



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, 264, 265, 267 along with the accompanying Statement of Basis and Purpose, the following will be considered:

Amendment of 6 CCR 1007-3, Parts 260, 261, 262, 264, 265, 267 - HW Technical Corrections

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.

The purpose of these revisions to **6 CCR 1007-3, Parts 260, 261, 262, 264, 265, 267** (the Regulation) is to adopt HW technical corrections corresponding to the Environmental Protection Agency rule published in August 9, 2023 Federal Register (88 FR 54086-54115), and amended on December 6, 2023 (89 FR 84710-84713).

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 July 10, 2024. Copies of the proposed rulemaking will be provided 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 July 25, 2024.

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 Wednesday, August 7, 2024, at 11:59 p.m.** Written materials submitted in advance will be distributed to the commission members prior to



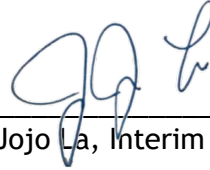
the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.

HEARING SCHEDULE:

DATE: Tuesday, August 20, 2024
TIME: 9:00 a.m.
PLACE: This meeting will be held online only at:

<https://us02web.zoom.us/meeting/register/tZ0rdemvpj0rHdf1YZvRWH4i6j3HVhZZOWxL>

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



Jojo La, Interim 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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8 **6 CCR 1007-3**

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11 **HAZARDOUS WASTE**

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14 **Technical Corrections for the HW Generator Improvements Rule, the HW Pharmaceutical**

15 **Rule, and the Definition of Solid Waste Rule**

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18 **1) Section 260.10 is amended by revising the definition of “Final closure” by removing “§**

19 **262.34” and adding “§§ 262.16 and 262.17” in its place to read as follows:**

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21 **§ 260.10 Definitions**

22

23 *****

24 **"Final closure"** means the closure of all hazardous waste management units at the facility in accordance

25 with all applicable closure requirements so that hazardous waste management activities under Parts 264

26 and 265 of these regulations are no longer conducted at the facility unless subject to the provisions in ~~§§~~

27 ~~262.34~~262.16 and 262.17.

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29 *****

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32 **2) Section 261.1 is amended by revising paragraph (a)(1) to read as follows:**

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34 **§ 261.1 Purpose and scope.**

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36 (a) This part identifies those solid wastes which are subject to regulation as hazardous wastes under

37 Parts 262 through 268 and Part 100 and which are subject to the notification requirements of Part 99. In

38 this part:

39

40 (1) Subpart A defines the terms "solid waste" and "hazardous waste," identifies those wastes which

41 are excluded from regulation under Parts 262 through 268, 99 and Part 100 of these regulations and

42 establishes special management requirements for hazardous waste ~~produced by very small quantity~~

43 ~~generators and hazardous waste~~ which is recycled.

44

45 *****

3) Section 261.6 is amended by revising paragraph (c)(1) to read as follows:

§ 261.6 Requirements for recyclable materials.

(c)(1) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, and AA, BB, and CC through DD of Parts 264 and 265, Parts 266 through 268 and Part 100 of these regulations and the notification requirements of Part 99 of these regulations, except as provided in paragraph (a) of this section. (The recycling process itself is exempt from regulation except as provided in § 261.6(d).)

4) Section 261.11 is amended by removing and reserving paragraph (c) to read as follows:

§ 261.11 Criteria for listing hazardous waste.

(c) ~~Reserved~~The Department will use the criteria for listing specified in this section to establish the exclusion limits referred to in § 262.13.

5) Section 261.30 is amended by revising paragraph (d) to read as follows:

§ 261.30 General.

(d) The following hazardous wastes listed in § 261.31 ~~or § 261.32~~ are subject to the exclusion generator category limits for acutely hazardous wastes established in table 1 of § 262.13 of these regulations: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026, and F027.

6) Section 262.1 is amended by revising the definition of “Condition for exemption” to read as follows:

§ 262.1 Terms used in this part.

As used in this part:

“Condition for exemption” means any requirement in §§ 262.14, 262.15, 262.16, 262.17, 262.70, or subpart L of this part that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in parts 264 through 268, and 100 of these regulations, or from any requirement for notification under Part 99 of these regulations for treatment, storage, and disposal facilities.

7) Section 262.10 is amended by adding Note 1 and Note 2 to the end of the section to read as follows:

§ 262.10 Purpose, scope, and applicability.

(a) The regulations in this part establish standards for generators of hazardous waste as defined in § 260.10 of these regulations.

(n) *****

Note 1 to § 262.10: The provisions of §§ 262.15 through 262.17 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of §§ 262.15 through 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note 2 to § 262.10: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in Parts 264, 265, 267, 268, and 100 of these regulations.

8) Section 262.14 is amended by revising paragraphs (a)(3) and (4) to read as follows:

§ 262.14 Conditions for exemption for a very small quantity generator.

