a video lottery terminal, *table game, or wagering account*; and

(b) Transfer credits from a video lottery terminal, *table game, or wagering account* to a player account; and

(3) Documentation of individual player transactions including a requirement that:

(a) Each transaction is identified, at a minimum, by:

(i) (text unchanged);

(ii) Video lottery terminal manufacturer serial number or Commission asset number, *table game number, or wagering account number*; and

(iii) (text unchanged);

(b) (text unchanged)

(c) The statement of player account activity required under this regulation summarize, at a minimum, a player's activity during the month prior to the date of the request for a statement and include:

(i)—(ii) (text unchanged)

(iii) Credits transferred to a video lottery terminal, *table game, or wagering account*;

(iv) Credits transferred from a video lottery terminal, *table game, or wagering account* to a player account; and

(v) (text unchanged)

(d) (text unchanged)

**.30 Progressive Proposal.**

A.—C. (text unchanged)

D. A transfer of an available progressive jackpot amount under §C(2) of this regulation shall involve:

(1)—(2) (text unchanged)

(3) Disclosure of the intent to transfer an available progressive jackpot amount on the front of a video lottery terminal in a manner specified by the Commission for at least [10] 14 days prior to the intended date of transfer.

E.—F. (text unchanged)

**Subtitle 05 TABLE GAMES****36.05.02 Table Game Equipment**

Authority: State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland

**.15 Cards.**

A.—G. (text unchanged)

H. At a minimum, all poker cards that have been in play at least [3] 4 months shall be replaced.

I.—K. (text unchanged)

**.16 Cards — Receipt, Storage, Inspection, and Removal.**

A.—M. (text unchanged)

N. Inspection of Cards. When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, the cards shall be inspected for tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play:

(1)—(8) (text unchanged)

(9) Evidence of tampering, marks, alterations, missing, or additional cards or anything that might indicate unfair play discovered during an inspection, or at any other time, shall be immediately reported to a Commission compliance representative by the completion and delivery of a two-part Card Discrepancy Report.

(a)—(b) (text unchanged)

[c) The Commission compliance representative receiving the cards shall sign the original and duplicate copy of the Card Discrepancy Report and retain the original, and the facility operator shall retain the duplicate copy.]

O.—T. (text unchanged)

**36.05.03 Table Game Procedures**

Authority: State Government Article, §§9-1A-02 and 9-1A-04, Annotated  
Code of Maryland

**.01 Personnel Operating and Conducting Table Games.**

A. – B. (text unchanged)

C. A facility operator shall provide a sufficient number of floorpersons to supervise the operation of table games in accordance with the standards in this chapter, so that a floorperson may not supervise more than the number of tables specified in one of the following:

(1)—(6) (text unchanged)

(7) *Excluding baccarat, midibaccarat, mini-craps and pai gow, one craps table and three tables of a banking table game;*

[(7)] (8)—[(12)] (13) (text unchanged)

D.—K. (text unchanged)

GORDON MEDENICA  
Director

# Special Documents

## DEPARTMENT OF STATE POLICE HANDGUN ROSTER BOARD

### Proposed Additions to Handgun Roster and Notice of Right to Object or Petition

The following is a list of handguns that the Handgun Roster Board proposes to add to the official handgun roster. These handguns will be officially placed on the Handgun Roster if no timely objection is received or if all timely objections are dismissed.

Under the Public Safety Article, §5-405, Annotated Code of Maryland, and COMAR 29.03.03.13 and .14, any person may object to the placement of any of those handguns on the Handgun Roster. Objections must be filed within 30 days after **July 2, 2021**. In addition, any person may petition for the placement of an additional handgun on the Handgun Roster. Forms for objections or petitions may be obtained from: Rachel Rosenberg, Administrator, Handgun Roster Board, 1201 Reisterstown Road, Baltimore, Maryland 21208 (Phone: 410-653-4247).

