



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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DOVER, DELAWARE 19901

PHONE: (302) 739-9000
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Secretary's Order No.: **2012-WH-0047**

RE: Approving Amendments to the
Delaware Regulations Governing Hazardous Waste,
7 DE Admin. Code 1302

Date of Issuance: December 13, 2012

Effective Date of the Amendment: January 21, 2013

I. Background:

A public hearing was held on Thursday, October 25, 2012, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the *Delaware Regulations Governing Hazardous Waste* (hereinafter referred to as "RGHW"). The State of Delaware is authorized by the U.S. Environmental Protection Agency (hereinafter referred to as "EPA") to administer federal authority as part of its State hazardous waste management program. In order for Delaware to maintain its program delegation and authority, EPA requires Delaware to maintain a program that is equivalent and no less stringent than the federal program. To accomplish this, the State is proposing to adopt mandated federal regulations and miscellaneous changes to correct errors and add consistency or clarification. Some of the changes DNREC is proposing to make are currently in effect at the federal level.

The Department is proposing amendments to the following sections of its existing *Regulations Governing Hazardous Waste*: (1) Adoption of Federal Revision to Land

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Disposal Restrictions (“LDR”) for Carbamate Wastes; (2) Adoption of Federal Technical Corrections as set forth in the Federal Register/Vol. 77, No. 72/Friday, April 13, 2012/22229; (3) Modification to Small Quantity Generators (“SQG”) Accumulation Requirements for Ignitable/Reactive Wastes; (4) Clarification of Labeling Requirements for Small and Large Quantity Generators under Satellite Accumulation Rules, and for Conditionally Exempt Small Quantity Generators (note: this proposal does not affect labeling requirements in 90/180 day accumulation areas); (5) Addition of Secondary Containment to Container Accumulation Requirements found in §265 Subpart I – *Use and Management of Containers*; (6) Strengthen Tank Management Standards for SQG in §265 Subpart J – *Tanks*; (7) Addition of Tank Closure Standards for Generators in §265 Subpart J – *Tanks*; and (8) Correction of DRGHW §261.4(e)(2)(iii)(B)(1) by removing typographical error.

In an attempt to fully vet the Department’s proposed amendments to the aforementioned RGHW to the regulated community throughout Delaware, a letter was sent by DNREC to all interested persons on July 25, 2012, encouraging the public to review the proposed amendments on the Department’s web page, and to attend DNREC’s workshop to discuss the same on August 29, 2012. Public comments were received by the Department as a result of that workshop, from both the EPA and from the University of Delaware, and the Department responded fully to those comments in emails dated August 30, 2012 and September 6, 2012, respectively. Accordingly, the Department then held a public hearing on Thursday, October 25, 2012, at which time there were no members of the public in attendance, nor were any comments received from the public or the regulated community at that time regarding these proposed amendments. Pursuant to

Delaware law, the record was held open for an additional fifteen (15) days immediately following the date of the public hearing, in order to give the public further opportunity to provide comment to DNREC concerning this proposed promulgation. At the time the record formally closed on November 9, 2012, no public comments had been received by the Department concerning this matter. Proper notice of the hearing was provided as required by law.

Subsequent to the public hearing held on October 25, 2012, the Department's presiding Hearing Officer, Lisa A. Vest, prepared her report and recommendation in the form of a Hearing Officer's Memorandum to the Secretary dated November 30, 2012, and that Report in its entirety is expressly incorporated herein by reference.

II. Findings:

The Department has provided sound reasoning with regard to the proposed amendments to Delaware's *Regulations Governing Hazardous Waste*, as reflected in the Hearing Officer's Memorandum of November 30, 2012, which is attached hereto and expressly incorporated into this Order in its entirety. Moreover, the following findings and conclusions are entered at this time:

1. The Department has jurisdiction under its statutory authority, 7 Del.C. Chapters 60 and 63, to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
3. The Department held a public hearing in a manner required by the law and regulations;

4. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;
5. Promulgation of these proposed amendments would update Delaware's requirements, where appropriate, to be consistent with the federal requirements, thus bringing Delaware into compliance with EPA standards;
6. The addition of clarifying language, as well as the correction of clerical errors currently found in Delaware's existing regulations, will strengthen and provide better clarity and a fuller understanding of the regulatory language contained within this regulation to the general public and the regulated community;
7. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
8. The Department's proposed regulation, as published in the October 1, 2012 *Delaware Register of Regulations* and set forth within Attachment "A" of the Hearing Officer's Memorandum and attached hereto, is adequately supported, not arbitrary or capricious, and is consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect twenty days after its publication in the next available issue of the *Delaware Register of Regulations*;

9. The Department shall submit the proposed regulation as a final regulation to the Delaware Register of Regulation for publication in its next available issue, and shall provide written notice to the persons affected by the Order.

