

*This is an informal copy of what will be published in the Register on July 31*

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

**PREAMBLE**

<b><u>1. Article, Part or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
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: 26 A.A.R. 318, February 21, 2020

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

Name: Mark Lewandowski or Caitlin Caputo

Address: Arizona Department of Environmental Quality

Waste Programs Division

1110 W. Washington St.

Phoenix, Arizona 85007

Mark’s phone: (602) 771-2230, or (800) 234-5677, enter 771-2230 (Arizona only)

Caitlin’s phone: (602) 771-4677, or (800) 234-5677, enter 771-4677 (Arizona only)

Fax: (602) 771-4272

E-mail: lewandowski.mark@azdeq.gov

**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 The agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**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 (HW) rules to incorporate certain 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, 2020 and update the general incorporation date in Arizona HW rules from July 1, 2018 to July 1, 2020. 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 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 HW. 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 federal requirements for state HW program authorization are found in 40 CFR 271. Federal HW 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. (See 40 CFR 271.21(e)(1).)

Arizona's HW 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 HW program in Arizona in lieu of the federal HW program, subject to the limitations imposed by HSWA. (See 50 FR 47736, November 20, 1985.) EPA last authorized revisions to Arizona’s HW program on December 21, 2017. (See 82 FR 60550.) Due to federal and Arizona requirements requiring equivalency with federal regulations, Arizona’s HW rules incorporate the federal HW regulations by reference and are mostly identical to the federal regulations. (See 42 U.S.C. 6926(b) and A.R.S. § 49-922(A).) ADEQ regularly compares Arizona’s HW rules to the federal regulations and amends the Arizona rules as necessary to comply with state statutes and to facilitate continued authorization. Without continued authorization, EPA, rather than ADEQ, would administer the HW program in Arizona. ADEQ’s primary objective with this rulemaking is to continue administering the federal HW program in Arizona in place of EPA. ADEQ believes that continued authorization is ensured by regular incorporation of the changes and additions to federal language into the Arizona rules.

Background to this Notice of Proposed Rulemaking. ADEQ’s current rulemaking process contains significantly more stakeholder dialogue leading up to the formal proposed rule when compared to previous ADEQ rulemakings. From March through July 2020, ADEQ posted informational documents on its website and held a virtual public stakeholder meeting on a pre-proposal draft rule. The meeting was well attended and answered many early stakeholder questions, especially regarding the handling of hazardous secondary materials under EPA’s Definition of Solid Waste rules.

Effective date of rule. If these proposed rules are considered by the Governor's Regulatory Review Council (GRRC) early enough in 2020, they would be effective in January or February of 2021. At this time, ADEQ is considering a request to GRRC to approve these rules with an immediate effective date pursuant to A.R.S. § 41-1032(A) so that the airbag rule can become ef-

fective in Arizona as soon as possible due to the urgent public health issue posed by recalled Takata airbag inflators that remain installed in vehicles. (See part 6 of this preamble for further information.) ADEQ seeks input on whether an immediate effective date for this entire rulemaking on that basis might be burdensome for other sectors affected.

Subsections not amended listed as “No change”. ADEQ has used the option in A.A.C. R1-1-502(B)(18)(f) to list most rule text subsections not amended by this rulemaking as “No change”, rather than showing long sections of text that are not being changed. Occasionally, certain subsections of unchanged text are shown to provide context for nearby proposed changes. “No change” does not mean comments on the 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 may change. In general, any comment suggesting a technical or similar correction to unchanged text can be considered.

Incorporation date changed to July 1, 2020. As mentioned in the June 9, 2020 meeting, ADEQ changed the incorporation dates in this proposed rule to July 1, 2020 because EPA did not finalize any new rules before July 1<sup>st</sup>. This will simplify the use of the hard cover versions of the 40 CFR, which are effective as of July 1<sup>st</sup> of each year.

What EPA regulations are proposed for incorporation into Arizona rules?

The following is a list of each EPA rule that altered federal HW regulations effective as of July 1, 2020 and that is proposed for incorporation into Arizona rules.

- Revisions to the Definition of Solid Waste, 73 FR 64667, October 30, 2008.
- Definition of Solid Waste, 80 FR 1693, January 13, 2015.
- Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule, 83 FR 24664, May 30, 2018.
- Safe Management of Recalled Airbags, 83 FR 61552, November 30, 2018.
- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 FR 5816, February 22, 2019.

- Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, 84 FR 67202, December 9, 2019.
- Address Change for Waste Import-Export Submittals from the Office of Federal Activities to the Office of Resource Conservation and Recovery, 83 FR 38263, August 6, 2018.

Descriptions of EPA regulations proposed for incorporation by reference

- The Definition of Solid Waste Rules, 73 FR 64668, October 30, 2008; 80 FR 1694, January 13, 2015; and 83 FR 24664, May 30, 2018. These three rulemakings updated and provided certainty in the area of legitimate recycling of hazardous secondary materials. EPA characterized the 2015 and 2018 rules as less stringent than previous federal rules for states not operating under the 2008 Definition of Solid Waste (DSW) rule, such as Arizona. The changes from these federal rules would not be effective in Arizona until adopted as state rules. The three federal rules together amended 40 CFR 260, 261, and 270. ADEQ is proposing to adopt the final changes from these three rules so that the final incorporated language would be identical to the July 1, 2019 versions of 40 CFR 260, 261, and 270, except where “Administrator” would be changed to “Director”, etc.
- Safe Management of Recalled Airbags, 83 FR 61552, November 30, 2018. EPA issued this interim final rule in response to the urgent public health issue posed by recalled Takata airbag inflators currently installed in vehicles. With the rule, EPA facilitated a more expedited removal of defective Takata airbag inflators from vehicles by dealerships, salvage yards, and other locations, and allowed for safe, environmentally sound disposal by exempting the collection of airbag waste from HW requirements, provided certain conditions were met. EPA characterized this rule as less stringent than previous federal rules and did not require it to be adopted by states for authorization. ADEQ is proposing to adopt EPA’s airbags rule to address the urgent public health issue, and to not be more stringent than federal law. The changes from this federal rule would not be effective in Arizona until adopted as state rules. The federal airbags rule amended 40 CFR 260, 261, and 262. ADEQ is proposing to adopt this rule without change so that the final incorporated language would be identical to the July 1, 2019 versions of 40 CFR 260, 261, and 262, except where “Administrator” would be changed to “Director”, etc.

- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 FR 5816, February 22, 2019. This rule allowed healthcare facilities (for both humans and animals) and reverse distributors to manage their HW pharmaceuticals under a new set of sector-specific standards in lieu of the existing HW generator regulations. Additionally, EPA excluded certain U.S. Food and Drug Administration (FDA) approved over-the-counter (OTC) nicotine replacement therapies (NRTs) from regulation as HW, established a policy on the regulatory status of unsold retail items that are not pharmaceuticals and are managed via reverse logistics, prohibited the disposal of HW pharmaceuticals down the drain (“sewering”), and eliminated the dual regulation of RCRA HW pharmaceuticals that are Drug Enforcement Administration (DEA) controlled substances. EPA characterized this rule, “[t]aken as a whole,” to be more stringent than previous federal rules; the more stringent rules are required to be adopted for authorization. ADEQ is proposing to adopt the more stringent parts of the pharmaceuticals rule for continued authorization and the less stringent parts so as not to be more stringent than federal law. Most of the changes from the pharmaceuticals rule would not be effective in Arizona until adopted as state rules; however, the sewerage prohibition became effective on August 21, 2019. Under this rule, no new facilities or substances are regulated within HW pharmaceuticals as compared to previous federal rules. ADEQ is proposing to adopt the pharmaceuticals rule without change so that the final incorporated language would be identical to the July 1, 2020 versions of 40 CFR 261, 262, 264, 265, 266, 268, 270, and 273, except where “EPA Regional Administrator” would be changed to “Director”, etc.

- Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, 84 FR 67202, December 9, 2019. In this rule, EPA added HW aerosol cans to the Universal Waste (UW) program and provided a clear, protective system for managing discarded aerosol cans. This change benefits a wide variety of establishments generating and managing HW aerosol cans, including the retail sector. The rule eases the regulatory burden on facilities that discard HW aerosol cans, promotes the collection and recycling of these cans, and encourages the development of municipal and commercial programs to reduce the quantity of these cans going to Municipal Solid Waste (MSW) landfills or incinerators. EPA characterized this rule as less stringent than previous federal rules and not required to be adopted for authorization. ADEQ is proposing to incorporate by reference EPA’s aerosol can rule so as not to be more stringent than federal law. The changes from the aerosol can rule will not be effective in Arizona until adopted as state rules.

