

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 14 HAZARDOUS SUBSTANCE RESPONSE PLAN

Authority: Environment Article, §§4-405(a)(7), 7-208(e)(10), [and]7-208(f), and 7-222(d), Annotated Code of Maryland

02 Investigating, Evaluating, and Responding to Hazardous Substance Releases

.02 Definitions.

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

B. *Terms Defined.*

(1) *“Department” means the Department of the Environment.*

(2) *“Hazardous substance” has the meaning stated in Environment Article, §7-201, Annotated Code of Maryland.*

(3) *“Possess” with respect to a sample result or other environmental assessment means to have knowledge of, or custody of, the result or assessment.*

(4) *“Release” has the meaning stated in Environment Article, §7-201, Annotated Code of Maryland.*

(5) *“Responsible person” has the meaning stated in Environment Article, §7-201, Annotated Code of Maryland.*

(6) *“Unpermitted” with respect to disposal means not authorized by a valid permit at the time of disposal.*

.02-1 Incorporation by Reference.

In this chapter, the document “Guidance on Maryland’s Hazardous Substance Reporting Notifications and Notification Standards” (Maryland Department of the Environment, June 1, 2013), is incorporated by reference.

.02-2 Site Discovery and Reporting.

A. *The Department may use any reasonable method to discover that there has been a release, or that there is the potential for a release, of a hazardous substance at a site, including the following:*

(1) *A report made by any of the following:*

(a) *A site owner;*

(b) *A person working at a site; or*

(c) *A user of a site;*

(2) *A report, a complaint or other information submitted by a person of:*

(a) *An observed or suspected release or discharge of a hazardous substance; or*

(b) *Health-related effects known or suspected to be associated with a site; or*

(3) *An observation, investigation or inspection by the Department of the site.*

B. *Required Reporting.*

(1) *The reporting required under this regulation is in addition to any reporting required by a permit or that is required under other local, State or federal statutory or regulatory requirements. Reporting under this regulation does not constitute, or substitute for, compliance with any other reporting requirement.*

(2) *Except for releases identified in §C of this regulation, a responsible person shall report immediately the indication of a release of a hazardous substance in accordance with the reporting procedure described in Regulation .02-3 of this chapter if:*

(a) *A contaminant at or above the threshold level identified in Regulation .02-4 of this chapter is identified in:*

(i) *Surface or subsurface soils;*

(ii) *A private water supply well;*

(iii) *Site groundwater;*

(iv) *Surface water;*

(v) *A seep; or*

(vi) *Sediment;*

(b) *Any of the following is detected:*

(i) *A hazardous substance underground as free-product, either as a light nonaqueous phase or a dense nonaqueous phase;*

(ii) *An amount of hazardous substance in the environment in excess of a reportable quantity under 40 CFR §302.4;*

(iii) *Waste material that was disposed of without a permit and that would be classified as a hazardous waste under federal or state law if removed; or*

(iv) *An abandoned container, tank, or engineered structure that contains more than trace residual amounts of a hazardous substance; or*

(c) *The site is one where unpermitted disposal of industrial waste occurred.*

(3) *Immediate reporting. For purposes of the reporting requirement under §B(2) of this regulation only, “immediately” shall mean as soon as practicable, but in any event before the later of the following deadlines:*

(a) thirty (30) days after the effective date of these regulations or the discovery of a sample result or environmental assessment collected or performed prior to October 1, 2009 that indicates the release of a hazardous substance into the environment at or above the notification standards; or

(b) 15 days after discovery by the responsible person that the criteria requiring reporting have been met.

C. Exemptions. The following releases are exempt from the reporting requirement of §B of this regulation:

(1) Application of pesticides and fertilizers used for their intended purposes and applied in accordance with label instructions;

(2) Lawful and non-negligent use of a hazardous substance by an individual for personal or domestic purposes;

(3) A release previously reported to the Department in fulfillment of reporting requirements in this title, another law or regulation, or a permit;

(4) A release previously reported to the United States Environmental Protection Agency (EPA) in accordance with requirements of Section 103(a) or (c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9603(a) and (c);

(5) A release of oil that is subject to regulation under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland;

(6) A release that is being addressed, or has been addressed by the Department or EPA on-scene coordinator, remedial project manager, or project manager who is acting on behalf of or with the approval of the Department or EPA;

(7) A release authorized by federal or Maryland permits or approvals;

(8) A permitted release in a public water system regulated by the Department of the Environment; and

(9) A permitted release into a publicly owned treatment works.

