NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

Editor's Note: The following Notices of Proposed Rulemaking were reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2533.) The Governor's Office authorized the notices to proceed through the rulemaking process on June 23, 2014.

[R14-137]

PREAMBLE

1. Articles, Parts, or Sections Affected (as applicable) — **Rulemaking Action**

R18-2-701	Amend
R18-2-733	Repeal
R18-2-733.01	Repeal
R18-2-734	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing Statutes: A.R.S. §§ 49-104(A)(1) and (A)(10)

Implementing Statutes: A.R.S. §§ 49-422(B), 42-425(A)

3. A list of all previous notices appearing in the *Register* addressing the rules:

Notice of Rulemaking Docket Opening: 20 A.A.R. 2527, September 12, 2014 (*in this issue*).

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Steve Burr, Executive Consultant II

Address: Department of Environmental Quality
1110 W. Washington Ave.
Phoenix, AZ 85007

Telephone: (602) 771-4251 (This number may be reached in-state by dialing 1-800-234-5677 and entering the seven digit number.)

Fax: (602) 771-2366

E-mail: Burr.Steve@azdeq.gov

5. An explanation of the rules, including the agency's reasons for initiating the rules:

Summary. These proposed amendments to the state standards for emissions of mercury by coal-fired electric utility steam generating units (EGUs) in R18-2-733, R18-2-733.01 and R18-2-734 (the "Arizona Mercury Rule") would revise those rules to reflect EPA's repeal of its cap-and-trade program for mercury emissions and adoption of maximum achievable control technology (MACT) standards. Specifically, the amendments would (i) repeal provisions of the Arizona Mercury Rule (R18-2-733 and R18-2-733.01) that incorporate and modify the now defunct cap-and-trade program and (ii) amend the emission limits in R18-2-734 to be consistent with the MACT standards. Amended R18-2-734 would also serve as a backstop state program for mercury emissions in case the MACT standards, which are currently being challenged in federal court, are vacated or repealed.

The Clean Air Mercury Rule and the Arizona Mercury Rule. ADEQ adopted the Arizona Mercury Rule in 2006 in response to EPA's 2005 adoption of the Clean Air Mercury Rule (CAMR). 12 A.A.R. 4701 (Dec. 22, 2006).

CAMR imposed a cap-and-trade program under section 111(d) of the Clean Air Act that would have allowed individual EGUs to comply solely through the purchase of mercury emission allowances rather than the installation of controls.

In order to assure that coal-fired EGUs in Arizona would achieve actual reductions in mercury emissions, rather than simply purchasing sufficient allowances to cover their emissions, the Arizona Mercury Rule imposed a limit of "10 percent of inlet mercury or 0.0087 pound per gigawatt-hour [GWh], whichever is greater" (i.e., less stringent). A.A.C. R18-2-734(B).

The health and environmental concerns that lead to ADEQ's adoption of state standards to supplement CAMR with state emission limits are summarized in the economic, small business and consumer impact statement in section 8 of the preamble.

Compliance with the Arizona Mercury Rule emission limits was to be determined on the basis of 12-month rolling averages measured through continuous monitoring performed in accordance with CAMR. Emissions averaging across all EGUs at a plant was expressly permitted. For existing EGUs, compliance was required for the 12-month average ending on December 31, 2013 and each subsequent 12-month period. A.A.C. R18-2-734(B), (C).

The Notice of Final Rulemaking (NFRM) for the Arizona Mercury Rule recognized that most EGUs in Arizona burn subbituminous coal and that the 90 percent reduction in mercury emissions effectively required by the rule could not be achieved without the installation of mercury-specific controls, such as ACI. 12 A.A.R. at 4703-04, 4708.

Subsection H of the Arizona Mercury Rule provides an exemption for a plant that (1) installs controls designed to achieve the rule's limits in accordance with an ADEQ-approved control strategy, (2) is nevertheless unable to achieve compliance with the limits, (3) conducts an analysis of the "incremental best available control technology" and (4) obtains a permit revision imposing a new limit based on the results of that analysis.

The D.C. Circuit vacated CAMR on February 8, 2008. To address the uncertainties created by the vacatur, ADEQ and each of the owner/operators of the four Arizona coal-fired power plants subject to the state standard entered into consent orders that:

- Extended the deadline for compliance with the Arizona Mercury Rule from December 31, 2013 to December 31, 2016.
- Required a plan for interim reductions in mercury emissions of 50 or 70 percent, depending on the date they were implemented.

The consent orders anticipated that in response to the vacatur, EPA might promulgate a MACT standard under section 112(d) of the Clean Air Act. The orders stated that:

> At the time that EPA promulgates a MACT Standard that addresses mercury emissions from [EGUs], ADEQ intends to propose amendments to A.A.C. R18-2-734 to ensure that the Arizona Mercury Rule is not incompatible with the MACT Standard.

The MATS Rule. EPA in fact promulgated MACT standards for mercury, as well as numerous other hazardous air pollutants emitted by EGUs, in the MATS rulemaking on February 16, 2012. 77 Fed. Reg. 9304 (2012). The MATS limits for mercury emissions from existing coal-fired EGUs burning bituminous and subbituminous coal are as follows:

Averaging Period	Averaging Across Units Allowed?	Limit
30 days, rolling daily	No	.013 lb/GWh
90 days, rolling daily	Yes	.011 lb/GWh

40 C.F.R. §§ 63.9991(a)(1), 63.10009(a)(2), 63.10021(b), Table 2. The MATS rule also expresses these limits in terms of weight per heat input (lb/TBtu).

Unlike the Arizona Mercury Rule, the MATS rule allows averaging across emissions units only in the case of the 90-day standard and then only if a number of conditions are satisfied. For example, a facility intending to use emissions averaging must prepare and submit an emissions averaging plan.

Existing EGUs are required to comply with the MATS rule by April 16, 2015. The MATS rule includes a separate, much more stringent limit for new EGUs. 73 Fed. Reg. 24073, 24075 (Apr. 24, 2013).

Because the Arizona Mercury Rule and the MATS rule use different averaging periods, a conversion is required to compare the two. EPA has provided a basis for making this conversion. In the course of developing the MATS, EPA conducted an analysis to "evaluate the impact of averaging time on variability and to 'predict' the UPL [upper predictive limit] value for different averaging times for the MACT floor facilities." Memorandum from Stephen Boone, et al., RTI re The Impact of Emissions Averaging Time on the Stringency of an Emission Standard (Dec. 9, 2011). Referenced at 77 Fed. Reg. at 9385. On the basis of CEMS data from 23 EGUs, EPA calculated that the MACT floor emission limits for different averaging periods would be as follows:

Average Period (days)	Calculated UPL With Control CEMS Data (lb Hg/MMBtu)
30	1.32E-06
90	1.03E-06
360	7.60E-07

Thus, in order to convert a 360-day limit to a 30-day limit of equivalent stringency, one should multiply the 360-day limit by a ratio of 1.74 (1.32E-06/7.60E-07). The appropriate ratio for a 360-day to 90-day conversion is 1.36 (1.03E-06/7.60E-07).

If these ratios are used to convert Arizona's 12-month lb/GWh standard to 30-day and 90-day equivalents and compare the converted values to EPA's standards, the results are as follows:

Averaging Period	EPA Standard	Arizona Equivalent
30 days	.013 lb/GWh	.015 lb/GWh (.0087×1.74)
90 days	.011 lb/GWh	.012 lb/GWh (.0087×1.36)

Thus, the Arizona Mercury Rule's lb/GWh limit is equivalent to but somewhat less stringent than the MATS limits.

The Arizona Mercury Rule is less stringent than the MATS rule in additional ways:

- The Arizona Mercury Rule requires compliance determinations at the end of each month. The MATS rule requires daily compliance determinations.
- Unlike the MATS rule, the Arizona Mercury Rule allows compliance on the basis of a percentage reduction in mercury emissions as an alternative to the lb/GWh limit. If mercury concentrations in the inlet coal are sufficiently high, the percentage reduction standard could be significantly less stringent than the lb/GWh limit.
- The MATS rule does not include the Arizona Mercury Rule's incremental BACT exemption or anything like it.
- The Arizona Mercury Rule automatically allows emissions averaging across all EGUs at a power plant. The MATS rule places a number of limits and conditions on emissions averaging.
- The MATS rule includes a separate, much more stringent limit for new EGUs.
- The MATS rule has an earlier compliance date (April 16, 2015) than the date (December 31, 2016) specified in the consent orders.

Litigation. Although the MATS rule is somewhat more stringent than the Arizona Mercury Rule, ADEQ is not proposing to repeal the state rule at this time. Numerous state and industrial parties filed petitions for review of MATS, including the mercury emission limits, in the United State Court of Appeals for the D.C. Circuit. The D.C. Circuit denied those petitions and upheld MATS in *White Stallion Energy Center v. EPA*, 748 F.3d 1222 (D.C. Cir. Apr. 15, 2014). A petition for certiorari challenging this decision has been filed with the Supreme Court and is currently pending. If ADEQ repealed the Arizona Mercury Rule and mercury emission limits in the MATS rule were vacated or repealed as a result of a decision by the Supreme Court, the state would be left with no limits on EGU emissions on mercury.

ADEQ is therefore proposing to amend the Arizona Mercury Rule to serve as a backstop program in case the MATS mercury emission limits are vacated or repealed.

Section by Section Explanation of Proposed Rules:

R18-2-701	Amend definitions relating to mercury emissions from EGUs to be consistent with MATS rule. Repeal definitions that are no longer needed as a result of repeal of rules incorporating and modifying CAMR.
R18-2-733	Repeal incorporation by reference of CAMR, which has been vacated and repealed.
R18-2-733.01	Repeal provisions requiring owners and operators of EGUs to purchase additional mercury allowances in market established by CAMR under certain circumstances.
R18-2-734	Amend state standards for mercury emissions to (i) incorporate MATS emission limits for mercury by reference; (ii) eliminate inconsistencies with the MATS rule, such as the incremental BACT provision; (iii) assure that interim emission reductions required by the consent orders remain in effect; (iv) establish procedures for the state rule to take effect if the MATS emission limits for mercury are vacated or repealed; and (v) allow EGUs the option in that event to comply with the existing state limit or the MATS emission limits.

6. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or

justification for the rules or did not 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, "Fact Sheet: Fish Consumption Advisories" (October 2012), http://www.azdeq.gov/environ/water/assessment/download/fca.pdf.

EPA, "Mercury Study Report to Congress Volume I: Executive Summary" (December 1997), http://epa.gov/ttn/oarpg/t3/reports/volume1.pdf.

EPA, "Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards" (December 2011), http://www.epa.gov/mats/pdfs/20111221MATSfinalRIA.pdf.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement (ESBCIS) under A.R.S. § 41-1055.

An identification of the rulemaking.

The rulemaking addressed by this ESBCIS consists of the repeal of A.A.C. R18-2-733 and R18-2-733.01 and amendments to the state limits on mercury emissions from coal-fired electric generating units at A.A.C. R18-2-734. The purpose of the amendments is to assure that the state mercury standards are consistent with and no more stringent than the corresponding federal law addressing the same subject matter as required by A.R.S. § 49-104(A)(17) and to provide a backstop program that will take effect if the corresponding federal law (the federal mercury standards in 40 C.F.R. Part 63, Subpart UUUUU) is repealed by EPA or vacated by a court.

The amendments to the state mercury standards are described in greater detail in section 5 of this preamble. As discussed in section 5, the proposed amendments to the standards will make them somewhat less stringent and therefore will impose no *new* costs or benefits as compared to the status quo. The following discussion of the costs and benefits of the rulemaking therefore reflects the costs and benefits of implementing the state mercury standards in Arizona, not the costs that would result from amending the standards.

