

**NOTICES OF PROPOSED RULEMAKING
Initiated After January 1, 1995**

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register*.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

**TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT**

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| 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 |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 49-104(B)(4)
Implementing statutes: A.R.S. §§ 49-922 and 49-905
- 3. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Martha L. Seaman, Manager, Rule Development Section
Address: Department of Environmental Quality
3033 North Central, Room 831
Phoenix, Arizona 85012
Telephone: (602) 207-2222
Fax: (602) 207-2251
- 4. An explanation of the rule, including the agency's reasons for initiating the rule:**
Every year the Arizona Department of Environmental Quality (ADEQ) proposes amendments to the state's hazardous waste rules. The state's hazardous waste rules are generally comprised of the federal regulations authorized by Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) which are incorporated by reference. The hazardous waste rules are well established and have been effective since 1984. This year's amendments cover changes in the federal regulations promulgated between July 2, 1993, and July 1, 1994.
- Incorporation by Reference as of July 1, 1994**
Incorporating the federal regulations will keep Arizona's hazardous waste management program equivalent to and consistent with the federal regulations. The United States Environmental Protection Agency (EPA) requires this to be done by ADEQ on an annual basis so that ADEQ can maintain authorization to implement the RCRA or hazardous waste program in lieu of the EPA administering the program in Arizona. ADEQ received final RCRA authorization in 1985 and continues to apply for revisions to authorization to keep current with changes in federal regulations. Maintaining a program that is equivalent to and consistent with the federal regulations is also required by A.R.S. § 49-922. Furthermore, the adoption of federal regulations promoted compliance uniformity among states.
- The incorporations by reference for July 2, 1993, through July 1, 1994, are listed with a brief explanation:
1. Testing and Monitoring activities found in Parts 260 and 268 were updated to add new test methods. This action is necessary to provide more complete analytical test methods for RCRA and is intended to provide up-to-date technologies in order to

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promote cost-effectiveness and flexibility in choosing analytical test methods. The new test methods are optional.

2. The EPA has decided not to list wastes from the use of chlorophenolic formulations in wood surface protection processes and is not requiring any new information collection requirements for owners and operators of wood surface protection plants. Although no new wastes from wood protection processes are listed as hazardous, the EPA is adding certain constituents contained in these wastes to 40 CFR 261, Appendix VIII: the sodium and potassium salts of pentachlorophenol and of tetrachlorophenol. Listing these substances in this Appendix gives EPA more flexibility to later list them as hazardous.
3. The incorporation by reference of Update II of SW-486, Third Edition into the hazardous waste regulations at 40 CFR 260.11(a) was incorrect. Update II is still being developed and was not promulgated on January 4, 1994. The availability of Updates II and IIA from the U.S. Government Printing Office (GPO) was incorrect. Neither of these updates is available from GPO at this time.
4. The quantity of contaminated media which are conditionally exempt from Subtitle C regulation when used in conducting treatability studies is increased from 1000 kg up to 10,000 kg of media contaminated with non-acute hazardous waste, and from 250 kg up to 2500 kg of media contaminated with acute hazardous waste. This is a deregulatory action.
5. A technical correction was published to add the word "powder" to the P015 listing description, which is beryllium.
6. Certain in-process recycled secondary materials utilized by the petroleum-refining industry are excluded from the definition of solid waste. Specifically, oil recovered from petroleum refinery wastewaters and from other sources, both on-site and off-site, is excluded from the definition of solid waste if it is subsequently inserted (along with normal process streams) into the petroleum refining process prior to crude distillation or catalytic cracking.
7. Conforming changes were made to 40 CFR 260 and 266 to ensure that the guidelines for air quality modeling and screening for boilers and industrial furnaces burning hazardous waste are consistent with the guidelines in 40 CFR 51.
8. Current limits needed to qualify for the Beville exemption with land disposal restriction limits for underlying constituents in non-wastewaters were replaced. This rule does not change the scope of the original rule.
9. Owners and operators of TSDFs are required to include additional language in their letter of credit instrument to clarify that the International Chamber of Commerce publication "Uniform Customs and Practice for Documentary Credits", which is cited in 40 CFR 264.151, is copyrighted.
10. The disposal codes listed in Appendix I of 40 CFR 264 and 265, which are used to maintain records on-site, were modified to match the codes used on the Part A Permit Application Form. Additional handling codes were included to allow for the proper recording of those processes relating to Boilers and Industrial Furnaces and Miscellaneous Units (Subpart X) facilities.

