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Department of
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Summary and Overview

Revisions to Maryland's Hazardous Waste Generator Regulations

Revisions Effective May 3, 2021

Land and Materials Administration

Resource Management Program

Summary and Overview

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Summary and Overview
Revisions to
Maryland's Hazardous Waste Generator Regulations
Revisions Effective May 3, 2021

A. Introduction

On May 3, 2021, major revisions to Maryland's regulations for generators of hazardous waste became effective. This action incorporated into the Code of Maryland Regulations (COMAR) changes made at the federal level by the U.S. Environmental Protection Agency (EPA) in its Hazardous Waste Generator Improvements Rule (81 Federal Register 85732, Nov. 28, 2016). This compliance guide provides an overview of the revisions that have been made to COMAR 26.13.03, Standards Applicable to Generators of Hazardous Waste. The current regulations may be viewed using the COMAR Online feature on the website of the Maryland Division of State Documents (dsd.state.md.us/)

Questions concerning the material in this document may be directed to the Maryland Department of the Environment's (MDE) Resource Management Program at (410) 537-3315. Questions may also be submitted by email to mde.webmaster@maryland.gov.

B. DISCLAIMER:

This document is being made available as a compliance assistance tool. However, it is not a substitute for the regulatory text that appears in COMAR 26.13. The regulatory language in COMAR 26.13 establishes enforceable requirements, and persons should refer to the regulatory text to identify the specific requirements with which they must comply.

C. Overview

The following are the main features of the May 2021 revision to COMAR 26.13.03, Standards Applicable to Generators of Hazardous Waste:

- Reorganization of COMAR 26.13.03 so that the requirements appear in a more logical order;
- Restructuring the regulatory text to make it clearer and easier to identify the applicable requirements;
- Providing a clearer explanation of Maryland's hazardous waste generator categories;
- Clarifying the relationship between Maryland's hazardous waste generator categories and the federal hazardous waste generator categories;
- Adopting some new flexibilities made available in the federal regulations; and
- Adopting some new, more stringent requirements that were made part of the federal regulations.

D. Discussion of the Main Features of the Revision

Reorganization of COMAR 26.13.03

The regulations in Chapter 03 of COMAR 26.13 are now sequenced in a way that is more consistent with the order of events that a person encounters in generating and managing hazardous waste. The chapter begins with an explanation of the general applicability of the regulations. The chapter continues, in order, with provisions for determination of whether a waste is regulated as hazardous, notification requirements for generators, management standards for waste being accumulated, manifest requirements for off site shipments, standards to prepare waste for transport, and closure provisions that apply when an accumulation area or facility will no longer be managing hazardous waste. The chapter ends with various administrative requirements, including record keeping and reporting provisions, and provisions on international shipments of hazardous waste.

Additional details are provided in the following summarized ordered list that describes the content of COMAR 26.13.03:

1. Purpose, scope, and applicability (26.13.03.01) – clearly defines the Maryland hazardous waste generator categories. These categories determine which provisions of COMAR 26.13.03 are applicable to a generator of hazardous waste in Maryland.
2. Applicability of federal hazardous waste generator categories (26.13.03.01-1) – identifies situations when the generator category under federal regulations matters to a Maryland generator. This is mainly important in completing federal reporting forms and in identifying eligibility for some relaxed requirements under Maryland regulations.
3. Hazardous waste determination requirements (26.13.03.02 – .02-2) – these regulations establish the requirement that the generator of a waste must characterize the waste as to whether it meets the definition of hazardous waste. The regulations specify procedures that must be followed in order to perform a valid waste characterization, and establish record keeping requirements.
4. Notification and renotification requirements (26.13.03 – .03-2) – these regulations:
 - establish an initial notification requirement for generators (requirements to obtain an EPA ID number/site identification number);
 - establish a periodic renotification requirement on a 4-year cycle; and
 - establish administrative requirements for EPA ID numbers, including deactivation of numbers and issuance of one-time, temporary numbers.
5. Special provisions for satellite accumulation areas (26.13.03.03-3) – this regulation allows accumulation of limited quantities of hazardous waste at or near the point of generation under simplified management standards.