In addition, the state standards will result in the imposition of costs and accrual of benefits only if EPA repeals or a federal court vacates the federal standards. Unless that contingency occurs, any costs and benefits associated with reducing mercury emissions at coal-fired electric generating units in Arizona will be the result of the federal, rather than the state, mercury standards.

As noted in section 5, the emission limits imposed by the state mercury standards are equivalent in stringency to the federal standards, although the state standards will allow some additional flexibility if the federal standards are vacated or repealed. The level of control required by, benefits derived from and costs imposed by the two standards are therefore comparable.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who will be directly affected by and bear the costs of the rulemaking will be the owners and operators of coal-fired electric generating units producing more than 25 megawatts of electricity for sale in the State of Arizona. Specifically, the rule will apply to the following 13 electric generating units:

Operator	Plant	Number of Units
Arizona Electric Power Cooperative	Apache	2
Arizona Public Service Company	Cholla	4
Salt River Project	Coronado	2
Tucson Electric Power	Irvington	1
Tucson Electric Power	Springerville	4

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

ADEQ estimates that the current number of FTEs assigned in the Permits and Compliance sections are adequate to implement and enforce the mercury rule. The costs of the rule to the implementing agency will therefore be minimal. In addition, the cost of reviewing and approving the significant permit revisions that may be required by R18-2-734(E) will be covered by permit fees.

No other state agencies will be affected by the rulemaking.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking.

No political subdivision of the state operates a coal-fired electric generating unit.

By statute, ADEQ has original jurisdiction over all coal-fired power plants in the state. A.R.S. § 49-402(A)(4). Pima County, however, has received delegation to issue and enforce the air quality permit for the Sundt Generating Station in Tucson and therefore will have responsibility for enforcing the state mercury standards with respect to the coal-fired unit at that plant. As in the case of ADEQ, however, the costs of enforcing the standards are likely to be minimal and will in any case be recoverable through permit fees.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

Mercury exposure and health effects

Mercury exists in the environment in three forms: elemental, inorganic and organic. Elemental mercury metal is a heavy, silvery white liquid at ambient temperatures and atmospheric pressures. Mercury metal vaporizes readily under ambient conditions. Inorganic mercury is found in two forms: mercurous (Hg+) and mercuric (Hg2+), which may exist as ions or in salts.

The form of mercury that is of greatest concern is organic mercury, primarily methylmercury. Methylmercury is a potent neurotoxin that can cause IQ deficits and other neurological abnormalities in infants and children through direct or fetal exposure. In addition, exposure to sufficient amounts of organic mercury can produce other serious health effects such as cardiovascular illness, immune system and reproductive problems and adverse impacts on the central nervous system, kidneys and liver, any of which can contribute to premature mortality. (EPA 2011 [RIA]; EPA 1997)

Inorganic mercury can be converted by bacteria or chemical processes into organic mercury, including methylmercury. Because organic mercury is not excreted as rapidly as it is taken in, it bioaccumulates. As bacteria, algae and plants contaminated with methylmercury are consumed by detritivores and herbivores, which are eaten by small carnivores, which are in turn eaten by larger carnivores, the mercury content of the organisms in each step up the food chain increases. Highest concentrations are found in large predatory fish, such as bass, walleye, albacore tuna, swordfish and sharks.

As noted in the 2006 Notice of Final Rulemaking for the existing state mercury standards, ADEQ had at that time issued fish consumption advisories for ten Arizona lakes found to contain fish with unacceptably high concentrations of mercury. 12 A.A.R. 4701, 4702. Since that time, ADEQ has issued mercury fish advisories for four additional water bodies: Lake Pleasant, Lake Powell, Roosevelt Lake and Tonto Creek. (ADEQ 2012)

Mercury contamination of aquatic ecosystems in Arizona arises from a wide variety of sources, including mining, pesticide use, global transport of power plant emissions and local emissions from coal-fired power plants.

Mercury emissions and controls

Coal-fired electric power plants are the single largest source of mercury emissions in the U.S., accounting for approximately half of anthropogenic air emissions. Mercury is present in coal used as the feedstock in boilers and on combustion is emitted in three forms: elemental, oxidized and as particulate matter. (EPA 2011)

Controls designed to reduce emissions of other pollutants may also control mercury emissions. Oxidized mercury is water soluble and can therefore be captured by a wet flue gas desulfurization (FGD) system. (FGDs are employed primarily to reduce SO_2 emissions.) Mercury emitted in particulate form is, of course, subject to control by particulate matter control devices, such as electrostatic precipitators (ESP) and fabric filters (FF). (EPA 2011)

Elemental mercury, however, is non-soluble and emitted as a vapor; it is therefore not captured by FGDs or particulate matter controls. Mercury emissions from the combustion of subbituminous coals, such as those typically burned in Arizona electric generating units, is primarily elemental in form. In order to achieve emission reductions comparable to those achieved at plants burning bituminous coals, which is required by both the state federal mercury standards, plants burning subbituminous coal must therefore employ additional control strategies. They may, for example, use selective catalytic reduction (SCR), which is a technology for reducing NO_x emissions, or the injection of halogens to oxidize the elemental mercury before it passes through a FGD system. Alternatively, they may inject activated carbon into the gas stream to adsorb the mercury before it passes through a particulate matter control device. (EPA 2011)

Arizona power plants burn mostly subbituminous coal and will probably have to employ one ore more of these strategies to comply with either the state or federal mercury standards.

Costs of Control

The Arizona plants that will be subject to the state and federal mercury standards have not yet settled on a final control strategy. It is therefore not possible to provide an estimate of the actual costs that will be incurred in order to meet the standards.

In the ESBCIS for the original rulemaking adopting the state mercury standards, ADEQ estimated that capital costs for adding sorbent injection to an existing control system could range from $750,000 to $2.4 million and that operating costs could be expected to be from $1.6 million to $5.1 million, depending on the size of the plant. If the plant were required to install or upgrade particulate matter controls in order to capture the sorbent, capital costs would be much higher, on the order of tens of millions of dollars. 41 A.A.R. at 4709.

In the Regulatory Impact Analysis (RIA) for the MATS rulemaking, EPA estimated that the cost of compliance nationwide would be approximately $9.6 billion and that this would amount to "less than a 3% increase in the cost to meet electricity demand." This estimate was based on the cost to comply with all of the MATS requirements, including standards designed to reduce emissions of acid gas HAPs and heavy metals. The cost to comply solely with the federal mercury standards, and therefore the state mercury standards, would be substantially less. (EPA 2011)

Benefits

The specific benefits of mercury reductions are difficult to quantify. EPA estimated the benefit of avoiding the loss of IQ points through reductions in methylmercury exposure from self-caught fish at $500,000 to $6 million but was unable to monetize the other benefits expected from mercury emission reductions. (EPA 2011)

EPA nevertheless concluded that total health benefits from the MATS rulemaking would range from $33 billion to $90 billion. As noted above, effective control of mercury emissions requires the installation of controls that will also reduce emissions of $PM_{2.5}$, as well as SO_2 and NO_x, which are $PM_{2.5}$ precursors. The MATS rulemaking will therefore produce substantial "co-benefits" in the form of reductions in $PM_{2.5}$-related mortality, and these reductions account for the "great majority" of the benefits attributable to the rule. 77 Fed. Reg. 9304, 9306 (Feb. 16, 2012).

Some of these co-benefits are attributable to the rule's limitations on HAPs other than mercury, such as acid gases. In addition, Arizona coal-fired power plants are relatively well-controlled compared to plants elsewhere in the county. The co-benefits of the state mercury standards can therefore be expected to be proportionately less than EPA's nationwide estimates.

Nevertheless, if EPA's estimates are accurate, and the benefits of MATS will outweigh the costs by a margin of 3 to 1 or better, it seems probable that the benefits of the state mercury standards will also outweigh the costs. The existence, noted above, of unquantifiable benefits from mercury reductions enhances this probability.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

ADEQ believes that employment impacts will be minor. ADEQ anticipates a slightly higher demand for labor requirements for sources affected by this rulemaking, as well as increased labor requirements from the other classes of persons as discussed earlier.

ADEQ does not expect short- or long-run employment, production, or industrial growth in Arizona to be negatively impacted. Further, no sources are expected to close from the implementation of this rulemaking.

A statement of the probable impact of the rulemaking on small businesses.

(a) An identification of the small businesses subject to the rulemaking.

Under A.R.S. § 49-101(20):

"Small business" means a concern, including its affiliates, which is [1] *independently owned and operated*, which is [2] *not dominant in its field* and which [3] *employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.* (Emphasis added.)

The amended mercury rule will apply only to companies that own and operate large coal-fired power plants in the state. None of these companies qualifies as a small business.

(b) The administrative and other costs required for compliance with the rulemaking.

Not applicable.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.
Not applicable.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.
Not applicable.

(iii) Exempting small businesses from any or all requirements of the rulemaking.
Not applicable.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

Not applicable.

A statement of the probable effect on state revenues.

Since any costs associated with the amendments will be recoverable through air quality permit fees, there will be no net effect on state revenues.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the rulemaking's purpose of providing a backstop program for control of mercury emissions from coal-fired power plants, in case the federal mercury standards are vacated or repealed.

9. 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: Steve Burr, Executive Consultant II

Address: ADEQ, Air Quality Legal Support Section,
1110 W. Washington
Phoenix, AZ 85007

Telephone: (602) 771-4251 (Any extension may be reached in-state by dialing 1-800-234-5677, and entering the seven-digit number.)

Fax: (602) 771-2366

E-mail: Burr.Steve@azdeq.gov

10. The time, place, and nature of the proceedings for the making, 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:

Date: October 20, 2014

Time: 1:00 p.m.

Location: Department of Environmental Quality
Conference Room 3175A&B
1110 W. Washington St.
Phoenix, AZ 85007

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

The close of the written comment period will be 5:00 p.m., October 20, 2014. Submit comments to the individual identified in item #4.

Close of Comment: October 20, 2014

11. Any other matter prescribed by statute that is applicable to the specific agency or to any other specific rule or class of rules:

Not applicable

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

40 C.F.R. Part 63, Subpart UUUUU R18-2-734

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

Section
R18-2-701. Definitions
R18-2-733. ~~Incorporation of Federal Standards of Performance for Mercury Emissions from Coal-Fired Electric Steam Generating Units~~ Repeal
R18-2-733.01. ~~Additional Mercury Allowance Acquisition Requirements for Coal-Fired Electric Steam Generating Units~~ Repeal
R18-2-734. State Standards of Performance for Mercury Emissions from ~~Coal-Fired~~ Electric ~~Steam~~ Generating Units

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

R18-2-701. Definitions

For purposes of this Article:

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.
2. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances, structural steel, and other fabrications such as storage tanks, bridges, beams and girders.
3. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:
   a. A dryer.
   b. Systems for screening, handling, storing, and weighing hot aggregate.
   c. Systems for loading, transferring, and storing mineral filler.
   d. Systems for mixing asphalt concrete.
   e. The loading, transferring, and storage systems associated with emission control systems.
4. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor which have been concentrated in the multiple-effect evaporator system.
5. ~~"Boiler" means an enclosed fossil- or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.~~
6. ~~"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.~~
7. "Calcine" means the solid materials produced by a lime plant.
8. "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the ASTM Method D388-05 "Standard ~~Specification for~~ Classification of Coals by Rank" ~~D388-77, 90, 91, 95, or 98a~~ and coal refuse. Synthetic fuels derived from coal for the purpose of creating useful heat including but not limited to, coal derived gases (not meeting the definition of natural gas), solvent-refined coal, coal-oil mixtures, and coal-water mixtures, are considered "coal" for the purposes of this subpart.
9. ~~"Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal or chemical processing of coal.~~
10. ~~"Coal-fired" means combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.~~
7. "Coal refuse" means any by-product of coal mining, physical coal cleaning, and coal preparation operations (e.g., culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.
11. ~~"Cogeneration unit" means a stationary coal-fired boiler or stationary coal-fired combustion turbine:~~
    a. ~~Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and~~
    b. ~~Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after which the unit first produces electricity:~~
       i. ~~For a topping-cycle cogeneration unit: useful thermal energy not less than 5% of total energy output; and useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output; and~~
       ii. ~~For a bottoming-cycle cogeneration unit, useful power not less than 45% of total energy input.~~
12. ~~"Combustion turbine" means:~~
    a. ~~An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and~~
    b. ~~If the enclosed device under subsection (12)(a) is combined cycle, any associated heat recovery steam generator and steam turbine.~~
13. ~~"Commercial operation" means the time when the owner or operator supplies electricity for sale or use, including test generation.~~
14. ~~8~~."Concentrate" means enriched copper ore recovered from the froth flotation process.
15. ~~9~~."Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5% of the sulfur contained in the charge is eliminated in the facility.
16. ~~10~~."Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate 5% or more of the sulfur contained in the charge.
17. ~~11~~."Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, TRS

compounds from condensate streams from various processes within a kraft pulp mill.