ADEQ is proposing to adopt the federal aerosol can rule without change so that the final incorporated language would be identical to the July 1, 2020 versions of 40 CFR 260, 261, 264, 265, 268, 270, and 273.

- Address Change for Waste Import-Export Submittals from the Office of Federal Activities to the Office of Resource Conservation and Recovery, 83 FR 38263, August 6, 2018. This minor rule changed addresses for import and export purposes. ADEQ is proposing to adopt this rule without change as well.

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 HW permitting program to allow for a “standardized permit”. In past HW rulemakings, ADEQ has discussed but not proposed 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 maintain this position and not burden the HW rules with an extra set of procedures for a class of permits no one is interested in.

Technical corrections. In R18-8-262(G), ADEQ is correcting an error from the last rulemaking, which required written logs from Small Quantity Generators (SQGs) but omitted Large Quantity Generators (LQGs). The correction adds LQGs back. In addition, ADEQ added 40 CFR 260.40 to the list in R18-8-260(F) since it is a companion section to 260.41.

How does the incorporation of the Definition of Solid Waste rules affect pre-2008 solid waste exclusions, or other prior solid waste determinations or variances?

To be equivalent to EPA’s regulations, ADEQ follows EPA’s regulatory text as well as certain interpretations in its preamble. EPA states at 80 FR 1735, “[t]he final rule does not supersede any of the pre-2008 solid waste exclusions or other prior solid waste determinations or variances, including determinations made in letters of interpretation and inspection reports. If a hazardous secondary material has been determined not to be a solid waste for whatever reason, such a determination remains in effect, unless the authorized state decides to revisit the regulatory determination under their current authority. In addition, if a hazardous secondary material has been excluded from HW regulations—for example, under the Bevill exclusion in 40 CFR 261.4(b)(7)—the regulatory status of that material will not be affected by today’s rule.” ADEQ

agrees with EPA’s preamble language. ADEQ invites anyone operating under such a pre-2008 determination or variance who is seeking additional certainty to contact ADEQ directly.

**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:**

ADEQ reviewed and proposes to rely on the following reports in its evaluation of the federal rules that it is incorporating by reference:

1. Update of the State of the Takata Airbag Recalls, January 23, 2020, available at [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/update\\_on\\_the\\_state\\_of\\_the\\_takata\\_airbag\\_recalls-012320-tag.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/update_on_the_state_of_the_takata_airbag_recalls-012320-tag.pdf)
2. The State of the Takata Airbag Recalls, November 15, 2017, available at [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/the\\_state\\_of\\_the\\_takata\\_airbag\\_recalls-report\\_of\\_the\\_independent\\_monitor\\_112217\\_v3\\_tag.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/the_state_of_the_takata_airbag_recalls-report_of_the_independent_monitor_112217_v3_tag.pdf)
3. Regulatory Impact Analysis: USEPA’s 2008 Final Rule Amendments to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste, September 25, 2008, EPA-HQ-RCRA-2002-0031-0602, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2002-0031-0602>
4. Regulatory Impact Analysis: EPA’s 2014 Revisions to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste, November 26, 2014, EPA-HQ-RCRA-2010-0742-0369, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2010-0742-0369>
5. Economic Assessment of the Safe Management of Recalled Airbags Interim Final Rule, October 2018, EPA-HQ-OLEM-2018-0646-0023, available at <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2018-0646-0023>
6. Regulatory Impact Analysis of Proposed Rule to Add Aerosol Cans to the Universal Waste Rule, February 2018, EPA-HQ-OLEM-2017-0463-0002, available at <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2017-0463-0002>



7. Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals, October 2018, EPA-HQ-RCRA-2007-0932-0412, available at <https://www.regulations.gov/document?D=EPA-HQ-RCRA-2007-0932-0412>