6. Management standards for the temporary accumulation of hazardous waste (26.13.03-4 – 26.13.03-11) – these regulations:
 - allow accumulation of hazardous waste without a permit for limited periods of time provided specified requirements are met in managing the waste;
 - establish requirements concerning training, preparedness and prevention, contingency plans, and emergency response;
 - establish standards for managing hazardous waste in particular types of wastes management units (containers, tanks, containment buildings, and drip pads);
 - establish specific labeling and marking requirements for containers and tanks; and
 - establish limited circumstances under which a generator may receive waste from off site for consolidation without a permit. (This is limited to off site waste from a Maryland-defined small quantity generator that is under control of the same person who controls the generator that operates at the point of consolidation.)
7. Manifest requirements (26.13.03.04) (note: these requirements are under revision to align them with changes that were made to the federal regulations on hazardous waste manifests as part of the introduction of the national electronic manifest system. As a matter of federal law, any elements of the current Maryland regulations on hazardous waste manifests that are inconsistent with the current federal requirements are preempted by the federal regulations. MDE expects to propose revisions to Maryland’s hazardous waste manifest regulations in the summer of 2021.)
8. Pre-transport requirements (26.13.03.05) – this regulation continues to specify requirements on packaging, labeling, marking, and placarding that must be met before a hazardous waste is transported off site. Previously, in 26.13.03.05E, this regulation also included management requirements for hazardous waste while it was being accumulated prior to off site transportation. Those requirements have been moved elsewhere in 26.13.03, as indicated in item 6 of this list.
9. Closure requirements (26.13.03.05-1 and .05-2) – these regulations specify standards that must be met when a waste accumulation unit is no longer going to be used to manage hazardous waste, as well as requirements that must be met when an entire facility is being closed. The regulations add a new closure notification requirement, in line with federal regulations.
10. Provisions for episodic generation events (26.13.03.05-3 – .05-5) – these regulations establish a limited ability for a Maryland-defined small quantity generator to maintain that generator status despite generating or accumulating hazardous waste in amounts that would normally make the generator fully regulated under COMAR 26.13.03. The episodic generation event can be a planned event, such as an inventory cleanout, or an unplanned event, such as a spill or the generation of waste through an unexpected product recall.
11. Record keeping and reporting requirements (26.13.03.06) – details on records that generators are required to maintain, including records on waste determinations, manifest

records, and records of biennial reports of hazardous waste activity. The regulation also addresses biennial reporting requirements.

12. Provisions regarding international shipments (imports and exports) of hazardous waste (26.13.03.07 – .07-3 and .07-5) – Note: authority over international shipments of hazardous waste is not delegated to the states by the federal government, and rules regarding international shipment of hazardous waste are administered by the EPA. The regulations in COMAR 26.13.03.07 – .07-3 and .07-5 have largely been supplanted by requirements in the Code of Federal Regulations at 40 CFR Part 262 Subpart H. MDE will be revising COMAR 26.13.03 to reflect this, with the changes expected to be made by the end of 2021. In the meantime, the requirements of 40 CFR Part 262 Subpart H are in effect in Maryland as a matter of federal law, with EPA the implementing agency.
13. Special provisions for farmers disposing of pesticides in accordance with label instructions (26.13.03.07-4).

Restructuring the regulatory text to make it clearer and easier to identify the applicable requirements

Previously, many of the requirements that persons had to meet in order to be able to accumulate hazardous waste without having a permit were all found in COMAR 26.13.03.05E. Rather than directly stating what the requirements were, in many instances, the regulation text identified an applicable requirement by just listing a citation for another section of the regulations, without any indication of what the subject of the cited provision was. This made it difficult for someone reading the regulations to quickly identify what needed to be done to be in compliance.

To make the regulations easier to use, many of these instances of establishing requirements through the use of cross-references have been replaced by the addition of the applicable requirements directly into the text of COMAR 26.13.03. For example, the regulations previously required a generator to comply with “the requirements for owners or operators in COMAR 26.13.05.02G, .03, and .04,” without any further explanation. The regulations now include, under 26.13.03.03-5, explicit provisions regarding personnel training, preparedness and prevention, contingency plans, and emergency procedures. Another example is the explicit statement of requirements for closure of accumulation units and entire facilities in COMAR 26.13.03.05-1 and .05-2. Previously, the closure requirements were stated through cross-reference to sections in COMAR 26.13.05.

Providing a clearer explanation of Maryland’s hazardous waste generator categories

Maryland’s categorization scheme for hazardous waste generators differs from the way that the federal regulations categorize generators. Also, Maryland regulations previously used the term “small quantity generator” to mean something different from what the term means in the federal regulations. The revised regulations attempt to make a clearer distinction between Maryland’s regulatory requirements and related, but different, requirements in the federal regulations.

Maryland’s hazardous waste regulations have long recognized only two categories of hazardous waste generators – one group that is subject to the full range of hazardous waste regulations, and a second group that is subject to minimal requirements because of the relatively small amount of hazardous waste that these generators produce and manage. Two main criteria are used to differentiate between Maryland’s categories of generators – the amount of hazardous waste generated during any calendar month, and the amount of hazardous waste on site at any time. This differs from the federal regulations, which base generator categories solely on the amount of hazardous waste generated in a calendar month.