~~18~~12. "Control device" means the air pollution control equipment used to remove particulate matter or gases generated by a process source from the effluent gas stream.

~~19~~13. "Converter" means any vessel to which copper matte is charged and oxidized to copper.

~~20~~14. "Electric generating plant" means all electric generating units located at a stationary source.

~~21~~15. "Electric generating unit" means~~:~~ a combustion unit of more than 25 megawatts electric that serves a generator that produces electricity for sale and that burns coal for more than 10.0 percent of the average annual heat input during any 3 consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale is considered an electric generating unit.

~~a. A stationary, coal-fired boiler or stationary coal-fired combustion turbine, other than a boiler or turbine that qualifies as a cogeneration unit, serving at any time since the start-up of a unit's combustion chamber a generator with nameplate capacity of more than 25 megawatts electric producing electricity for sale. If a unit qualifies as a cogeneration unit during the 12-month period starting the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, the unit shall be an electric generating unit on the day which the unit no longer qualifies as a cogeneration unit.~~

~~b. A cogeneration unit serving at any time a generator with nameplate capacity of more than 25 megawatts and supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 megawatt-hours, whichever is greater, to any utility power distribution system for sale.~~

~~22. "Existing electric generating plant" means all electric generating units located at a stationary source during a control period other than units that have not been allocated allowances to emit mercury pursuant to 40 CFR 60.4142(b) for that control period.~~

~~23~~16. "Existing source" means any source which does not have an applicable new source performance standard under Article 9 of this Chapter.

~~24~~17. "Facility" means an identifiable piece of stationary process equipment along with all associated air pollution equipment.

18. "Federal mercury standards" means the emissions limits, monitoring, testing, recordkeeping, reporting and notification requirements applicable or relating to emissions of mercury from electric generating units under 40 CFR Part 63, Subpart UUUUU.

~~25~~19. "Fugitive dust" means fugitive emissions of particulate matter.

~~26~~20. "High sulfur oil" means fuel oil containing 0.90% or more by weight of sulfur.

~~27. "Incremental best available control technology" means an emission limitation based on the maximum degree of additional reductions, if any, in mercury beyond those achieved by existing controls installed under R18-2-724(F), taking into account incremental energy, environmental, and economic impacts, market prices of mercury allowances, balance of plant impacts, and other incremental costs, determined by the Director to be achievable and to be compatible with existing control technology installed at the electric generating unit. Incremental best available control technology shall be determined on a case-by-case basis and shall not be more stringent than the limits in R18-2-734(B).~~

~~28~~21. "Inlet mercury" means the average concentration of mercury in the coal burned at an electric generating unit, as determined by ASTM methods, EPA-approved methods or alternative methods approved by the Director.

~~29~~22. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

~~30~~23. "Low sulfur oil" means fuel oil containing less than 0.90% by weight of sulfur.

~~31~~24. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.

~~32~~25. "Mercury" means mercury or mercury compounds in either a gaseous or particulate form.

~~33~~26. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:

a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines;
b. "Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers;
c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners;
d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines;
e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers;
f. Fabricated metal products, such as metal-covered doors and frames;
g. Any other industrial category which coats metal parts or products under the Code in the "Standard Industrial Classification Manual, 1987" of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (non-electric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:

i. Automobiles and light-duty trucks;
ii. Metal cans;
iii. Flat metal sheets and strips in the form of rolls or coils;
iv. Magnet wire for use in electrical machinery;
v. Metal furniture;
vi. Large appliances;
vii. Exterior of airplanes;
viii. Automobile refinishing;
ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;
x. Exterior of marine vessels.

~~34~~27."Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.

~~35. "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in megawatts) that an electric generating unit is capable of producing on a steady-state basis during continuous operation as specified by the manufacturer.~~

~~36~~28."Neutral sulfite semichemical pulping" means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.

~~37~~29."Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90 (Specification for Diesel Fuel Oils).

~~38~~30."Potential electric output capacity" means 33% of a unit's maximum design heat input, divided by 3,413 Btu per kilowatt-hour, divided by 1,000 kilowatt-hours/per megawatt-hour, and multiplied by 8,760 hours per year.

~~39~~31."Process source" means the last operation or process which produces an air contaminant resulting from either:
a. The separation of the air contaminants from the process material, or
b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.

~~40~~32."Process weight" means the total weight of all materials introduced into a process source, including fuels, where these contribute to pollution generated by the process.

~~41~~33."Process weight rate" means a rate established pursuant to R18-2-702(E).

~~42~~34."Recovery furnace" means the unit, including the direct-contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.

~~43~~35."Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).

~~44~~36."Reverbatory smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.

~~45~~37."Rotary lime kiln" means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.

~~46~~38."Slag" means fused and vitrified matter separated during the reduction of a metal from its ore.

~~47~~39."Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.

~~48~~40."Smelter feed" means all materials utilized in the operation of a copper smelter, including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere.

~~49~~41."Smelting" means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.

~~50~~42."Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.

~~51~~43."Standard conditions" means a temperature of 293K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 in. Hg or 1013.25 mb).

~~52~~44."Supplementary control system" (SCS) means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.

~~53. "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then~~

~~used to provide useful thermal energy.~~

~~54.~~ ~~"Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.~~

~~55~~45."Vapor pressure" means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

R18-2-733. ~~Incorporation of Federal Standards of Performance for Mercury Emissions from Coal-Fired Electric Steam Generating Units~~ Repeal

~~A.~~ ~~The provisions of 40 CFR §§ 60.4101-4176, subpart HHHH, Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units, as of July 1, 2006 (and no future amendments or editions) are incorporated by reference, as modified by subsection (B), and are on file with the Department. The definitions of terms in 40 CFR § 60.4102 shall apply to this Section.~~

~~B.~~ ~~The introductory language preceding paragraph (1) in subsection 60.4142(c) is replaced with the following: "For each control period in 2010 and thereafter, the permitting authority shall allocate Hg allowances to Hg Budget units in the state that commenced operation on or after January 1, 2001, and that have not been allocated allowances for that control period pursuant to § 60.4141(b) in accordance with the following:"~~

R18-2-733.01. ~~Additional Mercury Allowance Acquisition Requirements for Coal-Fired Electric Steam Generating Units~~ Repeal

~~A.~~ ~~The provisions of 40 CFR §§ 60.4102, 60.4154 and 60.4160, as of July 1, 2006 (and no future amendments or editions) are incorporated by reference and on file with the Department. When the same term is defined in R18-2-701 and in 40 CFR § 60.4102, the definition of the term in 40 CFR § 60.4102 shall apply to this Section. The following additional definitions shall apply to this Section:~~

1. ~~"Annual allocated allowances" for a control period means the number of allowances allocated to all electric generating units at an existing electric generating plant for the control period.~~
2. ~~"Banked allocated allowances" for a control period means the amount, if any, by which the total allocated allowances for an existing electric generating plant for the immediately preceding control period exceeded the total Hg emissions in ounces per year from the plant for the immediately preceding control period.~~
3. ~~"Compliant emission level" means the amount of Hg that an electric generating plant would have emitted if it were in compliance with the emission standard in R18-2-734(B) without regard to whether the plant qualifies for an exemption under R18-2-734(G) and (H).~~
4. ~~"Total allocated allowances" for a control period means the sum of the annual allocated allowances for the control period and the banked allocated allowances for the control period.~~

~~B.~~ ~~Beginning with the allowance transfer deadline in 2014, the owner or operator of an existing electric generating plant must hold in its compliance account on the allowance transfer deadline allowances equal to the following:~~

1. ~~Hg emissions for the preceding control period; and~~
2. ~~Twice the amount, if any, by which emissions for the preceding control period exceed the greater of the total allocated allowances or the compliant emission level for the preceding control period.~~

~~C.~~ ~~Beginning in the control period for 2013, the owner or operator of an existing electric generating plant shall transfer to the Department's general account in accordance with 40 CFR § 60.4160 allowances equal to the amount, if any, by which total Hg emissions from the plant during the control period exceed the greater of the total allocated allowances or the compliant emission level.~~

~~D.~~ ~~The owner or operator of an existing electric steam generating plant shall complete the transfer required by subsection (C) within 30 days after the Administrator deducts all allowances required to be deducted by 40 CFR § 60.4154 for the control period.~~

~~E.~~ ~~Allowances held in the Department's general account under subsection (C) are not available for transfer.~~

~~F.~~ ~~For purposes of determining compliance with subsections (B) and (C), the Department shall treat allowances as being deducted from the compliance account for an existing plant in the order prescribed by 40 CFR § 60.4154(c)(2), regardless of any instructions provided to the Administrator under 40 CFR § 60.4154(c)(1).~~

R18-2-734. ~~State~~ Standards of Performance for Mercury Emissions from ~~Coal-Fired~~ Electric ~~Steam~~ Generating Units

A. Applicability and Purpose. The requirements of this Section apply to owners and operators of electric generating units. The purpose of this Section is to establish:

1. Interim standards for mercury emissions from electric generating units that shall apply until compliance with the emissions limits in the federal mercury standards is required.
2. State standards for mercury emissions from electric generating units that shall apply in the event the federal mercury standards are vacated by a federal court or repealed by the administrator.

B. Interim Standards. The following requirements shall apply until the date compliance with the federal mercury standards or subsection (G) is required:

1. The owners and operators shall comply with the mercury control strategy operations and maintenance plan approved as part of the permit for the electric generating plant.
2. The owners and operators shall operate and maintain the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions. This requirement shall apply to any air pollution control equipment installed pursuant to paragraph (B)(1) or to any new air pollution control equipment installed to comply with the federal mercury standards if such equipment replaces equipment installed pursuant to paragraph (B)(1).

C. Incorporation of Federal Mercury Standards. The federal mercury standards in 40 CFR Part 63, Subpart UUUUU, as of July 1, 2013 (and no future amendments or editions) are incorporated by reference and shall remain effective to the extent specified in this Section regardless of whether they are vacated by a federal court or repealed by the administrator. The owners and operators shall provide to the director a copy of all notices and reports submitted to the Administrator under the federal mercury standards, except for any reports or data submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or the Emissions Reporting Tool (ERT)).

