

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

Statutory Authority: 7 Delaware Code, Chapter 60; (7 Del.C. Ch. 60)

7 DE Admin. Code 1305

PROPOSED

REGISTER NOTICE

SAN # 2016-03

1305 Universal Recycling Regulations

1. TITLE OF THE REGULATIONS:

Universal Recycling Regulations

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The purposes of the proposed regulations are to ensure: the proper programs and collection services for recyclable materials are implemented, maintained, and consistent with the law; the collected recycled materials are diverted from landfill disposal or incineration; the recyclable materials are otherwise properly processed and enter the marketplace; recycling in Delaware can be effectively measured; and that waste diversion is maximized through the reduction of solid waste deposited in our landfills.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

No sunset date for the proposed regulations.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

Title 7 Conservation Natural Resources Chapter 60. Environmental Control Subchapter III. Solid Waste Recycling.

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed Universal Recycling Regulations will be open on November 1, 2016. Individuals may submit written comments regarding the proposed changes via e-mail to Robert.Haynes@state.de.us or via the USPS to Robert Haynes, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE. 19901, (302)739-9921. A public hearing on the proposed regulations will be held on November 21, 2016 beginning at 4:00 PM in the DNREC Auditorium, located in the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901, (302)739-9003.

7. PREPARED BY:

Don Long; Donald.long@state.de.us; (302) 739-9403 (x8)

1305 Universal Recycling Regulations

1.0 Declaration of Intent

1.1 The purposes of these regulations are to ensure the following:

1.1.1 The proper collection services for recyclable materials are implemented, maintained, and consistent with 7 Del.C. Ch. 60 Subchapter III.

1.1.2 Recyclables enter the marketplace.

1.1.3 Every residence has access to, and the commercial sector participates in, recycling programs that are both convenient and cost effective, through a comprehensive statewide system of resource recovery in which recycling is maximized and the necessary economies of scale are realized.

2.0 Scope and Applicability

2.1 Authority

2.1.1 These regulations are enacted pursuant to 7 Del.C. §6010(a).

2.1.2 These regulations shall be known as "Universal Recycling Regulations."

2.2 Applicability

2.2.1 These regulations apply to:

2.2.1.1 All persons providing municipal solid waste collection services in the State of Delaware:

2.2.1.2 All persons engaged in the collection, aggregation, transportation, processing, or marketing of source-separated recyclable materials. This includes but is not limited to all contractors, subcontractors, and those who contract for service;

2.2.1.3 Commercial sector entities required by 7 Del.C. §6053(4) to participate in comprehensive recycling; and

2.2.1.4 All property managers that are waste services providers in the single and multi-family residential and the commercial sectors.

2.3 These regulations exist in addition to Universal Recycling requirements and definitions specified in 7 Del.C. §§6051-6059.

3.0 Definitions

Notwithstanding any definitions in Chapter 60 or 64 of Title 7 or any other regulatory definitions found in the Delaware Regulations Governing Solid Waste to the contrary, the following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise.

"Commercial sector" means any for-profit or not-for-profit retail or wholesale stores, offices, food service establishments, hospitality, utility, warehouses, and other manufacturing, industrial or processing activities, and institutions such as social, charitable, educational, health care, professional and government services.

"Marketplace" means a person or persons that utilize the majority, if not all, of the recyclable materials it receives to produce a marketable product. Incinerators, landfills, and other methods of disposal are disqualified as an acceptable marketplace.

"Property manager" means the person or persons responsible for supervision, management or administration of the physical maintenance or the financial matters of real property. This includes but is not limited to the owner of the property.

"Waste services provider" means the person or persons engaged in providing solid waste collection service to the consumer. This applies to the persons or entities that arrange or contract for the service and the persons or entities that provide that service. The meaning shall be the same for 'Provider of waste service'.

4.0 General Provisions

4.1 Waste services providers shall:

4.1.1 Not commingle source-separated recyclables with other solid waste;

4.1.2 At a minimum, provide annual notification to their customers that single stream recycling services will be provided, with instructions on participation; and¹

4.1.3 Provide multi-family residential customers with single stream recyclables collection containers that are located adjacent, or as close as possible, to the complex's waste disposal containers, so that recycling access is at least as convenient as waste disposal.

4.2 Property managers:

4.2.1 In the single or multi-family residential sectors shall ensure that single stream recycling services are available for tenants in accordance with 7 Del.C. §6053;

4.2.2 In the commercial sector shall ensure that single stream recycling services are available for tenants in a manner that is convenient and cost effective;

4.2.3 At a minimum, provide annual notification to their tenants that single stream recycling services will be provided with instructions on participation; and¹

4.2.4 Are not precluded from requiring tenants to source-separate their single stream recyclable materials and place them in the appropriate recycling collection containers.

4.3 The commercial sector shall participate in a comprehensive recycling program. To accomplish this, all commercial sector persons shall:

4.3.1 Perform an annual review of the solid waste generated and maintain records of the review for three years;

4.3.2 Identify recyclables in the solid waste;

4.3.3 Subsequently keep recyclables separate from the solid waste stream; and

1. In those instances where the property manager and the waste service provider are one and the same, only one annual notice shall be required.

4.3.4 Ensure the recyclables enter the marketplace or are collected for recycling.

4.4 If a commercial sector entity has no recycling program or if they regularly have a significant portion of recyclables in their waste stream that are not source separated, they are not participating in a comprehensive recycling program and are subject to enforcement and penalties per Title 7 Chapter 60.

4.5 The exemption for persons who transport solid waste and recyclables from their own property as described in 7 Del.C. §6053(5) shall not include persons who act as a waste services provider to residences or tenants on their own property.

20 DE Reg. 353 (11/01/16) (Prop.)