

Summary of proposed changes

EPA rules

Most of the proposed changes in this rulemaking action are in response to changes EPA has made to the federal hazardous waste rules, which are incorporated by reference (with amendments) in the State rules. This rulemaking updates the State's incorporation of the federal rules from the July 1, 2019 version of the CFR to the July 1, 2020 version, effectively adopting two major new EPA rules:

(1) Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine

This rule establishes streamlined standards for handling hazardous waste pharmaceuticals to better fit the operations of the healthcare sector while maintaining protection of human health and the environment. Retailers of electronic nicotine delivery systems (ENDS; e.g., electronic cigarettes and nicotine e-liquids) are also subject to streamline standards for handling these wastes. [[84 FR 5816](#)]

In the federal rule, ENDS are included in the definition of pharmaceuticals and retailers of ENDS are thereby included in the definition of healthcare facility. The department proposes additional changes to alter these definitions in the state rules, separating healthcare facilities and ENDS retailers as two different categories of hazardous waste generators (see #4 below).

This rule also removes FDA-approved, over-the-counter nicotine replacement therapies (nicotine patches, gums, and lozenges) from the P075 listing for nicotine, meaning these products are no longer hazardous wastes. The department adopted this change to the P075 listing in its June 25, 2020 rules.

(2) Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations

This rule establishes streamlined standards for handling hazardous waste aerosol cans under the universal waste program while maintaining protection of human health and the environment. The universal waste regulations are expected to ease regulatory burdens on retail stores and other generators of hazardous waste aerosol cans and to promote recycling. [[84 FR 67202](#)]

State-initiated changes

(3) Add solar panels as a category of universal waste

The addition of solar panels as a new category of universal waste includes adoption of specific waste management standards within the existing universal waste framework. This proposed rule makes managing hazardous waste solar panels simpler and less costly. This may also allow some generators to qualify for a generator status subject to reduced regulation because universal wastes do not count toward generator status. [Chapter 11-273.1, HAR, with conforming changes in other chapters.]

(4) Remove electronic nicotine distribution systems (ENDS) from the definition of pharmaceutical and remove ENDS retailers from the definition of healthcare facility in the incorporated EPA pharmaceutical rule

This change distinguishes retailers of electronic nicotine distribution systems (ENDS) from healthcare facilities but allows ENDS retailers to follow the same streamlined management standards for hazardous waste ENDS allowed under EPA's rule. These new standards make managing waste ENDS simpler and less costly. This may also allow some generators to qualify for a generator status subject to reduced regulation because "subpart P wastes" managed under 40 CFR part 266, subpart P, as incorporated and amended in chapter 11-266.1, HAR, do not count toward generator status. This proposed change to the EPA rule listed in #1 has been reviewed and approved by EPA. [40 CFR part 266, subpart P, as incorporated and amended in chapter 11-266.1, HAR, with conforming changes in other chapters.]

(5) Correct the manifest code for pharmaceuticals per EPA guidance

Although EPA has not yet completed a rulemaking for this correction, data system limitations have led EPA to issue guidance indicating that generators of pharmaceutical hazardous waste may use either the four-character code "PHRM" or the word/code "PHARMS" in block 13 of the uniform hazardous waste manifest (the federal rules require "PHARMS"). This proposed change will allow the use of either code. [40 CFR section 266 section 266.508, as incorporated and amended in chapter 11-266.1, HAR.]

(6) Correct errors and increase internal consistency

- (a) Increase incorporation by reference formatting consistency by changing the word "add" to "insert" in several instances.
- (b) Add the definitions "ampule," "circuit board," and "video display" from the universal waste definition section (in chapter 11-273.1) to the main definition section (in chapter 11-260.1) to aid in the definition of "mercury-containing equipment" and "electronic item," universal waste terms which are used in chapters other than 11-273.1.
- (c) Change the words "the owner" to "the owner or operator" in two instances to correct where "he" was inadvertently changed to "the owner" when eliminating gendered pronouns in the June 25, 2020 amendments.
- (d) Correct cross-references to 40 CFR part 266, subpart G, as amended and incorporated in chapter 11-266.1, HAR, in 40 CFR section 273.2, as incorporated and amended in chapter 11-273.1, HAR.
- (e) Change "or" to "and" in "applicable Federal, state, and local solid waste regulations" in 40 CFR sections 273.13(e)(4)(vi) and 273.33(e)(4)(vi), as incorporated and amended in chapter 11-273.1, HAR.
- (f) Eliminate incorrect references to 40 CFR parts 271 and 272 in 40 CFR section 261.197, as incorporated and amended in chapter 11-261.1, HAR, 40 CFR section 266.255, as incorporated and amended in chapter 11-266.1, HAR, and throughout 40 CFR part 273, as incorporated and amended in chapter 11-273.1, HAR.