D. Notice of State Standard Applicability. The director shall provide notice to the responsible official for each electric generating plant of any repeal or federal court vacatur of the federal mercury standards. If the repeal or vacatur occurred after the date the electric generating plant was required to comply with the emission limits in the federal mercury standards, the plant shall continue to comply with the federal mercury standards until the date compliance with subsection (G) is required.

E. Application for Permit Revision. Within 120 days of receipt of written notice from the director under subsection (D), the owners and operators shall submit an application for a permit revision that proposes:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
2. A date for demonstrating compliance with the mercury emission limit consistent with subsection (F)(2).
3. A mercury monitoring plan consistent with subsection (H)(2).

F. Permit Revision Setting State Standard. A permit revision granted in response to the application submitted under subsection (E) shall contain the following conditions:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
2. The date compliance with the emission limit or limits shall be required. Unless the application requests an earlier date, the compliance date shall be the later of December 31, 2016 or the end of the first averaging period commencing no later than 180 days after permit issuance.
3. The date for demonstrating initial compliance with the emission limit or limits, which shall be 45 days after completion of the first full averaging period after the compliance date established under subsection (F)(2).
4. The date on which compliance with subsection (B), or the obligation to comply with the federal mercury standards in subsection (D), as applicable, shall no longer be required.
5. A mercury monitoring plan consistent with subsection (H).
6. Compliance reporting requirements consistent with subsection (I).

G. State Mercury Emission Limits. Emissions from an electric generating unit shall comply with one or more of the emission limits specified in the following table, as selected by the owners and operators under subsection (F).

No.	Limit	Averaging Period	Applicable To
1.	10 percent of inlet mercury	Rolling 12-month	Electric generating plant
2.	0.0087 pounds per gigawatt-hour	Rolling 12-month	Electric generating plant
3.	0.011 pounds per gigawatt-hour	Rolling 90-boiler operating days	EGUs identified in averaging group
4.	1.0 pounds per Trillion Btu	Rolling 90-boiler operating days	EGUs identified in averaging group
5.	0.013 pounds per gigawatt-hour	Rolling 30-boiler operating days	Individual electric generating unit
6.	1.2 pounds per Trillion Btu	Rolling 30-boiler operating days	Individual electric generating unit

H. Compliance Monitoring and Recordkeeping.
1. Compliance with subsection (G) shall be determined using a mercury CEMS or sorbent trap monitoring system pursuant to Appendix A of the federal mercury standards and in accordance with an approved mercury monitoring plan.
2. The mercury monitoring plan shall include the following elements:
   a. Identification of the emission limit or limits in subsection (G) for which compliance will be demonstrated.
   b. Identification of whether a mercury CEMS or sorbent trap monitoring system will be used as the primary compli-

ance method. Backup methods may be identified and approved in the plan.

c. Description of the parameters that will be monitored, including mercury concentration, stack flow, fuel mercury content, fuel rate, electricity generation rate, moisture percent, and any diluent or other gas or process parameters necessary to calculate compliance in terms of the applicable emission limit.

d. Description and example of the calculations required to convert monitored parameters to mercury emissions in terms of the emission limit.

e. Establishment of CEMS analyzer data availability, and QA/QC requirements.

f. Procedures for completing an initial demonstration of compliance, except as otherwise provided in subsection (I)(1).

2. At least once per month, the mercury emissions data shall be compiled into a record demonstrating compliance with the emission limit or limits established in the permit revision issued under subsection (F). This record shall be completed no later than the 15th day of the following month.

3. Records shall be maintained as follows:

a. Records demonstrating compliance with the emissions limits shall be maintained for five years.

b. If a mercury CEMS is used, daily CEMS data, QA/QC data identified in the mercury monitoring plan, any maintenance work conducted on the CEMS or data logging system, and a calculation of all mercury CEMS downtime shall be maintained for five years.

c. If a sorbent trap monitoring system is used, all sorbent monitoring data and any maintenance work conducted on the system shall be maintained for five years.

I. Reporting. The owners and operators shall submit to the director the following reports:

1. An initial demonstration of compliance, which must be submitted to the director within 180 days after completion of the first full averaging period. This requirement shall not apply to an electric generating unit if an initial demonstration of compliance has been completed for that unit under section 63.10005(d)(3) of the federal mercury standards and the demonstration shows compliance with subsection (G) for that unit. The report shall include:

a. The name of the electric generating plant and electric generating units.

b. The applicable emission limit or limits for the plant or the electric generating units.

c. The mercury emissions for the plant, group of averaged units, or each unit, as applicable, during the initial compliance demonstration in terms of the applicable standard.

d. A certification by a responsible official.

2. Semiannual compliance reports, which must be submitted to the director on the dates established in the electric generating plant's air quality permit. The report shall include:

a. The name of the electric generating plant and electric generating units;

b. The applicable emission limit or limits for the plant or the electric generating units.

c. The mercury emissions for the plant, or each unit, as applicable, for each month during the six month period ending the month prior to the semiannual report in terms of the applicable standard.

d. An explanation of any excess emissions, the duration of the excess emissions, and corrective actions taken, if any, to resolve those excess emissions.

e. A certification by a responsible official.

J. Exemption. After receipt of notice under subsection (D), in lieu of submitting the permit revision application required by subsection (E), the owners and operators may notify the director in writing that they elect to comply with the vacated or repealed federal mercury standards at an electric generating plant. If the owners and operators for an electric generating plant make this election, the plant shall be exempt from subsections (E) through (I). If the owners and operators of an electric plant elect this option:

1. "Administrator" shall mean "Director" whenever it appears in the federal mercury standards or regulations referenced therein.

2. "EPA" shall mean "ADEQ, Air Quality Division" whenever it appears in the federal mercury standards or regulations referenced therein.

3. In lieu of reports submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or Emissions Reporting Tool (ERT)) pursuant to the federal mercury standards, the owners or operators shall submit to the Director, semiannually at the time required by permit, the RATA or the rolling 30-day or rolling 90-day average mercury value for each EGU or the plant, as applicable.

~~**B.** Except as provided in subsections (G) and (H), rolling 12-month average mercury emissions from an electric generating plant shall not exceed 10 percent of inlet mercury or 0.0087 pound per gigawatt-hour, whichever is greater. Mercury emissions from an electric generating unit, when averaged with emissions from other electric generating units at the same electric generating plant, shall comply with this limit for the 12 calendar months ending on the later of the following, and each subsequent 12-calendar month period:~~

~~1. December 31, 2013 2016; or~~

~~2. Twelve full calendar months after the electric generating unit starts commercial operation.~~

~~**C.** The Director shall determine compliance with the emission standards in subsection (B), the emission level established under subsection (H)(7), and the emission limit established under subsection (I) according to the method set forth at 40 CFR § 60.50a(h), as of July 1, 2006 (and no future amendments or editions), which is incorporated by reference and on file with the Department.~~

~~**D.** The owner or operator of an electric generating plant subject to this Section shall measure, record, and report the mercury in the exhaust gases according to 40 CFR §§ 60.49a(p), 60.4170-60.4176, and 40 CFR Part 75, Subpart I, as of July 1, 2006 (and no future amendments or editions), which are incorporated by reference and on file with the Department.~~

~~**E.** By January 1, 2008, the owner or operator of an electric generating plant that commenced construction before that date shall submit an application for a significant permit revision under R18-2-320 to incorporate the monitoring, recordkeeping and reporting requirements of subsections (C) and (D) into the plant's permit.~~

~~**F.** By January 1, 2009, the owner or operator of an electric generating plant that commenced construction before that date shall submit an application for a significant permit revision under R18-2-320 to incorporate the emission standards in subsection (B) into the plant's permit. The application shall include a control strategy for meeting the emission standards and a demonstration that the control strategy is projected to meet the standards.~~

~~**G.** An electric generating plant shall be exempt from the standard in subsection (B) until November 30, 2014, if:~~

~~1. The owner or operator of the electric generating plant installs and operates control technology or boiler technology or follows practices projected to meet the standard in subsection (B) according to the control strategy approved as part of the electric generating plant's permit;~~

~~2. The owner or operator operates and maintains the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions;~~

~~3. The control strategy fails to result in emissions meeting the standard in subsection (B);~~

~~4. By January 31, 2014, the owner or operator notifies the Department of the failure to comply with subsection (B) and of the owner or operator's intent to qualify for an exemption under this subsection or subsection (H); and~~

~~5. Emissions of mercury from the electric generating plant comply with subsection (B) by no later than December 31, 2014.~~

~~**H.** An electric generating plant shall be exempt from the standard in subsection (B) if:~~

~~1. The owner or operator of the electric generating plant installs and operates control technology or boiler technology or follows practices projected to meet the standard in subsection (B) according to the control strategy approved as part of the electric generating plant's permit;~~

~~2. The owner or operator operates and maintains the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions;~~

~~3. The control strategy fails to result in emissions meeting the standard in subsection (B);~~

~~4. By January 31, 2014, the owner or operator notifies the Department of the failure to comply with subsection (B) and of the owner or operator's intent to qualify for an exemption under this subsection or subsection (G); and~~

~~5. By December 31, 2014, the owner or operator files an application for a significant permit revision containing an analysis of the incremental best available control technology;~~

~~6. The Department does not deny the application for a permit revision filed under subsection (5); and~~

~~7. From January 1, 2014, until the end of the 35th full calendar month after the Department issues a permit revision under subsection (I), rolling 12-month mercury emissions from the electric generating plant do not exceed the greater of the following amounts as measured for the plant during calendar year 2013:~~

~~a. The percentage of inlet mercury actually emitted minus 10 percent of the percentage control achieved; or~~

~~b. Actual mercury emissions in pounds per gigawatt-hour plus 10 percent.~~

~~**I.** A permit revision issued in response to an application submitted under subsection (H)(5) shall impose incremental best available control technology. Beginning at the end of the 36th full calendar month after the Department issues a permit revision under this subsection, rolling 12-month mercury emissions from the electric generating plant shall not exceed the emission limit imposed under this subsection.~~

~~**J.** After December 31, 2015, any best available control technology analysis for a new electric generating unit conducted under R18-2-406 shall consider alternative technologies for combustion of coal and coal-derived fuels. This subsection does not diminish the Department's authority under R18-2-406.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY HAZARDOUS WASTE MANAGEMENT

[R14-138]

PREAMBLE

1. Articles, Parts, or Sections Affected (as applicable) — **Rulemaking Action**

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

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: 14 A.A.R. 753, March 7, 2008

Notice of Rulemaking Docket Opening: 20 A.A.R. 103, January 10, 2014

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

Name: Mark Lewandowski

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

Telephone: (602) 771-2230
or (800) 234-5677, enter 771-2230 (Arizona only)

Fax: (602) 771-4381

E-mail: lewandowski.mark@azdeq.gov

5. An 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 (DEQ) is proposing to amend the state's hazardous waste rules to incorporate changes in federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments in this proposed rule would adopt changes to federal regulations that were in effect as of July 1, 2013 for most sections, and update the general incorporation date in Arizona hazardous waste rules from July 1, 2006 to July 1, 2013. A later incorporation date is proposed in two Arizona rule sections to capture EPA's solvent-contaminated wipes rule, effective January 31, 2014. This proposed rule would also make technical corrections that the United States Environmental Protection Agency (EPA) has said are necessary to renew Arizona's authorization to implement federal hazardous waste regulations. DEQ-initiated technical corrections are also included. EPA's 2008 rule revising the definition of solid waste is not incorporated by this rulemaking. EPA rules recently vacated by a federal court are also excluded or removed.

