

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES
Chapter 07 Permits for CHS Facilities

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

.01 Permit Required.

A. Except for persons identified in COMAR 26.13.05.01 A(3) or D, 26.13.06.01A(4) or (5), or 26.13.07.23A(1), a person may not operate any facilities without first obtaining a valid CHS permit from the Department. A CHS permit will not be issued without the facility first having applied for an EPA identification number.

B. A person may not begin physical construction of a new facility without having submitted a complete permit application and having received a final permit under this chapter.

C. A facility that is no longer operating but is maintained to permanently contain CHS and does not receive any additional CHS shall also be required to obtain a valid permit from the Department.

D. A permit may be issued or denied for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility.

E. Record Keeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this chapter for a period of at least 3 years from the date the application is signed.

F. Incorporation by Reference. 40 CFR §§264.140 —264.151, as promulgated as of July 1, 2007, are incorporated by reference.

.02 Application for a Permit.

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign and submit an application to the Secretary as described in this section. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in Regulation .19 of this chapter.

B. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit. The owner shall also sign the permit application.

C. Completeness. The Secretary may not issue a permit before receiving a complete application for a permit. An application for a permit under a program is complete when the Secretary receives an application form, and any supplemental information, which is completed to the Secretary's satisfaction. An application may be deemed by the Secretary as complete, notwithstanding the failure of the owner or operator to submit the exposure information described in §D(37) of this regulation. The Secretary shall judge the completeness of any application for a permit independently of the status of any other permit application or permit for the same facility or activity. The Secretary may deny a permit for the active life of a hazardous waste management unit before receiving a complete application for a permit.

C-1. Permit Application—General Requirements.

(1) Persons submitting a permit application to the Department under this regulation shall submit a duplicate application at the same time to the Region 3 office of the U.S. Environmental Protection Agency.

(2) Permit applicants shall assure that permit applications they are submitting are signed in accordance with §§A and B of this regulation and Regulation .03 of this chapter.

D. Permit Information. All applicants, using an application format acceptable to the Department, shall provide the following information to the Secretary:

(1) The activities conducted by the applicant which require it to obtain a permit.

(2) Name, mailing address, and location of the facility for which the application is submitted.

(3) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(4) The operator's name, address, telephone number, ownership status, and status as federal, State, private, public or other entity.

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- (5) A listing of all permits or construction approvals received or applied under any of the following programs:
- (a) Hazardous Waste Management program under the Resource Conservation and Recovery Act;
 - (b) Underground Injection Control program under the Safe Drinking Water Act;
 - (c) NPDES program under the Clean Water Act;
 - (d) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
 - (e) Nonattainment program under the Clean Air Act;
 - (f) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
 - (g) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
 - (h) Dredge or fill permits under §404 of the Clean Water Act;
 - (i) Other relevant environmental permits, including State permits.
- (6) A topographic map (or other map if a topographic map is unavailable) extending 1 mile beyond the property boundaries of the source, depicting the facility and:
- (a) Each of its intake and discharge structures;
 - (b) Each of its hazardous waste treatment, storage, or disposal facilities;
 - (c) Each well where fluids from the facility are injected underground; and
 - (d) Those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary.
- (7) A brief description of the nature of business.
- (8) The latitude and longitude of the facility.
- (9) The name, address, and telephone number of the owner of the facility.
- (10) An indication of whether the facility is new or existing and whether it is a first or revised application.
- (11) For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas.
- (12) For existing facilities, photographs of the facility clearly delineating all:
- (a) Existing structures;
 - (b) Existing treatment, storage, and disposal areas; and
 - (c) Sites of future treatment, storage, and disposal areas.
- (13) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items.
- (14) A specification of the hazardous wastes listed or designated in COMAR 26.13.02 to be treated, stored, or disposed at the facility, an estimate of the quantity of the wastes to be treated, stored, or disposed of annually, and a general description of the processes to be used for the wastes.
- (15) A general description of the facility.
- (16) Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes in accordance with COMAR 26.13.05.
- (17) A copy of the waste analysis plan required by COMAR 26.13.05.02D.
- (18) A description of the security procedures and equipment required by COMAR 26.13.05.02E.
- (19) A copy of the general inspection schedule required by COMAR 26.13.05.02F(2). Include, when applicable, as part of the inspection schedule, specific requirements in COMAR 26.13.05.09E, .10D, .10-4G, .11F, .12E, .13D, .14C, .16I, .16-1C.

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(20) A justification of any request for a waiver or waivers of the preparedness and prevention requirements of COMAR 26.13.05.03.

(21) A copy of the contingency plan required by COMAR 26.13.05.04.

(22) A description of procedures, structures, or equipment used at the facility to:

(a) Prevent hazardous discharge in unloading operations (for example, ramps, special forklifts);

(b) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(c) Prevent contamination of water supplies;

(d) Mitigate effects of equipment failure and power outages;

(e) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing).

(23) Traffic pattern, volume, and control (for example, show turns across traffic lanes, and stacking lanes if appropriate, provide access road surfacing and load bearing capacity, show traffic control signals, provide estimates of traffic volume (number of types of vehicles)).

(24) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with COMAR 26.13.05.02H1 including documentation demonstrating compliance with COMAR 26.13.05.02H(3).

(25) The political jurisdiction in which the facility is proposed to be located.

(26) Flood Map.

(a) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year flood plain. This identification shall indicate the source of data for the determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used if a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (for example, wave action) which shall be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

(b) If maps for the National Flood Insurance Program produced by the Federal Emergency Management Agency are available, they will normally be determinative whether a facility is located within or outside of the 100-year flood plain. However, if the FIA map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas shall be considered and a determination made as to whether they are in the 100-year flood plain.

(c) If FIA maps are not available for a proposed facility location, the owner or operator shall use equivalent mapping techniques to determine whether the facility is within the 100-year flood plain, and if so located, what the 100-year flood elevation would be.

(27) Owners and operators of facilities located in the 100-year flood plain shall provide the following information:

(a) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood.

(b) Structural or other engineering studies showing the design of operational units (for example, tanks, incinerators) and flood protection devices (for example, floodwalls, dikes) at the facility, and how these will prevent washout.

(c) If applicable, and instead of the information required by §D(27)(a) and (b) of this regulation, a detailed description of procedures to be followed to remove hazardous waste safely before the facility is flooded, including:

(i) The timing of movement relative to flood levels, including estimated time to move the waste, to show that this movement can be completed before flood waters reach the facility;

(ii) A description of the location or locations to which the waste will be moved and a demonstration that those facilities will be eligible to receive hazardous waste in accordance with COMAR 26.13.01—26.13.09;

(iii) The planned procedures, equipment, and personnel to be used and the means to ensure that the resources will be available in time for use; and

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(iv) The potential for accidental discharges of the waste during movement.

(d) For an existing facility not in compliance with the requirements of COMAR 26.13.05.02-1B(2), a plan showing how the facility will be brought into compliance and a schedule for compliance.

(28) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with COMAR 26.13.05.02G. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in COMAR 26.13.05.02G(1)(c).

(29) A copy of the closure plan and, when applicable, the post-closure plan required by COMAR 26.13.05.07C and H. An owner or operator shall include, when applicable, as part of the plan, specific requirements in COMAR 26.13.05.09I, .10-7, .11G, .12I, .13K, .14J, .16L, and .16-1B and D.

(30) For hazardous waste disposal units that have been closed, documentation that notices required under COMAR 26.13.05.07I have been filed.

(31) The most recent closure cost estimate for the facility prepared in accordance with 40 CFR §264.142, as incorporated by reference in COMAR 26.13.05.08, and a copy of the documentation required to demonstrate financial assurance under 40 CFR §264.143, as incorporated by reference in COMAR 26.13.05.08. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the permit application.

(32) If applicable, the most recent post-closure cost estimate for the facility prepared in accordance with 40 CFR §264.144, as incorporated by reference in COMAR 26.13.05.08, plus a copy of the documentation required to demonstrate financial assurance under 40 CFR §264.145, as incorporated by reference in COMAR 26.13.05.08. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the permit application.

(33) When applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of 40 CFR §264.147. For a new facility, documentation showing the amount of insurance meeting the specification of 40 CFR §264.147(a) and, if applicable, 40 CFR §264.147(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in 40 CFR §264.147(c).

(34) When appropriate, proof of coverage by a State financial mechanism in compliance with 40 CFR §§264.149—264.150.

(35) A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meter (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of hazardous waste management facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (a) Map scale and date;
- (b) 100-year flood plain area;
- (c) Surface waters including intermittent streams;
- (d) Surrounding land uses (residential, commercial, agricultural, recreational);
- (e) A wind rose (for example, prevailing windspeed and direction);
- (f) Orientation of the map (north arrow);
- (g) Legal boundaries of the hazardous waste management facility site;
- (h) Access control (fences, gates);
- (i) Injection and withdrawal wells both on-site and off-site;
- (j) Building, treatment, storage, or disposal operations, or other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
- (k) Barriers for drainage or flood control;

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(1) Location of operational units within the hazardous waste management facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

(36) Applicants may be required to submit such information as may be necessary to enable the Secretary to carry out his duties.

(37) Exposure Information.

(a) After August 8, 1985, any permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill shall be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit.

(b) The owner or operator shall assure that information submitted in accordance with §D(37)(a) of this regulation includes, at a minimum:

(i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(ii) The potential pathways for human exposure to hazardous wastes of constituents resulting from the releases described under §D(37)(a); and

(iii) The potential magnitude and nature of the human exposure resulting from these releases.

(c) The owner or operator of a landfill or a surface impoundment who has already submitted a part B permit application shall submit the exposure information required in §D(37)(a) and (b) of this regulation by August 8, 1985.

(38) A copy of the contingency plan required by COMAR 26.13.05.04, including, when applicable, as part of the contingency plan, specific requirements in COMAR 26.13.05.11H.

(39) For each preapplication public meeting held in accordance with Regulation .19-1B of this chapter, the following information as required by Regulation .19-1B(2) of this chapter:

(a) A summary of the meeting;

(b) A list of persons who attended the meeting and the addresses provided by these persons; and

(c) Copies of any written comments or materials submitted at the meeting.

E. Any facility with an effective permit shall submit to the Secretary a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Secretary. The later date may not be after the expiration date of the effective permit.

.02-1 Additional Information Requirements — Ground Water Protection.

A. Applicability. This regulation applies to persons seeking or required to obtain a controlled hazardous substances (CHS) facility permit to manage hazardous waste in a regulated unit, as defined in COMAR 26.13.05.06A(2)(b).

B. Except as otherwise provided in COMAR 26.13.05.06A(3), a person subject to this regulation shall provide the following additional information regarding protection of ground water as a part of the permit application:

(1) A summary of the ground water monitoring data obtained from the requirements of COMAR 26.13.05.06A—E, when applicable;

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for the identification, such as the information obtained from hydrogeologic investigation of the facility area;

(3) On the topographic map required under Regulation .02D(6) of this chapter, a delineation of the waste management area, the property boundary, the proposed point of compliance as defined under COMAR 26.13.05.06-1D, the proposed location of ground water monitoring wells as required under COMAR 26.13.05.06-2 and, to the extent possible, the information required in §B(2) of this regulation;

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(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time the application is submitted that:

(a) Delineates the extent of the plume on the topographic map required under Regulation .02D(6)(b) of this chapter; and

(b) Identifies the concentration of each constituent from Appendix IX Ground Water Monitoring List of 40 CFR Part 264, which is incorporated by reference in COMAR 26.13.01.05B(1)(c), throughout the plume, or identifies the maximum concentrations of each constituent in the plume;

(5) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of COMAR 26.13.05.06-2;

(6) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of COMAR 26.13.05.06-4, including:

(a) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(b) A proposed ground water monitoring system;

(c) Background values for each proposed monitoring parameter or constituent, or procedures to calculate these values;

and

(d) A description of proposed sampling analysis and statistical comparison procedures to be used in evaluating ground water monitoring data;

(7) The following information if the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of permit application:

(a) Sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of COMAR 26.13.05.06-5;

(b) An engineering feasibility plan for a corrective action program necessary to meet the requirements of COMAR 26.13.05.06-6, except as provided by COMAR 26.13.05.06-4H(5), unless the permit applicant obtains written authorization in advance from the Secretary to submit a proposed permit schedule for submittal of the plan; and

(c) The following items to demonstrate compliance with COMAR 26.13.05.06-5:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with COMAR 26.13.05.06-2 and .06-5;

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in COMAR 26.13.05.06-1C, including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of COMAR 26.13.05.06-2; and

(vi) A description of proposed sampling, analysis, and statistical comparison procedures to be used in evaluating ground water monitoring data.

C. Information Concerning a Corrective Action Program.

(1) Under the circumstances described in §C(2) of this regulation, a person identified in §A of this regulation shall either:

(a) Provide, as part of a CHS facility permit application, sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of COMAR 26.13.05.06-6; or

(b) Comply with the following requirements:

(i) Demonstrate to the Secretary that alternate concentration limits will protect human health and the environment after considering the criteria listed in COMAR 26.13.05.06-1C(2); and

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(ii) Provide as part of a CHS facility permit application, sufficient information to establish a compliance monitoring program which meets the requirements of §B of this regulation and COMAR 26.13.05.06-5.

(2) The requirements of §C(1) of this regulation apply if:

(a) Hazardous constituents have been measured in the ground water at levels which exceed the concentration limits established under COMAR 26.13.05.06-1C, Table 1; or

(b) Ground water monitoring conducted at the time of permit application under COMAR 26.13.05.06-1 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations.

(3) A person required by §C(1) of this regulation to submit information concerning a corrective action program under COMAR 26.13.05.06-6 shall address, at a minimum, the following items:

(a) A characterization of the contaminated ground water, including concentration of hazardous constituents;

(b) The concentration limit for each hazardous constituent found in the ground water as set forth in COMAR 26.13.05.06-1C;

(c) Detailed plans and an engineering report describing the corrective action to be taken; and

(d) A description of how the ground water monitoring program will assess the adequacy of the corrective action.

D. The Secretary may issue a permit containing a schedule for submittal of the information required in §C(3)(c)—(d) of this regulation if the permit applicant obtains written authorization from the Secretary before submittal of the complete permit application.

.02-2 Specific Information Requirements for Containers.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to manage hazardous waste in containers shall provide the Secretary with the specific information required by §§B and C of this regulation.

B. For facilities that store containers of hazardous waste, except as otherwise provided in COMAR 26.13.05.09, the permit applicant shall provide the following information:

(1) A description of the containment system to demonstrate compliance with COMAR 26.13.05.09H which includes at least the following:

(a) Basic design parameters, dimensions, and materials of construction,

(b) A description of how the design promotes drainage or how containers are kept from contact with standing liquids in the containment system,

(c) Capacity of the containment system relative to the number and volume of containers to be stored.

(d) A description of provisions for preventing or managing run-on, and

(e) A description of how accumulated liquids can be analyzed and removed to prevent overflow;

(2) Sketches, drawings, or data demonstrating compliance with COMAR 26.13.05.09F, concerning location of buffer zone and containers holding ignitable or reactive wastes, and COMAR 26.13.05.09G(3), concerning location of incompatible wastes, if applicable; and

(3) If incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with COMAR 26.13.05.02H(2) and (3) and 26.13.05.09G(1) and (2).