**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, Article 2. (See Part 5 of this preamble.)

Program Description. Under A.R.S. § 49-922 and federal law, Arizona's HW Program is responsible for ensuring that all regulated HW in Arizona is stored, transported, and disposed of safely and properly. It is largely a preventative program to keep HW from entering the environment. The program maintains an inventory of HW generators, transporters, and treatment, storage, and disposal (TSD) facilities in Arizona. It also provides permit modifications, renewals, closure plan reviews and approvals, and financial assurance reviews, as well as issues, manages, and maintains permits for TSD facilities. Generators, transporters, and TSD facilities are inspected periodically. HW complaints are investigated. Compliance and generator data is collected and stored. The program tracks HW from generation to disposal, provides compliance assistance, pursues enforcement actions against significant violators, and oversees the remediation of contaminated sites. ADEQ is authorized by EPA to implement the federal HW program in Arizona in lieu of EPA. These activities are conducted according to a Memorandum of Agreement with EPA.

ADEQ's HW Program regulates a universe of almost 2,000 active facilities, including metal platers, chemical manufacturers, laboratories, explosive and munitions manufacturers, pesticide manufacturers, HW TSD facilities, healthcare facilities, and military installations. There are currently 13 permitted TSD facilities, 348 LQGs, 616 SQGs, 859 VSQGs, and 132 transporters in Arizona. An unknown fraction of these are small businesses. ADEQ records show that over

40,000 tons of HW were generated in Arizona in 2017. Until June 30, 2018, ADEQ processed over 35,000 manifests tracking HW annually. These manifests now go to EPA.

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

These directives express the repeated conclusion of the legislature that the impacts of incorporating all federal rules required for continued authorization will be less than the impact of not incorporating them and thereby having EPA implement the HW Program in Arizona. Under federal law, new federal rules that are more stringent than previous federal rules are required for state authorization, while those that are less stringent are optional but nonetheless have to be adopted under ADEQ's legislative mandate not to be more stringent than corresponding federal rules. Thus, ADEQ incorporates almost all federal rules by reference. ADEQ is providing this preliminary summary of the impacts of incorporating the federal rules in this rulemaking as an aid to regulated entities and others in understanding the proposed rule revisions. ADEQ requests input on the accuracy of this summary. Information on costs and impacts provided to ADEQ by regulated entities can help other facilities adjust and help ADEQ modify the incorporated federal rules if such modifications remain equivalent to and consistent with the federal program.

Impact of individual EPA regulations proposed for incorporation. There are six main federal regulations, spanning more than a decade, which would be incorporated by this proposed rule. For the purposes of impact analysis, ADEQ will consider the three rules related to the DSW as one rule because ADEQ is proposing to incorporate only the changes that survived the three EPA rulemakings. The three DSW rules and each of the other rules affect different segments and activities of ADEQ's HW community.

Impact of Incorporating the DSW Rules. There are numerous parts of these three EPA rules that will affect various industrial facilities differently. In Arizona, industrial facilities are currently operating under the pre-2008 DSW exclusions so the net impact for Arizona facilities of incorporating the EPA DSW rules is the difference in total cost between complying with the pre-2008

DSW exclusions and complying with the post 2018 DSW rules. Some basic data can be obtained from EPA's Regulatory Impact Analyses (RIAs) that accompanied the 2008 and 2015 EPA rules. However, this data may be out of date and contains only national statistics. Therefore, ADEQ is requesting information from Arizona stakeholders on how these three incorporated rules may affect Arizona industries, facilities, and waste streams. The EPA estimate of the number of facilities affected nationally falls between 5,000 and 7,500. If ADEQ assumes there is a proportional 1/50<sup>th</sup> share in Arizona, there are an estimated 100-150 affected facilities in Arizona. Extrapolating more specifically, those facilities are most likely distributed among manufacturing, waste treatment and disposal, and remediation and other waste management services. In the RIA for the 2008 rule, EPA estimated a national annual net cost savings of \$95.3 million (without discounted present value computations). In the RIA for the 2015 rule, EPA estimated a net cost savings of \$28 million (with a 7% discount rate). ADEQ received several positive and zero negative comments regarding the adoption of EPA's DSW rules.

EPA characterizes three parts of their DSW rules as less stringent than previous federal rules: the revised generator controlled exclusion, the transfer based exclusion, and the remanufacturing exclusion. Other parts were characterized as more stringent, such as the revised definition of legitimacy and the prohibition of sham recycling, because they codify implicit requirements that existed previously only in guidance. Also more stringent are the additional recordkeeping requirement for speculative accumulation in 40 CFR 261.1(c)(8) and changes to the standards and criteria for variances from classification as a solid waste.

