

US EPA ARCHIVE DOCUMENT

SECTION C

**ATTORNEY GENERAL'S STATEMENT**

**STATE OF DELAWARE**

**ATTORNEY GENERAL'S STATEMENT FOR FINAL  
AUTHORIZATION FOR CHANGES TO THE FEDERAL  
RCRA PROGRAM THROUGH AUGUST 23, 1999**

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Delaware provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Department of Natural Resources and Environmental Control. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now, as specified below. These authorities and this certification supplement the previously certified authorities described in my predecessors certification(s) of July 26, 1983, March 20, 1996 and June 12, 1998.

The State of Delaware was previously granted authorization for requirements contained in clusters referred to by the United States Environmental Protection Agency (U.S.E.P.A.) as Base Program, non-HSWA requirements prior to non-HSWA Cluster I, non-HSWA Clusters I through VI, HSWA Cluster I (checklist 17 B and 34), HSWA Cluster II (checklists 39, 50, 62, 63, 66, 68, 69, 75, 78 and 79), RCRA Cluster I (82, 83, 85, 86, 87, 89 and 90), RCRA Cluster II (checklist 92, 94, 95, 96, 97, 99, 102, 104, 105 and 106), RCRA Cluster III (checklist 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117 B, 118, 119, 120, 122, 123, 124 and 129 ), RCRA Cluster IV (checklists 125 and 130), and RCRA Cluster V (checklist 137).

This Attorney General's statement coincides with the rules addressed in HSWA Cluster I (non-checklist SR1, and checklists 17 H, 17 L), HSWA Cluster II (checklists 42, 44 A, B, C, D, E, F, and G, 77), RCRA Cluster II (checklist 100), RCRA Cluster III (checklist 121), RCRA Cluster IV (checklists 126, 127, 128, 131, 132, 133, 134, 135), and RCRA Cluster V (checklists 136, 139, 140, 141, 142A, B, C, D, and E, 144), RCRA Cluster VI (checklists 145, 148, 150, 151, 152), RCRA Cluster VII (checklists 154, 155, 156, 157, 158, 159), RCRA Cluster VIII (checklists 160, 161, 162, 163, 166, 167A, B, C, D, E, and F, 168, and 173), and RCRA Cluster IX (checklists 169, 171, 172, 174, and 177).

**I. IDENTIFICATION AND LISTING**

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (27) Listing of three chemicals from wood surface protection processes, 40 CFR 261 Appendix VIII, as amended January 4, 1994 [59 FR 458], Revision Checklist 128.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW Part 261, Appendix VIII as amended 7/23/96 by Checklist 128.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (28) Listing of Beryllium (P015) is amended to read "Beryllium powder," 40 CFR 261.33, Appendix VIII, as amended June 20, 1994 [59 FR 31551], Revision Checklist 134.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.33, Appendix VIII as amended 7/23/96 by Checklist 134.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (29) Listing of five wastes generated during the production of carbamate chemicals (except to the extent that K156, K157 and K158 include IPBC), plus the listing of 34 commercial chemical products, 40 CFR 261.32, 261.33(e), 261.33(f), Part 261, Appendix VII and Part 261, Appendix VIII, as amended February 9, 1995 [60 FR 7824], April 17, 1995 [60 FR 19165], and May 12, 1995 [60 FR 25619] and affected by Dithiocarbamate Task Force v. EPA, CA DC 95-1249, 11/1/96, Revision Checklist 140.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.32, 261.33(e) & (f), and Part 261 Appendices VII & VIII as amended 7/21/97 by Checklist 140.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (31) Listing of four wastes (K169-K172) generated during petroleum refining process, 40 CFR 261.32, Part 261 Appendix VII as amended August 6, 1998 [63 FR 42110], Revision Checklist 169.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.32, and Part 261 Appendix VII as amended 8/23/99 by Checklist 169 and effective 10/11/99.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

### Remarks of the Attorney General

The State provisions are equivalent as amended.

BB. State statutes and regulations replace the current Second Edition (including Updates I and II) of the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, by incorporating by reference the Third Edition (and its first update) of this test methods manual. Throughout the State's code, references to test methods directly refer to the methods as they are found in SW-846, as indicated in Revision Checklist 126.

Federal Authority: RCRA §§1006; 2002, 3001, 3002, 3004, 3005, 3006, 3010, and 3014; 40 CFR 260.11(a); 260.22(d)(1)(i); 261.22(a)(1)&(2); 261.24(a); 261 Appendices II, III, and X; 264.190(a); 264.314(c); 265.190(a); 265.314(d); 268.7(a); 268.40(a); 268.41(a); 268 Appendices I & IX; 270.6(a); 270.19(c)(1)(iii)&(iv); 270.62(b)(2)(i)(C)&(D); and 270.66(c)(2)(i)&(ii) as amended August 31, 1993 (58 FR 46040) and September 19, 1994 (59 FR 47980).

### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.11(a); 260.22(d)(1)(i); 261.22(a)(1)&(2); 261.24(a); 261 Appendices II, III, and X; 264.190(a); 264.314(c); 265.190(a); 265.314(d); 268.7(a); 268.40(a); 268.41(a); 268 Appendices I & IX; 122.6(a); 122.19(c)(1)(iii)&(iv); 122.62(b)(2)(i)(C)&(D); and 122.66(c)(2)(i)&(ii) as amended 7/23/96 by Checklist 126.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 6/26/86, 7/13/88, 7/24/90 and 7/17/95,

### Remarks of the Attorney General

The State provisions are equivalent as amended.

CC. State statutes and regulations incorporate by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, the Third Edition (November 1986), as amended by Updates I, II, IIA, and IIB as indicated in Revision Checklists 128, 132, 139, and 141.

Federal Authority: RCRA §§2002(a), 3001(b), and 3001(e)(1); 40 CFR 260.11(a) as amended January 4, 1994 (59 FR 458), June 2, 1994 (59 FR 28484), January 13, 1995 (60 FR 3089), and April 4, 1995 (60 FR 17001).

### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.11(a) as amended 7/23/96 by Checklists 128, 132, 139, and 141.

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

### Remarks of the Attorney General

The State provisions are equivalent as amended.

EE. State statutes and regulations exempt, from the definition of hazardous waste, recovered oil meeting the 40 CFR 261.4(a)(12) criteria as indicated in Revision Checklist 135.