A person is subject to the requirements of COMAR 26.13.03 if any of the following applies (26.13.03.01A-2):

- (1) The person generates 100 kilograms or more of hazardous waste in a calendar month;
- (2) The person accumulates, at any time, more than 100 kilograms of hazardous waste;
- (3) The person generates in a calendar month or accumulates at any time more than 1 kilogram of acute hazardous waste as specified in COMAR 26.13.02.05C(1), C(2), C(6,) and C(7);
- (4) The person generates in a calendar month or accumulates at any time:
 - (a) Any containers identified in COMAR 26.13.02.19C that are larger than 20 liters in capacity;
 - (b) 10 kilograms or more of inner liners from containers identified in COMAR 26.13.02.19C; or
 - (c) 100 kilograms or more of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or onto any land or water of any acute hazardous waste listed in COMAR 26.13.02.16—.19.

A person who meets any of these criteria is referred to in COMAR 26.13.03 simply as a “generator.” Such a person is also known as a “fully regulated generator” for the purposes of compliance with COMAR 26.13.03.

If a person does not meet any of the criteria that define a fully regulated generator, the person is classified as a “Maryland-Defined Small Quantity Generator” (MDSQG). The MDSQG category is the State’s version of the federal Very Small Quantity Generator (VSQG) category. A generator who qualifies as an MDSQG is mainly required to characterize each waste the generator produces as to whether it meets the definition of hazardous waste, and to ensure that the waste is delivered to an appropriate facility, as specified in COMAR 26.13.02.05D(2).

If a generator who had qualified as an MDSQG in a given month meets one or more of the criteria that define a fully regulated generator in the next month, then the generator is subject to the higher level of regulation. (An exception is if the generator takes advantage of the “episodic generation” provisions in COMAR 26.13.03.05-3 – .05-5.) If, in a subsequent month, the generator again qualifies as an MDSQG, the generator can revert to the less-regulated status.

Clarifying the relationship between Maryland and federal hazardous waste generator categories

For the most part, determination of what provisions of COMAR 26.13.03 are applicable depends on the Maryland generator category that applies to the generator. However, there are some situations that require a Maryland generator to know the generator’s classification under federal regulations. The federal generator classifications are “Very Small Quantity Generator” (VSQG), “Small Quantity Generator” (SQG), and “Large Quantity Generator” (LQG).

Some reporting requirements under COMAR 26.13.03 are satisfied using federal forms. Examples include the biennial reporting requirement of COMAR 26.13.03.06B and the notification of hazardous waste activity (EPA ID number) requirement of COMAR 26.13.03.03. To maintain consistency in national hazardous waste databases, persons filing the reports are required to indicate their federal hazardous waste generator category on the forms.

In some instances, Maryland’s regulations allow persons who would qualify as a federally-defined SQG to comply with less stringent requirements than is generally the case. For instance, a fully regulated generator under Maryland regulations is allowed to accumulate hazardous waste on site for up to 180 days if the generator qualifies as a federally-defined SQG and does not accumulate more than 1,000 kilograms of hazardous waste or 1 kilogram of acute hazardous waste (COMAR 26.13.03.03-4C(3)). In general, the limit for Maryland generators is 90 days.

The criteria that define the federal hazardous waste generator categories are found in the Code of Federal Regulations (CFR) at 40 CFR 260.10, with further explanation provided at 40 CFR 262.13. The federal criteria are restated in COMAR 26.13.03.01-1B. The following tables summarize the criteria used to establish the generator categories under federal and Maryland regulations (note – criteria for certain containers and inner liners of containers specified in COMAR 26.13.03.01A-2(4)(a) and (b) have been omitted):

Federal Generator Category (based on amount of hazardous waste generated in a calendar month)			
Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from the cleanup of spilled acute hazardous waste generated in a calendar month	Federal Generator category
> 1 kg	Any amount	Any amount	LQG
Any amount	≥ 1,000 kg	Any amount	LQG.
Any amount	Any amount	> 100 kg	LQG
≤ 1 kg	> 100 kg and < 1,000 kg	≤ 100 kg	SQG
≤ 1 kg	≤ 100 kg	≤ 100 kg	VSQG

Maryland Generator Status Based on Amount of Hazardous Waste Generated in a Calendar Month			
Quantity of acute hazardous waste generated in a calendar month	Total Quantity of hazardous waste (acute and non-acute) generated in a calendar month	Quantity of residues from the cleanup of spilled acute hazardous waste generated in a calendar month	Maryland Generator Status
> 1 kg	Any amount	Any amount	Fully regulated
Any amount	≥ 100 kg	Any amount	Fully regulated
Any amount	Any amount	≥ 100 kg	Fully regulated
≤ 1 kg	< 100 kg	<100 kg	MDSQG

