DELAWARE DEPARTMENT OF
NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

391 Lukens Drive
New Castle, DE 19720
302-395-2500
dnrec.delaware.gov

MEMO

Subject Supplemental Technical Response Document; Docket #2024-R-WHS0021, 7 DE Admin. Code 1203

Date July 23, 2026

To Theresa Smith, DNREC Hearing Officer
From Eileen Butler, Planner V
Thru Tim Ratsep, Director, Division of Waste and Hazardous Substances

On February 25, 2026, you presided over a virtual public hearing beginning at 6:00 PM. The subject of the public hearing was proposed revisions to the regulations governing the Reporting of a Discharge of a Pollutant or Air Contaminant (7 DE Admin. Code 1203). This is a Department-wide regulation. The Division of Waste and Hazardous Substances has taken the lead to amend the regulation in consultation with the Divisions of Air Quality, Water, and Watershed Stewardship. The responses below reflect the positions of each Division mentioned above.

A Technical Response Memorandum (TRM), dated June 4, 2026, was prepared in response to public comment received on March 12, 2026. However, the original TRM did not address proposed changes expressed in the Start Action Notice (SAN) but not proposed in the amendments put forth by the Department at the hearing. Although proposed amendments in the initial Registrar publication accurately reflected the regulatory changes that were presented at the hearing, the TRM did not specifically address the rationale for retaining the federal chemicals in the Department's list of chemicals, substances, and hazardous waste outlined within the regulation;

which was outlined as the intent in the SAN. For that issue, this supplemental TRM has been prepared to provide additional clarification.

The SAN was signed in January, 2025. The thought of the author of the SAN was to point the regulated community to the EPA List of Lists for those substances listed on Table A that did not accompany a "DE" designation. Specifically, the SAN stated:

> "Amending the table in DE Admin. Code 1203 by removing federal chemicals and associated reportable quantities and pointing the regulated community to the EPA List of Lists that will provide a current list of chemicals and reportable quantities is more efficient and will result in a more effective regulation. Additionally, requiring the Department to review Delaware specific chemicals and reportable quantities is appropriate to account for any regulatory or programmatic changes within the Department."

The Divisions within the Department began to discuss proposed amendments to Admin. Code 1203, and when conversation focused on the EPA List of Lists, both the Divisions of Water and Air Quality expressed concerns. There are many lists the EPA provides, each offering different amounts of reportable quantities for a specific chemical, with each list expressing those quantities in different measurements.

It was determined that the Department would maintain better regulatory control by publishing its own list, as had been the case since the inception of the regulation, by not pointing the regulated community to the EPA List of Lists; rather, to continue to provide a static table that would be reviewed by the Department on a self-imposed annual basis. Continued review by appropriate Department programs will allow for the Department to be responsive to federal changes, if the Department finds those changes to be warranted.

Simply put, what was described in the SAN as a primary reason for amending the regulation, although not the only reason, was reviewed and

researched internally and determined to not be in the best interest of the Department.