



ARKANSAS
Department of Environmental Quality

DATE: October 24, 2003
TO: SEE DISTRIBUTION
FROM: Tom Ezell
RE: Regulation No. 23, Responsive Summary

SUMMARY: The Arkansas Pollution Control and Ecology Commission is revising APC&EC Regulation No. 23 (Hazardous Waste Management). The Commission is adopting federal revisions to the hazardous waste management regulations promulgated between August 10, 2001 and December 31, 2002 which affect the hazardous waste management program implemented by the Department pursuant to the Hazardous Waste Management Act and the Commission's Regulation No. 23. In addition to these revisions the September, 1999 federal MACT standards are proposed for final incorporation into the Regulation. The Department proposes this rulemaking primarily to make the provisions of Regulation No. 23 consistent with and no less stringent than the revised federal hazardous waste management program.

PUBLIC NOTICE: A public hearing was held at Little Rock on August 6, 2003, to receive comments on these revisions as proposed on June 27, 2003. One written comment was received during the public comment period.

STATEMENT OF BASIS AND PURPOSE

The Arkansas Department of Environmental Quality maintains and administers a hazardous waste management program to implement the provisions of the Arkansas Hazardous Waste Management Act (Arkansas Code, Annotated, §§ 8-7-201 et seq.) and to provide a program which is equivalent in force and effect to the Federal program as established by the Resource Conservation and Recovery Act, as amended, including but not limited to the Hazardous and Solid Waste Amendments. To this end, the Department, through the procedures of the Arkansas Pollution Control and Ecology Commission, conducts rulemaking at least annually in order to adopt the additions and revisions to the federal hazardous waste regulations promulgated by EPA during the preceding year and update the State hazardous waste program in order to maintain its equivalency to federal requirements.

PUBLIC COMMENTS AND RESPONSIVE SUMMARY

COMMENT: A written comment was received on behalf of the Arkansas Environmental Federation, objecting to the use of the term "impose" with respect to the delineation of the powers of the Arkansas Pollution Control & Ecology Commission and the Department of Environmental Quality in the proposed revision to Section 19(c).

RESPONSE: The term "imposing" was used in the proposed rule in both cases since this is the term used in the original language, established in 1979, for both the actions of the Commission and the Department. Historically, the establishment, promulgation, and enforcement of more stringent regulations, standards, and permit conditions have been an adversarial process between the Commission or the Department and the regulated industry or facility, the term "imposing" has often been appropriate.

After mature reflection, the proposed revision to Section 19(c) is amended to read:

"(c) Nothing in this Section shall prohibit the Commission from ~~promulgating imposing~~ any rule or regulation, nor the Department from ~~imposing~~ **establishing** any ~~rule, regulation,~~ standard, procedure, or permit condition which is more stringent than federal regulations, when such rule, standard, procedure or permit condition is required as a part of this

Regulation or the Act or when the Commission and/or the Department finds such stringency is necessary to protect the public health or the environment. “

FOR FURTHER INFORMATION, CONTACT: For general information, contact the Department offices at (501) 682-0744. For information on these revised rules and Regulation No. 23, contact Tom Ezell, Hazardous Waste Division, (501) 682-0876.