(a) Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of Parts 262 (except §§ 262.9-262.14 and 262.43) through 268, 100, and the notification requirements of Part 99 of these regulations, and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. VSQGs generating 3 gallons or more of F001, F002, F004, or F005 hazardous waste in a calendar year must still comply with the Part 99 notification requirements and with the requirements of § 262.18. The conditions for exemption are as follows:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of “very small quantity generator” in § 260.10 of these regulations;

(2) The very small quantity generator complies with § 262.11(a) through (d);

(3) If the very small quantity generator accumulates at any time greater than 1 kilogram (2.2 lbs) of acute hazardous waste or 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §§ 261.31 or 261.33(e) of these regulations, all quantities of that acute hazardous waste are subject to the following additional conditions for exemption and independent requirements:

(i) Such waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided ~~above~~in paragraph (a)(3) of this section; ~~and~~

(ii) The conditions for exemption in § 262.17(a) through (g);

(iii) Notification as a “very small quantity generator” under § 262.18(a) through (c);

(iv) Preparation and use of the manifest in subpart B of this part;

(v) Pre-transport requirements in subpart C of this part;

(vi) Recordkeeping and reporting requirements in subpart D of this part; and

(vii) Requirements for transboundary movements of hazardous wastes in subpart H of this part.

(4) If the very small quantity generator accumulates at any time 1,000 kilograms (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption and independent requirements:

(i) Such waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceed the amounts provided ~~above~~in paragraph (a)(4) of this section;

(ii) The quantity of waste accumulated on site never exceeds 6,000 kilograms (13,200 lbs); ~~and~~

(iii) The conditions for exemption in § 262.16(b)(2) through (f);

(iv) Notification as a “very small quantity generator” under § 262.18(a) through (c);

(v) Preparation and use of the manifest in subpart B of this part;

(vi) Pre-transport requirements in subpart C of this part;

(vii) Recordkeeping and reporting requirements in subpart D of this part; and

(viii) Requirements for transboundary movements of hazardous wastes in subpart H of this part.

173 **9) Section 262.16 is amended by revising the introductory text and paragraphs (b), (b)(5),**
174 **and (b)(8)(iv)(A) and (B) to read as follows:**

175
176 **§ 262.16 Conditions for exemption for a small quantity generator that accumulates hazardous**
177 **waste.**

178
179 A small quantity generator may accumulate hazardous waste on site without a permit or interim status,
180 and without complying with the requirements of Parts 264 through 267, and 100 of these regulations, or
181 the notification requirements of Part 99 of these regulations for treatment, storage and disposal facilities,
182 provided that all the conditions for exemption listed in this section are met:

183
184 (a) **Generation.** The generator generates in a calendar month no more than the amounts specified in the
185 definition of “small quantity generator” in § 260.10 of these regulations.

186
187 (b) **Accumulation.** The small quantity generator accumulates hazardous waste on site for no more than
188 180 days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs

189 (c), ~~and~~ (d), and (e) of this section. The following accumulation conditions also apply:

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191 *****

192
193 (5) **Accumulation of hazardous waste in containment buildings.** If the waste is placed in
194 containment buildings, the small quantity generator must comply with ~~of~~ Part 265 subpart DD of these
195 regulations. The generator must label its containment buildings with the words “Hazardous Waste” in
196 a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or
197 other persons on site and also in a conspicuous place provide an indication of the hazards of the
198 contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s)
199 (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of
200 Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a
201 hazard statement or pictogram consistent with the Occupational Safety and Health Administration
202 Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with
203 the National Fire Protection Association code 704). The generator must also maintain:

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205 *****

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207 *****

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209 (8) **Preparedness and prevention—(i) Maintenance and operation of facility.** A small quantity
210 generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any
211 unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air,
212 soil, or surface water which could threaten human health or the environment.

213
214 *****

215
216 (iv) **Access to communications or alarm system.** (A) Whenever hazardous waste is being
217 poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have
218 immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency
219 communication device, either directly or through visual or voice contact with another employee,
220 unless such a device is not required under paragraph ~~(ab)~~(8)(ii) of this section.

(B) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under paragraph (a)(8)(ii) of this section.

10) Section 262.17 is amended by revising the introductory text and paragraphs (a)(2), (a)(7)(i)(A), (b), (c), (d), (e), and (f) to read as follows:

§ 262.17 Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Parts 264 through 267, and 100 of these regulations, or the notification requirements of Part 99 of these regulations for treatment, storage, and disposal facilities, provided that all of the following conditions for exemption are met:

(a) **Accumulation.** The large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply:

(2) **Accumulation of hazardous waste in tanks.** If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subpart J of Part 265, (except § 265.197(c) of Closure and post-closure care and § 265.200—Waste analysis and trial tests), as well as the applicable requirements of subparts AA, BB, and CC of Part 265 of these regulations.

(7) **Personnel training.** (i)(A) Facility personnel must successfully complete a program of classroom instruction, and/or online training (e.g., computer-based or electronic), and on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv)(C) of this section.

(b) **Accumulation time limit extension.** A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of Parts 264 through 268, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations for treatment, storage and

disposal facilities, unless the generator has been granted an extension to the 90-day period. Such extension may be granted by the Department if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

(c) **Accumulation of F006.** A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days, but not more than 180 days without being subject to Parts 264 through 267 and 100 of these regulations, and the notification requirements of Part 99 of these regulations for treatment, storage, and disposal facilities, provided that the generator complies with all of the following additional conditions for exemption:

(d) **F006 transported over 200 miles.** A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days without being subject to Parts 264 through 267, and 100 of these regulations, and the notification requirements of Part 99 of these regulations for treatment, storage and disposal facilities, if the large quantity generator complies with all of the conditions for exemption of paragraphs (c)(1) through (4) of this section.

(e) **F006 accumulation time extension.** A large quantity generator accumulating F006 in accordance with paragraphs (c) and (d) of this section who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of Parts 264, 265, 266, 267, and 100 of these regulations, and the notification requirements of Part 99 of these regulations for treatment, storage and disposal facilities, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the Department if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Department on a case-by-case basis.

