

(as submitted to the Secretary of State)

NOTICE OF PROPOSED RULEMAKING
TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS WASTE MANAGEMENT

PREAMBLE

<u>1. Article, Part or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R18-8-101	Amend
R18-8-260	Amend
R18-8-261	Amend
R18-8-262	Amend
R18-8-263	Amend
R18-8-264	Amend
R18-8-265	Amend
R18-8-266	Amend
R18-8-268	Amend
R18-8-270	Amend
R18-8-271	Amend
R18-8-273	Amend
R18-8-280	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statutes (general) and the implementing statutes (specific):

Authorizing Statutes: A.R.S. §§ 41-1003 and 49-104

Implementing Statute: A.R.S. § 49-922

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:

Notice of Rulemaking Docket Opening: 24 A.A.R. 1587, May 25, 2018

4. The agency's contact person who can answer questions about the rulemaking:

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Waste Programs Division
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5. The agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Summary. The Arizona Department of Environmental Quality (ADEQ) is proposing to amend the state's hazardous waste rules to incorporate changes in federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments in this proposed rule would adopt changes to federal regulations that were in effect as of July 1, 2018 and update the general incorporation date in Arizona hazardous waste rules from July 1, 2013 to July 1, 2018. ADEQ-initiated technical corrections and procedural changes are also included. EPA's 2008, 2015 and 2018 regulations relating to the definition of solid waste are not incorporated by this rulemaking.

Background. Congress passed RCRA in 1976 to establish a national "cradle to grave" regulatory system to control the generation, transportation, treatment, storage and disposal of hazardous wastes. Similar to other national environmental laws, states are encouraged to assume most of the responsibility for the program and become "authorized" to implement RCRA and its underlying regulations. This process ensures national consistency and minimum standards while providing flexibility to states to implement the national standards with state and local solutions.

The requirements for state hazardous waste program authorization are found in 40 CFR 271. Federal hazardous waste regulations change from year to year, so states with authorization such as Arizona have a continuing obligation to revise their programs to keep up with federal changes and remain authorized states. [40 CFR 271.21(e)(1)]

Arizona's hazardous waste rules are found in 18 A.A.C. 8, Article 2 and have been in effect since 1984. EPA first granted “final” authorization to Arizona in 1985, to operate its hazardous waste program in Arizona in lieu of the federal hazardous waste program, subject to the limitations imposed by HSWA (see 50 FR 47736, November 20, 1985). EPA last authorized revisions to Arizona’s hazardous waste program on December 21, 2017. (82 FR 60550) Due largely to federal and Arizona requirements mandating equivalency with federal regulations (see 42 U.S.C. 6926(b) and A.R.S. § 49-922(A)), Arizona’s hazardous waste rules incorporate the federal hazardous waste regulations by reference and are mostly identical to the federal regulations. ADEQ regularly compares Arizona’s hazardous waste rules to the federal regulations and amends the Arizona rules, as necessary, to comply with state statute and to facilitate continued authorization. Without continued authorization, EPA, rather than ADEQ, would administer parts of the hazardous waste program in Arizona. ADEQ’s objective with this rulemaking is to continue administering the federal hazardous waste program in Arizona in place of EPA. ADEQ believes that regular incorporation of changes and additions to federal language into Arizona rules simplifies and facilitates continued authorization.

Background to this Notice of Proposed Rulemaking

ADEQ has recently begun using a new rulemaking model which significantly expands stakeholder dialogue prior to the formal proposed rule when compared to previous ADEQ rulemakings. From June through September, 2018, ADEQ held a number of public stakeholder meetings and Webex seminars related to EPA’s e-Manifest and generator improvements rules, as well as ADEQ’s plans for this proposed rule. The meetings were well attended and were ex-

tremely helpful in answering many early questions stakeholders had, especially in relation to the details of the e-Manifest system.

Effective date of rule amendments. If these proposed rules are considered by the Governor's Regulatory Review Council (GRRC) early enough in 2019, ADEQ may request that GRRC approve these rules with an immediate effective date so that they become effective immediately upon filing with the Office of the Secretary of State pursuant to A.R.S. § 41-1032(A)(5). This statute provides that a rule may be effective immediately if the rule is less stringent than the rule that is currently in effect and does not have an impact on the public health, safety, welfare or environment, and does not affect the public involvement and public participation process. The elimination of the annual report is less stringent and would otherwise be due March 1, 2019.

Subsections not amended listed as “No change”. ADEQ has made use of the option in R1-1-502(B)(18)(f) to list some of the subsections not amended as “No change” rather than showing long sections of text that are not being changed. Certain subsections of unchanged text are shown to provide context for nearby proposed changes. “No change” does not mean comments on unchanged text will not be considered. However, the exception to the rules moratorium granted by the Governor to ADEQ to do this rulemaking may limit what ADEQ can actually implement. In general, any comment suggesting a technical or similar correction to unchanged text can be considered.

What EPA regulations are proposed for incorporation into Arizona rules?

The following is a list of changes in federal hazardous waste regulations that were effective as federal law as of July 1, 2018 and that are proposed for incorporation into Arizona rules. They are discussed more fully later in this preamble.

- Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities; 79 FR 350, January 3, 2014.

- Modification of the Hazardous Waste Manifest System; Electronic Manifests (e-Manifests I); 79 FR 7518, February 7, 2014.
- Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule; 79 FR 36220, June 26, 2014.
- Disposal of Coal Combustion Residuals From Electric Utilities; 80 FR 21302, April 17, 2015.
- Hazardous Waste Export-Import Revisions; 81 FR 85696, November 28, 2016.
- Hazardous Waste Generator Improvements Rule; 81 FR 85732, November 28, 2016.
- Confidentiality Determinations for Hazardous Waste Export and Import Documents; 82 FR 60894, December 26, 2017.
- User Fees for the Electronic Hazardous Waste Manifest System and Amendments to Manifest Regulations (e-Manifests II); 83 FR 420, January 3, 2018.

One EPA rule that became final after July 1, 2013 was already incorporated by ADEQ in its last hazardous waste rulemaking: Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes (eff. January 31, 2014). For that reason it is not included in this rulemaking. ADEQ's last hazardous waste rulemaking was published at 21 A.A.R. 1246, September 5, 2015.

Descriptions of EPA regulations incorporated

- Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities; 79 FR 350, January 3, 2014. In this action, EPA revised its hazardous waste management regulations under RCRA to conditionally exclude carbon dioxide (CO₂) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO₂ streams are captured from emission sources, are injected into Underground Injection Control (UIC) Class VI wells for purposes of geologic sequestration, and meet certain other conditions. EPA considers the exclusion to be less stringent than the current federal program and therefore states are not required to adopt this provision. The EPA rulemaking amended 40 CFR Parts 9, 260 and 261. In this

rulemaking, ADEQ proposes to incorporate into state rule all of the amendments to 260 and 261, without modification.

EPA notes that when such a conditionally excluded waste is transported interstate, the exclusion must be active in the state where it is generated, any states that it passes through, and the state where the Class VI injection well is located.

- Modification of the Hazardous Waste Manifest System; Electronic Manifests (e-Manifests I); 79 FR 7518, February 7, 2014. In this rule, EPA established electronic manifests (or e-Manifests) as a means to track offsite shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. The rule also implemented certain provisions of the Hazardous Waste Electronic Manifest Establishment Act, Public Law 112-195, which directed EPA to establish a national e-Manifest system, and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system. It described procedures for users who elect to opt out of the e-Manifest system and specified how issues of public access to manifest information will be addressed when manifest data are submitted and processed electronically. The rule announced that final electronic manifest requirements will be implemented in all states on the same effective date for the national e-Manifest system. (June 30, 2018, as announced in e-Manifests II, also incorporated, see below)

Authorized states must adopt program revisions equivalent to and consistent with the federal requirements, but EPA will implement these electronic manifest regulations until the states are fully authorized to implement them in lieu of EPA. EPA made changes to 40 CFR Parts 260, 262, 263, 264, 265, and 271. ADEQ proposes to adopt all of the changes in this rule, except as modified by the second e-Manifest rule.

- Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule; 79 FR 36220, June 26, 2014. In this rule, EPA revised certain export provisions of the CRT final rule published on

July 28, 2006. The revisions were intended to allow EPA to better track exports of CRTs for re-use and recycling in order to ensure safe management of these materials. Although EPA does not authorize states to administer federal import/export functions in any section of the RCRA hazardous waste regulations, state programs are still required to adopt provisions in this rule that are more stringent than existing federal requirements to maintain their equivalency with the federal program. The final rule contained amendments to §§ 261.39 and 261.41 that were more stringent than previous federal law. Therefore, states that had adopted these provisions, such as Arizona, are required to adopt these amendments. In this rule, EPA made changes to 40 CFR 260 and 261. ADEQ proposes to adopt all the changes without modification.

- Disposal of Coal Combustion Residuals From Electric Utilities; 80 FR 21302, April 17, 2015. In this rule EPA made the determination to regulate the disposal of coal combustion residuals (CCR) as solid waste under subtitle D of RCRA rather than subtitle C as hazardous waste. The rule listed a new set of exclusions under 40 CFR 261.4(b)(4). Almost all of the rule established new requirements for CCR units in 40 CFR 257. ADEQ proposes to adopt the changes to 40 CFR 261 without modification.

- Hazardous Waste Export-Import Revisions; 81 FR 85696, November 28, 2016.

EPA amended existing regulations regarding the export and import of hazardous wastes from and into the United States. EPA made these changes to: 1) make existing export and import related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD); 2) enable electronic submittal to EPA of all export and import-related documents (e.g., export notices, export annual reports); and 3) enable electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit.

Although states do not receive authorization to administer EPA's export-import regulations, state programs are required to adopt these provision to maintain equivalency with the federal program. 40 CFR 271.10(e). ADEQ proposes to adopt all of the regulation's amendments without modification, except for the changes related to EPA's Standardized Permit in Part 267.

- Hazardous Waste Generator Improvements Rule; 81 FR 85732, November 28, 2016.

In this action, EPA revised the RCRA hazardous waste generator regulatory program to: 1) re-organize the hazardous waste generator regulations to make them more user-friendly and improve their usability by the regulated community; 2) provide a better understanding of how the RCRA hazardous waste generator regulatory program works; 3) address gaps in the existing regulations to strengthen environmental protection; and 4) provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner.

This rule amended certain sections of the hazardous waste generator regulations in Parts 260 through 265, 268, 270, 273, and 279, and contains provisions that were both more and less stringent than current federal hazardous waste regulations. ADEQ is required to adopt those that are more stringent to maintain authorization, but is proposing to adopt all of the changes without modification, except for the changes to Part 279. Part 279 is incorporated by reference in statute in A.R.S. § 49-802(A).

- Confidentiality Determinations for Hazardous Waste Export and Import Documents; 82 FR 60894, December 26, 2017.

In this rule, EPA amended hazardous waste export-import regulations so that confidential business information (CBI) claims cannot be made for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes (CRTs). EPA noted that this is consistent with the categorical determination it made in its e-Manifest rule that individual manifested records and aggregate data are essentially public information and not subject to CBI claims. Although states do not receive authorization to administer EPA's export-import regula-

tions, state programs are required to adopt these provision to maintain equivalency with the federal program. 40 CFR 271.10(e). EPA amended Parts 260, 261, and 262. ADEQ is proposing to adopt all of these changes without modification.

- User Fees for the Electronic Hazardous Waste Manifest System and Amendments to Manifest Regulations (e-Manifests II); 83 FR 420, January 3, 2018.

In this rule, EPA modified and added to its 2014 e-Manifest rule by 1) establishing the methodology it will use to determine and revise the user fees applicable to the electronic and paper manifests to be submitted to the national e-Manifest system; 2) announcing the date (June 30, 2018) when EPA expected the system to be operational and available to users; 3) allowing changes to the transporters designated on a manifest while the shipment is en route; 4) describing how data corrections may be made to existing manifest records in the system; and 5) amending the previous e-Manifest regulation to allow the use, in certain instances, of a mixed paper and electronic manifest to track a hazardous waste shipment.

What regulations are not being incorporated in this rule?

- Standardized Permit Rule; 70 FR 53419, September 8, 2005. In this rule, EPA finalized revisions to the RCRA hazardous waste permitting program to allow for a “standardized permit”. In the past several hazardous waste rulemakings, ADEQ discussed but did not propose to incorporate the Standardized Permit rule. No facilities have thus far indicated an interest in a standardized permit. At this time, ADEQ has decided to continue with this position, and not burden the hazardous waste rules with an extra set of procedures for a class of permits no one is interested in.

- EPA Revisions to the Solid Waste Definition; 73 FR 64668, October 30, 2008; 80 FR 1694, January 13, 2015; and 83 FR 24664, May 30, 2018. EPA first revised the definition of solid waste to exclude certain hazardous secondary materials from regulation under Subtitle C of

RCRA effective December 29, 2008. Litigation followed and EPA issued a revised rule on January 13, 2015. Follow-up court action resulted in a ‘vacatur’ rule issued on May 30, 2018.

Due to the continuing litigation, ADEQ did not request permission from the Governor, under Executive Order 2018-2, to adopt EPA’s Definition of Solid Waste (DSW) rules in this rule-making at the time ADEQ requested permission in March of 2018. ADEQ is recently aware that a Petition for Review was filed in the U.S. Court of Appeals for the District of Columbia Circuit in June challenging EPA's 2018 rule revisions on DSW mandated by the court. ADEQ anticipates including DSW in a future hazardous waste rulemaking once the litigation concludes.

What other changes are being proposed to Arizona hazardous waste rules?

Technical corrections. ADEQ is proposing to remove more than 200 occurrences of “as incorporated by” in the hazardous waste rules and replace them with a comprehensive universal declaration in R18-8-260(A). ADEQ believes this will make the rules easier to read while insuring that appropriate legal text preserves the concept that every federal citation refers only to the incorporated version.

ADEQ is proposing to remove the remaining performance track language in its rules. EPA terminated its Performance Track program on May 14, 2009 (74 FR 22741) but failed to remove all of the remaining pieces from its rules. ADEQ has since used those remaining pieces as part of its Arizona Performance Track Program. The Arizona Performance Track Program has now been superseded by ADEQ’s Voluntary Environmental Stewardship Program, which is implemented outside of rules.

ADEQ is proposing to restore the phrase “kilogram, an inhalation LC 50 toxicity (rat) of less than 2 milligrams per” in the current R18-8-261(K), which was apparently deleted by mistake at some point in time after 1990. That oral LD 50 toxicity would not be expressed in units of milligrams per liter is the key indicator that this was not an intentional change.

