



DNREC Virtual Public Hearing

**7 DE Admin. Code 1302 – Regulations Governing Hazardous Waste (SAN 2019-02)
(Docket #2020-R-WH-0020)**

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Proposed Amendments to Delaware's *Regulations Governing Hazardous Waste* (DRGHW)

Public Hearing
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Delaware's Authorization

- Delaware's hazardous waste program is required to maintain regulations that are no less stringent than the federal regulations promulgated by the U.S. Environmental Protection Agency (EPA).
- Delaware has evaluated the regulatory language and the preamble language associated with each rule's Federal Register notice and has determined the rules are appropriate and necessary to be adopted in Delaware to continue protection of human health and the environment.



Statutory Authority

- Hazardous waste regulations are promulgated under the provisions of:
 - 7 Del. C. § 6010(a)
 - 7 Del. C. § 6305(a)



Proposed Amendments to DRGHW

- Imports and Exports of Hazardous Waste
- Hazardous Waste Generator Improvements Rule
- Confidentiality Determinations for Hazardous Waste Import/Export Documents
- Hazardous Waste Electronic Manifest Fee Rule
- Safe Management of Recalled Airbags
- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to P075 Listing for Nicotine
- Increasing Recycling: Adding Aerosol Cans to Universal Waste Rule



Imports and Exports of Hazardous Waste

- Impacts entities importing or exporting hazardous waste
- Establishes standards for using EPA's electronic notification system for imports and exports (Waste Import Export Tracking System – WIETS)
- Establishes standards for transboundary movement of hazardous waste



Hazardous Waste Generator Improvements Rule

- Impacts all entities generating hazardous waste
- Establishes streamlined regulations for hazardous waste generators that are more easily understood
- Updates regulatory requirements that have not been updated significantly for decades



Hazardous Waste Generator Improvements Rule – Key Provisions

- Defines generator categories – very small quantity generators (VSQGs), small quantity generators (SQGs), and large quantity generators (LQGs)
- Places all requirements for each category in one location, as opposed to requirements being in several different locations in the regulations
- Provides more clarity on how to make a hazardous waste determination and implements requirements on documenting that determination
 - Requires that the hazardous waste determination is ACCURATE



Hazardous Waste Generator Improvements Rule – Key Provisions

- Container labeling requirements
 - “Hazardous Waste”
 - Hazards of the contents (e.g., ignitable, corrosive, etc.)
 - Hazardous waste codes must be placed on labels prior to off-site shipment
- Establishes standards for episodic generation
 - One episodic event per year, plus the opportunity to petition for a second event
- Allows VSQGs to transfer hazardous waste to LQGs that are under the control of the same person



Confidentiality Determinations for Hazardous Waste Import Export Documents

- Impacts all entities importing or exporting hazardous waste
- Establishes standards for submitting confidentiality requests to EPA related to import/export documents



Hazardous Waste Electronic Manifest User Fee Rule

- Impacts designated facilities that treat, store, or dispose hazardous waste (none in Delaware)
- Establishes criteria for how EPA will develop fees for the submission of manifests to EPA's electronic manifest system and how designated facilities can submit manifests to the system
- Rule does not set specific fees, only the formula that EPA will utilize to calculate fees



Safe Management of Recalled Airbags

- Impacts entities removing recalled airbags from vehicles and entities transporting or collecting recalled airbags
- Establishes more flexible standards for management of recalled airbags to encourage replacement of the recalled airbags, while still protecting human health and the environment
 - Identifies that recalled airbags are not a solid waste until received at a collection facility
 - This allows automobile repair facilities to replace the recalled airbags without becoming subject to full hazardous waste regulation
 - Ensures the recalled airbags are ultimately managed properly



Management Standards for Hazardous Waste Pharmaceuticals and Amendment to P075 Listing for Nicotine

- Impacts entities generating hazardous waste pharmaceuticals or over-the-counter nicotine replacement therapies
- Establishes a separate set of standards for the management of hazardous waste pharmaceuticals with the intent to make compliance more straightforward
- Removes over-the-counter nicotine replacement therapies (e.g., gums, patches) from the P075 hazardous waste listing



Management Standards for Hazardous Waste Pharmaceuticals and Amendment to P075 Listing for Nicotine – Key Provisions

- Creates Part 262, Subpart P to address hazardous waste pharmaceuticals, including electronic cigarettes, vaping pens, and pre-filled cartridges/vials for electronic nicotine delivery systems
- Hazardous waste pharmaceuticals do not count toward the site's generator status
- Hazardous waste pharmaceuticals that can potentially receive credit from the manufacturer upon return can be sent to a reverse distributor for evaluation, rather than to a permitted treatment, storage, or disposal facility