Impact of Incorporating the Airbags Rule. The national recalls of Takata airbag inflators are the largest and most complex in U.S. history. They are the result of enforcement actions originating with the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and are not managed by EPA. The EPA rule that ADEQ is proposing to incorporate addresses an urgent public health issue and allows a more expedited removal of defective airbag inflators from vehicles by dealerships, salvage yards, and other locations, and also affects the storage and disposal of the inflators after removal. The rule provides for safe and environmentally sound disposal by exempting the collection of airbag waste from HW requirements so long as certain conditions are met. The rule would exempt "airbag handlers", such as dealerships, from counting airbag inflators toward their RCRA generator status.

The exemption from HW requirements should result in savings for all airbag handlers. The new rule allows the waste management companies who receive the airbags from the automotive facility to more easily transport stockpiled airbags to final waste termination facilities for ultimate disposal. ADEQ anticipates that some of the resulting savings could be passed on to the generators of this waste, primarily Arizona's 250-300 dealerships. ADEQ believes that reducing the regulatory burden on facilities that handle these airbags while maintaining minimal requirements will improve public safety. EPA's Economic Assessment of this rule estimated national savings for the 2019-2023 period under different enforcement scenarios ranging from \$7.55 million to \$56.9 million.

Impact of Incorporating Aerosol Cans Rule. The EPA's new rule adding HW aerosol cans to the UW rule aims to increase compliance and reduce the burden on generators of HW aerosol cans by allowing them to manage their aerosol can waste in a more efficient manner. In fact, this rule would omit aerosol cans from consideration for a facility's RCRA generator status. The benefits of incorporating this rule by reference in Arizona are numerous while the costs are marginal. The Household & Commercial Products Association stated to ADEQ in a June 9, 2020 letter, "The draft proposed rule incorporates flexibility for handlers of discarded waste aerosol cans and lessens the regulatory burden on the regulated community, allowing more aerosol cans that are properly discarded to be recycled. By incorporating the federal rule, ADEQ ensures that programs developed in Arizona can also be safely and universally implemented in other states so that waste handlers with multiple locations within the United States can have one consistent program to handle aerosol cans across multiple sites. For the reasons stated above, HCPA supports ADEQ's draft proposed rule to incorporate EPA's rule by reference." The greatest share of impacted facilities will fall into the Retail and Manufacturing sectors. Currently, generators do not have the option to treat aerosol cans as UW and so must treat them as HW. The new rule would allow generators the flexibility to decide which treatment of aerosol cans makes the most financial sense for them. Due to the variation in generator category and volume—LQG, SQG, VSQG—generators could experience different levels of cost savings. For example, under this new rule, some generators could decrease to the VSQG level, which could allow them to reduce HW fees and dispose of aerosol cans in MSW landfills, thereby further reducing costs. Therefore, the cost of rule familiarization is necessary to provide generator cost savings. The net cost savings across all generators nationally is anticipated to be \$3-3.5 million. To maximize this

benefit, ADEQ is prepared to exercise enforcement discretion to allow generators to use the new rule prior to its effective date.