C. For storage areas that store containers holding wastes that do not contain free liquids the permit applicant shall demonstrate compliance with COMAR 26.13.05.09H(4), including:

(1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

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.02-3 Specific Information Requirements for Tank Systems.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to manage hazardous waste in tanks shall provide the Secretary with the specific information required by §B of this regulation.

B. For facilities that use tanks to store or treat hazardous waste, except as otherwise provided in COMAR 26.13.05.10A, the permit applicant shall provide a description of design and operating procedures which demonstrate compliance with requirements of all of COMAR 26.13.05.10 - .10-7, including:

- (1) References to design standards or other available information used, or to be used, in design and construction of the tank;
- (2) A description of design specifications including identification of construction materials and lining materials, including pertinent characteristics such as corrosion or erosion resistance;
- (3) For each tank, the dimensions, capacity, and shell thickness of the tank;
- (4) A diagram of piping, instrumentation, and process flow for each tank system;
- (5) Description of feed systems, safety cutoff, bypass systems, and pressure controls, for example, vents;
- (6) A written assessment that has been reviewed and certified by an independent qualified registered professional engineer that attests to the structural integrity and suitability for handling hazardous waste of each tank system, as required under COMAR 26.13.05.10-2 and .10-3;
- (7) A description of materials and equipment used to provide external corrosion protection, as required under COMAR 26.13.05.10-3B(2)(c)(ii);
- (8) For new tank systems, a detailed description of how the tank system or systems will be installed in compliance with COMAR 26.13.05.10-3B(4)–(8);
- (9) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of COMAR 26.13.05.10-4A–F;
- (10) For tank systems for which a variance from the requirements of COMAR 26.13.05.10-4 is sought, as provided by COMAR 26.13.05.10-5:
 - (a) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or
 - (b) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;
- (11) A description of controls and practices to prevent spills and overflows, as required by COMAR 26.13.05.10C(2); and
- (12) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of COMAR 26.13.05.10-1A and B.

.02-4 Specific Information Requirements for Surface Impoundments.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to use a surface impoundment to store, dispose, or treat hazardous waste shall provide the Secretary with the specific information required by §B of this regulation.

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) A statement of the minimum freeboard to be maintained at the facility and the basis of the design to demonstrate compliance with freeboard requirements of COMAR 26.13.05.11B(1) and C(1) and (2), including, for flow-through facilities a hydraulic profile;
- (2) Detailed drawings of the structure which is or will be provided to immediately stop flow into the impoundment to comply with COMAR 26.13.05.11B(2), or, if no structure is needed to comply with COMAR 26.13.05.11H(3)(a), a description of the means by which waste additions will be stopped;

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- (3) Detailed drawings of any dikes which exist or will be constructed;
- (4) For any dike associated with the surface impoundment:
 - (a) A basis of design and design analysis of the dike to comply with COMAR 26.13.05.11B(4) and I(1); and
 - (b) A demonstration, through the design analysis, that the dike will meet the requirements of COMAR 26.13.05.11F(3)(a);
- (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), and (5);
- (6) Liner installation instructions to comply with the requirements of COMAR 26.13.05.11F(1), and for existing facilities if owner or operator proposes to rely on existing liners, a description of the installation procedures used;
- (7) Design details of the leachate removal system, the basis of design, and a description of the operating procedures to be used to ensure free flow from the collection system in accordance with COMAR 26.13.05.11C(4);
- (8) Design plans and specifications and basis of design of any structures needed to comply with COMAR 26.13.05.11C(5);
- (9) A description of the maintenance and repair procedures proposed to comply with COMAR 26.13.05.11C(4) and Regulation .07C of this chapter;
- (10) A description of the operating procedures that will ensure compliance with COMAR 26.13.05.11I and J;
- (11) A certification by a qualified engineer which complies with COMAR 26.13.05.11F(3) or, for a new facility, a statement by a qualified engineer that the engineer will provide this certification upon completion of construction in accordance with the plans and specifications;
- (12) A description of the procedure to be used for removing a surface impoundment from service, as required under COMAR 26.13.05.11H(2) and (3), as part of the contingency plan submitted under Regulation .02D(21) of this chapter;
- (13) As part of the closure plan, and, if applicable, the post-closure plan submitted under Regulation .02D(29) of this chapter:
 - (a) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under COMAR 26.13.05.11G(1)(a); and
 - (b) For any wastes not to be removed from the unit upon closure, detailed plans and an engineering report describing how COMAR 26.13.05.11G(1)(b)—(d) and (2) will be complied with;
- (14) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how COMAR 26.13.05.11I will be complied with;
- (15) If incompatible wastes and materials will be placed in a surface impoundment, an explanation of how COMAR 26.13.05.11J will be complied with;
- (16) A description of the liner system or, if an exemption from the requirement for a liner is sought as provided by COMAR 26.13.05.11B(6), detailed plans and engineering and 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;
- (17) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that:
 - (a) Describes how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.11K; and
 - (b) Addresses the:
 - (i) Volume, physical characteristics, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - (ii) Attenuative properties of underlying and surrounding soils or other materials;
 - (iii) Mobilizing properties of other materials co-disposed with these wastes; and
 - (iv) Effectiveness of additional treatment, design, or monitoring techniques;

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(18) A list of the hazardous wastes placed or to be placed in each surface impoundment.

.02-5 Specific Information Requirements for Waste Piles.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to use a waste pile to store, dispose, or treat hazardous waste shall provide the Secretary with the specific information required by §B of this regulation.

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) A description of practices to control wind dispersal (for example, cover or frequent wetting) of hazardous waste in piles so that the Secretary, when necessary, can specify appropriate control measures;

(2) Detailed plans and an engineering report which:

(a) Demonstrate that the design of the waste pile meets the requirements of COMAR 26.13.05.12B and D;

(b) Demonstrate how the waste pile will be constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.12B and D;

(c) Include the following information:

(i) A description of measures to divert run-on away from the pile;

(ii) A description of the leachate and run-off collection and control system;

(iii) A description of the foundation supporting the base;

(iv) Design specifications of the pile base and liner or liners, including the estimated containment life of the base and the permeability of the liner or liners;

(v) Estimated life of the hazardous waste pile; and

(vi) If applicable under COMAR 26.13.05.12D(1)(a)(ii), a description of the leachate detection, collection, and removal system including the system's relation to the water table and a description of any efforts to control the water table;

(3) A detailed description of the facility operating procedures which demonstrates compliance with COMAR 26.13.05.12D, G, and H, including:

(a) A description of efforts to protect the containment system from plant growth which could puncture any component of the system;

(b) A description of design and operating procedures to properly manage and dispose of any leachate that is a hazardous waste;

(c) A description and listing of all equipment and procedures used to place the waste in or on the pile or to clean and expose the liner surface; and

(d) A description of efforts to separate hazardous waste that is incompatible with any waste or material stored nearby, including the design specifications of any dike, berm, wall, or other device used to separate the materials;

(4) If applicable under COMAR 26.13.05.12, a description of the leachate detection, collection, and removal system, including the system's relation to the water table and a description of any efforts to control the water table;

(5) As part of the inspection plan submitted under Regulation .02D(19) of this chapter, a description of how each waste pile, including the liner 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) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quantity of the residuals;

(7) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how an owner or operator will comply with the requirements of COMAR 26.13.05.12G;

(8) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how an owner or operator will comply with the requirements of COMAR 26.13.05.12H;

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- (9) As part of the closure plan and, if applicable, the post-closure plan submitted under Regulation .02D(29) of this chapter:
- (a) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile upon closure; and
 - (b) Detailed plans and an engineering report describing how the owner or operator will comply with COMAR 26.13.05.12I;
- (10) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that:
- (a) Describes how a waste pile that is not enclosed, as defined in COMAR 26.13.05.12A, is or will be designed, constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.12J; and
 - (b) Addresses the:
 - (i) Volume, physical characteristics, and chemical characteristics of the wastes to be disposed of in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere,
 - (ii) Attenuative properties of underlying and surrounding soils or other materials,
 - (iii) Mobilizing properties of other materials co-disposed with these wastes, and
 - (iv) Effectiveness of additional treatment, design, or monitoring techniques;
- (11) A list of the hazardous wastes placed, or to be placed, in each waste pile;
- (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.

.02-6 Specific Information Requirements for Incinerators.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to incinerate hazardous waste shall provide the Secretary with the specific information required by §§B and C of this regulation.

B. For facilities that incinerate hazardous waste, except as otherwise provided in COMAR 26.13.05.16B, the permit applicant shall provide the following information:

(1) If the applicant is seeking exemption under COMAR 26.13.05.16B, which provides for reduced regulatory requirements for incinerators that burn only ignitable, corrosive, or reactive wastes, documentation that the waste is:

(a) Listed as a hazardous waste in COMAR 26.13.02.15—.19 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both,

(b) Listed as a hazardous waste in COMAR 26.13.02.15—.19 solely because it is reactive (Hazard Code R) for characteristics other than those listed in COMAR 26.13.02.12A(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone,

(c) A hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous waste under COMAR 26.13.02.11—.12, or

(d) A hazardous waste solely because it possesses the reactivity characteristics listed in COMAR 26.13.02.13A(1), (2), (3), (6), (7), or (8), and that it will not be burned when other hazardous wastes are present in the combustion zone;

(2) Either:

(a) A trial burn plan, or the results of a trial burn, including all required determinations conducted in accordance with Regulation .17 of this chapter, or

(b) The information required by §C of this regulation.

C. If the permit applicant does not submit a trial burn plan or the results of a trial burn under §B(2) of this regulation, the permit applicant shall submit the following information:

(1) An analysis, using the analytical techniques specified in 40 CFR Part 261, Appendix III, which is incorporated by reference in COMAR 26.13.01.05B(1)(c), of each waste or mixture of wastes to be burned including:

(a) Heat value of the waste in the form and composition in which it will be burned;

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(b) Viscosity, if applicable, or description of physical form of the waste;

(c) An identification of any hazardous organic constituents listed in COMAR 26.13.02.24, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in COMAR 26.13.02.24 which would reasonably not be expected to be found in the waste;

(d) A list of the constituents excluded from the analysis required by §C(1)(c) of this regulation and the basis for their exclusion:

(e) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in 40 CFR Part 261, Appendix III; and

(f) A quantification of those hazardous constituents in the waste which may be designated as POHCs under COMAR 26.13.05.16E, based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in COMAR 26.13.05.16F;

(2) A detailed engineering description of the hazardous waste incinerator, including:

(a) Manufacturer's name and model number of incinerator;

(b) Type of incinerator;

(c) Linear dimension of incinerator unit including cross-sectional area of combustion chamber;

(d) Description of auxiliary fuel system (type/feed);

(e) Capacity of prime mover;

(f) Description of automatic waste feed cutoff system or systems;

(g) Stack gas monitoring and pollution control monitoring system;

(h) Nozzle and burner design;

(i) Construction materials;

(j) Location and description of temperature, pressure, and flow indicating devices and control devices;

(3) A description and analysis of the waste to be burned that:

(a) Provides a comparison with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed;

(b) Includes the items listed in §C(1) of this regulation; and

(c) Specifies the POHCs which the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;

(4) The design and operating conditions of the hazardous waste incinerator unit to be used, compared with that for which comparative burn data are available;

(5) A description of the results submitted from any previously conducted trial burn or burns, including:

(a) Sampling and analysis techniques used to calculate performance standards in COMAR 26.13.05.16F;

(b) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity, including a statement concerning the precision and accuracy of this measurement; and

(c) The certification and results required by Regulation .17 of this chapter;

(6) The expected hazardous waste incinerator operation information to demonstrate compliance with COMAR 26.13.05.16F and H, including:

(a) Expected carbon monoxide (CO) level in the stack exhaust gas;

(b) Waste feed rate;

(c) Combustion zone temperature;

(d) Indication of combustion gas velocity;

- (e) Expected stack gas volume, flow rate, and temperature;
 - (f) Computed residence time for waste in the combustion zone;
 - (g) Expected hydrochloric acid removal efficiency;
 - (h) Expected fugitive emissions and their control procedures;
 - (i) Proposed waste feed cut-off limits based on the identified significant operating parameters;
 - (7) Supplemental information that the Secretary finds necessary to achieve the purpose of this section;
 - (8) Waste analysis data, including that submitted in §C(1) of this regulation, sufficient to allow the Secretary to specify the Principal Organic Hazardous Constituents (POHCs) in the permit for which destruction and removal efficiencies will be required.
- D. The Secretary shall approve a permit application without a trial burn, if the Secretary finds that the:
- (1) Wastes that the applicant seeks to burn are sufficiently similar to the wastes that were used to generate operational and trial burn data that the applicant proposes to use instead of conducting a trial burn; and
 - (2) Hazardous waste incinerator units are sufficiently similar, and the data from other trial burns are sufficiently similar, and the data from other trial burns are adequate to specify, under COMAR 26.13.05.16H, operating conditions that will ensure that the performance standards in COMAR 26.13.05.16F will be met by the incinerator.

.02-7 Specific Information Requirements for Land Treatment.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit for a hazardous waste management facility that uses or is proposed to use land treatment to dispose of hazardous waste shall provide the Secretary with the specific information required by §§B—D of this regulation.

B. For facilities that use land treatment to dispose of hazardous waste, except as otherwise provided in COMAR 26.13.05.01, the permit applicant shall provide the following information:

- (1) A description of plans to conduct a treatment demonstration as required under COMAR 26.13.05.13C that includes the following information:
 - (a) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;
 - (b) The data sources to be used to make the treatment demonstration such as scientific literature, laboratory data, field data, or operating data; and
 - (c) A description of any specific laboratory or field test that will be conducted, including:
 - (i) The type of test, such as column leaching or degradation;
 - (ii) Materials and methods, including analytical procedures;
 - (iii) Expected time for completion;
 - (iv) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;
- (2) A description of a land treatment program as required under COMAR 26.13.05.13B, which shall:
 - (a) Be submitted with the plan for the treatment demonstration;
 - (b) Be updated following the treatment demonstration; and
 - (c) Address the following items:
 - (i) The wastes to be land treated;
 - (ii) Design measures and operating practices necessary to maximize treatment in accordance with COMAR 26.13.05.13D(1);
 - (iii) Waste application method and rate;
 - (iv) Measures to control soil pH;
 - (v) Enhancement of microbial or chemical reactions;

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- (vi) Control of moisture content;
 - (vii) Provisions for unsaturated zone monitoring, including: sampling equipment, procedures, frequency, procedures for selecting sampling locations, analytical procedures, chain of custody control, procedures for establishing background values, statistical methods for interpreting results;
 - (viii) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for the selection in COMAR 26.13.05.13I(1);
 - (ix) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed in accordance with COMAR 26.13.05.02D; and
 - (x) The proposed dimensions of the treatment zone;
- (3) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of COMAR 26.13.05.13D that addresses the following items:
- (a) Control of run-on;
 - (b) Collection and control of run-off;
 - (c) Minimization of run-off of hazardous constituents from the treatment zone;
 - (d) Management of collection and holding facilities associated with run-on and run-off control systems;
 - (e) Periodic inspection of the unit, as part of the inspection plan submitted under Regulation .02D(19) of this chapter; and
 - (f) Control of wind dispersal of particulate matter, if applicable;
- (4) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining the cover during the post-closure care period, as required under COMAR 26.13.05.13K(1)(h) and (3)(b), as part of the closure plan and, if applicable, the post-closure care plan submitted under Regulation .02D(29) of this chapter;
- (5) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of COMAR 26.13.05.13L will be complied with;
- (6) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how COMAR 26.13.05.13M will be complied with;
- (7) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that:
- (a) Describes how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.13N; and
 - (b) Addresses the:
 - (i) Volume, physical characteristics, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - (ii) Attenuative properties of underlying and surrounding soils or other materials;
 - (iii) Mobilizing properties of other materials co-disposed with these wastes; and
 - (iv) Effectiveness of additional treatment, design, or monitoring techniques;
- (8) A list of the hazardous wastes to be land treated.
- C. If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, the permit applicant shall provide a description of how the demonstration required under COMAR 26.13.05.13G was conducted including:
- (1) Characteristics of the food-chain crop for which the demonstration will be made;
 - (2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;
 - (3) Procedures for crop growth, sample collection, sample analysis, and data evaluation; and
 - (4) Characteristics of the comparison crop, including the location and conditions under which it was or will be grown.
- D. If food-chain crops are to be grown, and cadmium is present in the land treated waste, the permit applicant shall provide a description of how the requirements of COMAR 26.13.05.13G(6) will be complied with.