Make	Model	Caliber	Additional Comments
Kaiger Arms	Black Widow	6.5 Creedmoor	
DIAMONDBACK FIREARMS	DB9R	9 mm	
ABC Rifle Company	ABC-9 Pistol	9 mm	
CARL WALther (WALther ARMS)	PDP Compact and Full Size	9 mm	
NODAK SPUD / Alabama Ordnance	NDS-1 Pistol	7.62X39mm	
TOMMY BUILT TACTICAL LLC	TG36CP	5.56 NATO	Model addition
PALMETTO STATE ARMORY	AK-104	7.62X39mm	Model addition
SIG SAUER/SIGARMS INC.	P320MAX	9 mm	Model addition
SPRINGFIELD ARMORY/INC. (HS PRODUKT)	HELLCAT RDP and OSP	9 mm	Model addition
MAGNUM RESEARCH	Desert Eagle 1911 G	10 mm	Model addition
KIMBER	Tactical Custom HD II	45 ACP	Model addition
SIG SAUER/SIGARMS INC.	1911 Equinox	45 ACP	Model addition
SMITH & WESSON	M&P 9 SHIELD PLUS	9 mm	Model addition
CMMG, INC.	MK4	22 LR	Caliber addition
SIG SAUER/SIGARMS INC.	P365X	9 mm	Model addition
ED BROWN PRODUCTS	KOBRA CARRY LIGHTWEIGHT	9 mm	Caliber addition
IVER JOHNSON ARMS	1911A1	45 ACP	Model addition
Charles Daly / Chiappa Firearms	Honcho Tactical Pump	12 Gauge	Model addition
MAGNUM RESEARCH	Desert Eagle Mark XIX	50 AE	Model addition
CMMG, INC.	MK10 (200 Series)	10 mm	Model addition
ZASTAVA ARMS	M70 Pistol	32 ACP	Model addition
SMITH & WESSON	PERFORMANCE CENTER M&P 9 SHIELD PLUS	9 mm	Model addition
CMMG, INC.	MK10 (300 Series)	10 mm	Model addition
Sons of Liberty Gun Works	M4-76 Pistol	5.56 NATO	
SIG SAUER/SIGARMS INC.	P226 Scorpion	9 mm	Model addition
FN AMERICA LLC	509 LS Edge	9 mm	Model addition
Dark Storm Industries LLC	DS-9 Pistol	9 mm	
Dark Storm Industries LLC	DS-15 Pistol	5.56 NATO, 300 BLK	
Dark Storm Industries LLC	VARIANT-1 Pistol	5.56 NATO, 300 BLK	
Battle Arms Development, Inc.	WORKHORSE DEFENSE PISTOL	5.56 NATO, 223 Rem	
CENTURY ARMS, INTERNATIONAL	Draco / VSKA	7.62X39mm	Model addition
ISRAEL WEAPONS INDUSTRIES (I.W.I.)	GALIL ACE SAR (PISTOL)	7.62x51mm NATO	Caliber addition
Sbardella Arms, Inc.	1911	45 ACP	
TAURUS S.A. FORJAS (TAURUS INTERNATIONAL INC.)	G3C T.O.R.O.	9 mm	Model addition
WILSON COMBAT	PROTECTOR ARP	300 BLK	Model addition
Meridian Defense Corp	LITTLE DIRTY PISTOL	7.62X39mm	