Maryland Generator Status Based on Amount of Hazardous Waste Accumulated at Any Time			
Quantity of acute hazardous waste accumulated (i.e., amount on-site)	Total Quantity of hazardous waste (acute and non-acute) accumulated	Quantity of residues from the cleanup of spilled acute hazardous waste accumulated	Maryland Generator Status
> 1 kg	Any amount	Any amount	Fully regulated
Any amount	≥ 100 kg	Any amount	Fully regulated
Any amount	Any amount	≥ 100 kg	Fully regulated
≤ 1 kg	< 100 kg	<100 kg	MDSQG

Adopting new flexibilities made available in the federal regulations

The EPA's hazardous waste generator improvements rule added some new flexibilities to the federal regulations that have now been incorporated into Maryland's regulations. These include:

- Allowing a container in a satellite accumulation area to be kept open when temporary venting of the container is necessary for the proper operation of equipment or to prevent dangerous situations from developing, such as the buildup of extreme pressure (26.13.03.03-3E(4)).

- Relaxation of the 50-foot setback requirement for ignitable waste (26.13.03.03-6G(1)).

Previously, a generator who was accumulating ignitable hazardous waste in containers was required to keep those containers at least 50 feet from the facility property line. The regulations have been amended to waive the 50-foot setback requirement if the generator qualifies as federally-defined SQG, or if the generator obtains a written approval from the authority having jurisdiction over the local fire code.

- Provisions for “episodic generation” events (26.13.03.05-3 – .05-5)

These provisions allow an MDSQG to retain that generator status despite the occurrence of an event that causes the generation or accumulation of hazardous waste in excess of the limits for the MDSQG category. The event may be a planned event, such as an inventory cleanout or a scheduled maintenance activity, or it may be an unplanned event, such as a spill or release of hazardous waste, or generation of hazardous waste as a result of a natural disaster, such as a tornado or flood. A person may only rely on the episodic generation event provisions once in a calendar year, unless MDE approves a petition for a second event during that calendar year. MDE is not obligated to approve such petitions, and the second event may not be of the same type – if the first event was a planned event, the second may only be an unplanned event, and vice versa.

- Allowing a generator to consolidate wastes from MDSQGs under control of the same person as the consolidation point without having to obtain a permit (26.13.03.03-11)

Under this provision, a generator is allowed to accept hazardous waste from off site if certain conditions are met. Key requirements include:

- Each off site generator must either be an MDSQG or, if located in another state, in the generator category that is the state’s equivalent to the federal VSQG category. In addition, the other state’s regulations must allow the generator to send waste to the point of consolidation in Maryland.
- The consolidation point and each off site generator from whom waste is accepted must be under the control of the same person, as explained in COMAR 26.13.03.03-11B(1).
- The consolidation point must be operating in accordance with requirements that apply to federally-defined LQGs. This means that the consolidation point cannot take advantage of any of the exemptions identified in COMAR 26.13.03.01-1D that are available to Maryland generators who would qualify as a federally-defined SQG.
- The consolidation point must file a notification at least 30 days before accepting any off site waste. The notification is made using EPA Form 8700-12. Details are found in COMAR 26.13.03.03-11C.
- There are record keeping requirements for the consolidation point, including keeping a record of each shipment received. Details are in COMAR 26.13.03.03-11D.
- Waste accepted from off site is required to be managed in accordance with the same requirements that govern the management of the waste that was generated on-site.
- Waste accepted from off site may be kept at the consolidation point no longer than 90 days. The start date for the 90-day time limit is the date the waste was received from off site, or, if the waste is consolidated in a container with other wastes, the earliest start date associated with waste in the container (see COMAR 26.13.03.03-11E(3)).

Adopting additional flexibilities that have been available in federal regulations

- Allowance of additional time to remove waste from a satellite accumulation area. (26.13.03.03-3D(3))

Previously, Maryland's regulations on satellite accumulation areas were more stringent than federal regulations in that Maryland's regulations did not include the federal provision allowing the operator three (3) days to remove waste from the satellite accumulation area once the amount of waste in the area reaches the allowed maximum. This meant that waste had to be immediately removed from the satellite accumulation area to a centralized hazardous waste accumulation area. Maryland's regulations have been amended to include the 3-day grace period on continued accumulation in the satellite area once the allowed maximum is reached. When an amount of waste that triggers the removal requirement has been accumulated, the containers in the satellite accumulation area must be immediately marked with the date on which the limit was reached.

