

List of errors/issues found within the December 1, 2025 Delaware Register of Regulations



§2.3.1

The word “of” was inserted instead of the word “or”

2.3.1 Disposal or land application on a farm of the agricultural wastes that are generated on the farm or result from the operation of the farm. Agricultural wastes disposed of land applied on the farm where the waste was generated. The disposal or land application must be conducted in a manner that is in compliance with all federal, state, and local regulatory requirements and that does not threaten human health or the environment.

The citation should read:

“...wastes disposed or land applied on the farm...”



§2.4.1.2

The existing word “system” was omitted from the citation

2.4.1.2 Facilities currently operating under a permit which does not require a liner and/or or a leachate detection , or both, will not be required to install a liner or leachate detection system in closed or currently active areas for the purpose of coming into compliance with these regulations.this regulation.

The citation should read:

“...a leachate detection system, or both, will not be required...”



§3.0

The identifying phrase for the “100-Year flood” definition was omitted

3.0 Definitions

The following words, phrases, and terms as used in these regulations this regulation have the meanings given below:
means a flood that has a one-percent 1.0% or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

The definition should read:

“100-Year Flood” “100-Year flood” means a flood that has a...”



§3.0

The duplicate instance of “Gross” in the definition title needs to be deleted

~~“Gross Vehicle Weight Rating (GVWR)” or gross vehicle weight, “Gross vehicle weight rating” or “Gross vehicle weight” or “GVWR” means the value specified by the manufacturer as the loaded weight of a single vehicle.~~

The definition should read:

“Gross Vehicle Weight Rating (GVWR)” or gross vehicle weight, “Gross vehicle weight rating” or “Gross vehicle weight” or “GVWR” means the value specified by...”



§3.0

The definitions for “Paper bag” and “Passenger tire equivalent” appear as a single entry when it should be 2 entries

“Paper bag” means a bag provided at check-out made of paper that meets all of the following requirements:
a. Is one hundred percent (100%) recyclable and contains a minimum of forty percent (40%) postconsumer recycled material;
b. Is accepted for recycling;
c. Has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used;
d. Displays the word “Recyclable” and “Reusable” in a highly visible manner on the outside of the bag;
and
e. Does not contain plastic lining or plastic handles.
“Passenger Tire Equivalent” or **“PTE’s”** means a conversion measurement using the assumption that one 1 passenger car tire is equal to 25 pounds. A tire weighing more than 25 pounds shall be evaluated by dividing its total weight by 25 pounds to equal the number of PTEs.



§3.0

The definitions for “Plastic carryout bag” and “Post-closure care” appear as a single entry when it should be 2 entries

“Plastic carryout bag” means a plastic carryout bag provided by a store to a customer at the point of sale made from plastic and not specifically designed and manufactured to be reusable. **“Post-Closure Care”** means maintenance and long-term monitoring of, and financial responsibility for, a closed facility.



§3.0

The definitions for “Retail space”, “Reusable bag”, and “Rubbish” appear as a single entry when it should be 3 entries

“Retail space” means total space within a store, leased or owned, for the purposes of promoting, selling, or distributing goods and services to consumers. **“Reusable bag”** means a fabric or plastic carryout bag which meets all of the following requirements:
a. Is either a bag made of cloth or other fabric that has handles or is a durable plastic bag with handles that is at least 2.25 mils thick;
b. Is designed and manufactured to be used for at least 125 uses;
c. Has a volume capacity of at least 4 gallons (equivalent to 15 liters or 924 cubic inches);
d. Is machine washable or made from a material that can be cleaned and disinfected;
e. Has a tag or label attached to or printed on the bag with content information. Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration;
f. Complies with 16 C.F.R. §260.12 related to recyclable claims if the reusable bag producer makes a claim that the reusable grocery bag is recyclable; and
g. A reusable bag made from plastic film shall also meet the following requirements: it shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick, in addition to those specified in 7 Del.C. Ch. 60 Subchapter IX, Recycling and Waste Reduction. **“Rubbish”** means any nonputrescible solid waste, excluding ashes, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubber, leather, crockery, and other waste materials.



§3.0

The definitions for “Storage” and “Store” appear as a single entry when it should be 2 entries

“Storage” means the holding of solid waste for a temporary period, at the end of which time the solid waste is treated, disposed of, or stored elsewhere. **“Store”** means an entity in Delaware, with a business license issued by the Delaware Department of Finance, Division of Revenue, whose business activity includes the category “Retailer” and operates a physical location within Delaware consisting of a single location that has at least 7,000 square feet of retail space or three (3) or more locations each having at least 3,000 square feet of retail space. Stores that carry multiple business activity licenses are bound by this regulation; stores that carry a single business activity license of “Retailer—Restaurant” are exempt from these regulations.