(f) **Consolidation of hazardous waste received from very small quantity generators.** Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in § 260.10 of these regulations), without a storage permit or interim status and without complying with the requirements of Parts 264 through 268, and 100 of these regulations, and the notification requirements of Part 99 of these regulations for treatment, storage, and disposal facilities, provided that they comply with the following conditions. "Control," for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to "control" such generators.

11) Section 262.42 is amended by renumbering paragraphs (a), (b), (c) and (d) as paragraphs (a)(1), (a)(2), (b) and (c); and revising the newly renumbered paragraphs and the note following paragraph (b) to read as follows:

§ 262.42 Exception reporting.

(a)(1) A large quantity generator ~~of greater than 1000 kilograms~~ of hazardous waste ~~in a calendar month~~ who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(ba)(2) A large quantity generator ~~of greater than 1000 kilograms~~ of hazardous waste ~~in a calendar month~~ must submit an Exception Report to the Colorado Department of Public Health and Environment if he/she has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(4i) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(2ii) A cover letter signed by the generator or his/her authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(eb) A small quantity generator ~~of greater than 100 kilograms but less than 1000 kilograms~~ of hazardous waste ~~in a calendar month~~ who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Colorado Department of Public Health and Environment.

NOTE 1 to paragraph (b): The submission to the Department need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(dc) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of § 264.72(e)(1) through (6) or § 265.72(e)(1) through (6) of these regulations), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:

363 **12) Section 262.82 is amended by revising paragraph (e)(2) to read as follows:**
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365 **§ 262.82 General conditions.**
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367 *****
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369 (e) **EPA Address for submittals by postal mail or hand delivery.** Submittals required in this subpart to
370 be made by postal mail or hand delivery should be sent to the following addresses:
371

372 (1) *****
373

374 (2) For hand-delivery, the Office of Land and Emergency Management, Office of Resource
375 Conservation and Recovery, Materials Recovery and Waste Management Division, International
376 Branch (Mail Code ~~2255A~~2255T), Environmental Protection Agency, William Jefferson Clinton
377 ~~SouthWest~~ Building, Room ~~6144~~1329, ~~1200 Pennsylvania Ave. NW~~1301 Constitution Ave. NW,
378 Washington, DC 20004.
379

380
381 **13) Section 264.1 is amended by revising paragraph (g)(3) to read as follows:**
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383 **§ 264.1 Purpose, scope and applicability.**
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385 *****
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387 (g) The requirements of this part do not apply to:
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389 *****
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391 (3) A generator accumulating waste on site in compliance with §§ 262.14, 262.15, 262.16, ~~or~~
392 262.17, or Subpart L of Part 262 of these regulations.
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398 **14) Section 264.72 is amended by revising paragraph (a)(3) to read as follows:**
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400 **§ 264.72 Manifest discrepancies.**
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402 (a) Manifest discrepancies are:
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404 (1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of
405 hazardous waste designated on the manifest or shipping paper, and the quantity and type of
406 hazardous waste a facility actually receives;
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(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for “empty” containers set forth in § 261.7(b) and § 267.507 of these regulations.

15) Section 264.340 is amended by revising paragraph (d)(3) to read as follows:

§ 264.340 Applicability.

(d) The following hazardous wastes and facilities are not subject to regulation under this subpart:

(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of Part 261 of these regulations. Such used oil is subject to regulation under Part 279 of these regulations;

(2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;

(3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii) and (iv) of these regulations, and hazardous wastes that are subject to the special requirements conditions for exemption for very small quantity generators under § ~~262.13~~262.14 of these regulations; and

(4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

16) Section 265.72 is amended by revising paragraph (a)(3) to read as follows:

§ 265.72 Manifest discrepancies.

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for “empty” containers set forth in § 261.7(b) and § 267.507 of these regulations.

17) Section 267.502 is amended by revising paragraphs (d)(4), (h), (h)(3) and (4), (i)(2)(i)(A), and (i)(2)(ii)(A) to read as follows:

§ 267.502 Standards for healthcare facilities managing non-creditable hazardous waste pharmaceuticals.

(d) Standards for containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities. (1) A healthcare facility must place non-creditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(4) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals in the same container, except that non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of § 268.3(c) of this subchapter (i.e., metal-bearing waste codes listed in Appendix XI of Part 268 of these regulations, unless one or more criteria in § 268.3(c)(1) through (6) are met), or because it is prohibited from being lab packed due to § 268.42(c) (i.e., waste codes listed in Appendix IV of Part 268), must be accumulated in separate containers and labeled with all applicable EPA hazardous waste numbers (i.e., hazardous waste codes).

(h) Procedures for healthcare facilities for managing rejected shipments of non-creditable hazardous waste pharmaceuticals. A healthcare facility that sends a shipment of non-creditable hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of these regulations may accumulate the returned/rejected non-creditable hazardous waste pharmaceuticals on site for up to an additional 90 calendar days provided the rejected or returned shipment is managed in accordance with paragraphs (d) and (e) of this section. Upon receipt of the returned/rejected shipment, the healthcare facility must:

(1) Sign either:

(i) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(ii) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within 30 calendar days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the healthcare facility; and

(4) Within 90 calendar days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of § 267.508(a).