EPA reviewed the August 20th draft proposed rule sent by ADEQ to stakeholders and made a number of technical comments reflected in many of the changes throughout the proposed rule, especially in R18-8-260 and R18-8-262. ADEQ has elected not to fix erroneous EPA citations in Arizona rules that will eventually be corrected in the EPA regulations. As an example, an EPA guidance document suggests the following, “Note that 261.5 and 262.34 were reserved and removed by the Hazardous Waste Generator Improvements Rule (November 28, 2016, 81 FR 85732, Checklist 237). The correct citation is 262.13. States may amend 261.4(e)(1) by replacing “40 CFR 261.5 and 262.34(d)” with “262.13.”” In the meantime, ADEQ will view this type of correction as implied and use enforcement discretion if necessary to achieve fair results.

Procedural changes.

- ADEQ is proposing to eliminate its longstanding requirement that certain generators and TSD facilities submit annual reports, compared to the EPA requirement for biennial reports. ADEQ is proposing to eliminate this requirement at the following current rule locations: R18-8-261(J), R18-8-262(H), R18-8-264(I) and R18-8-265(I). ADEQ will access the reports sent to EPA by Arizona entities as needed.

In addition, ADEQ is proposing other clarifying and minor procedural changes in this rule, as authorized under A.R.S. § 49-922(A):

- In proposed R18-8-260(M), ADEQ clarifies that the small quantity generator fee provided for in A.R.S. § 49-931 would apply to those very small quantity generators who become small quantity generators by reason of EPA’s new episodic event procedures.
- At several other locations, ADEQ is proposing that certain submissions and registrations would be required to be submitted through ADEQ’s online portal, myDEQ. These changes are at R18-8-260(M), R18-8-262(G), R18-8-263(B), R18-8-264(D), and R18-8-265(D).
- In R18-8-270(G)(7) and (8), ADEQ is proposing to remove permit fee appeal language leading to a hearing under R18-1-202, which was intentionally expired by ADEQ effective April 28,

2017. In its place, ADEQ proposes to use language currently in the water permits rules at R18-14-106.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business and consumer impact:

Identification of the rulemaking: 18 A.A.C. 8, Articles 1 and 2 (For further information, see Part 5 of this preamble.)

In A.R.S. § 49-922(A), the legislature has given ADEQ twin directives regarding Arizona hazardous waste rules: 1) maintain program authorization by being consistent with and equivalent to the federal rules, even when changes to federal rules make them more stringent than the previous federal rules, and 2) Arizona hazardous waste rules should not conflict with or be more stringent than EPA in nonprocedural areas.

These directives express the conclusion of the legislature that the impacts of incorporating required federal rules will be less than the impact of not incorporating them and having EPA implement the hazardous waste program in Arizona. ADEQ nevertheless is providing this preliminary summary of the impacts of incorporating certain federal rules and making other changes as an aid to regulated entities and others in understanding the proposed rule revisions. ADEQ re-

quests input on the accuracy of this summary. Data provided to ADEQ by regulated entities can help ADEQ make adjustments to the incorporated federal rules if such adjustments remain equivalent to and consistent with the federal program.

Program Description. Under A.R.S. § 49-922 and federal law, Arizona's Hazardous Waste Program is responsible for ensuring that all regulated hazardous waste in Arizona is stored, transported, and disposed of safely and properly. It is largely a preventative program to keep hazardous waste from entering the environment. The program maintains an inventory of hazardous waste generators, transporters and treatment, storage, and disposal (TSD) facilities in Arizona. Permits are issued, managed, and maintained for TSD facilities. This activity includes permit modifications, renewals, closure plans, and financial assurance reviews. Generators, transporters and TSD facilities are inspected periodically. Hazardous waste complaints are investigated. Compliance and generator data is collected and stored and hazardous waste is tracked from generation to disposal. Compliance assistance is provided, enforcement actions are pursued against significant violators, and oversight is provided for the remediation of contaminated sites.

ADEQ's Hazardous Waste Program regulates a universe of over 2700 active facilities, including metal platers, chemical manufacturers, laboratories, explosive and munition manufacturers, pesticide manufacturers, hazardous waste TSD facilities, and military installations. There are currently 13 permitted TSD facilities, 388 large quantity generators, 644 small quantity generators, 1372 very small quantity generators, and 314 transporters in Arizona. An unknown fraction of these are small businesses. ADEQ records show that over 40,000 tons of hazardous waste were generated in Arizona in 2017. Until June 30, 2018, ADEQ processed over 35,000 manifests tracking this waste annually. Under EPA's e-Manifest system, which ADEQ proposes to incorporate in this rulemaking, these manifests would no longer have to be sent to ADEQ, and ADEQ would not be processing them. ADEQ will have access to these manifests through the e-Manifest system.

Impact of EPA regulations proposed for incorporation. There are eight separate federal regulations that would be incorporated by this proposed rule, spanning five years through July 1, 2018.

ADEQ believes that three of the eight EPA rules to be incorporated have the greatest potential for economic impact in Arizona because they affect virtually the entire community of hazardous waste handlers: generators, transporters, and TSD facilities. These three rules are the Generator Improvements rule and the two e-Manifest rules. These rules impact the more than 2700 Arizona hazardous waste handlers. Although the potential impact is high due to the number of affected entities, ADEQ believes that the actual economic impact of these federal rules will be a mixture of minor positive and negative impacts, with a relatively low net impact.

With the e-Manifest rules, the most obvious new impact will be a new EPA fee for filing each manifest, whether using the e-Manifest or a paper manifest. Prior to June 30, 2018, there was no manifest fee payable to either EPA or ADEQ for manifests filed. The new EPA fees are \$15 for a paper manifest and \$5 for an electronic manifest (fees are for year 1, the fees can be adjusted later).

EPA's e-Manifest rules did not change requirements for who had to manifest hazardous waste shipments. The rules merely authorized the use of electronic manifests as equivalent to paper manifests and added the fees for each type a facility may choose to use. Generators of hazardous waste will either participate in the electronic manifest system through the involvement of the transporters or facilities that service their wastes, or, they will continue to use paper manifests. Likewise, transporters and TSD facilities may elect to continue to use paper manifests, although there could be competitive pressure on those small transporters or facilities that continue to supply paper manifest to their customers.

Through June 30, 2018, ADEQ received paper manifests at the rate of approximately 35,000 per year and, based on the most recent information, believes that the vast majority of manifest filers

are now using e-Manifest. If all 35,000 paper manifests are replaced by e-Manifests, there would be a hypothetical new cost to Arizona filers of \$175,000. This revenue is paid to EPA to compensate for the costs of developing, operating and maintaining the e-Manifest system. However, e-Manifests also save filers money in that they can normally be completed more cheaply and efficiently, and have no paper related costs such as purchase, storage, and mailing to ADEQ.

An additional significant positive impact of the e-Manifest system will be savings for ADEQ. ADEQ's tracking of hazardous waste activity previously included entering complete manifests into ADEQ's database, ARID (Arizona RCRA Information Database). Approximately 1750 hours per year of labor has been eliminated by the e-Manifest system and ADEQ will still be able to track hazardous waste activity by accessing manifests through the EPA database.

EPA's Generator Improvements rule also affects Arizona's 2700+ hazardous waste handlers. The impacts of incorporating this rule are based on the content of the EPA regulation itself and a significant procedural change in reporting requirements that ADEQ is able to propose in response.

EPA prepared an economic impact statement assessing impacts of this rule nationally. ADEQ believes that the impacts in Arizona will be similar but proportionally smaller. EPA estimated the national costs to industry to comply with the more stringent provisions of the new rule at between \$5.9 and \$13.3 million. It also calculated cost savings or benefits for facilities opting to take advantage of two voluntary programs created under the new rule (e.g., consolidation of very small quantity generator waste by large quantity generators under the same ownership, and generators who would not be required to change generator status as a result of an episodic event) as slightly higher than the costs. ADEQ believes that in Arizona average per facility costs of the EPA regulation will be initially more than average per facility cost savings, since the more stringent changes outnumber the less stringent changes, and the more stringent changes

must be complied with on the effective date of the rule. Nevertheless, ADEQ believes that the average per facility impact of the EPA regulation will be minimal.

In conjunction with the EPA Generator Improvements rule, ADEQ is proposing to eliminate the annual reporting requirement that has existed in Arizona rules since the beginning of the program in the 1980's. ADEQ believes that the improved reporting infrastructure created by the Generator Improvements rule in combination with the e-Manifests rule will allow this relaxation without endangering program authorization. ADEQ notes that its three decades of experience in the hazardous waste area and the current full staffing of hazardous waste inspectors is also helpful in allowing this change. Generators, TSD facilities and ADEQ will experience significant savings through not having to create and process these reports.

ADEQ requests information from generators and TSD facilities regarding the savings they could expect if this proposal is finalized. ADEQ's preliminary estimate is that the reports cost \$1000 to prepare. If the extra reports are eliminated for 200 facilities, reports would only have to be filed with EPA every other year. The estimated annual savings would be \$200,000 every other year, or an average of \$500 per facility per year. Facilities are requested to submit information to ADEQ describing the costs and cost savings at their facility resulting from this rule.

ADEQ believes the following three EPA rules will have minimal direct impact in Arizona:

Imports and Exports of Hazardous Waste. This EPA rule harmonized EPA's export and import provisions with Organization for Economic Cooperation and Development (OECD) procedures, and enabled electronic submittals and electronic validation of consent for these hazardous waste shipments. States are required to adopt these rules for consistency but have no role in implementing them. EPA estimated quantifiable national industry costs for this rule at less than \$2 million per year, but also listed certain benefits that could not be quantified, such as "increased efficiency and convenience of electronic submission, enhanced tracking of hazardous waste transportation recognized trader activities, increased regulatory efficiency, consistency with

trade requirements for OECD countries, reduction of risks associated with the treatment and disposal of hazardous wastes, and improved ability to acquire information regarding exports and imports of hazardous waste.”

Disposal of Coal Combustion Residuals (CCR) from Electric Utilities: The 2015 EPA rule removed this waste from regulation as a hazardous waste in Part 261 and created new CCR solid waste regulations in Part 257. The hazardous waste rule portion of the rule in Part 261 is proposed to be incorporated by ADEQ and reduced potential hazardous waste costs by millions of dollars for affected facilities. The economic impact of any ADEQ rulemaking related to the Part 257 regulations will be evaluated in a future rulemaking.

Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule. ADEQ is not aware of any CRT exporters in Arizona. EPA estimated annual costs to CRT exporters and EPA for the reporting and recordkeeping requirements to be from \$9,777 to \$17,362 per year. Additionally, CRT exporters were estimated to incur a one-time cost of \$42,904 in the first year following promulgation of the rule to familiarize themselves with the new CRT rule requirements.

The following 2 rules are predicted to have little or no direct impact on Arizona businesses:

CO₂ Geologic Sequestration. ADEQ is not aware of such activities planned in this area.

Confidentiality Determinations for Hazardous Waste Export and Import Documents. The economic impact of not allowing confidential business information claims for documents related to the export, import and transportation of hazardous waste and export of excluded CRTs would be somewhat subjective, and case-specific. EPA observed that it has only received 4 requests for these nationally, the earliest one going back to 1994, and noted that “there are no costs associated with this action”.

Impact of Other Procedural changes

- In proposed R18-8-260(M), ADEQ clarifies that the small quantity generator fee provided for in A.R.S. § 49-931 would apply to those very small quantity generators (VSQGs) who become small quantity generators by reason of EPA’s new episodic event procedures. Arizona has an estimated 1372 VSQGs. For purposes of this preliminary summary, ADEQ estimates that 5% of these will have episodic events, and that in one half of these cases the VSQG will fail to meet conditions that would prevent it from being classified for the year as a SQG. Approximately 34 VSQGs would become SQGs and be subject to the proposed rule’s language clarifying that they will be subject to the small quantity generator fee of \$67.50 per ton of hazardous waste generated. At an estimated average of 2 tons generated annually for each of the 34 generators, the extra impact will average \$135 per generator for a total of \$4590.

- At several other locations, ADEQ is proposing that certain submissions and registrations would be required to be submitted through ADEQ’s online portal, myDEQ. These changes are at R18-8-260(M), R18-8-262(G), R18-8-263(B), R18-8-264(D), and R18-8-265(D). This requirement is designed to save processing time for ADEQ personnel, but it is unknown whether there will be any economic impact for regulated entities. ADEQ requests that those hazardous waste handlers that may not be sure about online submissions to ADEQ review their procedures and submit any additional anticipated costs to ADEQ.

9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:

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10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: December 11, 2018

Time: 1:30 p.m.

Location: Arizona Department of Environmental Quality

1110 W. Washington, Room 145

Phoenix, AZ 85007

Nature: Public hearing on the proposed rules, with opportunity for formal comments on the record. Please call (602) 771-4795 for special accommodations pursuant to the Americans with Disabilities Act.

The close of the written comment period will be 5:00 p.m., December 12, 2018. Submit comments to the individual identified in item #4.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

See A.R.S. § 41-1037(A)(1) and (2). This rulemaking would amend an existing rule that requires a regulatory permit. This rulemaking does not require a general permit because:

1) A specific alternative permit is authorized by state statute under A.R.S. § 49-922(B)(5) and;

2) General permits as defined as defined by A.R.S. § 41-1001 are not recognized under federal hazardous waste regulations with which ADEQ is required to be consistent.

However, it should be noted that ADEQ has already adopted a federal general permit rule that is similar to Arizona general permits. 40 CFR 270.60, "Permits by Rule", applies to three types of facilities: 1) ocean disposal barges or vessels; 2) injection wells; and 3) publicly owned treatment works. Under the federal rule, these three types of facilities are "deemed to have a RCRA permit if the conditions listed are met." Only the third category exists in Arizona, and DEQ has incorporated the federal general permit rule for publicly owned treatment works in R18-2-270(A). Note: The hazardous waste standardized permit, which is not incorporated in this rule, is not a general permit as defined by A.R.S. § 41-1001, since each standardized permit applies to just one facility.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

These rules are not more stringent than corresponding federal laws, except where there is statutory authority. Since EPA's first authorization of Arizona's hazardous waste program in 1985, Arizona rules have been more stringent than EPA's in the areas of reports and manifests. (See 50 FR at 47736, November 20, 1985) This was authorized under A.R.S. § 49-922(B) which states that DEQ may not adopt a nonprocedural standard that is more stringent than EPA. Both of these more stringent requirements have been removed in this proposed rule.

c. Whether a person submitted an analysis to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No person has submitted a competitiveness analysis under A.R.S. § 41-1055(I).

