



COLORADO

Solid & Hazardous
Waste Commission

Department of Public Health & Environment

NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

SUBJECT:

For consideration of the amendments to 6 CCR 1007-3, Parts 260, 261, 262, 263, 264, 265, and 268, along with the accompanying Statement of Basis and Purpose, the following will be considered:

Amendment of 6 CCR 1007-3, Parts 260, 261, 262, 263, 264, 265, and 268 - Regulations Pertaining to Hazardous Waste - Correction of Typographical Errors and Inadvertent Omissions

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 25-15-302(2), C.R.S.

These amendments correct typographical errors and inadvertent omissions that exist in §§260.4, 260.10, 261.4, 261.6, 262.82, 263.20, 264.71, 265.71, 265.1034, 265.1084, 265.1087, 268.40 Table of Treatment Standards, and Appendix VII of Part 268.

These amendments provide state equivalency with the applicable federal requirements, and include amendments being made in response to comments received from the Environmental Protection Agency regarding its review of Colorado's hazardous waste regulations.

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to C.R.S. §24-4-103(3), a notice of proposed rulemaking was submitted to the Secretary of State on April 14, 2023. Copies of the proposed rulemaking will be mailed to all persons on the Solid and Hazardous Waste Commission's mailing list on or before the date of publication of the notice of proposed rulemaking in the Colorado Register on April 25, 2023.

The proposed rulemaking materials may also be accessed at <https://cdphe.colorado.gov/shwc-rulemaking-hearings>.

WRITTEN TESTIMONY

Any alternative proposals for rules or written comments relating to the proposed amendment of the regulation will be considered. The Solid and Hazardous Waste Commission will accept written testimony and materials regarding the proposed alternatives. **The commission**



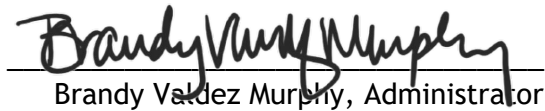
strongly encourages interested parties to submit written testimony or materials to the Solid and Hazardous Waste Commission Office, via email to cdphe.hwcrequests@state.co.us by Thursday, May 4, 2023, at 11:59 p.m. Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.

HEARING SCHEDULE:

DATE: Tuesday, May 16, 2023
TIME: 9:00 a.m.
PLACE: This meeting will be held online only at:

<https://us02web.zoom.us/meeting/register/tZcldO2tqz8iGtWNIFbFjxIBKeAKk-6Rzco->

Oral testimony at the hearing regarding the proposed amendments may be limited.


Brandy Valdez Murphy, Administrator



1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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4 **Solid and Hazardous Waste Commission/Hazardous Materials and**
5 **Waste Management Division**

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7
8 **6 CCR 1007-3**

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10 **HAZARDOUS WASTE**

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14 **Miscellaneous Corrections of Typographic Errors and Inadvertent Errors**

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16
17 **1) Section 260.4 is amended by revising paragraph (a)(4) to read as follows:**

18
19 **§ 260.4 Manifest copy submission requirements for certain interstate waste shipments.**

20
21 (a) In any case in which the state in which waste is generated, or the state in which waste will be
22 transported to a designated facility, requires that the waste be regulated as a hazardous waste or
23 otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste
24 shall, regardless of the state in which the facility is located:

25 *****

26
27
28 (4) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system,
29 subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and
30 other fee requirements specified in subpart FF of 40 CFR part 264. [Subpart FF of 40 CFR part 264](#) is
31 incorporated by reference to include those versions in effect as of the date this regulation was
32 adopted, and does not include later amendments to the incorporated material. Materials incorporated
33 by reference are available for public inspection during normal business hours from the Hazardous
34 Materials and Waste Management Division, 4300 Cherry Creek Drive South, Denver, CO 80246.
35 Copies may also be found at the Environmental Protection Agency through the Government Printing
36 Office at <https://www.govinfo.gov/app/collection/cfr/>

37
38
39 **2) Section 260.10 is amended by revising the definition of “Manifest” to read as follows:**

40
41 **§ 260.10 Definitions**

42 **"Manifest"** means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-
43 22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of
44 Parts 262 through 265 of these regulations.