.02-8 Specific Information Requirements for Landfills.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit for a hazardous waste management facility that uses, or is proposed to use, a landfill to manage hazardous waste shall provide the Secretary with the specific information required by §B of this regulation.

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) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;
- (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; and
 - (b) Provide information on the following items as specified in COMAR 26.13.05.14B:
 - (i) The liner system and leachate collection and removal system, except for an existing portion of landfill;
 - (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), 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) Control of run-on;
 - (iv) Control of run-off;
 - (v) Management of collection and holding facilities associated with run-on and run-off control systems; and
 - (vi) Control of wind dispersal of particulate matter, when applicable;
- (3) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of COMAR 26.13.05.14C(1) and (2) as part of the inspection plan submitted under Regulation .02D(19) of this chapter;
- (4) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with COMAR 26.13.05.14J(1), and a description of how each landfill will be maintained and monitored after closure in accordance with COMAR 26.13.05.14J(2) as part of the closure and post-closure plans submitted under Regulation .02D(29) of this chapter;
- (5) If food-chain crops are to be grown, and cadmium is present in the land treated waste, a description of how the requirements of COMAR 26.13.05.13G(5) will be complied with;
- (6) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining the cover during the post-closure care period, as required under COMAR 26.13.05.13K(1)(h) and (3)(b). This information should be included in the closure plan and, when applicable, the post-closure care plan submitted under Regulation .02D(29) of this chapter;
- (7) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of COMAR 26.13.05.13L will be complied with;
- (8) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 that:
 - (a) Describes how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.14P; and
 - (b) Addresses the:
 - (i) Volume, physical characteristics, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - (ii) Attenuative properties of underlying and surrounding soils or other materials;
 - (iii) Mobilizing properties of other materials co-disposed with these wastes; and
 - (iv) Effectiveness of additional treatment, design, or monitoring techniques.

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.02-9 Specific Information Requirements for Miscellaneous Units.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit for a hazardous waste management facility that uses, or is proposed to use, miscellaneous units to manage hazardous waste shall provide the Secretary with the specific information required by §B of this regulation.

B. For facilities that treat, store, or dispose of hazardous waste in miscellaneous units, except as otherwise provided in COMAR 26.13.05.16-1A, the permit applicant shall provide the following additional information:

(1) A detailed description of the unit being used or proposed for use, including the following:

(a) Physical characteristics, materials of construction, and dimensions of the unit;

(b) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of COMAR 26.13.05.16-1B and C; and

(c) For disposal units, a detailed description of the plans to comply with the post-closure requirements of COMAR 26.13.05.16-1D;

(2) Information that addresses and assures compliance of the unit with each factor in the environmental performance standards of COMAR 26.13.05.16-1B, consisting of either:

(a) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site;

or

(b) The following:

(i) A demonstration, to the Secretary's satisfaction, that the unit meets the environmental performance standards of COMAR 26.13.05.16-1B; and

(ii) Preliminary hydrologic, geologic, and meteorologic assessments;

(3) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures;

(4) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data;

(5) Any additional information determined by the Secretary to be necessary for evaluation of compliance of the unit with the environmental performance standards of COMAR 26.13.05.16-1B.

.02-10 Specific Information Requirements for Solid Waste Management Units.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit shall provide the Secretary with the following information for each solid waste management unit at the facility:

(1) The location of the unit on the topographic map required under Regulation .02D(35) of this chapter;

(2) Designation of type of unit;

(3) General dimensions and structural description along with any available drawings;

(4) When the unit was operated;

(5) Specification of all wastes that have been managed at the unit, to the extent available; and

(6) All available information pertaining to any release of hazardous wastes or hazardous constituents from the unit.

B. The permit applicant shall conduct and provide the results of sampling and analysis of ground water, land surface and subsurface strata, surface water, or air, which may include the installation of wells, when the Secretary ascertains it is necessary to complete an assessment that will determine if a more complete investigation is necessary.

.02-11 Specific Information Requirements for Drip Pads.

A. In addition to complying with the requirements of Regulation .02 of this chapter, a person seeking a CHS facility permit to collect, store, or treat hazardous waste on a drip pad shall provide the Secretary with the following specific information in a permit application:

(1) A list of hazardous wastes placed or to be placed on each drip pad;

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(2) If an exemption is sought to the requirements of COMAR 26.13.05.06-.06-7, as provided by COMAR 26.13.05.06A, the detailed plans and an engineering report describing how the requirements of COMAR 26.13.05.06A(3)(b) will be met; and

(3) Detailed plans and an engineering report that:

(a) Describe how the drip pad has been or will be designed, constructed, operated, and maintained to meet the requirements of COMAR 26.13.05.17-2;

(b) Include as-built drawings and specifications; and

(c) Include information specified in §B of this regulation.

B. The owner or operator shall ensure that the detailed plans and the engineering report required to be submitted by §A(3) of this regulation include the following items:

(1) Information on the:

(a) Design characteristics of the drip pad;

(b) Liner system;

(c) Leakage detection system, including how the system is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time; and

(d) Associated collection system;

(2) A description of the practices that the owner or operator will use to maintain the drip pad;

(3) A description of how the owner or operator will control:

(a) Run-on to the drip pad; and

(b) Run-off from the drip pad;

(4) The interval at which the owner or operator will remove drippage and other materials from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(5) The procedures that the owner or operator will use to satisfy the cleaning requirements of COMAR 26.13.05.17-2F, including documentation requirements;

(6) The operating practices and procedures that the owner or operator will follow to minimize the tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment;

(7) The procedures the owner or operator will follow to ensure that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, and the associated record-keeping practices;

(8) The provisions the owner or operator has made to ensure that, as soon as possible after a storm, each collection and holding unit associated with a run-on or run-off control system is emptied or otherwise managed to maintain the design capacity of the system;

(9) If treatment is carried out on the drip pad, the details of the process equipment used, and the nature and quality of the residuals;

(10) As part of the inspection plan required by Regulation .02D(19) of this chapter, a description of how the owner or operator will inspect each drip pad, including appurtenances for control of run-on and run-off, in order to meet the requirements of COMAR 26.13.05.17-2;

(11) A certification signed by an independent qualified registered professional engineer, stating that the drip pad design meets the requirements of COMAR 26.13.05.17-2A;

(12) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under COMAR 26.13.05.17-4A—D; and

(13) As part of the closure plan or the post-closure plan submitted under Regulation .02D(29) of this chapter, detailed plans and an engineering report describing how the requirements of COMAR 26.13.05.14J will be met for any waste that will not be removed from the drip pad at closure.

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.03 Signatories to Permit Applications and Reports.

A. Applications. All permit applications shall be signed as follows:

(1) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively.

(3) For a municipality, State, federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

(a) The chief executive officer of the agency; or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. An example would be the Regional Administrator of Region III, EPA.

B. Reports. All reports required by permits and other information requested by the Secretary, shall be signed by a person described in §A of this regulation, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in §A of this regulation.

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

(3) The written authorization is submitted to the Secretary.

C. Changes to Authorization. If an authorization under §B of this regulation is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of §B of this regulation shall be submitted to the Secretary before or together with any reports, information, or applications to be signed by an authorized representative.

D. Certification. Any person signing a document under §A or B of this regulation shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

.03-1 Permit Denial.

The Secretary may, under the procedures in Regulations .20—.20-6 of this chapter, deny the permit application either in its entirety, or as to the active life of a hazardous waste management facility or unit only.

.04 Conditions Applicable to All Permits.

A. The conditions described in this regulation apply to all permits, and the Secretary shall incorporate them into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations shall be given in the permit.

B. Duty to Comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the appropriate Act and is grounds for:

(1) Enforcement action;

(2) Permit termination, revocation and reissuance, or modification; or

(3) Denial of a permit renewal application.

C. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. This application shall be submitted at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Secretary. This later date may not be later than the expiration date of the effective permit.

D. Duty to Halt or Reduce Activity. It may not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. Duty to Mitigate. In the event of noncompliance with the permit, the permittee shall:

(1) Take all reasonable steps to minimize releases to the environment; and

(2) Carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

F. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this permit.

G. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

H. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

I. Duty to Provide Information. The permittee shall furnish to the Secretary within a reasonable time, any relevant information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this permit.

J. Inspection and Entry. The permittee shall allow the Secretary, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized, any substances or parameters at any location.

K. Monitoring and Records.

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by COMAR 26.13.05.05D(2)(i) and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Secretary at any time.

(3) Records of monitoring information shall include the:

(a) Date, exact place, and time of sampling or measurements;

(b) Individual or individuals who performed the sampling or measurements;

(c) Date or dates analyses were performed;

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- (d) Individual or individuals who performed the analyses;
- (e) Analytical techniques or methods used; and
- (f) Results of the analyses.

L. Signatory Requirement. All applications, reports, or information submitted to the Secretary shall be signed and certified.

M. Reporting Requirements.

(1) Planned Changes. The permittee shall give notice to the Secretary as soon as possible of any planned physical alterations or additions to the permitted facility.

(2) Anticipated Noncompliance. The permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) Transfers. This permit is not transferable to any person except after notice to the Secretary. The Secretary shall require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(4) Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(5) Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted not later than 14 days following each schedule date.

(6) Twenty-Four Hour Reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. Both the oral and written reports shall follow the requirements of Regulation .15D. In addition, the written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(7) Other Noncompliance. The permittee shall report all instances of noncompliance not reported under §L(4)—(6), of this regulation, at the time monitoring reports are submitted. The reports shall contain the information listed in §L(6), of this regulation.

(8) Other Information. If the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Secretary, it shall promptly submit these facts or information.

N. Information Repository.

(1) The Secretary may require the permittee to establish and maintain an information repository at any time, based on the factors listed in Regulation .19-2B(3) of this chapter.

(2) The permittee shall operate the information repository in accordance with the provisions of Regulation .19-2B(4)—(11) of this chapter.

.05 Establishing Permit Conditions.

A. In addition to conditions required by regulation, the Secretary may establish conditions as required on a case-by-case basis.

B. Each permit shall include permit conditions necessary to achieve compliance with the State law and regulations, including each of the applicable requirements specified in this subtitle. In satisfying this provision, the Secretary may incorporate applicable requirements of 40 CFR Parts 264, 266, 267, or this subtitle directly into the permit or establish other permit conditions that are based on these parts.

C. Each permit issued shall contain terms and conditions as the Secretary determines necessary to protect human health and the environment.

D. Incorporation of Permit Conditions.

(1) The Secretary shall assure that all permit conditions are incorporated into the permit either expressly or by reference.

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(2) If a permit condition is incorporated by reference, the Secretary shall assure that the permit gives a specific citation to the applicable regulations or requirements.

.06 Duration of Permits.

- A. Permits shall be effective for a fixed term not to exceed 10 years.
- B. The Secretary may issue any permit for a duration that is less than the full allowable term under this section.
- C. The Secretary shall review each permit for a land disposal facility 5 years after the date of permit issuance and shall modify the permit as necessary, as provided in Regulation .11 of this chapter.

.07 Schedules of Compliance.

- A. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate Act and regulations.
- B. Time for Compliance. Any schedules of compliance under this section shall require compliance as soon as possible.
- C. Interim Dates.

(1) Except as provided in §E(1)(b), of this regulation, if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(2) The time between interim dates may not exceed 1 year.

(3) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

D. Reporting. The permit shall be written to require that not later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Secretary in writing of its compliance or noncompliance with the interim or final requirements.

E. Alternate Schedules of Compliance. A permit applicant or permittee may cease conducting regulated activities (by receiving terminal volume of hazardous waste and for treatment and storage HWM facilities, closing pursuant to applicable requirements, and for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(a) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities;

(b) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Secretary may issue or modify a permit to contain two schedules as follows:

(a) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities not later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities.

(b) One schedule shall lead to timely compliance with applicable requirements.

(c) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements.

(d) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under §E(3)(a) of this regulation, it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

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(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidence by a firm public commitment satisfactory to the Secretary, such as a resolution of the board of directors of a corporation.

.08 Requirements for Recording and Reporting of Monitoring Results.

All permits shall specify:

A. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

B. Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

C. Applicable reporting requirements based upon the impact of the regulated activity and as specified in COMAR 26.13.05. Reporting may not be less frequently than specified in the above regulations.

.09 Effect of a Permit.

A. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

B. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of local law or regulations.

.10 Transfer of Permits.

A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under Regulation .11, of this chapter, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary.

.11 Modification, Withdrawal, or Revocation and Reissuance of Permits.

A. When the Secretary receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance, or conducts a review of the permit file) he or she may determine whether or not one or more of the clauses listed in §§A and B of this regulation, for modification or revocation and reissuance, or both, exist. If cause exists, the Secretary may modify or revoke and reissue the permit accordingly, subject to the limitations of §B. of this regulation, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under this regulation or Regulation .13, of this chapter, the Secretary may not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in Regulation .13, of this chapter, for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit shall be prepared and other procedures of this chapter followed.