Management Standards for Hazardous Waste Pharmaceuticals and Amendment to P075 Listing for Nicotine – Key Provisions

- Establishes standards for reverse distribution and reverse logistics
 - Non-creditable hazardous waste pharmaceuticals (e.g., broken, dispensed, expired, floor sweepings, contaminated PPE, etc.) – must be sent to a hazardous waste treatment, storage, or disposal facility
 - Potentially creditable hazardous waste pharmaceuticals – can be sent to a reverse distributor to be evaluated for potential manufacturer’s credit
 - Evaluated hazardous waste pharmaceuticals – once evaluated at a reverse distributor, must be sent to a hazardous waste treatment, storage, or disposal facility



Management Standards for Hazardous Waste Pharmaceuticals and Amendment to P075 Listing for Nicotine – Key Provisions

- Establishes a prohibition on sewerage hazardous waste pharmaceuticals (e.g., flushing down the drain)
 - Prohibition does not apply to households
- Over-the-counter nicotine replacement therapies (e.g., patches, gums, lozenges) no longer meet the P075 hazardous waste listing



Increasing Recycling: Adding Aerosol Cans to the Universal Waste Rule

- Impacts entities generating spent hazardous waste aerosol cans
- Allows for the management of spent aerosol cans under the reduced universal waste requirements rather than under full hazardous waste regulation
 - Hazardous waste manifest not required
 - Accumulation time increases to 1 year



Corrections

- Three corrections to the draft regulations as published in the Delaware Register of Regulations, Volume 24, Issue 2
- Identified in Exhibit 7



Corrections

- Table 1 to Section 262.13 – Generator Category Determination

Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
≥ 1 kilogram <u>> 1 kilogram</u>	Any amount	Any amount	Large quantity generator.
Any amount	≥ 1,000 kilograms	Any amount	Large quantity generator.
Any amount	Any amount	> 100 kilograms	Large quantity generator.
< 1 kilogram <u>≤ 1 kilogram</u>	> 100 kilograms and < 1,000 kilograms	≤ 100 kilograms	Small quantity generator.
< 1 kilogram <u>≤ 1 kilogram</u>	≤ 100 kilograms	≤ 100 kilograms	Very small quantity generator.



Corrections

- 262.41 Annual Reporting for Large Quantity Generators

(a) A generator who is a large quantity generator for at least one month of a year who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit to the Secretary EPA Form 8700-13 A/B or a form approved by the Secretary by March 1 of the following year and must cover all generator activities during the previous year.

~~[(b) A generator who is a very small quantity generator that accumulated at any time during the year greater than 1 kilogram (~2.2 pounds) of acute hazardous waste or 100 kilograms (~220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §§261.31 or 261.33(e) of these regulations must complete and submit to the Secretary EPA Form 8700-13A/B or a form approved by the Secretary by March 1 of the following year and must cover all generator activities during the previous year.]~~

[(c) (b)] Any generator who is a large quantity generator for at least one month of a year who treats, stores, or disposes of hazardous waste on site must complete and submit to the Secretary EPA Form 8700-13 A/B or a form approved by the Secretary by March 1 of the following year covering those wastes in accordance with the provisions of Parts 264, 265, 266, 267 and 122 of these regulations. This requirement also applies to large quantity generators that receive hazardous waste from very small quantity generators pursuant to §262.17(f).

[(d) (c)] Exports of hazardous waste to foreign countries are not required to be reported on the Annual Report form. A separate annual report requirement is set forth at §262.83(g) for hazardous waste exporters.



Corrections

- 264.71(a)(1) – “Operator’s” not underlined as new language

Section 264.71 Use of manifest system.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the ~~owner or operator~~, owner, operator, or ~~his/her~~ the owner or operator’s agent, must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

Section 264.71 Use of manifest system.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or the owner or operator’s agent, must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.





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Thank you for joining us. We will accept comments on this matter through September 11, 2020.

Comments may be submitted in writing

via [DNREC Comment form](https://dnrec.alpha.delaware.gov/public-hearings/comment-form/) - <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>

via [email](mailto:DNRECHearingComments@delaware.gov)- DNRECHearingComments@delaware.gov

or by USPS mail:

Theresa Newman, Hearing Officer

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The full, verbatim transcript will be posted as it becomes available.

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