Federal Authority: RCRA §§2002 and 3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.6(a)(3)(iv) through (vii), and 266.100(b)(3), as amended July 28, 1994 (59 FR 38536).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(c)(2)(ii)(B), 261.4(a)(3)(iv) through (vii), and 266.100(b)(3) as amended 7/21/97 by Checklist 135.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

FF. State statutes and regulations which exclude from being hazardous certain wastewaters from the production of carbamates and carbamoyl oximes of K157 provided the conditions in 261.3(a)(2)(iv)(F) are met as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(a)(2)(iv)(E)&(F), as amended February 9, 1995 (60 FR 7824) and as affected by Dithiocarbamate Task Force v. EPA, CA DC 95-1249, 11/1/96.

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(a)(2)(iv)(E)&(F) as amended 7/21/97 by Checklist 140.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

GG. State statutes and regulations which exclude from being hazardous certain wastewaters derived from the treatment of one or more wastes listed in 261.32, organic waste from the production of carbamates and carbamoyl oximes of K156, provided the conditions in 261.3(a)(2)(iv)(G) are met as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(a)(2)(iv)(G), as amended February 9, 1995 (60 FR 7824) and as affected by Dithiocarbamate Task Force v. EPA, CA DC 95-1249, 11/1/96.

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(a)(2)(iv)(G) as amended 7/21/97 by Checklist 140.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

HH. State statutes and regulations which exclude from being hazardous biological treatment sludge from the treatment of organic wastes from the production of carbamates and carbamoyl oximes of K156 and wastewaters from the production of carbamates and carbamoyl oximes of K157 as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(c)(2)(ii)(D), as amended February 9, 1995 (60 FR 7824) and as affected by Dithiocarbamate Task Force v. EPA, CA DC 95-1249, 11/1/96.

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(c)(2)(ii)(D) as amended 7/21/97 by Checklist 140.

7 Del. Code, Chapter 63, §6305(a)(1) as amended 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent as amended.

II. State statutes and regulations provide that recovered oil excluded from the definition of hazardous waste at 40 CFR 261.4(a)(12) be inserted into the petroleum refining process at or before a point where contaminants are removed as indicated in Revision Checklist 150.

Federal Authority: RCRA §§2002 and 3001; 40 CFR 261.4(a)(12) as amended March 26, 1996 (61 FR 13103).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.4(a)(12) as amended 7/17/98 by Checklist 150.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

KK. State statutes and regulations include revisions of the exclusion of scrap metal and circuit boards from RCRA regulation as indicated in Checklist 157.

Federal Authority: RCRA §§3001; 40 CFR 261.1(c)(9)-(12), 261.2(c) table 1, 261.4(a)(13), 261.4(a)(14), 261.6(a)(3)(ii) as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.1(c)(9)-(12), 261.2(c) table 1, 261.4(a)(13), 261.4(a)(14), 261.6(a)(3)(ii) as amended 7/17/98 by Checklist 157.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

LL. State statutes and regulations include required test methods in EPA Publication SW-846 and Third Edition of the EPA Approved Test Methods Manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" through Update III and include amendments as indicated in Revision Checklist 158.

Federal Authority: RCRA §§1006, 2002(a), 3001-3007, 3010, 3013-3018, and 7004; 40 CFR Parts 260.11, 264.1034(d)(1)(iii), 264.1034(f), 264.1063(d)(2), Part 264 Appendix IX, 265.1034(d)(1)(iii), 265.1034(f), 265.1063(d)(2), 266.104(e)(1), 266.106(g)(1)&(2), 266.107(f), and 266 Appendix IX, as amended June 13, 1997 (62 FR 32452).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.11, 264.1034(d)(1)(iii), 264.1034(f), 264.1063(d)(2), 264 Appendix IX, 265.1034(d)(1)(iii), 265.1034(f), 265.1063(d)(2), 266.104(e)(1), 266.106(g)(1)&(2), 266.107(f), and 266 Appendix IX as amended 7/17/98 by Checklist 158.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, 6307, 6310 as amended 7/11/80, 7/13/83, 7/26/86, 7/13/88, and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

MM. State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain EPA regulations listing certain carbamate wastes as hazardous as indicated in Revision Checklist 159.

Federal Authority: RCRA §§3001 and 3004; 40 CFR 261.32, 261.33(f), 261 Appendix VII, 261 Appendix VIII, as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.32, 261.33(f), 261 Appendix VII, 261 Appendix VIII, as amended 7/17/98 by Checklist 159.

7 Del. Code Chapter 63, 6305 and 6307 as amended 7/26/86 and 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

OO. State statutes and regulations provide for secondary materials from mineral processing to be co-processed with normal raw materials in beneficiation operations which generate Bevill exempt wastes, without changing the exempt status of the resulting Bevill waste, provided certain conditions are met as indicated in Revision Checklist 167 E.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(7) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.4(b)(7) as amended 8/23/99 by Checklist 167 E and effective 10/11/99

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

PP. State statutes and regulations contain clarifying amendments to requirements regarding exclusion of mixtures under 261.4(b)(7) involving Bevill waste, as indicated in Revision Checklist 167 E.

Federal Authority: RCRA §3001; 40 CFR 261.3(a)(2)(i)&(iii) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(a)(2)(i)&(iii) as amended 8/23/99 by Checklist 167 E and effective 10/11/99.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

QQ. State statutes and regulations include revisions that expand the headworks exemption to include waste generated during petroleum refining process (K169-K172), as indicated in Revision Checklist 169.

Federal Authority: RCRA §§2002(a) and 3001, 40 CFR 261.3(a)(2)(iv)(C) as amended August 6, 1998 (63 FR 42110) and October 9, 1998 (63 FR. 54356)

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(a)(2)(iv)(C) as amended 8/23/99 by Checklist 169 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305(a) as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

RR. State statutes and regulations include an exemption for catalyst support media as indicated in Revision Checklist 169.

Federal Authority: RCRA §§2002(a) and 3001, 40 CFR 261.3(c)(2)(ii)(E), as amended August 6, 1998 (63 FR 42110) and October 9, 1998 (63 FR. 54356).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(c)(2)(ii)(E), as amended 8/23/99 by Checklist 169 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305(a) as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

II. DEFINITION OF SOLID WASTE

D. State statutes and regulations provide for a conditional exclusion from the definition of solid wastes for mineral processing secondary materials as indicated in Revision Checklist 167 D.