Background. Congress passed RCRA in 1976 to establish a national "cradle to grave" regulatory system to control the generation, transportation, treatment, storage and disposal of hazardous wastes. Similar to other national environmental laws, states are encouraged to assume most of the responsibility for the program and become "authorized" to

implement RCRA and its underlying regulations. This process ensures national consistency and minimum standards while providing flexibility to states to implement the national standards with state and local solutions.

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

Arizona's hazardous waste rules are found in 18 A.A.C. 8, Article 2 and have been in effect since 1984. EPA granted "final" authorization to Arizona in 1985 to operate its hazardous waste program in Arizona in lieu of the federal hazardous waste program, subject to the limitations imposed by HSWA (see 50 FR 47736, November 20, 1985). EPA last authorized revisions to Arizona's hazardous waste program on March 17, 2004 (69 FR 12544). Due largely to federal and Arizona requirements requiring equivalency with federal regulations (see 42 U.S.C. 6926(b) and A.R.S. § 49-922(A)), Arizona's hazardous waste rules incorporate the federal hazardous waste regulations by reference and are mostly identical to the federal regulations. DEQ regularly compares Arizona's hazardous waste rules to the federal regulations and amends the Arizona rules, as necessary, to comply with state statute and to facilitate continued authorization. Without continued authorization, EPA, rather than DEQ, would administer parts of the hazardous waste program in Arizona. DEQ's objective with this rulemaking is to continue administering the federal hazardous waste program in Arizona in place of EPA. DEQ believes that regular incorporation of changes and additions to federal language into Arizona rules will simplify and facilitate continued authorization.

What EPA regulations are being incorporated in this rule?

The following is a list of changes in federal hazardous waste regulations that were effective as federal law as of July 1, 2013 or January 31, 2014 and that are proposed for incorporation into Arizona rules. They are discussed more fully later.

• 2007 Technical Correction. A correction in 40 CFR 273 that reinserts a definition for "on-site" inadvertently omitted in a previous EPA rulemaking; 72 FR 35666, June 29, 2007.

• National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments; 73 FR 18970, April 8, 2008.

• Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; 73 FR 31756, June 4, 2008.

• Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; 73 FR 72911, December 1, 2008. Technical corrections at 75 FR 79304, December 20, 2010.

• Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes; 75 FR 1236, January 8, 2010.

• Hazardous Waste Technical Corrections and Clarifications Rule; 75 FR 12589, March 18, 2010.

• Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, etc.; 75 FR 75918, December 17, 2010.

• Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes; 76 FR 34147, June 13, 2011.

• Hazardous Waste Technical Corrections and Clarifications Rule; 77 FR 22229, April 13, 2012.

• Revisions to Procedural Rules To Clarify Practices and Procedures Applicable in Permit Appeals Pending Before the Environmental Appeals Board; 78 FR 5281, January 25, 2013.

• Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes; 78 FR 46447, July 31, 2013; (eff. January 31, 2014).

Two EPA rules that became final just after July 1, 2006 were already incorporated by DEQ in its last hazardous waste rulemaking: one regulating cathode ray tubes, and the other, a large corrections rulemaking. For that reason they are not included in this rulemaking. DEQ's last hazardous waste rulemaking was published at 14 A.A.R. 409, February 8, 2008.

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

DEQ is also proposing a number of technical corrections in this rule. Changes requested by EPA and related to an authorization review of Arizona rules it did in 2009 are at R18-8-260(E)(12)(i), R18-8-260(F)(2), renumbered R18-8-260(F)(6)(a) and R18-8-262(I). Arizona initiated changes are located throughout the proposed rule including R18-8-262(H), R18-8-264(H), R18-8-265(H) and (K), R18-8-270(R) and R18-8-271(Q). The textual changes at R18-8-264(H) and R18-8-265(H) reverse an error DEQ made in incorporating EPA's manifest rule in 2006. The textual changes at R18-8-261(I) also correct earlier incorporation errors.

Arizona Performance Track rules. On May 14, 2009, EPA published a notice indicating that it would be terminating its National Environmental Performance Track Program. ADEQ intends to continue its performance track program known as the Arizona Environmental Performance Track Program. DEQ has proposed changes to R18-8-260(F)(4) to allow remaining RCRA Performance Track incentives to continue under the Arizona program.

Descriptions of EPA regulations incorporated

• 2007 Technical Correction; 72 FR 35666, June 29, 2007. EPA made a technical correction to 40 CFR 273.9 by reinserting a definition for "on-site" that had been inadvertently omitted; 72 FR 35666, June 29, 2007. The definition disappeared between the publication of the July 1, 2005 and July 1, 2006 editions of "40 CFR Parts 266 to 299". It probably was left out during the codification of EPA's Mercury Containing Equipment rule, which was published in the August 5, 2005 FR, and during which § 273.9 was amended. EPA reinserted the previous version of the definition without change.

• National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments; 73 FR 18970, April 8, 2008. In this rulemaking, EPA finalized amendments to the national emission standards for hazardous air pollutants (NESHAP) for hazardous waste combustors (HWCs), which EPA promulgated on October 12, 2005. EPA clarified several compliance and monitoring provisions, and also corrected several omissions and typographical errors in the final rule. DEQ has determined that none of these types of HWCs exist in Arizona at the present time. DEQ proposes to adopt these amendments under the authority of A.R.S. § 49-922, which directs DEQ to adopt rules to establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations promulgated pursuant to subtitle C of RCRA.

In authorization documents related to the Hazardous Waste portion of this final rule, EPA did not consider the provisions of these amendments to be either more or less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for them. The EPA rulemaking amended 40 CFR Parts 63, 264, and 266. In this rulemaking, DEQ proposes to incorporate into state rule all of the amendments to 264 and 266, without modification. DEQ has proposed to incorporate the amendments to Part 63 in a separate rulemaking. See 20 A.A.R. 1798, July 18, 2014.

• Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; 73 FR 31756, June 4, 2008. In this rule, EPA amended the list of hazardous wastes from non-specific sources (called F-wastes) by modifying the scope of the EPA Hazardous Waste No. F019 (wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). EPA amended the F019 listing to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal, and the wastes are placed in landfill units that are subject to or meet the specified landfill design criteria.

In its Federal Register notice for the final rule, EPA stated that the rule was less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for it. Nevertheless, EPA strongly encouraged states to adopt it. The provisions of the rule must be adopted by an authorized state before they are effective in that state.

The EPA rulemaking amended 40 CFR Parts 261 and 302. In this rulemaking, DEQ proposes to incorporate into state rule the amendments to Part 261, without modification.

• Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; 73 FR 72911, December 1, 2008. Technical corrections at 75 FR 79304, December 20, 2010. In this rule, EPA finalized an alternative set of generator requirements applicable to laboratories owned by eligible academic entities. The rule provided a flexible and protective set of regulations that address the specific nature of hazardous waste generation and accumulation in laboratories at colleges and universities, as well as other eligible academic entities formally affiliated with colleges and universities. The final EPA rule is optional. Affected entities have the choice of managing their hazardous wastes in accordance with the new alternative regulations or remaining subject to the existing generator regulations.

In its Federal Register notices for the final rule and corrections, EPA considered them to be neither more nor less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for them. Nevertheless, EPA strongly encouraged states to adopt them. They must be adopted by an authorized state before it can be effective in that state.

The EPA rulemakings amended 40 CFR Parts 261 and 262. In this rulemaking, DEQ proposes to incorporate into state rule all of the amendments to Parts 261 and 262, without modification.

• Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes; 75 FR 1236, March 18, 2010. In this rule, EPA implemented recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and established notice and consent requirements for spent lead-

acid batteries intended for reclamation in a foreign country. It also specified that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, DC, and required U.S. receiving facilities to match EPA provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.

According to EPA, the rule contains amendments that are both more stringent and less stringent than current federal law. Authorized states must adopt the more stringent parts to maintain authorization. EPA strongly recommends that authorized states adopt those amendments that are less stringent. The EPA rulemaking amended Parts 262, 263, 264, 265, 266, and 271. In this rulemaking, DEQ proposes to incorporate into state rule all of the amendments without modification.

• Hazardous Waste Technical Corrections and Clarifications Rule; 75 FR 12589, March 18, 2010. By direct final rule, EPA made a large number of technical changes that correct or clarify several parts of the hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, standards for owners and operators of hazardous waste treatment, storage and disposal facilities, standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program, and the hazardous waste permit program. The EPA rulemaking amended Parts 260, 261, 262, 263, 264, 265, 266, 268 and 270. On June 4, 2010, EPA withdrew six of the changes. In this rulemaking, DEQ proposes to incorporate into state rule all of the remaining changes without modification.

• Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, etc.; 75 FR 75918, December 17, 2010. In this rule, EPA amended its regulations under RCRA to remove saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded. EPA characterized the changes in the rule as less stringent than the existing Federal requirements. Therefore, States will not be required to adopt and seek authorization for the changes. The EPA rulemaking amended Parts 261 and 268. In this rulemaking, DEQ proposes to incorporate into state rule all of the amendments without modification.

• Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes; 76 FR 34147, June 13, 2011. EPA issued a Direct Final Rule to revise the Land Disposal Restrictions (LDR) treatment standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off- specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. EPA characterized the changes in the rule as neither more nor less stringent than the existing Federal requirements. Therefore, States will not be required to adopt and seek authorization for the changes. The rule was promulgated pursuant to HSWA authority and took effect in all states, regardless of their authorization status. The EPA rulemaking amended Parts 268 and 271. In this rulemaking, DEQ proposes to incorporate into state rule all of the amendments to Part 268 without modification.

• Hazardous Waste Technical Corrections and Clarifications Rule; 77 FR 22229, April 13, 2012. In this rule, the EPA took final action on two of six technical amendments that were withdrawn in a June 4, 2010, Federal Register partial withdrawal notice. The two technical amendments were: A correction of the typographical error in the entry "K107" in a table listing hazardous wastes from specific sources; and a conforming change to alert certain recycling facilities that they have existing certification and notification requirements under the Land Disposal Restrictions regulations. The EPA changes were to Parts 261 and 266. ADEQ proposes to incorporate those changes without modification.

• Revisions to Procedural Rules to Clarify Practices and Procedures Applicable in Permit Appeals Pending before the Environmental Appeals Board; 78 FR 5281, January 25, 2013; (eff. March 26, 2013) In this rule, EPA revised existing procedures for appeals from RCRA, UIC (underground injection control) and certain water and air permits that are filed with the Environmental Appeals Board (EAB) in an effort to simplify the review process and make it more efficient. Amendments were made to §§ 124.10, 124.16, 124.19, 124.60, 270.42 and 270.155. DEQ opted out of the EAB appeal process for RCRA permits located at 40 CFR 124.19 by 1991 [See R18-8-271(Q)]. DEQ is proposing to incorporate only the changes to the part 270 sections with modifications as shown in R18-8-270(P) and (U). In R18-8-271, DEQ is clarifying that it is not incorporating subparts C, D, and G of part 124, which relate to non-RCRA permits, and to RCRA standardized permits, respectively.

• Conditional Exclusions From Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes; 78 FR 46447, July 31, 2013; (parts 260 and 261) (eff. January 31, 2014) In this rule, EPA modified its hazardous waste management regulations for solvent-contaminated wipes by revising the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused and by revising the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. The rule's purpose was to provide a consistent regulatory framework appropriate to the level of risk posed by solvent-contaminated wipes while maintaining protection of human health and the environment and reducing overall compliance costs for industry, many of which are small businesses. The rule includes requirements and conditions that are less stringent than those required under the base RCRA hazardous waste program but is not effective in authorized states until adopted. The EPA changes were to Parts 260 and 261. ADEQ proposes to incorporate those changes without modification.

