

(1) Agency

Department of Environmental Protection

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REGULATORY REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

7-361

IRRC Number: 2168

(3) Short Title

Household Hazardous Waste Regulations

(4) PA Code Cite

25 Pa. Code Chapters 261a, 271, 272, and 283

(5) Agency Contacts & Telephone Numbers

Primary Contact: Sharon Freeman, 783-1303

Secondary Contact: Barbara Sexton, 783-1303

(6) Type of Rulemaking (Check One)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulations cover the registration, review and approval of household hazardous waste collection programs, the operation of household hazardous waste collection programs and the requirements of household hazardous waste collection contractors and transporters, and specify entities that are eligible to bring waste to household hazardous waste collection events. The regulations also cover grant requirements that apply to eligible household hazardous waste collection sponsors.

These amendments include regulations governing household hazardous waste collection events, grants, transportation and management. The changes clarify the regulations to make them consistent with the Small Business and Household Pollution Prevention Program Act (35 P.S. §§6029.201-6029.209), also known as Act 190 of 1996, which was passed after most of the existing household hazardous waste regulations were written. The changes to Article VII (relating to hazardous waste management) correct the inadvertent 1999 incorporation-by-reference in Article VII of EPA's regulatory exemption of household hazardous waste from regulation as hazardous waste. The changes to Article VIII (relating to municipal waste) are designed to ensure that waste collected as part of an organized household hazardous waste collection is properly transported and managed as hazardous waste rather than as part of the municipal waste stream. This is true for household hazardous waste collected as part of an organized household hazardous waste collection in another state, once the waste enters Pennsylvania, if the waste is to be managed in Pennsylvania, and for household hazardous waste collected as part of a Pennsylvania collection event. Household hazardous waste not collected as part of an organized collection will continue to be managed as municipal waste in Pennsylvania.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The final rulemaking is being made under the authority of the following:

The Small Business and Household Pollution Prevention Program Act (35 P.S. §§6029.201-6029.209), which in section 207(a) (35 P.S. §6029.207(a)) grants the Board the authority to promulgate regulations as needed to implement the Small Business and Household Pollution Prevention Program Act.

The Solid Waste Management Act (35 P.S. §§6018.101-6018.1003), as amended, which in section 105(a) (35 P.S. §6018.105(a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to carry out the provisions of the Solid Waste Management Act.

The Household Hazardous Waste Funding Act (35 P.S. §§6025.1-6025.5), as amended, which in section 4(a) (35 P.S. §6025.4(a)) created a restricted revenue account in the Recycling Fund to be used to fund household hazardous waste collection programs.

The Clean Streams Law (35 P.S. §§691.1-691.1001), which in section 5(b) (35 P.S. §691.5(b)) grants the Board the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of the act, which in section 304 (35 P.S. §691.304) grants the Board the authority to adopt, prescribe and enforce rules and regulations not inconsistent with the act as may be deemed necessary for the protection of the purity of the waters of the Commonwealth, or parts thereof, and to purify those now polluted and which in section 402 (35 P.S. §691.402) grants the Board the authority to adopt rules and regulations establishing conditions under which an activity shall be conducted for any activity that creates a danger of pollution of the waters of this Commonwealth or that regulation of the activity is necessary to avoid such pollution.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P.S. §§4000.101-4000.1904), which in section 302 (53 P.S. §4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of Act 101.

The Administrative Code of 1929 (71 P.S. §§510-17 and 510-20), as amended, which in section 1917-A (71 P.S. §510-17) authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances and in section 1920-A (71 P.S. §510-20) grants the Board the power and the duty to formulate, adopt and promulgate the rules and regulations as may be determined by the Board for the proper performance of the work of the Department.

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by any federal or state law or court order, or federal regulation

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulatory amendments serve a number of purposes. The amendments clarify the household hazardous waste regulations in order to make it easier for collection sponsors, collection contractors and transporters to follow the regulations. The amendments also make the language in the regulations consistent with the Small Business and Household Pollution Prevention Program Act (Act 190 of 1996) and correct the inadvertent incorporation-by-reference of EPA's regulatory exemption of household hazardous waste as hazardous waste. The changes ensure that waste collected as part of an organized household hazardous waste collection is properly transported and managed as hazardous waste rather than as part of the municipal waste stream. Finally, the amendments are intended to dispel confusion expressed by some contractors as to how household hazardous waste is to be managed after it is collected. The amendments will ensure that all household hazardous waste that is collected as part of an organized collection, no matter in what state the waste originates, is to be managed as hazardous waste if managed in Pennsylvania.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Household hazardous waste collections aggregate large amounts of hazardous waste at collection sites. Regulation of household hazardous waste collections ensures that the hazardous waste is managed as part of the hazardous waste stream. By keeping the waste out of the municipal waste stream, municipal waste landfills do not receive the waste, the waste is properly managed according to hazardous waste regulations and a large proportion of the waste is recovered for future use, saving disposal capacity and natural resources.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Household hazardous waste collection program sponsors and household hazardous waste collection contractors will benefit from these regulation changes. There are currently 20 program sponsors of varying sizes including local governments, counties, and corporations. Based on last year's data, we expect one permanent collection facility owned by a solid waste authority and about seven commercial collection contractors will be affected.

Several out-of-state collection contractors ship household hazardous waste to commercial treatment, storage and disposal facilities in Pennsylvania. The exact number of collection contractors shipping household hazardous waste into Pennsylvania is unknown.

REGULATION ANALYSIS FORM

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

If somebody is adversely affected by the regulation, it will likely be out-of-state household hazardous waste contractors that do not understand the current regulations and may be currently sending household hazardous waste into Pennsylvania for management under the EPA hazardous waste exemption of household hazardous waste. Currently, the Department is working with one contractor that appears to fit within this category.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Household hazardous waste collection program sponsors, household hazardous waste collection contractors, and transporters will be required to comply with the regulations. There are currently 20 program sponsors of varying sizes including local governments, counties, and corporations. Based on last year's data, we expect one permanent collection facility owned by a solid waste authority and about seven commercial collection contractors will be affected. Currently, all collection contractors are also the transporters of the household hazardous waste.

Several out-of-state collection contractors ship household hazardous waste to commercial treatment, storage and disposal facilities in Pennsylvania. The exact number of collection contractors shipping household hazardous waste into Pennsylvania is unknown.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The proposed regulations were reviewed and approved by the Solid Waste Advisory Committee on June 8, 2000. The Committee approved the proposed regulations without any changes.