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

<u>Incorporated Federal Citation</u>	<u>Location</u>
40 CFR 260	R18-8-260(C)
40 CFR 261	R18-8-261(A)
40 CFR 262	R18-8-262(A)
40 CFR 263	R18-8-263(A)
40 CFR 264	R18-8-264(A)
40 CFR 265	R18-8-265(A)
40 CFR 266	R18-8-266(A)
40 CFR 268	R18-8-268
40 CFR 270	R18-8-270(A)
40 CFR 124	R18-8-271(A)
40 CFR 273	R18-8-273

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY - HAZARDOUS
WASTE MANAGEMENT

ARTICLE 1. REMEDIAL ACTION REQUIREMENTS

Section

R18-8-101. Remedial Action Requirements; Level and Extent of Cleanup

ARTICLE 2. HAZARDOUS WASTES

Section

R18-8-260. Hazardous Waste Management System: General

R18-8-261. Identification and Listing of Hazardous Waste

R18-8-262. Standards Applicable to Generators of Hazardous Waste

R18-8-263. Standards Applicable to Transporters of Hazardous Waste

R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities

R18-8-268. Land Disposal Restrictions

R18-8-270. Hazardous Waste Permit Program

R18-8-271. Procedures for Permit Administration

R18-8-273. Standards for Universal Waste Management

R18-8-280. Compliance

ARTICLE 1. REMEDIAL ACTION REQUIREMENTS

R18-8-101. Remedial Action Requirements; Level and Extent of Cleanup

- A. This Article is applicable to Chapter 8 of this Title.
- B. In any instance where soil remediation is done under this Chapter, it shall be conducted in accordance with ~~A.A.C. R18-7-201 through R18-7-209~~ 18 A.A.C. 7, Article 2.

ARTICLE 2. HAZARDOUS WASTES

R18-8-260. Hazardous Waste Management System: General

- A. All Federal regulations cited in this Article are those revised as of July 1, 2013 2018 (and no future editions), unless otherwise noted, and are applicable only as incorporated by this Article. 40 CFR 124, 260 through 266, 268, 270 and 273 or portions of these regulations, are incorporated by reference, as noted in the text. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not incorporated by reference may be used as guidance in interpreting federal regulatory language.
- B. Any reference or citation to 40 CFR 124, 260 through 266, 268, 270, and 273, or portions of these regulations, appearing in the body of this Article and regulations incorporated by reference, includes any modification to the CFR section made by this Article. When federal regulatory language that has been incorporated by reference has been amended, brackets [] enclose the new language. The subsection labeling in this Article may or may not conform to the Secretary of State's formatting requirements, because the formatting reflects the structure of the incorporated federal regulations.
- C. All of 40 CFR 260 ~~and the accompanying appendix~~, revised as of ~~January 31, 2014~~ July 1, 2018, (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the Department of Environmental Quality (DEQ) with the exception of the following:
 - 1. 40 CFR 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33;
 - 2. The revisions for standardized permits as published at 70 FR 53419; and
 - 3. The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664. ~~4. The revisions for the gasification rule as published at 73 FR 57.~~ Copies of 40 CFR 260 are available at ~~www.gpoaccess.gov/cfr/index.html~~ https://www.eCFR.gov. Copies of the Federal Register (FR) are available at https://www.federalregister.gov/.
- D. § 260.2, titled "Availability of information; confidentiality of information" is amended by the following:
 - 1. § 260.2(a). Any information provided to [the DEQ] under [R18-8-260 ~~et seq.~~ through R18-8-266 and R18-8-268 shall] be made available to the public to the extent and in the manner authorized by the [Hazardous Waste Management Act (HWMA), A.R.S. § 49-921 et seq.; the Open Meeting Law, A.R.S. § 38-431 et seq.; the Public Records Statute, A.R.S. § 39-121 et seq.; the Administrative Procedure Act, A.R.S. § 41-1001 et seq.; and rules promulgated pursuant to the above-referenced statutes], as applicable.
 - 2. § 260.2(b) is replaced with the following:
 - a. The DEQ shall make a record or other information, such as a document, a writing, a photograph, a drawing, sound or a magnetic recording, furnished to or obtained by the DEQ pursuant to the HWMA and regulations promulgated thereunder, available to the public

to the extent authorized by the Public Records Statute, A.R.S. §§ 39-121 et seq.; the Administrative Procedure Act, A.R.S. §§ 41-1001 et seq.; and the HWMA, A.R.S. §§ 49-921 et seq. Specifically, the DEQ shall disclose the records or other information to the public unless:

- i. A statutory exemption authorizes the withholding of the information; or
 - ii. The record or other information contains a trade secret concerning processes, operations, style of work, or apparatus of a person, or other information that the Director determines is likely to cause substantial harm to the person's competitive position.
- b. Notwithstanding subsection (a):
- i. The DEQ shall make records and other information available to the EPA upon request without restriction;
 - ii. As required by the HWMA and regulations promulgated thereunder the DEQ shall disclose the name and address of a person who applies for, or receives, a HWM facility permit;
 - iii. The DEQ and any other appropriate governmental agency may publish quantitative and qualitative statistics pertaining to the generation, transportation, treatment, storage, or disposal of hazardous waste; and
 - iv. An owner or operator may expressly agree to the publication or to the public availability of records or other information.
- c. A person submitting records or other information to the DEQ may claim that the information contains a confidential trade secret or other information likely to cause substantial harm to the person's competitive position. In the absence of such claim, the DEQ shall make the information available to the public on request without further notice. No claim of confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest (EPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A), or an electronic manifest format that may be prepared and used in accordance with 40 CFR 262.20(a)(3). EPA will make any electronic manifest that is prepared and used in accordance with § 262.20(a)(3), or any paper manifest that is submitted to the system under §§264.71(a)(6) or 265.71(a)(6) available to the public under this section when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by EPA to be complete and final documents and publicly available information after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest. A person making a claim of confidentiality shall assert the claim:
- i. At the time the information is submitted to, or otherwise obtained by, the DEQ;
 - ii. By either stamping or clearly marking the words "confidential trade secret" or "confidential information" on each page of the material containing the information. The person may assert the claim only for those portions or pages that actually contain a confidential trade secret or confidential information; and
 - iii. During the course of a DEQ inspection, or other observation, pursuant to the administration of the HWMA Program, by clearly indicating to the inspector which specific processes, operations, styles of work, or apparatus constitute a trade secret. The inspector shall record the claim on the inspection report and the claimant shall sign the report.

- d. The Director shall provide the claimant with an opportunity to submit written comments to demonstrate that the information constitutes a legitimate confidential trade secret or confidential information. The comments shall be limited to confidential use by the DEQ pursuant to A.R.S. § 49-928. Pertinent factors to be considered by the Director for making a determination of confidentiality, and that the claimant may address in the claimant's written comments, include the following:
 - i. Whether the information is proprietary;
 - ii. Whether the information has been disclosed to persons other than the employees, agents, or other representatives of the owner; and
 - iii. Whether public disclosure would harm the competitive position of the claimant.
- e. The Director shall make a determination of each confidentiality claim using the following procedures:
 - i. When a claim of confidentiality is asserted for information submitted as part of a HWM facility permit application:
 - (1) The claimant shall submit written comments demonstrating the legitimacy of the claim of confidentiality; and
 - (2) The Director shall evaluate the confidentiality claim and notify the claimant of the result of that determination as part of the completeness review pursuant to § ~~124.3(e)~~ (as incorporated by R18-8-271(C)).
 - ii. When a claim of confidentiality is asserted for information submitted or obtained during an inspection, or for any other information submitted to or obtained by the DEQ pursuant to this Article, but not as part of a HWM facility permit application:
 - (1) The claimant may submit written comments demonstrating the legitimacy of the claim of a confidential trade secret or other confidential information within 10 working days of asserting the confidentiality claim; and
 - (2) If a request for disclosure is made, the Director shall evaluate the confidentiality claim and notify the claimant of the result of that determination. In all other instances, the Director may, on the Director's own initiative, evaluate the confidentiality claim and notify the claimant of the result of that determination within 20 working days after the time for submission of comments.
 - iii. When any person, hereinafter referred to as the "requestor," submits a request to the DEQ for public disclosure of records or information, the DEQ shall disclose the records or information to the requestor unless the information has been determined to be confidential by the Director, or is subject to a claim of confidentiality that is being considered for determination by the Director.
 - (1) If a confidentiality claim is under consideration by the Director, the requestor shall be notified that the information requested is under a confidentiality claim consideration and therefore is unavailable for public disclosure pending the Director's determination pursuant to subsection (D)(2)(e)(ii)(2).
 - (2) When a request for disclosure is made, the claimant shall be notified, within seven working days by certified mail with return receipt requested, that the information under a claim of confidentiality has been requested and is subject to the Director's determination pursuant to subsection (D)(2)(e)(ii)(2).
 - (3) If the Director disagrees with the confidentiality claim, the claimant shall have 20 working days to submit written comments either agreeing or disagreeing with the Director's evaluation.

- (4) If a confidentiality claim is denied by the Director, the Director may request the attorney general to seek a court order authorizing disclosure pursuant to A.R.S. § 49-928.
- f. Records or information determined by the Director to be legitimate confidential trade secrets or other confidential information shall not be disclosed by the DEQ at administrative proceedings pursuant to A.R.S. §§ 49-923(A) unless the following procedure is observed:
- i. The DEQ shall notify both the claimant and the hearing officer of its intention to disclose the information at least 30 days prior to the hearing date. The DEQ shall send with the notice a copy of the confidential information that the DEQ intends to disclose;
 - ii. The claimant and the DEQ shall be allowed 10 days to present to the hearing officer comments concerning the disclosure of such information;
 - iii. The hearing officer shall determine whether the confidential information is relevant to the subject of the administrative proceeding and shall allow disclosure upon finding that the information is relevant to the subject of the administrative proceeding;
 - iv. The hearing officer may set conditions for disclosure of confidential and relevant information or the making of protective arrangements and commitments as warranted; and
 - v. The hearing officer shall give the claimant at least five days' notice before allowing disclosure of the information in the course of the administrative proceeding.
- E. § 260.10, titled "Definitions," is amended by adding all definitions from § 270.2 (~~as incorporated by R18-8-260 and R18-8-270~~) to this Section, including the following changes, applicable throughout this Article unless specified otherwise:
1. ["Acute Hazardous Waste" means waste found to be fatal to humans in low doses or, in the absence of data on human toxicity, that has been shown in studies to have an oral lethal dose (LD) 50 toxicity (rat) of less than 50 milligrams per kilogram, an inhalation lethal concentration (LC) 50 toxicity (rat) of less than 2 milligrams per liter, or a dermal LD 50 toxicity (rabbit) of less than 200 milligrams per kilogram or that is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness.] and therefore are either listed in § 261.31 with the assigned hazard code of (H) or are listed in § 261.33(e).}
 2. ["Application" means the standard United States Environmental Protection Agency forms for applying for a permit, including any additions, revisions or modifications to the forms. Application also includes the information required pursuant to §§ 270.14 through 270.29 (~~as incorporated by R18-8-270~~; regarding the contents of a Part B HWM facility permit application).]
 - ~~3. ["Biennial report" means "annual report."]~~
 - ~~4.3.~~ ["Chapter" means "Article" except in § 264.52(b), see R18-8-264, and § 265.52(b), see R18-8-265.]
 - ~~5.4.~~ "Closure" means [, for facilities with effective hazardous waste permits, the act of securing a HWM facility pursuant to the requirements of R18-8-264. For facilities subject to interim status requirements, "closure" means the act of securing a HWM facility pursuant to the requirements of R18-8-265.]
 - ~~6.5.~~ ["Concentration" means the amount of a substance in weight contained in a unit volume or weight.]

- 7.6. ["Department" or "the DEQ" means the Arizona Department of Environmental Quality.]
- 8.7. "Department of Transportation" or "DOT" means the U.S. Department of Transportation.
- 9.8. ["Director" or "state Director" means the Director of the Department of Environmental Quality or an authorized representative, except in §§ ~~262.50 through 262.57~~, 262.80 through 262.84, 268.5 through 268.6, 268.42(b), and 268.44 which are non-delegable to the state of Arizona.]
- 10.9. ["Draft permit" means a document prepared under § 124.6 (~~as incorporated by R18-8-271(E)~~) indicating the Director's tentative decision to issue, deny, modify, revoke, reissue, or terminate a permit. A denial of a request for modification, revocation, reissuance or termination, as discussed in § 124.5 (~~as incorporated by R18-8-271(D)~~), is not a draft permit.]
- 11.10. ["Emergency permit" means a permit that is issued in accordance with § 270.61 (~~as incorporated by R18-8-270~~).]
- 12.11. ["EPA," "Environmental Protection Agency," "United States Environmental Protection Agency," "U.S. EPA," "EPA HQ," "EPA Regions," and "Agency" mean the DEQ with the following exceptions:
- a. Any references to EPA identification numbers;
 - b. Any references to EPA hazardous waste numbers;
 - c. Any reference to EPA test methods or documents;
 - d. Any reference to EPA forms;
 - e. Any reference to EPA publications;
 - f. Any reference to EPA manuals;
 - g. Any reference to EPA guidance;
 - h. Any reference to EPA Acknowledgment of Consent;
 - i. References in §§ ~~260.2(b) (as incorporated by R18-8-260(D)(2))~~ 260.2(d); 260.4(a)(4)
260.10 (definitions of "Administrator," "EPA region," "Federal agency," "Person," and "Regional Administrator" (~~as incorporated by R18-8-260(E)~~);
~~260, Appendix I~~ (~~as incorporated by R18-8-260(C)~~);
260.11(a) (~~as incorporated by R18-8-260(C)~~);
261, Appendix IX (~~as incorporated by R18-8-261(A)~~);
261.39(a)(5) (~~as incorporated by R18-8-261(A)~~);
261.41;
~~262.12~~;
262.21 (~~as incorporated by R18-8-262(A)~~);
262.24(a)(3);
262.25;
262.32(b) (~~as incorporated by R18-8-262(A)~~);
~~262.50 through 262.57~~ (~~as incorporated by R18-8-262(A)~~);
~~262.60(e) and (e)~~ (~~as incorporated by R18-8-262(A)~~);
~~262.80 through 262.89~~ (~~as incorporated by R18-8-262(A)~~); Part 262, subpart H
~~262, Appendix~~ (~~as incorporated by R18-8-262(A)~~);
263.10(a) Note (~~as incorporated by R18-8-263(A)~~);
264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), 265.71(d);
268.1(e)(3) (~~as incorporated by R18-8-268~~);