**SPECIAL DOCUMENTS**

581

Make	Model	Caliber	Additional Comments
TOMMY BUILT TACTICAL LLC	KSM	45 ACP	
SMITH & WESSON	19-9 K COMP	357 Mag	Model addition
RADICAL FIREARMS	RF-15	5.56 NATO	Caliber addition
ASTRA (FOXTROT)	960	38 Spl	
STURM RUGER	MAX-9	9 mm	
FN AMERICA LLC	509 Compact Tactical	9 mm	Model addition
SPRINGFIELD ARMORY/INC.	SAINT EDGE EVAC	223 Rem, 5.56 NATO	Model addition
COLT/COLTS MFG. CO., INC.	1911 BLACK ARMY	45 ACP	Model addition
SMITH & WESSON	65-7	357 Mag	Model addition
TAURUS S.A. FORJAS (TAURUS INTERNATIONAL INC.)	PT-140 Millennium Pro	40 S&W	Model addition
KIMBER	Ducks Unlimited 1911 Wetlands Advocate	45 ACP	Model addition
Geissele Automatics	Super Duty Pistol	5.56 NATO	
Bearman Industries	BBG380	380 ACP	Model addition
CZ USA	CZ 75 P-01 OMEGA CONVERTIBLE	9 mm	Model addition
SPRINGFIELD ARMORY/INC.	1911 RONIN OPERATOR / RONIN	9 mm	Model Addition
CARL WALTHER (WALTHER ARMS)	PDP Compact Pro	9 mm	Model Addition
CARL WALTHER (WALTHER ARMS)	PDP Full Size Pro	9 mm	Model Addition
MOSSBERG	Maverick 88 Cruiser	12 Gauge	
ZASTAVA ARMS (C.A.I.)	CZ 999 COMPACT	9 mm	Caliber addition
SMITH & WESSON	PERFORMANCE CENTER M&P 40 M2.0 C.O.R.E. PRO SERIES	40 S&W	Model addition
STURM RUGER	LCR	38 Spl+P	Caliber addition
F. LLI PIETTA (E.M.F.)	The Shootist	45 LC, 357 Mag	Model addition
F. TANFOGLIO (ITALIAN FIREARMS GROUP)	Defiant Stock Master	40 S&W	Model addition
Cline Tactical	C19	9 mm	
DAN WESSON FIREARMS/NYI	Elite Series Mayhem	40 S&W	Model addition
CZC	A01-SD	9 mm	Model addition
CZC	A01-C, A01-C RAIL, A01-C RAIL PRO TEK	9 mm	Model addition
CZC	A01-LD RDS	9 mm	Model addition
CZC	A01-SD RDS	9 mm	Model addition
CZC	A01-LD RAIL	9 mm	Model addition
SMITH & WESSON	PERFORMANCE CENTER PORTED M&P 40 M2.0	40 S&W	Model addition
CMMG, INC.	MK10 (100 Series)	10 mm	Model Addition
SMITH & WESSON	327 NIGHT GUARD	357 Mag	Model addition
Denel Land Systems	Vektor SP1 SPORT	9 mm	Model addition
CZ USA	CZ 75 Compact	9 mm	Model addition
JEM GUNS, LLC	1911	45 ACP	
CASPIAN ARMS LTD.	1911	45 ACP	
CZ USA	P-10 F	45 ACP	Caliber addition
Moriarti Armaments LLC	AR-9	9 mm	

[21-14-11]

# General Notices

## Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

### OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION

**Subject:** Public Meeting

**Date and Time:** July 12, 2021, 2 — 3 p.m.

**Place:** Via videoconference — please see details below.

**Add'l. Info:** In response to Governor Hogan's Executive Order Number 20-03-30-01 (Stay-at-Home Order) and other applicable emergency orders, this meeting will be held via videoconference. Directions for access will be provided on the State Collection Agency Licensing Board website, <http://www.labor.maryland.gov/finance/collagboard.shtml>, prior to the meeting.

**Contact:** Cindy McCauley (443) 202-0154  
[21-14-10]

### GOVERNOR'S GRANTS OFFICE

**Subject:** Public Meeting

**Date and Time:** July 8, 2021, 9:30 — 11 a.m.

**Place:** Via Google Meet — please see details below.

**Add'l. Info:** Google Meet weblink: [meet.google.com/at2z-grew-ovw](https://meet.google.com/at2z-grew-ovw);  
Dial In: 224-801-4818;

Pin: 703 404 309 #

**Contact:** Jennifer Colton (443) 603-4624  
[21-14-16]

### MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 15, 2021, 10 a.m. — 12 p.m.

**Place:** Via audio conference — please see details below.

**Add'l. Info:** Covering sports betting regulations only. This meeting will be held via audio conference. The link will be available on the website the day of the meeting at <https://www.mdgaming.com/commission-meeting-7-15-2021/>

**Contact:** Kathy Lingo (410) 230-8790  
[21-14-14]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 15, 2021, 1 — 4 p.m.

**Place:** Via teleconference — please see details below.

**Add'l. Info:** All public meetings will be held via teleconference until further notice. Visit [www.mhcc.maryland.gov](http://www.mhcc.maryland.gov) for meeting registration information.

**Contact:** Valerie Wooding (410) 764-3570  
[21-14-02]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Receipt of Application

**Add'l. Info:** On June 15, 2021, the Maryland Health Care Commission (MHCC) received a Certificate of Need application submitted by:

Hygea Detox, Inc. — Matter No. 21-03-2450

Establish a Track One Alcoholism and Drug treatment facility with 23 semi-private and 4 private rooms to be located on 7 acres located at 1210 Middle River Road, Baltimore. Proposed Cost: \$11,412,724.

The MHCC shall review the applications under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available, for review, in the office of the MHCC, during regular business hours by appointment, or on the Commission's website at [www.mhcc.maryland.gov](http://www.mhcc.maryland.gov).