(i) **Reporting by healthcare facilities for non-creditable hazardous waste pharmaceuticals—**

(1) **Biennial reporting by healthcare facilities.** Healthcare facilities are not subject to biennial reporting requirements under § 262.41, with respect to non-creditable hazardous waste pharmaceuticals managed under this subpart.

(2) **Exception reporting by healthcare facilities for a missing copy of the manifest—(i) For shipments from a healthcare facility to a designated facility.** (A) If a healthcare facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 60 calendar days of the date the non-creditable hazardous waste pharmaceuticals were accepted by the initial transporter, the healthcare facility must submit:

(1) A legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Department; and

(2) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) [Reserved]

(ii) **For shipments rejected by the designated facility and shipped to an alternate facility.**

(A) If a healthcare facility does not receive a copy of the manifest for a rejected shipment of the non-creditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility (using appropriate manifest procedures), with the signature of the owner or operator of the alternate facility, within 60 calendar days of the date the non-creditable hazardous waste was accepted by the initial transporter forwarding the shipment of non-creditable hazardous waste pharmaceuticals from the designated facility to the alternate facility, the healthcare facility must submit:

(1) A legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Department; and

(2) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) [Reserved]

18) Section 267.503 is amended by revising paragraph (b)(1) to read as follows:

§ 267.503 Standards for healthcare facilities managing potentially creditable hazardous waste pharmaceuticals.

(b) Accepting potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under § 262.14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) Is under the control of the same person, as defined in § 260.10, as the very small quantity generator healthcare facility that is sending the potentially creditable hazardous waste pharmaceuticals off site ("control," for the purposes of this section, means the power to direct the policies of the healthcare facility, whether by the ownership of stock voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in § 260.10 of these regulations shall not be deemed to "control" such healthcare facilities), or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

19) Section 267.504 is amended by revising the section heading and paragraph (b) introductory text to read as follows:

§ 267.504 Healthcare facilities that are very small quantity generators for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste that are not operating under this subpart.

(a) Potentially creditable hazardous waste pharmaceuticals. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(b) Off-site collection of hazardous waste pharmaceuticals generated by a healthcare facility that is a very small quantity generator. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its hazardous waste pharmaceuticals ~~off-site-off site~~ to another ~~generatorhealthcare facility~~, provided:

(1) The receiving healthcare facility meets the conditions in § 267.502(l) of this subpart and § 267.503(b), as applicable; or

(2) The very small quantity generator healthcare facility meets the conditions in § 262.14(a)(5)(viii) and the receiving large quantity generator meets the conditions in § 262.17(f).

20) Section 267.505 is revised to read as follows:

§ 267.505 Prohibition ~~on~~ sewerage hazardous waste pharmaceuticals.

All healthcare facilities—including very small quantity generators operating under § 262.14 in lieu of this subpart—and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly-owned treatment works. Healthcare facilities and reverse distributors remain subject to the prohibitions in 40 CFR § 403.5(b)(~~4~~).

21) Section 267.506 is amended by revising the section heading and paragraphs (a)(2) and (b)(3)(iii) and (iv) to read as follows:

§ 267.506 Conditional exemptions for hazardous waste pharmaceuticals that are also controlled substances and household waste pharmaceuticals collected by an authorized collector~~in a take-back event or program~~.

(a) **Conditional exemptions.** Provided the conditions of paragraph (b) of this section are met, the following are exempt from Parts 262 through 273:

(1) Hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 CFR part 1308, and

(2) Household waste pharmaceuticals ~~that are collected in a take-back event or program, including those~~ that are collected by an authorized collector (as defined by the Drug Enforcement Administration) registered with the Drug Enforcement Administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user (as defined by the Drug Enforcement Administration).

(b) **Conditions for exemption.** The hazardous waste pharmaceuticals must be:

(3) Destroyed by a method that Drug Enforcement Administration has publicly deemed in writing to meet their non-retrievable standard of destruction or combusted at one of the following:

(iii) A permitted hospital, medical and infectious waste incinerator, subject to 40 CFR part 62 subpart HHH₁, or applicable state plan for existing hospital, medical and infectious waste

incinerators, or 40 CFR part 60 subpart Ec for new hospital, medical and infectious waste incinerators; or

(iv) A permitted commercial and industrial solid waste incinerator, subject to 40 CFR part 62 subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 CFR part 60 subpart CCCC for new commercial and industrial solid waste incinerators; or

(v) A permitted hazardous waste combustor subject to 40 CFR part 63 subpart EEE.

22) Section 267.507 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 267.507 Residues of hazardous waste pharmaceuticals in empty containers.

(b) **Syringes.** A syringe is considered empty and the residues are not regulated as hazardous waste under this subpart provided the contents have been removed by fully depressing the plunger of the syringe. At healthcare facilities operating under this subpart, if a syringe is not empty, the syringe must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this subpart and any applicable federal, state, and local requirements for sharps containers and medical waste.

(c) **Intravenous (IV) bags.** An IV bag is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals in the IV bag have been fully administered to a patient, or if the IV bag held non-acute hazardous waste pharmaceuticals and is empty as defined in § 261.7(b)(1) of these regulations. At healthcare facilities operating under this subpart, if an IV bag is not empty, the IV bag must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this subpart, unless the IV bag held non-acute hazardous waste pharmaceuticals and is empty as defined in § 261.7(b)(1).