Note that Maryland's regulations on satellite accumulation areas continue to be more stringent than the federal regulations in one respect. Once the maximum quantity limit is reached, Maryland's regulations require that the entire amount of waste that has contributed to the exceedance must be removed (e.g., the 55 gallons of nonacute hazardous waste that trigger the removal requirement plus whatever additional amount of nonacute hazardous waste that is added to the satellite accumulation area during the 3-day grace period). Federal regulations only require that enough waste be removed from the satellite area so that the amount of waste that remains is less than the maximum amount that may be accumulated in the satellite accumulation area.

- Ability to grant an extension of the time limit on accumulation (26.13.03.03-4D).

The Maryland regulations now include specific authority for MDE to allow a generator to store hazardous waste for up to 30 days beyond the 90-day or 180-day limit on storage. This extension may be granted by MDE if MDE determines that the extension is necessary due to temporary, unforeseen, and uncontrollable circumstances. MDE is not obligated to grant a request for an extension.

- Elimination of the requirement to submit copy of contingency plan to MDE and others for a person who meets the criteria to be classified as a federally-defined SQG (26.13.03.03-5D(2)),

Under Maryland's regulations, all fully regulated generators are required to have a contingency plan that identifies actions that will be taken in response to emergencies involving hazardous waste. This is more stringent than the federal regulations, which only require generators who are classified as a federally-defined LQG to have a contingency plan. (For federally-defined SQGs, the federal regulations specify actions to be taken in response to an emergency instead of requiring a formal plan.) Previously, Maryland regulations required all fully regulated generators to submit a copy of the contingency plan to various agencies that may be called on to provide assistance in the event of an emergency. The regulations have been revised so that a person who would be classified as a SQG under federal regulations no longer needs to provide outside agencies with a copy of the contingency plan.

Adopting new, more stringent requirements that were made part of the federal regulations.

- Expanded requirements for waste determinations (26.13.03.02 and .02-1).

Waste characterization is a cornerstone of the hazardous waste regulatory program. Any person who generates a solid waste is required to characterize that waste as to whether it meets the definition of hazardous waste. Failure to characterize waste and failure to correctly characterize waste are among the most common hazardous waste violations.

Maryland has adopted the changes to the waste characterization process that EPA has made to federal regulations. The following are the most significant changes:

- New explicit requirement that a generator's waste determination must be "accurate" (26.13.03.02A(1)), with an "accurate" determination being one that allows someone to determine the requirements that apply to the waste and the generator of the waste under Maryland and applicable federal hazardous waste regulations.
 - An explicit requirement that a waste characterization must be performed not only at the point of generation before any dilution, mixing, or other alteration of the waste occurs, but also at any time in the in the course of management of the waste when the properties of the waste may have changed in a way that cause a change to the initial waste characterization.
 - A requirement for the generator (except for an MDSQG) to determine all hazardous waste codes that apply to the waste (26.13.03.02D(1))
 - An expanded description of the process that must be followed in making a hazardous waste determination (26.13.03.02-1)
- Record keeping requirements for waste determinations (26.13.03.02-2).

Generators, except for MDSQGs, are required to keep records on the basis for their waste determinations. The records are to be kept for at least three (3) years from the date that the waste was last sent for treatment, storage, or disposal. Information that the generator is required to maintain includes:

- records documenting test results and sampling results;
 - records documenting the types of tests and the types of sampling conducted;
 - records that were consulted in relying on process knowledge as the basis for a waste characterization; and
 - records that explain the basis for any process knowledge that the generator relied on in determining whether a waste exhibits a characteristic of hazardous waste.
- Satellite accumulation areas (26.13.03.03-3E).

New provisions have been added to prevent the mixing of incompatible wastes in a satellite accumulation area (26.13.03.03-3E(3)). Additional labeling requirements have also been added, requiring additional information to be provided about the nature of the hazard associated with the waste that is being accumulated (26.13.03.03-3E(5)(b)).

- Labeling requirements – containers, tanks, and containment buildings.

Additional labeling requirements have been added to provide additional information about the nature of the hazards associated with hazardous waste that is being accumulated in a container, tank, or containment building. These requirements are found in COMAR 26.13.03.03-10 for containers and tanks, and 26.13.03.03-9B(3) for containment buildings.

- Periodic renotification (26.13.03.03-1).

Persons associated with a site for which an EPA ID number has been issued (other than a temporary number) are required to file an initial renotification by September 1, 2021, and in each subsequent 4-year period thereafter. The initial renotification is accomplished by having submitted a biennial report of hazardous waste activity for 2019, or by submitting EPA form 8700-12 (RCRA Subtitle C Site Identification Form) by September 1, 2021. Persons are also considered to have satisfied the initial renotification requirement if they submitted an updated EPA form 8700-12 at any time during the period 9/1/17 thru 9/1/21. The renotification requirement applies to any site where a person qualifies as a fully regulated generator at any time during the period running from January 1, 2011, through December 31, 2020. It also applies to any site that, as of December 31, 2020, was identified in EPA's RCRAInfo database as a federally-defined SQG or an LQG.