§3.0

“State” within the definition needs to be plural to mirror the official title of the United States Composting Council entity

“TMECC” means the “Test Methods for the Examination of Composting and Compost” published by the United State Composting Council and last updated in 2015.

The definition should read:

“...published by the United States Composting Council and last...”



§4.1.1.2

The existing text of “subsection 7.2 or 7.3” was omitted when updating the internal reference

4.1.1.2 ~~or this regulation~~ without first having obtained a permit from the Department.
No person that is subject to the requirements of ~~of these regulations~~Section 7.0 of this regulation shall transport solid waste in or through the State of Delaware without first having obtained an appropriate solid waste transporter's permit from the Department.

The citation should read:

“...subject to the requirements of ~~subsection 7.2 or 7.3 of these regulations~~Section 7.0 of this regulation shall transport solid...”



§4.1.10

The undesignated paragraph should be merged with §4.1.10

~~7 Del.C. Ch. 60, §36000, 3610, 3610, and 3620(3).~~
4.1.10 Replacement of Contaminated Water Supplies

If the Department determines, based on information obtained by or submitted to the Department or the Division of Public Health, that any drinking water supply well has become contaminated as a result of the construction or operation of a solid waste facility, the owner or operator of the facility will be required to construct and maintain, at ~~his or her~~the owner or operator's expense, a permanent alternative water supply of comparable quantity and quality to the source before it was contaminated. ~~Such a~~The determination will be subject to the review procedures contained in 7 Del.C. Ch. 60.

The citation should read:

“4.1.10 Replacement of Contaminated Water ~~Supplies~~Supplies. If the Department determines, based on information obtained...”



§4.4.1

Proposed deletion of existing §4.4.1 and all subsections appear as a single paragraph when it should be independently designated citations

4.4.1 Unless otherwise specified within this regulation, the following application procedures apply to all submissions received after **[INSERT 21 DAYS AFTER PUBLICATION AS FINAL IN STATE REGISTER]**. The Department may, at its discretion, afford permit applications under review prior to **[INSERT DATE 21 DAYS AFTER PUBLICATION AS FINAL IN STATE REGISTER]** the ability to continue the submission process under regulations in place at the time of the initial submission. 4.4.1 Application Any person desiring to construct or operate a resource recovery facility must submit a letter of intent to the Department. The letter should indicate the projected design and usage of the proposed facility. The letter of intent shall be followed by the submission, by the applicant, of the following additional information: 4.4.1.1 A Solid Waste Management Facility Application, provided by the Department. All information provided by the applicant is certified to be true, accurate, and complete by the applicant's signature on the provided application. 4.4.1.2 Proof of ownership of the property. If the applicant does not own the property, a copy of the lease agreement and the owner's permission to conduct the proposed activity on the property must also be submitted. 4.4.1.3 A plan of operation. This shall include the following: 4.4.1.3.1 A narrative description of the type of facility and of the solid waste handling and disposal procedures to be used. 4.4.1.3.2 A narrative explaining the methods and schedule for operation, modification, use, and maintenance of the various components of the facility. This shall include a description of the procedures for facility start up and for scheduled and unscheduled shut down operations. 4.4.1.3.3 A description of the solid wastes that will be accepted at the facility, the manner in which recyclable components will be removed from the solid waste stream, the markets for these recyclable materials, and the proposed disposition of the nonrecyclable components and residuals. 4.4.1.3.4 A description of the proposed monitoring methods. 4.4.1.3.5 A description of the measures that will be used to ensure that unauthorized and unwanted solid wastes are prevented from entering the facility. 4.4.1.3.6 A description of the personnel training program, including training that will be provided to ensure compliance with subsections 9.4.2.5 and 9.4.2.7 of these regulations. 4.4.1.3.7 A description of the proposed methods for controlling noise, litter, odors, insects, rodents, dust, fires, and explosions. 4.4.1.3.8 A detailed contingency plan to be implemented in case of an emergency such as a spill, accident, or explosion. 4.4.1.4 An engineering report. This report shall be prepared and signed by a Professional Engineer registered in Delaware and shall include the following: 4.4.1.4.1 A drawing or drawings showing the complete layout of the proposed facility. 4.4.1.4.2 Mass and energy balances, including calculations and pertinent facts relating to the development of these balances. 4.4.1.4.3 Descriptions and specifications of all proposed design

§4.4.4 (formerly §4.4.3)

Proposed deletion of existing §4.4.3 and all subsections appear as a single paragraph when it should be independently designated citations

~~4.4.3~~~~4.4.4~~ ~~Closure.~~~~Closure~~ Any person desiring to close a resource recovery facility shall, at least 180 days before the date on which the facility will stop accepting solid waste, submit the following to the Department:
~~4.4.3.1~~ ~~Written notification of intent to close.~~ ~~4.4.3.2~~ ~~Updated closure plan.~~ ~~4.4.3.3~~
~~4.4.3.4~~ ~~Closure schedule.~~ ~~4.4.3.4~~ An evaluation of the impact that closing the facility will have on the flow of solid waste in the region serviced by the facility, and a plan for minimizing any disruption in the flow. If the Department approves the closure plan and closure schedule, it will modify the facility's permit to allow closure to take place.