The federal regulations briefly described above are effective; therefore these are not new requirements.

The process for promulgation of the federal regulations is similar to the rulemaking process in Arizona with notice to the regulated community and an opportunity for public comment prior to the regulations becoming effective. The incorporation by reference merely places into Arizona law certain federal regulations which are already effective. Therefore, the incorporation by reference on its own imposes no additional regulations to the state of Arizona.

Within the rule text, changes are noted as follows: deletions are marked by strike-through and new text is underlined.

The changes to the incorporation by reference date from July 1, 1993, to July 1, 1994, are found in subsection (A) of most Sections in this rule. Subsection (A) of Sections R18-8-260 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271 incorporate by reference the federal regulations published in 40 CFR 260 through 266, 268, 270, and 124 as of July 1, 1994. Sections R18-8-267 and R18-8-272 through R18-8-278 are reserved and do not contain any regulations at this time. Section R18-8-279 is not required by the EPA at this time. Sections R18-8-269 and R18-8-280 are state rules that do not incorporate federal regulations.

This rulemaking is primarily to incorporate the text of federal regulations for reauthorization of the RCRA program. Modifications to the text incorporated by reference are only intended to make the language consistent with state terminology and not intended to make any change to the content. For example, the federal regulations refer to the "EPA" because it is the agency responsible for implementation and enforcement of the regulations. However, since Arizona is authorized to implement and enforce the federal regulations, "EPA" is usually replaced with "ADEQ" when referring to the agency that implements the regulations. Because the changes to the federal regulations are generally to tailor the language to ADEQ, the changes to the incorporated text are not intended to have any additional impact upon Arizona.

Changes in addition to the Incorporation By Reference
§ 260.2 Availability of Information

The first change other than an incorporation by reference is found in R18-8-260(D)(2)(e)(ii).

The authorizing statute for disclosure of information is A.R.S. § 49-928 which states the following: "If the director, on his own or

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following a request for disclosure, disagrees with the confidentiality notice, he may request the attorney general to seek a court order authorizing disclosure. If a court order is sought, the person shall be served with a copy of the court filing and shall have twenty business days from the date of service to request a hearing on whether a court order shall be issued...The director may not disclose the confidential information until a court order authorizing disclosure has been obtained and becomes final."

The statute requires review of confidential information by ADEQ to determine agreement or disagreement under only two conditions. The first condition occurs when a request for disclosure is made. The second condition occurs when the director, on the director's own initiative, reviews the claimed confidential information to determine agreement or disagreement with the claim of confidentiality. The current rule requires the director to review all claimed confidential information and does not clearly show the two instances when the director reviews confidential information.

The proposed rule has been modified with the intent to more closely track the statute. The rule was written based upon different language that no longer is in the statute. The rule was originally promulgated in 1984, amended in 1988, and then the statute changed in 1991. Consequently the rule has not been modified since the statute changed. The rule currently states that the director must review every single confidential claim within 20 working days of receipt of the confidential information. The state does not impose this requirement; therefore the proposed rule changes the language to more closely parallel the options found in the statute.

The proposed rule is changed to expressly state that the director need only review claimed confidential information under the two conditions found in the statute. The conditions are: 1) when a request for disclosure is made, or 2) when the director initiates a voluntary review of the claimed confidential information.