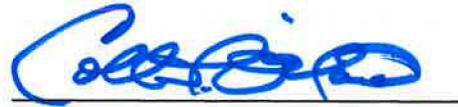
III. Order:

Based on the record developed, as reviewed in the Hearing Officer's Memorandum dated November 30, 2012 and expressly incorporated herein, it is hereby ordered that the proposed amendments to the State of Delaware's *Regulations Governing Hazardous Waste* be promulgated in final form in the customary manner and established rule-making procedure required by law.

IV. Reasons:

The promulgation of the amendments to the State of Delaware's *Regulations Governing Hazardous Waste* will update Delaware's requirements, where appropriate, to be consistent with the federal requirements, thus bringing Delaware into compliance with EPA standards. Again, the State is required to adopt these amendments in order to maintain its hazardous waste program authorization and remain current with the Federal RCRA hazardous waste program. Additionally, those changes being made to provide additional clarifying language, as well as to correct clerical errors currently found in Delaware's existing regulations, will provide better clarity and a fuller understanding of the regulatory language contained within this regulation to the general public and the regulated community.

In developing this regulation, the Department has balanced the absolute environmental need for the State of Delaware to promulgate regulations concerning this matter with the important interests and public concerns surrounding the same, in furtherance of the policy and purposes of 7 Del. C., Chapters 60 and 63.



Collin P. O'Mara
Secretary

MEMORANDUM

TO: The Honorable Collin P. O'Mara
Cabinet Secretary, Dept. of Natural Resources and Environmental Control

FROM: Lisa A. Vest 
Public Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: Proposed Amendments to the *Delaware Regulations Governing Hazardous Waste (2012)*, 7 DE Admin. Code 1302

DATE: November 30, 2012

I. Background:

A public hearing was held on Thursday, October 25, 2012, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the Delaware *Regulations Governing Hazardous Waste* (hereinafter referred to as "RGHW"). The State of Delaware is authorized by the U.S. Environmental Protection Agency (hereinafter referred to as "EPA") to administer federal authority as part of its State hazardous waste management program. In order for Delaware to maintain its program delegation and authority, EPA requires Delaware to maintain a program that is equivalent and no less stringent than the federal program. To accomplish this, the State is proposing to adopt mandated federal regulations and miscellaneous changes to correct errors and add consistency or clarification. Some of the changes DNREC is proposing to make are currently in effect at the federal level.

The Department is proposing amendments to the following sections of its existing *Regulations Governing Hazardous Waste*: (1) Adoption of Federal Revision to Land Disposal Restrictions ("LDR") for Carbamate Wastes; (2) Adoption of Federal

Technical Corrections as set forth in the Federal Register/Vol. 77, No. 72/Friday, April 13, 2012/22229; (3) Modification to Small Quantity Generators (“SQG”) Accumulation Requirements for Ignitable/Reactive Wastes; (4) Clarification of Labeling Requirements for Small and Large Quantity Generators under Satellite Accumulation Rules, and for Conditionally Exempt Small Quantity Generators (note: this proposal does not affect labeling requirements in 90/180 day accumulation areas); (5) Addition of Secondary Containment to Container Accumulation Requirements found in §265 Subpart I – *Use and Management of Containers*; (6) Strengthen Tank Management Standards for SQG in §265 Subpart J – *Tanks*; (7) Addition of Tank Closure Standards for Generators in §265 Subpart J – *Tanks*; and (8) Correction of DRGHW §261.4(e)(2)(iii)(B)(1) by removing typographical error.

In an attempt to fully vet the Department’s proposed amendments to the aforementioned RGHW to the regulated community throughout Delaware, a letter was sent by DNREC to all interested persons on July 25, 2012, encouraging the public to review the proposed amendments on the Department’s web page, and to attend DNREC’s workshop to discuss the same on August 29, 2012. Public comments were received by the Department as a result of that workshop, from both the EPA and from the University of Delaware, and the Department responded fully to those comments in emails dated August 30, 2012 and September 6, 2012, respectively. Accordingly, the Department then held a public hearing on Thursday, October 25, 2012, at which time there were no members of the public in attendance, nor were any comments received from the public or the regulated community at that time regarding these proposed amendments. Pursuant to Delaware law, the record was held open for an additional fifteen (15) days immediately

following the date of the public hearing, in order to give the public further opportunity to provide comment to DNREC concerning this proposed promulgation. At the time the record formally closed on November 9, 2012, no public comments had been received by the Department concerning this matter. Proper notice of the hearing was provided as required by law.