45 **3) Section 261.4 is amended by revising paragraphs (e)(1) and (j)(2) to read as follows:**

46
47 **§ 261.4 Exclusions.**

48
49 *****

50
51 **(e) Treatability Study Samples.**

52
53 (1) Except as provided in paragraphs (e)(2) and (e)(4) of this section, persons who generate or collect
54 samples for the purpose of conducting treatability studies as defined in § 260.10, are not subject to
55 any requirement of Parts 261 through 263 of these regulations or to the notification requirements of
56 Section 99 of the Colorado Hazardous Waste Regulations, nor are such samples included in the
57 quantity determinations of § 262.13 when:

58
59 *****
60 *****

61
62 (j) **Airbag waste.** (1) Airbag waste at the airbag waste handler or during transport to an airbag waste
63 collection facility or designated facility is not subject to regulation under Parts 262 through 268, or
64 Part 100 of these regulations, and is not subject to the notification requirements of Part 99 of these
65 regulations provided that:

66
67 *****

68
69 (2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it
70 becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag
71 waste is considered the hazardous waste generator for the purposes of the hazardous waste
72 regulations and must comply with the requirements of Part 262 of these regulations.

73
74 *****

75
76
77 **4) Section 261.6 is amended by revising paragraph (a)(2)(ii) to read as follows:**

78
79 **§ 261.6 Requirements for recyclable materials.**

80
81 (a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters,
82 and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in
83 paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled will be known as
84 "recyclable materials."

85
86 (2) The following recyclable materials are not subject to the requirements of this section but are
87 regulated under Part 264, Subpart O; Part 265, Subpart H; Part 265, Subpart O; or Subparts C through
88 M of Part 267 of these regulations and all applicable provisions in Parts 268 and 100 of these
89 regulations:

90
91 *****

92
93 (ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not
94 regulated under Subpart O of Part 264 or 265 of these regulations (see Subpart D);

95
96 *****
97 *****

98 **5) Section 262.82 is amended by revising paragraph (e)(1) and (e)(2) to read as follows:**
99

100 **§ 262.82 General conditions.**
101

102 *****

103 (e) **EPA Address for submittals by postal mail or hand delivery.** Submittals required in this subpart to
104 be made by postal mail or hand delivery should be sent to the following addresses:
105

106 (1) ~~For postal mail delivery, the Office of Enforcement and Compliance Assurance, Office of Federal~~
107 ~~Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency,~~
108 ~~1200 Pennsylvania Avenue NW., Washington, DC 20460.~~ For postal mail delivery, the Office of Land
109 and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery
110 and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection
111 Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
112

113 (2) ~~For hand delivery, the Office of Enforcement and Compliance Assurance, Office of Federal~~
114 ~~Activities, International Compliance Assurance Division, Environmental Protection Agency, William~~
115 ~~Jefferson Clinton South Bldg., Room 6144, 12th St. and Pennsylvania Ave NW., Washington, DC~~
116 ~~20004.~~ For hand delivery, the Office of Land and Emergency Management, Office of Resource
117 Conservation and Recovery, Materials Recovery and Waste Management Division, International
118 Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South
119 Building, Room 6144, 1200 Pennsylvania Ave. NW, Washington, DC 20004.
120

121
122 **6) Section 263.20 is amended by revising paragraph (a)(1) to read as follows:**
123

124 **§ 263.20 The manifest system.**
125

126 (a)(1) **Manifest requirements.** A transporter may not accept hazardous waste from a generator unless
127 the transporter is also provided with a manifest [form \(EPA Form 8700-22, and if necessary, EPA Form](#)
128 [8700-22A\)](#) signed in accordance with the [provisions requirement](#) of § 262.23-, [or is provided with an](#)
129 [electronic manifest that is obtained, completed, and transmitted in accordance with § 262.20\(a\)\(3\) of](#)
130 [these regulations, and signed with a valid and enforceable electronic signature as described in § 262.25](#)
131 [of these regulations.](#)
132

133 *****

134
135
136 **7) Section 264.71 is amended by revising paragraphs (j) and (j)(1) to read as follows:**
137

138 **§ 264.71 Use of manifest system.**
139

140 *****

141
142 (j) **Imposition of user fee for [electronic manifest submissions](#)use.**
143

144 (1) As prescribed in 40 CFR § 264.1311, and determined in 40 CFR § 264.1312, an owner or
145 operator who is a user of the national electronic manifest system shall be assessed a user fee by
146 EPA for the submission and processing of each electronic and paper manifest. EPA shall update
147 the schedule of user fees and publish them to the user community, as provided in 40 CFR §
148 264.1313. [Subpart FF](#) 40 CFR part 264 is incorporated by reference to include those versions in
149 effect as of the date this regulation was adopted, and does not include later amendments to the