Federal Authority: RCRA §§3001; 40 CFR 261.2(c)(3), 261.2(c)(4) Table 1, 261.2(e)(1)(iii) and 261.4(a)(16) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.2(c)(3), 261.2(c)(4) Table 1, 261.2(e)(1)(iii) and 261.4(a)(16) as amended 8/23/99 by Checklist 167 D and effective 10/11/99.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

E. State statutes and regulations provide for an exclusion from the definition of solid waste for certain materials generated and recycled by the wood preserving industry as indicated in Revision Checklist 167 F.

Federal Authority: RCRA §§3001; 40 CFR 261.4(a)(9)(iii) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.4(a)(9)(iii) as amended 8/23/99 by Checklist 167 F and effective 10/11/99.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

F. State statutes and regulations exclude from the definition of solid waste fuels which are produced from a hazardous waste, but which are comparable to some currently used fossil fuels, as indicated in Revision Checklist 168.

Federal Authority: RCRA §§1004, 1006, and 3001; 40 CFR 261.4(a)(16) and 261.38, as amended June 19, 1998 (63 FR 33782).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.4(a)(16) and 261.38, as amended 8/23/99 by Checklist 168 and effective 10/11/99.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

G. State statutes and regulations include revisions to the exclusion for certain oil-bearing hazardous secondary materials, as well as new exclusions for petrochemical recovered oil, and spent caustic solutions from petroleum refining processes, and the related revisions to the references to these exclusions as indicated in Revision Checklist 169.

Federal Authority: RCRA §3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) & (19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended August 6, 1998 (63 FR 42110) and October 9, 1998 (63 FR. 54356).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) & (19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended 8/23/99 by Checklist 169 and effective 10/11/99.

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

B. State statutes and regulations require that generators, of between 100 and 1000 kg/mo of hazardous waste, file an exception report in those instances where the generator does not receive confirmation of delivery of his hazardous waste to the designated facility as indicated in Revision Checklist 42.

Federal Authority: RCRA §§3001(d) and 3002(a)(5); 40 CFR Parts 262.42 and 262.44 as amended September 23, 1987 (52 FR 35894).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 262.42 and 262.44 as amended 6/19/92 by Checklist 42.

7 Del. Code, Chapter 63, §§6305(a) and 6306(c) as amended 7/13/88 and 7/17/95.

Remarks of the Attorney General

The State provisions are equivalent as amended except at 262.42(b) where the State is more stringent.

F. State statutes and regulations incorporate updates to the recordkeeping instructions so that the codes used by hazardous waste treatment, storage and disposal facilities to maintain records on-site match the codes used by these facilities on the Part A Permit Application Form as indicated on Revision Checklist 131. The new handling codes for Miscellaneous Units and Boilers and Industrial Furnaces, addressed by Checklist 131, are also incorporated into the statutes and regulations.

Federal Authority: RCRA §§3004 and 3005; 40 CFR 264 Appendix I, 265 Appendix I as amended March 24, 1994 (59 FR 13891).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264 Appendix I, 265 Appendix I as amended 7/23/96 by Checklist 131.

7 Del. Code, Chapter 63, §§6305, and 6307 as amended 7/13/83 and 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

G. State statutes and regulations provide that generators and transporters of hazardous waste are exempt from the RCRA manifest system requirements for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways, as indicated in Revision Checklist 156.

Federal Authority: RCRA §§3003 and 3004(y); 40 CFR 262.20(f) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 262.20(f) as amended 7/17/98 by Checklist 156.

7 Del. Code, Chapter 63, §§6305(a) and 6306(c) as amended 7/13/88 and 7/17/95.

Remarks of the Attorney General

The State provisions at DRGHW 262.20(f) are more stringent because it restricts the exemption to manifest requirements only when the military munitions are being transported during an emergency response.

X. LIQUIDS IN LANDFILLS

C. State statutes and regulations provide that OECD 301B (Modified Sturm Test) may also be used to demonstrate that a sorbent is non-biodegradable as indicated in Revision Checklist 145.

Federal Authority: RCRA §3004(c), 42 U.S.C. §6924(c); 40 CFR 264.314(e)(2)(ii)&(iii), and 265.314(e)(2)(ii)&(iii) as amended July 11, 1995 (60 FR 35703).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.314(e)(2)(ii)&(iii), and 265.314(e)(2)(ii)&(iii) as amended 7/17/98 by Checklist 145.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

XIII. CORRECTIVE ACTION

A. State statutes and regulations contain the following corrective action requirements as indicated in Revision Checklist 17 L:

- (1) Corrective action is required for releases of hazardous waste or constituents from any solid waste management unit at a facility seeking a permit, regardless of when the waste was placed in the unit, in all permits issued after November 8, 1984.

Federal Authority: RCRA §3004(u); 40 CFR 264.90, 264.101 and 270.60 as amended July 15, 1985 (50 FR 28702).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.90, 264.101 and 270.60 as amended 5/8/86 by Checklist 17 L.

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (2) Corrective action is required beyond a facility's boundary, in accordance with RCRA §3004(v). (States now may impose these requirements through a permit or a corrective action order. Once EPA promulgates the regulations required by RCRA §3004(v), States will need authority to impose corrective action in a permit following the RCRA §3004(v) regulations.)

Federal Authority: RCRA §3004(v)(1).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (3) Corrective action is required beyond a facility's boundary in accordance with RCRA §3004(v) for all landfills, surface impoundments and waste pile units (including any new units, replacements of existing units or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Federal Authority: RCRA §3004(v)(2).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- (4) There is evidence of financial responsibility for corrective action on-and off-site.

Federal Authority: RCRA §§3004(a)(6); (u); 40 CFR 264.90 and 264.101 as amended July 15, 1985 (50 FR 28702).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

C. State statutes and regulations require owners and operators of facilities seeking permits to provide descriptive information on the solid waste management units themselves and all available information pertaining to any releases from the units as indicated in Revision Checklist 44 A.

Federal Authority: RCRA §3004(u); 40 CFR 270.14 as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.14 as amended 6/19/92 by Checklist 44 A.

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

D. State statutes and regulations require that owners and operators of hazardous waste treatment, storage and disposal facilities (including permit-by-rule facilities subject to 264.101) institute corrective action beyond the facility boundary to protect human health and the environment, unless the owner/operator is denied access to adjacent lands despite the owner/operator's best efforts, as indicated in Revision Checklist 44 B.

Federal Authority: RCRA §3004(v); 40 CFR 264.100(e) and 264.101(c) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.100(e) and 264.101(c) as amended 8/19/92 by Checklist 44 B.

7 Del. Code, Chapter 63, §6305(a) as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

E. State statutes and regulations contain the following corrective action requirements for injection wells as indicated in Revision Checklist 44 C.