No public comments were received during the 30 day comment period, although brief comments were received from IRRC. Because the amendments clarify existing regulations and make them consistent with the way the household hazardous waste program is currently implemented under Act 190 of 1996, no controversy was expected. For this reason, public hearings were not held.

Final regulations were reviewed and approved by the Solid Waste Advisory Committee on May 10, 2001. The Committee approved the regulations without any changes.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Because the changes are intended to clarify existing regulations, there should not be any impact on costs. The Department already provides manuals and instructions that are consistent with the amendments.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Because the changes are intended to clarify existing regulations, there should not be any impact on costs. The Department already provides manuals and instructions that are consistent with the amendments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

Implementation of the regulations should not require any educational, technical or compliance assistance efforts on the part of the Commonwealth because the Department already provides manuals and instructions that are consistent with the amendments. In the event assistance is required, Department staff will be able to provide it in a minimal amount of time.

Regulation Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:	0	0	0	0	0	0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:	0	0	0	0	0	0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The regulations should not require any educational, technical or compliance assistance efforts on the part of the state because the Department already provides manuals and instructions that are consistent with the amendments. In the event assistance is required, Department staff will be able to provide it in a minimal amount of time.

The Department already provides manuals and instructions that are consistent with the amendments. Because the changes are intended to clarify existing regulations, there should not be any impact on costs or revenues of the regulated community.

Regulation Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

These numbers do not include staff time. Staff time data is not available.

Program	FY-3	FY-2	FY-1	Current FY
\$1,462,893	\$423,046	\$583,669	\$456,178	\$484,483

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The benefits of the change are more easily understood regulations that are also consistent with the Small Business and Household Pollution Prevention Program Act. There should be no adverse effects.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The nonregulatory alternatives have already been implemented. A new registration and grant application package consistent with the regulations has been in use for over one year. A technical manual consistent with the regulations has been in use for two years. In addition, educational material for distribution to participants at household hazardous waste collections has been developed and distributed. The total development and distribution cost for the all material was less than \$50,000. The nonregulatory alternatives were dismissed because the current program conflicts in several ways with the existing regulations which need to be updated to be consistent with the current statutory law.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternatives were considered. The amendments are a clarification of existing regulations.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There is one relevant federal reference to household hazardous waste. It is 40 CFR 261.4(b)(1) (relating to exclusions) which exempts household waste from being hazardous.

Previous to the Department's inadvertent incorporation-by-reference of EPA's exemption of household hazardous waste from regulation as hazardous waste in 40 CFR 261.4(b)(1), Pennsylvania regulations were more stringent than this federal regulation. The federal regulation allows all household hazardous waste to be managed without any of the federal hazardous waste requirements. The regulations are more stringent than this federal regulation to correct for the inadvertent incorporation-by-reference of 40 CFR 261.4(b)(1).

The Small Business and Household Pollution Prevention Program Act makes the federal exclusion of household waste found in 40 CFR §261.4 (relating to exclusions) inapplicable to household hazardous waste collected or managed in Pennsylvania. The Act requires household hazardous waste, when collected as part of a household hazardous waste collection, to be managed as hazardous waste. Consequently, the regulations must be revised to be consistent with the Pennsylvania statute. Furthermore, large quantities of hazardous waste collected from households should be regulated as hazardous waste to protect the environment and public health.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Some states stringently manage household hazardous waste that is collected as part of a household hazardous waste collection under the federal hazardous waste regulations. Other states place less stringent requirements on the collection and transportation of household hazardous waste by avoiding manifesting and similar generator requirements, but ultimately have the household hazardous waste managed at hazardous waste facilities. Some states do not have any household hazardous waste regulations or collections.

The regulations should not put Pennsylvania at a competitive disadvantage. The household hazardous waste regulations and program could help attract conditionally exempt small quantity generators and more progressive companies into the Commonwealth.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Because the amendments clarify existing regulations and make them consistent with the way the household hazardous waste program is currently implemented under Act 190 of 1996, no controversy was expected. For this reason, public hearings were not held.

Regulations Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Existing reporting and paperwork requirements will not be changed.

A new registration and grant application package consistent with the regulations has been in use for over one year. A technical manual consistent with the regulations has been in use for two years.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been developed. In the event special assistance is required, central office staff should be able to provide it in a minimal amount of time.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

It is anticipated that the regulations will become effective in November 2001.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

2168

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>_____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p>Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF ENVIRONMENTAL PROTECTION ENVIRONMENTAL QUALITY BOARD (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>7-361</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>David E. Hess</u></p> <p>TITLE: <u>DAVID E. HESS, CHAIRMAN</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <u>[Signature]</u></p> <p><u>7/23/01</u> DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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ORDER ADOPTING REGULATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

Household Hazardous Waste Regulations

25 Pa. Code, Chapters 261a, 271, 272, and 283

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

(25 Pa. Code, Chapters 261a, 271, 272 and 283)

HOUSEHOLD HAZARDOUS WASTE

Order

The Environmental Quality Board (Board) by this order amends 25 Pa. Code, Chapters 261a, 271, 272 and 283 (relating to identification and listing of hazardous waste; municipal waste management--general provisions; municipal waste planning, recycling and waste reduction; and resource recovery and other processing facilities).

The amendments include regulations governing household hazardous waste collection events, grants, and transportation and management. The changes clarify the regulations to make them consistent with the Small Business and Household Pollution Prevention Program Act (35 P. S. §§ 6029.201--6029.209) (Act 190), which was passed after most of the existing household hazardous waste regulations were written. The changes to Article VII (relating to hazardous waste management) correct the inadvertent 1999 incorporation by reference in Article VII of the Environmental Protection Agency's (EPA) regulatory exemption of household hazardous waste from regulation as hazardous waste. The changes to Article VIII (relating to municipal waste) are designed to ensure that waste collected as part of an organized household hazardous waste collection continues to be properly transported and managed as hazardous waste rather than as part of the municipal waste stream. This is true for household hazardous waste collected as part of an organized household hazardous waste collection in another state, once the waste enters this Commonwealth, if the waste is to be managed in this Commonwealth, and for household hazardous waste collected as part of a collection event in this Commonwealth. Household hazardous waste not collected as part of an organized collection will continue to be managed as municipal waste in this Commonwealth.

