DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

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

FINAL

1302 Regulations Governing Hazardous Waste

ORDER

Secretary's Order No.: 2006-A-0033

I. Background

On June 28, 2006 a public hearing was held in the DNREC Auditorium at the Richardson and Robbins Building in Dover, Delaware, to receive comment on proposed amendments to the State of Delaware's *Regulations Governing Hazardous Waste*. The State of Delaware is authorized by the U.S. Environmental Protection Agency (EPA) to administer its own 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.

Many of the changes which DNREC is proposing to make are already in effect at the federal level. Additionally, 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, in order to improve or enhance the performance of the hazardous waste management program.

Of note is the fact that the Department held a public workshop regarding these proposed amendments back on April 6, 2006, which was well attended, and provided a meaningful exchange between the public and the Department regarding this matter. No additional questions and/or comments were received by the Department subsequent to the April 6, 2006 workshop, nor were any members of the public present at the hearing on June 28, 2006. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Report to the Secretary dated July 6, 2006, and that Report is expressly incorporated herein by reference.

II. Findings and Conclusions

On the basis of the record developed in this matter, it appears that the Department has provided a sound basis with regard to the proposed regulatory action concerning the amendments to Delaware's Hazardous Waste Regulations. Furthermore, the Department provided the public with numerous opportunities to offer comments with respect to this issue, with a workshop offered prior to the public hearing, should anyone wish to contribute same.

III. Order

It is hereby ordered that the proposed adoption of the amendments to Delaware's Hazardous Waste Regulations be promulgated in final form, in accordance with the customary and established rule-making procedure required by law.

IV. Reasons

The adoption of the proposed amendments will allow Delaware's existing Hazardous Waste Program to maintain its State program delegation and authority, and further bring Delaware's existing regulations into conformity and equivalency with current U.S. Environmental Protection Agency requirements.Furthermore, promulgation of these proposed amendments will allow the Department to correct errors present in the existing regulations, as well as to add consistency and/or clarification to the same. Lastly, this promulgation will continue to

ensure safety of the public health and environment, while taking into account industry concerns, and will assist the Department in furtherance of the policy and purposes of 7 **Del.C.,** Chapters 60 and 63.

John A. Hughes, Secretary

Date of Issuance: July 7, 2006
Effective Date of the Amendment: August 21, 2006

1302 Regulations Governing Hazardous Waste

(Break in Continuity of Sections)

Section 122.1 Purpose and scope of Part 122.

(a) Coverage.

(1) These permit regulations establish provisions for Delaware's Hazardous Waste Permit Program.

(2) The regulations in this part cover basic DNREC permitting requirements, such as application requirements, standard permit conditions, and monitoring and reporting requirements.

(b) [Reserved]

(c) Scope of the hazardous waste permit requirement. DNREC requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Part 261. The terms "treatment", "storage", "disposal", and "hazardous waste" are defined in §122.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to §265.115) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under §122.1(c)(5) and (6), or obtain an enforceable document in lieu of a post-closure permit, as required under (c)(7) of this section. If a post-closure permit is required, the permit must address applicable Part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of these regulations. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(1) Specific inclusions. Owners and operators of certain facilities require hazardous waste permits as well as permits under other programs for certain aspects of the facility operation. Hazardous waste permits are required for:

(i) [Reserved]

(ii) Treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner and operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a hazardous waste permit for that waste if they comply with the requirements of §122.60(c) (permit-by-rule for POTWs).

(iii) Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment or storage facilities associated with an ocean disposal operation. However, the owner and operator will be deemed to have a State permit for ocean disposal from the barge or vessel itself if they comply with the requirements of §122.60(a) (permit-by-rule for ocean disposal barges and vessels).

(2) Specific exclusions. The following persons are among those who are not required to obtain a State hazardous waste permit:

(i) Generators who accumulate hazardous waste on-site for less than the time periods and under the conditions provided in §262.34.

(ii) Farmers who dispose of hazardous waste pesticides from their own use as provided in §262.70 of these regulations;

(iii) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this part by §§261.4 or 261.5 (small generator exemption).

(iv) Owners or operators of totally enclosed treatment facilities as defined in §260.10.

(v) Owners and operators of elementary neutralization units or wastewater treatment units as defined in §260.10.

(vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of §262.30 at a transfer facility for a period of ten days or less. See also §263.12.

(vii) Persons adding absorbent material to waste in a container (as defined in §260.10 of these regulations) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and §§264.17(b), 264.171, and 264.172 of these regulations are complied with.

(viii) Universal waste handlers and universal waste transporters (as defined in §260.10) managing the wastes listed below. These handlers are subject to regulation under Part 273.

(A) Batteries as described in §273.2 of these regulations;

(B) Pesticides as described in §273.3 of these regulations;

(C) ~~Thermostats as described in §273.4 of these regulations;~~ Mercury-containing equipment as described in §273.4; and

(D) Lamps as described in §273.5 of these regulations.

(3) Further exclusions.

(i A person is not required to obtain a permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(D) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in §260.10.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(4) Permits for less than an entire facility. DNREC may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under Part 265 standards must obtain a post-closure permit unless they can demonstrate to the Secretary that the closure met the standards for closure by removal or decontamination in §§264.228, 264.280(e), or 264.258, respectively. The demonstration may be made in the following ways:

(i) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that Part 264 closure by removal standards were met. If the Secretary believes that Part 264 standards were met, he/she will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section.

(ii If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Secretary for a determination that a post-closure permit is not required because the closure met the applicable Part 264 closure standards.

(A) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed under State requirements that met or exceeded the applicable 264 closure-by-removal standard.

(B) The Secretary shall approve or deny the petition according to the procedures outlined in paragraph (c)(6) of this section.

(6) Procedures for closure equivalency determination.

(i) If a facility owner/operator seeks an equivalency demonstration under

§122.1(c)(5), the Secretary will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Secretary will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the Part 265 closure to a Part 264 closure. The Secretary will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(ii) The Secretary will determine whether the Part 265 closure met 264 closure by removal or decontamination requirements within 90 days of its receipt. If the Secretary finds that the closure did not meet the applicable Part 264 standards, he/she will provide the owner/operator with a written statement of the reasons why the closure failed to meet Part 264 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Secretary will review any additional information submitted and make a final determination within 60 days.

(iii If the Secretary determines that the facility did not close in accordance with Part 264 closure by removal standards, the facility is subject to post-closure permitting requirements.

(7) Enforceable documents for postclosure care. At the discretion of the Secretary, an owner or operator may obtain, in lieu of a postclosure permit, an enforceable document imposing the requirements of §265.121. “Enforceable document” means an order, a plan, or other document issued by EPA or by an authorized State under an authority that meets the requirements of 40 CFR, 271.16(e) including, but not limited to, a corrective action order issued by EPA under Section 3008(h) or DNREC under 7 **Del.C.**, Chapter 63, a CERCLA remedial action, or a closure or postclosure plan.

(d) Transporters of listed or characteristic hazardous waste identified in Part 261 of these regulations, or used or waste oil as identified in Parts 263 or 279 of these regulations are required to obtain a transporters permit.

(Amended August 29, 1988; August 10, 1990; June 19, 1992, August 23, 1996, January 1, 1999, July 11, 2002)

(Break in Continuity of Sections)

Section 122.14 Contents of Part B: General Requirements.

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in §§122.14 122.29 applicable to the facility. The Part B information requirements presented in §§122.14 122.29 reflect the standards promulgated in Part 264. These information requirements are necessary in order for DNREC to determine compliance with the Part 264 standards. It is recommended that the applicants contact DNREC for information on the format of Part B applications. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Secretary may make allowance for submission of such information on a case by case basis. Information required in Part B shall be submitted to the Secretary and signed in accordance with requirements in §122.11. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. For post-closure permits, only the information specified in §122.28 is required in Part B of the permit application.

(b) General information requirements. Include where applicable, as part of the inspection schedule, specific requirements in §§264.174, 264.193(i), 264.195, 264.226, 264.254, 264.273, 264.303, 264.602, 264.1033, 264.1052, 264.1053, and 264.1058.

(1) A general description of the facility.

(2) Chemical and physical analyses of the hazardous waste and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with Part 264 of these regulations.

(3) A copy of the waste analysis plan required by §264.13(b) and, if applicable §264.13(c).

(4) A description or the security procedures and equipment required by §264.14, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(5) A copy of the general inspection schedule required by §264.15(b) of this part. Include where applicable, as part of the inspection schedule, specific requirements in §§264.174, 264.193(i), 264.195, 264.226, 264.254, 264.273, 264.303, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, 264.1084, 264.1085,

264.1086, and 264.1088 of this part.

(6) A justification of any request for a waiver(s) of the preparedness and prevention requirements of Part 264, Subpart C.

(7) A copy of the contingency plan required by Part 264, Subpart D. Note: Include, where applicable, as part of the contingency plan, specific requirements in §§264.227, 264.255 and 264.200.

(8) A description of procedures, structures, or equipment used at the facility to;

(i) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(ii) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages;

(v) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

(vi) Prevent releases to atmosphere.

(9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible waste as required to demonstrate compliance with §264.17 including documentation demonstrating compliance with §264.17(c).

(10) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(11) Facility location information;

(i) In order to determine the applicability of the seismic standard [§264.18(a)] the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

[**Comment**: If the county or election district is not listed in Appendix VI of Part 264, no further information is required to demonstrate compliance with §264.18(a).]

(ii) If the facility is proposed to be located in an are a listed in Appendix VI of Part 264, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either;

(A) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

(1) Published geologic studies,

(2) Aerial reconnaissance of the area within a five mile radius from the facility,

(3) An analysis of aerial photographs covering a 3,000 foot radius of the facility, and

(4) If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feed of the facility, or

(B) If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass with 200 feet of the portions of the facility, no faults pass with 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area with a distance of no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted.Such investigation shall document with supporting maps and other analyses, the location of faults found.

[**Comment**: The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each

approach or a combination of approaches would be used.]

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100 year flood plain. This identification must include the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100 year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, construction, operating, or maintaining the facility to with stand washout from as 100 year flood.

[**Comment**: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100 year flood plain. However, where the FIA map excludes an area (usually areas of the floodplain less that 200 feet in width), the areas must be considered and a determination made as to whether they are in the 100 year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100 year floodplain, and if so located, what the 100 year flood elevation would be.]

(iv) Owners and operators of facilities located in the 100 year floodplain must provide the following information:

(A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100 year flood.

(B) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., flood walls, dikes) at the facility and how these will prevent washout.

(C) If applicable, and in lieu of paragraphs (A) and (B) above, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

(1) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility.

(2) A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulation under Parts 122, 124, 264 and 265 of these regulations.

(3) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use.

(4) The potential for accidental discharges of the waste during movement.

(v) Existing facilities NOT in compliance with §264.18(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(12) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with §264.16. A brief description of ~~n~~how training will be designed to meet actual job tasks in accordance with requirements in §264.16(a)(3).

(13) A copy of the closure plan and, where applicable, the post closure plan required by §§264.112, 264.118, and 264.197. Include, where applicable, as part of the plans, specific requirements in §§264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351 and 264.603.

(14) For hazardous waste disposal units that have been closed, documentation that notices required under §264.119 have been filed.

(15) The most recent closure cost estimate for the facility prepared in accordance with §264.142 and a copy of the documentation required to demonstrate financial assurance under §264.143. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(16) Where applicable, the most recent post closure cost estimate for the facility prepared in accordance with 264.144 plus a copy of the documentation required to demonstrate financial assurance under 264.145. For a new facility, a copy of the required documentation may be submitted may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(17) Where applicable, a copy of the insurance policy or other documentation which comprises

compliance with the requirements of §264.147. For a new facility, documentation showing the amount of insurance meeting the specification of §264.147(a) and, if applicable, §264.147(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal.

(18) [Reserved]

(19) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet 0, or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(i) Map scale and date.

(ii) 100 year floodplain area.

(iii) Surface waters including intermittent streams.

(iv) Surrounding land uses (residential, commercial, agricultural, recreational).

(v) A wind rose (i.e., prevailing wind speed and direction).

(vi) Orientation of the map (north arrow).

(vii) Legal boundaries of the HWM facility site.

(viii) Access control (fences, gates).

(ix) Injection and withdrawal wells both on site and off site.

(x) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(xi) Barriers for drainage or flood control.

(xii) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

[**Note**: For large HWM facilities the Department will allow the use of other scales on a case by case basis.]

(20) Applicants may be required to submit such information as may be necessary to enable the Secretary to carry out his duties under other State laws.

(21) For land disposal facilities, if a case by case extension has been approved under §268.5 or a petition has been approved under §268.6, a copy of the notice of approval for the extension or petition is required.

(22) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under §124.31(c).

(c) Additional information requirements. The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in §264.90(b) of these regulations:

(1) A summary of the ground water monitoring data obtained during the interim status period under §§265.90-265.94, where applicable.

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(3) On the topographic map required under paragraph (b)(19) of this section, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under §264.95, the proposed location of ground water monitoring wells as required under §264.97, and, to the extent possible, the information required in paragraph (c)(2) of this section.

(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(i) Delineates the extent of the plume on the topographic map required under paragraph (b)(19) of this section;

(ii) Identifies the concentration of each Appendix IX, of Part 264 of these regulations, constituent throughout the plume or identifies the maximum concentrations of each Appendix IX constituent in the plume.

(5) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of §264.97.

(6) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of §264.98. This submission must address the following items specified under §264.98:

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(ii) A proposed ground water monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data.

(7) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of §264.99. Except as provided in §264.98(g)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of §264.100, unless the owner or operator obtains written authorization in advance from the Secretary to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with §264.99, the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with §264.97 and §264.99;

(iv Proposed concentration limits for each hazardous constituent, based on the criteria set forth in §264.94(a), including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of §264.97; and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data.

(8) If hazardous constituents have been measured in the ground water which exceed the concentration limits established under §264.94 Table 1, or if ground water monitoring conducted at the time of permit application under §§265.90 265.94 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of §264.100. However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Secretary that alternate concentration limits will protect human health and the environment after considering the criteria listed in §264.94. An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of §264.99 and paragraph (c)(6) of this section. To demonstrate compliance with §264.100, the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in §264.94;

(iii) Detailed plans and an engineering report describing the corrective action to be taken;

(iv) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(v) The permit may contain a schedule for submittal of the information required in paragraphs (c)(8)(iii) and (iv) provided the owner or operator obtains written authorization from the Secretary prior to submittal of the complete permit application.

(d) Information requirements for solid waste management units.

(1) The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under paragraph (b)(19) of this section.

(ii) Designation of type of unit.

(iii) General dimensions and structural description (supply any available drawings).

(iv When the unit was operated.

(v) Specifications of all wastes that have been managed at the unit, to the extent available.

(2) The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

(3) The owner/operator must conduct and provide the results of sampling and analysis of groundwater, land surface, and subsurface strata, surface water, or wells, where the Secretary ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

(Amended June 19, 1992, August 1, 1995, January 1, 1999, August 23, 1999)

(Break in Continuity of Sections)

Section 260.10 Definitions.

When used in Parts 260 through 273 of these regulations, the following terms have the meanings given below:

"**Aboveground tank**" means a device meeting the definition of "tank" in §260.10 and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"**Act**" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et seq.

"~~**Activelife**~~ **Active Life**" of a facility means the period from the initial receipt of hazardous waste at the facility until the Secretary receives certification of final closure.

"**Active portion**" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of Part 261 of these regulations and which is not a closed portion. (See also "closed portion" and "inactive portion".)

"**Activity**" means construction, operation, or use of any facility, site, property or device.

"**Administrator**" means the Administrator of the Environmental Protection Agency, or his designee.

"**Ancillary equipment**" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

"**Aquifer**" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"**Authorized representative**" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

"**Battery**" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"**Boiler**" means an enclosed device using controlled flame combustion and having the following characteristics:

(1) (i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery section(s) must be

of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber, and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feed water pumps); or

(2) The unit is one which the Secretary has determined, on a case by case basis to be a boiler, after considering standards in §260.32.

"**Carbon regeneration unit**" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"**Certification**" means a statement of professional opinion based on knowledge and belief.

"**CFR**" means Code of Federal Regulations.

"**Closed portion**" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

"**Commingling**" means the transfer of hazardous wastes between DOT approved containers performed by a hazardous waste transporter where the containers holding such wastes may be opened and mixed with other hazardous waste.

"**Commission**" means the Commission on the Transportation of Hazardous Materials.

"**Component**" means either the tank or ancillary equipment of a tank system.

"**Confined aquifer**" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

"**Consolidation**" means the transfer of containers of hazardous wastes between transport conveyances by a hazardous waste transporter where the containers holding such wastes are not opened or the wastes repackaged.

"**Container**" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"**Containment building**" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of Subpart DD of Parts 264 or 265 of these regulations.

"**Contingency plan**" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

"**Corrosion expert**" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"**Department**" means the Department of Natural Resources and Environmental Control of the State of Delaware.

"**Designated facility**" means a hazardous waste treatment, storage, or disposal facility which

~~(1)~~ (i) has received a permit (or interim status) in accordance with the requirements of Parts 122 or 124 of these regulations,

~~(2)~~ (ii) has received a permit (or interim status) from a State authorized in accordance with 40 CFR Part 271 or

~~(3)~~ (iii) is regulated under §261.6(c)(2) or Subpart F of Part 266 of these regulations, ~~and~~ or

~~(4)~~ (iv) that has been designated on the manifest by the generator pursuant to §260.20. ~~If a waste is destined to a facility in an authorized State which as not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.~~

"Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with §264.72(f) or §265.72(f) of these regulations.

If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

"**Destination facility**" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in paragraphs (a) and (c) of §§273.13 and 273.33 of these regulations. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"**Dike**" means an embankment or ridge of either natural or man made materials used to prevent the movement of liquids, sludges, solids, or other materials.

"**Dioxins and furans (D/F)**" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

"**Discharge**" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, purging, emitting, emptying, or dumping of hazardous waste into or on any land or water.

"**Disposal**" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"**Disposal facility**" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

"**Division**" means the Division of Air and Waste Management.

"**Drip pad**" is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

"**Elementary neutralization unit**" means a device which:

(1) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in §261.22 of these regulations, or are listed in Subpart D of Part 261 of these regulations only for this reason; and,

(2) Meets the definition of tank, tank system, container, transport vehicle, or vessel in §260.10 of these regulations.

