



STATE OF DELAWARE

**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

OFFICE OF THE
SECRETARY

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §§ 6005(b)(2) and (b)(3)

Order No. 2025-WH-0023

Via Certified Mail, Return Receipt

Via Personal
Service

Issued To:

Michelle DiTeodoro
Director of Administrative Services
ENT and Allergy of Delaware, LLC
Iron Hill Corporate Center
700 Prides Crossing
Suite 200
Newark, DE 19713

Registered Agent:

The Corporation Trust
Corporation Trust
Center
1209 Orange Street
Wilmington, DE 19801

Dear Ms. DiTeodoro:

The Secretary¹ of the Department of Natural Resources and Environmental Control ("Department") has found ENT and Allergy of Delaware, LLC ("Respondent" or "ENT and Allergy") in violation of 7 Del. C.

Chapter 60 and 7 Del. Admin. Code § 1301, Delaware's "Regulations Governing Solid Waste" ("DRGSW"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order, pursuant to 7 Del. C. § 6005.

BACKGROUND

Respondent has notified the Department that it is a Large Quantity Generator² (LQG) of infectious waste at three locations in Delaware. The first notification was on June 6, 2013, when Respondent informed the Department about its operations at 1401 Foulk Road, Suite 205, Wilmington, DE 19803 and was issued the infectious waste generator identification number DE-IWG-2642. Next, on September 10, 2019, Respondent notified the Department about its facility located at 306 East Main Street, Middletown, DE 19709 and received the infectious waste generator identification number DE-IWG-3289. Finally, on January 20, 2021, Respondent informed the Department about its facility located at 700 Prides Crossing, Suite 200, Newark, DE 19713 and was issued the infectious waste generator identification number DE-IWG-3392.

On January 8, 2025, the Department sent its yearly reminder email to Respondent, notifying Respondent that, as an LQG of infectious waste, each of its notified locations is subject to the regulations of DRGSW Section 11.0,

¹ The head of the Delaware Department of Natural Resources and Environmental Control as appointed by the Governor.

² "**Large Quantity Generator**" means generators of infectious waste who generate 50 pounds or more of infectious waste per month.

Special Waste Management, Part 1 – Infectious Waste. In said email, the Department reminded Respondent of the annual reporting requirements for infectious waste generators pursuant to DRGSW Section 11.17.3. According to these requirements, LQGs of infectious waste must submit an Infectious Waste Generator Annual Report each and every year, and Respondent's reports were due for the 2024 calendar year. A copy of the annual report form was included in the January 8, 2025 email. The email stated that a completed form was to be submitted to the Department for each LQG location within ninety (90) days after the end of the calendar year, setting the deadline of April 1, 2025.

After the initial distribution of the January 8, 2025, email, the Department sent follow-up email reminders to Respondent about the upcoming reporting deadline. These reminder emails were sent on March 6, March 19, and March 31, 2025. Each email included the Infectious Waste Generator Annual Report form for the 2024 calendar year. None of the emails was returned to the Department as undeliverable. However, Respondent failed to submit a completed Infectious Waste Generator Annual Report for any of the three facilities by the April 1, 2025 deadline.

On May 5, 2025, a Department representative telephoned Respondent. The Department representative spoke with one of Respondent's employees and explained that they were calling to inform Respondent that three Infectious Waste Generator Annual Reports were

overdue. The employee advised, after being provided with the Department's contact information, that the message would be passed on to the appropriate person. Despite being personally contacted by the Department by telephone and being sent five (5) reminder emails, Respondent never contacted the Department nor submitted the required Infectious Waste Generator Annual Reports.

On May 27, 2025, the Department notified Respondent of its annual reporting violation by issuing a Notice of Violation ("NOV") to each of the three facilities. Each NOV included the Infectious Waste Generator Annual Report form along with Department contact information, should Respondent have any questions.

NOV No. 25-SW-11, issued to the Foulk Road facility in Wilmington, was received by the Respondent on June 3, 2025. NOV No. 25-SW-14, issued to the Pride Crossing facility in Newark, was received by the Respondent on June 2, 2025. The third NOV, No. 25-SW-12, issued to the facility on East Main Street in Middletown, did not have a recorded delivery date by the United States Postal Service; however, the NOV was not returned to the Department as undeliverable.

Each NOV identified one (1) violation of DRGSW and required Respondent to immediately comply with the cited requirement by submitting a completed Infectious Waste Generator Annual Report for the 2024

calendar year within ten (10) days of receipt of the NOV. Respondent neither contacted the Department nor submitted the required Infectious Waste Generator Annual Reports.

On July 2, July 15, and August 11, 2025, a representative from the Department contacted Respondent by telephone to address Respondent's lack of response to the NOVs and the failure to submit the required Infectious Waste Generator Annual Reports. During these calls, the Department representative spoke with an employee of Respondent, explaining the purpose of the calls and emphasizing the need to submit the annual reports. Each time, Respondent's employee assured the Department representative that the message would be relayed to the responsible person.

Additionally, on August 11, 2025, the Department representative requested to speak directly with a staff member who could assist with the matter. Respondent's representative indicated that they would provide this message to the employee's director. The employee was given the Department's contact information for further communication.

To date, Respondent has neither submitted the required Infectious Waste Generator Annual Reports nor contacted the Department.

FINDINGS OF FACT AND VIOLATIONS INCLUDING STATUTORY AND REGULATORY REQUIREMENTS

1. Section 11.17.3 of 7 Del. Admin. Code § 1301, DRGSW provides:

“Each generator of infectious waste shall submit an annual report on a form provided by the Department, summarizing the information from all manifests completed during the preceding calendar year. This report shall be submitted to the Department within ninety days after the end of the calendar year....”