- (1) Hazardous waste injection wells now operating under RCRA interim status may retain interim status after issuance of a UIC permit. Until a RCRA permit or a RCRA "rider" to a UIC permit, which addresses Section 3004(u) corrective action, is issued, the well must comply with applicable interim status requirements imposed by §265.430, Parts 144.146 and 147, and any UIC permit requirements.

Federal Authority: RCRA §3004(u); 40 CFR 144.1(h) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

DRGHW 264.1(d) prohibits the underground injection of hazardous waste. Therefore, the State is more stringent.

- (2) As part of the UIC permit process, available information regarding operating history and condition of the injection well must be submitted as well as any available information on known releases from the well or injection zone.

Federal Authority: RCRA §3004(u); 40 CFR 144.31(g) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

DRGHW 264.1(d) prohibits the underground injection of hazardous waste. Therefore, the State is more stringent.

- (3) UIC facility owners/operators must submit certain information related to corrective action with their UIC applications.

Federal Authority: RCRA §3004(u); 40 CFR 270.60(b)(3) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

7 Del. Code, Chapter 63, §6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

DRGHW 122.60(b) is Reserved. DRGHW 264.1(d) prohibits the underground injection of hazardous waste. Therefore, the State is more stringent.

G. State statutes and regulations contain remediation waste management provisions for corrective action management units (CAMUs) and temporary units (TUs) at RCRA facilities, as indicated in Revision Checklist 121.

Federal Authority: RCRA §§1006, 2002(a), 3004(u), 3004(v), 3005(c), 3007, and 3008(h); 40 CFR 260.10, 264.3, 264.101(b), 264.552, 264.553, 265.1(b), 268.2(c), 270.2 and Appendix I to 270.42, as amended February 16, 1993 (58 FR 8658).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10, 264.3, 264.101(b), 264.552, 264.553, 265.1(b), 268.2(c), 122.2 and Appendix I to 122.42, as amended 8/1/95 by Checklist 121.

7 Del. Code, Chapter 63, §6305(a), 6307, 6310 as amended 7/11/80, 6/26/86, and 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

XV. STANDARDS FOR FACILITIES

U. State statutes and regulations indicate that the "Uniform Customs and Practice for Documentary Credits" is a copyrighted document of the International Chamber of Commerce as indicated in Revision Checklist 133.

Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 264.151(d) & (k) as amended June 10, 1994 (59 FR 29958).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.151(d) & (k) as amended 7/23/96 by Checklist 133.

7 Del. Code, Chapter 63, §§6305 as amended 7/13/88, 6306 as amended 7/17/95, and 6307 as amended 6/26/86.

Remarks of the Attorney General

The State provisions are equivalent as amended.

V. State statutes and regulations remove from the 266.20(b) exemption anti-skid/deicing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006 as indicated in Revision Checklist 136.

Federal Authority: RCRA §3004; 40 CFR Parts 266.20(c) and 268.41(a) as amended August 24, 1994 (59 FR 43496).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 266.20(c) and 268.41(a) as amended 7/21/97 by Checklist 136.

7 Del. Code, Chapter 63, §6307 as amended 6/26/86.

Remarks of the Attorney General

The State provisions are equivalent as amended.

W. State statutes and regulations provide for organic air emission standards for tanks, surface impoundments and containers and provide that air emission control requirements be added to the permit terms and provisions specified for miscellaneous units as specified in Revision Checklists 154, 163 and 177.

Federal Authority: RCRA §3004(n); 40 CFR 60 Appendix A, 260, 261, 262, 264, 265, and 270 as amended December 6, 1994 (59 FR 62896); May 19, 1995 (60 FR 26828); September 29, 1995 (60 FR 50426); November 13, 1995 (60 FR 56952); February 9, 1996 (61 FR 4903); June 5, 1996 (61 FR 28508); November 25, 1996 (61 FR 59932); and December 8, 1997 (62 FR 64636) and January 21, 1999 (FR 3382).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW Parts 260, 261, 262, 264, 265, and 122 as amended 7/17/98 by Checklist 154 and 8/23/99 by Checklists 163 and 177, effective 10/11/99.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

X. State statutes and regulations identify when conventional and chemical military munitions become a hazardous waste under RCRA and provide for the safe storage and transport of such waste. They also clarify that emergency responses involving both military and non-military munitions and explosives are considered an immediate response to a discharge or imminent and substantial threat of a discharge of a hazardous waste as indicated in Revision Checklist 156.

Federal Authority: RCRA §§2002, 3001-3007, 3010, and 7003; 40 CFR 260.10; 261.2(a)(2)(iii)-(iv); 262.10(i); 263.10(e)&(f); 264.1(g)(8)(i)(D), (g)(8)(iv), and (i); 264.70; 264.1200 through 264.1202; 265.1(c)(11)(i)(D), (c)(11)(iv), and (f); 265.70; 265.1200 through 265.1202; 266.200(a)-(b); 266.201, 266.202, 266.204, 266.206, 270.1(c)(3)(i)(D), and 270.1(c)(3)(iii) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10; 261.2(a)(2)(iii)-(iv); 262.10(i); 263.10(e)&(f); 264.1(g)(8)(i)(D), (g)(8)(iv), and (i); 264.70; 264.1200 through 264.1202; 265.1(c)(11)(i)(D), (c)(11)(iv), and (f); 265.70; 265.1200 through 265.1202; 266.200(a)-(b); 266.201, 266.202, 266.204, 266.206, 122.1(c)(3)(i)(D), and 122.1(c)(3)(iii) as amended 7/17/98 by Checklist 156.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, 6307, and 6310 as amended 7/11/80, 7/13/88, and 7/17/95.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Y. State statutes and regulations provide for a manifest exemption for off-site shipment of unused waste munitions from one military installation to another as indicated in Revision Checklist 156.

Federal Authority: RCRA §§3001, 3003, 3004(y); 40 CFR 266.203 as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 266.203 as amended 7/17/98 by Checklist 156.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Z. State statutes and regulations provide for conditional exemption for waste munitions storage as indicated in Revision Checklist 156.

Federal Authority: RCRA §§3001 and 3004(y); 40 CFR 266.205 as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 266.205 as amended 7/17/98 by Checklist 156.

7 Del. Code, Chapter 63, §6305 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

AA. State statutes and regulations remove requirements to issue post-closure permits at each facility and allow post-closure care requirements to be imposed at interim status facilities using either permits or approved alternate authorities as indicated in Revision Checklist 174.