"**EPA hazardous waste number**" means the number assigned by DNREC to each hazardous waste listed in Part 261, Subpart D, of these regulations and to each characteristic identified in Part 261, Subpart C, of these regulations.

"**EPA Identification Number**" means the number assigned by DNREC to each generator, transporter, and treatment, storage, or disposal facility.

"**EPA region**" means the states and territories found in any one of the following ten regions:

Region I	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.
Region II	New York, New Jersey, Commonwealth of Puerto Rico, and the U. S. Virgin Islands.
Region III	Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.
Region IV	Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.
Region V	Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio.
Region VI	New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.
Region VII	Nebraska, Kansas, Missouri, and Iowa.

Region VIII Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX California, Nevada, Arizona, Hawaii, Guam, American Samoa, Commonwealth of the Northern Mariana Islands.

Region X Washington, Oregon, Idaho, and Alaska.

"**Engineer**" means an engineer registered and authorized to practice in Delaware as a Professional Engineer by the "Delaware Association of Professional Engineers".

"**Equivalent method**" means any testing or analytical method approved by the Secretary under Part 260 of Subpart C of these regulations.

"**Existing hazardous waste management (HWM) facility**" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(1) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

(2 (i) A continuous on site, physical construction program has begun; or

(ii) The owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time. Within this definition, "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

"**Existing portion**" means that land surface area of an existing waste management unit included in the original Part A application, on which wastes have been placed prior to the issuance of a permit.

"**Existing tank system**" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986 for HSWA tanks, as defined in §260.10, or August 29, 1988 for non-HSWA tanks, as defined in §260.10. Installation will be considered to have commenced if (1) the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and (2) either (i) a continuous on site physical construction or installation program has begun, or (ii) the owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"**Explosives or munitions emergency**" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"**Explosives or munitions emergency response**" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in place render safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"**Explosives or munitions emergency response specialist**" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

"**Facility**" or "Hazardous Waste Management (HWM) Facility" means:

1. All contiguous land, and structures, other appurtenances, and improvements on the land,

used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combination of them).

2. For the purpose of implementing corrective action under §264.101, all contiguous property under the control of the owner or operator seeking a permit under 7 **Del.C.**, Chapter 63. This definition also applies to facilities implementing corrective action under 7 **Del.C.,** Chapter 63.

3. Notwithstanding paragraph (2) of this definition, a remediation waste management site is not a facility that is subject to §264.101, but is subject to corrective action requirements if the site is located within such a facility.

"**Federal agency**" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

"**Federal, State and local approvals or permits necessary to begin physical construction**" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

"**Final closure**" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Parts 264 and 265 of these regulations are no longer conducted at the facility unless subject to the provisions in §262.34.

"**Food chain crops**" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

"**Freeboard**" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"**Free liquids**" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"**Generator**" means any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 of these regulations or whose act first causes a hazardous waste to become subject to regulation.

"**Geologist**" means a geologist registered by the "Delaware State Board of Registration of Geologists."

"**Ground water**" means water below the land surface in a zone of saturation.

"**HSWA tank**" means a tank owned or operated by a small quantity hazardous waste generator, a new underground tank, or a tank which cannot be entered for inspection.

"**Hazardous waste**" means a hazardous waste as defined in §261.3 of these regulations.

"**Hazardous waste constituent**" means a constituent which caused the Secretary to list the hazardous waste in Part 261, Subpart D of these regulations, or a constituent listed in Table 1 of §261.24 of these regulations.

"**Hazardous waste management unit**" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"**Inactive portion**" means that portion of a facility which is not operated after the effective date of Part 261 of these regulations. (See also "active portion" and "closed portion".)

"Incinerator" means any enclosed device that:

(1) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(2) Meets the definition of infrared incinerator or plasma arc incinerator.

"**Incompatible waste**" means a hazardous waste which is unsuitable for:

(1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases. (See Part 265, Appendix V, of these regulations for examples.)

"**Individual generation site**" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing

processes and that use thermal treatment to accomplish recovery of materials or energy:

(1) Cement kilns

(2) Lime kilns

(3) Aggregate kilns

(4) Phosphate kilns

(5) Coke ovens

(6) Blast furnaces

(7) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces)

(8) Titanium dioxide chloride process oxidation reactors

(9) Methane reforming furnaces

(10) Pulping liquor recovery furnaces

(11) Combustion devices used in the recovery of sulfur values from spent sulfuric acid

(12) Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.

(13) Such other devices as the Secretary may, after notice and comment, add to this list on the basis of one or more of the following factors.

(i) The design and use of the device primarily to accomplish recovery of material products;

(ii) The use of the device to burn or reduce raw materials to make a material product;

(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(v) The use of the device in common industrial practice to produce a material product; and

(vi) Other factors, as appropriate.

"**Infrared incinerator**" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"**Inground tank**" means a device meeting the definition of "tank" in §260.10 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"**Injection well**" means a well into which fluids are injected. (See also "underground injection".)

"**Inner liner**" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"**In operation**" refers to a facility which is treating, storing, or disposing of hazardous waste.

"**Installation inspector**" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"**International shipment**" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"**Lamp**" also referred to as "universal waste lamp", is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"**Landfill**" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"**Landfill cell**" means a discrete volume of a hazardous waste landfill which uses a liner to provide

isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"**Land treatment facility**" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"**Leachate**" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"**Leak detection system**" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tank) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"**Liner**" means a continuous layer of natural or man made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

"**Management**" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

"**Manifest**" means the shipping document EPA form 8700 22, and if necessary, EPA form 8700-22A, originated and signed by the generator or offeror in accordance with the instructions included in Part 262~~, Subpart B, Appendix II~~ of these regulations and the applicable requirements of DRGHW parts 262 through 265.

~~"**Manifest document number**" means the U.S. EPA 12 digit identification number assigned to the Generator plus an optional unique 5 digit document number assigned to the Manifest by the generator for recording and reporting purposes.~~

"**Manifest tracking number**" means: The alphanumeric identification number (*i.e.,* a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

"**Mercury-containing equipment"** means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

"**Military munitions**" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

"**Mining overburden returned to the mine site**" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"**Miscellaneous unit**" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, containment building, corrective active management unit, unit eligible for a research, development, and demonstration permit under §122.65, or staging pile.

"**Movement**" means that hazardous waste transported to a facility in an individual vehicle.

"**New hazardous waste management facility**" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility".)

"**New tank system**" or "new tank component" means a tank system or component that will be used for storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986 for HSWA tanks, as defined in §260.10; except, however, for purposes of §264.193(g)(2) and 265.193(g)(2), a new tank system is one for which construction commences after July 14, 1986 for HSWA tanks and August 29, 1988 for non-HSWA tanks. (See also "existing tank system.")

"**Non-HSWA tank**" means a tank which is not owned or operated by a small quantity hazardous waste generator and is either an existing underground tank or a tank that can be entered for inspection.

"**Onground tank**" means a device meeting the definition of "tank" in §260.10 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"**On site**" means the same or geographically contiguous property which may be divided by public or private right of way, provided the entrance and exit between the properties is at a cross roads intersection, and access is by crossing as opposed to going along, the right of way. Non contiguous properties owned by the same person but connected by a right of way which he controls and to which the public does not have access, is also considered on site property.

"**Open burning**" means the combustion of any material without the following characteristics:

(1) Control of combustion air to maintain adequate temperature for efficient combustion;

(2) Containment of the combustion reaction in an enclosed device to provide sufficient reside

(3) Control of emission of the gaseous combustion products. (See also "incineration" and "thermal treatment".)

"**Operator**" means the person responsible for the overall operation of a facility.

"**Owner**" means the person who owns a facility or part of a facility.

"**Partial closure**" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of Parts 264 and 265 of these regulations at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

"**Person**" means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

"**Personnel**" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of Parts 264 or 265 of these regulations. [**Comment**: For the purpose of personnel training, the definition of personnel or facility personnel includes emergency coordinators.]

"**Pesticide**" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA section 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this definition.

"**Pile**" means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

"**Plasma arc incinerator**" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"**Point source**" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"**Publicly owned treatment works**" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality" (as defined by §502(4) of the CWA). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

"**Qualified Engineer**" or "Qualified Geologist" shall mean that the responsible professional geologist or engineer is qualified by training and experience to gather and evaluate the data required by these regulations.

"**Qualified Ground-Water Scientist**" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground-water hydrology and related fields as may be demonstrated by state registration, professional certifications, or

completion of accredited university courses that enable that individual to make sound professional judgments regarding ground-water monitoring and contaminant fate and transport.

"**Regional Administrator**" means the Regional Administrator for the Environmental Protection Agency Region in which the facility is located, or his designee.

"**Remediation waste**" means all solid and hazardous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, that are managed for implementing clean-up.

"**Remediation waste management site**" means a facility where an owner or operator is or will be treating, storing or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under §264.101, but is subject to corrective action requirements if the site is located in such a facility.

"**Replacement Unit**" means a landfill, surface impoundment, or waste pile unit (1) from which all or substantially all of the waste is removed, and (2) that is subsequently reused to treat, store, or dispose of hazardous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or State approved corrective action.

"**Representative sample**" means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

"**Run off**" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"**Run on**" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"**Saturated zone**" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"**Secretary**" means the Secretary of the Department of Natural Resources and Environmental Control, or his duly authorized designee.

"**Sludge**" means any solid, semi solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, stormwater management unit, or air pollution control facility not including the treated effluent from a water treatment plant or stormwater management unit.

"**Sludge dryer**" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"**Small Quantity Generator**" means a generator who generates less than 1000 kg of hazardous waste in a calendar month.

"**Solid waste**" means a solid waste as defined in §261.2 of these regulations.

"**Sorbent**" means a material that is used to soak up free liquids by either adsorption or absorption, or both.

"**Sorb**" means to either adsorb or absorb, or both.

"**Staging pile**" means an accumulation of solid, non flowing remediation waste (as defined in this section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Secretary according to the requirements of §264.554.

"**State**" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"**Storage**" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"**Sump**" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"**Surface impoundment**" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man made excavation, or diked area formed primarily of earthen materials (although it may be lined with man made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

"**Tank**" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"**Tank system**" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"**TEQ**" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"**Thermal treatment**" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning".)

"**Thermostat**" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 273.13(c)(2) or 273.33(c)(2).

"**Totally enclosed treatment facility**" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"**Transfer facility**" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"**Transport vehicle**" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"**Transportation**" means the movement of hazardous waste by air, rail, highway, or water.

"**Transporter**" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.

"**Treatability Study**" means a study in which a hazardous waste is subjected to a treatment process to determine:

(1) Whether the waste is amenable to the treatment process,

(2) What pretreatment (if any) is required,

(3) The optimal process conditions needed to achieve the desired treatment,

(4) The efficiency of a treatment process for a specific waste or wastes, or

(5) The characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the §261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies.

A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"**Treatment**" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"**Treatment Zone**" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"**Underground injection**" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well".)

"**Underground tank**" means a device meeting the definition of "tank" in §260.10 whose entire surface area is totally below the surface of and covered by the ground.

"**Unfit for use tank system**" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"**Universal Waste**" means any of the following hazardous wastes that are managed under the universal waste requirements of Part 273 of these regulations:

(1) Batteries as described in §273.2 of these regulations;

(2) Pesticides as described in §273.3 of these regulations;

(3) ~~Thermostats as described in §273.4 of these regulations; and~~ Mercury-containing equipment as described in §273.4 of these regulations; and

(4) Lamps as described §273.5 of these regulations.

"**Universal Waste Handler**":

(1) Means:

(i) A generator (as defined in this section) of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

(i) A person who treats (except under the provisions of 273.13 (a) or (c), or 273.33 (a) or (c)), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"**Universal Waste Transporter**" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"**Unsaturated zone**" or "zone of aeration" means the zone between the land surface and the water table.

"**United States**" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"**Uppermost aquifer**" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"**Used oil**" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"**Vessel**" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"**Wastewater treatment unit**" means a device which:

(1) Is part of a wastewater treatment facility which is subject to regulations under either §402 or §307(b) of the Clean Water Act; and

(2) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in §261.3 of these regulations, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of these regulations, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in §261.3 of these regulations; and

(3) Meets the definition of tank or tank system in §260.10 of these regulations.

"**Water (bulk shipment)**" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"**Well**" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"**Well injection**": (See "Underground injection".)

"**Zone of engineering control**" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

(Amended November 21, 1985, August 29, 1988; August 10, 1990; June 19, 1992; November 19, 1993; July 26, 1994, August 1, 1995, July 23, 1996, August 21, 1997, January 1, 1999, June 2, 2000, April 23, 2001, February 12, 2004)

(Break in Continuity of Sections)

Section 261.4 Exclusions.

(a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this part:

(1) (i) Domestic sewage: and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewage system to a publicity owned treatment works for treatment. Domestic sewage means untreated sanitary wastes that pass through a sewage system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation

under §402 of the Clean Water Act as amended.

(**Comment**: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.)

(3) Irrigation return flows.

(4) Source, special nuclear or by product material as defined by the Atomic Energy Act of 1954, as amended, 42 USC §2011, et. seq.

(5) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in §261.1(c) of these regulations.

(7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in §261.1(c) of these regulations.

(8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9) (i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (a)(9)(i) and (a)(9)(ii) of this section, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W of these regulations, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the Secretary one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Secretary for reinstatement. The Secretary may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148 and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in §261.24 of this part, when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point

they are generated to the point they are recycled to coke ovens or the tar recovery or refining processes, or mixed with coal tar.

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(12) (i) Oil-bearing hazardous secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in paragraph (a)(12)(ii) of this section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under Part 261, Subpart D, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in paragraph (a)(12)(i) of this section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Part 261 Subpart D; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in §279.1.

(13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(14) Shredded circuit boards being recycled provided that they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel cadmium batteries and lithium batteries.

(15) [**Reserved**]

(16) Comparable fuels or comparable syngas fuels (i.e., comparable, syngas fuels) that meet the requirements of §261.38.

(17) Spent materials (as defined in §261.1) (other than hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in paragraph (a)(17)(iv) of this section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in §260.10), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Secretary may make a site-specific determination, after public review and comment, that only solid mineral processing spent material may be placed on pads rather than tanks containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm

that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: The volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must meet the following minimum standards: Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with placement and removal, have run on/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Secretary must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the Secretary providing the following information: The types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of paragraph (a)(7) of this section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) the oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 261.21) and/or toxicity for benzene (§261.24, waste code D018), and

(ii) the oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, byproducts, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in §261.1(c).

(20) Hazardous secondary materials used to make zinc fertilizers, provided that the conditions specified below are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in §261.1(c)(8).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(A) Submit a one-time notice to the Secretary in whose jurisdiction the exclusion is being claimed, which contains the name, address and EPA I.D. number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this paragraph (a)(20).

(B) Store the excluded secondary material in tanks, containers, or buildings

that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

(1) have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(2) provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(3) prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this paragraph (a)(20).

(D) Maintain at the generator's or intermediate handlers's handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(1) Name of the transporter and date of the shipment;

(2) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(3) Type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in paragraph (a)(20)(ii)(B) of this section.

(B) Submit a one-time notification to the Secretary that, at a minimum, specifies the name, address and EPA I.D. number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this paragraph (a)(20).

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

(D) Submit to the Secretary an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process(s) from which they were generated.

(iv) Nothing in this section preempts, overrides or otherwise negates the provision in §262.11 of these regulations, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in paragraph (a)(20)(ii)(A) of this section, and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of Parts 264 and 265.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under paragraph (a)(20) of this section, provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(B) For dioxin contaminants the fertilizer must contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of (a)(21)(ii) of this section. Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in this paragraph (a)(21).

(b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous waste:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, (e.g., refuse derived fuel) or reused. Household waste means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if such facility:

(i) Receives and burns only.

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources) and

(B) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

(ii) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided by §266.112 of these regulations for facilities that burn or process hazardous waste.

(5) Drilling fluids, produced waters, and other wastes associated with the exploration development, or production of crude oil, natural gas or geothermal energy.

(6) (i) Wastes which fail the test for the Toxicity Characteristics because chromium is present or are listed in Subpart D due to the presence of chromium which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(B) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in non oxidizing environments.

(ii) Specific wastes which meet the standard in paragraphs (b)(6)(i)(A), (B) and (C) (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

(A Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/ wet finish; retan/wet finish; no beamhouse; through the blue; and shearling.

(B) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry; hairpulp/chrome tan/retan/wet finish; hair save/chrome tan retan wet finish; retain/wet finish; no beamhouse; through the blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hairpulp/ chrome tan/retan/wet finish; hair save/chrome tan/retan wet finish; no beamhouse; through the blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/ wet finish; no beamhouse; through the blue; and shearling.

(E) Wastewater treatment sludges generated by the following sub categories of the leather tanning and finishing industry; hairpulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through the blue; and shearling.

(F) Wastewater treatment sludges generated by the following sub categories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/ wet finish; and through the blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of Ti02 pigment using chromium bearing ores by the chloride process.

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by §266.112 of these regulations for facilities that burn or process hazardous waste.

(i) For purposes of §261.4(b)(7) beneficiation of ores and minerals is restricted to the

following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of §261.4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

(A) Slag from primary copper processing;

(B) Slag from primary lead processing;

(C) Red and brown muds from bauxite refining;

(D) Phosphogypsum from phosphoric acid production;

(E) Slag from elemental phosphorus production;

(F) Gasifier ash from coal gasification;

(G) Process wastewater from coal gasification;

(H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

(I) Slag tailings from primary copper processing;

(J) Fluorogypsum from hydrofluoric acid production;

(K) Process wastewater from hydrofluoric acid production;

(L Air pollution control dust/sludge from iron blast furnaces;

(M) Iron blast furnace slag;

(N) Treated residue from roasting/leaching of chrome ore;

(O) Process wastewater from primary magnesium processing by the anhydrous process;

(P) Process wastewater from phosphoric acid production;

(Q) Basic oxygen furnace and open hearth furnace air pollution control dust/ sludge from carbon steel production;

(R Basic oxygen furnace and open hearth furnace slag from carbon steel production;

(S) Chloride process waste solids from titanium tetrachloride production;

(T) Slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under paragraph (b) of this section if the owner or operator:

(A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and,

(B) Legitimately reclaims the secondary mineral processing materials.