II. Summary of Hearing Record:

At the time of the hearing on October 25, 2012, Bill Davis with the Solid and Hazardous Waste Management Section of the Department's Division of Waste and Hazardous Substances, offered the Department's five (5) exhibits pertaining to these proposed amendments, and this Hearing Officer entered them into the formal hearing record developed in this matter. Included within those Departmental exhibits were copies of the Legal Notices regarding the holding of this public hearing on October 25, 2012, a copy of the notification sent to all interested persons (i.e., the regulated community) on July 25, 2012 concerning this proposed promulgation, copies of both the comments received from the public in this matter and the Department's responses to the same, copies of the actual proposed amendments to Delaware's Regulations Governing Hazardous Waste, and a brief synopsis of the same.

With regard to the actual proposed amendments to Delaware's RGHW, the following is a brief summary of the same:

(1) Adoption of Federal Revision to Land Disposal Restrictions (LDR) for carbamate wastes:

Delaware is proposing to adopt a previously issued Direct Final Rule (Federal Register Volume 76, Number 113 [Monday, June 13, 2011], Pages 34147-34157) from

the EPA to revise the LDR treatment standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. Currently, under the LDR program, most carbamate wastes must meet numeric concentration limits before they can be land disposed. However, the lack of readily available analytical standards makes it difficult to measure whether the numeric LDR concentration limits have been met. Therefore, DNREC is providing as an alternative standard the use of the Best Demonstrated Available Technologies (BDAT) for treating these wastes. In addition, this action removes carbamate Regulated Constituents from the table of Universal Treatment Standards.

(2) Adoption of Federal Technical Corrections as set forth in the Federal Register/Vol. 77, No. 72/Friday, April 13, 2012/22229:

Delaware is adopting both Federal corrections as described in the Federal Register Vol. 77, No. 72/Friday, April 13, 2012/22229. The EPA took final action on two of six technical amendments that were withdrawn in a June 4, 2010 Federal Register partial withdrawal notice. The two amendments that were the subject of the final rule were: (1) a correction of the typographical error in the entry “K107” in a table listing hazardous wastes from specific sources; and (2) a conforming change to alert certain recycling facilities that they have existing certification and notification requirements under the LDR regulations. The other four amendments that were withdrawn in the June 2010 partial withdrawal notice remain withdrawn until EPA determines action is warranted in the future.

(3) Modification to Small Quantity Generators (“SQG”) Accumulation Requirements for Ignitable/Reactive Wastes:

This proposed amendment will require SQGs of hazardous waste to take precautions and post “No Smoking” signs at 180 (or 270) – day accumulation areas. Currently, the accumulation requirements for SQGs found in DRGHW §262.34(d) exempt the “special requirements for ignitable or reactive waste” listed in DRGHW §265.176. Because the hazard of accumulating ignitable/reactive wastes are similar for both Large Quantity Generators (“LQG”) and SQGs, the SHWMS has determined that similar precautions are required. Therefore, the SHWMS is proposing to partially remove this exemption for SQGs. The SHWMS has determined that because of their size and locations, SQGs may not be able to meet the 15 meter (50 foot) property boundary set-back required in §265.176(a), and will therefore retain that portion of the exemption.

(4) Clarification of Labeling Requirements for Small and Large Quantity Generators under Satellite Accumulation Rules, and for Conditionally Exempt Small Quantity Generators:

This proposal will clarify when the container label must indicate the waste-like nature of the contents. The SHWMS has determined that EPA’s original intent in the preamble language of the January 3, 1983 Proposed Rule (Federal Register Vol. 48, No. 1), “...and marks the containers with the words “Hazardous Waste” or with another description of their contents (e.g., “waste organics” or “waste solvent”).”, deserves reiteration, and is therefore proposing to clarify the labeling requirements for Small and Large Quantity Generators under Satellite Accumulation Rules, and for Conditionally Exempt Small

Quantity Generators. This proposal does not affect labeling requirements in 90/180 day accumulation areas.

