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Department of Environmental Protection

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Response to Comments on Proposed Amendments to

310 CMR 30.000

Hazardous Waste Regulations

05/24/2024

Regulatory Authority

M.G.L. c. 21C, c. 21A, §§ 2 and 8, and M.G.L. c. 21C, § 4

On January 4th, 2023, the Massachusetts Department of Environmental Protection (MassDEP) filed with the Massachusetts Secretary of State proposed amendments to 310 CMR 30.000, Hazardous Waste regulations, that included several key proposals, as well as a number of miscellaneous revisions. The proposed amendments included exemptions for nicotine-containing smoking cessation products and airbag wastes, adoption of the federal e-manifest rule, and requirements for aerosol cans managed under the universal waste rule. MassDEP also proposed to adopt U.S. Environmental Protection Agency (EPA) rules related to confidentiality determinations for hazardous waste export and import documents, expanded public participation requirements for licensed hazardous waste facilities, and technical revisions to wood preservative listings. Also proposed were minor revisions to existing requirements related to obtaining EPA identification numbers, the academic labs rule, and waste oil generator status calculations.

MassDEP held six public hearings and solicited comments on the proposed amendments in accordance with Massachusetts General Law Chapter 30A. On January 4, 2023, MassDEP published a notice in the Boston Globe and the Worcester Telegram and Gazette announcing the public hearings and public comment period on the proposed amendments. Six virtual public hearings were held on the following dates and times:

January 30, 2023 at 6:00 p.m.

January 31, 2023 at 10:00 a.m.

February 1, 2023 at 10:00 am.

February 1, 2023 at 6:00 p.m.

February 2, 2023 at 1:00 p.m.

February 3, 2023 at 4:00 p.m.

The public comment period closed at 5:00 p.m. on February 17, 2023.

After considering the comments received, MassDEP is finalizing the regulations (effective date May 24, 2024) with one substantive change, for the reasons explained in this response to comment. This document summarizes and responds to comments that were received during the public comment period.

Comments Received

1. **Comment:** CVS Health supports MassDEP's proposal to adopt the modified P075 listing for acutely hazardous waste that would exempt over-the-counter nicotine replacement

therapy products. CVS Health also encourages MassDEP to adopt the remainder of US EPA's Pharmaceutical Rule., 40 CFR 266 Subpart P, to ensure consistent regulations for healthcare facilities across the country. CVS Health notes that although the Rule appears complex, it was designed specifically for its industry and can be readily implemented in a retail pharmacy setting. (Nicole Wilkinson, Executive Director, Corporate Health, Safety & Environment, CVS Health)

Response: MassDEP appreciates the comment. MassDEP will continue to evaluate EPA's Pharmaceutical Rule, 40 CFR 266 Subpart P, and how it is being implemented in other states. MassDEP is not adopting the full Pharmaceutical Rule at this time due to concerns over its complexity and enforceability. For example, the EPA-funded pharma rule compliance checklist is 58 pages long and we want to better understand the impacts on MassDEP resources and generators before going forward. https://hercenter.org/10_step_blueprint_guide_final_9-22.pdf

2. **Comment:** The Household and Commercial Products Association (HCPA) supports MassDEP's proposed amendments to add aerosol cans to its universal waste rule because it:
- is consistent with US EPA's requirements for aerosol cans;
 - provides a clear, protective system for managing discarded aerosol waste cans;
 - alleviates the regulatory burden on retail stores;
 - promotes the collection and recycling of aerosol cans; and
 - encourages the development of municipal and commercial programs to reduce the quantity of aerosol can waste going to landfills.

In addition, HPCA suggests inserting the following clarifying language in the definition of Universal Waste at 310 CMR 30.1010 (HPCA's suggested language is in red):

Universal Waste means any of the following hazardous wastes, as further described in 310 CMR 30.1020, that are managed under the universal waste requirements of 310 CMR 30.1000:

- (a) Batteries;
- (b) Pesticides;
- (c) Thermostats;
- (d) Mercury-containing devices; and
- (e) Mercury-containing lamps.; and
- (f) Aerosol Cans

[Note: Not all batteries, pesticides, lamps **and aerosol cans** are hazardous wastes, and therefore, they do not all qualify as universal wastes; such wastes may instead be managed as nonhazardous solid wastes.] (Nicholas B. Georges, Senior Vice President, Scientific & International Affairs, HCPA)

Response: MassDEP appreciates the comment and agrees that the suggested modification clarifies that, like with batteries, pesticides and lamps, not all aerosol cans are hazardous waste,

and thus may not qualify as universal waste. MassDEP, therefore, has made the suggested revision in the final regulation.

List of Commenters

CVS Health, Household & Commercial Products Association (HCPA).