- Contingency plan requirements – new “quick reference” guide (26.13.03.03-5E).

Persons who qualify as a federally-defined LQG are required to prepare a “quick reference” guide to the facility's contingency plan. Details on what the quick reference guide must contain are found in COMAR 26.13.03.03-5E(4). A generator currently accumulating hazardous waste as a federally-defined LQG is required to submit a copy of the quick reference guide to potential emergency responders, as specified in COMAR 26.13.03.03-5E(2). The submission deadline for a generator accumulating hazardous waste as of 12/31/2021 is the first time after that date that the generator amends the generator's contingency plan.

- Closure notification requirements (26.13.03.05-2).

A new closure notification requirement has been established for generators. The notification requirement applies with respect to a hazardous waste accumulation area, a hazardous waste management unit, or a site or facility where hazardous waste was accumulated. A comprehensive notification requirement applies to a person who qualifies as a federally-defined LQG at the time of the closure, or who operated as a federally-defined LQG for a significant period of time, as defined by criteria in COMAR 26.13.03.05-2A(4). If a person is a fully regulated generator, but is not subject to the comprehensive closure notification requirement, the person is only required to file a notification that hazardous waste will no longer be accumulated at the site by submitting EPA Form 8700-12, as described in COMAR 26.13.03.03-5D.

Notification of closure of an individual accumulation area or unit can be deferred if the owner or operator believes that the area or unit will eventually be used again to accumulate hazardous waste. To defer the notification requirement, the owner or operator places a notice that closure is being deferred in the facility operating record. The owner or

operator must also ensure that the closure performance standard and other requirements of COMAR 26.13.03.05-2B are met for the area or unit before the entire facility is closed.

Requirements on timing and method of notification for persons subject to the comprehensive closure notification as federally-defined LQGs are specified in COMAR 26.13.03.03-5C.

E. Some Particularly Important Changes

This section highlights some especially important aspects of the revised regulations, including some that require generators to modify their operations to be in compliance. (Note: this is not a complete list of all changes, just a list of some things to pay particular attention to.)

Waste Determination (COMAR 26.13.03.02, .02-1 and .02-2)

Under COMAR 26.13, a person who generates a solid waste has long been required to characterize that waste as to whether it meets the definition of a hazardous waste. The revised regulations provide additional detail on this requirement, and add some new record keeping provisions.

The regulations clarify that the generator is required to characterize a waste not only at the point of generation, but also at any point when the properties of the waste may change in a way that could affect the initial waste determination. For example, a generator would have to consider the effects on the waste characterization of a reaction that continues to occur after the initial generation of the waste, such as a waste becoming potentially unstable by forming organic peroxides over time. Another example of when a waste would have to be characterized after the point of initial generation would be when exposure to environmental conditions, such as high heat or humidity, affect the characteristics of the waste. Details on how to perform a valid waste determination are found in COMAR 26.13.03.02 and .02-1.

The revised regulations add a new requirement for the generator to keep records on how the generator made waste determinations. This could include narrative information along with supporting reference material in instances when the generator used process knowledge as the basis for the waste determination. Records of any analytical data that was used as the basis for a waste determination would also have to be retained. Details are found in COMAR 26.13.03.02-2.

Generator Classification (COMAR 26.13.01 and .01-1)

Maryland's hazardous waste generator classification scheme differs from the federal hazardous waste generator classification scheme. Maryland regulations identify two categories of generators, while federal regulations identify three categories. This has caused some confusion over the years, particularly since the term "small quantity generator" previously had a different meaning in the State's regulations compared to the federal regulations.

The revised regulations continue the same structure for Maryland's generator categories, but the regulations have been revised to explain the categories more clearly. In addition, the new terms MDSQG and "fully regulated generator" have been introduced to refer to the Maryland generator

categories. Maryland's regulations now only use the term "small quantity generator" to refer to the category designated as such in federal regulations.

The regulations have also been modified to make it clearer that the generator needs to consider not only the amount of hazardous waste generated in a calendar month, but also the amount of hazardous waste on site at any time in determining the applicable Maryland generator category. Federal generator categories only consider the amount of waste generated during a calendar month. Details on the Maryland hazardous waste generator categories are found in COMAR 26.13.03.01A-1, A-2, and A-3.