(d) **Other containers, including delivery devices.** At healthcare facilities operating under this subpart, ~~H~~ hazardous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed as non-creditable hazardous waste pharmaceuticals under this subpart, unless the container held non-acute hazardous waste pharmaceuticals and is empty as defined in § 261.7(b)(1) or (2). This includes, but is not limited to, residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

23) Section 267.508 is amended by revising paragraphs (a)(1)(iii)(C) and (a)(2)(i) to read as follows:

§ 267.508 Shipping non-creditable hazardous waste pharmaceuticals from a healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.

(a) **Shipping non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals.** A healthcare facility must ship non-creditable hazardous waste pharmaceuticals and a reverse distributor must ship evaluated hazardous waste pharmaceuticals off-site to a designated facility (such as a permitted or interim status treatment, storage, or disposal facility) in compliance with:

(1) The following pre-transport requirements, before transporting or offering for transport off-site:

(iii) **Marking.** (A) Mark each package of hazardous waste pharmaceuticals in accordance with the applicable Department of Transportation (DOT) regulations on hazardous materials under 49 CFR part 172 subpart D;

(C) Lab packs that will be incinerated in compliance with § 268.42(c) of these regulations are not required to be marked with EPA Hazardous Waste Number(s) (i.e., hazardous waste codes), except D004, D005, D006, D007, D008, D010, and D011, where applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification tag, may be used to identify the applicable EPA Hazardous Waste Number(s) (i.e., hazardous waste codes).

(iv) **Placarding.** Placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172 subpart F.

(2) The manifest requirements of Part 262 Subpart B, except that:

(i) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals is not required to list all applicable EPA hazardous waste numbers (i.e., hazardous waste codes) in Item 13 of EPA Form 8700-22.

24) Section 267.510 is amended by revising paragraphs (a)(9)(i)(C), (b)(1) and (2), (c)(2), (c)(4)(vi), (c)(5), (c)(7), (c)(7)(iii) and (iv), (c)(9)(ii)(A)(1), (c)(9)(ii)(A)(2), (c)(9)(ii)(B)(1), (c)(9)(ii)(B)(2), and (c)(9)(ii)(B)(2)(i) to read as follows:

§ 267.510 Standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from off site and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste

pharmaceuticals on site without a hazardous waste permit or without having interim status, provided that it complies with the following conditions:

(a) **Standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals—(1) Notification.** A reverse distributor must notify the Department, using the Site Identification Form (EPA Form 8700-12), that it is a reverse distributor operating under this subpart.

(9) **Reporting by a reverse distributor— (i) Unauthorized waste report.** A reverse distributor must submit an unauthorized waste report if the reverse distributor receives waste from off site that it is not authorized to receive (e.g., non-pharmaceutical hazardous waste, regulated medical waste). The reverse distributor must prepare and submit an unauthorized waste report to the Department within 45 calendar days after the unauthorized waste arrives at the reverse distributor and must send a copy of the unauthorized waste report to the healthcare facility (or other entity) that sent the unauthorized waste. The reverse distributor must manage the unauthorized waste in accordance with all applicable regulations. The unauthorized waste report must be signed by the owner or operator of the reverse distributor, or its authorized representative, and contain the following information:

(A) The EPA identification number, name and address of the reverse distributor;

(B) The date the reverse distributor received the unauthorized waste;

(C) The EPA identification number, name, and address of the healthcare facility (or other entity) that shipped the unauthorized waste, if available;

(D) A description and the quantity of each unauthorized waste the reverse distributor received;

(E) The method of treatment, storage, or disposal for each unauthorized waste; and

(F) A brief explanation of why the waste was unauthorized, if known.

(b) **Additional standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor.** A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements in paragraph (a) of this section, for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

(1) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from a healthcare facility must send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within 180 calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow paragraph (c) of this section for evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor must send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within 180 calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow paragraph (c) of this section for evaluated hazardous waste pharmaceuticals.

(c) **Additional standards for reverse distributors managing evaluated hazardous waste pharmaceuticals.** A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements of paragraph (a) of this section, for the management of evaluated hazardous waste pharmaceuticals:

(2) **Inspections of on-site accumulation area.** A reverse distributor must inspect its on-site accumulation area at least once every seven calendar days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

(4) **Labeling and management of containers at on-site accumulation areas.** A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an on-site accumulation area must:

(vi) Accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of § 268.3(c) of these regulations (e.g., arsenic trioxide (P012)) (i.e., metal-bearing waste codes listed in Appendix XI of Part 268 of these regulations, unless one or more criteria in § 268.3(c)(1) through (6) are met), or because it is prohibited from being lab packed due to § 268.42(c) of these regulations (i.e., waste codes listed in Appendix IV of Part 268 of these regulations), in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.

(5) **Hazardous waste numbers.** Prior to shipping evaluated hazardous waste pharmaceuticals off site, all containers must be marked with the applicable EPA hazardous waste numbers (i.e., hazardous waste codes), except as provided in § 267.508(a)(1)(iii)(C). A nationally recognized electronic system, such as bar coding or radio frequency identification tag, may be used to identify the applicable EPA Hazardous Waste Number(s) (i.e., hazardous waste codes).

(6) **Shipments.** A reverse distributor must ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage or disposal facility in accordance with the applicable shipping standards in § 267.508(a) or (b).