What regulations are not being incorporated in this rule?

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

• EPA Revisions to the Solid Waste Definition; 73 FR 64668, October 30, 2008. Effective December 29, 2008, EPA revised the definition of solid waste to exclude certain hazardous secondary materials from regulation under Subtitle C of RCRA. For some time, EPA has been revisiting this rule and has stated that it would modify the rule as a result of a June 30, 2009 public meeting and comments it received. EPA proposed revisions to this rule on July 22, 2011. No final EPA action had been taken at the time of this state rulemaking. Therefore, DEQ is not proposing to incorporate the 2008 rule by reference at this time. Adoption of the 2008 rule is not required for authorization.

• Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas; 75, January 2, 2008. This rule was vacated by a federal court. See Sierra Club & La. Envtl. Action Network v. EPA; United States Court of Appeals for the District of Columbia Circuit; Decided; June 27, 2014.

• Expansion of RCRA Comparable Fuel Exclusion, 73 FR 77954, December 19, 2008; and Withdrawal of the Emission-Comparable Fuel Exclusion under RCRA, 75 FR 33712, June 15, 2010. A federal court recently nullified these rulemakings and vacated 40 CFR 261(a)(14) and 261.38. See NRDC v. EPA; United States Court of Appeals for the District of Columbia Circuit; Decided June 27, 2014.

• Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities; 79 FR 350, January 3, 2014 (parts 260 and 261) (eff. March 14, 2014). DEQ hazardous waste rules normally incorporate federal regulations revised as of July 1 of a calendar year because this coincides with the revision date for CFR volumes containing Title 40 and makes it simpler to determine the applicable EPA regulations. DEQ makes an exception to this general rule if there is significant stakeholder interest. As of the date of this proposed rule, DEQ has received no stakeholder inquiries about this federal regulation. This regulation should be incorporated in DEQ's next hazardous waste rulemaking.

• Modification of the Hazardous Waste Manifest System; Electronic Manifests, 79 FR7517, February 7, 2014, eff. Aug. 6, 2014. This EPA rule was published on February 7, but not effective as a final agency action until August, 2014. In addition, EPA indicated that the actual "implementation and compliance date" would be even later. DEQ will consider this rule for incorporation with its next hazardous waste rulemaking.

• Correction in used oil rebuttable presumption text at 40 CFR 261.3. 79 FR 35290, published and effective. June 20, 2014.

• Revisions to the Export Provisions of the Cathode Ray Tube (CRT) rule. Published June 26, 2014, effective December 26, 2014.

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

None

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

Not applicable

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

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

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

DEQ's Hazardous Waste Program regulates a universe of over 1500 facilities, including metal platers, chemical manufacturers, laboratories, explosive and munition manufacturers, pesticide manufacturers, hazardous waste TSDs, and military installations. There are currently 13 permitted TSD facilities, 181 to 265 large quantity generators, 901 to

1513 small quantity generators, and 217 to 340 transporters. An EPA report shows that over 200,000 tons of hazardous waste were generated in Arizona in 2011. DEQ processes over 30,000 manifests tracking this waste annually. An EPA report of Arizona's 50 largest hazardous waste generators and other related information from 2011 can be found at www.epa.gov/osw/inforesources/data/br11/state11.pdf

There are eleven separate federal regulations that would be incorporated by the proposed rule, spanning 7 years through July 1, 2013, and for one regulation through January 31, 2014. Looking just at the federal regulations to be incorporated, this rulemaking as a whole will decrease the cost of regulatory compliance by a significant amount. However, the rulemaking's significance for ADEQ's continued authorization is equally important as the rule will also minimize the cost of compliance and preserve procedural rights for Arizona businesses by assuring that ADEQ and not EPA is administering the hazardous waste program. Finally, the rulemaking will close the confusing 7 year gap between the federal regulations and the state rules. DEQ believes that the probable benefits of these rules will outweigh the probable costs.

Impact of EPA regulations incorporated. This proposed rule would incorporate into Arizona hazardous waste rules eleven federal rulemakings that became effective between approximately October 11, 2005 and January 31, 2014. EPA has characterized ten of the regulations as either equivalent to or less stringent than previous federal regulations, and DEQ anticipates that there will be only positive economic impacts when they are adopted into state rule. In addition, although none of the ten equivalent or less stringent changes are required for authorization (because states have the right under federal law to be more stringent), some of the changes would not be effective in Arizona unless adopted by the state. Incorporating these rules by reference reduces the regulatory burden for regulated entities in Arizona.

Incorporating equivalent or less stringent federal regulations also facilitates continued authorization of DEQ's hazardous waste program because there are fewer differing provisions for EPA to analyze and compare. Continued authorization is beneficial because it allows the hazardous waste program to be administered by DEQ at the state level rather than by EPA in San Francisco or Washington.

Incorporation of the rule covering the listed hazardous waste F019 in automobile manufacturing and the rule covering hazardous waste combustors will have little direct impact in Arizona because there are currently no facilities in Arizona that would be subject to them. DEQ believes that incorporating the academic laboratories rule will have a potentially positive economic impact because it will create an option for eligible academic entities to handle what would otherwise be hazardous waste as less regulated "unwanted materials." If an eligible academic entity decides there would be no net benefit in switching to this option, it can choose to stay in the current hazardous waste system.

In this rulemaking, DEQ is not proposing to incorporate EPA's 2005 standardized permits rule, which EPA characterized then as a rule that "will relieve regulatory burden for all small entities eligible for the rule" "in the form of administrative paperwork burden reduction cost savings." (70 FR at 53447). However, since 2005, no sources that DEQ permits have responded to DEQ inquiries indicating interest in switching to or initially using this potentially simpler permit. DEQ believes that HW facilities know their costs and potential savings better than a government agency and further believes that if an economic incentive is not there for these facilities, adding the procedure will only unnecessarily make the rule more complex, and increase the cost of the rulemaking.

One federal regulation, the transboundary rule dealing with exports of spent lead-acid batteries, contained changes that were more stringent than the previous federal regulations. Under both A.R.S. § 49-922 and federal law, ADEQ must adopt federal changes that increase stringency to maintain its program as "equivalent to and consistent with" the federal program. DEQ also recognizes that it must incorporate this more stringent federal change into Arizona rules to maintain DEQ's authorization for the federal hazardous waste program. Continued authorization is beneficial because it allows the hazardous waste program to be administered by DEQ at the local level rather than by the EPA in San Francisco or Washington.

Technical corrections. This rule would also make a number of state-initiated and EPA-suggested technical corrections. None of the technical corrections would have any economic impact.

The technical corrections to R18-8-260(E)(12)(i) and (F) are necessary for authorization according to communications from EPA during its recent authorization review of Arizona rules. These are sections where, during previous rulemakings, DEQ unintentionally assumed authority for actions that must remain with EPA because it is nondelegable. R18-8-260(E)(12) lists exceptions to the general incorporation rule that "EPA" means "DEQ". The corrections are additional exceptions added at R18-8-260(E)(12)(i). The corrections at R18-8-260(F)(2) and renumbered (F)(6) involve exceptions to the general rule that "Administrator" means "Director" and "United States" means "Arizona."

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 possible. As discussed above, DEQ has determined that most of the proposed changes would have either a potentially positive impact or no impact on small businesses because they are equivalent to or less stringent than the standards currently in existence. The two more stringent changes could impact Arizona small businesses if they burn hazardous waste derived fuels or export spent lead-acid batteries but DEQ is not aware of any of these businesses. DEQ has no legal or feasible option other than to adopt the more stringent federal changes. In addition, adopting more stringent federal changes helps ensure that DEQ remains the primary administrator of the Hazardous Waste Program, and not EPA. This is beneficial to small and large businesses alike.

Conduct Change Analysis. Under A.R.S. § 41-1055(A)(1), the agency must discuss the conduct the rule is designed to affect and how it will affect it. The state and federal hazardous waste rules together establish a 'cradle to grave' management system for hazardous waste that deters conduct that would endanger human health or the environment. As stated previously, a significant purpose of the state rules is to allow and encourage EPA to renew its authorization of Arizona's hazardous waste program and prevent EPA from being sole administrator of the program. If EPA became the sole administrator of the hazardous waste program in Arizona, entities previously regulated by DEQ would be harmed in ways that include more difficult communications, probable increased fees and penalties, and a more uncertain regulatory environment.

Rules More Stringent than Corresponding Federal Law and Imposing the Least Burden Necessary to Achieve the Regulatory Objective. [A.R.S. § 41-1052(C)(3) and (C)(9)] Since 1984, DEQ hazardous waste rules have contained several procedural requirements that are more stringent than EPA's. These more stringent procedural requirements are authorized by A.R.S. § 49-922, which in directing DEQ to adopt rules, prohibits only nonprocedural standards that are more stringent than EPA:

1) Hazardous Waste Manifests. DEQ requires hazardous waste generators, transporters and TSD (treatment, storage or disposal) facilities to provide a copy of all hazardous waste manifests to DEQ monthly. [See R18-8-262(I) and (J); R18-8-263(C), R18-8-264(J) and R18-8-265(J).] Federal regulations require manifests to be provided to EPA only.

2) Annual Reports. Hazardous waste large quantity generators and TSD facilities must submit reports [to DEQ] annually rather than every two years as the federal regulations require. [See R18-8-260(E)(3); R18-8-262(H), R18-8-264(I) and R18-8-265(I).]

3) Recyclers and Small Quantity generators are required to submit annual reports to DEQ rather than no reports at all. [R18-8-261(J) and R18-8-262(H)]

These more stringent procedural requirements have been in effect since 1984. The Arizona Department of Health Services in 1984, and DEQ since 1987, determined that these more stringent procedural features are necessary for Arizona to achieve the underlying regulatory objective, which is to "establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations." [A.R.S. § 49-922(A)] In addition, A.R.S. § 49-922(B)(1) and (2) require rules for "records of hazardous waste" and "submission of reports." It is clear that DEQ, as the primary enforcement agency, needs to receive a copy of manifests, and that as the primary enforcement agency, it should determine the frequency of reports needed. DEQ's authority in A.R.S. § 49-922(A) allows procedural requirements to be more stringent than EPA and these are necessary to achieve the objective. DEQ requests information regarding the costs of these annual reports and manifest copies.

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

Name:	Mark Lewandowski
Address:	Department of Environmental Quality Waste Programs Division 1110 W. Washington Phoenix, AZ 85007
Telephone:	(602) 771-2230 or (800) 234-5677, enter 771-2230 (Arizona only)
Fax:	(602) 771-4381
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:	October 15, 2014
Time:	1:30 p.m.
Location:	Department of Environmental Quality 1110 W. Washington, Suite 145 Phoenix, AZ 85007
Nature:	Public hearing on the proposed rules, with opportunity for formal comments on the record. Please call (602) 771-4795 for special accommodations pursuant to the Americans with Disabilities Act.

The close of the written comment period will be 5:00 p.m., October 20, 2014. Submit comments to the individual identified in item #4.

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

to the following questions:

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

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

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

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

However, it should be noted that ADEQ has already adopted a federal general permit rule that is similar to Arizona general permits. 40 CFR 270.60, "Permits by Rule", applies to 3 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 3rd category exists in Arizona, and DEQ has incorporated the federal general permit rule for publicly owned treatment works through R18-2-270(A). Note: The hazardous waste standardized permit 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:

A.R.S. § 41-1052(D)(9): These rules are not more stringent than corresponding federal laws, except where there is statutory authority. Since EPA's first authorization of Arizona's hazardous waste program in 1985, Arizona rules have been more stringent than EPA's in the areas of reports and manifests. (See 50 FR at 47736, November 20, 1985) This is authorized under A.R.S. § 49-922(B) which states that DEQ may not adopt a nonprocedural standard that is more stringent than EPA. A brief discussion of these more stringent procedural requirements and why they are necessary to achieve the regulatory objective is in item 8 of this preamble.