B. Causes of Modification. The following are causes for modification but not revocation and reissuance of permits:

(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occur after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(2) Information. The Secretary has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(3) New Regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(4) Modification. The Secretary may modify a permit:

(a) When modification of a closure plan is required by COMAR 26.13.05.07C(3) or H(4);

(b) After the Secretary receives the notification of expected closure under COMAR 26.13.05.07D when the Secretary determines that extension of the 90 or 180 day periods under COMAR 26.13.05.07D, modification of the 30-year post-closure period under COMAR 26.13.05.07G(2), continuation of security requirements under COMAR 26.13.05.07G(3), or permission to disturb the integrity of the containment system under COMAR 26.13.05.07G(4) are unwarranted;

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(c) When the permittee has filed a request under 40 CFR §264.147(c) for a variance to the level of financial responsibility or when the Secretary demonstrates under 40 CFR §264.147(d) that an upward adjustment of the level of financial responsibility is required;

(d) When the corrective action program specified in the permit under COMAR 26.13.05.06-6 has not brought the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(e) To include a detection monitoring program meeting the requirements of COMAR 26.13.05.06-4, when the owner or operator has been conducting a compliance action program under COMAR 26.13.05.06-6 and the compliance period ends before the end of the post-closure care period for the unit;

(f) When a permit requires a compliance monitoring program under COMAR 26.13.05.06-5, but monitoring data collected before permit issuance indicate that the facility is exceeding the ground water protection standard;

(g) To include conditions applicable to units at a facility that were not previously included in the facility's permit;

(h) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

(5) Compliance Schedules. The Secretary determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

C. The suitability of the facility location may not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

D. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(1) Cause exists for termination under Regulation .12 of this chapter, and the Secretary determines that modification or revocation and reissuance is appropriate;

(2) The Secretary has received notification under Regulation .04M(3) of this chapter of a proposed transfer of the permit.

E. A CHS facility permit can be withdrawn by the Secretary at the request of the owner or operator if the following conditions are complied with:

(1) The Secretary receives a written withdrawal request at least 6 months before expiration of the permit;

(2) The Secretary approves a closure plan for activities regulated by the permit; and

(3) An inspection by a representative of the Department verifies that activities regulated by the CHS facility permit are no longer performed and that a CHS facility permit is not otherwise required.

.12 Termination of Permits.

A. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

(4) Failure to pay the permit fee in a timely manner; or

(5) Failure to comply with any applicable State environmental law or regulation.

B. For purposes of this chapter, the term "termination" means the same as the term "revocation" in Environment Article, Title 7, Annotated Code of Maryland, and Regulation .11 of this chapter.

C. The Secretary shall follow the requirements of Regulations .20—.20-6 of this chapter in terminating any permit.

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.13 Processing Minor Modifications of Permits.

Upon the consent of the permittee, the Secretary may modify a permit to make the corrections or allowances for changes in the permitted activity identified in Regulations .13-1—.13-3 of this chapter without following the procedures of Regulations .20—.20-6 of this chapter. Any permit modification not processed as a minor modification under this regulation and Regulations .13-1—.13-3 of this chapter shall be made for cause and with the draft permit and public notice as required in Regulation .11 of this chapter.

.13-1 Minor Modifications — Newly Regulated Hazardous Wastes or Newly Regulated Units.

A. Permit modifications to allow for the continued management of a waste newly listed or identified as hazardous under COMAR 26.13.02, or to allow for the continued management of hazardous wastes in units newly regulated as hazardous waste management units, may be processed as minor modifications if the following conditions are met:

- (1) The unit that is the subject of the modification was in existence as a hazardous waste facility with respect to:
 - (a) The newly listed or identified waste on the effective date of the regulation listing or identifying the waste, or
 - (b) The newly regulated waste management unit on the effective date of the regulation regulating the unit;
- (2) The permittee submits a request for a minor modification of the permit on or before:
 - (a) The date on which the waste becomes regulated as hazardous, or
 - (b) The date the unit becomes subject to the new requirements;
- (3) The permittee manages the waste in compliance with the requirements of COMAR 26.13.06 and 26.13.10;
- (4) The permittee submits, within 180 days after the effective date of the regulation listing or identifying the waste as hazardous or within 180 days after the effective date of the regulation subjecting the unit to regulation under this subtitle, an application for a permit modification to incorporate all changes necessary to achieve compliance with the requirements of this subtitle in managing the newly regulated waste or in operating the newly regulated unit; and
- (5) In the case of land disposal units, the permittee certifies that the unit is in compliance with all applicable requirements of COMAR 26.13.06 concerning ground water monitoring and financial responsibility by the date 12 months after the effective date of the regulation:

- (a) Identifying or listing the waste as hazardous; or
- (b) Regulating the unit as a hazardous waste management unit.

B. If the permittee fails to certify compliance with the requirements identified in §A(5) of this regulation, the permittee shall lose authority to operate under this regulation.

C. Continued Acceptance of Hazardous Waste Military Munitions from Off-Site. A permittee is authorized to continue to accept hazardous waste military munitions from off-site, notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

- (1) On the date that the waste military munitions become subject to hazardous waste regulatory requirements, the facility at which the waste military munitions are being accepted from off-site is:
 - (a) In existence as a hazardous waste facility; and
 - (b) Already permitted to handle the waste military munitions;
- (2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a request for a minor modification of the permit under Regulation .13 of this chapter and §§A and B of this regulation to remove or amend the permit provision restricting the receipt of waste munitions from off-site; and
- (3) Not later than 180 days after the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a complete application for a permit modification under Regulation .11 of this chapter to remove or amend the permit provision restricting the receipt of waste munitions from off-site.

.13-2 Specific Changes Eligible for Processing as a Minor Permit Modification.

A. Except as provided in Regulations .13-1 and .13-3 of this chapter, only modifications to accomplish the following may be processed as minor modifications:

- (1) The following changes to general permit provisions:
 - (a) Correction of typographical errors;
 - (b) Requirement of more frequent monitoring or reporting by the permittee;
 - (c) Change in an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
 - (d) Allowance for a change in ownership or operational control of a facility as specified in §B. of this regulation, when the Secretary determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Secretary.
 - (e) Administrative and informational changes;
 - (f) Replacement or upgrading of equipment with equipment or components that are functionally equivalent;
 - (g) Providing for more frequent sampling or maintenance;
 - (h) Changes to remove permit conditions that are no longer applicable because the standards on which the permit conditions were based are no longer applicable to the facility;
- (2) The following changes related to general facility standards:
 - (a) Changes to waste sampling or analysis methods to:
 - (i) Conform with agency guidance or regulations;
 - (ii) Incorporate changes associated with sampling or analysis methods for hazardous waste F039, multi-source leachate; or
 - (iii) Incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes;
 - (b) Changes to analytical quality assurance/quality control plans to conform with agency guidance or regulations;
 - (c) Changes in procedures for maintaining the operating record;
 - (d) Changes in the training plan other than those that affect the type or decrease the amount of training given to employees;
 - (e) Changes to the contingency plan to accomplish the following:
 - (i) Upgrade, relocate, or replace with functionally equivalent equipment, emergency equipment listed in the contingency plan,
 - (ii) Change the name, address, or phone number of a coordinator or other person or agency identified in the plan;
- (3) The following changes related to ground water protection:
 - (a) Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well;
 - (b) Changes in ground water sampling or analysis procedures;
 - (c) Changes to the ground water monitoring schedule;
 - (d) Changes in statistical procedures for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred;
- (4) The following changes related to closure:
 - (a) Changes to estimates of maximum inventory under COMAR 26.13.05.07C(2)(c);
 - (b) Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the final closure period;

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- (c) Changes in the expected year of final closure, if other permit conditions are not changed;
 - (d) Changes in procedures for decontamination of facility equipment or structures; or
 - (e) Addition of tanks to be used temporarily for closure activities provided that the tanks are used for neutralization, dewatering, phase separation, or component separation;
- (5) The following changes related to post-closure:
- (a) Changes in the name, address, or phone number of a contact in the post-closure plan;
 - (b) Changes in the expected year of final closure where other permit conditions are not changed;
- (6) Addition of a roof to a container management unit without alteration of the containment system;
- (7) The following changes related to tanks:
- (a) Addition of a new tank that will operate for up to 90 days using any of the following treatment technologies:
 - (i) Neutralization,
 - (ii) Phase separation,
 - (iii) Dewatering, or
 - (iv) Component separation;
 - (b) Replacement of a tank by a tank that meets the same design standards, provided that all of the following conditions are met:
 - (i) The capacity of the replacement tank is between 90 percent and 110 percent of the capacity of the replaced tank,
 - (ii) The capacity of the replacement tank is within 1,500 gallons of the capacity of the replaced tank,
 - (iii) The facility's permitted tank capacity is not increased, and
 - (iv) The replacement tank meets the same conditions in the permit as the replaced tank;
 - (c) Management of different wastes in tanks provided that the following conditions are met:
 - (i) The change does not require the addition of units or a change in the treatment process or management standards,
 - (ii) The units have previously received wastes of the same type, for example, incinerator scrubber water, and
 - (iii) The waste is not a dioxin containing waste (F020, F021, F022, F023, F026, F027, and F028);
- (8) For waste piles complying with COMAR 26.13.05.12A(2), replacement of the waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit;
- (9) The following changes related to land treatment:
- (a) Changes to any conditions specified in the permit for land treatment units to reflect the results of the land treatment demonstration, provided performance standards are met;
 - (b) Allowing a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by COMAR 26.13.05.13C(1), provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration;
 - (c) Modification of a land treatment unit management practice to decrease the rate of waste application;
- (10) The following changes related to incinerators:
- (a) Changes to the ranges of the operating requirements set in a hazardous waste incinerator permit to reflect the results of the trial burn, provided that the change is minor;
 - (b) Changes to the operating requirements set in a hazardous waste incinerator permit for conducting a trial burn, provided that the change is minor;
 - (c) Granting one extension of the time period for determining operational readiness of a hazardous waste incinerator following completion of construction, for up to 720 hours operating time for incineration of hazardous waste;

- (d) Substitution of an alternate type of fuel that is not specified in the permit;
- (e) Technology changes needed to meet standards under 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants, or corresponding State requirements, if the facility owner or operator, before submitting a request for a permit modification to the Secretary, complies with:
 - (i) The Notification of Intent to Comply (NIC) requirements of 40 CFR §63.1210 in effect before May 14, 2001; or
 - (ii) State requirements corresponding to the requirements referenced in §A(10)(e)(i) of this regulation;
- (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) The unit capacity is not increased; and
 - (b) The replacement containment building meets the same conditions in the permit as the unit it is replacing.

B. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application not later than 90 days before the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of COMAR 26.13.05.08 until the new owner or operator has demonstrated to the Secretary that he is complying with the requirements of that regulation. The new owner or operator shall demonstrate compliance with COMAR 26.13.05.08 requirements within 6 months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Secretary by the new owner or operator of compliance with COMAR 26.13.05.08, the Secretary shall notify the old owner or operator in writing that he no longer needs to comply with COMAR 26.13.05.08 as of the date of demonstration.

.13-3 General Criteria Defining Eligibility for Processing as a Minor Modification.

- A. Requests for Determination of Eligibility for Processing as a Minor Modification.
 - (1) For modifications not listed in Regulation .13-1 or .13-2 of this chapter, the permittee may request a determination by the Secretary that the modification should be processed as a minor modification.
 - (2) The permittee shall provide the Secretary with the information necessary to support the requested determination.
 - (3) The Secretary shall make a decision on a request for determination made under §A(1) of this regulation as promptly as practicable.
- B. In determining whether the proposed modification may be processed as a minor modification, the Secretary shall consider the similarity of the modification to modifications listed in Regulation .13-2 of this chapter.
- C. The modification in §B of this regulation may be considered minor only if it meets the following conditions:
 - (1) It involves minor changes that keep the permit current with routine changes to the facility or its operation; and
 - (2) Changes under the modification do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment.

.14 Emergency Permits, Short Term Permits, and Phased Permits.

- A. Notwithstanding any other provision of this regulation, if the Secretary finds an imminent and substantial endangerment to human health or the environment, the Secretary may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal of hazardous waste for a non-permitted facility or a hazardous waste not covered by the permit for a facility with an effective permit. This emergency permit:
 - (1) May be oral or written. If oral, it shall be followed within 5 days by a written emergency permit.
 - (2) May not exceed 90 days in duration.
 - (3) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal.
 - (4) May be terminated by the Secretary at any time without process if he or she determines that termination is appropriate to protect human health and environment.

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(5) Shall be accompanied by a public notice including:

- (a) Name and address of the office granting the emergency authority;
- (b) Name and location of the permitted hazardous waste management facility;
- (c) A brief description of the wastes involved;
- (d) A brief description of the action authorized and reasons for authorizing it;
- (e) Duration of the emergency permit.

(6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of COMAR 26.13.05, 26.13.07, and 26.13.10.

B. Short Term Permits.

(1) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of COMAR 26.13.05.13C, the Secretary may issue a treatment demonstration permit. The permit shall contain only those requirements necessary to meet the standards in COMAR 26.13.05.13C(3). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction, operation, and maintenance of the land treatment unit.

(2) The Secretary may issue a two-phase facility permit if the Secretary finds that, based on information submitted in the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(3) If the Secretary finds that not enough information exists upon which the Secretary can establish permit conditions to attempt to provide for compliance with all of the requirements of COMAR 26.13.05.13 the Secretary shall issue a treatment demonstration permit covering only the field test or laboratory analyses.

C. Phased Permits.

(1) If the Secretary finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests of laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the Secretary finds may be necessary under COMAR 26.13.05.13C(3). The Secretary will include conditions in the second phase of the facility permit to attempt to meet all requirements pertaining to unit design, construction, operation, and maintenance in COMAR 26.13.05.13. The Secretary will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the application.

(2) The first phase of the permit will be effective as provided in Regulation .20-6C of this chapter.

(3) The second phase of the permit will be effective as provided in §E of this regulation.

D. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, the owner or operator shall submit to the Secretary a certification, signed by a person authorized to sign a permit application or report under Regulation .03 of this chapter, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting the tests or analyses. The owner or operator shall also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Secretary approves a later date.

E. Modification.

(1) If the Secretary determines that the results of the field tests or laboratory analyses meet the requirements of COMAR 26.13.05.13C, the Secretary will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with COMAR 26.13.05.13, based upon the results of the field tests or laboratory analyses.

(2) This permit modification may proceed as a minor modification under Regulation .13 of this chapter, provided any such change is minor, or otherwise will proceed as a modification under Regulation .11 of this chapter.

(3) If no modification of the second phase of the permit is necessary, or if only minor modifications are necessary and have been made, the Secretary will give notice of the final decision to the permit applicant and to each person who submitted written

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comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in Regulation .20-6C of this chapter.

(4) If modifications under Regulation .11 of this chapter are necessary, the second phase of the permit will become effective only after those modifications have been made.

.15 Additional Conditions; Applicable Permits.

A. The permittee need not comply with the conditions of this permit to the extent and for the duration the noncompliance is authorized in any emergency permit.

B. The permittee shall maintain records from all ground monitoring wells and associated ground water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period.

C. For a new hazardous waste management facility, the permittee may not begin treatment, storage, or disposal of hazardous waste, and for a facility being modified the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, until:

(1) The permittee has submitted to the Secretary by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(2) The Secretary has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(3) Within 15 days of the date of the submission of the letter in §C(1), of this regulation, the permittee has not received notice from the Secretary of his or her intent to inspect, prior inspection is waived, and the permittee may begin treatment, storage, or disposal of hazardous waste.