Federal authority: RCRA §§2002(a), 3005 and 3006; 40 CFR 264.90(e), 265.110(c), 265.118(c)(4), 265.121 and 270.1(c) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.90(e), 265.110(c), 265.118(c)(4), 265.121 and 122.1(c) as amended 8/23/99 by Checklist 174 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304, 6305, 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

BB. State statutes and regulations give discretion to the State Director to impose requirements developed for corrective action in lieu of Subparts F, G, and H at certain regulated facilities, either permitted or interim status, that appear to have released to the environment, if nearby SWMUs also appear to have contributed to the same release as indicated in Revision Checklist 174.

Federal authority: RCRA §§2002(a), 3004, 3005 and 3006; 40 CFR 264.90(f), 264.110(c), 264.112(b)&(c), 264.118(b)&(d), 264.140(d), 265.90(f), 265.110(d), 265.112(b)&(c), 265.118(c)(5)&(d)(1)(iii), and 265.140(d) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.90(f), 264.110(c), 264.112(b)&(c), 264.118(b)&(d), 264.140(d), 265.90(f), 265.110(d), 265.112(b)&(c), 265.118(c)(5)&(d)(1)(iii), and 265.140(d) as amended 8/23/99 by Checklist 174 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

XVI. REQUIREMENTS FOR PERMITS

H. State statutes and regulations require landfills, surface impoundments, land treatment units, and waste piles that received waste after July 26, 1982 and which qualify for interim status to comply with the groundwater monitoring, unsaturated zone monitoring, and corrective action requirements applicable to new units at the time of permitting as indicated in Revision Checklist 17 L.

Federal Authority: RCRA §3005(i); 40 CFR 264.90(a) as amended July 15, 1985 (50 FR 28702).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.90(a) as amended 5/8/86 by Checklist 17 L.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

- I. State statutes and regulations require:
  - (1) Surface impoundments in existence on November 8, 1984 [or subsequently becoming subject to RCRA pursuant to §3005(j)(6)(A) or (B)] to comply with the double liner, leachate collection, and groundwater monitoring requirements applicable to new units by November 8, 1988 [or the date specified in §3005(j)(6)(A) or (B)] or to stop treating, receiving, or storing hazardous waste, unless the surface impoundment qualifies for a special exemption under §3005(j).

Federal Authority: RCRA §3005(j)(1)&(6)(A).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.221(j) and 265.221(i) as amended 7/17/98.

7 Del. Code, Chapter 63, §§6304, 6305 and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

L. State statutes and regulations require that permittees must comply with new requirements imposed by the land disposal restrictions promulgated under Part 268 even when there are contrary permit conditions, as indicated in Revision Checklist 44 E.

Federal Authority: RCRA §3006(g); 40 CFR 270.4(a) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.4(a) as amended 6/19/92 by Checklist 44 E.

7 Del. Code, Chapter 63, §6304 as amended 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

M. State statutes and regulations require information from permit applicants concerning permit conditions necessary to protect human health and the environment as indicated in Revision Checklist 44 F.

Federal Authority: RCRA §3005(c); 40 CFR 270.10 as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.10 as amended 6/19/92 by Checklist 44 F.

7. Del. Code, Chapter 63, §6304 as amended 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Y. State statutes and regulations include specific Part B information requirements for surface impoundments, waste piles and landfills regarding liners; leachate collection, detection, and removal systems; and the construction quality assurance program requirements as indicated in Revision Checklist 100.

Federal Authority: RCRA §§3004, 3005, 3006 and 3015; 40 CFR 270.4(a), 270.17(b)&(c), 270.18(c)&(d), and 270.21(b)&(c) as amended January 29, 1992 (57 FR 3462).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.4(a), 122.17(b)&(c), 122.18(c)&(d), and 122.21(b)&(c) as amended 8/1/95 by Checklist 100.

7 Del. Code, Chapter 63, §§6304, 6305, 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Z. State statutes and regulations provide for opportunities for earlier public involvement in the permitting process and expand public access to information throughout the permitting process and the operational lives of facilities as indicated in Revision Checklist 148.

Federal Authority: RCRA §§2002, 3004, 3005, and 7004(b), 40 CFR 124.31, 124.32, 124.33, 270.2, 270.14(b)(22), 270.30(m), 270.61(b)(5), 270.62(b)(6), 270.62(d), 270.66(d)(3), and 270.66(g) as amended December 11, 1995 (60 FR 63417).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.2, 122.14(b)(22), 122.30(m), 122.61(b)(5), 122.62(b)(6), 122.62(d), 122.66(d)(3), 122.66(g) 124.31, 124.32, and 124.33 as amended 7/17/98 by Checklist 148.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90 by Checklist 148.

Remarks of the Attorney General

The State provisions are equivalent as amended.

AA. State statutes and regulations provide that a permittee may accept military munitions even when barred from accepting off-site wastes if certain conditions are met as indicated in Revision Checklist 156.

Federal Authority: RCRA §§3004(y) and 7004; 40 CFR 270.42(h), (h)(1)-(3), and (i) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.42(h), (h)(1)-(3), and (i) as amended 7/17/98 by Checklist 156.

7 Del. Code, Chapter 63, §§6305(a) and 6312 as amended 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

BB. State statutes and regulations include requirements for hazardous waste combustion facility permit modifications to meet 40 CFR part 63 MACT standards, as indicated in Revision Checklist 168. State statutes and regulations also address such changes during interim status.

Federal Authority: RCRA §§1006, 3004, 3005, and 7004; 40 CFR 270.42(j), 270.42 Appendix I, and 270.72(b)(8), as amended June 19, 1998 (63 FR 33782).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.42(j), 122.42 Appendix I, and 122.72(b)(8), as amended 8/23/99 BY Checklist 168 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6305, 6307 as amended 6/26/86 and 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent as amended.

CC. State statutes and regulations require that owners and operators seeking a post-closure permit have to submit only that information required by 40 CFR 270.28 as indicated in Revision Checklist 174.

Federal authority: RCRA §3006; 40 CFR 270.14 and 270.28 as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 122.14 and 122.28 as amended 8/23/99 by Checklist 174 and effective 10/11/99.

7 Del. Code, Chapter 63, §6304 as amended 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

## XVII. MINIMUM TECHNOLOGICAL REQUIREMENTS

A. State statutes and regulations require that new units, expansions, and replacements of interim status waste piles meet the requirements for a single liner and leachate collection system in regulations applicable to permitted waste piles as indicated in the Revision Checklist 17 H.