The regulations now more clearly explain that the generator has an obligation to determine the generator's Maryland generator category, and an obligation to determine the generator's federal generator category. The Maryland generator category is used to determine the applicable requirements of COMAR 26.13 for the management of hazardous waste. The federal generator category is used for the purposes of completing federal forms that are used for various reporting obligations, such as the EPA 8700-12 form (RCRA Subtitle C Site Identification Form) and EPA 8700-13A/B (Biennial Report Form). Details on how a generator should determine the generator's federal hazardous waste generator category are found in COMAR 26.13.03.01-1.

The federal generator category is also used to determine eligibility of Maryland generators for some alternate requirements that COMAR 26.13 makes available to persons who meet the criteria to be classified as an SQG under federal regulations. See COMAR 26.13.03.01-1D for details.

Generator Renotification (COMAR 26.13.03.03-1)

The revised regulations include a new requirement for hazardous waste generators to periodically file a renotification with MDE to indicate whether they are still active and to update contact information. An initial renotification is required by September 1, 2021. Subsequent renotifications are required at least once in each subsequent 4-year period beginning September 1, 2021.

A generator will be considered to have met the initial renotification obligation if any of the following are true:

- the generator filed a 2019 biennial report
- the generator filed a subsequent notification at any time during the period 9/1/17 – 9/1/21
- the generator filed an initial notification for a site identification number (EPA ID number) during the period 9/1/17 – 9/1/21

If none of these criteria are met, the generator is required to file a renotification by September 1, 2021, using EPA Form 8700-12. The renotification requirement does not apply to a person who was issued a temporary EPA ID number but not a permanent EPA ID number.

Satellite Accumulation Area Requirements (COMAR 26.13.03.03-3)

Generators have been allowed to establish “satellite accumulation areas” where limited quantities of hazardous waste have been allowed to be accumulated for extended periods at or near the point of generation in an area under control of the operator of the process that generates the waste. Some significant changes have been made to these provisions.

Maryland’s regulations have been modified to incorporate more stringent federal requirements concerning labeling of containers of hazardous waste that are being managed in a satellite accumulation area. The regulations require additional information to better communicate the hazards associated with the waste that is being accumulated. See COMAR 26.13.03.03-3E(5) for details.

Maryland’s satellite accumulation area regulations have also been modified to allow waste to remain in a satellite accumulation area for up to 3 days after the accumulation limit specified in the regulations has been reached. Previously, Maryland regulations were interpreted as requiring that waste be immediately removed from a satellite accumulation area once the accumulation limit was reached.

Note that one aspect of the Maryland regulation on satellite accumulation areas is more stringent than the corresponding federal regulation. The federal regulation only requires removal of the incremental amount of waste that is in excess of the satellite accumulation limit, whereas Maryland’s regulations require removal of all waste that is contributing to the exceedance, emptying the satellite accumulation area of hazardous waste. It should also be noted that waste in a satellite accumulation area counts towards determining the generator’s hazardous waste generator category under both Maryland and federal regulations.

Contingency Plan Requirements (COMAR 26.13.03.03-5D)

Except for MDSQGs, all Maryland hazardous waste generators are required to have a contingency plan that establishes procedures that will be followed in the event of an emergency that could result in a release of hazardous waste. The contingency plan requirements have been modified so that a person who qualifies as an SQG under federal regulations is no longer required to submit a copy of the plan to emergency response agencies that may be called upon in an emergency to respond. A person who qualifies as an LQG under federal regulations is still required to distribute a copy of the contingency plan to emergency response agencies.

Quick Reference Guide for Emergency Responders (COMAR 26.13.03.03-5E)

There is a new requirement that persons who qualify as an LQG under federal regulations prepare and distribute a quick reference guide for emergency responders. Details on the required content of the guide are given in COMAR 26.13.03.03-5E(4). Deadlines for preparation and distribution of the guide are identified in COMAR 26.13.03.03-5E(3).

Labeling Requirements (COMAR 26.13.03.03-9 and .03-10)

Expanded labeling requirements have been established for containers and tanks that are being used to accumulate hazardous waste, and for containment buildings (a specialized type of hazardous waste management unit in which the building itself is the primary form of containment of the waste.) The revised regulation requires that the labels be modified to contain additional information to better communicate the hazards associated with the waste that is being accumulated.

Closure Notification Requirements (COMAR 26.13.03.05-1)

A new closure notification requirement has been established for generators. The notification requirement applies with respect to a hazardous waste accumulation area, a hazardous waste management unit, or a site or facility where hazardous waste was accumulated. Refer to the paragraph with the heading “Closure notification requirements” on page 11 of this document for details.