(5) Addition of Secondary Containment to Container Accumulation Requirements found in §265 Subpart I – Use and Management of Containers:

This proposal will add a secondary containment to container accumulation requirements in §265 Subpart I – *Use and Management of Containers*. Risks presented by liquid hazardous wastes at generator accumulation areas are similar to those at facilities which are required to have spill provisions (secondary containment) for containers. The proposed provisions for generators are based upon the *Containment* requirements in DRGHW §264.175.

This change will affect Large and Small Quantity Generators within the State of Delaware who manage hazardous waste containers in accumulation areas. The SHWMS envisions that secondary containment may range from portable “spill pallets” to engineered floor and drain systems, depending upon how the generator chooses to abate the specific risks posed by their liquid hazardous waste. Any release of hazardous waste to bodies of water or the soil will be considered a failure of the containment system.

(6) Strengthen Tank Management Standards for SQG in §265 Subpart J – Tanks:

Risks presented by hazardous waste in tanks at SQGs are similar to those at LQGs. For tanks with a design capacity over 1,000 gallons, some existing exemptions for SQGs are being removed.

(7) Addition of Tank Closure Standards for Generators in §265 Subpart J – Tanks:

The Department notes that currently there are no requirements to close (remove from service) hazardous waste tanks. For hazardous waste tanks at LQGs, and SQGs with a design capacity over 1000 gallons, SHWMS is proposing to require a closure plan as described in §265.112 that is already applicable to other hazardous waste management units.

(8) Correction of DRGHW §261.4(e)(2)(iii)(B)(1) by removing typographical error:

Lastly, the Department wishes to correct DRGHW §261.4(e)(2)(iii)(B)(1) by removing a typographical error of unknown origin contained therein.

For the Secretary's review, and in order for the Secretary to gain a thorough understanding of these proposed amendments, copies of the actual proposed amendments to Delaware's RGHW are attached hereto as Attachment "A", and the same are expressly incorporated into this Hearing Officer's memorandum.

It should be noted that the Department adhered to all appropriate Delaware statutes and the regulatory development process in this matter, and that the Department has met the standard required public noticing obligations regarding these proposed amendments. It should also be noted that the Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally.

Again, the Department received no public comment regarding these proposed amendments to the *Regulations Governing Hazardous Waste* either at the time of (or subsequent to) the public hearing held on October 25, 2012, nor did any members of the public attend said public hearing.

III. Conclusions and Recommendations:

Based on the above discussion, I conclude that the Department has provided appropriate reasoning regarding the need for these proposed changes to Delaware's *Regulations Governing Hazardous Waste*. Accordingly, I recommend promulgation of these proposed amendments in the customary manner provided by law.

Further, I recommend the following findings:

1. The Department has jurisdiction under its statutory authority, 7 Del.C. Chapters 60 and 63, to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
3. The Department held a public hearing in a manner required by the law and regulations;
4. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;
5. Promulgation of these proposed amendments would update Delaware's requirements, where appropriate, to be consistent with the federal requirements, thus bringing Delaware into compliance with EPA standards;

6. The addition of clarifying language, as well as the correction of clerical errors currently found in Delaware's existing Regulations Governing Hazardous Waste, will strengthen and provide better clarity and a fuller understanding of the regulatory language contained within this regulation to the general public and the regulated community;
7. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
8. The Department's proposed regulation, as published in the October 1, 2012 *Delaware Register of Regulations* and set forth within Attachment "A" hereto, is adequately supported, not arbitrary or capricious, and is consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect twenty days after its publication in the next available issue of the *Delaware Register of Regulations*;
9. The Department shall submit the proposed regulation as a final regulation to the Delaware Register of Regulation for publication in its next available issue, and shall provide written notice to the persons affected by the Order.



LISA A. VEST
Public Hearing Officer

APPENDIX "A"

**Amendments To
Delaware's *Regulations Governing Hazardous Waste***

**2012 Proposed Amendments
Post Workshop / Final Proposed
Start Action Notice # 2012-15**

Delaware Department of Natural Resources and Environmental Control
Division of Waste and Hazardous Substance
Solid and Hazardous Waste Management Section
89 Kings Highway
Dover, DE 19901
Phone: 302-739-9403
Contact: Bill Davis

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2	Federal Technical Corrections (2)	7
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Proposed Amendments to
Delaware's Regulations Governing Hazardous Waste
(DRGHW)

NOTE: For the purposes of this amendment package only those sections of the hazardous waste regulations shown herein are affected. The remaining sections of the DRGHW are not affected and are unchanged. Proposed additions are indicated with underlines, and deletions are indicated with ~~strikethroughs~~.

