

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION No. 23, HAZARDOUS)
WASTE MANAGEMENT)

DOCKET NO. 15-____-R

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 23,
HAZARDOUS WASTE MANAGEMENT

Comes now, the Arkansas Department of Environmental Quality (hereinafter “ADEQ” or the “Department”), and for its Petition to Initiate Rulemaking to Amend Regulation No. 23, Hazardous Waste Management, states:

1. The U.S. Environmental Protection Agency (hereafter “U.S. EPA” or “EPA”) has promulgated specific changes to the hazardous waste management regulations (40 C.F.R. Parts 229-232) published in the *Federal Register* between July 31, 2013, and June 26, 2014, which affect the hazardous waste management program implemented by the Department pursuant to the Hazardous Waste Management Act and Arkansas Pollution Control & Ecology Commission (hereinafter “Commission”) Regulation No. 23, Hazardous Waste Management.

2. Specific regulatory amendments to the federal hazardous waste management program which are proposed for incorporation into Regulation No. 23 include the following *Federal Register* notices:

(A) Conditional Exclusions for Solvent Contaminated Wipes. 78 FR 46447, January 31, 2014. This federal rule revises the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused and revises the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed.

(B) Conditional Exclusion for Carbon Dioxide (CO²) Streams in Geologic Sequestration Activities. 79 FR 350, March 4, 2014. This federal rule revises the definition of solid waste to conditionally exclude carbon dioxide (CO²) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO² streams are captured from emission sources, are injected into Underground Injection Control Class VI wells for purposes of geologic sequestration, and meet certain other conditions.

(C) Modification of the Hazardous Waste Manifest System. 79 FR 7517, August 6, 2014. This rule establishes new requirements that will authorize the use of electronic manifests (or e-manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste.

(D) Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule, Final Rule. 79 FR 36220, December 26, 2014. This rule revises certain export provisions of the cathode ray tube (CRT) final rule published on July 28, 2006. The revisions will allow the Agency to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials.

(E) Notice To Terminate the National Environmental Performance Track Program, Federal Register Notice, 74 FR 22741, 8904-8, May 14, 2009. EPA no longer offers the National Environmental Performance Track Program.

3. The following state-specific revisions are proposed for inclusion in APC&EC Regulation 23:

(A) Introduction, Specific State Requirements for the Hazardous Waste Management Program is revised to remove a reference to the comparable fuel exclusion and to correct reference citations.

(B) Section 3(b) is amended to reflect the updated window (through December 31, 2014) for Federal regulations adopted or incorporated by reference.

(C) Section 6, Fees and Costs, Monitoring/Inspection Fees is revised to charge a set fee of \$500 to Large Quantity Generators and clarifies the amount charged to Small Quantity Generators.

(D) Subsection B Definitions § 260.10 is amended to add the definitions of Carbon dioxide stream CRT exporter, Electronic manifest (or e-Manifest), Electronic manifest system (or e-Manifest system), No free liquids, Solvent-contaminated wipe, User of the electronic manifest system, and Wipe, and amended to delete the definition of Performance Track member facility.

(E) Section 261.3(a)(2)(iv)(A) added benzene to the list of solvents.

(F) Section 261.4(a)(16) Exclusions is revised to delete reference to comparable fuels/syngas fuels.

(G) Section 261.38 Subsection E--Exclusions/Exemptions, Comparable Fuel and Syngas Fuel is amended to delete the reference.

(H) Section 264.4 is amended to delete all references to Comparable Fuels/Syngas Fuels.

(I) Section 268.40 makes an editorial correction to Table TTS Waste Code K088 to the Non-Wastewaters concentration of Lead from 0.11 mg/L TCLP to 0.75 mg/L TCLP.

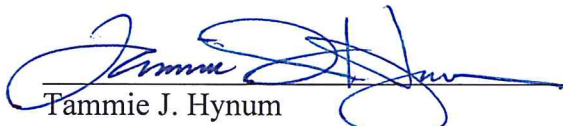
(J) Section 270.7(j) is revised to correct the reference of the Arkansas Department of Pollution Control and Ecology to the Arkansas Department of Environmental Quality.

(K) Miscellaneous Corrections and language changes in order to correct inconsistencies such as typographical errors, incorrect citations, failure to adopt previous final rules in their entirety, etc., between Regulation 23 and the current federal code.

Tammie J. Hynum, Chief, Hazardous Waste Division, will be available to answer questions concerning this proposed rulemaking. A mark-up version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. Due to the size of Regulation No. 23, only the specific sections proposed to be amended are addressed at Exhibit "A". These revisions will be incorporated in the whole of the Regulation at the completion of this rulemaking. A copy of the Legislative Questionnaire is attached at Exhibit "B", and a copy of the Financial Impact Statement is attached at Exhibit "C", both of which are incorporated by reference. An analysis of the impact to small businesses is attached as Exhibit "D" and is hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis pursuant to Reg. 8.812 is attached at Exhibit "E" and is hereby incorporated by reference. A proposed Minute Order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No. 23.

Respectfully submitted,



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