D. The following shall be included as information which shall be reported orally within 24 hours as required by Regulation .04A(12)(f) of this chapter:

(1) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

(2) Any information of a release or discharge of hazardous waste, or of a fire or explosion from a hazardous waste management facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

(a) Name, address, and telephone number of owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and type of incident;

(d) Name and quantity of material or materials involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to the environment and human health outside the facility, when this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident. The Secretary may waive the 5-day written notice requirement in favor of a written report within 15 days.

E. The following reports required by COMAR 26.13.05 shall be submitted in addition to those required by COMAR 26.13.05.07G:

(1) Manifest Discrepancy Report. If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee shall submit a letter report including a copy of the manifest to the Secretary.

(2) Unmanifested Waste Report. An unmanifested waste report shall be submitted to the Secretary within 15 days of receipt of unmanifested waste.

(3) Annual or Biennial Report. An annual or biennial report shall be submitted in accordance with the requirements of COMAR 26.13.05.05F.

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F. A list of the wastes or classes of wastes which will be treated, stored, or disposed of at the facility, and a description of the process to be used for treating, storing, and disposing of these hazardous wastes at the facility including the design capacities of each storage, treatment, and disposal unit. Except in the case of containers, the description shall identify the particular wastes or classes of wastes which shall be treated, stored, or disposed of in particular equipment or locations (for example, "Halogenated organics may be stored in Tank A", and "Metal hydroxide sludges may be disposed of in landfill cells B, C, and D").

.16 Establishing Permit Conditions.

In addition to the conditions established under Regulation .05 of this chapter, each permit shall include each of the applicable requirements of COMAR 26.13.05.

.17 Hazardous Waste Incinerator Permits.

A. Start-Up.

(1) For the purposes of determining operational readiness following completion of physical construction, the Department will establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit for a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for incineration of hazardous waste. The Department may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to Regulation .13 of this chapter.

(2) Applicants shall submit a statement, with the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of COMAR 26.13.05.16F during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in COMAR 26.13.05.16H.

(3) The Department will review this statement and any other relevant information submitted with the permit application and specify requirements for this period sufficient to meet the performance standards of COMAR 26.13.05.16F based on its engineering judgment.

B. Trial Burn.

(1) For the purposes of determining feasibility of compliance with the performance standards of COMAR 26.13.05.16F and of determining adequate operating conditions under COMAR 26.13.05.16H, the Department will establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

(2) Applicants shall propose a trial burn plan, prepared under §B(3), of this regulation.

(3) The trial burn plan shall include the following information:

(a) An analysis of each waste or mixture of wastes to be burned which includes:

(i) Heat value of the waste in the form and composition in which it will be burned.

(ii) The viscosity (if applicable, or description of physical form of the waste.

(iii) An identification of any hazardous organic constituents listed in COMAR 26.13.02.24 which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in COMAR 26.13.02.24 which would reasonably not be expected to be found in the waste. The constituents excluded from analysis shall be identified, and the basis for their exclusion stated. The waste analysis shall rely on analytical techniques specified in 40 CFR Part 261, Appendix III.

(iv) A listing of any constituents excluded from the analysis required by §B(3)(a)(iii) of this regulation, and a statement of the basis for their exclusion.

(v) Use of analytical techniques specified in "Test Method for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

(vi) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Method for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, which is incorporated by reference in COMAR 26.13.01.05A(4).

(b) A detailed engineering description of the hazardous waste incinerator for which the permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

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- (ii) Type of incinerator;
- (iii) Linear dimensions of the incinerator unit including the cross-sectional area of combustion chamber;
- (iv) Description of the auxiliary fuel system (type/feed);
- (v) Capacity of prime mover;
- (vi) Description of automatic waste feed cut-off system or systems;
- (vii) Stack gas monitoring and pollution control equipment;
- (viii) Nozzle and burner design;
- (ix) Construction materials;
- (x) Location and description of temperature, pressure, and flow indicating and control devices.

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(d) A detailed test schedule for each waste for which the trial burn is planned including date or dates, duration, quantity of waste to be burned, and other factors relevant to the Department's decision under §B(6) of this regulation.

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(f) A description of, and planned operating conditions for any emission control equipment which will be used.

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(h) Such other information as the Department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in §B(6) of this regulation.

(4) The Department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph.

(5) Based on the waste analysis data in the trial burn plan, the Department will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and for wastes listed in COMAR 26.13.02.15—.19, the hazardous waste organic constituent or constituents identified in COMAR 26.13.02.24 as the basis for listing.

(6) The Department will approve a trial burn plan if it finds that the:

(a) Trial burn is likely to determine whether the hazardous waste incinerator performance standard required by COMAR 26.13.05.16F can be met;

(b) Trial burn itself does not present an imminent hazard to human health or the environment;

(c) Trial burn will help the Department determine operating requirements to be specified under COMAR 26.13.05.16H;

and
(d) Information sought in §B(6)(a) and (c) of this regulation cannot reasonably be developed through other means.

(7) During each approved trial burn (or as soon after the burn as is practicable), the applicant shall make the following determinations:

(a) A quantitative analysis of the trial POHCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs oxygen (O) and 2 hydrogen chloride (HCl);

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs;

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(d) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in COMAR 26.13.05.16F(1);

(e) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with COMAR 26.13.05.16F(2);

(f) A computation of particulate emissions, in accordance with COMAR 26.13.05.16F(3);

(g) An identification of sources of fugitive emissions and their means of control;

(h) A measurement of average, maximum, and minimum temperatures and combustion gas velocity;

(i) A continuous measurement of carbon monoxide (CO) in the exhaust gas; and

(j) Such other information as the Department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in COMAR 26.13.05.16F and to establish the operating conditions required by COMAR 26.13.05.16H as necessary to meet those performance standards.

(8) The applicant shall submit to the Department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and shall submit the results of all the determinations required in §B(7) of this regulation. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Department.

(9) All data collected during any trial burn shall be submitted to the Department following the completion of the trial burn.

(10) All submissions required by this subsection shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under Regulation .03.

(11) Based on the results of the trial burn, the Department shall set the operating requirements in the final permit according to COMAR 26.13.05.16H. The permit modification shall proceed as a minor modification according to Regulation .13 of this chapter.

(12) Notifications Concerning Trial Burns.

(a) The Department shall send a notice announcing the scheduled beginning and completion dates for the trial burn to:

(i) All persons on the facility mailing list developed in accordance with Regulation .20-2E(1)(d) of this chapter; and

(ii) The appropriate units of State and local government as identified in Regulation .20-2E(1)(e)—(f) of this chapter.

(b) The applicant may not commence the trial burn until after the Department has issued the notice required by §B(12)(a) of this regulation.

(c) The Department shall mail the notice required by §B(12)(a) of this regulation at least 30 days before the scheduled start of the trial burn, except that an additional notice is not required if the start of the trial burn is delayed due to circumstances beyond the control of the facility or the Department.

(d) The Department shall include in the notice required by §B(12)(a) of this regulation:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the Department's contact office;

(iii) The location where the approved trial burn plan and supporting documents can be reviewed and copied; and

(iv) Expected dates for the beginning and the completion of the trial burn.

C. Post Trial Burn.

(1) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and before final modification of the permit conditions to reflect the trial burn results, the Department may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of COMAR 26.13.05.16H, in the permit for a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Department.

(2) Applicants shall submit a statement, with the permit application, which identified the conditions necessary to operate in compliance with the performance standards of COMAR 26.13.05.16F during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in COMAR 26.13.05.16H.

(3) The Department will review this statement and any other relevant information submitted with the permit application and specify those requirements for this period most likely to meet the performance standards of COMAR 26.13.05.16 based on its engineering judgment.

D. Existing Facilities Submission of Trial Burn Plan and Performance of Trial Burn.

(1) Except as provided in §D(4) of this regulation, for the purposes of determining feasibility of compliance with the performance standards of COMAR 26.13.05.16F and of determining adequate operating conditions under COMAR 26.13.05.16H, the applicant for a permit for an existing hazardous waste incinerator shall:

(a) Prepare and submit a trial burn plan and perform a trial burn in accordance with Regulation .02-6B(2)(a) of this chapter and §B(3) - (10) of this regulation; or

(b) Submit other information as specified in Regulation .02-6C of this chapter.

(2) If the Secretary intends to approve a trial burn plan submitted in accordance with §D(1)(a) of this regulation, the Secretary shall provide notification in accordance with the timing and distribution requirements of §B(12) of this regulation.

(3) The Secretary shall include in the notice required by §D(2) of this regulation:

(a) The name and telephone number of the applicant's contact person;

(b) The name and telephone number of the Department's contact office;

(c) The location where the trial burn plan and supporting documents can be reviewed and copied; and

(d) A schedule of the activities that are required before permit issuance, including the:

(i) Anticipated time schedule for the Department's approval of the plan; and

(ii) Time period during which the trial burn is expected to be conducted.

(4) Applicants who submit information under Regulation .02-6B(1) of this chapter to qualify for the exemption of COMAR 26.13.05.16B are exempt from the requirement to conduct a trial burn unless they fail to qualify for the exemption of COMAR 26.13.05.16B, which relates to facilities that burn only ignitable, corrosive, or reactive wastes.

(5) Applicants who submit trial burn plans and receive approval before submission of a permit application shall complete the trial burn and submit the results of the determinations required under §B(7) of this regulation with the permit application.

(6) If completion of the process described in §D(5) of this regulation conflicts with the date set for submission of the application, the applicant shall contact the Department to establish a later date for submission of the application or the trial burn results.

(7) If the applicant submits a trial burn plan with Part B of the permit application, the Secretary shall specify a time period before permit issuance in which the applicant shall conduct the trial burn and submit the results.

.18 Permits for Land Treatment Demonstrations Using Field Test or Laboratory Analyses.

A. General.

(1) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of COMAR 26.13.05.13C, the Secretary may issue a treatment demonstration permit. The permit shall contain only those requirements necessary to meet the standards in COMAR 26.13.05.13C(3). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction, operation, and maintenance of the land treatment unit.

(2) The Secretary may issue a two-phase facility permit if the Secretary finds that, based on information submitted in the application, substantial although incomplete or inconclusive information already exists upon which to base the issuance of a facility permit.

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(3) If the Secretary finds that not enough information exists upon which the Secretary can establish permit conditions to attempt to provide for compliance with all of the requirements of COMAR 26.13.05.13, the Secretary shall issue a treatment demonstration permit covering the field test or laboratory analyses.

B. Phased Permit.

(1) If the Secretary finds that a phased permit may be issued, the Secretary will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the Secretary finds may be necessary under COMAR 26.13.05.13C(3). The Secretary will include conditions in the second phase of the facility permit to attempt to meet all COMAR 26.13.05.13 requirements pertaining to unit design, construction, operation, and maintenance. The Secretary will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the application.

(2) The first phase of the permit will be effective as provided in Regulation .20-6C of this chapter.

(3) The second phase of the permit will be effective as provided in §D of this regulation.

C. Certification. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, the owner or the operator shall submit to the Secretary a certification, signed by a person authorized to sign a permit application or report under Regulation .03A of this chapter, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting the tests or analyses. The owner or operator shall also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Secretary approves a later date.

D. Modifications.

(1) If the Secretary determines that the results of the field tests or laboratory analyses meet the requirements of COMAR 26.13.05.13, the Secretary will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with COMAR 26.13.05.13, based upon the results of the field tests or laboratory analyses.

(2) This permit modification may proceed as a minor modification under Regulation .13 of this chapter provided any change is minor, or otherwise will proceed as a modification under Regulation .11 of this chapter.

(3) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Secretary will give notice of the final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in Regulation .20-6C of this chapter.

(4) If modifications under Regulation .11 of this chapter are necessary, the second phase of the permit will become effective only after those modifications have been made.

.19 Research, Development, and Demonstration Permits.

A. The Secretary may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for the experimental activity have not been adopted in COMAR 26.13.05. The permit shall include those terms and conditions that assure protection of human health and the environment. The permit shall:

(1) Provide for the construction of the facilities as necessary, and for operation of the facility for not longer than 1 year unless renewed as provided in Regulation .19D of this chapter;

(2) Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Secretary considers necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of the technology or process on human health and the environment; and

(3) Include such requirements as the Secretary considers necessary to protect human health and the environment including requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and such requirements as the Secretary considers necessary regarding testing and providing of information to the Secretary with respect to the operation of the facility.

B. For the purpose of expediting review and issuance of permits under this section, the Secretary may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in this subtitle except that there may be no modification or waiver of regulations regarding financial responsibility, including insurance, or of procedures regarding public participation, or other requirements that by law may not be waived.

C. The Secretary may order an immediate termination, in accordance with the provisions of the Maryland Administrative Procedure Act, State Government Article, Title 10, Annotated Code of Maryland, of all operations at the facility at any time the Secretary determines that termination is necessary to protect human health and the environment.

D. Any permit issued under this section may be renewed not more than three times. Each renewal shall be for a period of not more than 1 year.

.19-1 Administrative Procedures — Preapplication Requirements.

A. Applicability.

(1) The requirements of this regulation apply to persons seeking, under this chapter:

(a) An initial permit for a hazardous waste management unit at a CHS facility; or

(b) Renewal of a permit for a hazardous waste management unit at a CHS facility for which the applicant is proposing a change in facility operations that would qualify as a Class 3 permit modification under 40 CFR §270.42.

(2) The requirements of this regulation do not apply to persons seeking:

(a) Permit modifications under Regulations .11 or .13—.13-3 of this chapter;

(b) Permit applications submitted under this chapter for the sole purpose of seeking authorization to conduct post-closure activities or post-closure activities and corrective action at a facility; or

(c) Renewal of a CHS facility permit for which the applicant is proposing no change in facility operations that would qualify as a Class 3 permit modification under 40 CFR §270.42.

B. Preapplication Meeting. Persons subject to this regulation shall:

(1) Do the following before submitting a CHS facility permit application:

(a) Hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities; and

(b) Give persons attending the meeting required by §B(1)(a) of this regulation a means to voluntarily provide the prospective permit applicant with their names and addresses by posting a sign-in sheet or using some other mechanism; and

(2) In accordance with the requirements of Regulation .02D(39) of this chapter, submit the following information as part of the application for a CHS facility permit:

(a) A summary of all preapplication meetings held in accordance with §B(1)(a) of this regulation;

(b) The lists of names and addresses of persons who attended the preapplication meetings developed in accordance with §B(1)(b) of this regulation; and

(c) Copies of any written comments or materials submitted by the public at the meetings.