- 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona ~~(as incorporated by R18-8-268);~~
- 270.1(a)(1) ~~(as incorporated by R18-8-270);~~
- 270.1(b) ~~(as incorporated by R18-8-270(B));~~
- 270.2 (definitions of “Administrator,” “Approved program or Approved state,” “Director,” “Environmental Protection Agency,” “EPA,” “Final authorization,” “Permit,” “Person,” “Regional Administrator,” and “State/EPA agreement”) ~~(as incorporated by R18-8-270(A));~~
- 270.3 ~~(as incorporated by R18-8-270(A));~~
- 270.5 ~~(as incorporated by R18-8-270(A));~~
- 270.10(e)(1) through (2) ~~(as incorporated by R18-8-270(A) and R18-8-270(D));~~
- 270.11(a)(3) ~~(as incorporated by R18-8-270(A));~~
- 270.32(a) and (c) ~~(as incorporated by R18-8-270(M) and R18-8-270(O));~~
- 270.51 ~~(as incorporated by R18-8-270(Q));~~
- 270.72(a)(5) and (b)(5) ~~(as incorporated by R18-8-270(A));~~
- 273.32(a)(3);
- 124.1(f) ~~(as incorporated by R18-8-271(B));~~
- 124.5(d) ~~(as incorporated by R18-8-271(D));~~
- 124.6(e) ~~(as incorporated by R18-8-271(E));~~
- 124.10(c)(1)(ii) ~~(as incorporated by R18-8-271(I));~~ and
- 124.13 ~~(as incorporated by R18-8-271(L)).]~~
- ~~13-12.~~ [“Federal Register” means a daily or weekly major local newspaper of general circulation, within the area affected by the facility or activity, except in §§ 260.11(b) ~~(as incorporated by R18-8-260)~~ and 270.10(e)(2) ~~(as incorporated by R18-8-270 (D)).]~~
- ~~14-13.~~ [“HWMA” or “State HWMA” means the State Hazardous Waste Management Act, A.R.S. § 49-921 et seq., as amended.]
- ~~15-14.~~ [“Hazardous Waste Management facility” or “HWM facility” means any facility or activity, including land or appurtenances thereto, that is subject to regulation under this Article.]
- ~~16-15.~~ [“Key employee” means any person employed by an applicant or permittee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the applicant or permittee. Key employee does not include an employee exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste.]
- ~~17-16.~~ [“National” means “state” in §§ 264.1(a) and 265.1(a) ~~(as incorporated by R18-8-264 and R18-8-265).~~]
- ~~18-17.~~ [“Off-site” means any site that is not on-site.]
- ~~19-18.~~ [“Permit” means an authorization, license, or equivalent control document issued by the DEQ to implement the requirements of this Article. Permit includes “permit-by-rule” in § 270.60 ~~(as incorporated by R18-8-270)~~ and “emergency permit” in § 270.61 ~~(as incorporated by R18-8-270)~~, and it does not include interim status as in § 270.70 ~~(as incorporated by R18-8-270)~~ or any permit which has not yet been the subject of final action, such as a “draft permit” or a “proposed permit.”]
- ~~20-19.~~ [“Permit-by-rule” means a provision of this Article stating that a facility or activity is considered to have a HWM facility permit if it meets the requirements of the provision.]

- ~~21-20.~~ [“Physical construction” means excavation, movement of earth, erection of forms or structures, or similar activity to prepare a HWM facility to accept hazardous waste.]
- ~~22-21.~~ [“RCRA,” “Resource Conservation and Recovery Act,” “Subtitle C of RCRA,” “RCRA Subtitle C,” or “Subtitle C” when referring either to an operating permit or to the federal hazardous waste program as a whole, mean the “State Hazardous Waste Management Act, A.R.S. § 49-921 et seq., as amended” with the following exceptions:
- a. Any reference to a specific provision of “RCRA,” “Resource Conservation and Recovery Act,” “Subtitle C of RCRA,” “RCRA Subtitle C,” or “Subtitle C”;
 - b. References in §§ 260.10 (definition of “Act or RCRA”) (~~as incorporated by R18-8-260(E)~~); 260, Appendix I, (~~as incorporated by R18-8-260(C)~~); 261, Appendix IX, (~~as incorporated by R18-8-261(A)~~); 262, Appendix, (~~as incorporated by R18-8-262(A)~~); Part 262, subpart H, 270.1(a)(2) (~~as incorporated by R18-8-270(A)~~); 270.2, definition of “RCRA,” (~~as incorporated by R18-8-270(A)~~); and 270.51, “EPA-issued RCRA permit,” (~~as incorporated by R18-8-270(P)~~).]
- ~~23-22.~~ [Following any references to a specific provision of “RCRA,” “Resource Conservation and Recovery Act,” or “Subtitle C,” the phrase “or any comparable provisions of the state Hazardous Waste Management Act, A.R.S. § 49-921 et seq., as amended” shall be deemed to be added except in §§ 270.72(a)(5) and (b)(5) (~~as incorporated by R18-8-270(A)~~).]
- ~~24-23.~~ [“RCRA § 3005(a) and (e)” means “A.R.S. § 49-922.”]
- ~~25-24.~~ [“RCRA § 3007” means “A.R.S. § 49-922.”]
- ~~25.~~ [“RCRA § 3008” means “A.R.S. §§ 49-921 through 49-926”]
- ~~26.~~ [“RCRA § 3010” means “A.R.S. § 49-922.”]
- ~~26-27.~~ [“Recyclable Materials” mean hazardous wastes that are recycled.]
- ~~27-28.~~ [“Region” or “Region IX” means “state” or “state of Arizona.”]
- ~~28-29.~~ [“Schedule of compliance” means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements, such as actions, operations, or milestone events, leading to compliance with the HWMA and this Article.]
- ~~29-30.~~ [“Site” means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.]
- ~~30-31.~~ [“State,” “authorized state,” “approved state,” or “approved program” means the state of Arizona with the following exceptions:
- References at §§ 260.10, definitions of “person,” “state,” and “United States,” (~~as incorporated by R18-8-260(E)~~); 262 (~~as incorporated by R18-8-262(A)~~);
- 264.143(e)(1) (~~as incorporated by R18-8-264(A)~~);
- 264.145(e)(1) (~~as incorporated by R18-8-264(A)~~);
- 264.147(a)(1)(ii) (~~as incorporated by R18-8-264(A)~~);
- 264.147(b)(1)(ii) (~~as incorporated by R18-8-264(A)~~);
- 264.147(g)(2) (~~as incorporated by R18-8-264(A)~~);
- 264.147(i)(4) (~~as incorporated by R18-8-264(A)~~);
- 265.143(d)(1) (~~as incorporated by R18-8-265(A)~~);
- 265.145(d)(1) (~~as incorporated by R18-8-265(A)~~);
- 265.147(a)(1)(ii) (~~as incorporated by R18-8-265(A)~~);
- 265.147(g)(2) (~~as incorporated by R18-8-265(A)~~);
- 265.147(i)(4) (~~as incorporated by R18-8-265(A)~~); and
- 270.2, definitions of “Approved program or Approved state,” “Director,” “Final authorization,” “Person,” and “state” (~~as incorporated by R18-8-270(A)~~).]

~~3132.~~ [“The effective date of these regulations” means the following dates: “May 19, 1981,” in §§ 265.112(a) and (d), 265.118(a) and (d), 265.142(a) and 265.144(a) (as incorporated by R18-8-265); “November 19, 1981,” in §§ 265.112(d) and 265.118(d) (as incorporated by R18-8-265); and “January 26, 1983,” in § 270.1(c) (as incorporated by R18-8-270).]

~~3233.~~ [“TSD facility” means a “Hazardous Waste Management facility” or “HWM facility.”]

F. § 260.10, titled “Definitions,” as amended by subsection (E) also is amended as follows, with all definitions in § 260.10 (as incorporated by R18-8-260), applicable throughout this Article unless specified otherwise.

1. “Act” or [“the Act” means the state Hazardous Waste Management Act or HWMA, except in R18-8-261(B) and R18-8-262(B).]

2. “Administrator,” “Regional Administrator,” “state Director,” or “Assistant Administrator for Solid Waste and Emergency Response” mean the [Director or the Director’s authorized representative, except in §§:

260.10, in the definitions of “Administrator,” “AES filing compliance date”, “Electronic import-export reporting compliance date”, “Regional Administrator,” and “hazardous waste constituent” (as incorporated by R18-8-260(E));

260.20

260.41;

261.41 (as incorporated by R18-8-261);

261, Appendix IX (as incorporated by R18-8-261(A));

262.11(c);

262.41;

262.42;

262.43;

262, Subpart E

262, Subpart H;

262, Appendix (as incorporated by R18-8-262);

264.12(a) (as incorporated by R18-8-264(A));

264.71;

265.12(a) (as incorporated by R18-8-265(A));

265.71;

268.2(j);

268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (as incorporated by R18-8-268);

270.2, in the definitions of “Administrator”, “Director”, “Major facility”, “Regional Administrator”, and “State/EPA agreement” (as incorporated by R18-8-270(A));

270.3 (as incorporated by R18-8-270(A));

270.5 (as incorporated by R18-8-270(A));

270.10(e)(1), (2), and (4) (as incorporated by R18-8-270(A) and R18-8-270(D));

270.10(f) and (g) (as incorporated by R18-8-270(A) and R18-8-270(E));

270.11(a)(3) (as incorporated by R18-8-270(A));

270.14(b)(20) (as incorporated by R18-8-270(A));

270.32(b)(2) (as incorporated by R18-8-270(N));

270.51 (as incorporated by R18-8-270(A));

124.5(d) (as incorporated by R18-8-271(D));

124.6(e) (as incorporated by R18-8-271(E));

124.10(b) (as incorporated by R18-8-271(I)).

3. “Facility” [or “activity” means:
- a. Any HWM facility or other facility or activity, including] all contiguous land, structures, appurtenances, and improvements on the land [which are] used for treating, storing, or disposing of hazardous waste, [that is subject to regulation under the HWMA program]. A facility may consist of several treatment, storage, or disposal operational units ([that is], one or more landfills, surface impoundments, or combinations of them).
 - b. For the purposes of implementing corrective action under 40 CFR 264.101 (as incorporated by R18-8-264), all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h).
 - c. Notwithstanding paragraph (b) of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101 (as incorporated by R18-8-264), but is subject to corrective action requirements if the site is located within such a facility.

~~4. [“Member of the Performance Track Program” or “Performance Track member facility” means a facility or generator that is a current member of the Arizona Environmental Performance Track Program (as described at <http://www.azdeq.gov/function/programs/azept>). Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.]~~

~~5.4.~~ “New HWM facility” or “new facility” means a HWM facility which began operation, or for which construction commenced, [after November 19, 1980].

~~6.5.~~ “Person” means an individual, trust, firm, joint stock company, federal agency, corporation, including a government corporation, [or a limited liability corporation], partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, [state agency, or an agent or employee of a state agency].

~~7.6.~~ “United States” or “U.S.” means [Arizona except for the following:

a. The definitions of “CRT exporter” and “recognized trader” in § 260.10.

b. § 261.4(d)(4) and (e)(4).

~~a.c.~~ § 261.39(a)(5) (as incorporated by R18-8-261).

~~b.d.~~ References in §§ 262.50, 262.51, 262.53(a), 262.54(c), 262.54(g)(2), 262.54(i), 262.55(a), 262.55(e), 262.56(a)(4), 262.60(a), 262.60(b)(2) and 262.60(d) (as incorporated by R18-8-262). Part 262, subpart H.

~~e.e.~~ All references in Part 263 (as incorporated by R18-8-263), except §§ 263.10(a) and 263.22(c).

~~d.f.~~ § 266.80.]

G. § 260.20(a), titled “General” pertaining to rulemaking petitions, is replaced by the following:

Where the Administrator of EPA has granted a rulemaking petition pursuant to 40 CFR 260.20(a), 260.21, or 260.22, the Director may accept the Administrator’s determination and amend the Arizona rules accordingly, if the Director determines the action to be consistent with the policies and purposes of the HWMA.

H. § 260.20(e) and (e) are amended by replacing “*Federal Register*” with “*Arizona Administrative Register*.”

I.H. No change

J.I. § 260.30, titled “Non-waste determinations and Variances from classification as a solid waste,” is replaced by the following: Any person wishing to submit a variance petition shall submit the petition, under this subsection, to the EPA. Where the administrator of EPA has granted a variance from classification as a solid waste under 40 CFR 260.30, 260.31, and 260.33, the director shall accept the determination, if the director determines the action is consistent with the policies and purposes of the HWMA.

K.J. No change

L.K. 40 CFR 260.41, titled “Procedures for case-by-case regulation of hazardous waste recycling activities,” is amended by deleting the following from the end of ~~the sixth, seventh and eighth sentences of~~ paragraph (a):

“~~Or~~ or unless review by the Administrator is requested. The order may be appealed to the ~~administrator~~ Administrator by any person who participated in the public hearing. The Administrator may choose to grant or to deny the appeal.”

M.L. As required by A.R.S. § 49-929, generators and transporters of hazardous waste shall register annually with DEQ and submit the appropriate registration fee, prescribed below, with their registration. After the effective date of this rule, all registrations shall be done through DEQ’s myDEQ portal. For registration, go to <http://www.azdeq.gov/mydeq>.

1. A hazardous waste transporter that picks up or delivers hazardous waste in Arizona shall pay \$200 by March 1 of the year following the date of the pick-up or delivery;
2. A large-quantity generator that generated 1,000 kilograms or more of hazardous waste in any month of the previous calendar year shall pay \$300; or
3. A small-quantity generator that generated 100 kilograms or more but less than 1,000 kilograms of hazardous waste in any month of the previous year shall pay \$100.

N.M. A person shall pay hazardous waste generation and disposal fees as required under A.R.S. § 49-931. The DEQ shall send an invoice to large-quantity generators quarterly and small-quantity generators, including very small quantity generators who become a small quantity generator due to an episodic event, annually. The person shall pay an invoice within 30 days of the postmark on the invoice. The following hazardous waste fees shall apply:

1. A person who generates hazardous waste that is shipped offsite shall pay \$67.50 per ton but not more than \$200,000 per generator site per year of hazardous waste generated;
2. An owner or operator of a facility that disposes of hazardous waste shall pay \$270 per ton but not more than \$5,000,000 per disposal site per year of hazardous waste disposed; and
3. A person who generates hazardous waste that is retained onsite for disposal or that is shipped offsite for disposal to a facility that is owned and operated by that generator shall pay \$27 per ton but not more than \$160,000 per generator site per year of hazardous waste disposed.

R18-8-261. Identification and Listing of Hazardous Waste

A. All of 40 CFR 261 and accompanying appendices, revised as of ~~January 31, 2014~~ July 1, 2018 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:

1. The revisions for standardized permits as published at 70 FR 53419; and
2. The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664; ~~3. The revisions for the gasification rule as published at 73 FR 57; 4. 40 CFR 261.4(a)(16) and 261.38.~~ Copies of 40 CFR 261 are available at

www.gpoaccess.gov/cfr/index.html <https://www.eCFR.gov>. Copies of the Federal Register (FR) are available at <https://www.federalregister.gov/>.