Federal Authority: RCRA §3015(a); 40 CFR 265.254 as amended July 15, 1985 (50 FR 28702).

### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 265.254 as amended 5/8/86 by Checklist 17 H.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

### Remarks of the Attorney General

The State provisions are equivalent as amended.

B. State statutes and regulation require:

- (1) New units, expansions, and replacement units at interim status landfills and surface impoundments and landfills and surface impoundments for which Part B of the permit application is received by the proper authority after November 8, 1984, meet the requirements for double liners and leachate collection systems applicable to new permitted landfills and surface impoundments in 40 CFR 264.221 and 264.301 and 265.221 and 265.301 as indicated in Revision Checklists 17 H and 77.

Federal Authority: RCRA §§1006, 2002(a), 3004, 3005 and 3015(b); 40 CFR 264.221, 265.221, 264.301 and 265.301 as amended July 15, 1985 (50 FR 28702) and May 9, 1990 (55 FR 19262).

- (2) Facilities which comply in good faith need not retrofit at permit issuance unless the liner is leaking as provided in §§265.221(e) and 265.301(e) as indicated in Revision Checklist 17 H.

Federal Authority: RCRA §3015(b); 40 CFR 264.221, 265.221 and 265.301 as amended July 15, 1985 (50 FR 28702).

- (3) Variances from the above requirements are optional. However, the availability of such variances is restricted as provided in §§264.221(d) and (e), 264.301(d) and (e), 265.221(c) and (d), and 265.301(c) and (d) as indicated in Revision Checklist 17 H.

Federal Authority: RCRA §3015(b); 40 CFR 264.221, 265.221 and 265.301 as amended July 15, 1985 (50 FR 28702).

### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.221, 265.221 and 265.301 as amended 5/8/86 and 6/19/92 by Checklists 17 H and 77.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

C. State statutes and regulations require owners and operators of new units, expansions, and replacement units at surface impoundments, waste piles, and landfills to meet the monitoring and inspection Construction Quality Assurance (CQA) program, double liner, leachate collection and removal systems, leak detection systems, action leakage, response action plan and closure/post-closure care requirements as indicated in Revision Checklist 100.

Federal Authority: RCRA §§3004, 3005, 3006 and 3015; 40 CFR 264.19, 264.221-264.223, 264.226, 264.228, 264.251-264.254, 264.301-264.304, 264.310, 265.19, 265.221-265.223, 265.226-265.228, 265.254, 265.255, 265.259, 265.260, 265.301-265.304 and 265.310 as amended January 29, 1992 (57 FR 3462).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 264.19, 264.221-264.223, 264.226, 264.228, 264.251-264.254, 264.301-264.304, 264.310, 265.19, 265.221-265.223, 265.226-265.228, 265.254, 265.255, 265.259, 265.260, 265.301-265.304 and 265.310 as amended 8/1/95 by Checklist 100.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

XX. STANDARDS FOR THE MANAGEMENT OF WASTE FUEL AND USED OIL AND FOR THE BURNING OF THESE MATERIALS IN BOILERS AND INDUSTRIAL FURNACES

E. State statutes and regulations provide used oil management standards for used oil generators, transporters, processors, re-refiners, burners, and marketers as indicated in Revision Checklist 112, 122, 130, and 166.

Federal Authority: RCRA §§1004, 1006, 2002, 3001-3007, 3010, 3014 and 7004; 40 CFR Parts 260, 261, 266 and 279 as amended September 10, 1992 (57 FR 41566), May 3, 1993 (58 FR 26420), June 17, 1993 (58 FR 33341), March 4, 1994 (59 FR 10550), May 6, 1998 (63 FR 24963) and July 14, 1998 (63 FR 37780).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260, 261, 266 and 279 as amended 8/23/99 by Checklist 166 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 - 6307, and 6310 as amended 7/13/83, 7/13/88, 7/24/90, and 7/17/95.

#### Remarks of the Attorney General

The State provisions are equivalent as amended except where the State requires transporters of used oil to obtain a transporter permit. The transporter permit requirement makes the State broader in scope. The requirements for transporter permits are found at DRGHW Part 263, subpart E. The State received authorization from U. S. EPA on August 8, 1998 to administer the provisions found in checklists 112, 122, and 130, therefore, only Checklist 166 is included as part of this Revision 3 authorization application.

G. State statutes and regulations contain an administrative stay, until further administrative action is taken, that replaces the current limits needed to qualify for the Bevill exemption under test number 2 with the land disposal restriction limits for underlying constituents as indicated in Revision Checklist 127.

Federal Authority: RCRA §§1006, 2002(a), 3004, and 3014; 40 CFR 266.112(b)(2)(i) and Part 266 Appendix VII, as amended November 9, 1993 (58 FR 59598).

#### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 266.112(b)(2)(i) and Part 266 Appendix VII, as amended 7/23/96 by Checklist 127.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 7/13/88, 7/24/90 and 7/17/95.

#### Remarks of the Attorney General

The State provisions are equivalent.

### XXI. LAND DISPOSAL RESTRICTIONS

P. State statutes and regulations include a revision to P015 listing in the land disposal restrictions technology-based treatment standards as indicated on Revision Checklist 134.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.42(a)/Table 2, as amended June 20, 1994 (59 FR 31551).

#### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.42(a)/Table 2, as amended 7/23/96 by Checklist 134.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

#### Remarks of the Attorney General

The State provisions are equivalent as amended.

T. State statutes and regulations contain treatment standards for hazardous wastes from the production of carbamate pesticides and from primary aluminum production; contain the treatment standards for hazardous wastes that exhibit the characteristic of reactivity; and put back into place the LDR "Third Third" provisions for

the treatment of certain wastewaters as indicated in Revision Checklist 151. These statutes and regulations also codify the Federal policy that combustion of inorganic waste is an impermissible form of treatment as also indicated in this checklist.

Federal Authority: RCRA §§3004(d) through (k), 3004(m); Public Law 104-119, 100 Stat. 830, 40 CFR part 268 as amended April 8, 1996 (61 FR 15566 and 61 FR 15660); April 30, 1996 (61 FR 19117); June 28, 1996 (61 FR 33680); July 10, 1996 (61 FR 36419); August 26, 1996 (61 FR 43924), and February 19, 1997 (62 FR 7502).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW Part 268 as amended 7/17/98 by Checklist 151.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

U. State statutes and regulations provide for an extension of the national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088) so that K088 wastes do not have to be treated to meet LDR treatment standards until September 21, 1998, as indicated in Revision Checklists 155 and 160, and 173.

