

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?

The household waste is not regulated as hazardous waste prior to collection.
Response: 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.