Respondent failed to submit an Infectious Waste Annual Report for the 2024 calendar year by the April 1, 2025 deadline for each of the three sites identified by infectious waste generator identification numbers DE-IWG-2642, DE-IWG-3289, and DE-IWG-3392. Failure to timely submit an Infectious Waste Annual Report is a violation of DRGSW Section 11.17.3.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent has violated and continues to violate the above-cited regulatory provision, despite the Department's multiple efforts to notify Respondent of its regulatory obligation and to assist Respondent in achieving compliance.

SECRETARY'S ORDER

As Respondent has failed to comply with the requirement cited in the May 27, 2025, Notices of Violation (Numbers 25-SW-11, 25-SW-12, and

25-SW-14), the Department requires Respondent to demonstrate compliance with the applicable law to resolve the outstanding violation. Therefore, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C.* § 6005(b)(2), that Respondent shall achieve compliance by undertaking the following actions:

In a manner in full compliance with all applicable laws and regulatory requirements, Respondent shall submit a completed Infectious Waste Generator Annual Report form for the 2024 calendar year within thirty (30) days for each of the three locations identified as follows:

DE-IWG-2642 - 1401 Foulk Road, Suite 203, Wilmington, Delaware 19803

DE-IWG-3289 - 306 East Main Street, Middletown, Delaware 19709

DE-IWG-3392 - 700 Prides Crossing, Newark, Delaware 19713

The annual report form is provided.

Submit all documentation and correspondence to:

Jared Weiss
Department of Natural Resources and Environmental Control
Division of Waste and Hazardous Substances
Compliance and Permitting Section
89 Kings Highway
Dover, Delaware 19901
Jared.Weiss@delaware.gov
(302) 739-5060 (fax)

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Secretary's Order. This Secretary's Order is written notice to Respondent that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Secretary's Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from the violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:

This Secretary's Order identifies and describes one (1) regulatory violation. Failing to ensure compliance with the statutory and regulatory requirements for infectious waste, including failing to submit the required reports despite repeated email and telephone reminders and the issuance of a Notice of Violation to three of Respondent's facilities, deviates from the regulatory requirement cited herein.

2. Respondent's Ability to Pay:

The record contains no information that the Respondent lacks the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

While Respondent incurred the same violation of DRGSW in 2015 at its 1401 Foulk Road, Suite 205, Wilmington 19803, facility, this was not a factor in the administrative penalty assessment.

4. Degree of Culpability:

The degree of culpability is significant. Had Respondent addressed the requirement upon receipt of the provided NOV or responded to any of the Department's emails or telephone calls, the violation would have been resolved.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the record contains no information that Respondent incurred any meaningful economic benefit from these violations, and thus this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violation cited herein and calculated to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C.* § 6005(b)(3), this is written notice to Respondent that on the basis of its findings, the Department is assessing the Respondent an administrative penalty of \$2,000.00 for the violations identified in this Secretary's Order.

Respondent shall submit one check to the Department in the amount of \$2,000.00 to pay the administrative penalty within 30 days from the receipt of this Secretary's Order. The check shall be made payable to the "State of Delaware" and shall be directed to Leslie Reese, 89 Kings Hwy SW, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Secretary's Order. Respondent may also, pursuant to 7 *Del. C.* § 6005(b)(3), request a public hearing on the Secretary's Order within **30 days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C.* § 6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to 7 *Del. C.* §§ 6005(b)(3) and (c).

To request a public hearing pursuant to 7 Del. C. § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 Del. C. § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. C. § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by

Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 *Del. C.* § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* § 6005(c)(1)).

The Department is not seeking costs from Respondent in this Secretary's Order. Please be advised, however, this is not a waiver of the Department's right to cost recover for past costs. Further, additional costs, for which you may be liable, may accrue through the exhaustion of Respondent's appeal rights. The Department reserves the right to issue a detailed billing statement of all costs incurred and seek recovery of that amount.

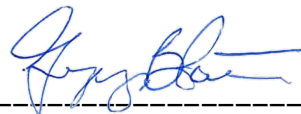
PAYMENT

If Respondent does not wish to exercise its legal rights to a hearing or appeal, Respondent may pay the administrative penalty of \$2,000.00 prior to the end of the appeal period, in the manner described in the attached **"Waiver of Statutory Right to A Hearing."** By doing so, Respondent waives the right to a hearing and the opportunity to appeal or contest this Secretary's Order.

If you have any questions, please contact or have your attorney contact Travis Groski, Esq., Deputy Attorney General, at (302) 395-2600 or Travis.Groski@delaware.gov.

September 21, 2025

Date



Gregory Patterson
Secretary
Delaware Department of Natural
Resources and Environmental
Control

ENT and Allergy of Delaware, LLC

Notice of Administrative Penalty Assessment and Secretary's Order

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cc: Timothy Ratsep, Division Director

Travis Groski, Esq., Deputy Attorney General

WAIVER OF STATUTORY RIGHT TO A HEARING

ENT and Allergy of Delaware, LLC hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

1. **ENT and Allergy of Delaware, LLC** will pay the administrative penalty in the amount of \$2,000.00 by sending a check payable to the State of Delaware within 30 days of receipt of this Secretary's Order. The check shall be directed to Leslie Reese, 89 Kings Hwy SW, Dover, Delaware 19901.

ENT and Allergy of Delaware, LLC

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)