Impact of Incorporating Hazardous Waste Pharmaceuticals Rule. The EPA's HW pharmaceuticals rule categorizes several wastes already regulated as HW such that the requirements are less stringent and therefore more attainable for facilities. There are no new categories of HW and no new facilities regulated under this rule. Overall, the rule should decrease the burden on facilities across Arizona and lead to cost savings. The EPA estimates as many as 1,103 facilities in Arizona may be subject to the rule change. Utilizing the nationwide breakdown of facility types, those Arizona facilities would likely be made up of Physician's Offices (31%), Dentist's Offices (18%), Supermarkets and Grocery Stores (9%), Pharmacies and Drug Stores (6%), Outpatient Care Centers (5%), Nursing Care Facilities (2%), and Hospitals (1%), among other facilities affected by this rule. Using the EPA estimates, the impacts of the new rule could lead to an incremental annualized cost savings across Arizona facilities of \$171,000 due to simpler training and \$100,000 due to the Nicotine exemption, if ADEQ assumes a proportional 1/50<sup>th</sup> share. Additionally, the new rule saves facilities money by imposing fewer labeling requirements, less record keeping requirements, fewer manifesting and tracking requirements, and decreased biennial reporting. EPA found that certain increased costs will be offset by other cost savings. For example, the sewerage prohibition will necessitate more time spent on new paperwork for HW determinations for waste that has historically been sewerage by the facility, but excluding HW pharmaceuticals from generator categories under RCRA will decrease time spent on labeling and completion of Biennial Reports. EPA heard from stakeholders that controlled substances that qualify as HW under both EPA and DEA regulatory systems are expensive and difficult to manage, which results in these substances being sewerage to avoid the cost of conforming to both EPA and DEA requirements. The rule would remove the burden of dual competing regulation by harmonizing DEA and RCRA regulations for such substances. In addition, the EPA's Small Business Analysis found that each facility's annual costs incremental to baseline fall far below 1% of the average of annual revenues. It should be noted that EPA's definition of a small business is different than Arizona's and includes larger businesses. Thus this rule is not anticipated to impact small businesses significantly. EPA estimated that this rule will result in a positive net

impact on businesses of all sizes. ADEQ requests information on the economic impacts for facilities subject to the new pharmaceuticals rule.

Impact of Technical Changes. In R18-8-262(G), ADEQ added LQGs to the requirement to keep a log of required periodic inspections of storage areas. In the last rulemaking, ADEQ mistakenly required this log only for SQGs. ADEQ is aware that some LQGs have recognized this omission and are already keeping logs for these inspections to facilitate compliance visits by ADEQ. For those that will begin or resume keeping these logs, this change will have minimum impact.

Reduction in Revenues to State Agencies. This rulemaking will have no quantifiable effect on state general fund revenues or on agencies other than ADEQ. No new fees are established and no existing fees are increased or reduced. Certain changes in what counts as HW and changes in generator status resulting from these rules could yield a moderate reduction in revenue to ADEQ funds under A.R.S. §§ 49-929 and 49-931. ADEQ's preliminary estimate is that the combined effect of the Aerosol Cans and HW Pharmaceuticals Rules in Arizona would be a reduction of generators by 39%, a reduction of 279.04 tons of HW, and a reduction of 3.17 tons of acutely toxic waste.

Reduction of Impact on Small Businesses. A.R.S. § 41-1035 requires state agencies to reduce the impact of a rulemaking on small businesses, if legal and feasible in meeting the statutory objectives of the rule. As discussed previously, ADEQ's rules must be as stringent as EPA's for ADEQ to be authorized to implement the HW program in Arizona. Under A.R.S. § 49-922(A), ADEQ may be more stringent than EPA in procedural areas. After the elimination of the annual report in the last rulemaking, ADEQ is not aware of any further procedural requirements where Arizona HW rules are more stringent than EPA that could be relaxed for small businesses. For similar reasons, the Department has determined there are no less intrusive or less costly methods of achieving the purposes of the rule.

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

Name: Mark Lewandowski or Caitlin Caputo

Address: Arizona Department of Environmental Quality  
Waste Programs Division  
1110 W. Washington St.  
Phoenix, Arizona 85007

Phone for Mark: (602) 771-2230, or (800) 234-5677, enter 771-2230 (Arizona only)

Phone for Caitlin: (602) 771-4677, or (800) 234-5677, enter 771-4677 (Arizona only)

Fax: (602) 771-4272

E-mail: lewandowski.mark@azdeq.gov

**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: September 1, 2020

Time: 1:30 p.m.

Location: GoToMeeting hosted by Arizona Department of Environmental Quality at

<https://www.gotomeet.me/MaryCottrell/public-hearing-hazardous-waste>

You can also dial in using your phone.

United States: [+1 \(646\) 749-3122](tel:+16467493122)

Access Code: 905-691-661

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., September 4, 2020. Submit comments to [wasterulemaking@azdeq.gov](mailto:wasterulemaking@azdeq.gov).

**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 by A.R.S. § 41-1001 are not recognized under federal HW 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). It is important to note that the HW 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 HW program in 1985, Arizona rules have been more stringent than EPA rules 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 procedural requirements were removed in the previous HW rulemaking.