This order was adopted by the Board at its meeting of July 17, 2001.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information contact Tom Hyatt, Division of Waste Minimization and Planning, P. O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-7382, or Kristen Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department's website (<http://www.dep.state.pa.us>).

C. Statutory Authority

The final rulemaking is being made under the authority of the following:

Act 190 which in section 207(a) (35 P. S. § 6029.207(a)) grants the Board the authority to promulgate regulations as needed to implement the act.

The Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101--6018.1003) which in section 105(a) of the SWMA (35 P. S. § 6018.105(a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to carry out the provisions of the SWMA.

The Household Hazardous Waste Funding Act (HHWFA) (35 P. S. §§ 6025.1--6025.5), as amended, which in section 4(a) of the HHWFA (35 P. S. § 6025.4(a)) created a restricted revenue account in the Recycling Fund to be used to fund household hazardous waste collection programs.

The Clean Streams Law (CSL) (35 P. S. §§ 691.1--691.1001), which in section 5(b) of the CSL (35 P. S. § 691.5(b)) grants the Board the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of the act, which in section 304 of the CSL (35 P. S. § 691.304) grants the Board the authority to adopt, prescribe and enforce rules and regulations not consistent with the act as may be deemed necessary for the protection of the purity of the waters of this Commonwealth, or parts thereof, and to purify those now polluted, and which in section 402 of the CSL (35 P. S. § 691.402) grants the Board the authority to adopt rules and regulations establishing conditions under which an activity shall be conducted for any activity that creates a danger of pollution of the waters of this Commonwealth or that regulation of the activity is necessary to avoid this pollution.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101--4000.1904), which in section 302 of Act 101 (53 P. S. § 4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of Act 101.

The Administrative Code of 1929 (Administrative Code) (71 P. S. §§ 510-17 and 510-20) which in section 1917-A of the Administrative Code (71 P. S. § 510-17) authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances and in section 1920-A of the Administrative Code (71 P. S. § 510-20) grants the Board

the power and the duty to formulate, adopt and promulgate the rules and regulations as may be determined by the Board for the proper performance of the work of the Department.

D. Background of the Amendments

The Commonwealth has operated a household hazardous waste program since 1992. Under this program, grants have been and continue to be available to eligible municipalities and other legal entities that register to conduct a household hazardous waste collection event. While household hazardous waste generated by an individual household and sent directly to a processing or disposal facility along with the household's municipal waste has not been regulated as hazardous waste, household hazardous waste collected at household hazardous waste collection events has been and continues to be managed as hazardous waste once it is collected. This ensures the proper level of environmental protection and is consistent with EPA recommendations. Until 1996, this Commonwealth's program was operated largely under the authority of section 1512 of Act 101 and the HHWFA; relevant regulations were found in the hazardous and municipal waste regulations. However, in 1996, Act 190 repealed section 1512 and portions of the HHWFA and replaced them with newer provisions jointly addressing small business and household hazardous waste collection events. This rulemaking is designed to update the hazardous and municipal waste regulations according to Act 190 as it applies to household hazardous waste collections.

The regulatory amendments cover the registration, review and approval of collection programs, the operation of collection programs and the requirements of collection contractors and transporters of household hazardous waste. The regulations specify entities that are eligible to bring waste to collection events. The regulations also cover grant requirements that apply to eligible collection sponsors.

The regulatory amendments serve a number of purposes. They will make it easier for collection sponsors, collection contractors and transporters to understand the requirements that apply to their activities, without making major changes to the existing regulations. The amendments also make the language in the regulations consistent with Act 190 and the way the household hazardous waste program is currently implemented. The amendments correct the inadvertent incorporation by reference of EPA's regulatory exemption of household hazardous waste from regulation as hazardous waste. The Federal regulations exempt hazardous waste derived from households from being regulated as hazardous waste, even when collected as part of a household hazardous waste collection. The 1999 amendments to the hazardous waste regulations inadvertently incorporated this provision by reference in § 261a.1 (relating to incorporation by reference, purpose and scope). The changes clarify that once household hazardous waste is collected as part of a household hazardous waste collection, it must be managed as a hazardous waste. Finally, the amendments are intended to dispel confusion expressed by some contractors as to how household hazardous waste is to be managed after it is collected. The amendments will ensure that all household hazardous waste that is collected as part of a household hazardous waste collection, no matter in which state the waste originates, is to be managed as hazardous waste if managed in this Commonwealth.

Because the amendments clarify existing regulations and make the regulations consistent with the way the household hazardous waste program is currently implemented under Act 190, no

controversy was expected over the proposed rulemaking. The Board provided a 30-day public comment period on the proposed rulemaking. No public comments were received. Comments were received, however, from the Independent Regulatory Review Commission (IRRC). A summary of IRRC's comments and the Board's responses and the changes made in the final rulemaking follow in section E.

The final regulations were reviewed and unanimously approved by the Solid Waste Advisory Committee on May 10, 2001 for submittal to the Board.

E. Summary of Comments and Responses and Changes Made in the Final Rulemaking

The following changes were made to the proposed rulemaking:

As a result of a comment concerning § 261a.4(1) (relating to exclusions), the word "of" was changed to "in" to clarify that the exclusions are contained in that section. To further clarify the exclusion, the phrase "if the waste is" was added to the exclusion and the word "and" was substituted for the term "which is."

As a result of a comment on § 271.1 (relating to definitions), the terms "collection contractor," "collection event," "eligible entity," and "sponsor" were added to the definitions, and parts (i) and (ii) under the proposed definition of "household hazardous waste" were moved to § 272.501 (relating to scope) to better explain when household hazardous waste is to be managed as hazardous waste.

The term "and disposal" was replaced by the term "events" in the descriptive heading prior to § 272.381 (relating to scope of grant) to be consistent with the language in Act 190.

The term "household hazardous" was added to § 272.512(b)(4) (relating to general application requirements) and the term "management" substituted for "treatment or disposal" to clarify that the Department would prefer to have household hazardous waste recycled rather than disposed.

The term "management" was substituted for "treatment or disposal" in § 272.513(1) (relating to contract) to clarify that the Department would prefer to have household hazardous waste recycled rather than disposed.

The last sentence of proposed § 272.533(b) (relating to fees) was deleted. This sentence was redundant of § 272.382(c) (relating to eligible costs). In addition, the word "event" was substituted for "program" in § 272.533(b) to be consistent with the language in Act 190.

