

Summary of HW Rule Updates - 2019

Generator Improvement Rule (GIR)

This set of rules consolidates and clarifies existing regulations for hazardous waste generators, and provides greater flexibility for hazardous waste generators to manage their waste in a cost-effective and protective manner. This set of rules also makes technical corrections and conforming changes to address inadvertent errors and removes obsolete reference to programs that no longer exists (e.g. Performance Track facilities). One aspect of this update includes renaming Conditionally Exempt Small Quantity Generators (CESQG) as Very Small Quantity Generators (VSQG).

Affected Sections: ARSD 74:28:21:02, adopting 40 CFR 260 (definitions)
ARSD 74:28:22:01, adopting 40 CFR 261 (HW determinations and former CESQG requirements removed and placed in Part 262)
*ARSD 74:28:23:01, adopting 40 CFR 262 (HW generator requirements)
ARSD 74:28:24:01, adopting 40 CFR 263 (HW transporters)
ARSD 74:28:25:01, adopting 40 CFR 264 (permitted facilities)
ARSD 74:28:26:01, adopting 40 CFR 265 (interim status facilities)
ARSD 74:28:30:01, adopting 40 CFR 268 (land disposal restrictions)
ARSD 74:28:26:01, adopting 40 CFR 270 (HW permit requirements)
ARSD 74:28:33:01, adopting 40 CFR 273 (universal waste)
ARSD 74:28:27:01, adopting 40 CFR 279 (used oil)
 (“*” represents sections that contain the bulk of the regulations and changes)

Amendments to Rules Regarding Imports and Exports of Hazardous Waste

This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. Because these rules involve international shipments and the movement of materials among members of the Organization for Economic Cooperation and Development (OECD), the Environmental Protection Agency (EPA) retains its authority for these types of shipments. In light of the ability to ship wastes using the new national Electronic Manifesting system (discussed later), the rule update includes provisions for using that process. Although EPA retains its enforcement authority regarding foreign imports and exports of HW, EPA asks states to incorporate these rules in order to help companies understand their responsibilities. South Dakota does not have any facilities that import or export hazardous wastes.

Affected Sections: ARSD 74:28:21:01(21) through (23)

ARSD 74:28:21:02, adopting 40 CFR 260 and retaining federal references

ARSD 74:28:22:01, adopting 40 CFR 261

*ARSD 74:28:23:01, adopting 40 CFR 262

ARSD 74:28:24:01, adopting 40 CFR 263

ARSD 74:28:25:01, adopting 40 CFR 264

ARSD 74:28:28:01, adopting 40 CFR 265

ARSD 74:28:27:01, adopting 40 CFR 266

ARSD 74:28:25:01, adopting 40 CFR 267

ARSD 74:28:33:01, adopting 40 CFR 273

(“*” represents sections that contain the bulk of the regulations and changes)

Hazardous Waste Electronic Manifest System

Beginning June 30, 2018, the EPA launched a national electronic manifest (e-manifest) system by which hazardous waste generators, transporters, and permitted treatment, storage and disposal facilities (TSDFs) document and track hazardous waste shipments. The national electronic system was developed in order to meet the 2012 Hazardous Waste Electronic Manifest Act (P.L. 112-195). Funding to support the system will be imposed on the permitted treatment, storage and disposal facilities using the methods provided in these regulations. The payment process is set up and maintained solely by EPA. Regulations adopted with this rule update involves the use of e-manifests, including how to make changes to shipping information while wastes are in transit, and submitting paper/e-manifest hybrids.

Affected Sections: ARSD 74:28:21:01, adopting 40 CFR 260
ARSD 74:28:23:01, adopting 40 CFR 262
ARSD 74:28:24:01, adopting 40 CFR 263
*ARSD 74:28:25:01, adopting 40 CFR 264
*ARSD 74:28:28:01, adopting 40 CFR 265

(“*” represents sections that contain the bulk of the regulations and changes)

Airbags Rule

This set of rules formalizes guidance EPA quickly put together in July 2018 to address the safe management of recalled Takata airbag inflators. In consultation with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) who regulates explosive devices in commerce, the agencies agreed unstable Takata inflators removed from vehicles should not be reused; as a waste, they are considered an ignitable and reactive hazardous waste. The final rule published in November 2018 was designed to expedite removal of defective Takata airbag inflators for safe and environmentally sound disposal by exempting the collection of airbag waste as long as certain conditions are met (accumulation of no more than 250 airbag modules or inflators for 180 days or less; safely package the items within a container labeled

“Airbag Waste – Do Not Reuse”; and ensure the waste is sent to a vehicle manufacturer or their representative, or a permitted TSDF; waste must be shipped in accordance with DOT requirements; and records of the shipment must be maintained.)

Affected Section: ARSD 74:28:22:01, adopting 83 FR 231, 61562-61563

P075 Listing Amendment for Nicotine

Finalized in conjunction with the Pharmaceutical Waste Rule (below), the amendment to the P075 listing criteria allows FDA-approved over-the-counter nicotine replacement products (nicotine gums, lozenges, and patches) to be disposed as a nonhazardous solid waste by pharmacies and healthcare facilities.

Affected Section: ARSD 74:28:22:01, adopting 84 FR 36, 5938-5950

Pharmaceutical Waste Rule

Applicable to healthcare facilities (human and animal), pharmacies, and reverse distributors that generate hazardous waste pharmaceuticals, the rule provides management standards in lieu of the existing hazardous waste generator requirements. In a snapshot, the rule is intended to facilitate compliance among healthcare facilities and improve the management and disposal of hazardous waste pharmaceuticals at healthcare facilities. Some key provisions include reducing confusion involved with hazardous waste determinations for pharmaceutical wastes, including empty containers; eliminates dual regulation of hazardous waste pharmaceuticals that are also Drug Enforcement Administration (DEA) controlled substances; prohibits disposal of hazardous waste pharmaceuticals down the drain; codifies the household waste exemption for pharmaceuticals collected through drug take-back programs while ensuring their proper disposal; and codifies EPA’s policy regarding nonprescription pharmaceuticals managed through reverse logistics.

Affected Sections: ARSD 74:28:22:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:23:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:25:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:26:01, adopting 84 FR 36, 5938-5950
*ARSD 74:28:27:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:28:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:30:01, adopting 84 FR 36, 5938-5950
ARSD 74:28:33:01, adopting 84 FR 36, 5938-5950

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