§5.2.1

The undesignated paragraph should be merged with §5.2.1

5.2.1 General provisions.

Sanitary landfills shall be planned and designed by a Professional Engineer ~~registered~~licensed in Delaware. Planning and design of these facilities shall be consistent with the declared purpose and ~~intent~~intent, and in accordance with ~~with~~ the provisions of ~~this regulation~~this regulation and based on empirically derived data and state of the art technology.

The citation should read:

“5.2.1 General provisions. Sanitary landfill shall be planned and designed by a Professional Engineer...”



§5.3.2.2.3

The existing undesigned list within §5.3.2.2.3 (proposed for deletion) appears as a single undesigned paragraph; the proposed list with new designations appears correctly directly after it

5.3.2.2.3

~~active and throughout the post-construction care period of the facility.~~
The material proposed for use shall be tested by ASTM or equivalent methods and all data shall be submitted to the Department prior to construction. Material shall be tested for the following:

~~Grain sizeClassificationCompactionSpecific gravityHydraulic conductivityPorositypHcation exchange capacityPinhole test (if required)Mineralogy (if required)All data shall be submitted to the Department prior to construction.~~



§5.3.2.3.1.4

The undesignated paragraph should be merged with
§5.3.2.3.1.4

5.3.2.3.1.4 requirements of subsection
The drainage layer separating the two 2 liners shall consist of at least 12 inches of soil having a hydraulic conductivity greater than 1×10^2 cm/sec based on laboratory and field testing.

Alternate material may be used for the drainage layer with prior written approval of the Department.

The citation should read:

“...based on laboratory and field testing. Alternate material may be used for the drainage layer...”



§5.3.3.1.9

The existing numerical citation of “5.3.2.1.2” was omitted from the end of the citation

5.3.3.1.9 The synthetic membrane must be underlain by a secondary liner as described in subsection 5.3.2.1.2
5.3.3.2 Construction of natural liner
5.3.3.2.1 All lenses, cracks, channels, root holes, or other structural ~~non-uniformities~~nonuniformities

The citation should read:

“5.3.3.1.9 The synthetic membrane must be underlain by a secondary liner as described in subsection 5.3.2.1.2.”



§5.4.2.2.1

The undesignated paragraph should be merged with §5.4.2.2.1

5.4.2.2.1 The leachate collection system shall be installed immediately above an impermeable liner and at the bottom of a drainage layer. The drainage layer shall be at least 12 inches thick with a hydraulic conductivity not less than 1×10^{-2} cm/sec and a minimum controlling slope of two (2) percent.2%.

Alternate materials may be used for the drainage layer with prior written approval of the Department.

The citation should read:

“...and a minimum controlling slope of two (2) percent.2%.

Alternate material may be used for the drainage layer...”



§5.4.2.3.2

The undesignated paragraph should be merged with §5.4.2.3.2

5.4.2.3.2 Inspections shall be conducted weekly to verify proper functioning of the leachate collection system and to detect the presence of leachate in the removal sump.
The owner or operator shall keep records on the system to provide sufficient information that the leachate collection system is functional and operating properly. The amount of leachate collected from each cell shall be recorded on a weekly basis.

The citation should read:

“...of leachate in the removal sump. The owner or operator shall keep records on the system...”



§5.6.2.2.3

Proposed deletion of existing §5.6.3 and all subsections appear as a single paragraph associated with §5.6.2.2.3 when it should be independently designated citations

~~5.6.2.2.3 Any other control systems approved by the Department. 5.6.3 Channeling of runoff. 5.6.3.1 Runoff from the active areas within the active cell(s) must be channeled to the leachate treatment and disposal system. 5.6.3.2 Runoff from the unused portion of the active cell(s) that has not been in contact with waste shall be channeled to the detention basins or other approved sedimentation control devices. 5.6.3.3 Until vegetative cover has been established, runoff from closed cells will be directed to the detention basins or other approved sedimentation control devices. 5.6.4 Discharge. Discharge from the detention basins shall be in compliance with all applicable federal and state regulations.~~