The phrase "collected at the collection event" was added to § 272.541(a)(2) (relating to collection contractor) to clarify that the requirement applies to waste collected at a household hazardous waste collection event.

The term “event” was substituted for “program” in § 272.541(b) to be consistent with the language in Act 190. Language in § 272.541(b) was changed from “manage, transport and dispose of the waste” to “ensure that transportation and management of the waste, including treatment, storage and disposal, are” to clarify that waste collected at household hazardous waste collections does not have to be disposed. Subsection (b) was also expanded to clarify that household hazardous waste is required to be removed from a collection site within 48 hours, unless a longer time has been authorized by the Department under § 272.535 (relating to cleanup of site).

In § 272.541(c)(1), the phrase “manage, transport and dispose” was replaced with “transport and manage” to clarify that waste collected at a household hazardous waste collection does not have to be disposed and because the definition of “management” in § 271.1 (relating to definitions) encompasses disposal.

The proposed new language in § 272.541(d) was deleted because it is repetitive of §272.541(b). This change resulted in the deletion of subsection (d) in its entirety.

Section 283.123(a)(1) (relating to plan for removal of hazardous materials) was updated to reflect a reference to a title that was changed to Subchapter F (relating to household hazardous waste collection, transportation and management).

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the final regulation.

Benefits

The regulations clarify the registration and operational requirements of conducting a household hazardous waste program. The regulations also clarify that household hazardous waste collected as part of a household hazardous waste collection is to be managed under Article VII (relating to hazardous waste management). No new requirements for household hazardous waste collection sponsors, collection contractors or transporters are added to the regulations.

Compliance Costs

Household hazardous waste program sponsors and collection sponsors are required to comply with the regulations. Pennsylvania has always regulated household hazardous waste that is collected as part of a household hazardous waste collection program as hazardous waste. However, because the regulations clarify existing regulations, they should not have any impact on direct or indirect costs.

Compliance Assistance Plan

The regulations should not require any educational, technical or compliance assistance efforts. The Department has and will continue to provide manuals, instructions, forms and website information consistent with the proposed amendments. In the event that assistance is required, central office staff will be able to provide it.

Paperwork Requirements

The regulations do not create any new paperwork requirements. All paperwork requirements are presently consistent with the proposed regulations.

G. Pollution Prevention

No pollution prevention efforts will be required by the Department as a result of this regulatory change. The Department already provides pollution prevention educational material as part of its household hazardous waste program. In addition, the Small Business and Household Pollution Prevention Program Act that the regulations are based on requires collection events to include an education program as part of the collection event and requires that waste materials collected from households as part of a household hazardous waste collection event be reclaimed to the greatest extent possible.

H. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on January 29, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa. Bulletin 796 (February 10, 2001), to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

There were no public comments to submit to IRRC and the Committees under section 5(c) of the Regulatory Review Act (71 P.S. §.745.5(c)).

Under section 5.1(d) of the Regulatory Review Act (71 P.S. §745.5a(d)), on _____, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____ and approved the final-form regulations.

J. Findings of the Board

The Board finds that:

- (1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at *1 Pennsylvania Code* §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law. No public comments were received, although comments were received from IRRC.
- (3) These regulations do not enlarge the purpose of the proposal published at 31 Pa. Bulletin 796 (February 10, 2001).
- (4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

K. Order of the Board

The Board, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department of Environmental Protection, *25 Pennsylvania Code*, Chapters 261a, 271, 272 and 283 are amended to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form, as required by law.
- (c) The Chairperson shall submit this order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.
- (d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (e) This order shall take effect immediately.

BY

DAVID E. HESS
Chairman
Environmental Quality Board

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 261a.4. Exclusions.

In addition to the requirements incorporated by reference[,]:

(1) The exclusion ~~of~~ IN 40 CFR 261.4(b)(1) (relating to exclusions) does not apply to household hazardous waste as defined in § 271.1 (relating to definitions) IF THE WASTE IS collected as part of a collection event or collected at an out-of-State household hazardous waste collection ~~which is~~ AND brought into this Commonwealth for processing, treatment, storage or disposal.

(2) [a] A copy of the written state agreement required by 40 CFR 261.4(b)(11)(ii) **[(relating to exclusions)]** that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed for free phase hydrocarbon recovery operations shall be submitted to: Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division

of Hazardous Waste Management, Post Office Box 8471, Harrisburg, Pennsylvania
17105-8471.

ARTICLE VIII. MUNICIPAL WASTE

**CHAPTER 271. MUNICIPAL WASTE MANAGEMENT--GENERAL
PROVISIONS**

Subchapter A. GENERAL

§ 271.1. Definitions.

The following words and terms, when used in this article, have the following meanings,
unless the context clearly indicates otherwise:

* * * * *

**[*Collection contractor*--A person licensed as a hazardous waste transporter and
approved by the Department and retained by a municipality to operate a household
hazardous waste collection program.]**

**COLLECTION CONTRACTOR—THE DEFINITION FROM § 203 OF THE
SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION
PROGRAM ACT IS INCORPORATED BY REFERENCE.**

**COLLECTION EVENT—THE DEFINITION FROM § 203 OF THE SMALL
BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM ACT
IS INCORPORATED BY REFERENCE.**

* * * * *

**ELIGIBLE ENTITY—THE DEFINITION FROM § 203 OF THE SMALL
BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM ACT
IS INCORPORATED BY REFERENCE.**

* * * * *

***Household hazardous waste*—[A waste that would be considered hazardous under the act, but for the fact that it is produced in quantities smaller than those regulated as hazardous waste under the act and is generated by persons not otherwise covered as hazardous waste generators by that act.] Waste generated by a household that could be chemically or physically classified as a hazardous waste under the standards of Article VII (relating to hazardous waste management).**

~~[(i) If the household hazardous waste is collected as part of a collection event or originates at an out-of-State household hazardous waste collection and is brought into this Commonwealth for processing, treatment, storage or disposal, it shall be regulated under Article VII.~~

~~[(ii) If the waste is not collected at a collection event or does not originate at an out-of-State household hazardous waste collection, it is solid waste which is excluded as hazardous waste under 40 CFR 261.4(b)(1) (relating to exclusions), as incorporated by reference in § 261a.1 (relating to incorporation by reference, purpose, and scope).~~

(iii) For the purpose of this definition, the term "household" includes those places described as "households" in 40 CFR 261.4(b)(1).