(7) **Procedures for a reverse distributor for managing rejected shipments.** A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of these regulations, may accumulate the ~~returned~~rejected evaluated hazardous waste pharmaceuticals on site for up to an additional 90 calendar days in the on-site accumulation area provided the rejected ~~or returned~~ shipment is managed in accordance with paragraphs § 267.510(a) and (c) of this section. Upon receipt of the ~~returned~~rejected shipment, the reverse distributor must:

(i) Sign either:

(A) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(ii) Provide the transporter a copy of the manifest;

(iii) Within 30 calendar days of receipt of the rejected shipment of the evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(iv) Within 90 calendar days of receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of § 267.508(a) or (b).

(8) **Land disposal restrictions.** Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of Part 268. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off site must comply with the land disposal restrictions in accordance with § 268.7(a) requirements.

(9) **Reporting by a reverse distributor for evaluated hazardous waste pharmaceuticals— (i) Biennial reporting by a reverse distributor.** A reverse distributor that ships evaluated hazardous waste pharmaceuticals off-site must prepare and submit a single copy of a biennial report to the Department by March 1 of each even numbered year in accordance with § 262.41.

(ii) **Exception reporting by a reverse distributor for a missing copy of the manifest.**

(A) **For shipments from a reverse distributor to a designated facility.** (1) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor must contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor must submit an exception report to the Department if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 calendar days of the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter. The exception report must include:

(i) A legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

(ii) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(B) For shipments rejected by the designated facility and shipped to an alternate facility.

(1) A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within 35 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter must contact the transporter or the owner or operator of the alternate facility to determine the status of the hazardous waste. The 35-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(2) A reverse distributor must submit an Exception Report to the Department if it has not received a copy of the manifest with the signature of the owner or operator of the alternate facility within 45 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter. The 45-day timeframe begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste pharmaceutical shipment from the designated facility to the alternate facility. The Exception Report must include:

(i) A legible copy of the manifest for which the generator/reverse distributor does not have confirmation of delivery; and

(ii) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

25) Section 8.105 (Statement of Basis for the Rulemaking Hearing of August 20, 2024) is added to Part 8 of the Regulations to read as follows:

**Statement of Basis and Purpose
Rulemaking Hearing of August 20, 2024**

927
928 **8.105 Basis and Purpose.**
929

930 These amendments to 6 CCR 1007-3, Parts 260, 261, 262, 264, 265, and 267 are made pursuant to the
931 authority granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.
932

933 **Technical Corrections of the Hazardous Waste Regulations**
934

935 These amendments to the Colorado Hazardous Waste Regulations (6 CCR 1007-3) finalize revisions to
936 the state's hazardous waste generator regulatory program. These amendments correspond to the
937 Environmental Protection Agency (EPA) rule published in the Federal Register on August 9, 2023 {89 FR
938 54086-54115}, and amended on December 6, 2023 {89 FR 84710-84713}.
939

940 The August 9, 2023 federal rule made over 100 technical corrections to correct or clarify specific
941 provisions in the existing federal regulations that were promulgated in the Hazardous Waste Generator
942 Improvements rule (November 28, 2016; 81 FR 85732), the Hazardous Waste Pharmaceuticals rule
943 (February 22, 2019; 84 FR 5816), and the 2015 Definition of Solid Waste (DSW) rule (May 23, 2018; 83
944 FR 24664). Corresponding amendments to the Colorado HW Regulations in response to these federal
945 rules were adopted by the Solid and Hazardous Waste Commission on May 15, 2018 (See § 8.91), May
946 19, 2020 (See § 8.95) and February 16, 2016 (§ 8.85).
947

948
949 On December 6, 2023, a correction to the August 9, 2023 final rule was published in the Federal Register
950 for the withdrawal of eight amendments in the August 9, 2023 final rule following EPA's receipt of adverse
951 comments on the eight amendments.
952

953 These amendments to the Colorado hazardous waste regulations correct typographical errors, correct
954 incorrect or outdated citations, make minor clarifications to the regulations, and update outdated address
955 information.
956

957 This rulemaking includes the following amendments:
958

- 959 1) Revising the definition of "Final closure" in § 260.10 to update the citation from § 262.34 to §§ 262.16
960 and 262.17.
961
962 2) Revising § 261.1(a)(1) to remove the reference to hazardous waste "produced by very small quantity
963 generators", because the regulations for very small quantity generators are now in Part 262.
964
965 3) Revising § 261.6(c)(1) to add a reference to containment buildings (Subpart DD of Parts 264 and
966 265) to the list of management methods applicable to recyclable materials.
967
968 4) Revising § 261.11 by removing and reserving paragraph (c).
969
970 5) Revising the text of § 261.30(d) to delete the reference to § 261.32 and by changing "exclusion
971 limits" to "generator category limits" to match the same language as the title to Table 1: Generator
972 Category Limits.
973
974 6) **Notification Requirements:** The regulatory text in §§ 262.1 (definition of "Condition for exemption);

262.16; and in § 262.17 introductory paragraph, and paragraphs (b), (c), (d), (e), and (f) is being revised to make it clear that the generators that are operating in compliance with the generator regulations are exempted from the notification requirements in Part 99 of the Colorado Hazardous Waste Regulations (6 CCR 1007-3) specifically as they pertain to treatment, storage, and disposal facilities.

- 7) Section 262.10 is amended by adding the following notes at the end of § 262.10:

Note 1 to § 262.10: The provisions of §§ 262.15 through 262.17 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of §§ 262.15 through 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note 2 to § 262.10: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in Parts 264, 265, 267, 268, and 100 of these regulations.