§5.9.4.5

The existing reference to “subsection 5.5.3” was omitted

	specified in the Solid Waste permit;Permit;
5.9.4.5	Gas monitoring data as required in and as specified in the Solid Waste permit;Permit;
5.9.4.6	An updated estimate of the cost of closure and postclosure post-closure care of the facility

The citation should read:

“5.9.4.5 Gas monitoring data as required in subsection 5.5.3,
and as specified within the Solid Waste ~~permit;Permit;~~”



§5.10.4.8

Proposed deletion for existing §5.10.4.8 and §5.11;

Proposed §§5.10.4.8 and 5.10.4.9 were inserted after the existing §5.11 (proposed deletion) instead of before it within §5.10;

Existing §5.11 (proposed deletion) appears as a single paragraph when it should be independently designated citations

5.10.4.8 Facilities entering the post-closure period will be issued a post-closure permit based upon the approved post-closure plan, monitoring requirements, gas and leachate control, maintenance, and corrective actions (if required).

5.11 Postclosure Care 5.11.1 General 5.11.1.1 The owner or operator of a sanitary landfill must continue postclosure care for 30 years after the completion of closure. 5.11.1.2 At any time during the postclosure care period the Department may remove one or more of the postclosure care requirements described in subsection 5.11.2 below if it determines that the requirement(s) is/are no longer necessary for the protection of human health and the environment. 5.11.1.3 At any time after the first five years of the postclosure care period, the Department may reduce the length of the postclosure care period or terminate postclosure care if it determines that such care is no longer necessary. 5.11.1.4 Prior to the time that the postclosure care period is due to expire, the Department may extend the postclosure care period if it determines that the extended period is necessary to protect human health and the environment. 5.11.1.5 If at any time during the postclosure care period there is evidence of a contaminant release from the landfill that presents a significant threat to human health or the environment, action to mitigate the threat will be required of the owner or operator of the facility. 5.11.2 Minimum postclosure care requirements. Postclosure care shall be in accordance with the post-closure permit and must consist of at least the following: 5.11.2.1 Maintaining the integrity and effectiveness of the capping system, including making repairs as necessary to correct the effects of settling, subsidence, erosion, or other events, and preventing runoff and runoff from eroding or otherwise damaging the cap. 5.11.2.2 Reseeding the cover if insufficient vegetation exists to stabilize the surface. 5.11.2.3 Maintaining and operating the leachate collection and treatment systems until the Department determines that the leachate no longer poses a threat to human health or the environment. The permittee shall submit leachate quantity and quality data to the Department for these parameters and at such frequencies as specified by the Department. 5.11.2.4 Maintaining and operating the ground water monitoring system in accordance with subsection 5.7. The permittee shall submit ground water quality data as specified by the Department. 5.11.2.5 Maintaining and monitoring the gas control and/or recovery system in accordance with subsection 5.5 and the closure plan. The permittee shall submit gas data as specified by the Department. 5.11.2.6 Maintaining and monitoring the surface water management system in accordance with subsection 5.6.5.11.3 Prohibitions 5.11.3.1 Standing water shall not be allowed on the closed landfill. 5.11.3.2 Open burning shall not be allowed on the closed landfill. 5.11.3.3 Unless approved in advance by the Department, no activity shall be conducted on a closed landfill. 5.11.3.4 Access to the closed landfill shall be limited to those persons who are engaging in activities which are compatible with the intended postclosure use of the site. 5.11.4 Postclosure land use. The owner or operator shall implement the postclosure land use plan approved by the Department. 5.11.5 Notice in Deed to Property 5.11.5.1 The owner of the property on which a sanitary landfill is located must record an environmental covenant, per Delaware Code Title 7, Chapter 79, Subchapter II, with the deed to the facility property that will in perpetuity notify any potential purchaser of the property. 5.11.5.1.1 The land has been used as a solid waste disposal site, and 5.11.5.1.2 The use of the land is restricted under this regulation. 5.11.5.2 Included with the notation shall be a map or description clearly specifying the area that was used for disposal. 5.10.4.9 A facility with a cell or portion of the landfill entering the interim-closure period will be issued a modified permit based upon the approved closure plan, monitoring requirements, gas and leachate control, maintenance, and any required corrective actions. 5.10.4.9 A facility entering the post-closure period will be issued a post-closure permit based upon the approved post-closure plan, monitoring requirements, gas and leachate control, maintenance, and any required corrective actions.

§6.1.2

The existing reference to “subsection 6.2” was omitted

6.1.2 All industrial landfill facilities shall be constructed to at least minimum design requirements as contained in More stringent designs will be required where deemed necessary by the Department for the protection of groundwater resources.

The citation should read:

“...design requirements as contained in subsection 6.2. More stringent designs will be required where...”