When a request for disclosure of the confidential information is made to ADEQ, the proposed rule no longer restricts the director's time for review to a 20-working-day limitation. One reason this change is needed is because the statute does not impose any deadlines; the second reason is because the director has a difficult time performing a thorough review under the current rule which allows 20 working days. A review by the director includes review by staff, assignment of an attorney general, and a formal response provided to the claimant within 20 working days after the request for disclosure. ADEQ believes a thorough review is beneficial because the next required step is to obtain a court order if the director disagrees with the confidentiality claim. Additionally, ADEQ does not believe that the lack of a deadline imposes any burden on the regulated community, because the information cannot be disclosed without a court order. Therefore, the change to the rule removes the 20 working days for review of a confidentiality claim.

The effect of the proposed change is that, when ADEQ receives different types of claimed confidential information which is requested for disclosure, the director will no longer be restricted by the 20 working days to complete a review. Along with the statutory change, ADEQ has had an increase in requests by businesses for regulatory interpretations. The request is accompanied by information about the business and claimed confidential. Other businesses have been requesting disclosure of the information about new businesses. With the change in the rule, when a request for disclosure is made by a competing business, the director must review all the confidential information, but the director may now take more than 20 working days if needed.

In the case where the director initiates a review of a confidential claim on his or her own, the director shall notify the claimant of the request for disclosure, provide 20 additional working days for the claimant to submit comments and an additional 20 working days to evaluate the confidentiality claim after receipt of the comments. Again, the statute does not impose any time frame. In this case, the time frame was left in the rule, because it was achievable by ADEQ. The claimant is free to submit comments with the claimed confidential information and still take advantage of the 20 working days when notified by the director.

In summary, the changes to the rule text on confidential claims is intended to clarify the process and more closely match the state statute (A.R.S. § 49-928). It is ADEQ's desire to ensure a request for disclosure is completed as soon as possible with a thorough review, and public records are accessible while confidential records are protected.

Definition of "Closure"

The definition of closure was modified to clarify the applicability of closure to a permitted facility and an interim status facility. The definition of closure found in the federal regulations does not delineate between closure for a permitted facility or an interim-status facility. The definition in the federal regulations is presumed to mean that closure applies to both permitted or interim-status facilities. The language changes are intended to expressly state that closure applies to both types of facilities.

Deletion of Citations in Definitions § 260.10

The citations to §§ 264.11 and 265.11 were deleted because these references to the "EPA" were exceptions to the amendment which replaces "EPA" with "ADEQ." The result of the deletion is that "EPA" should be replaced with "ADEQ". Prior to this rulemaking the EPA assigned an EPA Identification number to hazardous waste generators. The EPA requested Arizona assume this function. With ADEQ performing the assignment of the EPA Identification number, these two exceptions are no longer exceptions.

The citations to §§ 262.12 and 263.11 were deleted for the same reason as stated in the above paragraph. In this case, the references are to the "Regional Administrator" which needs to be replaced with the "Director."

New language for the definition of "Facility"

The new language was inadvertently omitted in a prior rule. This rule change is intended to parallel the federal regulation's definition of facility.

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R18-8-261 Change from Background Information to Form IC, Identification and Certification

This change is to correctly state the name of the federal form. The form changed from "Background Information" to "Identification and Certification." The notation for where to mail the annual report is added to expressly state ADEQ's address. The requirement to send the report to ADEQ is not new. Therefore, the address of ADEQ is placed in the rule to eliminate any question as to the location where the annual report needs to be submitted.

§ 262.12 EPA Identification Number

This change is to move the responsibility for assignment of the EPA Identification Number from the EPA to the ADEQ. Notice that the only changes to the language from the federal language are noted in brackets "[]" and are found in the name and address portions of the rule.

Changes to § 262.34

The amendment to the incorporation by reference in this Section did not appear to contain all the language from the federal regulation in the state text. Therefore, § 262.34 is now incorporated by reference without amendments. The old amendments are found in subsection (E) which is deleted. This deletion results in the removal of the written log; therefore, subsection (L) contains the written log requirement. Cross references to §§ 265.444 and 265.1101(c)(4) were added for conformity. This is not intended to change the incorporation by reference, but to clearly show the entire Section is incorporated by reference and the written log requirement is retained.