.02-3 Release Reporting Procedures.

A. A person required to report the indication of a release of a hazardous substance by Regulation .02-2B of this chapter shall:

(1) Provide the Department with the information listed in §B of this regulation on a form made available by the Department for that purpose;

(2) Append to the form any required information that cannot be accommodated on the form; and

(3) Submit the report to the Department by the deadline specified in Regulation .02-2B(3) of this chapter.

B. The responsible person shall include the following information in the report to the extent it is known or can be determined:

(1) The location of the site where the hazardous substance is present, including the:

(a) Address;

(b) Latitude and longitude;

(c) Location of the site noted on a United States Geological Survey (USGS) topographic map or other map of equivalent detail acceptable to the Department; and

(d) Property tax account identification number;

(2) The mailing address and telephone number of the responsible person or his representative;

(3) The current zoning classification of the property;

(4) A list of hazardous substances identified in the sample result or other environmental assessment possessed by the responsible person;

(5) For each detection of a hazardous substance at or above the notification level, the environmental medium in which it was detected and all analytical results or other environmental assessment for that hazardous substance;

(6) The name and address of the property owner and site operator;

(7) A summary of historic and current operational activities at the property;

(8) Information on the proximity of human receptors to the release;

(9) A summary of actions taken to investigate and remediate any contamination that has resulted from the release that triggered the reporting requirement;

(10) The location and address of any property or area known or suspected to be affected by the release;

(11) The extent to which environmental media have been affected;

(12) Environmental media affected by the release, including:

(a) Surface soil;

(b) Subsurface soil;

(c) Sediments;

(d) Groundwater;

(e) Surface water; and

(f) Indoor air; and

(13) Any other information requested by the Department.

.02-4 Hazardous Substance Reporting Thresholds.

A. This regulation establishes reporting thresholds for contaminants in environmental media. These thresholds do not necessarily indicate a risk to public health or the environment.

B. For the purposes of determining whether reporting is required under Regulation .02-2B(2)(a) of this chapter, a person shall apply the reporting thresholds in the Hazardous Substance Notification Standards included in the document “Guidance on Maryland’s Hazardous Substance Reporting Notifications and Notification Standards”, incorporated by reference in Regulation .02-1 of this chapter, as follows:

(1) For site soil or sediment, the reporting threshold for a hazardous substance is the:

(a) Residential soil reporting threshold, if the site is zoned for residential use or is not restricted from being used for residential use; and

(b) Non-residential soil reporting threshold, if the site is not available for residential use because of zoning or other land use restrictions;

(2) For a private drinking water supply well on the site, the reporting threshold for a hazardous substance is the lower of the:

(a) Maximum contaminant level (MCL) for the hazardous substance, if any, identified in the Hazardous Substance Notification Standards; or

(b) Reporting threshold for water; and

(3) For site waters other than drinking water supply wells, including groundwater, surface water, or a seep at the site, the reporting threshold is the reporting threshold for water.

B. For the purposes of determining whether reporting is required under Regulation .02-2B(2)(a) of this chapter, a person shall apply the reporting thresholds in Hazardous Substance Notification Standards (Maryland Department of the Environment), incorporated by reference in Regulation .02-1 of this chapter, as follows:

(1) For site soil or sediment, the reporting threshold is:

(a) The residential soil reporting threshold, if the site is zoned for residential use or is not restricted from being used for residential use; and

(b) The industrial soil reporting threshold, if the site is not available for residential use because of zoning or other land use restrictions; and

(2) For site waters, including groundwater, surface water, a seep at the site, or a public or private drinking water supply well on the site, the reporting threshold is the reporting threshold for water.

.02-5 Naturally Occurring Levels of Hazardous Substances.

If the person submitting the notification asserts that detection of levels at or above the applicable threshold of one or more hazardous substances is due to naturally occurring levels of those substances, that person shall indicate that assertion and explain the basis for it in an appendix to the reporting form.