

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
WASTE MANAGEMENT SECTION**

**Statutory Authority: 7 Delaware Code,
Chapters 60 and 63 (7 Del.C. Ch. 60 and 63)**

Secretary's Order No.: 2004-A-0040

Date of Issuance: July 14, 2004

Effective Date of the Revisions: August 21, 2004

Regulations Governing Hazardous Waste

FINAL

I. Background

On June 23, 2004, a public hearing was held in the DNREC Auditorium in Dover to receive comment on the 2004 proposed amendments to the State of Delaware's *Regulations Governing Hazardous Waste*. The proposed amendments incorporate certain RCRA amendments promulgated by U.S. EPA into Delaware's hazardous waste management program. Delaware is required to adopt these amendments in order to maintain its hazardous waste program delegation and remain current with the Federal RCRA hazardous waste program.

Additionally, Delaware is making miscellaneous changes to the existing regulations for the purpose of correcting errors and to add consistency or clarification to the existing regulations. Some of these amendments are being made to the existing regulations in order to improve or enhance the performance of the hazardous waste management program.

No one from the public attended this hearing. Proper notice of the hearing was provided as required by law. After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared her report and recommendation in the form of a memorandum to the Secretary dated July 13, 2004, and that memorandum is expressly incorporated herein by reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated July 13, 2004, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the proposed revisions to the 2004 *Delaware Regulations Governing Hazardous Waste* be promulgated and implemented in the manner and form provided for by law pursuant to the changes proposed prior to the hearing and as recommended in the Hearing Officer's memorandum.

IV. Reasons

Adopting these proposed revisions to the *Delaware Regulations Governing Hazardous Waste* will be beneficial to the State of Delaware. The Department's Division of Air & Waste Management has provided a sound basis for these revisions, and will permit Delaware to maintain its hazardous waste program delegation and remain current with the Federal RCRA hazardous waste program. In addition, the implementation of these regulatory revisions will add consistency and clarification to the existing regulations and will improve and/or enhance the performance of Delaware's hazardous waste management program, in furtherance of the policies and purposes of 7 Del.C., Chapter 63.

John A. Hughes, Secretary

**2004 AMENDMENTS TO
DELAWARE REGULATIONS GOVERNING HAZARDOUS WASTE**

SYNOPSIS

This synopsis presents a brief description of the 2004 amendments to Delaware's *Regulations Governing Hazardous Waste* (DRGHW) and a list of those sections generally affected by the amendments. This synopsis is provided solely for the convenience of the reader.

These changes incorporate certain RCRA amendments promulgated by U. S. EPA into Delaware's hazardous waste management program. The State is required to adopt these amendments in order to maintain its hazardous waste program delegation and remain current with the Federal RCRA hazardous waste program.

The State is also making miscellaneous changes to the existing regulations for the purpose of correcting errors and to add consistency or clarification to the existing regulations. Some amendments are being made to the existing regulations in order to improve or enhance the performance of the hazardous waste management program.

A description of the regulatory amendments is shown below and organized by EPA's promulgating **Federal Register** notice. For additional information, please contact the Solid and Hazardous Waste Management Branch at (302) 739-3689.

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1. Title: Treatment Variance for Radioactively Contaminated Batteries

EPA Federal Register Reference: 67 FR 62618-62624
(Checklist 201)

Federal Promulgation Date: October 7, 2002

Summary: The October 7, 2002 Federal Rule grants a national treatability variance from the Land Disposal Restrictions (LDR) treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes. The current treatment standards of thermal recovery for cadmium batteries and of roasting and retorting for mercury batteries are technically inappropriate, because any recovered metals would likely contain residual radioactive contamination and not be usable. The current numerical treatment standard for silver batteries is also inappropriate because of the potential increase in radiation exposure to workers associated with manually segregating silver-containing batteries for the purpose of treatment. Macroencapsulation is designated as the required treatment prior to land disposal for the new waste subcategories.

Sections of the DRGHW affected by this amendment: Part 268, §268.40, the Table, "Treatment Standards for Hazardous Wastes."

2. Title: National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks

EPA Federal Register Reference: 69 FR 22602-22661

(Checklist 201)

Federal Promulgation Date: April 26, 2004

This April 26, 2004 federal rule promulgates national emission standards for hazardous air pollutants (NESHAP) for automobile and light duty truck surface coating operations located at major sources of hazardous air pollutants. In doing so, the rule amends the Air Emission Standards for Equipment Leaks at DRGHW Parts 264 and 265 Subpart BB to reduce duplicative regulation of air emissions from the collection and transmission of purged paint and solvent in a purge capture system, and the storage of captured purge material where these emissions are subject to the final NESHAP rule. In addition to addressing collection and transmission, and storage of purged paint and solvent, the NESHAP rule is more comprehensive as it is expanded to include regulation of emissions from purging of coating application systems.

Sections of the DRGHW affected by this amendment: Sections 264.1050(h) and 265.1050(g).

3. Title: Miscellaneous Changes

Summary: Proposed miscellaneous changes to DRGHW include non-substantive corrections for typographical or grammatical errors.

Proposed miscellaneous changes will also: Reinsert missing hazardous waste codes that were erroneously deleted from §261.32, and Part 262, Appendix VIII in a previous edition of the DRGHW; revise the timeframe in §263.103(d) for a transporter to submit an application to replace an expiring permit; add a sentence in §265.55 regarding annual training of a facility's emergency coordinator.

Sections of the DRGHW affected by this amendment: §261.32; Part 261, Appendix VIII; §263.103(d), and §265.55.

8 DE Reg. 352 (8/1/04)