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:

Federal Citation	State Citation
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

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

ARTICLE 2. HAZARDOUS WASTES

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

A. Federal regulations cited in this Article are those revised as of ~~July 1, 2006~~ July 1, 2013 (and no future editions), unless otherwise noted. 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 and the accompanying appendix, revised as of ~~January 29, 2007~~ January 31, 2014 (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 with the exception of the~~
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;
4. The revisions for the gasification rule as published at 73 FR 57. ~~is incorporated by reference, modified by the following subsections, and on file with the Department of Environmental Quality (DEQ).~~ Copies of 40 CFR 260 are available at www.gpoaccess.gov/cfr/index.html.

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. At the time the information is submitted to, or otherwise obtained by, the DEQ;
      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) No change
   iii. No change
         (1) No change
         (2) No change
         (3) No change
         (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. No change
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. Any references to EPA identification numbers;
    b. Any references to EPA hazardous waste numbers;
    c. Any reference to EPA test methods or documents;
    d. Any reference to EPA forms;
    e. Any reference to EPA publications;
    f. Any reference to EPA manuals;
    g. Any reference to EPA guidance;
    h. Any reference to EPA Acknowledgment of Consent;
    i. References in §§ 260.2(b) (as incorporated by R18-8-260(D)(2));
    260.10 (definitions of "Administrator," "EPA region," "Federal agency," "Person," and "Regional Administrator" (as incorporated by R18-8-260(E));
    260, Appendix I (as incorporated by R18-8-260(C));
    260.11(a) (as incorporated by R18-8-260(C));
    261, Appendix IX (as incorporated by R18-8-261(A));
    261.39(a)(5) (as incorporated by R18-8-261(A));
    262.21 (as incorporated by R18-8-262(A));
    262.32(b) (as incorporated by R18-8-262(A));
    262.50 through 262.57 (as incorporated by R18-8-262(A));
    262.60(c) and (e) (as incorporated by R18-8-262(A));
    262.80 through 262.89 (as incorporated by R18-8-262(A));
    262, Appendix (as incorporated by R18-8-262(A));
    263.10(a) Note (as incorporated by R18-8-263(A));
    264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), 265.71(d);
    268.1(e)(3) (as incorporated by R18-8-268);
    268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (as incorporated by R18-8-268);
    270.1(a)(1) (as incorporated by R18-8-270);
    270.1(b) (as incorporated by R18-8-270(B));
    270.2 (definitions of "Administrator," "Approved program or Approved state," "Director," "Environmental Protection Agency," "EPA," "Final authorization," "Permit," "Person," "Regional Administrator," and "State/EPA agreement") (as incorporated by R18-8-270(A));
    270.3 (as incorporated by R18-8-270(A));
    270.5 (as incorporated by R18-8-270(A));
    270.10(e)(1) through (2) (as incorporated by R18-8-270(A) and R18-8-270(D));
    270.11(a)(3) (as incorporated by R18-8-270(A));
    270.32(a) and (c) (as incorporated by R18-8-270(M) and R18-8-270(O));
    270.51 (as incorporated by R18-8-270(~~P~~)(Q));
    270.72(a)(5) and (b)(5) (as incorporated by R18-8-270(A));
    124.1(f) (as incorporated by R18-8-271(B));
    124.5(d) (as incorporated by R18-8-271(D));
    124.6(e) (as incorporated by R18-8-271(E));
    124.10(c)(1)(ii) (as incorporated by R18-8-271(I)); and
    124.13 (as incorporated by R18-8-271(L)).]

13. 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
    a. No change
    b. 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
33. No change

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

1. No change
2. "Administrator," "Regional Administrator," "state Director," or "Assistant Administrator for Solid Waste and Emergency Response" mean the [Director or the Director's authorized representative, except in §§:
   260.10, in the definitions of "Administrator," "Regional Administrator," and "hazardous waste constituent" (as incorporated by R18-8-260(E));
   261.41 (as incorporated by R18-8-261);
   261, Appendix IX (as incorporated by R18-8-261(A));
   262, Subpart E;
   262, Subpart H;
   262, Appendix (as incorporated by R18-8-262);
   264.12(a) (as incorporated by R18-8-264(A));
   265.12(a) (as incorporated by R18-8-265(A));
   268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (as incorporated by R18-8-268);
   270.2, in the definitions of "Administrator", "Director", "Major facility", "Regional Administrator", and "State/EPA agreement" (as incorporated by R18-8-270(A));
   270.3 (as incorporated by R18-8-270(A));
   270.5 (as incorporated by R18-8-270(A));
   270.10(e)(1), (2), and (4) (as incorporated by R18-8-270(A) and R18-8-270(D));
   270.10(f) and (g) (as incorporated by R18-8-270(A) and R18-8-270(E));
   270.11(a)(3) (as incorporated by R18-8-270(A));
   270.14(b)(20) (as incorporated by R18-8-270(A));
   270.32(b)(2) (as incorporated by R18-8-270(N));
   270.51 (as incorporated by R18-8-270(A));
   124.5(d) (as incorporated by R18-8-271(D));
   124.6(e) (as incorporated by R18-8-271 (E));
   124.10(b) (as incorporated by R18-8-271(I)~~;~~].
3. No change
   a. No change
   b. No change
   c. No change
4. ["Member of the Performance Track Program" or "Performance Track member facility" means a facility or generator that ~~has been accepted by EPA for membership in the National Environmental Performance Track Program (as described at http://www.epa.gov/performancetrack/) and by DEQ for membership in~~ is a current member of the Arizona Environmental Performance Track Program (as described at ~~http://www.azdeq.gov/function/about/track.html)~~

http://www.azdeq.gov/function/programs/azept) ~~and is still a member of both programs. The Environmental Performance Track Programs are voluntary programs for top environmental performers~~. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.]

5. No change
6. No change
7. "United States" means [Arizona except for the following:
   a. § 261.39(a)(5) (as incorporated by R18-8-261).
   ~~a~~b. References in §§ 262.50, 262.51, 262.53(a), 262.54(c), 262.54(g)(2), 262.54(i), 262.55(a), 262.55(c), 262.56(a)(4), 262.60(a), ~~and~~ 262.60(b)(2) and 262.60(d) (as incorporated by R18-8-262).
   ~~b~~c. All references in Part 263 (as incorporated by R18-8-263), except §§ 263.10(a) and 263.22(c).~~]~~
   d. § 266.80]

G. No change
H. No change
I. No change
J. No change
K. No change
L. No change
M. No change
1. No change
2. No change
3. No change

N. No change
1. No change
2. No change
3. No change

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

A. All of 40 CFR 261 and accompanying appendices, revised as of ~~January 29, 2007~~ January 31, 2014 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
1. The revisions for standardized permits as published at 70 FR 53419~~,~~;
2. The revisions to the solid waste definition as published at 73 FR 64668;
3. The revisions for the gasification rule as published at 73 FR 57;
4. 40 CFR 261.4(a)(16) and 261.38. ~~is incorporated by reference, modified by the following subsections, and on file with the DEQ.~~ Copies of 40 CFR 261 are available at www.gpoaccess.gov/cfr/index.html.

B. No change
C. No change
D. No change
E. No change
F. § 261.5, titled "Special requirements for hazardous waste generated by conditionally exempt small quantity generators," paragraph (f)(3) is amended as follows:

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

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

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

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

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

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

(vi) A facility which:
(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
(vii) For universal waste managed under ~~§~~ part 273 of this chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of ~~§~~ part 273 of this chapter.

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

(g) In order for hazardous waste [, other than acute hazardous waste,] generated by a conditionally exempt small quantity generator in quantities of ~~less than~~ 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this [subsection], the generator [shall] comply with the following requirements:
(1) § 262.11 of this chapter [(as incorporated by R18-8-262)];
(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If [such generator] accumulates at any time ~~more than a total of~~ 1,000 kilograms or greater of [its] hazardous wastes, all of those accumulated [hazardous] wastes are subject to regulation under the special provisions of ~~§~~ part 262 applicable to generators of ~~between~~ greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of ~~§§~~ parts 263 through 266, 268, 270~~,~~ and 124 of this chapter [as incorporated by R18-8-262, R18-8-263 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(d) [(as incorporated by R18-8-262)] for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
(3) A conditionally exempt small quantity generator may either treat or dispose of [its] hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:
(i) Permitted under part 270 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270)];
(ii) In interim status under parts 270 and 265 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270 and R18-8-265)];
(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this ~~Chapter~~ chapter;
(iv) Permitted, licensed, or registered by a ~~state~~ State to manage municipal [or industrial solid waste and approved by the owner or operator of the solid waste facility to accept hazardous waste from conditionally exempt small quantity generators who have not been excluded from disposing of their waste at such a facility pursuant to applicable provisions of the Solid Waste Management Act, A.R.S. §§ 49-701 through 49-791 and] is subject to Part 258 of this ~~Chapter~~ chapter;
(v) Permitted, licensed, or registered by a ~~state~~ State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or
(vi) A facility which:
(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
(vii) For universal waste managed under part 273 of this ~~Chapter~~ chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of part 273 of this ~~Chapter~~ chapter.

H. No change

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

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled [shall] be known as "recyclable materials."
(2) The following recyclable materials are not subject to the requirements of this section but are regulated under [40 CFR 266, subparts C~~, F, G, and H~~ through N (as incorporated by R18-8-266)] and all applicable provisions in parts 268, 270 and 124 of this ~~Chapter~~ chapter [(as incorporated by R18-8- 268, R18-8-270 and R18-8-271)]:
(i) Recyclable materials used in a manner constituting disposal (40 CFR part 266, subpart C);
(ii) Hazardous wastes burned ~~for energy recovery~~ (as defined in section 266.100(a)) in boilers and industrial furnaces that are not regulated under [40 CFR 264 or 265, subpart O (as incorporated by R18-8-264 and R18-8-265)] (40 CFR part 266, subpart H);
(iii) Recyclable materials from which precious metals are reclaimed (40 CFR part 266, subpart F);
(iv) Spent lead acid batteries that are being reclaimed (40 CFR part 266, subpart G).
~~(v) U.S. Filter Recovery Services XL waste (40 CFR 266, subpart O).~~
(3) The following recyclable materials are not subject to regulation under [40 CFR 262 through 266, 268, 270, or 124 (as incorporated by R18-8-262 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and are not subject to the notification requirements of section 3010 of RCRA:

(i) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in § 262.58:
(A) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, [shall] comply with the requirements applicable to a primary exporter in §§ 262.53, 262.56(a)(1)-(4), (6), and (b), and 262.57, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart E of part 262, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;
(B) Transporters transporting a shipment for export may not accept a shipment if [the transporter] knows the shipment does not conform to the EPA Acknowledgment of Consent, [shall] ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and [shall] ensure that [the EPA Acknowledgment of Consent] is delivered to the [subsequent transporter or] facility designated by the person initiating the shipment.
(ii) Scrap metal that is not excluded under § 261.4(a)(13);
(iii) Fuels produced from the refining of oil-bearing hazardous ~~wastes~~ waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under § 261.4(a)(12) (as incorporated by R18-8-261);
(iv) (A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under [A.R.S. § 49-801] and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
(B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining[,] production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under [A.R.S. § 49-801]; and
(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under [A.R.S. § 49-801].