C. Public Notice for Preapplication Meetings. Persons subject to this regulation shall:

(1) Provide public notice of a preapplication meeting scheduled in accordance with §B(1)(a) of this regulation at least 30 days before the meeting;

(2) Maintain, and provide to the Department on request, documentation of the notice required by §C(1) of this regulation;

(3) Use the following to provide the public notice required by §C(1) of this regulation and transmit the information required by §C(5) of this regulation:

(a) A newspaper advertisement, published as a display ad, in a newspaper of general circulation:

(i) In the county or equivalent jurisdiction in which the proposed facility will be located or in which the proposed activity will take place; and

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(ii) In counties or equivalent jurisdictions adjacent to the county in which the proposed facility will be located or in which the proposed activity will take place, if the Secretary determines that publication in one or more adjacent jurisdictions is necessary to inform the affected public and the Secretary so informs the prospective applicant;

(b) A clearly marked, visible, and accessible sign that is:

(i) Posted at or near the site of the proposed facility or the facility at which the proposed activity will take place; and

(ii) Large enough to be read from the nearest point where the public would pass by the site, if the prospective applicant places the sign on the property of the facility or proposed facility; and

(c) A broadcast media announcement at least once on:

(i) At least one local radio station or television station; or

(ii) Another medium the Secretary approves in writing before the announcement is broadcast;

(4) Send a copy of the newspaper notice required by §C(3)(a) of this regulation to:

(a) The unit in the Department responsible for issuing CHS facility permits;

(b) The appropriate units of State government having any authority under State law with respect to the construction or operation of the facility; and

(c) Any unit of local government having jurisdiction over the area where the facility is located or proposed to be located; and

(5) Assure that the notices required by §C(3) of this regulation include:

(a) The date, time, and location of the meeting;

(b) A brief description of the purpose of the meeting;

(c) A brief description of the facility and proposed operations, including the address of the facility or a map with detail to the level of neighborhood streets showing the location of the facility;

(d) A statement encouraging persons to contact the prospective applicant at least 72 hours before the meeting if they need special accommodations to be able to participate in the meeting; and

(e) The name, address, and telephone number of a representative of the prospective applicant.

.19-2 Public Access to Information.

A. Public Access to Permit Applications. Concurrent with the notice required by Regulation .20-2A(5) and (6) of this chapter, the Secretary shall place the permit application and any supporting documents in a location accessible to the public near the facility or at the Department's offices.

B. Information Repository.

(1) The requirements of this section apply to all applicants seeking a CHS facility permit under this chapter for a hazardous waste management unit.

(2) The Secretary may assess the need for an information repository on a case-by-case basis.

(3) In assessing the need for an information repository, the Secretary shall consider a variety of factors, including the:

(a) Level of public interest;

(b) Type of facility;

(c) Presence of an existing repository; and

(d) Proximity of the location of the potential repository to the nearest copy of the administrative record.

(4) If the Secretary determines that there is a need for an information repository, the Secretary shall notify the CHS facility permit applicant that the applicant is required to establish and maintain an information repository.

(5) The CHS facility permit applicant shall assure that the information repository contains all documents, reports, data, and information considered necessary by the Secretary to fulfill the purposes for which the repository is established.

(6) The Secretary may, at the Secretary's discretion, limit the contents of the repository.

(7) Subject to the requirements of §B(8) of this regulation, the applicant shall locate and maintain the repository at a site of the applicant's choosing.

(8) The Secretary shall specify an alternate location of the repository if the Secretary determines that the site chosen by the applicant is unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations.

(9) The applicant shall:

(a) Provide all individuals on the facility mailing list with written notice about the information repository; and

(b) Comply with requirements specified by the Secretary for informing the public about the information repository.

(10) The applicant is responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Secretary.

(11) Based on the factors in §B(3) of this regulation, the Secretary may, at the Secretary's discretion, close the information repository, releasing the applicant from the requirement to maintain the repository.

.20 Administrative Procedures — Permit Applications and Modifications.

A. Application for a Permit.

(1) Any person who requires a permit shall complete, sign, and submit an application to the Secretary.

(2) The Secretary may not begin the processing of a permit until the applicant has fully complied with the application requirements.

(3) Permit applicants shall comply with the signature and certification requirements of Regulation .03 of this chapter.

(4) The Secretary shall review for completeness each application for a permit in accordance with the following:

(a) The Secretary should review for completeness each application for a permit submitted by a hazardous waste management facility within 60 days of its receipt;

(b) On completing the review, the Secretary shall notify the applicant in writing whether the application is complete;

(c) If the application is incomplete, the Secretary shall list the information necessary to make the application complete; and

(d) After the application has been determined to be complete by the Secretary:

(i) The Secretary may request additional information from an applicant only when necessary to clarify, modify, or supplement previously submitted material; and

(ii) Requests by the Secretary for additional information may not render an application incomplete.

(5) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision in the State statutes.

(6) If the Secretary decides that a site visit is necessary for any reason in conjunction with the processing of an application, the Secretary shall notify the applicant and schedule a visit.

(7) The effective date of an application is the date on which the Secretary notifies the applicant that the application is complete as provided in §A(4) of this regulation.

(8) Project Decision Schedule.

(a) For each application from a major hazardous waste management facility, the Secretary shall, not later than the effective date of the application, prepare and mail to the applicant a project decision schedule.

(b) The Secretary shall specify in the schedule target dates by which the Secretary intends to:

(i) Prepare a draft permit;

(ii) Give public notice;

(iii) Complete the public comment period, including any public hearing; and

(iv) Issue a final permit.

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B. Modifications, Revocation and Reissuance, or Termination of Permits.

(1) General.

- (a) Permits may be modified, revoked and reissued, or terminated either:
 - (i) At the request of an interested person, including the permittee; or
 - (ii) On the Secretary's initiative.

(b) Permits may only be modified, revoked and reissued, or terminated for the reasons specified in Regulations .11 and 12 of this chapter.

(c) A person requesting modification, revocation and reissuance, or termination of a permit shall make the request in writing and shall include with the request facts or reasons supporting the request.

(2) Denial of Request.

(a) If the Secretary decides that a request made under §B(1)(c) of this regulation is not justified, the Secretary shall send the requester a brief written response giving a reason for the decision and shall offer an opportunity for a contested case hearing, in accordance with Maryland's Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland, and the procedures in Regulation .20-5B of this chapter.

(b) Denials of requests for modification, revocation and reissuance, or termination are not subject to public hearing notice or comment.

(3) Tentative Decision to Modify or Revoke and Reissue.

(a) If the Secretary tentatively decides to modify or revoke and reissue a permit under Regulation .11 of this chapter, the Secretary shall prepare a draft permit under Regulation .20-1A of this chapter, incorporating the proposed changes.

(b) The Secretary may request additional information and, in the case of a modified permit, may require the submission of an updated permit application.

(c) In the case of revoked and reissued permits, the Secretary shall require the submission of a new application.

(4) Reopening Permit Conditions.

(a) Permit Modification. In a permit modification under this regulation:

- (i) Only those conditions to be modified shall be reopened when a new draft permit is prepared; and
- (ii) All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

(b) Permit Revocation and Reissuance.

(i) When a permit is revoked and reissued under this regulation, the entire permit is reopened just as if the permit had expired and was being reissued.

(ii) During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(5) Modifications identified as minor under Regulations .13-1—.13-3 of this chapter are not subject to the requirements of this regulation but are instead processed in accordance with Regulation .13 of this chapter.

(6) Notice of Intent to Terminate.

(a) If the Secretary tentatively decides to terminate a permit under Regulation .12 of this chapter, the Secretary shall issue a notice of intent to terminate.

(b) A notice of intent to terminate is a type of draft permit that follows the same procedures as a draft permit prepared under Regulation .20-1A of this chapter.

.20-1 Administrative Procedures — Tentative and Final Determinations.**A. Tentative Determinations and Draft Permits.**

(1) Once an application is complete, the Secretary shall prepare a tentative determination that includes the following information:

- (a) A proposal to issue or to not issue the permit;
- (b) Any proposed permit limitations and conditions;
- (c) A brief explanation of the Department's tentative determination;
- (d) Any proposed schedule of compliance; and
- (e) If the tentative determination is to issue a permit, a draft permit.

(2) Notice of Intent to Deny.

(a) If the Secretary tentatively decides to deny the permit application, the Secretary shall issue a notice of intent to deny, which is a type of draft permit.

(b) A notice of intent to deny is subject to the same procedures as any draft permit prepared under this section.

(c) If the Secretary's final decision is that the tentative decision to deny the permit application was incorrect, the Secretary shall withdraw the notice of intent to deny and proceed to prepare a draft permit under §A(3) of this regulation.

(3) If the Secretary decides to prepare a draft permit, the Secretary shall prepare a draft permit that contains the information described in Regulations .04, .05, .07, .08, .15, and .16 of this chapter.

(4) Draft Permits—General.

(a) All draft permits shall be:

- (i) Accompanied by a statement of basis or fact sheet, as required by §§B and C of this regulation;
- (ii) Based on the administrative record, as required by §D of this regulation;
- (iii) Publicly noticed, as required by Regulation .20-2 of this chapter; and
- (iv) Made available for public comment, as required by Regulation .20-4A of this chapter.

(b) The Secretary shall:

- (i) Give notice of opportunity for the public hearing, as required by Regulation .20-5A of this chapter;
- (ii) Issue a final decision, as required by Regulation .20-6 of this chapter; and
- (iii) Respond to comments, as required by Regulation .20-4D of this chapter.

(c) An appeal of the final decision may be made in accordance with Maryland Administrative Procedure Act, State Government Article, §10-201 et seq., Annotated Code of Maryland, by following the procedures in Regulation .20-6C(3) of this chapter.

(5) The Department shall publish a notice of the tentative determination that allows at least:

- (a) 30 days before the Department holds a public hearing under Regulation .20-5A of this chapter; and
- (b) 45 days before the Department:

(i) Issues a final determination under §E of this regulation; or

(ii) Makes a final decision to issue or deny a permit, if a final determination is not required under §E(1) of this regulation.

B. Statement of Basis. The Secretary shall:

(1) Prepare a statement of basis for every draft permit for which a fact sheet under §C of this regulation is not prepared;

(2) Briefly describe in the statement of basis the derivation of the conditions of the draft permit and the reasons for them, or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision; and

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(3) Send the statement of basis to the applicant and, on request, to any other person.

C. Fact Sheet. The Secretary shall:

(1) Prepare a fact sheet for every:

- (a) Draft permit for a major hazardous waste management facility; and
- (b) Permit that the Secretary finds is the subject of widespread public interest or raises major issues;

(2) Briefly set forth in the fact sheet the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit;

(3) Send this fact sheet to the applicant and, on request, to any other person; and

(4) Include in the fact sheet, when applicable:

- (a) A brief description of the type of facility or activity which is the subject of the draft permit;
- (b) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- (c) A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by §D of this regulation;
- (d) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
- (e) A description of the procedures for reaching a final decision on the draft permit, including:
 - (i) The beginning and ending dates of the comment period under Regulation .20-2 of this chapter, and the address where comments will be received;
 - (ii) Procedures for requesting a hearing and the nature of that hearing; and
 - (iii) Any other procedures by which the public may participate in the final decision; and
- (f) The name and telephone number of a person to contact for additional information.

D. Administrative Record for Draft Permits.

(1) The provisions of a draft permit prepared by the Department under §A of this regulation shall be based on the administrative record defined in this regulation.

(2) For preparing a draft permit under §A of this regulation, the record shall consist of:

- (a) The application, if required, and any supporting data furnished by the applicant;
- (b) The draft permit or notice of intent to deny the application or to terminate the permit;
- (c) The statement of basis or fact sheet;
- (d) All documents cited in the statement of basis or fact sheet; and
- (e) Other documents contained in the supporting file on the draft permit.

(3) Material readily available at the Department or published material that is generally available, and that is included in the administrative record under §D(2) of this regulation, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

(4) This section applies to all draft permits for which public notice was given after January 31, 1983.

(5) The Department shall assure that, except for materials that have been designated confidential business information, the administrative record for a draft permit is available to the public for inspection and copying.

E. Final Determination.

(1) The Department shall prepare a final determination if:

(a) Written comments adverse to the tentative determination were received by the Department within 45 days after the publication of the notice of tentative determination;

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(b) Comments adverse to the tentative determination were received in writing at, or within 5 days after, the public hearing held under Regulation .20-5A of this chapter;

(c) Comments adverse to the tentative determination were received orally at the public hearing held under Regulation .20-5A of this chapter; or

(d) The final determination is substantively different from the tentative determination and all persons aggrieved by the final determination have not waived, in writing, their right to request a contested case hearing.

(2) If the Department is required to prepare a final determination under §E(1) of this regulation, the Department shall publish a notice of the final determination.

(3) If the Department is not required to prepare a final determination under §E(1) of this regulation, the tentative determination is a final decision by the Department when the permit is issued or denied.

.20-2 Administrative Procedures — Public Notices of Permit Actions and Public Comment Period.

A. The Secretary shall give public notice that the following actions have occurred:

(1) A permit application has been tentatively denied;

(2) A draft permit has been prepared;

(3) Public hearings or informational meetings have been scheduled;

(4) An appeal has been granted;

(5) An application to own, operate, establish, or maintain a CHS facility has been received by the Department;

(6) An application to modify a CHS permit under Regulation .11 of this chapter has been received by the Department; and

(7) A final determination has been prepared under Regulation .20-1E of this chapter.

B. Public Notice—Denials. The Secretary:

(1) Is not required to provide public notice when a request for permit modification, revocation and reissuance, or termination is denied; and

(2) Shall provide written notice of a denial under §B(1) of this regulation to the requester and to the permittee.

C. Public notices may describe more than one permit or permit action.

D. Timing.

(1) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under §A of this regulation shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing.

(3) The Secretary may give public notice of a public hearing at the same time as public notice of the draft permit, and the two notices may be combined.

(4) The Secretary shall assure that a public notice of receipt of a permit application published as required by §E(3) of this regulation in accordance with §A(5) or (6) of this regulation is published within a reasonable period of time after the Department receives the application.

E. Methods.

(1) Except as provided in §E(2) of this regulation, the Secretary shall give public notice of activities described in §A of this regulation by mailing a copy of a notice to the following persons:

(a) The applicant;

(b) Any other agency who has issued or is required to issue a UIC, PSD, NPDES, or 404 permit for the same facility or activity;

(c) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected states;

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(d) Persons on a mailing list developed by:

(i) Including those who request in writing to be on the list;

(ii) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(iii) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and State funded newsletters, environmental bulletins, or State law journals;

(e) Any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(f) Each State agency having any authority under State law with respect to the construction and operation of the facility.

(2) Any person otherwise entitled to receive notice under §E(1) of this regulation may waive the right to receive notice for any classes and categories of permits.

(3) The Secretary shall assure that any public notice required by §A of this regulation is published at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located.

(4) The Secretary shall give public notice through a broadcast message over a radio station that serves the community in which a facility is located or proposed to be located that any of the following has occurred:

(a) A CHS facility permit application has been tentatively denied;

(b) A draft CHS facility permit has been prepared; and

(c) A public hearing has been scheduled.

(5) The Secretary may:

(a) Require a permit applicant to provide notice of an informational meeting or a public hearing by mail to:

(i) Each person requesting the meeting or the hearing; or

(ii) An authorized representative of the person requesting the meeting or hearing; and

(b) Provide additional notice in the situations identified in §A of this regulation by requiring the permit applicant to post the notice at the proposed facility or at public facilities in the geographical area of the proposed facility.

(6) Responsibility for Publishing or Otherwise Providing Notice. For any notice given under §E(1)—(5) of this regulation, the Secretary shall:

(a) Require the permit applicant to provide the notice; or

(b) Provide the notice at the applicant's expense.