(8) Cement kiln dust waste, except as provided by §266.112 of these regulations for facilities that burn or process hazardous waste.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical treated wood and wood products for these materials' intended end use.

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of §261.24 (Hazardous Waste Codes D018 through D043 only) and are subject to the corrective action regulations under 7 **Del.C.**, Chapter 74, Delaware Underground Storage Tank Act.

(11) [**Reserved**]

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this part if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

(iv) Any other equivalent hot-draining method that will remove used oil.

(14) Used oil re-fining distillation bottoms that are used as feedstock to manufacture asphalt products.

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, and K178, and K181, if these wastes had been generated after the effective date of the listing;

(ii) The solid wastes described in paragraph (b)(15)(i) of this section were disposed prior to the effective date of the listing:

(iii) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under Sections 307(b) or 402 of the Clean Water Act.

(v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of paragraph (b)(15)(v) of this section after the emergency ends.

(c) Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non waste treatment manufacturing unit, is not subject to regulation under Parts 262 through 265, 268, 122 or 124 of these regulations or to the notification requirements of 7 **Del.C.** §§6304, 6306 and 6307, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

(d) Samples.

(1) Except as provided in paragraph (d)(2) of this section, a sample of solid waste or sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this Part of Parts 262 through 268, or 122 or 124 of these regulations or to the notification requirements of 7 **Del.C**. §§6304, 6306 and 6307 when:

(i) The sample is being transported to a laboratory for the purpose of testing; or

(ii) The sample is being transported back to the sample collector after testing; or

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing; or

(iv) The sample is being stored in a laboratory before testing; or

(v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(2) In order to qualify for the exemption in paragraph (d)(1)(i) and (ii) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(i) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(ii) Comply with the following requirements if the sample collector determines that

DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(A) Assure that the following information accompanies the sample:

(1) The sample collector's name, mailing address and telephone number;

(2) The laboratory's name, mailing address, and telephone number;

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample.

(B) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory is no longer meeting any of the conditions stated in paragraph (d)(1) of this section.

(e) Treatability Study Samples.

(1) Except as provided in paragraph (e)(2) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in ß260.10, are not subject to any requirement of Parts 261 through 263 of these regulations or to the notification requirements of 7 **Del.C.,** Chapter 63, nor are such samples included in the quantity determinations of §261.5 and §262.34(d) when:

(i) The sample is being collected and prepared for transportation by the generator or sample collector; or

(ii) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(iii) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(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:

(i The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(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.

(A) The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(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.

(2) The name, address, and telephone number of the facility that will perform the treatability study;

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample, including its EPA Hazardous Waste Number.

(iv) The sample is shipped to a laboratory or testing facility which is exempt under §261.4(f) or has an appropriate RCRA permit or interim status.

(v) The generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

(A) Copies of the shipping documents;

(B) A copy of the contract with the facility conducting the treatability study;

(C Documentation showing:

(1) The amount of waste shipped under this exemption;

(2) The name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(3) The date the shipment was made; and

(4) Whether or not unused samples and residues were returned to the generator.

(vi) The generator reports the information required under paragraph (e)(v)(C) of this section in its annual report.

(3) The Secretary may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Secretary may grant requests on a case-by-case basis for quantity limits in excess of those specified in paragraphs (e)(2) (i) and (ii) and (f)(4) of this section, for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(i) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(ii) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and timeframes allowed in paragraph (e)(3)(i) and (ii) of this section are subject to all the provisions in paragraphs (e)(1) and (e)(2)(iii) through (vi) of this section. The generator or sample collector must apply to the DNREC Secretary and provide in writing the following information:

(A) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

(B) Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the Secretary considers necessary.

(f) Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, Part 124, Parts 262266, 268, and 122, or to the notification requirements of 7 **Del.C.**, Chapter 63 provided that the conditions of paragraphs (f)(1) through (11) of this section are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to paragraphs (f)(1) through (11) of this section. Where a group of MTUs are located at the same site, the limitations specified in (f)(1) through (11) of this section apply to the entire group of MTUs collectively as if the group were one MTU.

(1) No less than 45 days before conducting treatability studies, the facility notifies the Secretary in writing that it intends to conduct treatability studies under this paragraph.

(2) The laboratory or testing facility conducting the treatability study has an EPA identification number.

(3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute

hazardous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste.

(5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

(7) The facility maintains records for 3 years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(i) The name, address, and EPA identification number of the generator or sample collector of each waste sample;

(ii) The date the shipment was received;

(iii) The quantity of waste accepted;

(iv The quantity of "as received" waste storage each day;

(v) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(vi) The date the treatability study was concluded;

(vii) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number.

(8) The facility keeps, onsite, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the Secretary by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(i) The name, address, and EPA identification number of the facility conducting the treatability studies;

(ii) The types (by process) of treatability studies conducted;

(iii) The names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

(iv) The total quantity of waste in storage each day;

(v) The quantity and types of waste subjected to treatability studies;

(vi) When each treatability study was conducted;

(vii) The final disposition of residues and unused sample from each treatability study;

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under ß261.3 and, if so, are subject to Parts 261 through 268, and Part 122 of these regulations, unless the residues and unused samples are returned to the sample originator under the ß261.4(e) exemption.

(11) The facility notifies the Secretary by letter when the facility is no longer planning to conduct any treatability studies at the site.

(g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act (33

U.S.C.1344) or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this paragraph (g), the following definitions apply:

(1) The term dredged material has the same meaning as defined in 40 CFR 232.2;

(2) The term permit means:

(i) A permit issued by the U.S. Army Corps of Engineers (Corps) or an approved State under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) A permit issued by the Corps under Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in paragraphs (g)(2)(i) and (ii) of this section, as provided for in Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

(Amended November 21, 1985; May 8, 1986; August 29, 1988; August 10, 1990; July 26, 1994, August 1, 1995, August 21, 1997, January 1, 1999, August 23, 1999, June 2, 2000, July 1, 2002, February 12, 2004)

(Break in Continuity of Sections)

Section 261.7 Residues of hazardous waste in empty containers.

(a) (1) Any hazardous waste remaining in either (i) an empty container or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of these regulations is not subject to regulation under Parts 261 through 265 of these regulations or Parts 268, 122 or 124 of these regulations or to the notification requirements of 7 **Del.C**., §§6304, 6306 and 6307.

(2) Any hazardous waste in either (i) a container that is not empty or (ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under Parts 261 through 265, and Parts 268, 122 and 124 of these regulations and to the notification requirements of 7 **Del.C.,** §§6304, 6306 and 6307.

(b) (1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in §§261.31, 261.32, or 261.33(e) of these regulations is empty if:

(i) all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and

(ii) no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner, or

(iii) (A) no more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is ~~less than or equal to 110 gallons in size~~ less than or equal to 119 gallons in size; or

(B) no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than ~~110~~ 119 gallons in size.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in §§261.31, 261.32 or 261.33(e) is empty if:

(i) the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemicals intermediate;

(ii) the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) in the case of a container, the inner liner that prevented contact of the commercial chemical product of manufacturing chemical intermediate with the container, has been removed.

(Amended November 21, 1985; August 10, 1990, August 1, 1995)

(Break in Continuity of Sections)

Section 261.9 Requirements for Universal Waste.

The wastes listed in this section are exempt from regulation under Parts 262 through 268 and 122 of these regulations except as specified in Part 273 of these regulations and, therefore are not fully regulated as hazardous

waste. The wastes listed in this section are subject to regulation under Part 273:

(a) Batteries as described in §273.2;

(b) Pesticides as described in §273.3 of these regulations;

(c) ~~Thermostats as described in §273.4 of these regulations; and~~ Mercury-containing equipment as described in § 273.4 of these regulations; and

(d) Lamps as described in §273.5 of these regulations.

(Amended July 23, 1996, June 2, 2000)

(Break in Continuity of Sections)

Section 261.32 Hazardous wastes from specific sources.

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

Industry and EPA Hazardous Waste No.	**Hazardous waste**	**Hazard code**
	Organic Chemicals	
K181	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (c) of this section that are equal to or greater than the corresponding paragraph (c) levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are: (i) disposed in a Subtitle D landfill unit subject to the design criteria in 40 CFR §258.40, (ii) disposed in a Subtitle C landfill unit subject to either §264.301 or §265.301, (iii) disposed in other Subtitle D landfill units that meet the design criteria in §258.40, §264.301, or §265.301, or (iv) treated in a combustion unit that is permitted under Subtitle C, or an onsite combustion unit that is permitted under the Clean Air Act. For the purposes of this listing, dyes and/or pigments production is defined in paragraph (b)(1) of this section. Paragraph (d) of this section describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as hazardous under §§261.21-261.24 and 261.31-261.33 at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met	(T)

(b) Listing Specific Definitions: (1) For the purposes of the K181 listing, dyes and/or pigments production is defined to include manufacture of the following product classes: dyes, pigments, or FDA certified colors that are classified as azo, triarylmethane, perylene or anthraquinone classes. Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products. Triarylmethane products include both triarylmethane and triphenylmethane products. Wastes that are not generated at a dyes and/or pigments manufacturing site, such as wastes from the offsite use, formulation, and packaging of dyes and/or pigments, are not included in the K181 listing.

(c) K181 Listing Levels. Nonwastewaters containing constituents in amounts equal to or exceeding

the following levels during any calendar year are subject to the K181 listing, unless the conditions in the K181 listing are met.

Constituent	Chemical abstracts No.	Mass levels (kg/yr)
Aniline	62-53-3	9,300
o-Anisidine	90-04-0	110
4-Chloroaniline	106-47-8	4,800
p-Cresidine	120-71-8	660
2,4-Dimethylaniline	95-68-1	100
1,2-Phenylenediamine	95-54-5	710
1,3-Phenylenediamine	108-45-2	1,200

(d) Procedures for demonstrating that dyes and/or pigment nonwastewaters are not K181. The procedures described in paragraphs (d)(1)-(d)(3) and (d)(5) of this section establish when nonwastewaters from the production of dyes/pigments would not be hazardous (these procedures apply to wastes that are not disposed in landfill units or treated in combustion units as specified in paragraph (a) of this section). If the nonwastewaters are disposed in landfill units or treated in combustion units as described in paragraph (a) of this section, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 listing description, the generator must maintain documentation as described in paragraph (d)(4) of this section.

(1) Determination based on no K181 constituents. Generators that have knowledge (e.g., knowledge of constituents in wastes based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed) that their wastes contain none of the K181 constituents (see paragraph (c) of this section) can use their knowledge to determine that their waste is not K181. The generator must document the basis for all such determinations on an annual basis and keep each annual documentation for three years.

(2) Determination for generated quantities of 1,000 MT/yr or less for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is 1,000 metric tons or less, the generator can use knowledge of the wastes (e.g., knowledge of constituents in wastes based on prior analytical data and/or information about raw materials used, production processes used, and reaction and degradation products formed) to conclude that annual mass loadings for the K181 constituents are below the paragraph (c) of this section listing levels of this section. To make this determination, the generator must:

(i) Each year document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons.

(ii) Track the actual quantity of nonwastewaters generated from January 1 through December 31 of each year. If, at any time within the year, the actual waste quantity exceeds 1,000 metric tons, the generator must comply with the requirements of paragraph (d)(3) of this section for the remainder of the year.

(iii) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

(iv) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(A) The quantity of dyes and/or pigment nonwastewaters generated.

(B) The relevant process information used.

(C) The calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

(3) Determination for generated quantities greater than 1,000 MT/yr for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is greater than 1,000 metric tons, the generator must perform all of the steps described in paragraphs ((d)(3)(i)-(d)(3)(xi) of this section) in order to make a determination that its waste is not K181.

(i) Determine which K181 constituents (see paragraph (c) of this section) are reasonably expected to be present in the wastes based on knowledge of the wastes (e.g., based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed).

(ii) If 1,2-phenylenediamine is present in the wastes, the generator can use either knowledge or sampling and analysis procedures to determine the level of this constituent in the wastes. For determinations based on use of knowledge, the generator must comply with the procedures for using knowledge described in paragraph (d)(2) of this section and keep the records described in paragraph (d)(2)(iv) of this section. For determinations based on sampling and analysis, the generator must comply with the sampling and analysis and recordkeeping requirements described below in this section.

(iii) Develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:

(A) A discussion of the number of samples needed to characterize the wastes fully;

(B) The planned sample collection method to obtain representative waste samples;

(C) A discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes.

(D) A detailed description of the test methods to be used, including sample preparation, clean up (if necessary), and determinative methods.

(iv) Collect and analyze samples in accordance with the waste sampling and analysis plan.

(A) The sampling and analysis must be unbiased, precise, and representative of the wastes.

(B) The analytical measurements must be sufficiently sensitive, accurate and precise to support any claim that the constituent mass loadings are below the paragraph (c) of this section listing levels of this section.

(v) Record the analytical results.

(vi) Record the waste quantity represented by the sampling and analysis results.

(vii) Calculate constituent-specific mass loadings (product of concentrations and waste quantity).

(viii) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

(ix) Determine whether the mass of any of the K181 constituents listed in paragraph (c) of this section generated between January 1 and December 31 of any year is below the K181 listing levels.

(x) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(A) The sampling and analysis plan.

(B) The sampling and analysis results (including QA/QC data)

(C) The quantity of dyes and/or pigment nonwastewaters generated.

(D) The calculations performed to determine annual mass loadings.

(xi) Nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous.

(A) The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. The generator can then use knowledge of the wastes to support subsequent annual determinations.

(B) The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels.

(C) If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination. If testing is reinstated, a description of the process change must be retained.

(4) Recordkeeping for the landfill disposal and combustion exemptions. For the purposes of

meeting the landfill disposal and combustion condition set out in the K181 listing description, the generator must maintain on site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design standards set out in the listing description, or was treated in combustion units as specified in the listing description.

(5) Waste holding and handling. During the interim period, from the point of generation to completion of the hazardous waste determination, the generator is responsible for storing the wastes appropriately. If the wastes are determined to be hazardous and the generator has not complied with the subtitle C requirements during the interim period, the generator could be subject to an enforcement action for improper management.

(Break in Continuity of Sections)

Appendix VII Basis for Listing Hazardous Waste

EPA hazardous waste No.	Hazardous constituents for which listed
F001	Tetrachloroethylene, methylene chloride trichloroethylene, 1,1,1trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
F002	Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1trichloroethane, 1,1,2trichloroethane, chlorobenzene, 1,1,2trichloro1,2,2trifluoroethane, orthodichlorobenzene, trichlorofluoromethane.
F003	N.A.
F004	Cresols and cresylic acid, nitrobenzene.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2ethoxyethanol, 2nitropropane.
F006	Cadmium, hexavalent chromium, nickel, cyanide (complexed).
F007	Cyanide (salts).
F008	Cyanide (salts).
F009	Cyanide (salts).
F010	Cyanide (salts).
F011	Cyanide (salts).
F012	Cyanide (complexed).
F019	Hexavalent chromium, cyanide (complexed).
F020	Tetra and pentachlorodibenzopdioxins; tetra and pentachlorodibenzofurans; tri and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F021	Penta and hexachlorodibenzopdioxins; penta and hexachlorodibenzofurans; pentachlorophenol and its derivatives.
F022	Tetra, penta, and hexachlorodibenzopdioxins; tetra, penta, and hexachlorodibenzofurans.
F023	Tetra, and pentachlorodibenzopdioxins; tetra and pentachlorodibenzofurans; tri and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F024	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1dichloroethane, 1,2dichloroethane, trans12dichloroethylene, 1,1dichloroethylene, 1,1,1trichloroethane, 1,1,2trichloroethane, trichloroethylene, 1,1,1,2tetrachloroethane, 1,1,2,2tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3chloropropene), dichloropropane, dichloropropene, 2chloro1,3butadiene, hexachloro1,3butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorbenzene, dichlorobenzenes,1,2,4trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.
F025	Chloromethane; Dichloromethane; Trichloromethane; Carbontetrachloride; Chloroethylene; 1,1Dichloroethane; 1,2Dichloroethane; trans1,2Dichloroethylene;

	1,1Dichloroethylene; 1,1,1Trichloroethane; 1,1,2Trichloroethane; Trichloroethylene; 1,1,1,2Tetrachloroethane; 1,1,2,2Tetrachloroethane; Tetrachloroethylene; Pentachloroethane; Hexachloroethane; Allyl chloride (3Chloropropene); Dichloropropane; Dichloropropene; 2Chloro1,3butadiene; Hexachloro1,3butadiene; Hexachlorocyclopentadiene; Benzene; Chlorobenzene; Dichlorobenzene; 1,2,4Trichlorobenzene; Tetrachlorobenzene; Pentachlorobenzene; Hexachlorobenzene; Toluene; Naphthalene.
F026	Tetra and pentachlorodibenzopdioxins; tetra and pentachlorodibenzofurans; tri and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F027	Tetra, penta, and hexachlorodibenzopdioxins; tetra, penta, and hexachlorodibenzofurans; tri, tetra, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F028	Tetra, penta, and hexachlorodibenzopdioxins; tetra, penta, and hexachlorodibenzofurans; tri, tetra, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F032	Benz(a)anthracene, benzo(a)pyrene, dibenz(a,h)-anthracene, indeno(1,2,3-cd)pyrene, pentachlorophenol, arsenic, chromium, tetra-, penta-, hexa-, heptachlorodibenzo-p-dioxins, tetra-, penta-, hexa-, heptachlorodibenzofurans.
F034	Benz(a)anthracene, benzo(k)fluoranthene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, naphthalene, arsenic, chromium.
F035	Arsenic, chromium, lead.
F037	Benzene, benzo(a)pyrene, chrysene, lead, chromium.
F038	Benzene, benzo(a)pyrene, chrysene, lead, chromium.
F039	All constituents for which treatment standards are specified for multisource leachate (wastewaters and nonwastewaters) under section 268.43(a), Table CCW, of these regulations.
K001	Pentachlorophenol, phenol, 2chlorophenol, pchloromcresol, 2,4dimethylphenyl, 2,4dinitrophenol, trichlorophenols, tetrachlorophenols, 2,4dinitrophenol, creosote, chrysene, naphthalene, fluoranthene, benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3cd)pyrene, benz(a)anthracene, dibenz(a)anthracene, acenaphthalene.
K002	Hexavalent chromium, lead
K003	Hexavalent chromium, lead.
K004	Hexavalent chromium.
K005	Hexavalent chromium, lead.
K006	Hexavalent chromium.
K007	Cyanide (complexed), hexavalent chromium.
K008	Hexavalent chromium.
K009	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.
K010	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.
K011	Acrylonitrile, acetonitrile, hydrocyanic acid.
K013	Hydrocyanic acid, acrylonitrile, acetonitrile.
K014	Acetonitrile, acrylamide.
K015	Benzyl chloride, chlorobenzene, toluene, benzotrichloride.
K016	Hexachlorobenzene, hexachlorobutadiene, carbon tetrachloride, hexachloroethane, perchloroethylene.
K017	Epichlorohydrin, chloroethers [bis(chloromethyl) ether and bis (2chloroethyl) ethers], trichloropropane, dichloropropanols.
K018	1,2dichloroethane, trichloroethylene, hexachlorobutadiene, hexachlorobenzene.
K019	Ethylene dichloride, 1,1,1trichloroethane, 1,1,2trichloroethane, tetrachloroethanes (1,1,2,2tetrachloroethane and 1,1,1,2tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K020	Ethylene dichloride, 1,1,1trichloroethane, 1,1,2trichloroethane, tetrachloroethanes