Federal Authority: RCRA §§3004(d) through (k), and 3004(m); 40 CFR 268.39(c) as amended January 14, 1997 (62 FR 1992) and July 14, 1997 (62 FR 37694), and September 24, 1998 (63 FR 51254).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.39(c) as amended 7/23/98 by Checklists 155 and 160, and 8/23/99 by Checklist 173 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

V. State statutes and regulations prohibit the land disposal of the wood preserving waste F032, F034 and F035 by August 11, 1997, and also prohibit any soil and debris and radioactive waste mixed with above chemicals from land disposal effective May 12, 1999. In between these effective dates, mixtures may only be land disposed if the facilities follow certain procedures included in State statutes and regulations as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.30(a)-(e) and 268.40 as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.30(a)-(e) and 268.40 as amended 7/17/98 by Checklist 157.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

W. State statutes and regulations include revisions of record keeping and paperwork requirements indicated in Revision Checklist 157. State statutes and regulations also include revisions to update the land disposal restrictions to better reflect the current program, as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a)-(c)(2), 268.9(a), 268.9(d)(1)(ii), 268.32, 268.34-268.37, 268.44(o), and Part 268 Appendices I-III, VI, VIII and X, as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a)-(c)(2), 268.9(a), 268.9(d)(1)(ii), 268.32, 268.34-268.37, 268.44(o), and Part 268 Appendices I-III, VI, VIII and X, as amended 7/17/98 by Checklist 157.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

X. State statutes and regulations include revisions introducing polymerization as an alternative treatment method as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.42 table 1 as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.42 table 1 as amended 7/17/98 by Checklist 157.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Y. State statutes and regulations include revisions which indicate that the de minimis provision applies to minor losses of characteristic wastes as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.1(e)(4) as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.1(e)(4) as amended 7/17/98 by Checklist 157.

7 Del. Code, Chapter 63, §§6304, 6305 and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

Z. State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain EPA regulations including the land disposal prohibitions and treatment standards for the vacated carbamate wastes as indicated in Revision Checklist 159.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.39(a), 268.39(d), and 268.40 as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.39(a), 268.39(d), and 268.40 as amended 7/17/98 by Checklist 159.

7 Del. Code, Chapter 63, §§6302, 6304, 6307, as amended 6/26/86, 7/24/90 and 7/17/95

Remarks of the Attorney General

The State provisions are equivalent as amended.

AA. State statutes and regulations provide an extension until August 26, 1998, the time that alternate carbamate treatment standards are in place as indicated in Revision Checklist 161.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.40(g) and 268.48(a) as amended on August 28, 1997 (62 FR 45568).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.40(g) and 268.48(a) as amended 7/17/98 by Checklist 161.

7 Del. Code, Chapter 63, §§6304, 6305, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

BB. State statutes and regulations include revisions to the LDR treatment variances at 40 CFR 268.44, and specify that a variance may be granted when treatment to the level or by the method specified in the regulations either is not physically possible or is not appropriate under either technical or environmental circumstances as indicated in Revision Checklist 162.

Federal Authority: RCRA §3004(m); 40 CFR 268.44(a), 268.44(h), and 268.44(m) as amended December 5, 1997 (62 FR 64504).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.44(a), 268.44(h), and 268.44(m) as amended 8/23/99 by Checklist 162 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304, and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

DD. State statutes and regulations include prohibitions and treatment standards for metal constituents in all hazardous wastes including the toxic characteristic wastes as indicated in Revision Checklist 167 A.

Federal Authority: RCRA §§3004(g)(4) and (m); 40 CFR 268.2(i), 268.3(d), 268.34, 268.40(e)&(h), 268.40 table, and 268.48 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.2(i), 268.3(d), 268.34, 268.40(e)&(h), 268.40 table, and 268.48 as amended 8/23/99 by Checklist 167 A and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

EE. State statutes and regulations include treatment standards for mineral processing wastes as indicated in Revision Checklist 167 A.

Federal Authority: RCRA §§3004(g)(4) and (m); 40 CFR 268.40 and 268.48 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.40 and 268.48 as amended 8/23/99 by Checklist 167 A and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

FF. State statutes and regulations include treatment standards for contaminated soils as indicated in Revision Checklist 167 B.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(e), 268.44(h)(3)-(5), 268.49 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(e), 268.44(h)(3)-(5), 268.49 as amended 8/23/99 by Checklist 167 B and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

GG. State statutes and regulations include corrections and clarifications to the land disposal restrictions as indicated in Revision Checklist 167 C.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40/Table, 268.40(e), 268.42(a), 268.45(a) intro, 268.45(d)(3)&(4), 268.48, 268 Appendices VII & VIII as amended May 26, 1998 (63 FR 28556) and June 6, 1998 (63 FR 31266).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40/Table, 268.40(e), 268.42(a), 268.45(a) intro, 268.45(d)(3)&(4), 268.48, 268 Appendices VII & VIII as amended 8/23/99 by Checklist 167 C and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

HH. State statutes and regulations include a waste-specific prohibition and treatment standards for K169-K172 wastes under the land disposal restriction program, as indicated in Revision Checklist 169.

Federal Authority: RCRA §§3004(g) and (m); 268.35 and 268.40, as amended August 6, 1998 (63 FR 42110).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.35 and 268.40, as amended 8/23/99 by Checklist 169 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304, 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as proposed.

JJ. State statutes and regulations provide revised treatment standards for seven carbamate wastes and extend indefinitely the temporary treatment standards; remove the treatment standard for one carbamate waste; delete

certain carbamate wastes as underlying hazardous constituents; and extend for six months the temporary alternative treatment standards for the other 32 carbamate wastes as indicated in Revision Checklist 171.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.40(g) & (i), 268.40/Table, and 268.48(a)/Table as amended September 4, 1998 (63 FR 47410).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.40(g) & (i), 268.40/Table, and 268.48(a)/Table as amended 8/23/99 by Checklist 171 and effective 10/11/99.

7 Del. Code, Chapter 63, §6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as proposed.

KK. State statutes and regulations provide for an extension of the compliance date until November 26, 1998, for treatment standards for secondary lead slags that exhibit the toxicity characteristic for metals as indicated in Revision Checklist 172.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.34(b) as amended September 9, 1998 (63 FR 48124).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.34(b) as amended 8/23/99 by Checklist 172 and effective 10/11/99.