**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 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 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, ~~2018~~ 2020 (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.** No change
- C.** All of 40 CFR 260, revised as of ~~July 1, 2018~~ July 1, 2020 (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; and
  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.~~ Copies of 40 CFR 260 are available at <https://www.eCFR.gov>. Copies of the Federal Register (FR) are available at <https://www.federalregister.gov/>.
- D.** No change
1. No change
  2. No change
    - a. No change
      - i. No change
      - ii. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
    - c. No change
      - i. No change
      - ii. No change
      - iii. No change
    - d. No change
      - i. No change
      - ii. No change
      - iii. No change
    - e. No change
      - i. No change
      - ii. No change
      - iii. No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change

v. No change

E. § 260.10, titled “Definitions,” is amended by adding all definitions from § 270.2 to this Section, including the following changes, applicable throughout this Article unless specified otherwise:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. [“Department of Transportation” or “DOT” means the U.S. Department of Transportation.]
8. No change
9. No change
10. No change
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. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
  - g. No change
  - h. No change
  - i. References in §§ ~~260.2(d)~~ 260.1(b);  
260.2(d);  
260.4(a)(4);  
260.10 (definitions of “Administrator,” “EPA region,” “Federal agency,” “Person,” and “Regional Administrator”);  
260.11(a);  
260.34;  
261, Appendix IX;  
261.39(a)(5);  
261.41;  
261.4(a)(24), but in § 261.24(a)(24)(v)(B)(2), “EPA” means “DEQ”;  
261.4(a)(25);  
262.21;  
262.24(a)(3);  
262.25;  
262.32(b);  
Part 262, subpart H;  
263.10(a) Note;  
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);

268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona;  
270.1(a)(1);  
270.1(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”);  
270.3;  
270.5;  
270.10(e)(1) through (2);  
270.11(a)(3);  
270.32(a) and (c);  
270.51;  
270.72(a)(5) and (b)(5);  
273.32(a)(3);  
124.1(f);  
124.5(d);  
124.6(e);  
124.10(c)(1)(ii); and  
124.13.]

- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
  - a. No change
  - b. No change
- 22. No change
- 23. No change
- 24. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change
- 32. No change

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

- 1. No change

2. “Administrator,” “Regional Administrator,” “EPA 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”;
  - 260.20
  - 260.40
  - 260.41;
  - ~~261.41;~~
  - 261, Appendix IX;
  - 262.11(c);
  - 262.41;
  - ~~262.42;~~
  - 262.43;
  - 262, Subpart H;
  - 264.12(a);
  - 264.71;
  - 265.12(a);
  - 265.71;
  - 268.2(j);
  - 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona;
  - 270.2, in the definitions of “Administrator”, “Director”, “Major facility”, “Regional Administrator”, and “State/EPA agreement”;
  - 270.3;
  - 270.5;
  - 270.10(e)(1), (2), and (4);
  - 270.10(f) and (g);
  - 270.11(a)(3);
  - 270.14(b)(20);
  - 270.32(b)(2);
  - 270.51;
  - 124.5(d);
  - 124.6(e);
  - 124.10(b)].
3. “Facility” [or “activity” means:
- [a]. Any HWM facility or other facility or activity, including] all contiguous land, and structures, other 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] or for managing hazardous secondary materials prior to reclamation. 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 purpose of implementing corrective action under 40 CFR 264.101, 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, but is subject to corrective action requirements if the site is located within such a facility.

4. No change
5. No change
6. No change
7. “United States” or “U.S.” means [Arizona except for the following:
  - a. No change
  - b. §§ 261.4(a)(23) and 261.4(a)(25).
  - bc. No change
  - ed. No change
  - e. § 262.14(a)(5).
  - ef. No change
  - eg. No change
  - fh. No change

G. No change

H. No change

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,~~ and 260.34, the director shall accept the determination, if the director determines the action is consistent with the policies and purposes of the HWMA.

J. No change

K. No change

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~~ Registration 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.