* * * * *

SPONSOR—THE DEFINITION FROM § 203 OF THE SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM ACT IS INCORPORATED BY REFERENCE.

* * * * *

**CHAPTER 272. MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE
REDUCTION**

Subchapter D. GRANTS

SCOPE

§ 272.301. Scope.

A **person or** municipality that seeks or receives a grant from the Department under the Municipal Waste Planning, Recycling and Waste Reduction Act **or the Small Business and Household Pollution Prevention Program Act** shall comply with this subchapter.

GENERAL PROVISIONS FOR AWARDING GRANTS

§ 272.313. General requirements for grant applications.

(a) A grant application under this subchapter shall be submitted on a form prepared and furnished by the Department. The application shall contain information the Department deems necessary to carry out the Municipal Waste Planning, Recycling and Waste Reduction Act and the Small Business and Household Pollution Prevention Program Act, as applicable.

(b) A grant application shall be submitted by a municipality or, for a household hazardous waste collection event grant application, a sponsor. [A] For grant applications submitted under the Municipal Waste Planning, Recycling and Waste Reduction Act, a municipal authority may not submit a grant application. A municipality that receives a grant may pass funds from the grant to a municipal authority.

* * * * *

§ 272.314. Limits on Department's authority to award grants.

* * * * *

(b) The Department will not award a grant under this subchapter to a person or municipality unless the applicant demonstrates to the Department's satisfaction that it has complied with the following:

* * * * *

(3) **If the application is for a household hazardous waste collection event grant, the applicant has complied with the Small Business and Household Pollution Prevention Program Act.**

(4) * * *

* * * * *

§ 272.317. Grant review.

The Department will deny a grant application, in whole or in part, unless the applicant demonstrates the following to the Department's satisfaction:

* * * * *

(2) Awarding the grant is likely to accomplish the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act **or the Small Business and Household Pollution Prevention Program Act, as applicable.**

GRANTS FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION [AND DISPOSAL] EVENTS

§ 272.381. Scope of grant.

[(a)] The Department will award grants for the establishment and operation of household hazardous waste collection [and disposal programs,] **events** upon application of [a municipality] **an eligible collection event sponsor**. The grants may be awarded only to programs that have been registered with and approved by the Department under

Subchapter F (relating to household hazardous waste collection, transportation and management).

[(b) Grants for the operation of household hazardous waste collection and disposal programs shall be made from specially appropriated funds for the purpose.]

§ 272.382. Eligible costs.

(a) [The grant shall be 50% of the approved cost of establishing and operating a household hazardous waste collection and disposal program.] Eligible costs incurred by the sponsor for a household hazardous waste collection event include the following:

(1) Labor costs, including wages, salaries, costs for Social Security, Workers' Compensation and Unemployment Compensation.

(2) Travel and related costs associated with attending training courses and related meetings, if reimbursement is approved in advance of the training course or meeting by the Department.

(3) Legal fees for preparing and reviewing collection contractor proposals and contracts in the development stage.

(4) Facility siting studies.

(5) Printing and distribution of public education material.

(6) Collection contractor mobilization fees and waste management fees for collected materials.

(7) Onsite sanitary facilities.

(b) [Costs not approved for a grant include, but are not limited to:

(1) Costs associated with a program that has violated the act, the environmental protection acts, the Municipal Waste, Planning, Recycling and Waste Reduction Act or regulations thereunder.

(2) Costs associated with a program that has operated in a manner that is contrary to the terms and conditions of the Department's registration and approval of the program.

(c) The Department may not award money from the Recycling Fund for this grant.] A household hazardous waste collection event grant shall be limited to the lowest of the following:

(1) Fifty percent of the eligible costs incurred by the sponsor in establishing and operating a collection event.

(2) Eligible costs incurred in establishing and operating a collection event, less fees collected by the sponsor under § 272.533 (relating to fees).

(3) One hundred thousand dollars.

§ 272.383. Grant application.

[The application shall contain:

- (1) A copy of the Department's registration and approval for the program.**
- (2) A summary of program cost, including the funding match for the program grant.**
- (3) The name, mailing address, telephone number and Pennsylvania hazardous waste transporter's license number of the contractor.**
- (4) The name and location of the treatment or disposal facilities which will be used for the waste.]**

(a) A grant applicant shall submit its application on a form provided by the Department. An application shall be accompanied by appropriate supporting documentation.

(b) A grant applicant shall ascertain that a record of operations has been sent to the Department prior to or with the grant application.

§ 272.384. Education grants.

A county may apply for a household hazardous waste education program grant under § 272.321 (relating to scope of grant).

**Subchapter F. HOUSEHOLD HAZARDOUS WASTE COLLECTION,
TRANSPORTATION AND MANAGEMENT**

SCOPE

§ 272.501. Scope.

This subchapter sets forth provisions for the registration, approval and operation of household hazardous waste collection programs and for the management and transportation of household hazardous waste collected as part of an organized collection for the purpose of separating the hazardous waste component from the nonhazardous waste component.

(1) HOUSEHOLD HAZARDOUS WASTE THAT IS COLLECTED AS PART OF A COLLECTION EVENT OR THAT ORIGINATES AT AN OUT-OF-STATE HOUSEHOLD HAZARDOUS WASTE COLLECTION AND IS BROUGHT INTO THIS COMMONWEALTH FOR PROCESSING, TREATMENT, STORAGE OR DISPOSAL IS REGULATED UNDER ARTICLE VII (RELATING TO HAZARDOUS WASTE MANAGEMENT) AND THE HOUSEHOLD HAZARDOUS WASTE PROVISIONS OF THIS CHAPTER.

(2) HOUSEHOLD HAZARDOUS WASTE THAT IS NOT COLLECTED AT A COLLECTION EVENT OR DOES NOT ORIGINATE AT AN OUT-OF-STATE HOUSEHOLD HAZARDOUS WASTE COLLECTION IS SOLID WASTE WHICH IS EXCLUDED AS HAZARDOUS WASTE UNDER 40 CFR 261.4(b)(1) (RELATING TO EXCLUSIONS), AS INCORPORATED BY REFERENCE IN §

261a.1 (RELATING TO INCORPORATION BY REFERENCE, PURPOSE, AND SCOPE).

REGISTRATION AND APPROVAL OF PROGRAMS

§ 272.512. General application requirements.

