

EXECUTIVE SUMMARY

Final-Omitted Rulemaking Hazardous Waste Generator Improvements Rule 25 Pa. Code Chapters 261a – 265a

Summary and Purpose of the Final-Omitted Rulemaking

This final-omitted rulemaking amends Chapters 261a (relating to identification and listing of hazardous waste), 262a (relating to standards applicable to generators of hazardous waste), 263a (relating to transporters of hazardous waste), 264a (relating to owners and operators of hazardous waste treatment, storage and disposal facilities), and 265a (relating to interim status standards for owners and operators of hazardous waste treatment, storage and disposal facilities). The Pennsylvania hazardous waste regulations, 25 Pa. Code Chapters 260a – 268a and 270a, incorporate by reference the Federal hazardous waste regulations.

The purpose of this final-omitted rulemaking is to ensure the alignment of Pennsylvania's hazardous waste regulations with revisions to the Federal hazardous waste regulations. On November 28, 2016, the United States Environmental Protection Agency (EPA) finalized the Hazardous Waste Generator Improvements Rule (HWGIR), which substantially revised provisions in 40 CFR Parts 260 – 268 and 270, reorganizing many of the Federal generator regulations to make them more intuitive for users. The HWGIR became effective on May 30, 2017. The revisions to this Federal rule are automatically incorporated into the *Pennsylvania Code* by reference under § 260a.3(e) (relating to terminology and citations related to Federal regulations). The amendments included in Annex A will ensure the consistency of Chapters 261a – 265a with the revised Federal regulations, update the cross-references in the Pennsylvania regulations to match the revised Federal regulations and provide clarity to the public and the regulated community with respect to the references to the Federal provisions incorporated by reference.

The amendments to the Pennsylvania hazardous waste regulations in this final-omitted rulemaking include:

- The adjustment of terminology throughout Article VII (relating to hazardous waste management) to account for the renaming of a Conditionally Exempt Small Quantity Generator to a Very Small Quantity Generator. This reflects a name change only. The definition of the category remains the same.
- The changes also include the maintenance of existing provisions in the Pennsylvania regulations that have been repealed in the federal regulations and transferred to other sections of the federal regulations. The Pennsylvania provisions are being maintained; however, they are being moved to new sections to reflect the federal analogs.

The fundamental benefit of this final-omitted rulemaking is that it ensures consistency with the federal regulations, which are incorporated by reference. The amendments in this final-omitted rulemaking will create no additional compliance costs. There is no compliance assistance

necessary for implementation of this final-omitted rulemaking because the amendments are not substantive and do not have an impact on the regulated community.

Affected Parties

This final-omitted rulemaking will not affect any hazardous waste generators or any other person or entity, other than to the extent they must familiarize themselves with the amended regulatory structure.

Advisory Groups

The Department discussed this final-omitted rulemaking with the Solid Waste Advisory Committee at its September 12, 2019, meeting.

Public Comments

Notice of proposed rulemaking is omitted under section 204 of the Commonwealth Documents Law (45 P.S. § 1204(3)), which provides that an agency may omit notice of proposed rulemaking if “. . . the agency for good cause finds. . . that the [public notice and comment] procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary or contrary to the public interest.” A notice and comment process are unnecessary because the substantive changes set forth in the HWGIR were automatically incorporated by reference in the Commonwealth’s regulations. The HWGIR was subject to a notice and comment process when it was proposed at the Federal level on September 25, 2015. See 80 R 57918. The amendments to §§ 261a – 265a set forth in Annex A are not substantive changes but rather are minor corrections or clarifications to ensure consistency with the provisions of the Federal regulations already incorporated by reference. Finalizing these amendments without public notice and comment is in the public interest to ensure that the Commonwealth’s regulations accurately reflect these changes to the Federal regulations in an expeditious manner.

Recommendation

The Department is recommending the adoption of this final-omitted rulemaking.