AMENDMENT 1:
LDR Revision for Carbamate Wastes

Adopt Federal revision to Land Disposal Restrictions for carbamate wastes.

Background:

Delaware is proposing to adopt a previously issued Direct Final rule (Federal Register Volume 76, Number 113 (Monday, June 13, 2011), Pages 34147-34157) from the Federal Environmental Protection Agency (EPA or the Agency) to revise the Land Disposal Restrictions (LDR) treatment standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off- specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. Currently, under the LDR program, most carbamate wastes must meet numeric concentration limits before they can be land disposed. However, the lack of readily available analytical standards makes it difficult to measure whether the numeric LDR concentration limits have been met. Therefore, DNREC is providing as an alternative standard the use of the best demonstrated available technologies (BDAT) for treating these wastes. In addition, this action removes carbamate Regulated Constituents from the table of Universal Treatment Standards.

PART 268--LAND DISPOSAL RESTRICTIONS

Section 268.40, the Table of Treatment Standards in paragraph (b) is amended by revising the entries for:

K156	P185	P196	P204	U367	U404
K157	P188	P197	P205	U372	U409
K158	P189	P198	U271	U373	U410
K159	P190	P199	U278	U387	U411
K161	P191	P201	U279	U389	
P127	P192	P202	U280	U394	
P128	P194	P203	U364	U395	

to read as follows: **Insert Carbamate Revision Table (below)**

§ 268.40 Applicability of treatment standards.

Treatment Standards For Hazardous Wastes

[Note: NA means not applicable]

Waste code	Waste description and treatment/Regulatory subcategory ¹	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS ² number	Concentration ³ in mg/L; or Technology Code ⁴	Concentration ⁵ in mg/kg unless noted as "mg/L TCLP"; or Technology Code ⁴
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes	Acetonitrile	75-05-8	5.6	1.8
		Acetophenone	98-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl ¹⁰	17804-35-2	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Benzene	71-43-2	0.14	10
		Carbaryl ¹⁰	63-25-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbenzadim ¹⁰	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Carbofuran ¹⁰	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbosulfan ¹⁰	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl ¹⁰	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
		Toluene	108-88-3	0.080	10
		Triethylamine ¹⁰	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl ¹⁰	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methylethyl ketone	78-93-3	0.28	36
		Pyridine	110-86-1	0.014	16
Triethylamine ¹⁰	121-44-8	0.081 or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST		
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes	Benzene	71-43-2	0.14	10
		Carbenzadim ¹⁰	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST

		Carbofuran ¹⁰	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbosulfan ¹⁰	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
		Phenol	108-95-2	0.039	6.2
K159	Organics from the treatment of thiocarbamate wastes	Benzene	71-43-2	0.14	10
		Butylate ¹⁰	2008-41-5	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		EPTC (Eptam) ¹⁰	759-94-4	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Molinate ¹⁰	2212-67-1	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Pebulate ¹⁰	1114-71-2	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Vernolate ¹⁰	1929-77-7	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts	Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/L TCLP
		Carbon disulfide	75-15-0	3.8	4.8 mg/L TCLP
		Dithiocarbamates (total) ¹⁰	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Nickel	7440-02-0	3.98	11.0 mg/L TCLP
		Selenium	7782-49-2	0.82	5.7 mg/L TCLP
P127	Carbofuran ¹⁰	Carbofuran	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
P128	Mexacarbate ¹⁰	Mexacarbate	315-18-4	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P185	Tirpate ¹⁰	Tirpate	26419-73-8	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST
P188	Physostigmine salicylate ¹⁰	Physostigmine salicylate	57-64-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P189	Carbosulfan ¹⁰	Carbosulfan	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P190	Metolcarb ¹⁰	Metolcarb	1129-41-5	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P191	Dimetilan ¹⁰	Dimetilan	644-64-4	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P192	Isolan ¹⁰	Isolan	119-38-0	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P194	Oxamyl ¹⁰	Oxamyl	23135-22-0	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST

P196	Manganese dimethyldithio-carbamate ¹⁰	Dithiocarbamates (total)	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST
P197	Formparanate ¹⁰	Formparante	17702-57-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P198	Formetanate hydrochloride ¹⁰	Formetanate hydrochloride	23422-53-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P199	Methiocarb ¹⁰	Methiocarb	2032-65-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P201	Promecarb ¹⁰	Promecarb	2631-37-0	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P202	m-Cumenyl methylcarbamate ¹⁰	m-Cumenyl methylcarbamate	64-00-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P203	Aldicarb sulfone ¹⁰	Aldicarb sulfone	1646-88-4	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST
P204	Physostigmine ¹⁰	Physostigmine	57-47-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P205	Ziram ¹⁰	Dithiocarbamates (total)	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST
U271	Benomyl ¹⁰	Benomyl	17804-35-2	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U278	Bendiocarb ¹⁰	Bendiocarb	22781-23-3	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U279	Carbaryl ¹⁰	Carbaryl	63-25-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
U280	Barban ¹⁰	Barban	101-27-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U364	Bendiocarb phenol ¹⁰	Bendiocarb phenol	22961-82-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U367	Carbofuran phenol ¹⁰	Carbofuran phenol	1563-38-8	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U372	Carbendazim ¹⁰	Carbendazim	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U373	Propham ¹⁰	Propham	122-42-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U387	Prosulfocarb ¹⁰	Prosulfocarb	52888-80-9	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U389	Triallate ¹⁰	Triallate	2303-17-5	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U394	A2213 ¹⁰	A2213	30558-43-1	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U395	Diethylene glycol, dicarbamate ¹⁰	Diethylene glycol, dicarbamate	5952-26-1	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U404	Triethylamine ¹⁰	Triethylamine	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST

U409	Thiophanate-methyl ¹⁰	Thiophanate-methyl	23564-05-8	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U410	Thiodicarb ¹⁰	Thiodicarb	59669-26-0	0.019; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U411	Propoxur ¹⁰	Propoxur	114-26-1	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST

Footnotes to Treatment Standard Table 268.40

10	The treatment standard for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at §268.42 Table 1 of this Part, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at §268.42 Table 1 of this Part, for wastewaters.
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[59 FR 48046, Sept. 19, 1994]

Editorial Note: For Federal Register citations affecting §268.40, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 268.41 Treatment standards expressed as concentrations in waste extract.

Section 268.48, the Table of UTS--Universal Treatment Standards is amended by

a. Removing the entries for

Aldicarb sulfone	Dithiocarbamates (total)	Promecarb
Barban	EPTC (Eptam)	Propham
Bendiocarb	Formetanate hydrochloride	Propoxur
Benomyl	Methiocarb	Prosulfocarb
Butylate	Methomyl	Thiodicarb
Carbaryl	Metolcarb	Thiophanate-methyl
Carbenzadim	Mexacarbate	Triallate
Carbofuran	Molinate	Triethylamin
Carbofuran phenol	Oxamyl	Vemolate;
Carbosulfan	Pebulate	
m-Cumenyl	Physostigmine	
methylcarbamate	Physostigmine salicylate	

and

b. Removing and reserving footnote 6.

AMENDMENT 2:
Federal Technical Corrections

Adopt Federal revisions.

Background: Delaware is adopting both Federal corrections as described in the Federal Register /Vol. 77, No. 72 / Friday, April 13, 2012 /22229.

The Environmental Protection Agency (EPA or the Agency) took final action on two of six technical amendments that were withdrawn in a June 4, 2010, Federal Register partial withdrawal notice. The two amendments that were the subject of the final rule were: A correction of the typographical error in the entry “K107” in a table listing hazardous wastes from specific sources; and a conforming change to alert certain recycling facilities that they have existing certification and notification requirements under the Land Disposal Restrictions regulations. The other four amendments that were withdrawn in the June 2010 partial withdrawal notice remain withdrawn until EPA determines action is warranted in the future.

Section 261.32 Hazardous wastes from specific sources.

(a) The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under §§ 260.20 and 260.22 and listed in Appendix IX.

* * * * *

Organic chemicals

* * * * *

Industry and EPA Hazardous Waste No.	Hazardous waste	Hazard code
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazines hydrazides.	(C,T)

* * * * *

Section 266.20 Applicability.

* * * * *

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in Subpart D of Part 268 (or applicable prohibition levels in §268.32 or 7 Del.C., Chapter 63, where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain and the recycler complies with § 268.7(b)(6) of this chapter.

AMENDMENT 3a:
SQG Accumulation Requirements for Ignitable/Reactive Wastes

Require Small Quantity Generators (SQG) of hazardous waste to take precautions and post “No Smoking” signs at 180-(or 270) day accumulation areas.