- 8) Section 262.14 is amended by revising paragraphs (a)(3) and (a)(4) to restore the independent requirements that were inadvertently left out of the specific list of provisions that apply to the waste when a VSQG exceeds the accumulation threshold: one for acute hazardous wastes and one for non-acute hazardous wastes. This amendment revises both lists – in section 262.14(a)(3) and (4) to restore the independent requirements that were inadvertently left out of the lists, including the notification; preparation and use of the Uniform Hazardous Waste Manifest when shipping the waste off site; and complying with pre-transport requirements, recordkeeping and reporting requirements, and transboundary shipment requirements. See language on reference sheet also.

- 9) Section 262.16 is amended by:

- a. Revising paragraph (b) to include a reference to section 262.16(c) in the list of provisions in this section describing when a small quantity generator can accumulate hazardous waste for more than 180 days.
- b. Revising paragraph (b)(5) to remove an “of” from the paragraph where it does not belong. The text of the paragraph is revised to change “comply with of Part 265” to “comply with Part 265”.
- c. Revising paragraphs (b)(8)(iv)(A) and (B) to replace the internal cross reference to paragraph (a)(8)(ii) of this section to the correct citation: paragraph (b)(8)(ii) of this section.

- 10) Section 262.17 is amended by:

- a. Revising paragraph (a)(7)(i)(A) to make the internal cross reference more specific by including the fourth paragraph level. The correct cross reference is to § 262.17(a)(7)(iv)(C), which describes what elements must be included in a large quantity generator’s (LQG) training program. This revision is also consistent with the cross referencing in § 265.16, which applied to LQGs before the Generator Improvements rule reorganization.
- b. Revising paragraph (a)(8)(iii)(A)(4) to correct the regulation it references. The correct citation is paragraph (a)(8)(iii)(A)(2) of this section.
- c. Revising paragraph (a)(2) to replace the offsetting commas with a set of parentheses to ensure clarity about which requirements apply to LQGs that accumulate hazardous waste in tanks.
- d. Revising the language in paragraph (a)(8)(i) introductory text and paragraph (a)(8)(i)(A) to more clearly describe that these paragraphs apply specifically to closure of a waste accumulation unit but not the whole facility.

- 1023 11) Section 262.42 is amended by renumbering paragraphs (a), (b) (c) and (d) as (a)(1), (a)(2), (b), and
1024 (c). Paragraphs (a)(1), (a)(2) and (b) are also revised to replace descriptions of generator categories
1025 (e.g., “generators of 1000 kilograms or greater of hazardous waste in a calendar month”) with either
1026 “small quantity generator” or “large quantity generator”, which were terms promulgated and/or
1027 updated in the 2016 Generator Improvements rule.
1028
- 1029 12) Revising § 262.82(e)(2) to update the current address for hand deliveries of submittals required in
1030 Part 262, Subpart H, for transboundary movements of hazardous waste for recovery or disposal.
1031
- 1032 13) Revising § 264.1(g)(3) to add generators that are accumulating waste on site in compliance with the
1033 generator standards in Subpart L of Part 262 to the list of compliant generators to which Part 264
1034 does not apply.
1035
- 1036 14) Revising § 264.72(a)(3) to include a reference to the new empty container standards in § 267.507 that
1037 were added as a component of Part 267 Subpart P (Hazardous Waste Pharmaceuticals).
1038
- 1039 15) Revising § 264.340(d)(3) (the state analog to 40 CFR 266.100(c)(3)) to replace the term “special
1040 requirements” with “conditions for exemption”; to replace the term “conditionally exempt small quantity
1041 generator” with “very small quantity generator”; and to replace an outdated reference to § 262.13 with
1042 the updated correct reference to § 262.14.
1043
- 1044 16) Revising § 265.72(a)(3) to include a reference to the new empty container standards in § 267.507 that
1045 were added as a component of Part 267 Subpart P (Hazardous Waste Pharmaceuticals).
1046
- 1047 17) Amending § 267.502 by:
1048 a. revising paragraph (d)(4) to add a parenthetical with a reference to the complete list of metal-
1049 bearing waste codes in Appendix XI to Part 268, and adding a second parenthetical to reference
1050 Appendix IV to Part 268 following the new language about the lab pack prohibition. This second
1051 parenthetical is being added to clarify that non-creditable hazardous waste pharmaceuticals that
1052 are prohibited from being lab packed for incineration must accumulated in separate containers at
1053 health care facilities..
1054 b. revising the procedures for healthcare facilities managing rejected shipments of non-creditable
1055 hazardous waste pharmaceuticals in § 267.502(h) to replace the word “returned” with “rejected”
1056 in two places, and to remove the words “or returned” from a third place.
1057 c. adding the word “calendar” to modify the word “days” in the following five citations in section
1058 267.502: § 267.502(h); § 267.502(h)(3); § 267.502(h)(4); § 267.502(i)(2)(i)(A); and §
1059 267.502(i)(2)(ii)(A).
1060
- 1061 18) Revising § 267.503(b)(1) to add the same parenthetical with the definition of “control” that appears in
1062 § 267.502(l)(1), which states: (“control,” for the purposes of this section, means the power to direct
1063 the policies of the healthcare facility, whether by the ownership of stock voting rights, or otherwise,
1064 except that contractors who operate healthcare facilities on behalf of a different person as defined in
1065 § 260.10 of these regulations shall not be deemed to “control” such healthcare facilities)..”
1066
- 1067 19) Amending § 267.504 by:
1068 a. revising the heading of section 267.504 to add “that are not operating under this subpart”
1069 b. revising paragraph (a)(2) to correct the spelling of “off site”, and to replace the term “healthcare
1070 facility” with the word “generator” toward the end of the paragraph.