(a) Registration applications shall be submitted to the Department on a form provided by the Department, and shall contain information the Department deems necessary to properly develop and implement a household hazardous waste collection program. The application shall be submitted by the **[person or municipality that will] potential sponsor [the collection program]. An application shall be submitted to the Department at least 60 days before the collection event.**

(b) A registration application shall contain the following information:

(1) The location of the proposed site for the collection event. The site may be on public or private property, including, but not limited to, property owned, leased or controlled by the Commonwealth, its agencies or political subdivisions. If the **[municipality that sponsors] sponsor of** the collection program is not the owner of the site, the **[person or municipality] sponsor** shall include as part of the registration application, written permission from the owner of the site to use the property for the collection event.

* * * * *

(4) The location, permit number and permit expiration date of the facilities to which the HOUSEHOLD HAZARDOUS waste deposited at the collection event will be sent for ~~[treatment or disposal]~~ MANAGEMENT. The collection contractor for the program shall provide confirmation, on a form provided by the Department, from those facilities, that wastes deposited at the collection event will be accepted by a permitted facility for ~~[treatment or disposal]~~ MANAGEMENT.

* * * * *

§ 272.513. Contract.

The application shall include a negotiated contract between the [person or municipality] sponsor and the collection contractor. A signed contract shall be submitted to the Department prior to the collection event. The contract shall meet the following requirements:

(1) The contract shall establish the responsibilities of each party for the safe collection, transportation and ~~[disposal or treatment]~~ MANAGEMENT of household hazardous waste that is deposited at the collection event in accordance with the statutes and regulations of the Commonwealth and the United States.

(2) The contract shall require that the collection contractor will provide the [person or municipality] sponsor with a statement that lists the names and qualifications of personnel accepting waste at the collection event.

* * * * *

§ 272.514. Contingency plan.

The application shall also include a contingency plan that meets the following requirements. The plan shall:

* * * * *

(5) Describe provisions for the safe management of waste in the event of inclement weather.

(6) Describe provisions for cancellation or rescheduling of the collection event due to inclement weather.

REGISTRATION REVIEW

§ 272.523. [Public notice] (Reserved).

[The Department will publish notice in the *Pennsylvania Bulletin* of the following:

- (1) Receipt of an application for a registration approval under this subchapter.**
- (2) Approval or denial of an application for registration approval under this subchapter.]**

OPERATION OF PROGRAMS

§ 272.531. Basic operational requirements.

(a) A program for the collection and management of household hazardous waste shall be operated in accordance with **[the registration submitted by the municipality**

sponsoring the program and with conditions for approval the Department may attach to the registration, the requirements of Article VII (relating to hazardous waste management) and with guidelines issued by the Department under the Municipal Waste Planning, Recycling and Waste Reduction Act] the following:

(1) The approved registration, including any conditions the Department attaches to approval.

(2) The Small Business and Household Pollution Prevention Program Act.

(3) The requirements of Article VII (relating to hazardous waste management) as made applicable by this subchapter.

* * * * *

§ 272.532. Limitations on acceptable waste.

(a) The following wastes may not be accepted at a collection event:

(1) Radioactive [~~waste~~] material.

(2) [~~Biologically active waste~~] Infectious waste, except sharps.

(3) [~~Gas cylinders or aerosol cans~~].

(4) Explosives [~~or ordinance material~~].

(b) An eligible entity may not deposit more than [~~100 kilograms (220 lbs.)~~] 1,000 kilograms (2,200 lbs.) of waste at an individual collection event. The collection

contractor shall weigh waste received at a collection event to ensure that no entity deposits more than [100 kilograms] 1,000 kilograms of waste at an individual collection event. A sponsor may lower the maximum amount of waste that may be deposited by an eligible entity.

§ 272.533. Fees.

[(a) The sponsoring municipality shall require a minimum fee of small businesses other than nonprofit entities in the following amounts:

(1) Two dollars per pound for poisons, including pesticides, insecticides, herbicides and fungicides.

(2) One dollar per pound for other household hazardous wastes.

[(b) The sponsoring municipality may require a fee of other eligible persons to help defray the costs of operating the collection program.]

To help defray the costs of operating a collection [program] EVENT, a sponsor may require eligible entities to pay a reasonable fee to deposit waste with the collection [program] EVENT. [If fees are collected and exceed 50% of the eligible costs under § 272.382 (relating to eligible costs), the Department will limit reimbursement as described in that section.]

§ 272.535. Cleanup of site.

At the end of the collection event, the [municipality] sponsor and the collection contractor shall return the collection site to its original condition. Collected waste shall be removed from the site within 48 hours after completion of the collection event, unless a longer time has been authorized by the Department. Cleanup of the site shall be certified by the [municipality] sponsor and the collection contractor in a manner approved by the Department.

§ 272.537. [Municipal] Sponsor recordkeeping.

[Municipalities sponsoring collection programs shall be responsible for maintaining the generator manifest records in accordance with 40 CFR 262.40 (relating to recordkeeping), incorporated in § 262a.10 (relating to incorporation by reference, purpose, scope and applicability) and for the generator reporting requirements under § 262a.42 (relating to exception reporting) and 40 CFR 262.42 (relating to exception reporting), incorporated in § 262a.10.] A sponsor shall keep a copy of the manifests provided to it by the collection contractor under § 272.541 (relating to collection contractor) for 3 years and shall make them available to the Department upon request.

COLLECTION CONTRACTORS

§ 272.541. [Basic requirements] Collection contractor.

(a) [A collection contractor may not operate a household hazardous waste program or site, or transport household hazardous waste unless the contractor has prior Departmental approval and an identification number and transporter license as required under Chapter 263a (relating to transporters of hazardous waste) and 40 CFR 263.11 (relating to EPA identification number), incorporated in § 263a.10 (relating to incorporation by reference and scope).] A collection contractor shall comply with the following requirements:

(1) The collection contractor shall have an EPA hazardous waste identification number under 40 CFR 262.12 (relating to EPA identification numbers), incorporated by reference at § 262a.10 (relating to incorporation by reference purpose, scope and applicability) and modified at § 262.a12 (relating to EPA identification numbers).

(2) The collection contractor shall have a hazardous waste transporter's license under § 263a.13 (relating to licensing). In the event that the collection contractor will not transport the household hazardous waste COLLECTED AT THE COLLECTION EVENT, the collection contractor shall demonstrate to the Department that the person or municipality that will transport the household hazardous waste has a valid hazardous waste transporter's license under § 263a.13.