	(1,1,2,2tetrachloroethane and 1,1,1,2tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K021	Antimony, carbon tetrachloride, chloroform.
K022	Phenol, tars (polycyclic aromatic hydrocarbons).
K023	Phthalic anhydride, maleic anhydride.
K024	Phthalic anhydride, 1,4naphthoquinone.
K025	Metadinitrobenzene, 2,4dinitrotoluene.
K026	Paraldehyde, pyridines, 2picoline.
K027	Toluene diisocyanate, toluene2, 4diamine.
K028	1,1,1trichloroethane, vinyl chloride.
K029	1,2 dichloroethane, 1,1,1trichloroethane, vinyl chloride, vinylidene chloride, chloroform.
K030	Hexachlorobenzene, hexachlorobutadiene, hexachloroethane, 1,1,1,2tetrachloroethane, 1,1,2,2 tetrachloroethane, ethylene dichloride.
K031	Arsenic.
K032	Hexachlorocyclopentadiene.
K033	Hexachlorocyclopentadiene.
K034	Hexachlorocyclopentadiene.
K035	Creosote, chrysene, naphthalene, fluoranthene benzo(b) fluoranthene, benzo(a)pyrene, indeno(1,2,3cd) pyrene, benzo(a)anthracene, dibenzo(a)anthracene, acenaphthalene.
K036	Toluene, phosphorodithioic and phosphorothioic acid esters.
K037	Toluene, phosphorodithioic and phosphorothioic acid esters.
K038	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K039	Phosphorodithioic and phosphorothioic acid esters.
K040	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K041	Toxaphene.
K042	Hexachlorobenzene, orthodichlorobenzene.
K043	2,4dichlorophenol, 2,6dichlorophenol, 2,4,6trichlorophenol.
K044	N.A.
K045	N.A.
K046	Lead.
K047	N.A.
K048	Hexavalent chromium, lead.
K049	Hexavalent chromium, lead.
K050	Hexavalent chromium.
K051	Hexavalent chromium, lead.
K052	Lead.
K060	Cyanide, napthalene, phenolic compounds, arsenic.
K061	Hexavalent chromium, lead, cadmium.
K062	Hexavalent chromium, lead.
K064	Lead, cadmium.
K065	Do.
K066	Do.
K069	Hexavalent chromium, lead, cadmium.
K071	Mercury.
K073	Chloroform, carbon tetrachloride, hexacholroethane, trichloroethane, tetrachloroethylene, dichloroethylene, 1,1,2,2tetrachloroethane.
K083	Aniline, diphenylamine, nitrobenzene, phenylenediamine.
K084	Arsenic.
K085	Benzene, dichlorobenzenes, trichlorobenzenes, tetrachlorobenzenes, pentachlorobenzene, hexachlorobenzene, benzyl chloride.
K086	Lead, hexavalent chromium.
K087	Phenol, naphthalene.
K088	Cyanide (complexes).
K090	Chromium.

K091	Do.
K093	Phthalic anhydride, maleic anhydride.
K094	Phthalic anhydride.
K095	1,1,2trichloroethane, 1,1,1,2tetrachloroethane, 1,1,2,2tetrachloroethane.
K096	1,2dichloroethane, 1,1,1trichloroethane,1,1,2trichloroethane.
K097	Chlordane, heptachlor.
K098	Toxaphene.
K099	2,4dichlorophenol, 2,4,6trichlorophenol.
K100	Hexavalent chromium, lead, cadmium.
K101	Arsenic.
K102	Arsenic.
K103	Aniline, nitrobenzene, phenylenediamine.
K104	Aniline, benzene, diphenylamine, nitrobenzene, phenylenediamine
K105	Benzene, monochlorobenzene, dichlorobenzenes, 2,4,6trichlorophenol
K106	Mercury
K107	1,1Dimethylhydrazine (UDMH)
K108	1,1Dimethylhydrazine(UDMH)
K109	1,1Dimethylhydrazine (UDMH)
K110	1,1Dimethylhydrazine(UDMH)
K111	2,4Dinitrotoluene
K112	2,4Toluenediamine, otoluidine, ptoluidine, aniline
K113	2,4Toluenediamine, otoluidine, ptoluidine, aniline
K114	2,4Toluenediamine, otoluidine, ptoluidine
K115	2,4Toluenediamine
K116	Carbon tetrachloride, tetrachloroethylene chloroform, phosgene
K117	Ethylene dibromide
K123	Ethylene thiourea
K124	Ethylene thiourea
K125	Ethylene thiourea
K126	Ethylene thiourea
K131	Dimethyl sulfate, methyl bromide
K132	Methyl bromide
K136	Ethylene dibromide
K141	Benzene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene.
K142	Benzene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene.
K143	Benzene, benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene.
K144	Benzene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene.
K145	Benzene, benz(a)anthracene, benzo(a)pyrene, dibenz(a,h)anthracene, naphthalene.
K147	Benzene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene.
K148	Benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene.
K149	Benzotrichloride, benzyl chloride, chloroform, chloromethane, chlorobenzene, 1,4-dichlorobenzene,
K156	Benomyl, carbaryl, carbendazim, carbofuran, carbosulfan, formaldehyde, methylene chloride, triethylamine.
K151	Benzene, carbon tetrachloride, chloroform, hexachlorobenzene, pentachlorobenzene, toluene, 1,2,4,5-tetrachlorobenzene, tetrachloroethylene.
K157	Carbon tetrachloride, formaldehyde, methyl chloride, methylene chloride, pyridine, triethylamine.
K158	Benomyl, carbendazim, carbofuran, carbosulfan, chloroform, methylene chloride.

K159	Benzene, butylate, eptc, molinate, pebulate, vernolate.
K161	Antimony, arsenic, metam-sodium, ziram.
K169	Benzene.
K170	Benzo(a)pyrene, dibenz(a,h)anthracene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, 3-methylcholanthrene, 7,12-demethylbenz(a)anthracene.
K171	Benzene, arsenic.
K172	Benzene, arsenic.
K174	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD), 1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF), 1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,213,6,7,8,9-HpCDF), HxCDDs (All Hexachlorodibenzo-p-dioxins), HxCDFs (All Hexachlorodibenzofurans), PeCDDs (All Pentachlorodibenzo-p-dioxins), OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin), OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran), PeCDFs (All Pentachlorodibenzofurans), TCDDs (All Tetrachlorodibenzo-p-dioxins), TCDFs (All Tetrachlorodibenzofurans).
K175	Mercury.
K176	Arsenic, Lead.
K177	Antimony.
K178	Thallium.
K181	Aniline, o-anisidine, 4-chloroaniline, p-cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, 1,3-phenylenediamine.

N.A. Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity.

(Amended February 5, 1985; November 21, 1985; May 8, 1986; August 29, 1988; August 10, 1990; June 19, 1992, August 1, 1995, August 21, 1997, January 1, 1999, August 23, 1999, April 23, 2001, July 1, 2002)

(Break in Continuity of Sections)

Appendix VIII Hazardous Constituents

Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Haz. Waste #
o-Anisidine (2-methoxyaniline)	Benzenamine, 2- Methoxy-	90-04-0	.....
* * * * *	* *		
p-Cresidine	2-Methoxy-5- methylbenzenamine	120-71-8	.....
* * * * *	* *		
2,4-Dimethylaniline (2,4- xylidine)	Benzenamine, 2,4-dimethyl-.	95-68-1	……
* * * * *	* *		
1,2-Phenylenediamine	1,2- Benzenediamine	95-54-5	……
* * * * *	* *		
1,3-Phenylenediamine	1,3- Benzenediamine.	108-45-2	.....

(Break in Continuity of Sections)

Section 262.12 EPA Identification Numbers.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Secretary.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Secretary using ~~"State of Delaware Notification of Regulated Waste Activity"~~ "RCRA Subtitle C Site Identification Form", EPA Form 8700-12. Upon receiving the request, the Secretary will assign an EPA identification number to the generator.

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

(d) A generator must submit a subsequent ~~State of Delaware Notification of Regulated Waste Activity~~

~~Form~~ "RCRA Subtitle C Site Identification Form", EPA Form (~~8700-12~~) whenever there is a change in name, mailing address, contact person, contact address, telephone number, ownership, type of regulated waste activity, or changes in the description of regulated wastes managed or permanently ceases the regulated waste activity. This subsequent notification must be submitted to the Secretary no less than 10 days prior to implementation of the change(s).

(Break in Continuity of Sections)

Section 262.20 General requirements.

(a) (1) A generator who transports, or offers for transportation, hazardous waste for off site treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (U.S. OMB Control Number 2050 0039) on EPA Form 8700-22 and, if necessary EPA Form 8700 22A, according to the instructions included in ~~Appendix II of Part 262~~ the appendix to this part.

(2) The revised Manifest form and procedures in 260.10, 261.7, 262.20, 262.21, 262.27, 262.32, 262.33, 262.34, 262.54, 262.60, and the appendix to part 262 of these regulations shall not apply until September 5, 2006.

(b) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

(d) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(e) [**Reserved**]

(f) The requirements of this subpart and §262.32(b) do not apply to transportation during an explosives or munitions emergency response or transport of military munitions as defined in §260.10 of these regulations on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding §263.10(a), the generator or transporter must comply with the requirements for transporters set forth in §263.30 and §263.31 in the event of a discharge of hazardous waste on a public or private right-of-way.

(Amended September 20, 1984, August 10, 1990, January 1, 1999)

(Break in Continuity of Sections)

Section 262.21 ~~Acquisition of manifests~~ Manifest tracking numbers, manifest printing, and obtaining manifests.

~~(a) Since the Department requires the use of the Uniform National Manifest System, Generators shipping wastes into or within (from a Delaware Generator to a Delaware Disposal Facility) Delaware must use the Delaware Manifest form.~~

~~(b) Generators in Delaware who ship out of state must use the form of the state which will receive the waste. If the state does not supply the manifest form, the generator must use the Delaware Manifest form.~~
~~(Amended September 20, 1984)~~

(a) (1) A registrant may not print, or have printed, the manifest for use or distribution unless it has received approval from the EPA Director of the Office of Solid Waste to do so under paragraphs (c) and (e) of this section.

(2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

(b) A registrant must submit an initial application to the EPA Director of the Office of Solid Waste that contains the following information:

(1) Name and mailing address of registrant;

(2) Name, telephone number and email address of contact person;

(3) Brief description of registrant's government or business activity;

(4) EPA identification number of the registrant, if applicable;

(5) Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:

(i) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.

(ii) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be preprinted on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time.

(iii) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase).

(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest.

(7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest.

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this Section and that it will notify the EPA Director of the Office of Solid Waste of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

(c) EPA will review the application submitted under paragraph (b) of this section and either approve it or request additional information or modification before approving it.

(d) (1) Upon EPA approval of the application under paragraph (c) of this section, EPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant's samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c) of this section.

(2) The registrant must submit a description of the manifest samples as follows:

(i) Paper type (i.e., manufacturer and grade of the manifest paper);

(ii) Paper weight of each copy;

(iii) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and

(iv) Method of binding the copies.

(3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.

(e) EPA will evaluate the forms and either approve the registrant to print them as proposed or request

additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) of this section and the manifest specifications in paragraph (f) of this section. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.

(f) Paper manifests and continuation sheets must be printed according to the following specifications:

(1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be preprinted on the manifest form.

(2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.

(3) The manifest and continuation sheet must be printed on 81/2 x 11-inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be in red ink.

(5) The manifest and continuation sheet must be printed as six-copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all six copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

(6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:

(i) Page 1 (top copy): "Designated facility to destination State ~~(if required)~~".

(ii) Page 2: "Designated facility to generator State ~~(if required)~~".

(iii) Page 3: "Designated facility to generator".

(iv) Page 4: "Designated facility's copy".

(v) Page 5: "Transporter's copy".

(vi) Page 6 (bottom copy): "Generator's initial copy".

(7) The instructions in the appendix to ~~40 CFR~~ part 262 of these regulations must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest Form 8700-22.

(A) The "Instructions for Generators" on Copy 6;

(B) The "Instructions for International Shipment Block" and "Instructions for Transporters" on Copy 5; and

(C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 4.

(ii) Manifest Form 8700-22A.

(A) The "Instructions for Generators" on Copy 6;

(B) The "Instructions for Transporters" on Copy 5; and

(C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 4.

(g) (1 A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of this section. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDF; or

(iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

(2) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying

legible photocopies of the manifest to these states.

(h) (1) If an approved registrant would like to update any of the information provided in its application approved under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of Solid Waste, along with an indication or explanation of the update, as soon as practicable after the change occurs. The Agency either will approve or deny the MRR2 revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

(2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of Solid Waste, along with the reason for requesting it. The Agency will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

(3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

(i) If, subsequent to its approval under paragraph (e) of this section, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until EPA approves them.

(j) EPA may exempt a registrant from the requirement to submit form samples under paragraph (d) or (h)(3) of this section if the Agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from EPA by indicating why an exemption is warranted.

(k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.

(l) If, subsequent to approval of a registrant under paragraph (e) of this section, EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, EPA will contact the registrant and require modifications to the form.

(m) (1) EPA may suspend and, if necessary, revoke printing privileges if we find it finds that the registrant:

(i) Has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

(ii) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.

(2) EPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, EPA will send a second letter notifying the registrant that EPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to EPA if requested.

(Break in Continuity of Sections)

Section 262.27 Waste minimization certification.

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) 'I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

(Break in Continuity of Sections)

Section 262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR Part 172.

(b) Before transporting hazardous waste or offering hazardous waste for transportation off site, a generator must mark each container of ~~110~~ 119 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____

Generator's EPA Identification Number _____

Manifest ~~Document~~ Tracking Number _____

Section 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F. If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1).

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 Subparts J, AA, BB, and CC of Part 265 except §§ 265.197(c) and 265.200; and/or

(iii) On drip pads and the generator complies with Subpart W of Part 265 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with Subpart DD of Part 265, has placed its professional engineer certification that the building complies with the design standards specified in §265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in Subparts G and H of Part 265, except for §§265.111 and 265.114.

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on site, each container and tank is labeled or marked clearly

with the words "Hazardous Waste"; and

(4) The generator complies with the requirements for owners or operators in Subparts C and D in Part 265, with §265.16, and with §268.7(a)(5).

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Part 264 and 265 and the permit requirements of Part 122 unless he has been granted an extension to the 90 day period. Such extension may be granted by DNREC if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Secretary on a case by case basis.

(c) (1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §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) 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.

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply immediately with paragraph (a) of this section or other applicable provisions of these regulations. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(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:

(1) The quantity of waste accumulated on site never exceeds 6000 kilograms;

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

(3) The generator complies with the requirements of §265.201 in Subpart J of Part 265;

(4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of Subpart C of Part 265, the requirements of §268.7(a)(5); and

(5) The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(3)(iv) of this section. This employee is the emergency coordinator.

(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24 hour toll free number: 800/424 8802) and the DNREC at (302) 739-5072 or (800) 662 8802 immediately. The report must include the following

information:

(1) The name, address, and U.S. EPA Identification Number of the generator;

(2) Date, time, and type of incident (e.g., spill or fire);

(3) Quantity and type of hazardous waste involved in the incident;

(4) Extent of injuries, if any; and

(5) Estimated quantity and disposition of recovered materials, if any.

(e) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off site treatment, storage or disposal may accumulate hazardous waste on site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of paragraph (d) of this section.

(f) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of Parts 264 and 265 and the permit requirements of Part 122 unless he has been granted an extension to the 180 day (or 270 day if applicable) period. Such extension may be granted by the DNREC Secretary if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Secretary on a case by case basis.

(g) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste code F006, may accumulate F006 waste onsite for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

(1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(2) The F006 waste is legitimately recycled through metals recovery;

(3) No more than 20,000 kilograms of F006 waste is accumulated onsite at any one time; and

(4) The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed:

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

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

(C) In containment buildings and the generator complies with Subpart DD of Part 265, and has placed its professional engineer certification that the building complies with the design standards specified in §265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(2) Documentation that the unit is emptied at least once every 180 days.

(ii) In addition, such a generator is exempt from all the requirements in Subparts G and H of Part 265, except for §§265.111 and 265.114.

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated onsite, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and

(v) The generator complies with the requirements for owners or operators in Subparts C and D in Part 265, with §265.16, and with §268.7(a)(5).

(h) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for offsite metals recovery, may accumulate F006 waste onsite for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of paragraphs (g)(1) through (g)(4) of this section.

(i) A generator accumulating F006 in accordance with paragraphs (g) and (h) of this section who accumulates F006 waste onsite for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste onsite is an operator of a storage facility and is subject to the requirements of Parts 264 and 265 and the permit requirements of Part 122 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by DNREC if F006 waste must remain onsite for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain onsite due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Secretary on a case-by- case basis.