All correspondence should be addressed to Paul Parker, Deputy Director, Center for Health Care Facilities Planning and Development, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

**Contact:** Ruby Potter (410) 764-3276  
[21-14-17]

### BOARD OF OCCUPATIONAL THERAPY PRACTICE

**Subject:** Public Meeting

**Date and Time:** July 16, 2021, 9 a.m. — 12 p.m.

**Place:** Via Google Hangouts — please see details below.

**Add'l. Info:** Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call the office at 1-800-735-2255 to confirm.

**Contact:** Lauren Murray (410) 402-8556  
[21-14-06]

### MARYLAND DEPARTMENT OF TRANSPORTATION

**Subject:** Public Hearing

**Date and Time:** July 26, 2021, 10 a.m.

**Place:** MDOT Headquarters, 7201 Corporate Center Dr., Hanover, MD

**Add'l. Info:** The Maryland Board of Airport Zoning Appeals (BAZA) will hold a hearing teleconference on Monday, July 26, 2021. The hearing will begin at 10:00 a.m. The public call-in number is +1 443-409-5228; Conference ID: 215 929 892#. The Board will hear the following case(s):

Docket Number 418

Note: This case was previously heard and approved on May 18, 2020. The Appellant has requested a required review for a necessary time extension.

The Maryland State Highway Administration (SHA) is designing the replacement of the roadway lighting system along an approximate one-mile stretch of I-195 between the I-295 and MD Route 170 intersections in the vicinity of Baltimore Washington Thurgood Marshall International Airport (BWI Marshall). The Maryland Aviation Administration (MAA) and SHA have been collaborating to establish permanent light pole and associated temporary installation crane height allowances. All permanent structures have been designed to remain below the critical Code of Federal Regulations (FAR) Part 77 airspace protection surfaces. Twenty-six (26) of the temporary crane sites will, however, exceed Part 77 surfaces by 0.06 feet to 13.24 feet. The location of the temporary cranes in question begins approximately 800 feet north of Runway 15R and extends in a northwesterly direction along I-195 to

a point approximately 2,000 feet northwest of Runway 15R. The Appellant has correspondingly filed for time extensions for the 26 cases for "Determinations of No Hazard to Air Navigation" (ASN# 2020-AEA-202 thru 216-OE, 2020-AEA-294 thru 299-OE, and 2020-AEA-306, 307, 309, 311& 312-OE) to the Federal Aviation Administration. Code of Maryland Regulations (COMAR) 11.03.06.03 and 11.03.06.04 - Height Limits in Airport Districts, enables the proponent to seek a variance from the Board of Airport Zoning Appeals (BAZA) for any proposed penetration of FAR Part 77. Therefore, the MAA will present Case #418 for an extension review to the BAZA Monday, July 26, 2021 at 10:00 a.m.

Docket Number 419

Note: This case was previously heard and approved on May 18, 2020. The Appellant has requested a required review for a necessary time extension.

The Maryland State Highway Administration (SHA) is replacing overhead roadway signage along an approximate one-mile stretch of I-195 in the area of the MD Route 170 intersection in the vicinity of Baltimore Washington Thurgood Marshall International Airport (BWI Marshall). The Maryland Aviation Administration (MAA) and SHA have been collaborating to establish associated temporary installation crane height allowances. All permanent structures have been designed to remain below the critical Code of Federal Regulations (FAR) Part 77 airspace protection surfaces. Four (4) of the temporary crane sites will, however, exceed Part 77 surfaces by 7.27 feet to 35.53 feet. The location of the temporary cranes in question begin approximately 725 feet north of Runway 15R and extends in a northwesterly direction along I-195 to a point approximately 2,400 feet northwest of Runway 15R. The Appellant has correspondingly filed for time extensions for the 4 cases for "Determinations of No Hazard to Air Navigation" (ASN# 2020-AEA-1983 thru 1986-OE to the Federal Aviation Administration. Code of Maryland Regulations (COMAR) 11.03.06.03 and 11.03.06.04 - Height Limits in Airport Districts, enables the proponent to seek a variance from the Board of Airport Zoning Appeals (BAZA) for any proposed penetration of FAR Part 77. Therefore, the MAA will present Case #419 for an extension review to the BAZA Monday, July 26, 2021 at 10:00 a.m.

For additional information, please contact Deborah Mahoney-Fowler at 410-865-1233.

Appropriate auxiliary aids and services for qualified individuals with disabilities will be

provided upon request. Please call 410-865-1233 (voice) or MD Relay (TTY Users).