(b) The collection contractor shall be deemed to be the generator of hazardous waste for household hazardous wastes accepted during the collection [~~program~~] EVENT and shall [~~manage, transport and dispose of the waste~~] ENSURE THAT
TRANSPORTATION AND MANAGEMENT OF THE WASTE, INCLUDING
TREATMENT, STORAGE AND DISPOSAL, ARE in accordance with this chapter[,] and the applicable provisions of Article VII (relating to hazardous waste management) except Chapter 262a, Subchapter I (relating to source reduction strategy) [and conditions the Department may attach to the registration of the collection program. Disposal of household hazardous waste collected under this subchapter shall be at a facility having a permit or interim status under the Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6901--6986).] AND 40 CFR 262.34 (RELATING TO ACCUMULATION TIME), INCORPORATED BY REFERENCE AT § 262a.10 (RELATING TO INCORPORATION BY REFERENCE, PURPOSE, SCOPE AND APPLICABILITY). THE WASTE SHALL BE MANIFESTED TO A PERMITTED OR INTERIM STATUS HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY, AND SHIPPED TO THAT FACILITY WITHIN 48 HOURS OF THE END OF THE COLLECTION EVENT, UNLESS A LONGER TIME HAS BEEN AUTHORIZED BY THE DEPARTMENT UNDER § 272.535 (RELATING TO CLEANUP OF SITE).

(c) The collection contractor shall comply with [40 CFR Part 262 (relating to standards applicable to generators of hazardous waste), to the extent that Part 262 is

incorporated by reference in Chapter 262a (relating to standards applicable to generators of hazardous waste), except Chapter 262a, Subchapters D and I (relating to recordkeeping and reporting; and source reduction strategy).] the following requirements:

(1) The collection contractor shall [~~manage, transport and dispose of~~ TRANSPORT AND MANAGE the waste in accordance with conditions the Department may attach to the approval of the collection event.

(2) The collection contractor shall deliver a copy of the generator copy of the manifests to the sponsor to maintain in accordance with § 272.537 (relating to sponsor recordkeeping).

(3) The collection contractor shall provide a copy of the record of operations to the sponsor.

(4) The collection contractor shall provide for the recycling, reuse or use of the collected materials to the greatest extent feasible.

~~{(d)}~~ [At the end of the collection event, the collection contractor shall deliver the generator copy of the manifests to the sponsoring municipality to maintain in accordance with 40 CFR 262.40 (relating to recordkeeping), incorporated in § 262a.10 (relating to incorporation by reference, purpose, scope and applicability).]

~~[The collection contractor shall ensure that the household hazardous waste is~~

~~treated, stored or disposed at a facility having a permit or interim status under the Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6901–6992k).~~

§ 272.542. Reporting.

The collection contractor shall make and maintain a record of **[collection activities] operations** and submit a copy of the record to the Department **and sponsor** within 30 days of the end of each collection event. The record shall be on a form provided by the Department, and shall include:

* * * * *

§ 272.543. [Recycling or reuse of collected materials.] (Reserved).

[The collection contractor shall, to the greatest extent feasible, provide for the recycling, reuse or use of the collected materials.]

TRANSPORTERS OF HOUSEHOLD HAZARDOUS WASTE

§ 272.551. Household hazardous waste transportation[, storage and disposal].

(a) A transporter of household hazardous waste collected as part of a collection event shall meet the requirements of this section.

(b) A transporter of household hazardous waste shall meet the requirements of this section if the waste is collected at an out-of-State household hazardous waste

collection and brought into this Commonwealth for processing, treatment, storage or disposal.

(c) A transporter of household hazardous waste described in subsection (a) or (b) is subject to Article VII (relating to hazardous waste management), including the following:

(1) The waste shall be manifested as required under Chapter 262a (relating to standards applicable to generators of hazardous waste) to a facility having a permit or interim status under the Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6901--6992k).

(2) The transporter shall comply with the hazardous waste transportation requirements in Chapter 263a (relating to transporters of hazardous waste).

**CHAPTER 283. RESOURCE RECOVERY AND OTHER PROCESSING
FACILITIES**

SUBCHAPTER B. APPLICATION REQUIREMENTS

RECYCLING

§ 283.123. Plan for removal of hazardous materials.

(a) An application for a facility that will be receiving waste after September 26, 1990, including the expansion of an existing facility, shall include a plan consistent with §

283.283 (relating to removal of hazardous materials). The plan shall include a screening and inspection program at the facility and one or more of the following methods of removing hazardous materials from the waste to be processed:

(1) Sponsorship by the operator of the household hazardous waste collection programs under Chapter 272 Subchapter F (relating to household hazardous waste collection,

TRANSPORTATION AND MANAGEMENT).

(2) Municipal sponsorship of household hazardous waste collection programs under Chapter 272, Subchapter F.

(b) For purposes of this section, hazardous materials include[s] plastics if appropriate, corrosive materials, batteries, pressurized cans and household hazardous waste.

Household Hazardous Waste Amendments

Comment and Response Document

List of Commentators

No public comments were received. The only commentator was the Independent Regulatory Review Commission.

COMMENTS AND RESPONSES

Section 261a.4 Exclusions.

1. Comment: The intent of § 261a.4 (relating to exclusions) is unclear. It states, “the exclusion of 40 CFR 261.4(b)(1) (relating to exclusions) does not apply to household hazardous waste as defined in § 271.1 ...” The confusion is further compounded because the proposed definition of “household hazardous waste” in Section 271.1 references 40 CFR 261.4(b)(1). The person in possession of this waste needs to clearly know whether to comply with Article VII (Hazardous Waste Management) or Article VIII (Municipal Waste).

Response: The Board has changed the word “of” to “in” in the phrase, “The exclusion [of] in 40 CFR 261.4(b)(1)...” in order to clarify this provision. The reference to 40 CFR 261.4(b)(1) is necessary in both provisions. This federal provision excludes household hazardous waste from regulation as hazardous waste. It does not apply when the waste is collected as part of a collection event or collected at an out-of-State household hazardous waste collection and it *does* apply when the waste is not collected as part of such an organized collection.