(j) A member of the Performance Track Program who generates 1000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste on-site without a permit or interim status for an extended period of time, provided that:

(1) The generator accumulates the hazardous waste for no more than 180 days; and

(2) The generator first notifies the Regional Administrator and the DNREC Secretary in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this section. Such advance notice must include:

(i) Name and EPA ID number of the facility, and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this section; and

(ii) A description of the types of hazardous wastes that will be accumulated for extended periods of time, and the units that will be used for such extended accumulation; and

(iii) A Statement that the facility has made all changes to its operations, procedures, including emergency preparedness procedures, and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and

(iv) Reserved

(3) The waste is managed in:

(i) Containers, in accordance with the applicable requirements of Subparts I, AA, BB and CC of DRGHW Part 265 and DRGHW 264.175; or

(ii) Tanks, in accordance with the applicable requirements of Subparts J, AA, BB and CC of DRGHW Part 265, except for §§265.197(c) and 265.200; or

(iii) Drip pads, in accordance with Subpart W of DRGHW Part 265; or

(iv) Containment buildings, in accordance with Subpart DD of DRGHW Part 265; and

(4) The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg; and

(5) The generator maintains for a period of at least three years the following records at the facility for each unit used for extended accumulation times:

(i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days, a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or

(ii) Documentation that the unit is emptied at least once every 180 days; and

(6) Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words ``Hazardous Waste,'' and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection; and

(7) The generator complies with the requirements for owners and operators in Subparts C and D in DRGHW Part 265, with §265.16, and with §268.7(a)(5). In addition, such a generator is exempt from all the requirements in Subparts G and H of Part 265, except for. §§265.111 and 265.114; and

(8) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and

(9) The generator includes the following with its Performance Track Annual Performance Report, which must be submitted to the Regional Administrator and the DNREC Secretary:

(i) Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods; and

(ii) Information for the previous year on the number of off-site shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (e.g., recycling, treatment, storage, or disposal), and what changes in on-site or off-site waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this section; and

(iii) Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during off-site transport of accumulated wastes; and

(iv) **Reserved**

(k) If hazardous wastes must remain on-site at a Performance Track member facility for longer than 180 days due to unforeseen, temporary, and uncontrollable circumstances, an extension to the extended accumulation time period of up to 30 days may be granted at the discretion of the DNREC Secretary on a case-by-case basis.

(l)(1) If a generator who is a member of the Performance Track Program withdraws from the Performance Track Program, if the Regional Administrator terminates a generator's membership, or if use of the §262.34(j) provisions is terminated pursuant to §262.34(m), the generator must return to compliance with all otherwise applicable hazardous waste regulations for those waste being managed pursuant to §262.34(j) as soon as possible, but no later than 90 days after the date of withdrawal or termination.

(2) The use of the §262.34(j) provisions for accumulating hazardous wastes for extended periods of time by Performance Track member facilities may be terminated by the DNREC Secretary for noncompliance with the requirements of these regulations.

(m) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of §264.72 or §265.72 of these regulations may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d), (e) and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(Amended August 29, 1988; June 19, 1992, August 1, 1995, January 1, 1999, August 23, 1999, June 2, 2000, April 23, 2001)

(Break in Continuity of Sections)

Section 262.54 Special manifest requirements.

A primary exporter must comply with the manifest requirements of §§262.20 262.23 except that:

(a) In lieu of the name, site address, and EPA I.D. number of the designated permitted facility, the primary exporter must enter the name and site address of the consignee.

(b) In lieu of the name, site address and EPA I.D. number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.

(c) ~~In Special Handling Instructions and Additional Information, the primary exporter must identify the point of departure from the United States;~~ In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and State) from the United States.

(d) The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent";

(e) ~~In lieu of the requirements of §262.21, the primary exporter must obtain the manifest form from the primary exporter's state if that state supplies the manifest form and requires its use. If the primary exporter's State does not supply the manifest form, the primary exporter may obtain a manifest form from any source.~~ The primary exporter may obtain the manifest form from any source that is registered with the U.S. EPA as a supplier of manifests (e.g. states, waste handlers, and/or commercial form printers).

(f) The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in §264.72(a)) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.

(g) In lieu of the requirements of §262.20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(1) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with §262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or

(2) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

(3) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

(h) The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment of the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA Acknowledgment of Consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA Acknowledgment of Consent to the shipping paper.

(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U. S. Customs official at the point the hazardous waste leaves the United States in accordance with §263.20(g)(4).

(Amended August 29, 1988)

(Break in Continuity of Sections)

Section 262.60 Imports of hazardous waste.

(a) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.

(b) When importing hazardous waste, a person must meet all the requirements of §262.20(a) for the manifest except that:

(1) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports hazardous waste ~~must~~ may obtain the manifest form from ~~the consignment state if the state supplies the manifest and requires its use. If the consignment state does not supply the manifest form, then the manifest form may be obtained from any source.~~ any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

(d) In the International Shipments block, the importer must check the import box and enter the point of entry (city and State) into the United States.

(e) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with §264.71(a)(3) and §265.71(a)(3) of this chapter.

(Amended August 29, 1988)

(Break in Continuity of Sections)

Appendix to Part 262—Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700–22 and 8700–22A and Their Instructions) U.S. EPA Form 8700–22

VerDate jul<14>2003 18:53 Mar 03, 2005 Jkt 205001 PO 00000 Frm 00043 Fmt 4701 Sfmt 4700 Delaware Hazardous Waste Manifest and Instructions (EPA Form 8700-22 and Instructions)

General Instructions

Read all instructions before completing this form. There are 8 copies of the manifest form. The **FLOW & DISTRIBUTION OF THE FORM** identifies which party must mail or retain a copy of the form and to whom a copy must be mailed as necessary. The

FILLING OUT OF THE FORM is conducted by the Generator, Transporter, and Treatment, Storage and Disposal Facility (TSDF). Each party must fill in the required information as discussed in that section of these instructions and sign the document upon

receipt as required by the Delaware Regulations Governing Hazardous Waste.

FLOW & DISTRIBUTION OF THE MANIFEST FORM

The Uniform Hazardous Waste Manifest (EPA Form 8700-22) is initiated by the Generator. This manifest has eight (8) copies, all of which must be totally legible. Copies 1, 2, 3, 4, and 5 are taken with the waste by the Transporter to the Treatment, Storage,

and Disposal (TSD) Facility. These copies are distributed as follows:

Copy 1: Must be completed and returned by the TSD Facility to the Disposal State. Copy 1 is then compared by the Disposal State with Copy 6 for a match.

Copy 2: Must be completed and returned by the TSD Facility to the Generator State. Copy 2 is then compared by the Generator State with Copy 7 for a match.

Copy 3: Must be completed and returned by the TSD Facility to the Generator. Copy 3 is then compared by the Generator with Copy 8 for a match.

Copy 4: Retained by TSD Facility.

Copy 5: Retained by Transporter.

NOTE: If a continuing transporter is used, the Generator is responsible for supplying him with a legible copy 5 photocopy, which must contain required signatures.

Copy 6: The Generator sends Copy 6 to the Disposal State. The Disposal State retains Copy 6 to compare with Copy 1 as outlined above.

Copy 7: The Generator sends Copy 7 to the Generator State. The Generator State retains Copy 7 to compare with Copy 2 as outlined above.

Copy 8: The Generator, retaining Copy 8, compares it with Copy 3 as outlined above.

Public reporting burden for this collection of information is estimated to average: 37 minutes for generator, 15 minutes for transporter, 10 minutes for treatment, storage and disposal facility. This includes time for reviewing instructions, gathering data, and

completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: CHIEF, INFORMATION POLICY BRANCH, PM 233, U.S. ENVIRONMENTAL PROTECTION AGENCY, 401 M STREET SW, WASHINGTON, D.C. 20460; and to the OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C. 20503.

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Part 262, Appendix II

Federal and State regulations requires Generators of hazardous waste and owners or operators of hazardous waste Treatment,Storage, and Disposal Facilities to use this form (Form 8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter and intra state transportation.**THE FILLING OUT OF THE FORM** requirements are as follows:

The Delaware manifest contains 8 copies. **ALL COPIES MUST BE LEGIBLE.** Each form is designated for use on a 12 pitch (elite) typewriter; a firm ballpoint pen may be used only if you press down HARD. The 8 copies must be filled out by the appropriate parties as they are completed.

GENERATOR'S REQUIREMENTS.

Item 1. Generator's U.S. EPA ID Number Manifest Document Number. Enter the Generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this manifest (e.g., 00001) by the Generator.

Item 2. Page 1 of _____. Enter the total number of pages used to complete this Manifest, i.e. the first page (EPA Form 8700-22) plus the number of continuation sheets (EPA Form 8700-22A), if any.

Item 3. Generator's Name and Mailing Address. Enter the name and mailing address of the Generator. The

address should be the location that will manage the return Manifest forms.
Item 4. Generator's Phone Number. Enter a telephone number where an authorized agent of the Generator may be reached in the event of an emergency.
Item 5. Transporter 1 Company Name.Enter the company name of the first Transporter who will transport the waste.
Item 6.U.S. EPA ID number.Enter the U.S. EPA twelve digit identification number of the first Transporter identified in Item 5.
Item 7. Transporter 2 Company Name.If applicable, enter the company name of the second Transporter who will transport the waste. If more than two
Transporters are used to transport the waste, use a Continuation Sheet(s) EPA Form 8700-22A and list the Transporters in the order they will be transporting the waste.
Item 8.U.S. EPA ID Number.
If applicable, enter the U.S. EPA twelve digit identification number of the second Transporter identified in Item 7.
Note: If more than two Transporters are used, enter each additional Transporter's company name and U.S. EPA twelve digit identification number in Items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each continuation Sheet has space to record two additional Transporters. Every Transporter used between the generator and the Designated Facility must be listed.
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Item 9. Designated Facility Name and Site Address. Enter the company name and site address of the Facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.
Item 10. U.S. EPA ID Number.
Enter the U.S. EPA twelve digit identification number of the designated facility identified on Item 9.
Item 11. U.S. DOT Description (Including Proper Shipping Name, Hazard Class and ID Number (UN/NA)).
Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR 171 through 177.
NOTE: If additional space is needed for waste descriptions enter these additional descriptions in Item 28 on the Continuation Sheet (EPA Form 8700-22A).
Item 12. Containers (No. and Type).
Enter the number of containers for each waste and the appropriate abbreviation from Table 1 (below for the type of container).
Table 1 = Types of Containers
DM = Metal drums, barrels, kegs
DW = Wooden drums, barrels, kegs
DF = Fiberboard or plastic drums, barrels, kegs
TP = Tanks portable
TT = Cargo tanks (tank trucks)
TC = Tank cars
DT = Dump truck
CY = Cylinders
CM = Metal boxes, cartons, cases
CW = Wooden boxes, cartons, cases
CF = Fiber or plastic boxes, cartons, cases
BA = Burlap, cloth, paper or plastic bags
Item 13. Total Quantity.
Enter the total quantity of waste described on each line.
Item 14. Unit (WT./Vol).
Enter the appropriate abbreviation from Table II (below) for the unit of measure.
Table II = Units of Measure
G = Gallons (liquids only)
P = Pounds
T = Tons (2,000 lbs.)
Y = Cubic yards

L = Liters (liquids only)
K = Kilograms
M = Metric tons (1000 kg)
N = Cubic meters
Part 262-30
Part 262, Appendix II
GENERATOR'S REQUIREMENTS
Item 15. Special Handling Instructions and Additional Information.
Generators may use this space to indicate special Transportation, Treatment, Storage, or Disposal information or Bill of Lading information. For international shipments, Generators must enter in this space the point of departure (City and State
for those shipments destined for Treatment, Storage, or Disposal outside the jurisdiction of the United States.
Item 16. Generator's Certification.
The Generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.
Primary exporters shipping hazardous waste to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA Acknowledgment of Consent to
the shipment."
In signing the waste minimization certification statement, those Generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under 7 Del. C., Chapter 63 are also certifying that they have complied with the waste minimization requirements.
Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.
NOTE: All of the above information except the handwritten signature required in Item 16 may be reprinted.
Items A-K are not required by Federal regulations. However, Delaware requires Generators, Transporters, and Owners or
Operators of Treatment, Storage, or Disposal Facilities to complete the appropriate portions of Items A-K as part of the State
manifest requirements.
Item A: STATE MANIFEST DOCUMENT NUMBER - Number preprinted by Delaware except for the continuation sheets. Enter
this number on each continuation sheet attached to or part of a manifest.
Item B: STATE GENERATOR'S ID NUMBER - The State Generator ID is the street address of the Generator's pick-up
location. If the mailing address and the street address are the same, enter "same" in this block.
Item C: STATE TRANSPORTER'S PERMIT NUMBER - Enter the Delaware Hazardous Waste Hauler's permit number.
Item D: TRANSPORTER'S PHONE - Enter a telephone number with area code where an authorized agent of the Transporter
can be reached.
Item E: STATE TRANSPORTER'S PERMIT NUMBER - If applicable, enter for Transporter number 2, the Delaware Hazardous
Waste Hauler's permit.
Item F: TRANSPORTER'S PHONE - If applicable, enter for Transporters number 2, a telephone number with area code where
an authorized agent of the Transporter may be reached.
Item G: STATE FACILITY'S ID NUMBER - Enter the Company mailing address, if different than site address in Item 9. If the mailing address and the site address are the same, enter "same" in this block.
Item H: FACILITY PHONE - Enter a telephone number with area code of the TSDF designated to receive the waste listed on
the manifest.

Part 262-31
Part 262, Appendix II
Item I: WASTE NO. - Enter the 4 digit EPA hazardous waste number as it appears in 40 CFR Part 261 Subparts C & D.
Item J: ADDITIONAL DESCRIPTIONS FOR MATERIAL LISTED ABOVE
Item K: HANDLING CODES FOR WASTES LISTED ABOVE - The Generator must select the disposal method for each waste
listed in Item 11. Only one disposal code can be entered for each waste. It should be the ultimate disposal method. Place the code letter in the box. The handling codes are:
A - Land Disposal
B - Treatment
C - Incineration
D - Resource recovery of more than 75 percent of the total material.
TRANSPORTERS REQUIREMENTS
Item 17: Transporter 1 Acknowledgment of Receipt of Materials.
Enter the name of the person accepting the waste on behalf of the first Transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.
Item 18: Transporter 2 Acknowledgment of Receipt of Materials.
Enter, if applicable, the name of the person accepting the waste on behalf of the second Transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.
NOTE: International Shipment - Transporter Responsibilities.
Exports - Transporters must sign and enter the date the waste left the United States in Item 15 of Form 8700-22.
Imports - Shipments of hazardous waste regulated by RCRA and transported into the State of Delaware from another country must upon entry be accompanied by the Delaware Uniform Hazardous Waste Manifest. Transporter who transport hazardous waste into the State of Delaware from another country are responsible for completing the Manifest (see 263.10(c)(1)).
OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES REQUIREMENTS.
Item 19. Discrepancy Indication Space.
The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility.
Owners and operators of facilities located in the State of Delaware should contact DNREC Solid and Hazardous Waste Management Branch for information on State Discrepancy Report requirements.
Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19.
Print or type the name of the person accepting the waste on behalf of the owner or operator of the TSDF.
That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.
NOTE: Generators shipping wastes to a TSD facility in Delaware must use the Delaware Manifest form. Generators in Delaware who ship out of state must use the form of the state which will receive the waste. If that state does not supply the manifest form the generator must use the Delaware manifest form. The above instructions hold for Interstate and Intrastate shipments. If there are any questions or clarification regarding the instructions please contact the Department of Natural Resources and Environmental Control, Solid and Hazardous Waste Management Branch, 89 Kings Highway, Dover, DE 19901 or call (302) 739-3689.

FLOW & DISTRIBUTION OF THE MANIFEST CONTINUATION SHEET
The Uniform Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A) is initiated by the Generator. This Continuation Sheet has eight (8) copies, all of which must be totally legible. Copies 1, 2, 3, 4 and 5 are taken with the waste by the Transporter to the Treatment, Storage, and Disposal (TSD) Facility. These copies are distributed as follows:
Copy 1: Must be completed and returned by the TSD Facility to the Disposal State. Copy 1 is then compared by the Disposal State with Copy 6 for a match.
Copy 2: Must be completed and returned by the TSD Facility to the Generator State. Copy 2 is then compared by the Generator State with Copy 7 for a match.

Copy 3: Must be completed and returned by the TSD Facility to the Generator. Copy 3 is then compared by the Generator with Copy 8 for a match.
Copy 4: Retained by TSD Facility.
Copy 5: Retained by Transporter 3.
NOTE: If a continuing transporter is used, the Generator is responsible for supplying him with a legible copy 5 photocopy, which must contain required signatures.
Copy 6: The Generator sends Copy 6 to the Disposal State. The Disposal State retains Copy 6 to compare with Copy 1 as outlined above.
Copy 7: The Generator sends Copy 7 to the Generator State. The Generator State retains Copy 7 to compare with Copy 2 as outlined above.
Copy 8: The Generator, retaining Copy 8, compares it with Copy as outlined above.
Federal and State regulations require Generators and Transports of hazardous waste and owners or operators of hazardous waste, Treatment, Storage, and Disposal Facilities to use form (8700-22) and the continuation sheet (Form 8700-22A) for both
inter and intra-state transportation . This form must be used as a continuation sheet to EPA form 8700-22 if:
! More than two transporters are to be used to transport the waste.
! More space is required for the U.S. DOT description and related information in Item 11 of U.S. Form 8700-22.
The **FILLING OUT OF THE FORM** requirements are as follows:
The Delaware continuation sheet contains 8 copies. **ALL COPIES MUST BE LEGIBLE.** Each form is designed for use on a 12 pitch (elite) typewriter; a firm ballpoint pen may be used only if you press down HARD. The 8 copies must be filled out by the appropriate parties as they are completed.
GENERATOR'S REQUIREMENTS
Item 21. Generator's U.S. EPA ID Number Manifest Document Number.
Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in Item 1 on the first page of the Manifest.
Item 22. Page _____.Enter the page number of this Continuation Sheet.
Item 23. Generator's Name. Enter the generator's name as it appears in Item 3 on the first page of the Manifest.
Item 24. Transporter – Company Name. If additional transports are used to transport the waste described on this Manifest, enter the company name of each
additional transporter in the order in which they will transport the waste. Enter after the work "Transporter" the order of the transporter. For example, Transport 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.
Item 25. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 24.
Item 26. Transporter – Company Name. If additional transports are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the work "Transporter" the order of the transporter. For example, Transport 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.
Item 27. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 26.
Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA). Refer to Item 11.
Item 29. Containers (No. and Type).Refer to Item 12.
Item 30. Total Quantity.Refer to Item 13.
Item 31. Unit (Wt./Vol.)Refer to Item 14.
Item 32. Special Handling Instructions.
Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are not authorized to require additional, new, or different information in this space. Items F, G, H, I, and J are not required by Federal regulations for intra- or interstate transportation. However, Delaware requires Generators, Transporters, and Owners or Operators of Treatment, Storage, or Disposal Facilities to complete the appropriate portions of Items F, G, H, I, and J as part of State manifest requirements.
Item F: STATE MANIFEST DOCUMENT NUMBER.
Enter the pre-printed manifest document number from Copy 1 of the manifest Form 8700-22 on each continuation sheet attached to or part of a manifest.