**Contact:** Deborah Mahoney-Fowler (410) 865-1233

[21-14-12]

#### MARYLAND DEPARTMENT OF TRANSPORTATION/OFFICE OF MINORITY BUSINESS ENTERPRISE

**Subject:** Public Meeting

**Dates and Times:** July 7, 2021, 8:30 a.m. — 5 p.m.; Additional Dates: July 21, August 4, August 18, and September 1, 2021

**Place:** Virtual meeting — please see details below.

**Add'l. Info:** Meetings are being held virtually until further notice. Please check the website for additional information. <https://mdot.maryland.gov>

**Contact:** Sabrina Bass (410) 865-1240

[21-14-08]

#### BOARD OF WELL DRILLERS

**Subject:** Public Meeting

**Date and Time:** July 28, 2021, 9 a.m. — 12 p.m.

**Place:** Via Google Hangouts — please see details below.

**Add'l. Info:** A Closed Meeting may follow. Access link to Open Meeting is available on MDE website:

[https://mde.maryland.gov/programs/permits/environmentalboards/pages/meeting\\_of\\_theboard\\_of\\_welldrillers.aspx](https://mde.maryland.gov/programs/permits/environmentalboards/pages/meeting_of_theboard_of_welldrillers.aspx).

**Contact:** Duane M Johnson (410)-537-4466

[21-14-03]

#### WORKERS' COMPENSATION COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 22, 2021, 9:30 — 11:30 a.m.

**Place:** 10 E. Baltimore St., 3rd Fl., Baltimore, MD

**Add'l. Info:** Portions of this meeting may be held in closed session.

**Contact:** Amy S. Lackington (410) 864-5300

[21-14-05]

#### DEPARTMENT OF VETERANS AFFAIRS/MARYLAND VETERANS COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 20, 2021, 10:30 a.m. — 1 p.m.

**Place:** 100 Community Pl., Crownsville, MD

**Contact:** Denise Nooe (410) 260-3840

[21-14-09]

#### MARYLAND COLLEGE COLLABORATION FOR STUDENT VETERANS COMMISSION

**Subject:** Public Meeting — Rescheduled

**Date and Time:** August 5, 2021, 10 a.m. — 12 p.m.

**Place:** 8000 York Rd., Towson, MD

**Add'l. Info:** This is a rescheduled date for the meeting cancelled for July 27, 2021

**Contact:** Denise Nooe (410) 260-3840

[21-14-13]

#### BOARD OF WATERWORKS AND WASTE SYSTEMS OPERATORS

**Subject:** Public Meeting

**Date and Time:** July 15, 2021, 10 a.m. — 12:30 p.m.

**Place:** Via Google Hangouts — please see details below.

**Add'l. Info:** A Closed Meeting may follow. Access link to Open Meeting is available on MDE website:

[https://mde.maryland.gov/programs/permits/environmentalboards/Pages/BWW\\_Meetings.aspx](https://mde.maryland.gov/programs/permits/environmentalboards/Pages/BWW_Meetings.aspx).

**Contact:** Dee Settar (410) 537-4162

[21-14-04]

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Control of Ionizing Radiation Supplement 29 ONLY	\$14	\$0	_____	_____
Control of Ionizing Radiation Supplement 30 ONLY	\$17	\$0	_____	_____
Forest Conservation Law (2019)	\$15	\$8	_____	_____
Forest Conservation Technical Manual 3 <sup>rd</sup> Edition, 1997	\$20	\$10	_____	_____
Preventive Maintenance Handbook (PM Handbook) (green cover)	\$15	\$8	_____	_____
Vehicle Inspection Handbook (Feb 2012) (including binder)	\$48	\$15	_____	_____
Child Care Regulations (13A.14 – 13A.18) opt. binder addl. \$15	\$40	\$15	_____	_____
			Total	_____