- 1071
1072 20) Amending § 267.505 (Prohibition of sewerage hazardous waste pharmaceuticals) by:
- 1073 a. revising the title of the section to “Prohibition on sewerage hazardous waste pharmaceuticals”
 - 1074 b. revising the citation “40 CFR § 403.5(b)(1)” to “40 CFR § 403.5(b)” in the last sentence of the
 - 1075 section. This amendment is being made to clarify that healthcare facilities and reverse
 - 1076 distributors remain subject to all the prohibitions in CFR § 403.5(b), not just the prohibition in CFR
 - 1077 § 403.5(b)(1) (1).
 - 1078
- 1079 21) Section 267.506 is amended by:
- 1080 a. revising the title of § 267.506 to remove the reference to take-back event or program, and to add
 - 1081 the phrase “by an authorized collector”.
 - 1082 b. revising paragraph (a)(2) to remove the reference to take-back event or program.
 - 1083 c. adding “; or” to the end of subparagraphs (b)(3)(iii) and (b)(3)(iv).
 - 1084
- 1085 22) Section 267.507 (Residues of hazardous waste pharmaceuticals in empty containers) is amended by:
- 1086 a. revising paragraph b (Syringes) and paragraph d (Other containers, including delivery devices) to
 - 1087 clarify that the requirement apply to healthcare facilities operating under the
 - 1088 Subpart P (Hazardous Waste Pharmaceuticals) requirements in Part 267 of the regulations.
 - 1089 b. revising the language in paragraph c (Intravenous (IV) bags) to clarify when an IV bag is
 - 1090 considered RCRA empty.
 - 1091
- 1092 23) Section 267.508 (Standards for shipping non-creditable hazardous waste pharmaceuticals from a
- 1093 healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor) is being
- 1094 amended by:
- 1095 a. Revising paragraph (a)(1)(iii)(C) to insert the noun “tag” following the phrase “radio frequency
 - 1096 identification”.
 - 1097 b. Revising paragraphs (a)(1)(iii)(C) and (a)(2)(i) to use consistent language when referring to EPA
 - 1098 hazardous waste numbers, and to consistently reflect that EPA hazardous waste are often
 - 1099 referred to as hazardous waste codes. The regulatory language is being revised to read,
 - 1100 “...applicable EPA Hazardous Waste Numbers (i.e., hazardous waste codes).”
 - 1101
- 1102 24) Section 267.510 is amended by:
- 1103 a. revising paragraph (a)(9)(i)(C) to by adding the parenthetical “(or other entity)” after healthcare
 - 1104 facility, to reflect the possibility that a reverse distributor could wrongly receive a shipment from
 - 1105 another entity that includes unauthorized waste.
 - 1106 b. revising paragraph (c)(4)(vi) to replace the example in the parenthetical with a reference to the
 - 1107 complete list of metal-bearing waste codes in Appendix XI to Part 268, and adding a second
 - 1108 parenthetical to reference Appendix IV to Part 268 following the new language about the lab pack
 - 1109 prohibition. This second parenthetical is being added to clarify that evaluated hazardous waste
 - 1110 pharmaceuticals that are prohibited from being lab packed for incineration must accumulated in
 - 1111 separate containers at reverse distributors.
 - 1112 c. revising paragraph (c)(5) to add a cross-reference to the lab marking exception in section
 - 1113 267.508(a)(1)(iii)(C). Specifically, the paragraph allows that lab packs that will be incinerated in
 - 1114 compliance with section 268.42(c) are not required to be marked with EPA hazardous waste
 - 1115 numbers, except D004, D005, D006, D007, D008, D010, and D011, where applicable.
 - 1116 d. revising paragraph (c)(5) to use consistent language when referring to EPA hazardous waste
 - 1117 numbers, and to consistently reflect that EPA hazardous waste are often referred to as hazardous
 - 1118 waste codes. The regulatory language is being revised to read, “...applicable EPA Hazardous

- 1119 Waste Numbers (i.e., hazardous waste codes).”
- 1120 e. revising the procedures for reverse distributors managing rejected shipments in § 267.510(c)(7)
- 1121 to replace the word “returned” with “rejected” in two places, and to remove the words “or returned”
- 1122 from a third place.
- 1123 f. adding the word “calendar” to modify the word “days” in the following 10 citations in § 267.510: (§
- 1124 267.510(b)(1); § 267.510(b)(2); § 267.510(c)(2); § 267.510(c)(7); § 267.510(c)(7)(iii); §
- 1125 267.510(c)(7)(iv); § 267.510(c)(9)(ii)(A)(1); § 267.510(c)(9)(ii)(A)(2); § 267.510(c)(9)(ii)(B)(1); and
- 1126 § 267.510(c)(9)(ii)(B)(2).

1127

1128 These amendments are considered to be neither more nor less stringent than the current standards, and

1129 Colorado is not required to modify its program to adopt these technical corrections. However, the Department

1130 feels that adoption of these technical corrections will help avoid any confusion or misunderstanding by the

1131 regulated community and the public.

1132

1133 This Basis and Purpose incorporates by reference the applicable portions of the preamble language for the

1134 EPA regulations as published in the Federal Register at 89 FR 54086-54115, August 9, 2023; and amended

1135 at 89 FR 84710-84713, December 6, 2023.