Background: Currently the accumulation requirements for SQG’s found in DRGHW §262.34(d) exempt the “Special requirements for ignitable or reactive waste” listed in DRGHW §265.176. Because the hazards of accumulating ignitable/reactive wastes are similar for both Large Quantity Generators (LQG) and SQG’s, the SHWMS has determined that similar precautions are required. Therefore, the SHWMS is proposing to partially remove this exemption for SQG’s. The SHWMS has determined that because of their size and locations, SQG’s may not be able to meet the 15 meter (50 foot) property boundary set-back required in §265.176(a), and will therefore retain that portion of the exemption.

Section 262.34 Accumulation time.

* * * * *

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status provided that:

* * * * *

(2) The generator complies with the requirements of Subpart I of Part 265 of these regulations, except for §§ 265.176(a) and 265.178;

* * * * *

Section 265.176 Special requirements for ignitable or reactive waste.

(a) Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility’s property line.

(b) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. “No smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

AMENDMENT 3b:
Labeling Clarification

Clarify when the container label must indicate the waste-like nature of the contents.

Background: The SHWMS has determined that EPA's original intent in the preamble language of the January 3, 1983 Proposed Rule (Federal Register Vol. 48, No. 1), "... *and marks the containers with the words "Hazardous Waste" or with another description of their contents (e.g. "waste organics" or "waste solvent").*" deserves reiteration, and is therefore proposing to clarify the labeling requirements for Small and Large Quantity Generators under Satellite Accumulation Rules, and for Conditionally Exempt Small Quantity Generators. This proposal does not affect labeling requirements in 90/180 day accumulation areas.

CONDITIONALLY EXEMPT GENERATORS

Section 261.5 Special conditions for hazardous waste generated by conditionally exempt small quantity generators.

(f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraph (e)(1) or (e)(2) of this section to be excluded from full regulation under this section, the generator must comply with the following requirements:

(5) Marks his containers either with the words "Hazardous Waste" or with ~~other words that identify the contents of the containers~~ the word "Waste" and a description to identify the contents of the container (e.g., Waste Acetone, Waste Solvent);

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

(5) Marks his containers either with the words "Hazardous Waste" or with ~~other words that identify the contents of the containers~~ the word "Waste" and a description to identify the contents of the container (e.g., Waste Acetone, Waste Solvent);

SMALL OR LARGE QUANTITY GENERATORS

Section 262.34 Accumulation time.

(c)

(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) as applicable of this section provided he:

(i) Complies with §§265.171, 265.172, and 265.173(a) of these regulations; and

(ii) Marks his containers either with the words "Hazardous Waste" or with ~~other words that identify the contents of the containers~~ the word "Waste" and a description to identify the contents of the container (e.g., Waste Acetone, Waste Solvent).

AMENDMENT 3c:
Accumulation Secondary Containment

Add secondary containment to container accumulation requirements in §265 Subpart I - *Use and Management of Containers*.

Background: Risks presented by liquid hazardous wastes at generator accumulation areas are similar to those at facilities, which are required to have spill provisions (secondary containment) for containers. The proposed provisions for generators are based upon the *Containment* requirements in DRGHW §264.175.

This will affect Large and Small Quantity Generators within the State of Delaware who manage hazardous waste containers in accumulation areas. The SHWMS envisions that secondary containment may range from portable “spill pallets” to engineered floor and drain systems, depending upon how the generator chooses to abate the specific risks posed by their liquid hazardous waste. Any release of hazardous waste to bodies of water or the soil will be considered a failure of the containment system.

Section 265.174 Inspections.

The owner or operator must inspect areas where containers are stored at least weekly, looking for leaking containers and for deterioration of containers and the containment system leaks and for deterioration caused by corrosion or other factors. A written record of the inspections must be maintained onsite for a minimum of 3 years.
[Comment: See §265.171 for remedial action required if deterioration or leaks are detected.]

Section 265.175 ~~[Reserved]~~ Containment

Section 265.175 Containment

- (a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this section must be provided.
- (b) Secondary containment may be provided by one of the three following methods:
- (1) Accumulating containers inside a building with a base that underlies the containers and with walls or other curbing all of which are free of cracks or gaps and sufficiently impervious in order to contain leaks and spills until the collected material is detected and removed;
 - (2) Accumulating containers in a secondary containment system designed and operated as follows:
 - (i) A base that underlies the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;
 - (ii) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(iii) The containment system must have sufficient capacity to contain 10% of the total volume of all containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(iv) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph (b)(2)(iii) of this section to contain any run-on which might enter the system;

(3) An equivalent method as approved by the Secretary.