APPENDIX

Notes on Regulations in COMAR 26.13.03 That Were Affected by the Regulatory Amendments of May 3, 2021

This appendix lists the regulations that appear in Chapter 3 (Standards Applicable to Generators of Hazardous Waste) of Title 26, Subtitle 3 of the Code of Maryland Regulations (COMAR 26.13.03) following the major revision to COMAR 26.13.03 that became effective on May 3, 2021. The appendix provides some brief notes on the content of each regulation.

Note on formatting: In this appendix, a regulation title fully in italics denotes a new regulation. A regulation title without any italics denotes an existing regulation that was modified. A regulation title partially in italics denotes a change to an existing regulation title.

.01 Purpose, Scope, and Applicability.

- New sections have been added that clarify applicability of Maryland generator requirements based on monthly generation and amount of hazardous waste accumulated.
- A new section has been added that defines and specifies the applicability of the chapter for “Maryland-defined Small Quantity Generators” (MDSQGs).

.01-1 Federally-defined Hazardous Waste Generator Categories — Applicability in Maryland.

- Clarifies the applicability of the federal generator categories in Maryland.

.02 Hazardous Waste Determination — *Generator’s Obligations.*

- Additions have been made clarifying the generator’s responsibility with respect to waste determination/characterization.

.02-1 Hazardous Waste Determination — Procedures.

- New regulation that species procedures that generators must follow in order to make a valid waste determination.

.02-2 Hazardous Waste Determination — Record Keeping Requirements.

- New record keeping requirements related to waste determinations.

.03 EPA Identification Numbers — *General Requirements for Generators.*

- New provision clarifying that a new EPA ID number is not assigned if a number was previously assigned to a site.
- New provision clarifying that a generator should determine federal generator category for the purposes of completing the site identification form.
- New section discussing temporary numbers.

.03-1 Renotification.

- New section requiring generators to periodically renotify MDE to update contact information and generator status.

.03-2. Deactivation and Reactivation of an EPA Identification Number.

- New section on deactivating and reactivating numbers.

.03-3 Satellite Accumulation Areas.

- Requirements relocated from former COMAR 26.13.03.05E(3)
- Some new provisions regarding container marking/labeling
- New provision allowing 3-day grace period to remove waste from satellite area once the accumulation limit is reached (previously, Maryland’s regulations required waste to be immediately removed, once the satellite accumulation limit was reached).

.03-4 Accumulation of Hazardous Waste — Exemption from Permit Requirement.

- This regulation and regulations .03-5 through .03-11 take the place of the former COMAR 26.13.03.05E (management standards for hazardous waste being accumulated).

.03-5 General Requirements for Persons Accumulating Hazardous Waste.

- Requirements for personnel training, preparedness and prevention, and contingency plans.

.03-6 Requirements for Accumulation of Hazardous Waste in Containers.

- Container management standards.

.03-7 Requirements for Accumulation of Hazardous Waste in Tanks.

- Tank management standards.

.03-8 Requirements for Accumulation of Hazardous Waste on Drip Pads.

- Applies to waste accumulated on a drip pad at a wood treating facility (e.g., a facility producing pressure-treated lumber).

.03-9 Requirements for Accumulation of Hazardous Waste in Containment Buildings.

- A “containment building” is a particular type of waste management unit in which the building itself serves as the containment for the waste. A containment building might be used, for example, for indoor storage of a large pile of material.

.03-10 Labeling and Marking of Containers and Tanks.

- Includes new requirements for labeling to provide additional indication of the hazards associated with the waste that is being managed.

.03-11 Consolidation of Waste Received from Maryland-Defined Small Quantity Generators and Others.

- New section that allows consolidation of waste from off site MDSQGs if the accumulation site and the off site MDSQGs are under control of the same person, and certain management requirements are met.

(Regulation .04 (The Manifest) was not affected by the revision of May 3, 2021.)

.05 Pretransport Requirements.

- Revised to reflect reorganization of the chapter.

.05-1 Closure Requirements - Hazardous Waste Accumulation Areas and Waste Management Units.

- Expanded presentation of closure requirements.

.05-2 Closure Notification Requirements.

- New closure notification requirements.

.05-3 Special Provisions for Episodic Generation Events – Purpose and Scope.

- This regulation and regulations .05-4 and .05-5 allow a MDSQG to maintain that status despite an instance in which the generator generates or accumulates hazardous waste in amounts that would otherwise cause the generator to become a fully regulated generator under Maryland's regulations.

.05-4 Episodic Generation Events – Maryland-defined Small Quantity Generators.

.05-5 Petitions to Operate under Episodic Event Provisions for an Additional Event.

.06 Record Keeping and Reporting.

- New record keeping requirements for waste determinations have been added.

(Regulations .07 through .07-5 were not affected by the revision of May 3, 2021)