7 Del. Code, §6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

LL. State statutes and regulations provide for interim replacement standards for spent potliners from primary aluminum reduction (EPA hazardous waste K088) as indicated in Revision Checklist 173.

Federal Authority: RCRA §§3004(d)-(k), and (m); 40 CFR 268.40, as amended September 24, 1998 (63 FR 51254).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 268.40 as amended 8/23/99 by Checklist 173 and effective 10/11/99.

7 Del. Code, Chapter 63, §§6304 and 6305 as amended 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

### XXIII. UNIVERSAL WASTES

A. State statutes and regulations provide hazardous waste management standards for the collection and management of certain widely generated wastes determined "universal wastes" as indicated in Revision Checklist 142 A.

Federal Authority: RCRA §§2002, 3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.5(c), 261.5(f)(3)(vi), 261.5(g)(3)(vi), 261.9 intro, 262.10(b), 262.11(d), 264.1(g)(11) intro, 265.1(c)(14) intro, 268.1(f) intro, 270.1(c)(2)(viii) intro, 273.1(a) intro, 273.1(b), 273.5, 273.6, 273.10, 273.11, 273.12, 273.14 intro, 273.15-273.31, 273.32(a)(1)&(2), 273.32(b), 273.34 intro, 273.35-273.70 as amended May 11, 1995 (60 FR 25492).

#### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10, 261.5(c), 261.5(f)(3)(vi), 261.5(g)(3)(vi), 261.9 intro, 262.10(b), 262.11(d), 264.1(g)(11) intro, 265.1(c)(14) intro, 268.1(f) intro, 122.1(a)(2)(viii) intro, 273.1(a) intro, 273.1(b), 273.5, 273.6, 273.10, 273.11, 273.12, 273.14 intro, 273.15-273.31, 273.32(a)(1)&(2), 273.32(b), 273.34 intro, 273.35-273.70 as amended 7/23/96 by Checklist 142 A.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, 6307, and 6312 as amended 6/26/86, 7/13/88, 7/24/90 and 7/17/95.

#### Remarks of the Attorney General

The State provisions are equivalent as amended.

B. State statutes and regulations include hazardous waste batteries as a universal waste as indicated in Revision Checklist 142 B.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 266.80(a), 266.80(b) intro, 268.1(f)(1), 270.1(c)(2)(viii)(A), 273.1(a)(1), 273.2, 273.6, 273.13(a), 273.14(a), 273.33(a), and 273.34(a) as amended May 11, 1995 (60 FR 25492).

#### Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10, 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 266.80(a), 266.80(b) intro, 268.1(f)(1), 122.1(a)(2)(viii)(A), 273.1(a)(1), 273.2, 273.6, 273.13(a), 273.14(a), 273.33(a), and 273.34(a) as amended 7/23/96 by Checklist 142 B.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

#### Remarks of the Attorney General

The State provisions are equivalent as amended.

C. State statutes and regulations include hazardous waste pesticides that are either recalled or collected in waste pesticide collection programs as a universal waste as indicated in Revision Checklist 142 C.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(b), 264.1(g)(11)(ii), 265.1(c)(14)(ii), 268.1(f)(2),

270.1(c)(2)(viii)(B), 273.1(a)(2), 273.3, 273.6, 273.13(b), 273.14(b)&(c), 273.32(a)(3), 273.33(b), and 273.34(b)&(c) as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10, 261.9(b), 264.1(g)(11)(ii), 265.1(c)(14)(ii), 268.1(f)(2), 122.1(a)(2)(viii)(B), 273.1(a)(2), 273.3, 273.6, 273.13(b), 273.14(b)&(c), 273.32(a)(3), 273.33(b), and 273.34(b)&(c) as amended 7/23/96 by Checklist 142 C.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

D. State statutes and regulations include hazardous waste thermostats as a universal waste as indicated in Revision Checklist 142 D.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(c), 264.1(g)(11)(iii), 265.1(c)(14)(iii), 268.1(f)(3), 270.1(c)(2)(viii)(C), 273.1(a)(3), 273.4, 273.6, 273.13(c), 273.14(d), 273.33(c), and 273.34(d) as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.10, 261.9(c), 264.1(g)(11)(iii), 265.1(c)(14)(iii), 268.1(f)(3), 122.1(a)(2)(viii)(C), 273.1(a)(3), 273.4, 273.6, 273.13(c), 273.14(d), 273.33(c), and 273.34(d) as amended 7/23/96 by Checklist 142 D.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

E. State statutes and regulations allow petitions to include other wastes as universal wastes as indicated in Revision Checklist 142 E.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, and 3013; 40 CFR 260.20(a), 260.23, 273.80, and 273.81 as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 260.20(a), 260.23, 273.80, and 273.81 as amended 7/23/96 by Checklist 142 E.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, and 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

The State provisions are equivalent as amended.

XXIV. DELETED LEGALLY OBSOLETE RULES

A. State statutes and regulations include changes to remove legally obsolete rules as indicated by Revision Checklist 144.

Federal Authority: RCRA §§1006, 2002, 3001, 3002, 3004, 3005, 3007, 3013, 3018, 7004; 40 CFR 261.31(a), 266.103(c)(5), 266.104(f)-(h), 270.2, 270.10(e)(4), 270.10(f)(2), 270.10(g)(1) as amended June 29, 1995 (60 FR 33912).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW 261.31(a), 266.103(c)(5), 266.104(f)-(h), 122.2, 122.10(e)(4), 122.10(f)(2), 122.10(g)(1) as amended 7/17/98 by Checklist 144.

7 Del. Code, Chapter 63, §§6304, 6305, 6306, 6307 as amended 6/26/86, 7/13/88 and 7/24/90.

Remarks of the Attorney General

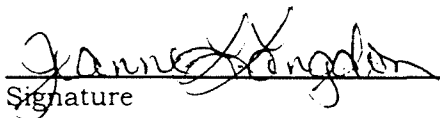
The State provisions are equivalent as amended.

XXV. MEMORANDUM OF AGREEMENT (MOA)

The State uses the MOA to satisfy certain Federal procedural requirements: The State has the authority to enter into and carry out the agreement, and no applicable State statute (including the State Administrative Procedures Act) requires that the procedure be promulgated as a rule in order to be binding.

The undersigned executes this Attorney General's Statement on authority delegated by M. Jane Brady, Attorney General of the State of Delaware.

Seal of Office

  
Signature

Jeanne L. Langdon  
Name (Type or Print)

Deputy Attorney General  
Title

January 21, 2000  
Date