(c) Spilled or leaked waste and accumulated precipitation must be removed immediately from the sump or collection area.

[Comment: If the collected material is a hazardous waste under Part 261 of these regulations, it must be managed as a hazardous waste in accordance with all applicable requirements of Parts 262-266 of these regulations. If the collected material is discharged through a point source to waters of the United States

AMENDMENT 3d:
SQG Tanks

Strengthen tank management standards for Small Quantity Generators in §265 Subpart J - Tanks.

Background: Risks presented by hazardous waste in tanks at Small Quantity Generators are similar to those at Large Quantity Generators. For tanks with a design capacity over 1,000 gallons some existing exemptions for Small Quantity Generators are being removed.

Section 262.34 Accumulation time.

* * * * *

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status provided that:

* * * * *

(3) The generator complies with the requirements of §265.201 in Subpart J of Part 265. If the tank capacity exceeds 1,000 gallons, the generator must comply with the requirements of §265.112(f) and Subpart J except §§265.191, 265.197, 265.200, 265.201, 265.202;

* * * * *

AMENDMENT 3e:
Tank Closure

Add tank closure standards for Generators in §265 Subpart J - *Tanks*.

Background: Currently there are no requirements to close (remove from service) hazardous waste tanks. For hazardous waste tanks at Large Quantity Generators, and Small Quantity Generator tanks with a design capacity over 1000 gallons, SHWMS is proposing to require a closure plan as described in §265.112 that is already applicable to other hazardous waste management units.

Section 262.34 Accumulation time.

(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of Part 265; and/or

(ii) In tanks and the generator complies with the applicable requirements of §265.112(f) and Subparts J, AA, BB, and CC of Part 265 except §§ 265.197(c) and 265.200; and/or

* * * * *

265.112(f) Tank Closure at less than 90 day/180 day generator sites

(1) The owner or operator of a tank used to accumulate hazardous waste under the requirements of Part 262 of these regulations at less than 90 day generator sites, or at 180/270 day generator sites with a tank capacity greater than 1000 gallons, must submit a written closure plan to the Secretary for approval at least 45 days prior to the date on which he expects to begin closure of one or more hazardous waste tank systems, so as to close his tank(s) in a manner that:

(a) Minimizes the need for further maintenance; and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(c) Complies with the closure requirements of this section.

(2) At a minimum the plan shall identify the steps necessary to perform final closure of each tank system to be removed from hazardous waste service. The plan is to include:

(a) A description of each hazardous waste tank system to be closed and how each hazardous waste tank system will be closed to achieve the requirements of §265.112(f)(1); and

(b) A detailed description of the steps necessary to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during closure, including but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and the criteria for determining the extent of decontamination necessary to satisfy the plan's closure performance standard; and

(c) A detailed description of other activities necessary during the closure period to ensure the closure satisfies the plan's stated closure performance standard; and

- (d) A schedule for closure for each hazardous waste tank system; and
 - (e) Provisions if the closure performance standard cannot be achieved.
- (3) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with waste. By removing all hazardous waste or hazardous constituents during closure, the owner or operator may generate hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of Part 262 of these regulations unless §261.3(d) of these regulations applies.
- (4) If the owner or operator cannot demonstrate that the closure performance standard can be achieved or that not all contaminated soils can be practicably removed or decontaminated as required in paragraph (3) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills. In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill and the owner or operator must meet all of the requirements for landfills specified in Subparts G and H of part 264.
- (5) Within 60 days of completion of closure of each hazardous waste tank system, the owner or operator must submit to the Secretary, a written certification that the hazardous waste tank system was closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator. Documentation supporting the certification must be furnished to the Secretary upon request.

AMENDMENT 3f:
Correction

Correct DRGHW §261.4(e)(2)(iii)(B)(1) by removing typographical error.

Background: This is to correct an error of unknown origin. The nature of the correction may not (or may) be eligible as a Minor Correction by the State Registrar. If eligible as a Minor Correction, this amendment will be withdrawn, and the correction made using Minor procedures.

Section 261.4 Exclusions.

* * * * *

(e) Treatability Study Samples.

* * * * *

(2) The exemption in paragraph (e)(1) of this section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

* * * * *

(iii) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of paragraph A or B of this subparagraph are met.

* * * * *

(B) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(1) The name, mailing address, and telephone number of the originator of the sample;
~~annual report.~~

* * * * *