Item G: GENERATOR PHONE NUMBER.Enter the telephone number with area code where an authorized agent of the Generator can be reached.

Item H: TRANSPORTER'S PHONE NUMBER Enter a telephone number with area code where an authorized agent of the Transporter No. 3 can be reached.

Item I: TRANSPORTER'S PHONE. If applicable, enter a telephone number with area code where an authorized agent of the Transporter No. 4 may be reached. In the case of shipment with more than four transporters, contact the DNREC for further details.

Item J:WASTE NO. Enter the 4 digit EPA hazardous number as it appears in 40 CFR Part 261 Subparts C & D.

TRANSPORTERS REQUIREMENTS

Item 33. Transporter – Acknowledgment of Receipt of Materials.

Enter the same number of the Transporter as identified in Item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

TRANSPORTERS REQUIREMENTS

Item 34: Transporter – Acknowledgment of Receipt of Materials.

Enter the same number as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

OWNERS AND OPERATORS OF TREATMENT, STORAGE OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space - Refer to Item 19.

Items F, G, H, I, and J are not required by Federal regulations for intra- or interstate transportation. However, Delaware requires generators and owners or operators of treatment, storage, or disposal facilities to complete all of Items F, G, H,

I, and J as part of State Manifest reporting requirements.

NOTE: Generators shipping wastes to a disposal facility in Delaware must use the Delaware Manifest Continuation Sheet. Generators in Delaware who ship out-of-state must use the sheet of the state which will receive the waste. If that state

does not supply the sheet, the generator must use the Delaware Manifest Continuation Sheet. The above instructions hold for Interstate and Intrastate shipments. If there are any questions or clarification regarding the instructions please contact the

Department of Natural Resources and Environmental Control, Solid and Hazardous Waste Management Branch, 89 Kings Highway, Dover, Delaware 19901.

Read all instructions before completing this form.

1. This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used—press down hard.

2. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (8700–22) and, if necessary, the continuation sheet (8700–22A) for both inter- and intrastate transportation of hazardous waste.

Manifest 8700–22

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 30 minutes for generators, 10 minutes for transporters, and 25 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing and transmitting the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, Ariel Rios Building; 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Instructions for Generators

Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number, or the State generator identification number if the generator site does not have an EPA identification number.

Item 2. Page 1 of I

Enter the total number of pages used to complete this Manifest (*i.e.*, the first page (EPA Form 8700–22) plus the number of Continuation Sheets (EPA Form 8700–22A), if any).

Item 3. Emergency Response Phone Number

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number must:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
2. Reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and
3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Note: Emergency Response phone number information should only be entered in Item 3 when there is one phone number that applies to all the waste materials described in Item 9b. If a situation (*e.g.*, consolidated shipments) arises where more than one Emergency Response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in Item 9b.

Item 4. Manifest Tracking Number

This unique tracking number must be preprinted on the manifest by the forms printer.

Item 5 Generator's Mailing Address, Phone Number and Site Address

Enter the name of the generator, the mailing address to which the completed manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the number where the generator or his authorized agent may be reached to provide instructions in the event of an emergency or if the designated and/or alternate (if any) facility rejects some or all of the shipment. Also enter the physical site address from which the shipment originates only if this address is different than the mailing address.

Item 6. Transporter 1 Company Name, and U.S. EPA ID Number

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste. Vehicle or driver information may not be entered here.

Item 7. Transporter 2 Company Name and U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste. Vehicle or driver information may not be entered here. If more than two transporters are needed, use a Continuation Sheet(s) (EPA Form 8700– 22A).

Item 8. Designated Facility Name, Site Address, and U.S. EPA ID Number

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. Also enter the facility's phone number and the U.S. EPA twelve digit identification number of the facility.

Item 9. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Item 9a. If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an ''X'' in this Item next to the corresponding hazardous material identified in Item 9b.

Item 9b. Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable.

Note: If additional space is needed for waste descriptions, enter these additional descriptions in Item 27 on the Continuation Sheet (EPA Form 8700–22A). Also, if more than one Emergency Response phone number applies to the various wastes described in either Item 9b or Item 27, enter applicable Emergency Response phone numbers immediately following the shipping descriptions for those Items.

Item 10. Containers (Number and Type)

Enter the number of containers for each waste and the appropriate abbreviation from

Table I (below) for the type of container.

TABLE I.—TYPES OF CONTAINERS

BA = Burlap, cloth, paper, or plastic bags.
CF = Fiber or plastic boxes, cartons, cases.
CM = Metal boxes, cartons, cases (including roll-offs).
CW = Wooden boxes, cartons, cases.
CY = Cylinders.
DF = Fiberboard or plastic drums, barrels, kegs.
DM = Metal drums, barrels, kegs.
DT = Dump truck.
DW = Wooden drums, barrels, kegs.
HG = Hopper or gondola cars.
TC = Tank cars.
TP = Portable tanks.
TT = Cargo tanks (tank trucks).

Item 11. *Total Quantity*

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit, and *do not* enter decimals or fractions. To the extent practical, report quantities using appropriate units of measure that will allow you to report quantities with precision. Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped. Container capacities are not acceptable as estimates.

Item 12. *Units of Measure (Weight/Volume)*

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

TABLE II.—UNITS OF MEASURE

G = Gallons (liquids only).
K = Kilograms.
L = Liters (liquids only).
M = Metric Tons (1000 kilograms).
N = Cubic Meters.
P = Pounds.
T = Tons (2000 pounds).
Y = Cubic Yards.

Note: Tons, Metric Tons, Cubic Meters, and Cubic Yards should only be reported in connection with very large bulk shipments, such as rail cars, tank trucks, or barges.

Item 13. *Waste Codes*

Enter up to six federal and state waste codes to describe each waste stream identified in Item 9b. State waste codes that are not redundant with federal codes must be entered here, in addition to the federal waste codes which are most representative of the properties of the waste.

Item 14. *Special Handling Instructions and Additional Information.*

1. Generators may enter any special handling or shipment-specific information necessary for the proper management or tracking of the materials under the generator's or other handler's business processes, such as waste profile numbers, container codes, bar codes, or response guide numbers. Generators also may use this space to enter additional descriptive information about their shipped materials, such as chemical names, constituent percentages, physical state, or specific gravity of wastes identified with volume units in Item 12.

2. This space may be used to record limited types of federally required information for which there is no specific space provided on the manifest, including any alternate facility designations; the manifest tracking number of the original manifest for rejected wastes and residues that are re-shipped under a second manifest; and the specification of PCB waste descriptions and PCB out-of-service dates required under 40 CFR 761.207. Generators, however, cannot be required to enter information in this space to meet state regulatory requirements.

Item 15. *Generator's/Offeror's Certifications*

1. The generator must read, sign, and date the waste minimization certification statement. In

signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements. The Generator's Certification also contains the required attestation that the shipment has been properly prepared and is in proper condition for transportation (the shipper's certification). The content of the shipper's certification statement is as follows:

I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations. When a party other than the generator prepares the shipment for transportation, this party may also sign the shipper's certification statement as the offeror of the shipment.

2. Generator or Offeror personnel may preprint the words, ''On behalf of'' in the signature block or may hand write this statement in the signature block prior to signing the generator/offeror certification, to indicate that the individual signs as the employee or agent of the named principal.

Note: All of the above information except the handwritten signature required in Item 15 may be pre-printed.

II. Instructions for International Shipment Block

Item 16. International Shipments

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. Transporters of hazardous waste shipments must deliver a copy of the manifest to the U.S. Customs when exporting the waste across U.S. borders.

III. Instructions for Transporters

Item 17. Transporters' Acknowledgments of Receipt

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt. Only one signature per transportation company is required. Signatures are not required to track the movement of wastes in and out of transfer facilities, unless there is a change of custody between transporters. If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Note: Transporters carrying imports, who are acting as importers, may have responsibilities to enter information in the International Shipments Block. Transporters carrying exports may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.

IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities

Item 18. Discrepancy

Item 18a. Discrepancy Indication Space

1. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by §§264.72(b) and 265.72(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives, rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept, or container residues, which are residues that exceed the quantity limits for ''empty'' containers set forth in *DRGHW* 261.7(b).

2. For rejected loads and residues (*DRGHW* 264.72(d), (e), and (f), or *DRGHW* 265.72(d), (e), or (f)), check the appropriate box if the shipment is a rejected load (*i.e.*, rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the manifest tracking number for any additional manifests being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in Item 14, the Special Handling Block and Additional Information Block of the additional manifests.

3. Owners or operators of facilities located in unauthorized States (*i.e.*, states in which the

U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste must submit to their Regional Administrator a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72(c) and 265.72(c)).

4. Owners or operators of facilities located in authorized States (*i.e.*, those States that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their State agency for information on where to report discrepancies involving ''significant differences'' to state officials.

Item 18b. Alternate Facility (or Generator) for Receipt of Full Load Rejections

Enter the name, address, phone number, and EPA Identification Number of the Alternate Facility which the rejecting TSDF has designated, after consulting with the generator, to receive a fully rejected waste shipment. In the event that a fully rejected shipment is being returned to the generator, the rejecting TSDF may enter the generator's site information in this space. This field is not to be used to forward partially rejected loads or residue waste shipments.

Item 18c. Alternate Facility (or Generator) Signature

The authorized representative of the alternate facility (or the generator in the event of a returned shipment) must sign and date this field of the form to acknowledge receipt of the fully rejected wastes or residues identified by the initial TSDF.

Item 19. Hazardous Waste Report Management Method Codes

Enter the most appropriate Hazardous Waste Report Management Method code for each waste listed in Item 9. The Hazardous Waste Report Management Method code is to be entered by the first treatment, storage, or disposal facility (TSDF) that receives the waste and is the code that best describes the way in which the waste is to be managed when received by the TSDF.

Item 20. Designated Facility Owner or Operator Certification of Receipt (Except As Noted in Item 18a)

Enter the name of the person receiving the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 18a, the certification should be signed for both waste receipt and waste rejection, with the rejection being noted and described in the space provided in Item 18a. Fully rejected wastes may be forwarded or returned using Item 18b after consultation with the generator. Enter the name of the person accepting the waste on behalf of the owner or operator of the alternate facility or the original generator. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date they received or rejected the waste in Item 18c. Partially rejected wastes and residues must be re-shipped under a new manifest, to be initiated and signed by the rejecting TSDF as offeror of the shipment.

Manifest Continuation Sheet Instructions—Continuation Sheet, U.S. EPA Form 8700–22A

Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard. This form must be used as a continuation sheet to U.S. EPA Form 8700–22 if:

More than two transporters are to be used to transport the waste; or

More space is required for the U.S. DOT descriptions and related information in Item 9 of U.S. EPA Form 8700–22. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700–22) and, if necessary, this continuation sheet (EPA Form 8700–22A) for both interstate and intrastate transportation.

Item 21. Generator's ID Number

Enter the generator's U.S. EPA twelve digit identification number or, the State generator identification number if the generator site does not have an EPA identification number.

Item 22. Page I

Enter the page number of this Continuation Sheet.

Item 23. Manifest Tracking Number

Enter the Manifest Tracking number from Item 4 of the Manifest form to which this continuation sheet is attached.

Item 24. *Generator's Name*

Enter the generator's name as it appears in Item 5 on the first page of the Manifest.

Item 25. *Transporter—Company Name*

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Also enter the U.S. EPA twelve digit identification number of the transporter described in Item 25.

Item 26. *Transporter—Company Name*

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet can record the names of two additional transporters. Also enter the U.S. EPA twelve digit identification number of the transporter named in Item 26.

Item 27. *U.S. D.O.T. Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)*

For each row enter a sequential number under Item 27b that corresponds to the order of waste codes from one continuation sheet to the next, to reflect the total number of wastes being shipped. Refer to instructions for Item 9 of the manifest for the information to be entered.

Item 28. *Containers (No. And Type)*

Refer to the instructions for Item 10 of the manifest for information to be entered.

Item 29. *Total Quantity*

Refer to the instructions for Item 11 of the manifest form.

Item 30. *Units of Measure (Weight/Volume)*

Refer to the instructions for Item 12 of the manifest form.

Item 31. *Waste Codes*

Refer to the instructions for Item 13 of the manifest form.

Item 32. *Special Handling Instructions and Additional Information*

Refer to the instructions for Item 14 of the manifest form.

Transporters

Item 33. *Transporter—Acknowledgment of Receipt of Materials*

Enter the same number of the Transporter as identified in Item 25. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 25. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. *Transporter—Acknowledgment of Receipt of Materials*

Enter the same number of the Transporter as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Owner and Operators of Treatment, Storage, or Disposal Facilities

Item 35. *Discrepancy Indication Space*

Refer to Item 18. This space may be used to more fully describe information on discrepancies identified in Item 18a of the manifest form.

Item 36. *Hazardous Waste Report Management Method Codes*

For each field here, enter the sequential number that corresponds to the waste materials described under Item 27, and enter the appropriate process code that describes how the materials will be processed when received. If additional continuation sheets are attached, continue numbering the waste materials and process code fields sequentially, and enter on each sheet the process codes corresponding to the waste materials identified on that sheet.

(Break in Continuity of Sections)

Section 263.20 The Manifest System.

~~(a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of §262.20. In the case of exports other than those subject to Subpart H of Part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the~~

~~shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed in accordance with the provisions of §262.20, such waste is also accompanied by an EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of Subpart H of Part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by §262.84.~~

(a) (1) *Manifest requirement.* A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of §262.23.

(2) *Exports.* In the case of exports other than those subject to subpart H of 40 DRGHW part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 DRGHW part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 DRGHW 262.84.

(3) *Compliance Date for Form Revisions.* The revised Manifest form and procedures in §260.10, 261.7, 263.20, and 263.21, shall not apply until September 5, 2006.

(b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

(c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

(2) Retain one copy of the manifest in accordance with §263.22; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of paragraph (c), (d) and (f) of this section do not apply to water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and

(3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with §263.22.

(f) For shipments involving rail transportation, the requirements of paragraphs (c), (d) and (e) do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or,

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with §263.22.

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

(3) When delivering hazardous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with §263.22.

(4) When delivering hazardous waste to a nonrail transporter a rail transporter must;

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with §263.22.

(5) Before accepting hazardous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States must:

(1) ~~Indicate on the manifest the date the hazardous waste left the United States; and~~ (1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) ~~Sign the manifest and r~~ Retain one copy in accordance with §263.22(~~c~~(d);and

(3) Return a signed copy of the manifest to the generator, and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(Amended August 29, 1988)

(Break in Continuity of Sections)

Section 263.102 Permit denial/revocation/termination, modifications.

(a) Permits may be amended or modified, upon application, for the following reasons;

(1) addition of a waste that will be transported by the permittee;

(2) addition or deletion in vehicle information, such as;

(3) changes in operation procedures;

(4) changes of address; or

(5) change of ownership.

(b) Permits may be modified, denied, terminated or revoked by the Secretary for the following reasons:

(1) Noncompliance by the permittee with any conditions of the permit, or requirements of these regulations;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any facts at any time, or failure to comply with the requirements of the application;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, revocation or termination; or

(4) If a permit is modified, revoked or terminated, the applicant shall be given a written explanation for the action and an opportunity to a public hearing in accordance with 7 **Del.C.**, Chapter 60.

~~(4)~~ (5) A permit may be terminated at the written requested of the permittee for such reasons as, but not limited to: the company is no longer conducting the permitted activity in Delaware, or is no longer in business.

(c) If an application for a permit is denied, the applicant shall be given a written explanation for the denial and an opportunity to a public hearing in accordance with 7 **Del. C.**, Chapter 60.

(d) Change of ownership. Upon a change in ownership, the new owner shall successfully demonstrate

compliance with the requirements of this subpart no more than ten (10) days after the change of ownership.

(Amended August 1, 1995; February 12, 2004)

PART 264 -- Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

Subpart A - General

Section 264.1 Purpose, Scope and Applicability.

(a) The purpose of this part is to establish minimum standards which define the acceptable management of hazardous waste.

(b) The standards in this part apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this part or Part 261 of these regulations.

(c) The requirements of this part apply to a person disposing of hazardous waste by means of ocean disposal subject to permit issued under the Marine Protection, Research, and Sanctuary Act, only to the extent they are included in a permit by rule granted to such a person under §122.60(a) of these regulations.

(d) The underground injection of hazardous waste is banned in the State of Delaware.

(e) The requirements of this part apply to the owner or operator of POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a permit by rule granted to such a person under Part 122.60(c) of these regulations.

(f) [Reserved]

(g) The requirements of this part do not apply to:

(1) The owner or operator of a facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by §261.5 of these regulations;

(2) The owner or operator of a facility managing recyclable materials described in §261.6(a)(2), (3), and (4) of these regulations (except to the extent they are referred to in Part 279 or Subparts C, F, G or H of Part 266 of these regulations).

(3) A generator accumulating waste on site in compliance with §262.34 of these regulations.

(4) A farmer disposing of waste pesticides from his own use in compliance with §262.70 of these regulations;

(5) The owner or operator of a totally enclosed treatment facility as defined in §260.10.

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in §260.10 of these regulations, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in §268.40 of these regulations, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in §264.17(b).