- B.** In the above-adopted federal regulations “Section 1004(5) of RCRA” or “Section 1004(5) of the Act” means A.R.S. § 49-921(5).
- C.** § 261.4, titled “Exclusions,” paragraph (b)(6)(i), is amended as follows:
- (i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in ~~Subpart~~ subpart D ~~{(as incorporated by R18-8-261)}~~ due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if [documentation is provided to the Director] by a waste generator or by waste generators that:
 - (A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
 - (B) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - (C) The waste is typically and frequently managed in non-oxidizing environments.
- D.** § 261.4, titled “Exclusions,” is amended by deleting the phrase “in the Region where the sample is collected” in paragraph (e)(3)iii.
- E.** ~~§ 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (b) is amended as follows:-~~
- ~~(b) Except for those wastes identified in paragraphs (e), (f), (g), and (j) of [§ 261.5 (as incorporated by R18-8-261)], a conditionally exempt small quantity generator’s hazardous wastes are not subject to regulation under [R18-8-262 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271 of this Article], and the notification requirements of Section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f), (g), and (j) of [§ 261.5 (as incorporated by R18-8-261)]. [However, the Director may require reports of any conditionally exempt small quantity generator or group of conditionally exempt small quantity generators regarding the treatment, storage, transportation, disposal, or management of hazardous waste if the hazardous waste of such generator or generators poses a substantial present or potential hazard to human health or the environment, when it is improperly treated, stored, transported, disposed, or otherwise managed.]~~
- F.** ~~§ 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (f)(3) is amended as follows:~~
- ~~(3) A conditionally exempt small quantity generator may either treat or dispose of [the] acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:
 - (i) Permitted under part 270 of this chapter [(as incorporated by R18-8-270)];
 - (ii) In interim status under parts 270 and 265 of this chapter [(as incorporated by R18-8-270 and R18-8-265)];
 - (iii) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under part 271 of this chapter;
 - (iv) Permitted, licensed, or registered by a state to manage municipal [or industrial solid waste and approved by the owner or operator of the solid waste facility to accept acute hazardous waste from conditionally exempt small quantity generators that have not been excluded from disposing of their waste at such a facility under applicable provisions of~~

~~the Solid Waste Management Act, A.R.S. §§ 49-701 through 49-791 and] is subject to Part 258 of this chapter;~~

~~(v) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or~~

~~(vi) A facility which:~~

~~(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or~~

~~(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or~~

~~(vii) For universal waste managed under part 273 of this chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.~~

G. § 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (g) is amended as follows:

~~(g) In order for hazardous waste [, other than acute hazardous waste,] generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this [subsection], the generator [shall] comply with the following requirements:~~

~~(1) § 262.11 of this chapter [(as incorporated by R18-8-262)];~~

~~(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If [such generator] accumulates at any time 1,000 kilograms or greater of [its] hazardous wastes, all of those accumulated [hazardous] wastes are subject to regulation under the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 266, 268, 270 and 271 of this chapter [(as incorporated by R18-8-262, R18-8-263 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(d) [(as incorporated by R18-8-262)] for accumulation of wastes on site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;~~

~~(3) A conditionally exempt small quantity generator may either treat or dispose of [its] hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:~~

~~(i) Permitted under part 270 of this chapter [(as incorporated by R18-8-270)];~~

~~(ii) In interim status under parts 270 and 265 of this chapter [(as incorporated by R18-8-270 and R18-8-265)];~~

~~(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;~~

~~(iv) Permitted, licensed, or registered by a State to manage municipal [or industrial solid waste and approved by the owner or operator of the solid waste facility to accept hazardous waste from conditionally exempt small quantity generators who have not been excluded from disposing of their waste at such a facility pursuant to applicable provisions of the Solid Waste Management Act, A.R.S. §§ 49-701 through 49-791 and] is subject to Part 258 of this chapter;~~

~~(v) Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after~~

January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or

(vi) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(vii) For universal waste managed under part 273 of this chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

H. § 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (j) is amended as follows:

(j) If a conditionally exempt small quantity generator’s wastes are mixed with used oil, the mixture is subject to 40 CFR 279 [(as incorporated by A.R.S. § 49-802 into Arizona law)]. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

I.E. § 261.6, titled “Requirements for recyclable materials,” paragraphs (a)(1) through (a)(3) are amended as follows:

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled [shall] be known as “recyclable materials.”

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under [40 CFR 266, subparts C through N (as incorporated by R18-8-266)] and all applicable provisions in parts 268, 270 and 124 of this chapter [(as incorporated by R18-8-268, R18-8-270 and R18-8-271)]:

(i) Recyclable materials used in a manner constituting disposal (40 CFR part 266, subpart C);

(ii) Hazardous wastes burned (as defined in section 266.100(a)) in boilers and industrial furnaces that are not regulated under [40 CFR 264 or 265, subpart O (as incorporated by R18-8-264 and R18-8-265)] (40 CFR part 266, subpart H);

(iii) Recyclable materials from which precious metals are reclaimed (40 CFR part 266, subpart F);

(iv) Spent lead acid batteries that are being reclaimed (40 CFR part 266, subpart G).

(3) The following recyclable materials are not subject to regulation under [40 CFR 262 through 266, 268, 270, or 124 (as incorporated by R18-8-262 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and are not subject to the notification requirements of section 3010 of RCRA:

(i) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in § 262.58: exports and imports of such recyclable materials [shall] comply with the requirements of 40 CFR part 262, subpart H.

(A) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, [shall] comply with the requirements applicable to a primary exporter in §§ 262.53, 262.56(a)(1)-(4), (6), and (b), and 262.57 40 CFR part 262, subpart H, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart

~~E of part 262 § 262.81~~, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

- (B) Transporters transporting a shipment for export may not accept a shipment if [the transporter] knows the shipment does not conform to the EPA Acknowledgment of Consent, [shall] ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and [shall] ensure that [the EPA Acknowledgment of Consent] is delivered to the [subsequent transporter or] facility designated by the person initiating the shipment.
- (ii) Scrap metal that is not excluded under § 261.4(a)(13);
- (iii) Fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under § 261.4(a)(12) ~~(as incorporated by R18-8-261)~~);
- (iv)(A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under [A.R.S. § 49-801] and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
- (B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining[,] production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under [A.R.S. § 49-801]; and
- (C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under [A.R.S. § 49-801].

~~J. § 261.6, titled “Requirements for recyclable materials,” paragraph (c) is amended by adding the following:~~

~~{(3) Each facility that recycles hazardous waste received from off-site and that is not otherwise required to submit an annual report under R18-8-262 through R18-8-265 shall submit Form IC, “Identification and Certification,” of the Facility Annual Hazardous Waste Report to the Director by March 1 for the preceding calendar year. The annual report shall be mailed to: ADEQ, Hazardous Waste Facilities Assistance Unit, 1110 W. Washington St., Phoenix, AZ 85007. The annual report shall be submitted on a form provided by the DEQ according to the instructions for the form.}~~

~~K.F. § 261.11, titled “Criteria for listing hazardous waste,” paragraph (a) is amended as follows:~~

- (a) The [Director] shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:
 - (1) It exhibits any of the characteristics of hazardous waste identified in subpart C ~~{(as incorporated by R18-8-261)}~~.
 - (2) It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than 50 milligrams per kilogram, an inhalation LC 50 toxicity (rat) of less than 2 milligrams per liter, or a dermal LD 50 toxicity (rabbit) of less than 200 milligrams per kilogram or is

otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness. (Waste listed in accordance with these criteria shall be designated Acute Hazardous Waste.)

- (3) It contains any of the toxic constituents listed in Appendix VIII ~~[(as incorporated by R18-8-261)]~~ and, after considering the following factors, the [Director] concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed:
- (i) The nature of the toxicity presented by the constituent.
 - (ii) The concentration of the constituent in the waste.
 - (iii) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in (a)(3)(vii) of this [subsection].
 - (iv) The persistence of the constituent or any toxic degradation product of the constituent.
 - (v) The potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation.
 - (vi) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.
 - (vii) The plausible types of improper management to which the waste could be subjected.
 - (viii) The quantities of the waste generated at individual generation sites or on a regional or national basis.
 - (ix) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.
 - (x) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.
 - (xi) Such other factors as may be appropriate.

R18-8-262. Standards Applicable to Generators of Hazardous Waste

- A.** All of 40 CFR 262 ~~and the accompanying appendix~~, revised as of July 1, ~~2013~~ 2018, (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 262 are available at ~~www.gpoaccess.gov/cfr/index.html~~ https://www.eCFR.gov.
- B.** In 40 CFR 262 ~~(as incorporated by R18-8-262(A))~~:
- 1. [“Section 3008 of ~~the Act~~ RCRA” means both section 3008 of RCRA and A.R.S. §§ 49-923, 49-924 and 49-925.]
 - 2. [“Section 2002(a) of the Act” means A.R.S. § 49-922.]
 - 3. [“Section 3002(6) of the Act” means A.R.S. § 49-922.]
- C.** No change
- D.** § 262.11, titled “Hazardous waste determination and recordkeeping,” ~~paragraph (e)(1) is paragraphs (d)(1) and (d)(2) are~~ amended by deleting the following:
~~(1) “, or according to an equivalent test method approved by the Administrator under 40 CFR 260.21.”~~
- E.** § 262.13, titled “Generator category determinations”, paragraph (f)(1)(iii) is amended as follows:

(iii) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR 279 [(as incorporated by A.R.S. § 49-802)]. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

F. § 262.16, titled "Conditions for exemption for a small quantity generator that accumulates hazardous waste", paragraph (b)(9)(iv)(C) is amended as follows:

(C) In the event of a fire, explosion, or other release that could threaten human health outside the facility or when the small quantity generator has knowledge that a spill has reached surface water [or when a spill has discharged into a storm sewer or dry well, or such an event has resulted in any other discharge that may reach groundwater], the small quantity generator immediately [shall] notify the National Response Center (using their 24-hour toll-free number 800/424-8802) [and the DEQ (using their 24-hour number (602) 771-2330 or 800/234-5677)]. The report [shall contain] the following information:

- (1) The name, address, and [the EPA Identification Number] of the generator;
- (2) Date, time, [location,] and type of incident (for example, spill or fire);
- (3) Quantity and type of hazardous waste involved in the incident;
- (4) Extent of injuries, if any; and
- (5) Estimated quantity and disposition of recovered materials, if any.

G. Any generator who must comply with 40 CFR 262.16 shall keep a written log of the inspections of container, tank, drip pad, and containment building areas and for the containers, tanks, and other equipment located in these storage areas in accordance with 40 CFR 265.174, 265.195, 265.444, and 265.1101(c)(4). The inspection log shall be kept by the generator for three years from the date of the inspection. The generator shall ensure that the inspection log is filled in after each inspection and includes the following information: inspection date, inspector's name and signature, and remarks or corrections.

H. § 262.17, titled "Conditions for exemption for a large quantity generator that accumulates hazardous waste", paragraph (f)(1) is amended as follows:

(1) The large quantity generator notifies [DEQ] at least thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA Form 8700-12; and

E.I. § ~~262.42~~ 262.18, titled "EPA identification numbers and re-notification for small quantity generators and large quantity generators," paragraphs (a), (b) and ~~(b)~~(d) are amended as follows:

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the [DEQ].

(b) A generator who has not received an EPA identification number may obtain one by applying to the [DEQ] using EPA form 8700-12. [The completed form shall be ~~mailed or delivered to: ADEQ, Hazardous Waste Facilities Assistance Unit, 1110 W. Washington St., Phoenix, AZ 85007~~ submitted to DEQ through the myDEQ online portal.] Upon receiving the request, the [DEQ] will assign an EPA identification number to the generator.

(d) Re-notification. (1) A small quantity generator must re-notify [DEQ] starting in 2021 and every four years thereafter using EPA Form 8700-12. This re-notification must be submitted through the myDEQ online portal by September 1 of each year in which re-notifications are required.

(2) A large quantity generator must re-notify [DEQ] by March 1 of each even numbered year thereafter using EPA Form 8700-12. A large quantity generator may submit this re-notification as part of its ~~Biennial~~ Report required under § 262.41.

F. § 262.23, titled "Use of the manifest," paragraph (a) is amended by adding the following:

{(4) Submit one (1) copy of each manifest to the DEQ in accordance with R18-8-262(I).}

G. § 262.34, titled “Accumulation time,” paragraph (d)(5)(iv)(C) is amended as follows:

~~(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water [or when a spill has discharged into a storm sewer or dry well, or such an event has resulted in any other discharge that may reach groundwater], the small quantity generator immediately [shall] notify the National Response Center (using their 24-hour toll-free number 800/424-8802) [and the DEQ (using their 24-hour number (602) 771-2330 or 800/234-5677)]. The report [shall contain] the following information:~~

- ~~(1) The name, address, and [the EPA Identification Number] of the generator;~~
- ~~(2) Date, time, [location,] and type of incident (for example, spill or fire);~~
- ~~(3) Quantity and type of hazardous waste involved in the incident;~~
- ~~(4) Extent of injuries, if any; and~~
- ~~(5) Estimated quantity and disposition of recovered materials, if any.~~

H. § 262.41, titled “Biennial report, is amended as follows:

~~(a) A generator [shall] prepare and submit a single copy of [an annual] report to the [Director] by March 1 [for the preceding calendar] year. The [annual] report [shall] be submitted on [a form provided by the DEQ according to the instructions for the form, shall describe] generator activities during the previous [calendar] year, and shall include the following information:~~

- ~~(1) The EPA identification number, name, [location,] and [mailing] address of the generator.~~
- ~~(2) The calendar year covered by the report.~~
- ~~(3) The EPA identification number, name, and [mailing] address for each off-site [TSD] facility to which waste was shipped during the [reporting] year [, including the name and address of all applicable foreign facilities for exported shipments.]~~
- ~~(4) The name, [mailing address], and the EPA identification number of each transporter used [by the generator] during the reporting year.~~
- ~~(5) A [waste] description, EPA hazardous waste number (from 40 CFR 261, subpart C or D) [(as incorporated by R18-8-261), U.S. Department of Transportation] hazard class, [concentration, physical state,] and quantity of each hazardous waste [:
 - ~~i. Generated];~~
 - ~~ii. Shipped off-site. This information must be listed by EPA identification number of each off-site facility to which waste was shipped; and~~
 - ~~iii. Accumulated at the end of the year].~~~~
- ~~(6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.~~
- ~~(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.~~
- ~~(8) The certification signed by the generator or [the generator’s] authorized representative [, and the date the report was prepared].~~
- ~~(9) [A waste description, EPA hazardous waste number, concentration, physical state, quantity, and handling method of each hazardous waste handled on-site in elementary neutralization or wastewater treatment units.]~~
- ~~(10) [Name and telephone number of facility contact responsible for information contained in the report.]~~