150 incorporated material. Materials incorporated by reference are available for public inspection
151 during normal business hours from the Hazardous Materials and Waste Management Division,
152 4300 Cherry Creek Drive South, Denver, CO 80246. Copies may also be found at the
153 Environmental Protection Agency through the Government Printing Office at
154 <https://www.govinfo.gov/app/collection/cfr/>

155 *****

157 *****

161 **8) Section 265.71 is amended by revising paragraph (j)(1) to read as follows:**

162 **§ 265.71 Use of manifest system.**

164 *****

167 **(j) Imposition of user fee for electronic manifest use.**

168
169 (1) As prescribed in 40 CFR § 265.1311, and determined in 40 CFR § 265.1312, an owner or
170 operator who is a user of the national electronic manifest system shall be assessed a user fee by
171 EPA for the submission and processing of each electronic and paper manifest. EPA shall update
172 the schedule of user fees and publish them to the user community, as provided in 40 CFR
173 § 265.1313. [Subpart FF of 40 CFR part 265](#) is incorporated by reference to include those
174 versions in effect as of the date this regulation was adopted, and does not include later
175 amendments to the incorporated material. Materials incorporated by reference are available for
176 public inspection during normal business hours from the Hazardous Materials and Waste
177 Management Division, 4300 Cherry Creek Drive South, Denver, CO 80246. Copies may also be
178 found at the Environmental Protection Agency through the Government Printing Office at
179 <https://www.govinfo.gov/app/collection/cfr/>

181 *****

182 *****

186 **9) Section 265.1034 is amended by revising paragraph (c)(1)(iv)(A) to replace “Q_{sd}” with
187 “Q_{2sd}” in the legend below the equation to read as follows:**

189 **§ 265.1034 Test methods and procedures.**

191 *****

192 (c) Performance tests to determine compliance with § 265.1032(a) and with the total organic compound
193 concentration limit of § 265.1033(c) shall comply with the following:

194
195 (1) Performance tests to determine total organic compound concentrations and mass flow rates
196 entering and exiting control devices shall be conducted and data reduced in accordance with the
197 following reference methods and calculation procedures:

198 *****

201 (iv) Total organic mass flow rates shall be determined by the following equation:

202
203
204

(A) For sources utilizing Method 18.

$$E_h = Q_{2sd} \left\{ \sum_{i=1}^n C_i MW_i \right\} [0.0416] [10^{-6}]$$

205
206
207

where:

208
209
210

E_h = Total organic mass flow rate, kg/ h ;

211
212
213

Q_{2sd} = Volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/ h ;

214
215

n = Number of organic compounds in the vent gas;

216
217
218

C_i = Organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Method 18;

219
220

MW_i = Molecular weight of organic compound i in the vent gas, kg/kg-mol;

221
222
223

0.0416 = Conversion factor for molar volume, kg-mol/m³ (@ 293 K and 760 mm Hg);

224
225
226

10⁻⁶ = Conversion from ppm.

227
228

10) Section 265.1084 is amended by revising paragraphs (a)(3)(iii) and (b)(3)(iii) to replace “(fm25D)” with “(f_{m25D})” and “Constituent specific” to “Constituent-specific” to read as follows:

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232
233

§ 265.1084 Waste determination procedures.

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236

(a) Waste determination procedure to determine average volatile organic (VO) concentration of a hazardous waste at the point of waste origination.

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238
239

240
241
242

(3) Direct measurement to determine average VO concentration of a hazardous waste at the point of waste origination.

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244

245
246
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(iii) **Analysis.** Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR Part 60, Appendix A for the total concentration of volatile organic constituents, or using one or more methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole fraction in the gas phase/mole fraction in the liquid phase (0.1 Y/X) [which can also be expressed as 1.8 x 10⁻⁶ atmospheres/gram mole/m³] at 25 degrees Celsius. At the owner's or operator's discretion, the

251

owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value of less than 0.1 Y/X at 25 degrees Celsius. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (~~fm25D~~ ~~f_{m25D}~~). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors (~~fm25D~~ ~~f_{m25D}~~) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in paragraph (a)(3)(iii)(A) or (B) of this section and provided the requirement to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25 degrees Celsius, is met.

(b) Waste determination procedures for treated hazardous waste.

(3) Procedure to determine the average VO concentration of a hazardous waste at the point of waste treatment.