(7) To a person who treats, stores, or disposes of hazardous waste in a state which is authorized under Subpart A or B of 40 CFR Part 271 if the state has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at his facility which are imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. The requirements and prohibitions that are applicable until a state receives authorization to carry them out include all Federal program requirements identified in 40 CFR §271.1(j).

(8) (i) Except as provided in paragraph (g)(8)(ii) of this section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in §260.10.

(ii) An owner or operator of a facility otherwise regulated by this part must comply with all applicable requirements of Subparts C and D.

(iii) Any person who is covered by paragraph (g)(8)(i) of this section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part and Parts 122 124 of these regulations for those activities.

(iv) In the case of an explosives or munitions emergency response, if a Federal, State, Tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of §262.30 at a transfer facility for a period of ten days or less, except as otherwise specified in §263.12.

(10) The addition of absorbent material to waste in a container (as defined in §260.10 of these regulations) or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and §§264.17(b), 264.171, and 264.172 are complied with.

(11) Universal waste handlers and universal waste transporters (as defined in 260.10) handling the wastes listed below. These handlers are subject to regulation under Part 273, when handling the below listed universal wastes.

(i) Batteries as described in §273.2;

(ii) Pesticides as described in §273.3 of these regulations;

(iii) ~~Thermostats as described in §273.4 of these regulations~~ Mercury-containing equipment as described in §273.4 of these regulations; and

(iv) Lamps as described in §273.5 of these regulations.

(h) The requirements of this part apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in Part 268.

(i) Section 266.205 of these regulations identifies when the requirements of this part apply to the storage of military munitions classified as solid waste under §266.202 of these regulations. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in Parts 260 through 268 and 122.

(j) The requirements of Subparts B, C, and D of this part and §264.101 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D of this part, and §264.101 do apply to the facility subject to the traditional hazardous waste permit.) Instead of the requirements of Subparts B, C, and D of this part, owners or operators of remediation waste management sites must:

(1) Obtain an EPA identification number by applying to the Secretary using EPA Form 8700 12;

(2) Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store or dispose of the waste according to this part and Part 268 of these regulations, and must be kept accurate and up to date;

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the Secretary that:

(i) Physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) Disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, will not cause a violation of the requirements of this part;

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to

identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner/ operator must take remedial action immediately;

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of this part, and on how to respond effectively to emergencies;

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive and incompatible waste;

(7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X of this part, the owner/operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner/operator can meet the demonstration of §264.18(b);

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave;

(9) Develop and maintain a construction quality assurance program for all surface impoundments, waste piles and landfill units that are required to comply with §§264.221(c) and (d), 264.251(c) and (d), and 264.301(c) and (d) at the remediation waste management site, according to the requirements of §264.19;

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;

(11) Designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

(12) Develop, maintain and implement a plan to meet the requirements in paragraphs (j)(2) through (j)(6) and (j)(9) through (j)(10) of this section; and

(13) Maintain records documenting compliance with paragraphs (j)(1) through (j)(12) of this section.

(Amended November 21, 1985; May 8, 1986; August 29, 1988; August 10, 1990, August 1, 1995, July 23, 1996, August 21, 1997, January 1, 1999, June 2, 2000)

Subpart E - Manifest System, Recordkeeping, and Reporting

Section 264.70 Applicability.

(a) The regulations in this subpart apply to owners and operators of both on-site and off-site facilities, except as §264.1 provides otherwise. Sections 264.71, 264.72, and 264.76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under §266.203(a). Section 264.73(b) only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

(b) The revised Manifest form and procedures in DRGHW 260.10, 261.7, 264.70, 264.71. 264.72, and 264.76, shall not apply until September 5, 2006. The Manifest form and procedures in §260.10, 261.7, 264.70, 264.71. 264.72, and 264.76, contained in parts 260 to 265 shall be applicable until September 5, 2006.

Section 264.71 Use of Manifest System.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his/ her agent, must: sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the

hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

~~Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;~~

~~(2) Note any significant discrepancies in the manifest [as defined in §264.72(a)] on each copy of the manifest;~~

~~[**Comment**: The Department does not intend that the owner or operator of a facility whose procedures under §264.13(c) include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Section 264.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.]~~

~~(3) Immediately give the transporter at least one copy of the signed manifest;~~

~~(4) Within 30 days after the delivery, send a copy of the manifest to the generator; and~~

~~(5) Retain at the facility a copy of each manifest for at least three years from the date of delivery.~~

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 264.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/ OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies (as defined in §264.72(a) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

[**Comment**: The Department does not intend that the owner or operator of a facility whose procedures under §264.13(c) include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Section 264.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.]

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within 30 days after the delivery, send a copy of the ~~manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator; and~~

~~[**Comment:** Section 262.23(c) of these regulations requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).]~~ signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Part 262 of these regulations.

[**Comment**: The provision of §262.34 are applicable to the on site accumulation of hazardous wastes by generators. Therefore, the provisions of §262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.]

(d) (1) Within three working days of the receipt of a shipment subject to Part 262, Subpart H, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

(2) A copy of the signed tracking document must also be submitted to the DNREC Secretary. (Amended January 1, 1999)

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

Section 264.72 Manifest Discrepancies.

~~(a) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:~~

~~(1) For bulk waste, variations greater than 10 percent in weight, and~~

~~(2) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.~~

~~(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in §261.7(b) of these regulations.

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d) (1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in DRGHW 261.7(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under paragraph (e) or (f) of this section.

(e) Except as provided in paragraph (e)(7) of this section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a) of this chapter.

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (e)(1), (2), (3), (4), (5), and (6) of this section.

(f) Except as provided in paragraph (f)(7) of this section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with §262.20(a) of this chapter and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), and (6) of this section.

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in §261.7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(Break in Continuity of Sections)

Section 264.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off site source without an accompanying manifest, or without an accompanying shipping paper as described in §263.20(e)~~(2)~~ of these regulations, and if the waste is not excluded from the manifest requirement ~~by §261.5~~ of these regulations, then the owner or operator must prepare and submit a single copy of a report to the Secretary within 15 days after receiving the waste. ~~The report form and instructions in Appendix II must be used for this report.~~ The unmanifested waste report must include the following information:

~~(a)~~ (1) The EPA identification number, name, and address of the facility;

~~(b)~~ (2) The date the facility received the waste;

~~(c)~~ (3) The EPA identification number, name, and address of the generator and the transporter, if available;

~~(d)~~ (4) A description and the quantity of each unmanifested hazardous waste and facility received;

~~(e)~~ (5) The method of treatment, storage, or disposal for each hazardous waste;

~~(f)~~ (6) The certification signed by the owner or operator of the facility or his authorized representative; and

~~(g)~~ (7) A brief explanation of why the waste was unmanifested, if known.

~~[**Comment**: Small quantities of hazardous waste are excluded from regulation under this part and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the Department suggests that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the Department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.]~~

(b) **Reserved**.

Subpart G - Closure and Post Closure

(Break in Continuity of Sections)

Section 264.119 Post Closure Notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Secretary a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(1) Record, in accordance with State law, ~~a notation on the deed to the facility property or on some other instrument which is normally examined during title search~~ 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 that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under Subpart G regulations; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by §264.116 and §264.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Secretary, and

(2) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in paragraph (b)(1) of this section, including a copy of the document in which the notation has been placed, to the Secretary.

(c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any,

or contaminated soils, he must request a modification to the post closure permit in accordance with the applicable requirements in Parts 124 and 122. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of §264.117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of these regulations. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Secretary approve either:

(1) The ~~removal~~ termination of the ~~notation on the deed~~ environmental covenant to the facility property or other instrument normally examined during title search; or

(2) The ~~addition of a notation to~~ amendment of the ~~deed~~ environmental covenant or instrument indicating the removal of the hazardous waste.

(Amended August 29, 1988)

(Break in Continuity of Sections)

Subpart M - Land Treatment

Section 264.276 Food-chain Crops.

The Secretary may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this section. The Secretary will specify in the facility permit the specific food chain crops which may be grown.

(a)(1) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that hazardous constituents other than cadmium:

(i) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(ii) Will not occur in greater concentration in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(2) The owner or operator must make the demonstration required under this paragraph prior to the planting of crops at the facility for all constituents identified in Appendix VIII of Part 261 of these regulations that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(3) In making a demonstration under this paragraph, the owner or operator may use field tests, greenhouse studies, available data, or in the case of existing units, operating data, and must:

(i) Base the demonstration on conditions similar to those present in the treatment zone, includes soil characteristics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(ii) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(4) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration required under this paragraph, he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone:

(1) (i) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(ii) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or rootcrops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kg/ha)
Present to June 30, 1984	2.0

July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(iii) The cumulative application of cadmium from waste must not exceed 5 kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(iv) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5 15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(2) (i) Animal feed must be the only food chain crop reduced;

(ii) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(iii) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(iv) Future property owners must be notified by a stipulation in the ~~land record or property deed~~ environmental covenant which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with paragraph (b)(2) of this section.

Section 264.277 [**Reserved**]

(Break in Continuity of Sections)

PART 265 -- Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Subpart A - General

Section 265.1 Purpose, Scope and Applicability.

(a) The purpose of this Part is to establish minimum state standards which define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post closure requirements, until post closure responsibilities are fulfilled.

(b) Except as provided in §265.1080(b), the standards of this part, and of §§264.552, 264.553, and 264.554, apply to owners and operator's of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under 7 **Del.C.**, §6307(g) and §122.10 of these regulations until either a permit is issued under 7 **Del.C.,** Chapter 63 or until applicable Part 265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by 7 **Del.C.,** Chapter 63 and/or failed to file Part A of the permit application as required by §122.10(e) and (g). These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this part or Part 261 of these regulations.

(c) The requirements of this part do not apply to:

(1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act;

[**Comment**: These Part 265 regulations do apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in paragraph (b) of this section.]

(2) **Reserved.**

(3) The owner or operator of a POTW which treats, stores, or disposes of hazardous waste;

[**Comment:** The owner or operator of a facility under paragraph (c)(3) of this Section is subject to the requirements of Part 264 of these regulations to the extent they are included in a permit by rule granted to such a person under Part 122.60 of these regulations.]

(4) A person who treats, stores, or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under Subparts A or B of 40 CFR Part 271, except that the requirements of this part will continue to apply:

(i) As stated in paragraph (c)(2) of this section, if the authorized State with a RCRA hazardous waste program does not cover disposal of hazardous waste by means of underground injection; or

(ii) To a person who treats, stores, or disposes of hazardous waste in a State authorized under Subparts A or B of 40 CFR Part 271 if the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at his facility which are imposed pursuant to the Hazardous and Solid Waste Act Amendments of 1984. The requirements and prohibitions that are applicable until a State receives authorization to carry them out include all Federal program requirements identified in §271.1(j).

(5) The owner or operator of a facility permitted, licensed, or registered by the State to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by §261.5 of these regulations;
of these regulations provides otherwise;

(6) The owner or operator of a facility managing recyclable materials described in §261.6(a)(2), (3), and (4) of these regulations (except to the extent they are referred to in Part 279 or Subparts C, D, F, or G of Part 266 of these regulations).

(7) A generator accumulating waste onsite in compliance with §262.34 of these regulations, except to the extent the requirements are included in §262.34 of these regulations;

(8) A farmer disposing of waste pesticides from his own use in compliance with §262.70 of these regulations; or

(9) The owner or operator of a totally enclosed treatment facility, as defined in §260.10.

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in §260.10 of these regulations, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in §268.40 of these regulations, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in §265.17(b).

(11) (i) Except as provided in paragraph (c)(11)(ii) of this section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of a hazardous waste;

(C) A discharge of a material which when discharged, becomes a hazardous waste; or

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in 40 CFR, 260.10.

(ii) An owner or operator of a facility otherwise regulated by this part must comply with all applicable requirements of Subparts C and D.

(iii) Any person who is covered by paragraph (c)(11)(i) of this section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part and Parts 122 124 of these regulations for those activities.

(iv) In the case of an explosives or munitions emergency response, if a Federal, State, Tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of §262.30 at a transfer facility for a period of ten days or less.

(13) The addition of absorbent material to waste in a container (as defined in §260.10 of these regulations) or the addition of waste to the absorbent material in a container provided that these actions occur at

the time waste is first placed in the containers; and §265.17(b), §265.171, and §265.172 are complied with.

(14) Universal waste handlers and universal waste transporters (as defined in 260.10) handling the wastes listed below. These handlers are subject to regulation under Part 273, when handling the below listed universal wastes.

(i) Batteries as described in §273.2;

(ii) Pesticides as described in §273.3 of these regulations;

(iii)~~Thermostats as described in §273.4 of these regulations~~ Mercury-containing equipment as described in §273.4 of these regulations; and

(iv) Lamps as described in §273.5 of these regulations.

(d) The following hazardous wastes must not be managed at facilities subject to regulation under this part.

(1) EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026, or F027 unless:

(i) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system:

(ii) The waste is stored in tanks or containers:

(iii) The waste is stored or treated in waste piles that meet the requirements of §264.250(c) as well as all other applicable requirements of Subpart L of this part:

(iv) The waste is burned in incinerators that are certified pursuant to the standards and procedures in §265.352; or

(v) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in §265.383.

(e) The requirements of this part apply to owners or operators of all facilities which treat, store or dispose of hazardous waste referred to in Part 268, and the Part 268 standards are considered material conditions or requirements of the Part 265 interim status standards.

(f) Section 266.205 of these regulations identifies when the requirements of this part apply to the storage of military munitions classified as solid waste under §266.202 of these regulations. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in Parts 260 through 268 and 122.

(Amended November 21, 1985; May 8, 1986; August 29, 1988; August 10, 1990, August 1, 1995, July 23, 1996, January 1, 1999, June 2, 2000)

(Break in Continuity of Sections)

Subpart E Manifest System, Recordkeeping, and Reporting

Section 265.70 Applicability.

(a) The regulations in this subpart apply to owners and operators of both on site and off site facilities, except as §265.1 provides otherwise. Sections 265.71, 265.72, and 265.76 do not apply to owners and operators of on site facilities that do not receive any hazardous waste from off site sources, and to owners and operators of off site facilities with respect to waste military munitions exempted from manifest requirements under DRGHW §266.203(a).

(Amended August 29, 1988, January 1, 1999)

(b) The revised Manifest form and procedures in §§260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, shall not apply until September 5, 2006. The Manifest form and procedures in §§260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, contained in parts 260 to 265 shall be applicable until September 5, 2006.

Section 265.71 Use of Manifest System.

Section 265.71 Use of Manifest System.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his/her agent, must: sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

~~Sign and date each copy of the manifest to certify that the hazardous waste covered by~~

~~the manifest was received; complete all information on Part B of the manifest form.~~

~~(2) Note any significant discrepancies in the manifest (as defined in §265.72(a) on each copy of the manifest;~~

~~[**Comment**: DNREC does not intend that the owner or operator of a facility whose procedures under §265.13(c) include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Section 265.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis).~~

~~(3) Immediately give the transporter at least one copy of the signed manifest:~~

~~(4) Within thirty (30) days after the delivery send a copy of the manifest to the generator and to the State(s) in which the generator and facility are located; and~~

~~(5) Retain at the facility a copy of each manifest for at least three years from the date of delivery.~~

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 264.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/ OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) If a facility receives from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received.

(2) Note any significant discrepancies (as defined in §265.72(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

[**Comment:** DNREC does not intend that the owner or operator of a facility whose procedures under §265.13(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 265.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.]

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received).

(4) Within thirty (30) days after delivery send a copy of the signed and dated manifest/ shipping paper ~~to the generator and to the State(s) in which the generator and the facility are located; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must sign and date the manifest and return the appropriate portions to the generator and to the State(s) in which the generator and facility are located in lieu of the shipping paper; and~~

~~[**Comment**: Section 262.23(c) of these regulations requires the generator to send at least four (4) copies of the manifest to the facility when hazardous waste is sent by the rail or water (bulk shipment).]~~ (if the manifest has not been received within 30 days after delivery) to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) or at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of Part 262 of these regulations.

[**Comment:** The provisions of §262.34 are applicable to the on site accumulation of hazardous waste by generators. Therefore, the provisions of §262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.]

(d) (1) Within three working days of the receipt of a shipment subject to Part 262, Subpart H, the owner or operator of facility must provide a copy of the tracking document bearing all required signatures to the

notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

(2) A copy of the signed tracking document must also be submitted to the DNREC Secretary. (Amended January 1, 1999)

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

Section 265.72 Manifest Discrepancies.

~~(a) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:~~

~~(1) For bulk waste, variations greater than 10 percent in weight, and~~

~~(2) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.~~

~~(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in §261.7(b) of these regulations.

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d) (1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in DRGHW 261.7(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under paragraph (e) or (f) of this section.

(e) Except as provided in paragraph (e)(7) of this section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance

with §262.20(a) of this chapter and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a) of this chapter.

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (e)(1), (2), (3), (4), (5), and (6) of this section.

(f) Except as provided in paragraph (f)(7) of this section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with §262.20(a) of this chapter and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), and (6) of this section.

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in §261.7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(Break in Continuity of Sections)

Section 265.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off site source without an accompanying manifest, or without an accompanying shipping paper as described in §263.20(e)~~(2)~~ of these regulations, and if the waste is not excluded from the manifest requirement ~~by §261.5~~ of these regulations, then the owner or operator must prepare and submit a single copy of a report to the Secretary within 15 days after receiving the waste. ~~The report form and instructions in Appendix II must be used for this report.~~ The unmanifested waste report must include the following information:

~~(a)~~ (1) The EPA identification number, name, and address of the facility;

~~(b)~~ (2) The date the facility received the waste;

~~(c)~~ (3) The EPA identification number, name, and address of the generator and the transporter, if available;

~~(d)~~ (4) A description and the quantity of each unmanifested hazardous waste and facility received;

~~(e)~~ (5) The method of treatment, storage, or disposal for each hazardous waste;

~~(f)~~ (6) The certification signed by the owner or operator of the facility or his authorized representative; and

~~(g)~~ (7) A brief explanation of why the waste was unmanifested, if known.