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 ~~July 1, 2018~~ July 1, 2020 (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. No change
  2. ~~The revisions to the solid waste definition as published at 73 FR 64668, 80 FR 1694, and 83 FR 24664~~ 40 CFR §§ 261.149, 261.400(a), 261.400(b), 261.410(e), 261.410(f), 261.411, and 261.420; Copies of 40 CFR 261 are available at <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~~ section 1004(5) of RCRA” or “~~Section~~ sec-tion 1004(5) of the Act” means A.R.S. § 49-921(5).
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. Notwithstanding the definitions of “EPA” and “EPA Regional Administrator” in R18-8-260(E)(11) and (F)(2):
  1. In § 261.151(g), the third sentence is replaced by the following: “If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance must be submitted to and maintained with each state agency regulating hazardous waste or with the appropriate Regional Administrator if a facility is located in an unauthorized State.”
  2. § 261.151 is amended by adding at the end: “Whenever this section requires that the owner or operator of a reclamation or intermediate facility notify several Regional Administrators of their financial obligations, the notice shall be to both DEQ and all Regional Administrators of the United States Environmental Protection Agency of Regions that are affected by the owner or operator’s financial assurance mechanisms.”

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

- A. All of 40 CFR 262, revised as of ~~July 1, 2018~~ July 1, 2020 (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 <https://www.eCFR.gov>.
- B. No change
  1. No change
  2. No change
  3. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. Any generator who must comply with 40 CFR 262.16 or 262.17 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. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change

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

- A. All of 40 CFR 263, revised as of July 1, ~~2018~~ 2020 (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 <https://www.eCFR.gov>.
- B. No change
- C. No change

**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, 2018~~ July 1, 2020 (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(i), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 264 are available at <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 R18-13-312, 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 § 262.14;
- C. No change
- D. No change:
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change

- 5. No change
- 6. No change

M. No change

N. No change

**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, 2018~~ July 1, 2020 (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 <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 R18-13-312, 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];
- C. No changes
- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
  - 1. No change
- J. No change
- K. No change
  - 1. No change
  - 2. No change
  - 3. No change

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

- A. All of 40 CFR 266 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (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 <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 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) of this chapter, and hazardous wastes that are subject to the special requirements for [very] small quantity generators under [§§ 262.13 and 262.14] 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.

C. No change

### **R18-8-268. Land Disposal Restrictions**

All of 40 CFR 268 and accompanying appendices, revised as of ~~July 1, 2018~~ July 1, 2020 (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 <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, 2018~~ July 1, 2020 (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; and
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 <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);
  - 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.
- ~~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; and
  - b. Injection well, ditch, alleyway, storm drain, leachfield, or roadway.]
  - e. 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. No change

G. No change

1. No change

2. No change

- a. No change
- b. No change
- c. No change
- 3. No change
- 4. No change
- 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. No change
  - a. No change
  - b. No change
- 8. No change
- 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 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 and §§ 124.3(d) and 124.5(a), 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 and §§ 124.3(d) and 124.5(a).]

- K. No change
- L. No change
- M. No change
- N. No change
- O. No change
- P. No change
- Q. No change
- R. No change
- S. No change
- T. No change
- U. No change

**R18-8-271. Procedures for Permit Administration**

A. All of 40 CFR 124, revised as of July 1, ~~2018~~ 2020 (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 <https://www.eCFR.gov>. Copies of the Federal Register are available at <https://www.federalregister.gov>.

- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change
- N. No change
- O. No change
- P. No change
- Q. No change
- R. No change
- S. No change
- T. No change

**R18-8-273. Standards for Universal Waste Management**

A. All of 40 CFR 273, revised as of ~~July 1, 2018~~ July 1, 2020 (and no future editions), is incorporated by reference and on file with the DEQ. Copies of 40 CFR 273 are available at

<https://www.eCFR.gov>.

- B. No change
- C. No change

**R18-8-280. Compliance**

A. Inspection and entry. For purposes of ensuring compliance with the provisions of HWMA, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes, including used oil that may be classified as hazardous waste pursuant to A.R.S. Title 49, Chapter 4, Article 7, and hazardous secondary materials, shall, upon request of any officer, employee, or representative of the DEQ duly designated by the Director, furnish information pertaining to such wastes and permit such person at reasonable times:

1. To enter any establishment or other place maintained by such person where hazardous such wastes are or have been generated, stored, treated, disposed, or transported from;
  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. No change
    - d. No change
  2. No change
  3. No change
  4. No change
  5. No change