(iii) **Analysis.** Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR Part 60, Appendix A for the total concentration of volatile organic constituents, or using one or more methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25 degrees Celsius. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system to determine if the conditions of § 264.1082(c)(2)(i) through (c)(2)(vi) or § 265.1083(c)(2)(i) through (c)(2)(vi) are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. At the owner's or operator's discretion, the owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value less than 0.1 Y/X at 25 degrees Celsius. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (~~fm25D~~ ~~f_{m25D}~~). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors (~~fm25D~~ ~~f_{m25D}~~) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in paragraph (a)(3)(iii)(A) or (B) of this section and provided the

303 requirement to reflect all organic compounds in the waste with Henry's law constant values
304 greater than or equal to 0.1 Y/X [which can also be expressed as 1.8×10^{-6} atmospheres/gram-
305 mole/m³] at 25 degrees Celsius, is met.

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309 **11) Section 265.1087 is amended by revising paragraphs (c)(4)(i) and (d)(4)(i) to read as**
310 **follows:**

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313 **§ 265.1087 Standards: Containers.**

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317 **(c) Container Level 1 standards.**

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320
321 (4) The owner or operator of containers using Container Level 1 controls shall inspect the containers
322 and their covers and closure devices as follows:

323
324 (i) In the case when a hazardous waste already is in the container at the time the owner or
325 operator first accepts possession of the container at the facility and the container is not emptied
326 within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for
327 an empty container as specified in § 261.7(b) of these regulations), the owner or operator shall
328 visually inspect the container and its cover and closure devices to check for visible cracks, holes,
329 gaps, or other open spaces into the interior of the container when the cover and closure devices
330 are secured in the closed position. The container visual inspection shall be conducted on or
331 before the date that the container is accepted at the facility (~~i.e.~~, i.e., the date the container
332 becomes subject to the Subpart CC container standards). For purposes of this requirement, the
333 date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of
334 the Uniform Hazardous Waste Manifest in the appendix to Part 262 of these regulations (EPA
335 Forms 8700-22 and 8700-22A), as required under subpart E of this part, at § 265.71 of these
336 regulations. If a defect is detected, the owner or operator shall repair the defect in accordance
337 with the requirements of paragraph (c)(4)(iii) of this section.

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340
341 **(d) Container Level 2 standards.**

342 *****
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344
345 (4) The owner or operator of containers using Container Level 2 controls shall inspect the containers
346 and their covers and closure devices as follows:

347
348 (i) In the case when a hazardous waste already is in the container at the time the owner or
349 operator first accepts possession of the container at the facility and the container is not emptied
350 within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for
351 an empty container as specified in § 261.7(b) of these regulations), the owner or operator shall
352 visually inspect the container and its cover and closure devices to check for visible cracks, holes,
353 gaps, or other open spaces into the interior of the container when the cover and closure devices
354 are secured in the closed position. The container visual inspection shall be conducted on or

before the date that the container is accepted at the facility (~~ie~~, i.e.: the date the container becomes subject to the Subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to Part 262 of these regulations (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at § 265.71 of these regulations. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

12) The Table of Treatment Standards at Section 268.40 is amended by revising the listings for P194 and P196 to add “; or CMBST” in the Nonwastewater column of the table to read as follows:

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS ² Number	Concentration ³ in mg/l; or Technology Code ⁴	Concentration ⁵ in mg/kg unless noted as "mg/l TCLP"; or Technology Code ⁴
*****	*****	*****	*****	*****	*****
P194	Oxamyl ¹⁰	Oxamyl	23135-22-0	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; <u>or CMBST</u>
P196	Manganese dimethyldithiocarbamate ¹⁰	Dithiocarbamates (total)	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; <u>or CMBST</u>
*****	*****	*****	*****	*****	*****

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13) Appendix VII of Part 268 is amended by deleting the U202 listing as follows:

Appendix VII

Table 1. -- Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs^a - Comprehensive List

Waste code	Waste category	Effective date
*****	*****	*****
U201	All	Aug.8, 1990
U202	All	Aug. 8, 1990
U203	All	Aug. 8, 1990
*****	*****	*****

377
378
379
380

14) Section 8.102 (Statement of Basis for the Rulemaking Hearing of May 16, 2023) is added to Part 8 of the Regulations to read as follows:

Statement of Basis and Purpose
Rulemaking Hearing of May 16, 2023

8.102 Basis and Purpose.

These amendments to 6 CCR 1007-3, Parts 260, 261, 262, 263, 264, 265, and 268 are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

Correction of Typographical Errors and Inadvertent Omissions

These amendments correct typographical errors and inadvertent omissions that exist in §§ 260.4, 260.10, 261.4, 261.6, 262.82, 263.20, 264.71, 265.71, 265.1034, 265.1084, 265.1087, 268.40 Table of Treatment Standards, and Appendix VII of Part 268.

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