~~[**Comment**: Small quantities of hazardous waste are excluded from regulation under this part and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the Department suggests that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the Department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.]~~

(b) **Reserved.**

Subpart G - Closure and Post Closure

Section 265.119 Post closure Notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Secretary, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(1) Record, in accordance with State law, ~~a notation on the deed to the facility property or on some other instrument which is normally examined during title search~~ 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 that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under Subpart G of these regulations; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by §265.116 and §265.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Secretary, and

(2) Submit a certification signed by the owner or operator that he has recorded the notation specified in paragraph (b)(1) of this section and a copy of the document in which the notation has been placed to the Secretary.

(c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved post closure plan in accordance with the requirements of §265.118(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of §265.117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable

requirements of these regulations. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Secretary approve either:

(1) The ~~removal~~ termination of the ~~notation on the deed~~ environmental covenant to the facility property or other instrument normally examined during title search, or

(2) The ~~addition of a notation~~ amendment of to the ~~deed~~ environmental covenant or instrument indicating the removal of the hazardous waste.

(Amended August 29, 1988)

Section 265.175 [**Reserved**]

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.

~~[Comment: See §265.17(a) for additional requirements]~~

(b) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waster. 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 waster.

(Break in Continuity of Sections)

Subpart M - Land Treatment

Section 265.276 Food-chain Crops.

(a) An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, must notify the Secretary within 60 days after the effective date of this part.

[**Comment:** The growth of food chain crops at a facility which has never before been used for this purpose is a significant change in process under §122.23(c)(3) of these regulations. Owners or operators of such land treatment facilities who propose to grow food chain crops after the effective date of this Part must comply with §122.23(c)(3) of these regulations.]

(b) (1) Food chain crops must not be grown on the treated area of a hazardous waste land treatment facility unless the owner or operator can demonstrate, based on field testing, that any arsenic, lead, mercury, or other constituents identified under §265.273(b):

(i) Will not be transferred to the food portion of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(ii) Will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions in the same region.

(2) The information necessary to make the demonstration required by paragraph (b)(1) of this Section must be kept at the facility and must, at a minimum:

(i) Be based on tests for the specific waste and application rates being used at the facility; and

(ii) Include descriptions of crop and soil characteristics, sample selection criteria, sample size determination, analytical methods, and statistical procedures.

(c) Food chair crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of paragraphs (c)(1)(i) through (iii) of this section or all requirements of paragraphs (c)(2)(i) through (iv) of this section are met.

(1) (i) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(ii) The annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human

consumption for other food chain crops, the annual cadmium application rate does not exceed:

Time period	Annual Cd application rate (kg/ha)
Present to June 30, 1984	2.00
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.50

(iii) The cumulative application of cadmium from waste does not exceed the levels in either paragraph (c)(1)(iii)(A) of this section or paragraph (c)(1)(iii)(B) of this section.

(A) Maximum cumulative application (kg/ha)

Soil caption exchange capacity (meq/100g)	Background soil pH less than 6.5	Background soil pH greater than 6.5
Less than 5	5	5
5 to 15	5	10
Greater than 15	5	20

(B) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below: Provided, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown.

Soil caption exchange capacity (meq/100g)	Maximum cumulative application (kg/ha)
Less than 5	5
5 to 15	10
Greater than 15	20

(2) (i) The only food chain crop produced is animal feed.

(ii) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown.

(iii) There is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium centering the food chain, which may result from alternative land uses.

(iv) Future property owners are notified by a stipulation in the l~~and record or property deed~~ environmental covenant which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with paragraph (c)(2) of this section.

[**Comment**: As required by §265.73, if an owner or operator grows foods chain crops on his land treatment facility, he must place the information developed in this section in the operating record of the facility.]

PART 268 -- Land Disposal Restrictions

Subpart A - General

Section 268.1 Purpose, Scope and Applicability.

(a) This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(b) Except as specifically provided otherwise in this part or Part 261 of these regulations, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

(c) Restricted wastes may continue to be land disposed as follows:

(1) Where persons have been granted an extension to the effective date of a prohibition under Subpart C of this part or pursuant to §268.5, with respect to those wastes covered by the extension;

(2) Where persons have been granted an exemption from a prohibition pursuant to a petition under §268.6, with respect to those wastes and units covered by the petition;

(3) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes:

(i) Are disposed into a nonhazardous or hazardous injection well as defined under 40 CFR 144.6(a); and

(ii) Do not exhibit any prohibited characteristic of hazardous waste identified in Part 261, Subpart C at the point of injection.

(4) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than DEACT in §268.40, or are D003 reactive cyanide:

(i) The wastes are managed in a treatment system which subsequently discharges to waters of the U.S. pursuant to a permit issued under Section 402 of the Clean Water Act; or

(ii) The wastes are treated for purposes of the pretreatment requirements of Section 307 of the Clean Water Act; or

(iii) The wastes are managed in a zero discharge system engaged in Clean Water Act equivalent treatment as defined in §268.37(a); and

(iv) The wastes no longer exhibit a prohibited characteristic at the point of land disposal (i.e., placement in a surface impoundment).

(d) The requirements of this part shall not affect the availability of a waiver under §121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

(e) The following hazardous wastes are not subject to any provision of Part 268:

(1) Waste generated by small quantity generators of less than 100 kilograms of non acute hazardous waste or less than 1 kilogram of acute hazardous waste per month, as defined in §261.5 of these regulations;

(2) Waste pesticides that a farmer disposes of pursuant to §262.70;

(3) Wastes identified or listed as hazardous after November 8, 1984 for which EPA has not promulgated land disposal prohibitions or treatment standards;

(4) De minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses from normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purgings; and relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one per cent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility.

(f) Universal waste handlers and universal waste transporters (as defined in 260.10) are exempt from 268.7 and 268.50 for the hazardous wastes listed below. These handlers are subject to regulation under Part 273.

(1) Batteries as described in §273.2 of these regulations;

(2) Pesticides as described in §273.3 of these regulations;

(3) ~~Thermostats as described in §273.4 of these regulations~~ Mercury-containing equipment

as described in §273.4 of these regulations; and

(4) Lamps as described in §273.5 of these regulations.

(Amended June 19, 1992, August 1, 1995, July 23, 1996, August 21, 1997, January 1, 1999, June 2, 2000)

(Break in Continuity of Sections)

Subpart C - Prohibitions on Land Disposal

Section 268.20 Waste Specific Prohibitions--Dyes and/or Pigments Productions Wastes.

(a) Effective August 23, 2005, the waste specified in part 261 as EPA Hazardous Waste Number K181, and soil and debris contaminated with this waste, radioactive wastes mixed with this waste, and soil and debris contaminated with radioactive wastes mixed with this waste are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in subpart D of this Part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under §268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under §268.44;

(4) Hazardous debris has met the treatment standards in §268.40 or the alternative treatment standards in §268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to §268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in §268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

Section 268.21 through 268.29 [Reserved]

Section 268.40 Applicability of Treatment Standards.

Subpart D - Treatment Standards

Waste code	Waste description and treatment/reg-ulatory subcategory 1	Regulated hazardous constituent			
		Common name	CAS2 No.	Wastewaters Concentration in mg/L3, or tech-nology code4	Nonwastewater Concentration in mg/kg5 unless noted as “mg/L TCLP”, or tech-nology code
*	*	*	*	*	
F039 …….	Leachate (liquids that have per-colated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Haz-ardous Wastes and no other Haz-ardous Waste retains its EPA Haz-ardous Waste Number(s): F020, F021, F022, F026 F027, and/or F028).	* * * * *			
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
		* * * * *			
		p-Cresidine	120-71-8	0.010	0.66
		* * * * *			
		2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
		* * * * *			
		1,3-Phenylenediamine	108-45-2	0.010	0.66
		* * * * *			
*	*	*	*	*	
K181 ……	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters form other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (c) of section 261.32 that are equal to ro greater than the corresponding paragraph (c) levels, as determined on a calendar year basis.	Aniline	62-53-3	0.81	14
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
		4-Chloroaniline	106-47-8	0.46	16
		p-Cresidine	120-71-8	0.010	0.66
		2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
		1,2-Phenylenediamine	95-54-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN
		1,3-Phenylenediamine	108-45-2	0.010	0.66
*	*	*	*	*	

Section 268.48 Universal treatment standards.

Universal Treatment Standards
[Note: NA means not applicable]

Regulated constituent common name	CAS[1] number	Wastewater standard Concentration in mg/L[2]	Nonwaste-water standard Concetration in mg/kg[3] unless noted as "mg/L TCLP"
*	*	*	*
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
*	*	*	*
p-Cresidine	120-71-8	0.010	0.66
*	*	*	*
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
*	*	*	*
1,3-Phenylenediamine	108-45-2	0.010	0.66
*	*	*	*

PART 273 - Standards For Universal Waste Management

Subpart A - General

Section 273.1 Scope.

(a) This part establishes requirements for managing the following:

(1) Batteries as described in §273.2;

(2) Pesticides as described in §273.3;

(3) ~~Thermostats as described in §273.4~~ Mercury-containing equipment as described in §273.4; and

(4) Lamps as described in §273.5.

(b) This part provides an alternative set of management standards in lieu of regulation under Parts 260 through 272.

(Break in Continuity of Sections)

Section 273.4 Applicability-Mercury-containing Equipment ~~Thermostats~~.

~~(a) Thermostats covered under this Part 273. The requirements of this part apply to persons managing thermostats, as described in §273.9, except those listed in paragraph (b) of this section.~~

~~(b) Thermostats not covered under Part 273. The requirements of this part do not apply to persons managing the following thermostats:~~

~~(1) Thermostats that are not yet wastes under Part 261 of these regulations. Paragraph (c) of this section describes when thermostats become wastes.~~

~~(2) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in Part 261, Subpart C.~~

~~(c) Generation of waste thermostats.~~

~~(1) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).~~

~~(2) An unused thermostat becomes a waste on the date the handler decides to discard it.~~

(a) Mercury-containing equipment covered under this part 273. The requirements of this part apply to persons managing mercury-containing equipment, as described in §273.9, except those listed in paragraph (b) of

this section.

(b) Mercury-containing equipment not covered under this part 273. The requirements of this part do not apply to persons managing the following mercury-containing equipment:

(1) Mercury-containing equipment that is not yet a waste under part 261 of this chapter. Paragraph (c) of this section describes when mercury-containing equipment becomes a waste;

(2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in part 261, subpart C of this chapter or is listed in part 261, subpart D of this chapter; and (3) Equipment and devices from which the mercury-containing components have been removed.

(c) Generation of waste mercury-containing equipment.

(1) Used mercury-containing equipment becomes a waste on the date it is discarded.

(2) Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(Break in Continuity of Sections)

Section 273.9 Definitions.

"Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in §273.13(a) and (c) and §273.33(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 of these regulations or whose act first causes a hazardous waste to become subject to regulation.

"Lamp" also referred to as "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large Quantity Handler of Universal Waste" means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~thermostats~~ mercury-containing equipment, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilogram~~s or more total of universal waste is accumulated.~~ limit is met or exceeded.

"Mercury-containing Equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(a) Is a new animal drug under FFDCA section 201(w), or

(b) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(c) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (a) or (b) of this section.

"Small Quantity Handler of Universal Waste" means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~thermostats,~~ mercury-containing equipment, or lamps, calculated collectively) at any time.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of §273.13(c)(2) or §273.33(c)(2).

"Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part 273:

(1) Batteries as described in §273.2;

(2) Pesticides as described in §273.3;

(3) ~~Thermostats as described in §273.4~~ Mercury-containing equipment as described in §273.4 of these regulations; and

(4) Lamps as described in §273.5.

"Universal Waste Handler":

(a) Means:

(1) A generator (as defined in this section) of universal waste; or

(2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(b) Does not mean:

(1) A person who treats (except under the provisions of §273.13(a) or (c), or §273.33(a) or (c)), disposes of, or recycles universal waste; or

(2) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal Waste Transfer Facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Subpart B - Standards for Small Quantity Handlers of Universal Waste

Section 273.13 Waste management.

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

(3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous

waste identified in Part 261, Subpart C.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of Parts 260 through 268 and 122. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Part 262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevent releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) A tank that meets the requirements of Part 265, Subpart J, except for §265.197(c), §265.200, and §265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

~~(c) Universal waste thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:~~

~~(1) A small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.~~

~~(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:~~

~~(i) Removes the ampules in a manner designed to prevent breakage of the ampules;~~

~~(ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);~~

~~(iii) Ensures that a mercury clean up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of §262.34;~~

~~(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of §262.34;~~

~~(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;~~

~~(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;~~

~~(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;~~

~~(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and~~

~~(3) (i) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in Part 261, Subpart C:~~

~~(A) Mercury or clean up residues resulting from spills or leaks; and/or~~

~~(B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).~~

~~(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 260 through 268 and 122. The~~

~~handler is considered the generator of the mercury, residues, and/or other waste and must manage it is subject to Part 262.~~

~~(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.~~

(c) Mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A small quantity handler of universal waste may remove mercury containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of DRGHW 262.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 262.34 of these regulations;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under paragraph (c)(2) of this section; and

(4) (i) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in the DRGHW Part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining mercury-containing device).

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of parts 260 through 272 of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with DRGHW Part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(Break in Continuity of Sections)

Section 273.14 Labeling/marking.

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies), or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in §273.3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in §273.3(a)(2) are contained must be labeled or marked clearly with:

(1) (i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR Part 172;

(iii) If using the labels described in paragraphs (c)(1) (i) and (ii) of this section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

~~(d) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)".~~

(d) (1) Universal water mercury-containing equipment (i.e., each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste--Mercury Containing Equipment,” “Waste Mercury-Containing Equipment,” or “Used Mercury-Containing Equipment.”

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostat may be labeled or marked clearly with any of the following phrases: “Universal Waster--Mercury Thermostat(s),” “Waster Mercury Thermostat(s),” or “Used Mercury Thermostat(s).”

(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste--Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

(Break in Continuity of Sections)

Subpart C - Standards for Large Quantity Handlers of Universal Waste

(Break in Continuity of Sections)

Section 273.32 Notification.

(a) (1) Except as provided in paragraphs (a)(2) and (3) of this section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Secretary, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

(2) A large quantity handler of universal waste who has already notified EPA of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in §273.3(a)(1) and who has sent notification to EPA as required by Part 265 is not required to notify for those recalled universal waste pesticides under this section.

(b) This notification must include:

(1) The universal waste handler's name and mailing address;

(2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(3) The address or physical location of the universal waste management activities;

(4) A list of all the types of universal waste managed by the handler (e.g., batteries, pesticides, ~~thermostats~~ mercury-containing equipment, lamps);

(5) A statement indicating that the handler is accumulating more than 5,000 kg of universal waste at one time~~ and the types of universal waste (e.g., batteries, pesticides, thermostats, and lamps) the handler is accumulating above this quantity.~~

Section 273.33 Management.

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Part 261, Subpart C.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 260 through 268 and 122. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Part 262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) A tank that meets the requirements of Part 265, Subpart J, except for §§265.197(c), 265.200, and 265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

~~(c) Universal waste thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:~~

~~(1) A large quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.~~

~~(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:~~

~~(i) Removes the ampules in a manner designed to prevent breakage of the ampules;~~

~~(ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);~~

~~(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of §262.34;~~

~~(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of §262.34;~~

~~(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;~~

~~(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;~~

~~(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;~~

~~(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and~~

~~(3) (i) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in Part 261, Subpart C:~~

~~(A) Mercury or clean-up residues resulting from spills or leaks; and/or~~

~~(B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).~~

~~(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 260 through 268 and 122. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to Part 262.~~

~~(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.~~

(c) Mercury-containing equipment. A large quantity handler of universal waster must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waster or component of a universal waster to the environment, as follows:

(1) A large quantity handler of universal waste must place in a container any universal waster mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leadage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A large quantity handler of universal waster may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of 262.34 of these regulations;

(iv) Immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of §262.34 of these regulations;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure level for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under paragraph (c)(2) of this section; and

(4) (i) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in the DRGHW Part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining mercury-containing device).

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of parts 260 through 272 of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with DRGHW Part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A large quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

(Break in Continuity of Sections)

Section 273.34 Labeling/marking.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in §273.3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in §273.3(a)(2) are contained must be labeled or marked clearly with:

(1) (i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR Part 172;

(iii) If using the labels described in paragraphs (c)(1)(i) and (1)(ii) of this section is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

~~(d) Universal waste thermostats (i.e., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)".~~

(d) (1) Universal waste mercury-containing equipment (i.e., each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste--Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

(Amended June 2, 2000)

(Break in Continuity of Sections)

PART 279 - Standards for the Management of Used Oil

Subpart C - Standards for Used Oil Generators

Section 279.22 Used oil storage.

Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to the Delaware Regulations Governing Underground Storage Tanks (UST) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) Storage units. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under Parts 264 or 265 of these regulations.

(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

(1) In good condition (no severe rusting, apparent structural defects or deterioration); and

(2) Not leaking (no visible leaks)~~.~~; and

(3) Always be closed during storage, except when it is necessary to add or remove oil.

(c) Labels.

(1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil".

(2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil".

(d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the Delaware Regulations Governing Underground Storage Tanks (UST) and which has occurred after the effective date of Delaware's recycled used oil management program, a generator must perform the following cleanup steps:

(1) Stop the release;

(2) Contain the released used oil;

(3) Clean up and manage properly the released used oil and other materials; and

(4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Amended August 21, 1997, August 23, 1999)

(Break in Continuity of Sections)

Subpart H - Standards for Used Oil Fuel Marketers

Section 279.74 Tracking.

(a) Off-specification used oil delivery. Any used oil marketer who directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner;

(2) The name and address of the burner who will receive the used oil;

(3) The EPA identification number and Delaware Waste Transporter Permit Number of the transporter who delivers the used oil to the burner;

(4) The EPA identification number of the burner;

(5) The quantity of used oil shipped; and

(6) The date of shipment.

(b) On specification used oil delivery. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under §279.11 must keep a record of each shipment of used oil to ~~an on-specification used oil burner~~ the facility to which it delivers the used oil. Records for each shipment must include the following information:

(1) The name and address of the facility receiving the shipment;

(2) The quantity of used oil fuel delivered;

(3) The date of shipment or delivery; and

(4) A cross reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under §279.72(a).

(c) Record retention. The records described in paragraphs (a) and (b) of this section must be maintained for at least three years.