Change in § 262.41

The references to rule citations were incorrectly listed as R18-8-264, R18-8-265, and R18-8-270, when in fact no generator would be required to comply with all three rules. It is corrected to refer to a generator that must comply with any one of the three. Therefore the "and" is changed to "or." This more closely tracks the federal language.

Changes throughout the text

Cross-reference corrections were made to conform to changes where new text was added to the rule.

Summary

The incorporation by reference as of July 1, 1994, changes contained in this rule are to include the most recent publication of the federal hazardous waste regulations published in 40 CFR. The federal regulations were effective prior to this rulemaking; therefore no additional regulation is imposed by the incorporation by reference.

Most changes to the text are to ensure the state rule clearly parallels the federal rule, except for the confidential information. Additionally, § 262.12 changes the responsible agency for assignment of the EPA Identification number from the "EPA" to the "ADEQ."

5. **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.

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

This rule package has three elements. It contains the incorporation of federal regulations, modifications to the confidential review process, and the assignment of the EPA Identification number by ADEQ rather than the EPA.

There are no additional regulatory requirements in this rule as a result of the incorporation by reference; therefore no cost is associated with the incorporation by reference.

The assignment of the EPA Identification number merely moves the responsible agency from the EPA to ADEQ. The half time FTE that previously performed the work will be an ADEQ resource rather than an EPA resource. In either case, taxpayer money funds pay for the half-time FTE (\$18,793); therefore no incremental cost results from this change. The actual cost to perform the function should not require any increase in taxes. The computer software used by the half FTE to generate the number will be provided by the EPA and the computer hardware is already available at ADEQ without any additional cost. Therefore the assignment of the EPA Identification number is not expected to impose any additional new costs.

The changes to the confidential information are not expected to impose any new costs on the regulated community. It is expected to provide some relief to ADEQ in reviewing claimed confidential information that has been requested for disclosure.

The benefit to ADEQ from this rulemaking is reauthorization of the RCRA program which is funded by the Federal Government. Therefore, the cost of the program is not increased by this rulemaking, but the federal grant provides a substantial part of the funding for ADEQ to implement the program. ADEQ believes the benefit to the state of Arizona is a more responsive agency than EPA in implementing the RCRA program, and an agency that is more aware of the unique nature of the environment in Arizona. Therefore, by ADEQ implementing the program, ADEQ believes that more education of the regulated community and close inspection of facilities can be done on a more regular basis than could be done if the EPA were implementing the program.

Small business does not receive special consideration due to this rule consisting primarily of technical corrections rather than new regulations. It is not expected that the consumer will notice any additional costs or benefits of the rulemaking except for the continued implementation of the RCRA program by ADEQ.

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7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Martha L. Seaman, Manager, Rule Development Section
Address: Arizona Department of Environmental Quality
3033 North Central, Room 831
Phoenix, Arizona 85012
Telephone: (602) 207-2222
Fax: (602) 207-2251

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted until 5 p.m. on July 28, 1995. Comments may be delivered, faxed, or presented orally.

Oral proceedings to consider comments on the proposed rule are scheduled for the following dates and locations:

Date: July 25, 1995
Time: 9 a.m. to noon
Location: Small Conference Room #131
State Office Building
400 West Congress
Tucson, Arizona

Contact Bob Patterson at (520) 628-6301 for special assistance.

Date: July 24, 1995
Time: 9 a.m. to noon
Location: Department of Environmental Quality
Public Hearing Room
3033 North Central Avenue
Phoenix, Arizona

Contact Debbie Martinez at (602) 207-4795 for special assistance.

ADEQ is committed to complying with the Americans with Disabilities Act. If an individual with a disability needs special accommodations, please contact the appropriate person listed by location at least 72 hours before the hearing.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

10. Incorporations by reference and their location in the rules:

R18-8-260 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271.

11. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
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
R18-8-269. Standards Applicable to the State Owned
Hazardous Waste Facility
R18-8-270. The Hazardous Waste Permit Program
R18-8-271. Procedures for Permit Administration
R18-8-280. Compliance

ARTICLE 2. HAZARDOUS WASTES

R18-8-260. Hazardous Waste Management System:
General
A. The purpose of this Article is to establish rules and
criteria for the identification, storage, treatment, trans-
portation, and disposal of hazardous wastes which are
generated, transported, treated, or disposed within the
state of Arizona. Federal and state statutes and regula-
tions cited in these rules are those adopted as of July 1,
1993 1994, unless otherwise noted. 40 CFR 124, 260
through 266, 268, and 270 or parts thereof are adopted
by reference when so noted. Federal statutes and

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regulations that are cited within 40 CFR 2, 124, and 260 through 270 that are not adopted by reference may be used as guidance in interpreting federal regulatory language.

- B. No change.
- C. All of 40 CFR 260 and accompanying appendices, as amended as of July 1, 1993 1994, (and no further editions), with the exception of §§ 260.1(b)(4) through (6), 260.20, 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33 are incorporated herein by reference and modified by the following subsections of R18-8-260 and are on file with the Department of Environmental Quality (DEQ) and the Office of the Secretary of State.
- 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.
 - (1) No change.
 - (2) No change.
 - ii. No change.
 - (1) No change.
 - (2) If a request for disclosure is made, the the Director shall 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. 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. No change.
 - (1) No change.
 - (2) When a request for disclosure is made, the claimant shall be notified 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.

~~2(4)~~ No change.

- f. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - v. No change.
- E. No change.
 1. No change.
 2. No change.
 3. No change.
 4. No change.
 5. "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. No change.
 7. No change.
 8. No change.
 9. No change.
 10. No change.
 11. No change.
 12. ["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(b) (see R18-8-260(D)(2)); 260.10 (definitions of "Administrator", "EPA region", "Federal agency", "Person", and "Regional Administrator" (see R18-8-260(E)); 260, Appendix I (see R18-8-260(C)); 260.11(a) (see R18-8-260); 261, Appendix IX (see R18-8-261(A)); 262.32(b) (see R18-8-262(A)); 262.50 through 262.57 (see R18-8-262(A)); 262, Appendix (see R18-8-262(A)); 263.10(a) Note (see R18-8-263(A)); 264.11 (see R18-8-264); 265.11 (see R18-8-265(A)); 268.1(e)(3) (see R18-8-268); 268.5, 268.6, 268.42(b), and 268.44) which are nondelegable to the state of Arizona (see R18-8-268); 270.1(a)(1) (see R18-8-270); 270.1(b) (see R18-8-270(B)); 270.2 (definitions of "Administrator",