F. Public Notices—Content.

(1) General. The Secretary shall assure that all public notices issued under this regulation contain the following minimum information:

(a) Name and address of the office processing the permit action for which notice is being given;

(b) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(c) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(d) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application;

(e) A brief description of the comment procedures required by Regulations .20-4A and .20-5A of this chapter;

(f) The specific time and place of any hearing that will be held;

(g) A statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final permit decision;

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(h) The location of the administrative record required by Regulation .20-1D of this chapter, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record; and

(i) Any additional information the Secretary considers necessary or proper.

(2) Public Notices for Hearings. The Secretary shall ensure that:

(a) In addition to the information required to be contained in general public notices by §F(1) of this regulation, the public notice of a hearing on a draft permit contains the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing; and

(iii) A brief description of the nature and purpose of the hearing, including the applicable regulations and procedures; and

(b) All persons identified in §E(1)(a)—(c) of this regulation are mailed a copy of the fact sheet or statement of basis, information on how the permit application may be reviewed, and information on how the draft permit may be reviewed, in addition to the general public notice described in §F(1) of this regulation.

(3) Public Notices Announcing Receipt of an Application. The Secretary shall assure that public notices announcing the receipt of an application for a CHS facility permit under §A(5) and (6) of this regulation contain, in addition to the information required to be contained in general public notices by §F(1) of this regulation, the following information:

(a) The name and telephone number of a representative of the applicant;

(b) An address to which people may write in order to be put on the facility mailing list;

(c) A brief description of the facility and proposed operations, including the address or a map of the facility location on the front page of the notice;

(d) The date that the application was submitted; and

(e) Information on how to request that an informational meeting be held, or information on the time, date, and location of an informational meeting on the application if the Department has already scheduled one.

.20-3 Administrative Procedures — Informational Meetings on Permit Applications.

A. The Department shall provide an opportunity for an informational meeting, with respect to a CHS facility permit application:

(1) At the Department's discretion; or

(2) On written request, if the request is made within 10 working days after publication of a notice of receipt of application.

B. The Department may cancel an informational meeting scheduled under §A of this regulation if all persons who made timely written requests to hold the meeting withdraw the requests before the meeting.

C. Presentation of Information Concerning an Application.

(1) The Department may require the applicant to attend an informational meeting, public hearing, or contested case hearing and present information concerning the application.

(2) If the applicant fails to appear and present information after a request from the Department, the application may be denied.

.20-4 Administrative Procedures — Public Comments.

A. Public Comments and Requests for Public Hearings.

(1) During the public comment period provided, any interested person may:

(a) Submit written comments on the draft permit; and

(b) Request a public hearing, if no hearing has already been scheduled.

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(2) A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

(3) The Secretary shall:

- (a) Consider all comments in making the final decision; and
- (b) Answer all comments as provided in §D of this regulation.

B. Obligation to Raise Issues and Provide Information During the Public Comment Period.

(1) All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Secretary's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period, including any public hearing, under Regulation .20-2 of this chapter.

(2) All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

(3) Commenters shall make supporting material not already included in the administrative record available to the Secretary.

(4) Because a comment period longer than 45 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this regulation:

- (a) Commenters may request longer comment periods; and
- (b) The Secretary shall freely establish longer comment periods under Regulation .20-2 of this chapter to the extent they appear necessary.

C. Reopening of the Public Comment Period.

(1) If any data, information, or arguments submitted during the public comment period, including information or arguments required under §B of this regulation appear to raise substantial new questions concerning a permit, the Secretary may take one or more of the following actions:

- (a) Prepare a new draft permit, appropriately modified, under Regulation .20-1A of this chapter;
- (b) Prepare a revised statement of basis, a fact sheet, or revised fact sheet and reopen the comment period; and
- (c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

(2) If the comment period is reopened under §C(1)(c) of this regulation, the Secretary shall:

(a) Limit the scope of comments that may be considered to the substantial new questions that caused the reopening of the comment period; and

(b) Assure that public notice issued according to Regulation .20-2 of this chapter defines the scope of the reopening.

(3) The Secretary may, in the circumstances described in §C(1) and (2) of this regulation, elect to hold further proceedings.

(4) The Secretary shall issue public notice of actions taken under §C(1) or (3) of this regulation under Regulation .20-2 of this chapter.

D. Response to Comments.

(1) At the time that any final permit is issued, the Secretary shall:

- (a) Issue a response to comments; and
- (b) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change.

(2) The Secretary shall include in the administrative record for the final permit decision all new materials supplied during the public comment period, new points raised, and documents cited in the response to comments.

(3) If new points are raised or new material is supplied during the public comment period, the Department may document its response to those matters by adding new materials to the administrative record.

(4) The Secretary shall make the response to comments available to the public.

.20-5 Administrative Procedures — Hearings.

A. Public Hearings.

(1) The Secretary:

(a) Shall hold a public hearing whenever the Secretary:

- (i) Receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice,
- or
- (ii) Receives a written request for a hearing within 45 days of public notice;

(b) May hold a public hearing at the Secretary's discretion, whenever, for instance, a hearing might clarify one or more issues involved in the permit decision;

(c) Shall give public notice of the hearing as specified in Regulation .20-2 of this chapter; and

(d) May cancel a scheduled public hearing if all persons who made timely written requests to hold the hearing withdraw the requests before the hearing is scheduled to begin.

(2) Whenever a public hearing will be held, the Secretary shall designate a hearing officer who shall be responsible for its scheduling and orderly conduct.

(3) Hearing Limitations and Extension of Comment Period.

(a) Any person may submit oral or written statements and data concerning the draft permit.

(b) The Secretary or the hearing officer may:

- (i) Set reasonable limits on the time allowed for oral statements; and
- (ii) Require the submission of statements in writing.

(c) The Secretary shall consider the public comment period under Regulation .20-2 of this chapter to be automatically extended to 5 days after the close of any public hearing under this section if the comment period was originally scheduled to end sooner than this.

(d) The hearing officer may extend the comment period under Regulation .20-2 of this chapter by announcing the extension of the comment period at the hearing.

(4) The Secretary shall make a tape recording or written transcript of the hearing available to the public.

(5) Whenever possible, the Secretary shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

B. Contested Case Hearings.

(1) Applicability. This section applies to permits to own, operate, establish, or maintain a CHS facility issued pursuant to Environment Article, §7-232, Annotated Code of Maryland.

(2) A person may request a contested case hearing to appeal a final determination issued by the Department under Regulation .20-1E of this chapter if the person makes factual allegations with sufficient particularity to demonstrate that:

(a) The person is aggrieved by the final determination; and

(b) The final determination is:

- (i) Legally inconsistent with any provisions of law applicable to the final determination being challenged; or
- (ii) Based on an incorrect determination of a relevant and material fact.

(3) A person requesting a contested case hearing shall submit a written request for adjudication within 15 days after publication of a notice of final determination.

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(4) A person requesting adjudication shall assure that the request sets forth the basis for the request with sufficient particularity to demonstrate that:

- (a) The issues to be raised are within the scope of §B(2) of this regulation; and
- (b) The person is aggrieved by the final determination.

(5) Challenging Compliance with Zoning and Land Use Requirements.

(a) Except as provided in §B(5)(b) of this regulation, a person may not, in a contested case hearing, challenge a facility's compliance with zoning and land use requirements or conformity with a county plan issued under Environment Article, Title 9, Subtitle 5, Annotated Code of Maryland.

(b) The provisions of §B(5)(a) of this regulation do not prevent a person from:

(i) Challenging whether the Department has complied with Environment Article, §§2-404(b)(2)(ii) and 9-210(a)(3), Annotated Code of Maryland, when applicable; or

(ii) Contesting the compliance of a facility with zoning and land use or county plan requirements in any proceeding brought in accordance with and under any applicable local laws.

(6) A contested case hearing shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(7) Summary Disposition. The Secretary shall comply with the provisions of Environment Article, §1-606, Annotated Code of Maryland, concerning summary disposition of a request for a contested case hearing.

.20-6 Administrative Procedures — Issuance and Effective Date of Permits.

A. After the close of the public comment period on a draft permit under Regulation .20-2 of this chapter, the Secretary shall:

(1) Issue a final permit decision;

(2) Notify the applicant and each person who has submitted written comments or requested notice of the final permit decision; and

(3) Include in the notice required by §A(2) of this regulation reference to the procedures for appealing a decision on a permit or for contesting a decision to terminate a permit.

B. For the purposes of this regulation, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

C. A final permit decision shall become effective 30 days after the service of notice of the decision under §A of this regulation, unless:

(1) A later effective date is specified in the decision;

(2) The permit is within the scope of Environment Article, Title 1, Subtitle 6, Annotated Code of Maryland, and a person requests a contested case hearing under Environment Article, §1-605, Annotated Code of Maryland; or

(3) Comments do not request a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

.21 Permit Fees.

A. Application Fee.

(1) A person applying for a facility permit, a facility permit renewal, or a major modification of a facility permit shall pay a nonrefundable application fee according to the fee schedule in §A(2) of this regulation.

(2) Application Fee Schedule. The application fee is:

(a) \$2,000 for an application for a new or previously unpermitted storage facility;

(b) \$3,000 for an application for a new or previously unpermitted treatment facility other than an incinerator;

(c) \$5,000 for an application for a new or previously unpermitted incinerator;

(d) \$10,000 for an application for a new or previously unpermitted land disposal unit;

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- (e) \$2,000 for an application for renewal of a storage facility permit;
- (f) \$3,000 for an application for renewal of a permit for a treatment facility;
- (g) \$5,000 for an application for renewal of a land disposal unit;
- (h) \$2,000 for an application for a major modification of a facility permit which involves the addition of a new storage unit;
- (i) \$3,000 for an application for a major modification of a facility permit which involves the addition of a new treatment unit other than an incinerator;
- (j) \$5,000 for an application for a major modification of a facility permit which involves the addition of a new incinerator;
- (k) \$10,000 for an application for a major modification of a facility permit which involves the addition of a new land disposal unit; and

(l) For new applications, renewal applications, or applications for permit modification which involve more than one type of unit, the sum of the application fees for the corresponding units specified in §A(2)(a)–(k) of this regulation.

(3) The Secretary shall apply the application fee towards the permit fee required by §B of this regulation.

B. Permit Fee.

(1) Permit fees shall be established based upon the following considerations:

- (a) Acreage involved in the facility;
- (b) Nature and quantity of the CHS handled at the facility;
- (c) The threat that the CHS may present to human health or the environment;
- (d) The anticipated costs of monitoring and regulating the facility;
- (e) The anticipated costs attributable to the removing and properly disposing of all CHS that may escape from a facility; and
- (f) Anticipated needs for program development activities relating to CHS.

(2) The Secretary shall calculate the permit fee for a facility as 1.1 times the sum of a service fee and an environmental fee. The service fee is comprised of the costs borne by the Department in monitoring and regulating the facility, and is calculated as described in §B(3) of this regulation. The environmental fee is calculated as described in §B(6) of this regulation.

(3) Service Fee. The service fee is calculated using the formulae in the following work sheet, and the values for salary, benefits, overhead, and work years specified in §B(4) of this regulation:

- (a) Monitoring—Analyses to be Performed by the Department. (Cost per analysis x number of analyses) = \$___;
- (b) Yearly Costs of Regulating the Facility for the Permit Duration.
 - (i) Cost of project manager = (permit writer work years) × (permit writer's annual salary + annual benefits) × (overhead factor) = \$___,
 - (ii) Cost of supervision of project manager = $0.25 \times (\text{permit writer work years}) \times (\text{permit writer's annual salary} + \text{annual benefits}) \times (\text{overhead factor})$ = \$___,
 - (iii) (Compliance and enforcement work years) × (enforcement personnel annual salary + annual benefits) × (overhead factor) = \$___,
 - (iv) Subtotal, costs of regulating = \$___;
- (c) Service fee = costs of regulating + costs of monitoring = \$___.

(4) Except as specified in §B(5) of this regulation, the Secretary shall use the following values in performing the calculations outlined in §B(3) of this regulation:

- (a) For the sum of the permit writer's annual salary and benefits, \$49,000;

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- (b) For the sum of enforcement personnel annual salary and benefits, \$51,000;
 - (c) For the overhead factor, 1.25;
 - (d) For permit writer work years:
 - (i) 0.1 for storage facilities,
 - (ii) 0.1 for treatment facilities,
 - (iii) 0.12 for incineration facilities,
 - (iv) 0.18 for disposal facilities, and
 - (v) For facilities that have a combination of the types of waste management units listed in §B(4)(d)(i)–(iv) of this regulation, the sum of the corresponding factors listed in §B(4)(d)(i)–(iv) of this regulation; and
 - (e) For compliance and enforcement work years:
 - (i) 0.2 for operating disposal facilities, and
 - (ii) 0.05 for facilities other than operating disposal facilities.
- (5) The Secretary may modify the factors specified in §B(4) of this regulation as necessary to reflect increased personnel and overhead costs, and additional expenditures of staff time based on the complexity of the facility.
- (6) Environmental Fee.
- (a) The environmental fee component of the permit fee is calculated as the product of a size factor, location factor, and a waste management factor.
 - (b) The size factor is equal to one plus (0.1 times the number of acres used for hazardous waste management units at the facility).
 - (c) The location factor is obtained by determining the land uses adjacent to the facility as shown on zoning maps, and choosing the maximum of the following numbers associated with the corresponding land uses that are adjacent to the facility:
 - (i) Industrial—1.0;
 - (ii) Agricultural—1.2;
 - (iii) Residential—1.5;
 - (iv) Institutional—1.5;
 - (v) Recreational—1.7.
 - (d) The waste management factor is equal to the sum of the products of a hazard factor and a quantity factor assigned to permitted storage, treatment, active disposal, and inactive disposal activities at a facility.
 - (e) Hazard Factor.
 - (i) For disposal facilities, the hazard factor is equal to 10 times the fraction of acute hazardous waste that the facility is permitted to handle plus 3.0 times the fraction of nonacute hazardous waste that the facility is permitted to handle.
 - (ii) For all other facilities, the hazard factor is equal to 10 times the fraction of acute hazardous waste that the facility is permitted to handle plus 2.0 times the fraction of nonacute hazardous waste that the facility is permitted to handle.
 - (iii) If a facility is permitted to manage acute hazardous wastes, but the facility's permit does not specify the fraction of waste that may be acute, the fraction is assumed to be 0.1 for the purpose of the calculations described in §B(6)(e)(i) and (ii) of this regulation.
 - (f) Quantity Factor. The quantity factor is set according to the type of facility, as described in §B(6)(g)–(l) of this regulation.
 - (g) For storage facilities, the quantity factor is equal to the hazardous waste storage capacity, in tons.
 - (h) For treatment facilities permitted to treat up to 1,000 tons of hazardous waste per year, the quantity factor is equal to the maximum amount of hazardous waste authorized to be treated per year, in tons.

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(i) For treatment facilities permitted to treat more than 1,000 tons of hazardous waste per year, the quantity factor is equal to 1,000 plus (0.001 times the number of tons in excess of 1,000 authorized to be treated per year).

(j) For active disposal facilities permitted to dispose of up to 20,000 tons per year of hazardous waste, the quantity factor is equal to the amount of waste authorized to be disposed of per year, in tons.