- (b) ~~Any generator who treats, stores, or disposes of hazardous waste on-site, [and is subject to the HWM facility requirements of R18-8-264, R18-8-265, or R18-8-270,] shall submit [an annual] report covering those wastes in accordance with the provisions of 40 CFR 264.75 [(as incorporated by R18-8-264(I)), and § 265.75 [(as incorporated by R18-8-265(I)).]~~
- ~~I. Manifests required in 40 CFR 262, subpart B, titled “The Manifest” (as incorporated by R18-8-262) shall be submitted to the DEQ in the following manner:~~
- ~~1. A generator initiating a shipment of hazardous waste required to be manifested shall submit to the DEQ, no later than 45 days following the end of the month of shipment, one copy of each manifest with the signature of that generator and transporter, and the signature of the owner or operator of the designated facility, for any shipment of hazardous waste transported or delivered within that month. If a conforming manifest is not available, the generator shall submit an Exception Report in compliance with § 262.42 (as incorporated by R18-8-262).~~
 - ~~2. A generator shall designate on the manifest in item 13 “Waste Codes,” the EPA hazardous waste number or numbers for each hazardous waste listed on the manifest.~~
 - ~~3. A member of the Performance Track Program, as defined in R18-8-260(F), that initiates a shipment of hazardous waste required to be manifested shall submit the manifest to DEQ as specified in subsections (1) and (2), except a manifest may be submitted to DEQ within 45 days following the end of the calendar quarter of shipment rather than within 45 days following the end of the month of shipment.~~
- ~~J. § 262.42, titled “Exception reporting,” is amended by replacing “The Exception Report must include:” in paragraph (a)(2) with the following: “The Exception Report shall be submitted to DEQ within 45 days following the end of the month of shipment of the waste and shall include:”~~
- ~~K. § 262.42, titled “Exception reporting,” paragraph (b) is amended by adding the following sentence to the end of the paragraph: “This submission to DEQ shall be made within 60 days following the end of the month of shipment of the waste.”~~
- ~~L. A generator who accumulates ignitable, reactive, or incompatible waste shall comply with 40 CFR 265.17(a) (as incorporated by R18-8-265(A)).~~
- ~~M. Any generator who must comply with 40 CFR 262.34(a)(1) (as incorporated by R18-8-262) shall keep a written log of the inspections of container, tank, drip pad, and containment building areas and for the containers, tanks, and other equipment located in these storage areas in accordance with 40 CFR 265.174, 265.195, 265.444, and 265.1101(c)(4) (as incorporated by R18-8-265). The inspection log shall be kept by the generator for three years from the date of the inspection. The generator shall ensure that the inspection log is filled in after each inspection and includes the following information: inspection date, inspector’s name and signature, and remarks or corrections.~~
- ~~J. § 262.265, titled “Emergency procedures”, paragraph (d)(2) is amended as follows:~~
- ~~(2) The emergency coordinator [shall] immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424-8802) [and the DEQ (using their 24-hour number (602) 771-2330 or 800/234-5677)]. The report [shall contain the following information:]~~
 - ~~(i) The name, address, and [the EPA Identification Number] of the generator;~~
 - ~~(ii) Date, time, [location,] and type of incident (for example, spill or fire);~~
 - ~~(iii) Quantity and type of hazardous waste involved in the incident;~~
 - ~~(iv) Extent of injuries, if any; and~~

(v) Estimated quantity and disposition of recovered materials, if any.]

K. A generator who accumulates ignitable, reactive, or incompatible waste shall comply with 40 CFR 265.17.

R18-8-263. Standards Applicable to Transporters of Hazardous Waste

A. All of 40 CFR 263, revised as of July 1, ~~2013~~ 2018, (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 263 are available at ~~www.gpoaccess.gov/cfr/index.html~~ https://www.eCFR.gov.

B. § 263.11, titled “EPA identification numbers,” is amended by the following:

(a) A transporter must not transport hazardous wastes without having received an EPA identification number from the [DEQ].

(b) A transporter who has not received an EPA identification number may obtain one by applying to the [DEQ] using EPA form 8700-12. [The completed form shall be ~~mailed or delivered to: DEQ, Waste Programs Division, GIS and IT Unit, 1110 W. Washington St., Phoenix, AZ 85007~~ submitted to DEQ through the myDEQ online portal.] Upon receiving the request, the [DEQ] will assign an EPA identification number to the transporter.

~~**C.** § 263.20, titled “The manifest system,” is amended by adding the following:~~

~~— [A transporter of hazardous waste, with the exception of hazardous waste shipments that originate outside of Arizona, must submit one copy of each manifest to the DEQ, in accordance with R18-8-263(D).]~~

~~**D.** Manifests required in 40 CFR 263, subpart B, titled “Compliance With the Manifest System and Recordkeeping,” (as incorporated by R18-8-263) shall be submitted to the DEQ in the following manner:~~

~~— [A transporter of hazardous waste, unless such hazardous waste shipment originated outside of the state of Arizona, shall submit to the DEQ, no later than 30 days following the end of the month of shipment, copy of each manifest, including the signature of that transporter, for any shipment of hazardous waste transported or delivered within that month.]~~

~~**E.C.** § 263.30, titled “Immediate action,” paragraph (c)(2) is amended by the following:~~

~~(2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590 [and send a copy to the DEQ, Hazardous Waste ~~Inspections and Compliance~~ Unit, 1110 W. Washington St., Phoenix, AZ 85007.]~~

R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

A. All of 40 CFR 264 and accompanying appendices, revised as of July 1, ~~2013~~ 2018, (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(l), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 264 are available at ~~www.gpoaccess.gov/cfr/index.html~~ https://www.eCFR.gov.

B. § 264.1, titled “Purpose, scope and applicability,” paragraph (g)(1) is amended as follows:

(1) The owner or operator of a facility [with operational approval from the Director] to manage [public, private,] municipal or industrial solid waste [pursuant to ~~R18-8-512~~ R18-13-312, A.R.S. §§ 49-104 and 49-762], if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under [R18-8-264] pursuant to § ~~264.5~~ 262.14 ~~[(as incorporated by R18-8-261)];~~

C. No change

D. § 264.11, titled “Identification number,” is replaced by the following:

1. A facility owner or operator shall not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the DEQ.
2. A facility owner or operator who has not received an EPA identification number may obtain one by applying to the DEQ using EPA form 8700-12. The completed form shall be mailed or delivered to: ~~ADEQ, Hazardous Waste Facilities Assistance Unit, 1110 W. Washington St., Phoenix, AZ 85007~~ submitted to DEQ through the myDEQ online portal. Upon receiving the request, the DEQ will assign an EPA identification number to the facility owner or operator.

E. § 264.15 titled “General inspection requirements,” paragraph (b)(5)(i) is amended by replacing “National Environmental Performance Track Program” with “Performance Track Program.”

~~F.~~E. No change

~~G.~~F. No change

H. § 264.71, titled “Use of manifest system,” paragraph (a)(2)(iv) is amended as follows:

—~~Within 30 days of delivery, send a copy of the manifest to the generator [and submit one copy of each manifest to DEQ, according to R18-8-264(J);] and~~

I. § 264.75, titled “Biennial report,” is amended as follows:

~~The owner or operator [of a facility that treated, stored, or disposed of hazardous waste shall] prepare and submit a single copy of [an annual report to the Director] by March 1 [for the preceding calendar] year. The [annual] report must be submitted on [a form provided by DEQ according to the instructions for the form.] The report [shall describe treatment, disposal, or storage] activities during the previous calendar year and [shall] include [the following information]:~~

~~(a) Name, [mailing] address, [location] and the EPA identification number of the facility;~~

~~(b) The calendar year covered by the report;~~

~~(c) [For facilities receiving waste from off site,] the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; and, for imported shipments, the report must give the name and address of the foreign generator;~~

~~(d) A [waste] description, [EPA hazardous waste number, concentration, physical state], and quantity of each hazardous waste the facility received during the year. For [waste received from off site], this information must be listed by the EPA identification number of each generator;~~

~~(e) The method of treatment, storage, or disposal for each hazardous waste;~~

~~(f) Reserved;~~

~~(g) The most recent closure cost estimate under § 264.142, [(as incorporated by R18-8-264)], and for disposal facilities, the most recent post closure cost estimate under § 264.144, [(as incorporated by R18-8-264)];~~

~~(h) For generators who treat, store, or dispose of hazardous waste on site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.~~

~~(i) For generators who treat, store, or dispose of hazardous waste on site, a description of the changes in volume and toxicity of waste actually achieved during the year in com-~~

parison to previous years to the extent such information is available for the years prior to 1984.

- (j) ~~The certification signed by the owner or operator of the facility, or authorized representative, [and the date the report was prepared];~~
- (k) ~~[Name and telephone number of facility contact responsible for information contained in the report; and]~~
- (l) ~~[If the TSD facility is also a generator, the complete generator annual report as required by § 262.41 (as incorporated by R18-8-262).]~~

~~**J.** Manifests required in 40 CFR 264, Subpart E, titled “Manifest System, Recordkeeping, and Reporting,” (as incorporated by R18-8-264) shall be submitted to the DEQ in the following manner:~~

- ~~1. The TSD facility receiving off-site shipments of hazardous wastes required to be manifested shall submit to the DEQ, no later than 30 days following the end of the month of shipment, one copy of each manifest with the signature, in accordance with § 264.71(a)(1) (as incorporated by R18-8-264), of the owner or operator of the facility, or agent, for any shipment of hazardous waste received within that month.~~
- ~~2. If a facility receiving hazardous waste from off-site is also a generator, the owner or operator shall also submit generator manifests as required by R18-8-262(I).]~~

~~**K.G.** § 264.93, titled “Hazardous constituents,” paragraph (c) is amended as follows:~~

- ~~(c) In making any determination under [§ 264.93(b) (as incorporated by R18-8-264)] about the use of ground water in the area around the facility, the [Director shall] consider any identification of underground sources of drinking water and exempted aquifers made under [40 CFR] § 144.7, [and any identification of uses of ground water made pursuant to 18 A.A.C. 9 or 11].~~

~~**L.H.** § 264.94, titled “Concentration limits,” paragraph (c) is amended as follows:~~

- ~~(c) In making any determination under [§ 264.94(b) (as incorporated by R18-8-264)] about the use of ground water in the area around the facility, the [Director shall] consider any identification of underground sources of drinking water and exempted aquifers made under [40 CFR] 144.7, [and any identification of uses of ground water made pursuant to 18 A.A.C. 9 or 11].~~

~~**M.I.** No change~~

~~**N.J.** No change~~

~~**O.K.** No change~~

~~**P.L.** § 264.301, titled “Design and operating requirements,” is amended by adding the following: [The DEQ may require that hazardous waste disposed in a landfill operation; be treated prior to landfilling to reduce the water content, water solubility, and toxicity of the waste. The decision by the DEQ shall be based upon the following criteria:~~

- ~~1. Whether the action is necessary to protect public health;~~
- ~~2. Whether the action is necessary to protect the groundwater, particularly where the groundwater is a source, or potential source, of a drinking water supply;~~
- ~~3. The type of hazardous waste involved and whether the waste may be made less hazardous through treatment;~~
- ~~4. The degree of water content, water solubility, and toxicity of the waste;~~
- ~~5. The existence or likelihood of other wastes in the landfill and the compatibility or incompatibility of the wastes with the wastes being considered for treatment;~~

6. Consistency with other laws, rules and regulations, but not necessarily limited to laws, rules, and regulations relating to landfills and solid wastes.]

R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

A. All of 40 CFR 265 and accompanying appendices, revised as of July 1, 2013 2018, (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 265 are available at www.gpoaccess.gov/cfr/index.html <https://www.eCFR.gov>.

B. § 265.1, titled “Purpose, scope, and applicability,” paragraph (c)(5) is amended as follows:

- (5) The owner or operator of a facility [with operational approval from the Director] to manage [public, private,] municipal or industrial solid waste [pursuant to ~~R18-8-512~~ R18-13-312, A.R.S. §§ 49-104 and 49-762], if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under [R18-8-265, pursuant to § 261.5 ~~(as incorporated by R18-8-261)~~];

C. No change

D. § 265.11, titled “Identification number,” is replaced by the following:

1. A facility owner or operator shall not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the DEQ.
2. A facility owner or operator who has not received an EPA identification number may obtain one by applying to the DEQ using EPA form 8700-12. The completed form shall be ~~mailed or delivered to: ADEQ, Hazardous Waste Facilities Assistance Unit, 1110 W. Washington St., Phoenix, AZ 85007~~ submitted to DEQ through the myDEQ online portal. Upon receiving the request, the DEQ shall assign an EPA identification number to the facility owner or operator.]

~~**E.** § 265.15 titled “General inspection requirements,” paragraph (b)(5)(i) is amended by replacing “National Environmental Performance Track Program” with “Performance Track Program.”~~

~~**F.**~~ **E.** No change

~~**G.**~~ **F.** No change

~~**H.** § 265.71, titled “Use of manifest system,” paragraph (a)(2)(iv) is amended as follows:~~

- ~~— Within 30 days of delivery, send a copy of the manifest to the generator [and submit one copy of each manifest to DEQ, according to R18-8-265(J);] and~~

~~**I.** § 265.75, titled “Biennial report,” is amended as follows:~~

~~The owner or operator [of a facility that treated, stored, or disposed of hazardous waste] shall prepare and submit a copy of [an annual] report to the [Director] by March 1 [for the preceding calendar] year. The [annual] report must be submitted on [a form provided by DEQ according to the instructions for the form]. The report [shall describe] facility activities during the previous calendar year and must include the following information:~~

~~(a) Name, [mailing] address, [location], and EPA identification number of the facility;~~

~~(b) The calendar year covered by the report;~~

~~(c) For [facilities receiving waste from off site], the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; [and] for imported shipments, the report must give the name and address of the foreign generator;~~

- (d) ~~A [waste] description, [EPA hazardous waste number, concentration, physical state], and quantity of each hazardous waste the facility received [according to the quantity treated, stored or disposed] during the year. For [waste received from off site], this information must be listed by EPA identification number of each generator;~~
- (e) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
- (f) ~~Monitoring data under § 265.94(a)(2)(ii) and (iii), and (b)(2) [(as incorporated by R18-8-265)], where required;~~
- (g) ~~The most recent closure cost estimate under § 265.142 [(as incorporated by R18-8-265)], and, for disposal facilities, the most recent post closure cost estimate under § 265.144 [(as incorporated by R18-8-265.);]~~
- (h) ~~For generators who treat, store, or dispose of hazardous waste on site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;~~
- (i) ~~For generators who treat, store, or dispose of hazardous waste on site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984;~~
- (j) ~~The certification signed by the owner or operator of the facility, or authorized representative, [and the date the report was prepared; and~~
- (k) ~~Name and telephone number of facility contact responsible for information contained in the report.]~~

J. ~~Manifests required in 40 CFR 265, subpart E, titled “Manifest System, Recordkeeping, and Reporting,” (as incorporated by R18-8-265) shall be submitted to the DEQ in the following manner:~~

~~—The TSD facility receiving off-site shipments of hazardous wastes required to be manifested shall submit to the DEQ, no later than 30 days following the end of the month of shipment, a copy of each manifest with the signature, in accordance with § 265.71(a)(1) (as incorporated by R18-8-265), of the owner or operator of the facility, or agent, for any shipment of hazardous waste received within that month.~~

K.G. § 265.90, titled “Applicability,” paragraphs (a) and (d)(1), and § 265.93, titled “Preparation, evaluation, and response,” paragraph (a) (as incorporated by R18-8-265), are amended by deleting the following phrase: “within one year”; and § 265.90, titled “Applicability,” paragraph (d)(2) (as incorporated by R18-8-265), is amended by deleting the following phrase: “Not later than one year.”