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- "Approved program or Approved state", "Director", "Environmental Protection Agency", "EPA", "Final authorization", "Permit", "Person", "Regional Administrator", and "State/EPA agreement" (see R18-8-270(A)); 270.3 (see R18-8-270(A)); 270.5 (see R18-8-270(A)); 270.10(e)(1) through (2) (see R18-8-270(A) and R18-8-270(D)); 270.11(a)(3) (see R18-8-270(A)); 270.32(a) and (c) (see R18-8-270(M) and R18-8-270(O)); 270.51 (see R18-8-270(M) and R18-8-270(O)); 270.51 (see R18-8-270(P)); 270.72(a)(5) and (b)(5) (see R18-8-270(A)); 124.1(f) (see R18-8-271(B)); 124.5(d) (see R18-8-271(D)); 124.6(e) (see R18-8-271(E)); 124.10(c)(1)(ii) (see R18-8-271(I)); and 124.13 (see R18-8-271(L)).]
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.
 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.
- F. § 260.10, entitled "Definitions", as amended by subsection (E) also is amended as follows, with all definitions in § 260.10 (see R18-8-260) applicable throughout this Article unless specified otherwise.
1. No change.
 2. "Administrator", "Regional Administrator", "Regional Administrator" or "state Director", or "Assistant Administrator for Solid Waste and Emergency Response" mean the [Director or the Director's authorized representative, except in §§ 260.10, definitions of "Administrator", "Regional Administrator", and "hazardous waste constituent" (see R18-8-260(E)); 261, Appendix IX (see R18-8-261(A)); 262.12; 262, subpart E; 262, Appendix (see R18-8-262); 263.11 (see R18-8-263); 264.12(a) (see R18-8-264(A)); 265.12(a) (see R18-8-265(A)); 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (see R18-8-268); 270.2, definitions of "Administrator", "Director", "Major facility", "Regional Administrator", and "State/EPA agreement" (see R18-8-270(A)); 270.3 (see R18-8-270(A)); 270.5 (see R18-8-270(A)); 270.10(e)(1), (2), and (4) (see R18-8-270(A) and R18-8-270(D)); 270.10(f) and (g) (see R18-8-270(A) and R18-8-270(E)); 270.11(a)(3) (see R18-8-270(A)); 270.14(b)(20) (see R18-8-270(A)); 270.32(b)(2) (see R18-8-270(N)); 270.51 (see R18-8-270(A)); 124.5(d) (see R18-8-271(D)); 124.6(e) (see R18-8-271(E)); 124.10(b) (see R18-8-271(I)).
3. "Facility" [or "activity" means:
 - a. ~~any~~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 (e.g., one or more landfills, surface impoundments, or combinations of them).
 - b. For the purposes of implementing corrective action under 40 CFR 264.101 (see 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 RCRA Section 3008(h).
 4. No change.
 5. No change.
 6. No change.
- G. No change.
H. No change.
- R18-8-261. Identification and Listing of Hazardous Waste**
- A. All of 40 CFR 261 and accompanying appendices, as amended as of July 1, 1993~~1994~~, (and no future editions), with the exception of § 261.5(j), are incorporated herein by reference and modified by the following subsections of R18-8-261, and are on file with the DEQ and the Office of the Secretary of State.
 - 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. § 261.6 entitled "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 ~~Part 1, "Background Information", Form IC, "Identification and Certification",~~ of the Facility Annual

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Hazardous Waste Report to the Director by March 1 for the preceding calendar year.} The annual report shall be mailed to: ADEQ, Hazardous Waste Technical Programs Unit, 3033 North Central Avenue, Phoenix, Arizona 85012. The annual report shall be submitted on a form provided by the DEQ according to the instructions for the form.

- K. No change.
- L. No change.

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

- A. All of 40 CFR 262 and accompanying appendices, as amended as of July 1, 1993/1994, (and no future editions), are incorporated herein by reference and modified by the following subsections of R18-8-262, and are on file with the DEQ and the Office of the Secretary of State.
- B. No change.
- C. No change.
- D. § 262.12, entitled "EPA identification numbers", paragraphs (a) and (b) 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 Technical Programs Unit, 3033 North Central Avenue, Phoenix, Arizona 85012.] Upon receiving the request, the [DEQ] will assign an EPA identification number to the generator.

~~DE.~~ No change.

- E. § 262.34, entitled "Accumulation time", paragraph (a)(1) is amended as follows:

~~The waste is placed in containers and the generator complies with Subpart I of 40 CFR 265, or the waste is placed in tanks and the generator complies with 40 CFR 265 subpart J, except §§ 265.197(c) and 265.200 [(see R18-8-265)]. In addition, such generator shall be exempt from all of the requirements in 40 CFR 265 subparts G and H, except for §§ 265.111 and 265.114 [(see R18-8-265)].~~

~~[A generator shall keep a written log of the inspections conducted in accordance with §§ 265.174 and 265.195 (see R18-8-265), of container and tank storage areas and for the containers or tanks located in these storage areas. The inspection log shall be kept by the generator for three years from the date of the inspection. The inspection log shall be filled in after each inspection and shall include the following information: inspection date, inspector's name and signature, and remarks/corrections.]~~

- F. No change.
- G. § 262.41, entitled "Biennial Report", is amended as follows:
 - (a) No change.
 - (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,

R188-265, ~~and~~ R18-8-270,] shall submit [an annual] report covering those wastes in accordance with the provisions of 40 CFR 264.75 [(see R18-8-264(EG)) and 265.75 [(see R18-8-265(EG)).]

- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. Any generator who must comply with 40 CFR 262.34(a)(1) (see R18-8-262) shall keep a written log of the inspections of container, tank, drip pad, and containment building areas 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) (see R18-8-265). The inspection log shall be kept by the generator for three years from the date of the inspection. The inspection log shall be filled in after each inspection and shall include the following information: inspection date, inspector's name and signature, and remarks or corrections.

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

- A. All of 40 CFR 263, as amended as of July 1, 1993/1994, (and no future editions), is incorporated herein by reference and modified by the following subsections of R18-8-263, and is on file with the DEQ and the Office of the Secretary of State.
- B. § 263.11, entitled "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: ADEQ, Hazardous Waste Technical Programs Unit, 3033 North Central Avenue, Phoenix, Arizona 85012.] Upon receiving the request, the [DEQ] will assign an EPA identification number to the transporter.

~~BC.~~ § 263.20, entitled "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(ED).]

- ~~CD.~~ No change
- ~~DE.~~ 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, as amended as of July 1, 1993/1994, (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149-150, and 264.301(l), are incorporated herein by reference, and modified by the following subsections of R18-8-264, and are on file with the DEQ and the Office of the Secretary of State.
- B. No change.
- C. § 264.11, entitled "Identification number", is replaced by the following:

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1. A facility owner or operator must 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 Technical Programs Unit, 3033 North Central Avenue, Phoenix, Arizona 85012. Upon receiving the request, the DEQ will assign an EPA identification number to the facility owner or operator.

CD. No change.

DE. No change.

EE. § 264.71, entitled "Use of manifest system", paragraph (a)(4) is amended as follows: Within 30 days after the delivery, send a copy of the manifest to the generator [and submit one (1) copy of each manifest to the DEQ, in accordance with R18-8-264(GH).]

FG. No change.

GH. No change.

HI. No change.

IJ. No change.

JK. No change.

KL. No change.

LM. No change.

MN. 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, as amended as of July 1, 1993~~1994~~ (and no further editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, are incorporated herein by reference and modified by the following subsections of R18-8-265, and are on file with the DEQ and the Office of the Secretary of State.

B. No change.

C. § 265.11, entitled "Identification number", is replaced by the following:

1. A facility owner or operator must 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 Technical Programs Unit, 3033 North Central Avenue, Phoenix, Arizona 85012. Upon receiving the request, the DEQ will assign an EPA identification number to the facility owner or operator.

CD. No change.

DE. No change.

EE. § 265.71, entitled "Use of manifest system", paragraph (a)(4) is amended as follows: Within 30 days after the delivery, send a copy of the manifest to the generator [and submit one (1) copy of each manifest to the DEQ, in accordance with R18-8-265(GH)]; and

FG. No change.

GH. No change.

HI. No change.

IJ. No change.

JK. No change.

KL. 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, as amended as of July 1, 1993~~1994~~ (and no further editions), is incorporated herein by reference and is on file with the DEQ and the Office of the Secretary of State.

B. No change.

R18-8-268. Land Disposal Restrictions

All of 40 CFR 268 and accompanying appendices, as amended as of July 1, 1993~~1994~~ (and no future editions), with the exception of Part 268, Subpart B, are incorporated herein by reference and are on file with the DEQ and the Office of the Secretary of State.

R18-8-270. The Hazardous Waste Permit Program

A. All of 40 CFR 270, as amended as of July 1, 1993~~1994~~ (and no future editions), with the exception of §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated herein by reference and modified by the following subsections of R18-8-270 and is on file with the DEQ and the Office of the Secretary of State.

B. No change.

C. § 270.2, entitled "Definitions", is amended by the following: "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.]

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.

R18-8-271. Procedures for Permit Administration

A. All of 40 CFR 124 as amended as of July 1, 1993~~1994~~ (and no future editions), relating to HWM facilities, with the exception of §§ 124.1(b) through (e), 124.2, 124.4, 124.16, 124.20 and 124.21, is incorporated herein by reference and modified by the following subsections of R18-8-271 and is on file with the DEQ and the Office of the Secretary of State.

B. No change.

C. No change.

D. No change.

E. No change.

F. No change.

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- 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.