2. Comment: The Preamble is unclear. The Preamble description of amendments to Section 261a.4 states, “...the changes to the regulation will ensure that when household hazardous waste has been collected as part of a household hazardous waste collection program, *it will continue to be managed and transported as a hazardous waste* rather than as part of the municipal waste stream.” (Emphasis added.) The phrase “continue to” implies the household waste was regulated as hazardous prior to collection. Is the household waste regulated as hazardous waste prior to collection?

Response: The household waste is not regulated as hazardous waste prior to collection. The phrase “continue to” has nothing to do with the status of the household waste prior to collection. It refers to the fact that household hazardous waste that is collected will be managed and transported as hazardous waste, in continuation of the 9-year practice in this Commonwealth.

Section 271.1 Definitions.

3. Comment: After collection, household hazardous waste is regulated as hazardous waste, regardless of whether it was produced by a household. Since paragraph (i) of the definition of “household hazardous waste” describes hazardous waste, why is it needed in the definition? The definition of

“household hazardous waste” contains a mix of what is and what is not regulated as hazardous waste. The definition should only describe the term “household hazardous waste.” The substantive provisions in paragraphs (i) and (ii) should be moved to the body of the regulation.

Response: The regulated community recognizes the term “household hazardous waste.” Use of the term “hazardous waste” in place of “household hazardous waste” in the municipal waste regulations could cause confusion.

The Board has moved the substantive provisions of section 271.1(i) and (ii) to section 272.501 (relating to scope). Under this structure, hazardous waste that is collected from households as part of an organized collection will still be considered household hazardous waste in order to avoid creating confusion because the regulated community has become familiar with this term over the last 13 years. As in the proposed regulation, it will have to be managed under Article VII. In addition, this structure will help to ensure that household hazardous waste originating at a household hazardous waste collection in a state that recognizes the federal exemption of Section 261.4(b)(1) will be managed as hazardous waste in this Commonwealth.

4. **Comment:** The terms “eligible entity,” “sponsor,” “collection contractor” and “collection event” are defined in the Small Business and Household Pollution Prevention Program Act and are used throughout this regulation. For increased clarity, these four terms should be referenced in the definitions section of this regulation.

Response: These definitions from the Small Business and Household Pollution Prevention Program Act have been incorporated by reference in § 271.1 (relating to definitions).

Section 272.314 Limits on Department’s authority to award grants.

5. **Comment:** Under Subsection 272.314(b)(3) an applicant must demonstrate “to the Department’s satisfaction” that it has complied with the Small Business and Household Pollution Prevention Program Act. What is the applicant required to provide to satisfy the Department?

Response: A sponsor (the grant applicant) seeking reimbursement under this section must complete forms provided by the Department, which are designed to keep the sponsor in compliance with the regulations. The answers to the questions on the form will indicate whether the amount of the requested reimbursement is appropriate.

Section 272.383 Grant application.

6. Comment: Subsection 272.383(a) requires an application to be accompanied by “appropriate supporting documentation.” How will an applicant know what supporting documentation is “appropriate”? The Department should describe the appropriate supporting documentation.

Response: The appropriate supporting documentation is explained in the application for reimbursement. In most cases, copies of invoices from the collection contractor are all that is required. However, some programs involve more than just the use of a collection contractor. For these, items such as time sheets and travel and training forms provided in the application for reimbursement might be required.

7. Comment: Subsection 272.383(b) requires the grant applicant to “ascertain that a record of operations” has been sent to the Department. There are two questions. First, what is the purpose served by the applicant “ascertaining” the Department is in possession of a record? Would this be included in the Department’s review of the application? Second, why is this requirement separate from the information required by Subsection (a)?

Response: The sponsor (the grant applicant) has the responsibility to ensure that a collection contractor and any other person or entity operating on its behalf has met the regulatory requirements. This includes ascertaining that the record of operations has been sent to the sponsor and the Department, as required by §272.513(1). The record of operations is particularly important because it indicates that the waste has been properly managed. The Department includes this document in its review of a grant application. The requirement to ascertain that it has been submitted is stated as a separate subsection in order to indicate the significance of proper waste management.

Miscellaneous

8. Comment: There is a typographical error in Paragraph (a)(3) of Section 272.531. A closing parenthesis is missing.

Response: This error has been corrected.



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
August 21, 2001

The Secretary

Phone: 717-787-2814
E-Mail: DavidHess@state.pa.us

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown #2
333 Market Street
Harrisburg, PA 17120

RE: Final Rulemaking: Household Hazardous Waste Regulations (#7-361)

Dear Bob:

Pursuant to Section 5.1(a) of the Regulatory Review Act, enclosed is a copy of a final-form regulation for review by the Commission. This final rulemaking was approved by the Environmental Quality Board (EQB) on July 17, 2001.

These amendments further clarify the household hazardous waste provisions in Chapters 261a, 271 and 272 and make the language consistent with that used in the Small Business and Household Pollution Prevention Program Act. The amendments also correct an inadvertent cross-reference to a federal regulation that excludes household hazardous waste from being regulated as hazardous waste. The revisions ensure that waste collected as part of a household hazardous waste program is properly managed as hazardous waste rather than as part of the municipal waste stream, reflecting the manner in which the household hazardous waste program currently operates.

The proposed rulemaking was adopted by the EQB on October 17, 2000, and published February 10, 2001, with a 30-day public comment period. There were no public commentators to the proposal. The Solid Waste Advisory Committee (SWAC) endorsed the draft final amendments on May 10, 2001.

The Department will provide the Commission with any assistance required to facilitate a thorough review of this final-form regulation. Section 5.1(e) of the Act provides that the Commission shall, within ten days after the expiration of the committee review period, approve or disapprove the final-form regulation.

Mr. Robert E. Nyce

2

August 21, 2001

For additional information, please contact Sharon Trostle, Regulatory Coordinator, at 787-4526.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Sexton".

Barbara A. Sexton
Acting Executive Deputy Secretary

Enclosures

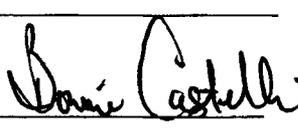
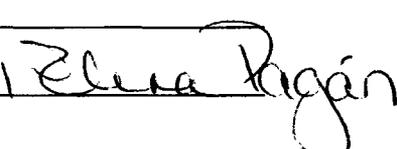
**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 7-361
SUBJECT: Household Hazardous Waste
AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
- a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/21/01		HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
8-21-01		SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
8-21-01		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

July 23, 2001