L.H. No change

M.I. No change

N.J. § 265.193, titled “Containment and detection of releases” (as incorporated by R18-8-265), is amended by adding the following:

[For existing underground tanks and associated piping systems not yet retrofitted in accordance with § 265.193, the owner or operator shall ensure that:

1. A level is measured daily;
2. A material balance is calculated and recorded daily; and
3. A yearly test for leaks in the tank and piping system, using a method approved by the DEQ is performed.]

R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Haz-

ardous Waste Management Facilities

- A.** All of 40 CFR 266 and accompanying appendices, revised as of July 1, ~~2013~~ 2018 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 266 are available at ~~www.gpoaccess.gov/cfr/index.html~~ <https://www.eCFR.gov>.
- B.** § 266.100, titled “Applicability” paragraph (c) is amended as follows:
- (c) The following hazardous wastes and facilities are not subject to regulation under this subpart:
- (1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 ~~{(as incorporated by R18-8-261)}~~ of this chapter. Such used oil is subject to regulation under [A.R.S. §§ 49-801 through 49-818] rather than this subpart;
 - (2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
 - (3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii) and (iv) ~~{(as incorporated by R18-8-261)}~~ of this chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under § 261.5 ~~{(as incorporated by R18-8-261)}~~ of this chapter; and
 - (4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

R18-8-268. Land Disposal Restrictions

All of 40 CFR 268 and accompanying appendices, revised as of July 1, ~~2013~~ 2018 (and no future editions), with the exception of Part 268, Subpart B, is incorporated by reference and on file with the DEQ. Copies of 40 CFR 268 are available at ~~www.gpoaccess.gov/cfr/index.html~~ <https://www.eCFR.gov>.

R18-8-270. Hazardous Waste Permit Program

- A.** All of 40 CFR 270 and the accompanying appendices, revised as of July 1, ~~2013~~ 2018 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
1. §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64;
 2. The revisions for standardized permits as published at 70 FR 53419;
 3. The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664. Copies of 40 CFR 270 are available at ~~www.gpoaccess.gov/cfr/index.html~~ <https://www.eCFR.gov>. Copies of the Federal Register are available at <https://www.federalregister.gov>.
- B.** § 270.1, titled “Purpose and scope of these regulations,” paragraph (b) is replaced by the following:
1. [After the effective date of these regulations the treatment, storage, or disposal of any hazardous waste is prohibited except as follows:
 - a. As allowed under § 270.1(c)(2) and (3) ~~(as incorporated by R18-8-270)~~;
 - b. Under the conditions of a permit issued pursuant to these regulations; or
 - c. At an existing facility accorded interim status under the provisions of § 270.70 ~~(as incorporated by R18-8-270)~~.

2. The direct disposal or discharge of hazardous waste into or onto any of the following is prohibited:
 - a. Waters of the state as defined in A.R.S. § 49-201, excluding surface impoundments as defined in § 260.10 ~~(as incorporated by R18-8-260)~~; and
 - b. Injection well, ditch, alleyway, storm drain, leachfield, or roadway.]
- C. No change
- D. No change
- E. No change
- F. § 270.10(g), titled “Updating permit applications,” subparagraph (1)(iii), is amended as follows:
 - (iii) As necessary to comply with provisions of § 270.72 ~~[(as incorporated by R18-8-270)]~~ for changes during interim [status]. Revised Part A applications necessary to comply with the provisions of § 270.72 ~~[(as incorporated by R18-8-270)]~~ shall be filed with the [Director.]
- G. No change
 1. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
 3. No change
 4. The fee for a land treatment demonstration permit issued under § 270.63 ~~(as incorporated by R18-8-270)~~ for hazardous waste applies toward the \$20,000 permit fee for a Part B land treatment permit when the owner or operator seeks to treat or dispose of hazardous waste in land treatment units based on the successful treatment demonstration ~~(as incorporated by R18-8-270)~~.
 5. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - c. No change
 - d. No change
 6. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii. No change
 - ix. No change
 - c. No change

~~7. Any person who receives a final bill from the DEQ for the processing and issuance or denial of a permit or permit modification under this Article may request an informal review of all billing items and may pay the bill under protest. If the bill is paid under protest, the DEQ shall issue the permit or permit modification if it would be otherwise issuable after normal payment. Such a request shall specify each area of dispute, and it shall be made in writing, within 30 days of the date of receipt of the final bill, to the division director of the DEQ for the Waste Programs Division. The final bill shall be sent by certified mail, return receipt requested. The informal review shall take place within 30 days of the DEQ's receipt of the request unless agreed otherwise by the DEQ and the applicant. The division director of the DEQ shall review whether or not the amounts of time billed are correct and reasonable for the tasks involved. Disposition of the informal review shall be mailed to the requester within 10 working days after the informal review.~~

7. A person may seek review of a bill by filing a written request for reconsideration with the Director.

a. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation.

b. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date or within 35 days of the invoice date, whichever is later.

~~8. The division director's decision after the informal review shall become final within 30 days after receipt of the decision, unless the applicant requests in writing a hearing pursuant to R18-1-202.~~

8. The Director shall make a final decision on the request for reconsideration of the bill and mail a final written decision to the person within 20 working days after the date the Director receives the written request.

9. No change

H. No change

I. No change

J. § 270.14, titled "Contents of Part B: General requirements," paragraph (b) is amended by adding the following:

[~~(23) Any additional information required by the DEQ to evaluate compliance with facility standards and informational requirements of R18-8-264, R18-8-269 and R18-8-270.~~

(24)(i) A signed statement, submitted on a form supplied by the DEQ that demonstrates:

(A) An individual owner or operator has sufficient reliability, expertise, integrity and competence to operate a HWM facility, and has not been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the permit application; or

(B) In the case of a corporation or business entity, no officer, director, partner, key employee, other person, or business entity who holds 10% or more of the equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the permit application.

ii. Failure to comply with subsection (i), the requirements of A.R.S. § 49-922(C)(1), and the requirements of § 270.43 ~~(as incorporated by R18-8-270)~~ and §§ 124.3(d) and 124.5(a) ~~(as incorporated by R18-8-271)~~, may cause the Director to refuse to issue a permit to a TSD facility pursuant to A.R.S. § 49-922(C) as amended, including requirements in § 270.43 ~~(as incorporated by R18-8-270)~~ and §§ 124.3(d) and 124.5(a) ~~(as incorporated by R18-8-271).~~]

- K.** § 270.30, titled “Conditions applicable to all permits” paragraph (I)(10) is amended as follows:
- (10) Other noncompliance. The permittee shall report all instances of noncompliance not reported under [§ 270.30(I)(4),(5), and (6) ~~(as incorporated by R18-8-270)~~] at the same time monitoring [(including annual)] reports are submitted. The reports shall contain the information listed in [§ 270.30(I)(6) ~~(as incorporated by R18-8-270)~~].
- L.** § 270.30, titled “Conditions applicable to all permits” paragraph (L) is amended by adding the following:
- [All reports listed above ~~(as incorporated by R18-8-270)~~ shall be submitted to the Director in such a manner that the reports are received within the time periods required under this Article.]
- M.** No change
- N.** No change
- O.** No change
- P.** No change
- Q.** No change
- R.** No change
- S.** § 270.65, titled “Research, development, and demonstration permits,” is amended as follows:
- (a) The [Director] may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under part 264 or 266. ~~[(as incorporated by R18-8-264 and R18-8-266).]~~ [A research, development, and demonstration] permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:
- (1) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in paragraph (d) of this section, and
 - (2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the [Director] deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
 - (3) Shall include such requirements as the [Director] deems necessary to protect human health and the environment [, including requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and such requirements as the Director] deems necessary regarding testing and providing of information [relevant] to the [Director] with respect to the operation of the facility.
- (b) For the purpose of expediting review and issuance of permits under this section, the [Director] may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements [, or add conditions to the permit in accordance with the permitting procedures set forth in R18-8-270 and R18-8-271,] except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.
- (c) The [Director] may order an immediate termination of all operations at the facility at any time [the Director] determines that termination is necessary to protect human health and the environment.

- (d) Any permit issued under this section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.
- T. § 270.110, titled “What must I include in my application for a RAP?,” is amended by adding paragraphs (j) and (k) as follows:
- [j) A signed statement, submitted on a form supplied by DEQ that demonstrates:
- (1) An individual owner or operator has sufficient reliability, expertise, integrity and competence to operate a HWM facility, and has not been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the RAP application.
 - (2) In the case of a corporation or business entity, no officer, director, partner, key employee, other person or business entity who holds 10% or more of the equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the five years before the date of the RAP application.
- (k) Failure to comply with subsection (j), the requirements of A.R.S. § 49-922(C)(1), and the requirements of § 270.43 ~~(as incorporated by R18-8-270)~~ and §§ 124.3(d) and 124.5(a) ~~(as incorporated by R18-8-271)~~, may cause the Director to refuse to issue a permit to a TSD facility pursuant to A.R.S. § 49-922(C) as amended, including requirements in § 270.43 ~~(as incorporated by R18-8-270)~~ and §§ 124.3(d) and 124.5(a) ~~(as incorporated by R18-8-271)~~.]
- U. § 270.155 titled “May the decision to approve or deny my RAP application be administratively appealed?,” paragraph (a), is amended as follows:
- (a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Director’s decision to approve or deny your RAP application [under Title 41, Chapter 6, Article 10, Arizona Revised Statutes.] Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under § 124.15 of this chapter ~~[(as incorporated by R18-8-271)]~~ (or a decision under § 270.29 ~~[(as incorporated by R18-8-270)]~~) to deny a permit for the active life of a RCRA hazardous waste management facility or unit.)

R18-8-271. Procedures for Permit Administration

- A. All of 40 CFR 124, revised as of July 1, ~~2013~~ 2018, (and no future editions), with the exception of §§ 124.1 (b) through (e), 124.2, 124.4, 124.16, 124.20, 124.21, and subparts C, D, and G, and with the exception of the revisions for standardized permits as published at 70 FR 53419, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 124 are available at ~~www.gpoaccess.gov/cfr/index.html~~ <https://www.eCFR.gov>. Copies of the Federal Register are available at <https://www.federalregister.gov>.
- B. § 124.1, titled “Purpose and scope,” paragraph (a) is replaced by the following:
- [This Section contains the DEQ procedures for issuing, modifying, revoking and reissuing, or terminating all hazardous waste management facility permits. This Section describes the procedures the DEQ shall follow in reviewing permit applications, preparing draft permits, issuing public notice, inviting public comment, and holding public hearings on draft permits. This Section also includes procedures for assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision. The procedures of this Section also apply to denial of a permit for the

active life of a RCRA HWM facility or unit under § 270.29 ~~(as incorporated by R18-8-270(A)).~~]

C. § 124.3, titled “Application for a permit,” is replaced by the following:

[(a)(1) Any person who requires a permit under this Article shall complete, sign, and submit to the Director an application for each permit required under § 270.1 ~~(as incorporated by R18-8-270)~~. Applications are not required for RCRA permits-by-rule in § 270.60 ~~(as incorporated by R18-8-270)~~.

(2) The Director shall not begin processing a permit until the applicant has fully complied with the application requirements for that permit. (Refer to §§ 270.10 and 270.13 ~~as incorporated by R18-8-270~~).

(3) An applicant for a permit shall comply with the signature and certification requirements of § 270.11, ~~as incorporated by R18-8-270~~.

(b) Reserved.

(c) The Director shall review for completeness every application for a permit. Each application submitted by a new HWM facility shall be reviewed for completeness by the Director in the order of priority on the basis of hazardous waste capacity established in a list by the Director. The Director shall make the list available upon request. Upon completing the review, the Director shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Director shall list the information necessary to make the application complete. When the application is for an existing HWM facility, the Director shall specify in the notice of deficiency a date for submitting the necessary information. The Director shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Director may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for additional information do not render an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and the Director may take appropriate enforcement actions against an existing HWM facility pursuant to A.R.S. §§ 49-923, 49-924 and 49-925.

(e) If the Director decides that a site visit is necessary for any reason in conjunction with the processing of an application, the Director shall notify the applicant and schedule a date for a site visit.

(f) The effective date of an application is the date on which the Director notifies the applicant that the application is complete as provided in paragraph (c) of this subsection.

(g) For each application from a new HWM facility, the Director shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Director intends to do the following:

- (1) Prepare a draft permit or Notice of Intent to Deny;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing;
- (4) Make a decision to issue or deny a final permit; and
- (5) Issue a final decision.

D. § 124.5, titled “Modification, revocation and reissuance, or termination of permits,” is replaced by the following:

[(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director’s initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §§

270.41 or 270.43 (~~as incorporated by R18-8-270~~). All requests shall be in writing and shall contain facts or reasons supporting the request.

- (b) If the Director decides the request is not justified, the Director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.
- (c) Modification, revocation or reissuance of permits procedures.
 - (1) If the Director tentatively decides to modify or revoke and reissue a permit under §§ 270.41 or 270.42(c) (~~as incorporated by R18-8-270~~), the Director shall prepare a draft permit under § 124.6 (~~as incorporated by R18-8-271(E)~~), incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.
 - (2) In a permit modification under this [subsection], only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. The permit modification shall have the same expiration date as the unmodified permit. When a permit is revoked and reissued under this subsection, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
 - (3) “Classes 1 and 2 modifications” as defined in § 270.42 (~~as incorporated by R18-8-270~~) are not subject to the requirements of this subsection.
- (d) If the Director tentatively decides to terminate a permit under § 270.43 (~~as incorporated by R18-8-270~~), the Director shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6 (~~as incorporated by R18-8-271(E)~~). In the case of permits that are processed or issued jointly by both the DEQ and the EPA, a notice of intent to terminate shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibilities from the EPA to the state.
- (e) The Director shall base all draft permits, including notices of intent to terminate, prepared under this subsection on the administrative record as defined in § 124.9 (~~as incorporated by R18-8-271(H)~~).]