(k) For active disposal facilities permitted to dispose of more than 20,000 tons per year of hazardous waste, the quantity factor is equal to 20,000 plus (0.001 times the amount of hazardous waste, in tons, in excess of 20,000 tons authorized to be disposed of per year).

(l) For inactive disposal facilities, the quantity factor is equal to 0.001 times the total amount of hazardous waste in tons disposed of at the facility.

C. Failure to pay the permit fee in a timely manner constitutes grounds for permit termination under Regulation .12.

.22 Limited Facility Permits for Thermal Destruction Facilities other than Hazardous Waste Incinerators.

A. Permits Required.

(1) A person may not thermally destroy hazardous waste in an installation other than a hazardous waste incinerator without first obtaining a Limited Facility Permit and an air quality operating permit, except that an electric generating station is not required to obtain an air quality operating permit.

(2) The effects of these regulations with respect to persons who have submitted timely applications under §B(2) shall be stayed until the Department has either issued or denied the Limited Facility Permit, but only so long as the applicant operates in compliance with the terms and conditions of an approval issued by the Department under COMAR 26.11.09.10.

(3) Upon issuance of the Limited Facility Permit, the terms and conditions of the Limited Facility Permit will supersede the terms and conditions of any approval issued under COMAR 26.11.09.10.

B. Application for a Limited Facility Permit.

(1) A person may apply to the Department for a Limited Facility Permit on an application provided by the Department. The application shall include the following information:

(a) The name and address of the owner of the installation in which the thermal destruction is to take place;

(b) The location of the installation in which the thermal destruction is to take place;

(c) A description of the installation in which the thermal destruction is to take place including:

(i) The maximum rated heat input,

(ii) The burner type or types,

(iii) A description of the combustion chamber,

(iv) The fuel type usually used,

(v) Any air pollution control devices used, and

(vi) A description of the exhaust system including the stack height and diameter;

(d) The characteristics of the hazardous waste to be thermally destroyed including:

(i) The flash point,

(ii) The heat content, expressed in Btu per pound, and

(iii) The viscosity;

(e) The total annual quantity of the hazardous waste to be thermally destroyed and the expected firing rate, expressed in pounds/hour;

(f) An operations plan for the installation that will be thermally destroying the hazardous waste including:

(i) The start-up procedure,

(ii) The normal operating procedure,

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(iii) The shut-down procedure, and

(iv) The estimated firing time, expressed in hours per day and days per week;

(g) A waste analysis plan as described in COMAR 26.13.05.02D(2);

(h) A general inspection schedule as described in COMAR 26.13.05.02F(2);

(i) A contingency plan as described in COMAR 26.13.05.04;

(j) A closure plan as described in COMAR 26.13.05.07C;

(k) A closure cost estimate, evidence of financial responsibility and evidence of insurance, all as described in COMAR 26.13.05.08;

(l) Any other information the Department may request in order to make a determination under this regulation;

(m) The signature on the application of the applicant, if the applicant is an individual person, or of a person who is a responsible official, as described in Regulation .03A, of the organization, if the applicant is a business, governmental, or other organization entity.

(2) An installation subject to §A(1) that was in operation on the effective date of these regulations shall apply to the Department for a Limited Facility Permit on an application provided by the Department within 6 months of the effective date of this regulation. The application shall contain the information requested in §B(1).

C. Issuance of a Limited Facility Permit.

(1) General. Applications for a Limited Facility Permit will be reviewed and a permit issued by the Department based on the combustion efficiency and capacity of the installation to be used to destroy the waste. In determining the approvability of an application, the Department will consider the characteristics of the components in the waste and the capability of the installation to dispose of the waste in a manner that will have no adverse impact on the environment or on persons living in the area of the installation proposed to be used.

(2) Specific Requirements. A permit may be issued if the following requirements are met:

(a) The burner within the installation shall be of a type and size to burn the specified waste and the heat energy demand of the installation shall be constant during the time when the waste is burned or otherwise capable of maintaining the required combustion conditions;

(b) The stack height of the installation shall be consistent with good engineering practice;

(c) The installation shall be operated and maintained by a person directly assigned to those responsibilities;

(d) The discharge of components of the waste or products of combustion of the waste, including sulfur, lead, and halogenated compounds, may not cause a violation of any ambient air quality standards at COMAR 26.11.03 and COMAR 26.11.04 or cause a threat to public health;

(e) If PCBs are present in the waste to be destroyed, the PCB content of the waste shall be within allowable limits for the selected installation as specified by the U.S. EPA.

D. Permit Conditions and Procedures.

(1) The conditions and procedures specified at Regulations .04--.14 as applicable to facility permits shall also apply to Limited Facility Permits.

(2) The Department may establish conditions on a permit for the purpose of monitoring and controlling the efficiency of combustion of the waste, the products of combustion in the exhaust, or the composition of the waste feed.

(3) The Department will deny an application for a Limited Facility Permit if it determines that the requirements of §§B and D of this regulation or any other applicable requirements under this subtitle have not been satisfied.

E. Permit Duration. A Limited Facility Permit under this regulation is valid for 3 years unless modified, revoked, or terminated under Regulation .11 or .20B of this chapter.

.23 Interim Status.

A. Qualifying for Interim Status.

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(1) Except as provided in §A(3) of this regulation, an owner or operator of a facility identified in COMAR 26.13.06.01A may qualify for interim status and may operate as if the owner or operator has a CHS permit if the owner or operator has complied with the requirements of:

- (a) §3010(a) of RCRA, pertaining to notification of hazardous waste activity, if applicable;
- (b) COMAR 26.13.06.01B, governing submission of part A CHS permit applications; and
- (c) §B of this regulation.

(2) Failure to Qualify for Interim Status.

(a) If the Department has reason to believe upon examination of a part A CHS permit application that the application fails to meet the requirements for a part A CHS permit application as defined in COMAR 26.13.01.03B, it shall:

- (i) Notify the owner or operator of the facility in writing of the apparent deficiency; and
- (ii) Specify in the notice to the owner or operator of the facility the grounds for the Department's belief that the application is deficient.

(b) The owner or operator of the facility shall have 30 days from the date of receipt of the Department's notice to respond in writing to the notice and to explain or rectify the alleged deficiency in the part A CHS permit application.

(c) If, after providing notification and opportunity for response to the owner or operator of the facility, the Department determines that the application is deficient, it may take appropriate enforcement action.

(3) Section A(1) of this regulation does not apply to a facility:

- (a) That has previously been denied a CHS permit; or
- (b) For which authority to operate the facility under RCRA or Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, has previously been terminated.

B. Operation During Interim Status.

(1) During the period of interim status, the owner or operator of the facility may not:

- (a) Treat, store, or dispose of hazardous waste not specified in the part A CHS permit application;
- (b) Employ processes not specified in the part A CHS permit application; or
- (c) Exceed the design capacities specified in the part A CHS permit application.

(2) During the period of interim status, the owner or operator of the facility shall comply with the interim status standards in COMAR 26.13.06.

C. Changes During Interim Status.

(1) Permissible Changes. The owner or operator of the facility may make the following changes, if the changes do not involve reconstruction as defined in §C(2) of this regulation:

(a) An owner or operator of the facility may submit a revised part A CHS permit application to obtain approval from the Department to:

- (i) Treat, store, or dispose of new hazardous wastes not previously identified in the part A CHS permit application, and
- (ii) In the case of newly listed or identified wastes, add units to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification;

(b) An owner or operator of the facility may increase the design capacity of processes used at the facility if a revised part A CHS permit application that includes a justification for the change is submitted before the change, and the Secretary approves the changes because:

(i) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities,

or
(ii) The change is necessary to comply with a federal, state, or local requirement;

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(c) An owner or operator of the facility may make a change in a process for the treatment, storage, or disposal of hazardous waste or may add a process for the treatment, storage, or disposal of hazardous waste if:

(i) The owner or operator submits a revised part A permit application to the Department before implementing the change.

(ii) The owner or operator submits a justification explaining the need for the change to the Department, and

(iii) The Secretary approves the change because the change is necessary to prevent a threat to human health and the environment caused by an emergency situation, or because the change is necessary to comply with a federal, State, or local requirement;

(d) Changes in ownership or operational control may be made in accordance with the following:

(i) The new owner or operator of the facility shall submit a revised part A CHS permit application not later than 90 days before the scheduled change.

(ii) When a transfer of operational control of a facility occurs, the former owner or operator of the facility shall comply with the requirements of COMAR 26.13.06.16 until the new owner or operator of the facility has demonstrated compliance with that regulation to the Secretary,

(iii) The new owner or operator of the facility shall demonstrate compliance with COMAR 26.13.06.16 within 6 months of the date of the change in ownership or operational control of the facility.

(iv) Once the new owner or operator of the facility demonstrates compliance with COMAR 26.13.06.16, the Secretary shall notify the former owner or operator of the facility in writing that, as of the date of the demonstration of compliance by new owner or operator, the former owner or operator no longer needs to comply with COMAR 26.13.06.16,

(v) Interim status duties not specified in §C(1)(d)(i)—(iv) of this regulation are transferred to the new owner or operator of the facility effective immediately upon the date of the change in ownership or operational control of the facility;

(e) Changes limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility which are made in accordance with an interim status corrective action order issued by:

(i) EPA under §3008(h) of RCRA or other federal authority,

(ii) The Department, under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, or other applicable State authority, or

(iii) A court in a judicial action brought by EPA or the Department; and

(f) The addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised part A CHS permit application on or before the date on which the unit becomes subject to the new requirements.

(2) Except as specifically allowed under §C(3) of this regulation, changes listed under §C(1) of this regulation may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility.

(3) If all applicable requirements under this subtitle are met, the following changes may be made even if these changes amount to a reconstruction under §C(2) of this regulation:

(a) Changes made solely for the purposes of complying with the requirements of COMAR 26.13.05.10-4 for tanks and ancillary equipment;

(b) If necessary to comply with federal, State, or local requirements, changes:

(i) To an existing unit,

(ii) Solely involving tanks or containers, or

(iii) Involving addition of replacement surface impoundments that satisfy the standards of RCRA §3004(o);

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(c) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the regulation establishing the new listing or identification;

(d) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan;

(e) Changes necessary to comply with an interim status corrective action order issued by EPA under §3008(h) of RCRA or other federal authority, by the Department under Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland, other applicable State authority, or by a court in a judicial proceeding brought by EPA or the Department, if the changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

(f) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268 or RCRA §3004, if the changes are made solely for the purpose of complying with 40 CFR Part 268 or RCRA §3004;

(g) Addition of newly regulated units under §C(1)(f) of this regulation; and

(h) Changes necessary to comply with standards under 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, or corresponding State regulations.

D. Termination of Interim Status.

(1) Interim status terminates:

(a) When final administrative disposition of a CHS permit application is made; or

(b) As provided in COMAR 26.13.06.01B(5).

(2) Termination of Interim Status—Submission of Permit Application and Additional Requirements.

(a) For owners or operators of each land disposal facility, which has been granted interim status before November 8, 1984, interim status terminates on November 8, 1985, unless:

(i) The owner or operator submits a part B CHS permit application for the facility before that date; and

(ii) The owner or operator certifies that the facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(b) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a CHS permit, and which is granted interim status, interim status terminates 12 months after the date on which the facility first becomes subject to the requirement for a CHS permit, unless the owner or operator of the facility:

(i) Submits a part B CHS permit application for the facility not later than 12 months after the date on which the facility first becomes subject to the permitting requirement; and

(ii) Certifies that the facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(c) For owners or operators of a land disposal unit who are required to make changes during interim status to comply with a federal, State, or local requirement, and who are granted authority to operate under §C(1)(a), (b), or (c) of this regulation, interim status terminates on the date 12 months after the effective date of the requirement, unless the owner or operator certifies that the unit is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(d) For owners and operators of each incinerator facility, which has achieved interim status before November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a part B CHS permit application for an incinerator facility by November 8, 1986.

(e) For owners or operators of any facility other than a land disposal or an incinerator facility, which has achieved interim status before to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a part B CHS permit application for the facility by November 8, 1988.

Administrative History

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Effective date:

Regulations .01 – .05 adopted as an emergency provision effective November 18, 1980 (7:25 Md. R. S-1); adopted permanently effective April 3, 1981 (8:7 Md. R. 642)

Regulation .01 amended effective January 18, 1982 (9:1 Md. R. 20)

Regulation .02A – F repealed, and new .02A – O adopted effective January 31, 1983 (10:2 Md. R. 110)

Regulations .02A, B, F, J, L, M, N, .03A, B, C, L, M amended and .01C, P, and .05 adopted effective February 13, 1984 (11:3 Md. R. 202)

Regulations .02A, C, J, .03I amended and .01D, E, and .02Q adopted effective July 30, 1984 (11:15 Md. R. 1330)

Regulation .03A – F repealed, and new .03A – M adopted effective January 31, 1983 (10:2 Md. R. 110)

Regulation .05 repealed effective January 31, 1983 (10:2 Md. R. 110)

Chapter recodified from COMAR 10.51.07 to COMAR 26.13.07

Regulation .01 amended effective April 18, 1988 (15:8 Md. R. 1009)

Regulation .01A amended effective May 24, 1993 (20:10 Md. R. 853)

Regulation .01F amended and G adopted effective December 23, 1991 (18:25 Md. R. 2759)

Regulation .02A – D, J – L, and P amended effective April 18, 1988 (15:8 Md. R. 1009)

Regulation .02D and E amended effective April 1, 1991 (18:6 Md. R. 690); May 24, 1993 (20:10 Md. R. 853)

Regulation .02F amended effective May 24, 1993 (20:10 Md. R. 853); April 11, 1994 (21:7 Md. R. 533)

Regulation .02I adopted effective April 11, 1994 (21:7 Md. R. 533)

Regulation .02R adopted effective April 18, 1988 (15:8 Md. R. 1009)

Regulation .03B, C, F, G, and L amended effective April 18, 1988 (15:8 Md. R. 1009)

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

Regulation .05B amended effective April 18, 1988 (15:8 Md. R. 1009)

Regulation .11B amended effective December 23, 1991 (18:25 Md. R. 2759); April 11, 1994 (21:7 Md. R. 533)

Regulation .13 amended and recodified as Regulations .13 and .13-1 – .13-3 adopted effective December 23, 1991 (18:25 Md. R. 2759)

Regulation .13-1C adopted effective April 11, 1994 (21:7 Md. R. 533)

Regulation .13-2A amended effective April 11, 1994 (21:7 Md. R. 533)

Regulation .15E amended effective May 5, 1997 (24:9 Md. R. 659)

Regulation .21A, B amended effective March 15, 1993 (20:5 Md. R. 515)

Regulation .22B amended effective December 23, 1991 (18:25 Md. R. 2759)

Chapter revised effective September 10, 1997 (24:5 Md. R. 413)

Chapter revised effective October 16, 2000 (27:20 Md. R. 1843)

Regulation .11D amended effective November 1, 2002 (29:15 Md. R. 1647)

Regulation .13-2A amended effective November 1, 2002 (29:15 Md. R. 1647)

Regulation .23C amended effective November 1, 2002 (29:15 Md. R. 1647)

Chapter revised effective May 1, 2008 (35:8 Md. R. 809)