J. No change
K. No change

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

A. All of 40 CFR 262 and the accompanying appendix, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 262 are available at www.gpoaccess.gov/cfr/index.html.
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. No change

H. § 262.41, titled "Biennial report," is amended as follows:
(a) A generator [shall] prepare and submit a single copy of [an annual] report to the [Director] by March 1 [for the preceding calendar] year. The [annual] report [shall] be submitted on [a form provided by the DEQ according to the instructions for the form, shall describe] generator activities during the previous [calendar] year, and shall include the following information:
(1) The EPA identification number, name, [location,] and [mailing] address of the generator.
(2) The calendar year covered by the report.
(3) The EPA identification number, name, and [mailing] address for each off-site [TSD] facility to which waste was shipped during the [reporting] year [, including the name and address of all applicable foreign facilities for exported shipments.]
(4) The name, [mailing address], and the EPA identification number of each transporter used [by the generator] during the reporting year.

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

(b) Any generator who treats, stores, or disposes of hazardous waste on-site, [and is subject to the HWM facility requirements of R18-8-264, R18-8-265, or R18-8-270,] shall submit [an annual] report covering those wastes in accordance with the provisions of 40 CFR 264.75 [(as incorporated by R18-8-264~~(G)~~(I)], and § 265.75 [(as incorporated by R18-8-265~~(G)~~(I).]

I. Manifests required in 40 CFR 262, subpart B, titled "The Manifest," (as incorporated by R18-8-262) shall be submitted to the DEQ in the following manner:

1. A generator initiating a shipment of hazardous waste required to be manifested shall submit to the DEQ, no later than 45 days following the end of the month of shipment, one copy of each manifest with the signature of that generator and transporter, and the signature of the owner or operator of the designated facility, for any shipment of hazardous waste transported or delivered within that month. If a conforming manifest is not available, the generator shall submit an Exception Report in compliance with § 262.42 (as incorporated by R18-8-262).
2. A generator shall designate on the manifest in item ~~I~~13 "Waste ~~No.~~ Codes," the EPA hazardous waste number or numbers for each hazardous waste listed on the manifest.
3. A member of the Performance Track Program, as defined in R18-8-260(F), that initiates a shipment of hazardous waste required to be manifested shall submit the manifest to DEQ as specified in subsections (1) and (2), except a manifest may be submitted to DEQ within 45 days following the end of the calendar quarter of shipment rather than within 45 days following the end-of-the month of shipment.

J. 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, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections ~~of R18-8-263~~, and on file with the DEQ. Copies of 40 CFR 263 are available at www.gpoaccess.gov/cfr/index.html.
B. No change
C. No change
D. No change
E. 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 14, 2006~~ July 1, 2013 (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(l), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 264 are available at www.gpoaccess.gov/cfr/index.html.
B. No change
C. No change
D. No change
1. No change
2. No change

E. No change
F. No change
G. § 264.56, titled "Emergency procedures," paragraph (d)(2) is amended as follows:
(2) [The emergency coordinator, or designee, shall] immediately notify [the DEQ at (602) 771-2330 or (800) 234-5677,

extension 771-2330, and notify] either the government official designated as the on-scene coordinator for that geographical area, ~~(in the applicable regional contingency plan under 40 CFR 1510)~~ or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report [shall include the following]:
(i) Name and telephone number of reporter;
(ii) Name and address of facility;
(iii) Time and type of incident (for example, release, fire);
(iv) Name and quantity of material(s) involved, to the extent known;
(v) The extent of injuries, if any; and
(vi) The possible hazards to human health, or the environment, outside the facility.

H. § 264.71, titled "Use of manifest system," paragraph (a)~~(4)~~(2)(iv) is amended as follows:
Within 30 days ~~after the~~ of delivery, send a copy of the ~~signed and dated~~ manifest ~~or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery)~~ to the generator [and submit one copy of each manifest to DEQ, according to R18-8-264~~(I).~~(J);] and

I. No change

J. No change
1. No change
2. If a facility receiving hazardous waste from off-site is also a generator, the owner or operator shall also submit generator manifests as required by R18-8-262~~(H)~~(I).]

K. No change

L. No change

M. No change

N. No change

O. No change

P. No change
1. No change
2. No change
3. No change
4. No change
5. No change
6. 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 14, 2006~~ July 1, 2013 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 265 are available at www.gpoaccess.gov/cfr/index.html.

B. No change

C. No change

D. No change
1. No change
2. No change

E. No change

F. No change

G. § 265.56, titled "Emergency procedures," paragraph (d)(2) is amended as follows:
(2) [The emergency coordinator, or designee, immediately shall] notify [the DEQ at (602) 771-2330 or 800/234-5677, and notify] either the government official designated as the on-scene coordinator for that geographical area, ~~(in the applicable regional contingency plan under 40 CFR 1510)~~ or the National Response Center (using their 24-hour toll-free number 800/424-8802). The report [shall include the following]:
(i) Name and telephone number of the reporter;
(ii) Name and address of the facility;
(iii) Time and type of incident (for example, release, fire);
(iv) Name and quantity of material(s) involved, to the extent known:
(v) The extent of injuries, if any; and
(vi) The possible hazards to human health, or the environment, outside the facility.

H. § 265.71, titled "Use of manifest system," paragraph (a)~~(4)~~(2)(iv) is amended as follows:
Within 30 days ~~after the~~ of delivery, send a copy of the ~~signed and dated~~ manifest ~~or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery)~~ to the generator [and submit one copy of each manifest to DEQ, according to R18-8-265~~(I).~~(J);] and

I. No change
J. No change
K. § 265.90, titled "Applicability," paragraphs (a) and (d)(1), and § 265.93, titled "Preparation, evaluation, and response," paragraph ~~(3)~~(a) (as incorporated by R18-8-265), are amended by deleting the following phrase: "within one year"; and § 265.90, titled "Applicability," paragraph (d)(2) (as incorporated by R18-8-265), is amended by deleting the following phrase: "Not later than one year."
L. No change
M. No change
N. 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 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 266 are available at www.gpoaccess.gov/cfr/index.html.
B. § 266.100, titled "Applicability" paragraph (c) is amended as follows:
(c) The following hazardous wastes and facilities are not subject to regulation under this subpart:
(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter. Such used oil is subject to regulation under [A.R.S. §§ 49-801 through 49-818] rather than this subpart;
(2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
(3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii)~~-~~ and (iv) [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under § 261.5 [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter; and
(4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

R18-8-268. Land Disposal Restrictions

All of 40 CFR 268 and accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), with the exception of Part 268, Subpart B, is incorporated by reference and on file with the DEQ. Copies of 40 CFR 268 are available at www.gpoaccess.gov/cfr/index.html.

R18-8-270. Hazardous Waste Permit Program

A. All of 40 CFR 270 and the accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
1. §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64~~,~~;
2. The revisions for standardized permits as published at 70 FR 53419~~,~~;
3. The revisions to the solid waste definition as published at 73 FR 64668. ~~is incorporated by reference, modified by the following subsections, and on file with the DEQ.~~ Copies of 40 CFR 270 are available at www.gpoaccess.gov/cfr/index.html.

B. No change
1. No change
a. No change
b. No change
c. No change
2. No change
a. Waters of the state as defined in A.R.S. § 49-201~~(31)~~, excluding surface impoundments as defined in § 260.10 (as incorporated by R18-8-260); and
b. No change

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
   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
8. No change
9. 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. § 270.42, titled "Permit modification at the request of permittee", paragraph (f)(3), is amended as follows:

(3) An automatic authorization that goes into effect under paragraph (b)(6)(iii) or (v) of this section may be appealed under [Title 41, Chapter 6, Article 10, Arizona Revised Statutes.]

~~**P.**~~**Q.** No change
~~**Q.**~~**R.** No change
~~**R.**~~**S.** § 270.65, titled "Research, development, and demonstration permits," is amended as follows:

(a) The [Director] may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under ~~Part~~ part 264 or 266 [(as incorporated by R18-8-264 and R18-8-266).] [A research, development, and demonstration] permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:
   (1) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in paragraph (d) of this ~~subsection~~ section, and
   (2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the [Director] deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
   (3) Shall include such requirements as the [Director] deems necessary to protect human health and the environment [, including requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and such requirements as the Director] deems necessary regarding testing and providing of information [relevant] to the [Director] with respect to the operation of the facility.

(b) For the purpose of expediting review and issuance of permits under this ~~Section~~ section, the [Director] may, consistent with the protection of human health and the environment, modify or waive permit application and permit

issuance requirements [, or add conditions to the permit in accordance with the permitting procedures set forth in R18-8-270 and R18-8-271,] except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(c) The [Director] may order an immediate termination of all operations at the facility at any time [the Director] determines that termination is necessary to protect human health and the environment.

(d) Any permit issued under this ~~subsection~~ section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

~~S.~~**T.** No change

U. § 270.155 titled "May the decision to approve or deny my RAP application be administratively appealed?", paragraph (a), is amended as follows:

(a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Director's decision to approve or deny your RAP application [under Title 41, Chapter 6, Article 10, Arizona Revised Statutes.] Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under § 124.15 of this chapter [(as incorporated by R18-8-271)] (or a decision under § 270.29 [(as incorporated by R18-8-270)] to deny a permit for the active life of a RCRA hazardous waste management facility or unit.)

R18-8-271. Procedures for Permit Administration

A. All of 40 CFR 124 ~~and the accompanying appendix~~, revised as of ~~July 1, 2006~~ July 1, 2013 (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, and subparts C, D, and G, and with the exception of the revisions for standardized permits as published at 70 FR 53419, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 124 are available at www.gpoaccess.gov/cfr/index.html.

B. No change

C. No change

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

[(a) Permits may be modified, revoked~~,~~ and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, revoked~~,~~ and reissued, or terminated for the reasons specified in §§ 270.41 or 270.43 (as incorporated by R18-8-270). All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Director decides the request is not justified, the Director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

(c) Modification, revocation or reissuance of permits procedures.

(1) If the Director tentatively decides to modify or revoke and reissue a permit under §§ 270.41 or 270.42(c) (as incorporated by R18-8-270), the Director shall prepare a draft permit under § 124.6 (as incorporated by R18-8-271(E)), incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.

(2) In a permit modification under this [subsection], only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. The permit modification shall have the same expiration date as the unmodified permit. When a permit is revoked and reissued under this subsection, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Classes 1 and 2 modifications" as defined in § 270.42 (as incorporated by R18-8-270) are not subject to the requirements of this subsection.

(d) If the Director tentatively decides to terminate a permit under § 270.43 (as incorporated by R18-8-270), the Director shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6 (as incorporated by R18-8-271(E)). In the case of permits that are processed or issued jointly by both the DEQ and the EPA, a notice of intent to terminate shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibilities from the EPA to the state.

(e) The Director shall base all draft permits, including notices of intent to terminate, prepared under this subsection on the administrative record as defined in § 124.9 (as incorporated by R18-8-271(H)).]

E. 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. § 124.19, titled "Appeal of RCRA, UIC, and PSD permits," is replaced by the following:
A final permit decision (or a decision under § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit issued under § 124.15 (as incorporated by R18-8-271(N)) is an appealable agency action as defined in A.R.S. § ~~49-1092~~ 41-1092 and is subject to appeal under A.R.S. Title 41, Ch. 6, Art. 10.
R. No change
S. No change
T. No change

R18-8-273. Standards for Universal Waste Management
All of 40 CFR 273, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference and on file with the DEQ. Copies of 40 CFR 273 are available at www.gpoaccess.gov/cfr/index.html.