E. § 124.6, titled “Draft permits,” is replaced by the following:

- (a) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.
- (b) If the Director tentatively decides to deny the permit application, the Director shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under (e) of this subsection.
- (c) Reserved.
- (d) If the Director decides to prepare a draft permit, the Director shall prepare a draft permit that contains the following information:
 - (1) All conditions under §§ 270.30 and 270.32 (~~as incorporated by R18-8-270~~), unless not required under 40 CFR 264 and 265 (~~as incorporated by R18-8-264 and R18-8-265~~);
 - (2) All compliance schedules under § 270.33 (~~as incorporated by R18-8-270~~);

- (3) All monitoring requirements under § 270.31 (~~as incorporated by R18-8-270~~); and
- (4) Standards for treatment, storage, and/or disposal and other permit conditions under § 270.30 (~~as incorporated by R18-8-270~~).
- (e) All draft permits prepared by the DEQ under this subsection shall be accompanied by a statement of basis (§ 124.7, ~~as incorporated by R18-8-271(F)~~) or fact sheet (§ 124.8, ~~as incorporated by R18-8-271(G)~~), and shall be based on the administrative record (§ 124.9, ~~as incorporated by R18-8-271(H)~~), publicly noticed (§ 124.10, ~~as incorporated by R18-8-271(I)~~) and made available for public comment (§ 124.11, ~~as incorporated by R18-8-271(J)~~). The Director shall give notice of opportunity for a public hearing (§ 124.12, ~~as incorporated by R18-8-271(K)~~), issue a final decision (§ 124.15, ~~as incorporated by R18-8-271(N)~~) and respond to comments (§ 124.17, ~~as incorporated by R18-8-271(O)~~).
- F.** § 124.7, titled “Statement of basis,” is replaced by the following:

The DEQ shall prepare a statement of basis for every draft permit for which a fact sheet under § 124.8, (~~as incorporated by R18-8-271(G)~~), is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.
- G.** § 124.8, titled “Fact sheet,” is replaced by the following:
 - (a) The DEQ shall prepare a fact sheet for every draft permit for a new HWM facility, and for every draft permit that the Director finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.
 - (b) The fact sheet shall include, when applicable:
 - (1) A brief description of the type of facility or activity that is the subject of the draft permit;
 - (2) The type and quantity of wastes, that are proposed to be or are being treated, stored, or disposed;
 - (3) Reserved.
 - (4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by § 124.9, (~~as incorporated by R18-8-271(H)~~);
 - (5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
 - (6) A description of the procedures for reaching a final decision on the draft permit including:
 - (i) The beginning and ending dates of the comment period under §§ 124.10 (~~as incorporated by R18-8-271(I)~~) and the address where comments will be received;
 - (ii) Procedures for requesting a hearing and the nature of that hearing; and
 - (iii) Any other procedures by which the public may participate in the final decision; and
 - (7) Name and telephone number of a person to contact for additional information.
 - (8) Reserved.
- H.** § 124.9 titled “Administrative record for draft permits” is replaced by the following:
 - (a) The provisions of a draft permit prepared under § 124.6 (~~as incorporated by R18-8-271(E)~~) shall be based on the administrative record defined in this subsection.

- (b) For preparing a draft permit under § 124.6 (~~as incorporated by R18-8-271(E)~~), the record consists of:
 - (1) The application, if required, and any supporting data furnished by the applicant, subject to paragraph (e) of this subsection;
 - (2) The draft permit or notice of intent to deny the application or to terminate the permit;
 - (3) The statement of basis under §§ 124.7 (~~as incorporated by R18-8-271(F)~~) or fact sheet under § 124.8 (~~as incorporated by R18-8-271(G)~~);
 - (4) All documents cited in the statement of basis or fact sheet; and
 - (5) Other documents contained in the supporting file for the draft permit.
 - (6) Reserved.
 - (c) Material readily available at the DEQ or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this subsection, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.
 - (d) This subsection applies to all draft permits when public notice was given after the effective date of these rules.
 - (e) All items deemed confidential pursuant to A.R.S. § 49-928 shall be maintained separately and not disclosed to the public.
- I.** § 124.10, titled “Public notice of permit actions and public comment period,” is replaced by the following:
- (a) Scope.
 - (1) The Director shall give public notice that the following actions have occurred:
 - (i) A permit application has been tentatively denied under § 124.6(b) (~~as incorporated by R18-8-271(E)~~);
 - (ii) A draft permit has been prepared under § 124.6(d) (~~as incorporated by R18-8-271(E)~~); and
 - (iii) A hearing has been scheduled under § 124.12 (~~as incorporated by R18-8-271(K)~~).
 - (2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under § 124.5(b) (~~as incorporated by R18-8-271(D)~~). Written notice of that denial shall be given to the requester and to the permittee.
 - (3) Public notices may describe more than one permit or permit actions.
 - (b) Timing.
 - (1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this subsection shall allow at least 45 days for public comment.
 - (2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)
 - (c) Methods. Public notice of activities described in paragraph (a)(1) of this subsection shall be given by the following methods:
 - (1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this subparagraph may waive his or her rights to receive notice for any classes and categories of permits):
 - (i) An applicant;

- (ii) Any other agency which the Director knows has issued or is required to issue a HWM facility permit or any other federal environmental permit for the same facility or activity;
- (iii) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected states (Indian Tribes). For purposes of this paragraph, and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States;
- (iv) Reserved.
- (v) Reserved.
- (vi) Reserved.
- (vii) Reserved.
- (viii) ~~For Class I injection well UIC permits only, state and local oil and gas regulatory agencies and state agencies regulating mineral exploration and recovery;~~ Reserved
- (ix) Persons on a mailing list developed by:
 - (A) Including those who request in writing to be on the list;
 - (B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
 - (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state-funded newsletters, environmental bulletins, or state law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to the request.); and
- (x) (A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and
 - (B) To each state agency having any authority under state law with respect to the construction or operation of the facility;
- (2) By newspaper publication and radio announcement broadcast, as follows:
 - (i) Reserved.
 - (ii) For all permits, publication of a notice in a daily or weekly major local newspaper of general circulation within the area affected by the facility or activity, at least once, and in accordance with the provisions of paragraph (b) of this subsection; and
 - (iii) For all permits, a radio announcement broadcast over two local radio stations serving the affected area at least once during the period two weeks prior to the public hearing. The announcement shall contain:
 - (A) A brief description of the nature and purpose of the hearing;
 - (B) The information described in items (i), (ii), (iii), (iv), and (vii) of subparagraph (d)(1) of this subsection;
 - (C) The date, time, and place of the hearing; and
 - (D) Any additional information considered necessary or proper; or
- (3) Reserved.
- (4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) (1) Each public notice issued under this Article shall contain the following minimum information:

- (i) Name and address of the office processing the permit action for which notice is being given;
- (ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by such permit;
- (iii) A brief description of the business conducted at the facility or activity described in the permit application;
- (iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the statement of basis or fact sheet;
- (v) A brief description of the comment procedures required by §§ 124.11 (~~as incorporated by R18-8-271(J)~~) and 124.12 (~~as incorporated by R18-8-271(K)~~) and the time and place of any hearing that shall be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;
- (vi) The location of the administrative record required by § 124.9 (~~as incorporated by R18-8-271(H)~~), the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant (except for confidential information pursuant to A.R.S. § 49-928) is available as part of the administrative record;
- (vii) The locations where a copy of the application and the draft permit may be inspected and the times at which these documents are available for public review; and
- (viii) Reserved.
- (ix) Any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in paragraph (d)(1) of this subsection, the public notice of a hearing under § 124.12 (~~as incorporated by R18-8-271(K)~~) shall contain the following information:

- (i) Reference to the date of previous public notices relating to the permit;
- (ii) Date, time, and place of the hearing; and
- (iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.
- (iv) Reserved.

(e) In addition to the general public notice described in paragraph (d)(1) of this subsection, all persons identified in paragraphs (c)(1)(i), (ii), and (iii) of this subsection shall be mailed a copy of the fact sheet or statement of basis, the permit application (if any), and the draft permit (if any).

J. § 124.11, titled “Public comments and requests for public hearings,” is replaced by the following:

During the public comment period provided under § 124.10 (~~as incorporated by R18-8-271(I)~~), any person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 124.17 (~~as incorporated by R18-8-271(O)~~).

K. § 124.12, titled “Public hearings,” is replaced by the following:

[(a)(1) The Director shall hold a public hearing whenever the Director finds, on the basis of requests, a significant degree of public interest in a draft permit.

- (2) The Director may also hold a public hearing at the Director's discretion whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.
- (3) The Director shall hold a public hearing whenever written notice of opposition to a draft permit and a request for a hearing has been received within 45 days of public notice under § 124.10(b)(1) ~~(as incorporated by R18-8-271(I))~~. Whenever possible the Director shall schedule a hearing under this subsection at a location convenient to the nearest population center to the proposed facility.
- (4) Public notice of the hearing shall be given as specified in § 124.10 ~~(as incorporated by R18-8-271(I))~~.

(b) Reserved.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under § 124.10 ~~(as incorporated by R18-8-271(I))~~ shall automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

(e) Reserved.]

L. § 124.13, titled "Obligation to raise issues and provide information during the public comment period," is replaced by the following:

[All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under § 124.10, ~~(as incorporated by R18-8-271(I))~~. Any supporting materials that a commenter submits shall be included in full and shall not be incorporated by reference, unless they are already part of the administrative record in the same proceeding or consist of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the DEQ as directed by the Director.]

M. § 124.14, titled "Reopening of the public comment period," is replaced by the following:

- (a) (1) The Director may order the public comment period reopened if the procedures of this paragraph could expedite the decision-making process. When the public comment period is reopened under this paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than 60 days after public notice under paragraph (a)(2) of this subsection, set by the Director. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than 20 days after the date set for filing of the material, set by the Director.
- (2) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of § 124.14(a) ~~(as incorporated by R18-8-271(M))~~ apply.
- (3) On the Director's own motion or on the request of any person, the Director may direct that the requirements of paragraph (a)(1) of this subsection shall apply during the initial

comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (a)(1) of this subsection will substantially expedite the decision-making process. The notice of the draft permit shall state whenever this has been done.

- (4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request longer comment periods and they shall be granted under § 124.10 ~~(as incorporated by R18-8-271(I))~~ to the extent they appear necessary.
 - (b) If any data, information, or arguments submitted during the public comment period, including information or arguments required under § 124.13 ~~(as incorporated by R18-8-271(L))~~, appear to raise substantial new questions concerning a permit, the Director may take one or more of the following actions:
 - (1) Prepare a new draft permit, appropriately modified, under §§ 124.6 ~~(as incorporated by R18-8-271(E))~~;
 - (2) Prepare a revised statement of basis under § 124.7 ~~(as incorporated by R18-8-271(F))~~, a fact sheet or revised fact sheet under this § 124.8 ~~(as incorporated by R18-8-271(G))~~, and reopen the comment period under this subsection; or,
 - (3) Reopen or extend the comment period under § 124.10 ~~(as incorporated by R18-8-271(I))~~ to give interested persons an opportunity to comment on the information or arguments submitted.
 - (c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under § 124.10 ~~(as incorporated by R18-8-271(I))~~ shall define the scope of the reopening.
 - (d) Reserved.
 - (e) Public notice of any of the above actions shall be issued under §§ 124.10 ~~(as incorporated by R18-8-271(I))~~.
- N.** § 124.15, titled “Issuance and effective date of permit,” is replaced by the following:
- (a) After the close of the public comment period under § 124.10 ~~(as incorporated by R18-8-271(I))~~ on a draft permit, the Director shall issue a final permit decision or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29 ~~(as incorporated by R18-8-270(A))~~. The Director shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit or a decision to terminate a permit. For purposes of this subsection, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.
 - (b) A final permit decision or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29 ~~(as incorporated by R18-8-270(A))~~ becomes effective on the date specified by the Director in the final permit notice.
 - (1) Reserved.
 - (2) Reserved.
 - (3) Reserved.
- O.** § 124.17, titled “Response to comments,” is replaced by the following:
- (a) At the time that any final decision to issue a permit is made under § 124.15 ~~(as incorporated by R18-8-271(N))~~, the Director shall issue a response to comments. This response shall:

- (1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
 - (2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.
- (b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in § 124.18 ~~(as incorporated by R18-8-271(P))~~. If new points are raised or new material supplied during the public comment period, the DEQ may document its response to those matters by adding new materials to the administrative record.
- (c) The response to comments shall be available to the public.
- P.** § 124.18, titled “Administrative record for final permit” is replaced by the following:
- (a) The Director shall base final permit decisions under § 124.15 ~~(as incorporated by R18-8-271(N))~~ on the administrative record defined in this subsection.
 - (b) The administrative record for any final permit shall consist of the administrative record for the draft permit, and:
 - (1) All comments received during the public comment period provided under § 124.10 ~~(as incorporated by R18-8-271(I))~~, including any extension or reopening under § 124.14, ~~(as incorporated by R18-8-271(M))~~;
 - (2) The tape or transcript of any hearing(s) held under § 124.12 ~~(as incorporated by R18-8-271(K))~~;
 - (3) Any written materials submitted at such a hearing;
 - (4) The response to comments required by § 124.17 ~~(as incorporated by R18-8-271(O))~~ and any new material placed in the record under that subsection;
 - (5) Reserved.
 - (6) Other documents contained in the supporting file for the permit; and
 - (7) The final permit.
 - (c) The additional documents required under (b) of this subsection shall be added to the record as soon as possible after their receipt or publication by the DEQ. The record shall be complete on the date the final permit is issued.
 - (d) This subsection applies to all final permits when the draft permit was subject to the administrative record requirement of § 124.9 ~~(as incorporated by R18-8-271(H))~~.
 - (e) Material readily available at the DEQ, or published materials which are generally available and which are included in the administrative record under the standards of this subsection or of § 124.17 ~~(as incorporated by R18-8-271(O))~~, (“Response to comments”), need not be physically included in the same file as the rest of the record as long as the materials and their location are specifically identified in the statement of basis or fact sheet or in the response to comments.
- Q.** § 124.19, titled “Appeal of RCRA, UIC, and PSD permits,” is replaced by the following:
 A final permit decision (or a decision under § 270.29 ~~(as incorporated by R18-8-270(A))~~ to deny a permit for the active life of a RCRA hazardous waste management facility or unit issued under § 124.15 ~~(as incorporated by R18-8-271(N))~~) is an appealable agency action as defined in A.R.S. § 41-1092 and is subject to appeal under A.R.S. Title 41, Ch. 6, Art. 10.
- R.** No change
S. No change
T. No change

R18-8-273. Standards for Universal Waste Management

All of 40 CFR 273, revised as of July 1, ~~2013~~ 2018 (and no future editions), is incorporated by reference and on file with the DEQ. Copies of 40 CFR 273 are available at ~~www.gpoaccess.gov/cfr/index.html~~ https://www.eCFR.gov.

R18-8-280. Compliance

A. No change

1. No change
2. No change
3. No change
4. No change
5. No change

B. No change

C. No change

D. No change

1. No change

a. No change

b. No change

c. Visual observation of unauthorized disposal or discharges which cannot be verified pursuant to § 262.11 (~~as incorporated by R18-8-262~~), § 264.13 (~~as incorporated by R18-8-264~~), or § 265.13 (~~as incorporated by R18-8-265~~) as not containing a hazardous waste or hazardous waste constituents.

d. No change

2. No change

3. No change

4. No change

5. No change