**If quantity is more than one, shipping charges may vary, please call 410-260-3876 for pricing.**

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After June 30 <sup>th</sup>	After December 31 <sup>st</sup>
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<b>Title 07</b>	Department of Human Services	\$80	\$53	_____	_____
<b>Title 08</b>	Department of Natural Resources	\$78	\$51	_____	_____
<b>Title 09</b>	Maryland Department of Labor	\$89	\$60	_____	_____
<b>Title 10</b>	Maryland Department of Health (All parts) **	\$272	\$180	_____	_____
<b>Title 10</b>	Part 1 **	\$48	\$32	_____	_____
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<b>Title 11</b>	Part 1 (Transportation) **	\$42	\$25	_____	_____
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<b>Title 12</b>	Department of Public Safety and Correctional Services	\$67	\$43	_____	_____
<b>Title 13A</b>	Maryland State Department of Education	\$63	\$42	_____	_____
<b>Title 13B</b>	Maryland Higher Education Commission	\$25	\$15	_____	_____
<b>Title 14</b>	Independent Agencies	\$80	\$53	_____	_____
<b>Title 15</b>	Maryland Department of Agriculture	\$48	\$30	_____	_____
<b>Title 16</b>	Department of Juvenile Services	\$23	\$15	_____	_____
<b>Title 17</b>	Department of Budget and Management	\$28	\$16	_____	_____
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<b>Title 19A</b>	State Ethics Commission	\$24	\$14	_____	_____
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<b>Title 23</b>	Board of Public Works	\$18	\$11	_____	_____
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<b>Title 30</b>	MD Institute for Emergency Medical Services Systems (MIEMSS)	\$25	\$17	_____	_____
<b>Title 31</b>	Maryland Insurance Administration	\$68	\$45	_____	_____
<b>Title 32</b>	Department of Aging	\$25	\$15	_____	_____
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<b>Title 34</b>	Department of Planning	\$31	\$18	_____	_____
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<b>Title 19A</b>	State Ethics Commission	\$33	\$20		
<b>Title 20</b>	Public Service Commission	\$64	\$42		
<b>Title 21</b>	State Procurement Regulations	\$65	\$42		
<b>Title 22</b>	State Retirement and Pension System	\$33	\$18		
<b>Title 23</b>	Board of Public Works	\$26	\$15		
<b>Title 24</b>	Department of Commerce	\$47	\$25		
<b>Title 25</b>	State Treasurer	\$23	\$12		
<b>Title 26</b>	Department of Environment (All parts) **	\$241	\$160		
<b>Title 26</b>	Part 1 **	\$72	\$42		
<b>Title 26</b>	Part 2 **	\$109	\$72		
<b>Title 26</b>	Part 3 **	\$76	\$50		
<b>Title 26</b>	Part 4 **	\$51	\$30		
<b>Title 27</b>	Critical Area Comm. for the Chesapeake and Atlantic Coastal Bays	\$26	\$15		
<b>Title 28</b>	Office of Administrative Hearings	\$23	\$12		
<b>Title 29</b>	Maryland State Police	\$40	\$22		
<b>Title 30</b>	MD Institute for Emergency Medical Services Systems (MIEMSS)	\$34	\$20		
<b>Title 31</b>	Maryland Insurance Administration	\$90	\$62		
<b>Title 32</b>	Department of Aging	\$34	\$18		
<b>Title 33</b>	State Board of Elections	\$57	\$35		
<b>Title 34</b>	Department of Planning	\$42	\$25		
<b>Title 35</b>	Department of Veterans Affairs	\$23	\$12		
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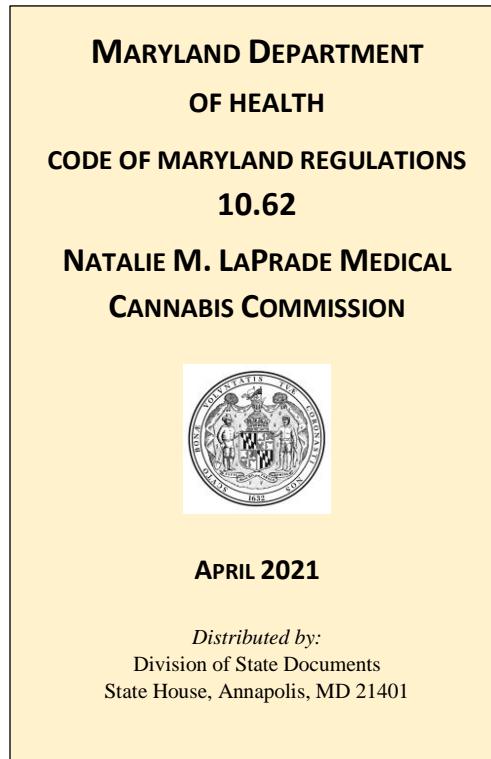
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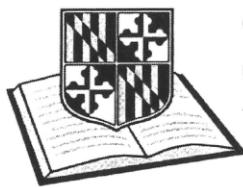
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