

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY  
COMMISSION**

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

**DOCKET NO. 05-\_\_\_-R**

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

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

1. The U.S. Environmental Protection Agency has promulgated changes to the hazardous waste management regulations (40 CFR Parts 260-279) published in the *Federal Register* between April 22, 2004 and August 5, 2005, 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 (Hazardous Waste Management).
2. The proposed regulatory amendments precipitated by revisions to the federal hazardous waste management program involve the following areas:
  - (A) National Environmental Performance Track System, 69 FR 21737-21754, April 22, 2004; as corrected by National Environmental Performance Track Program; Corrections, 69 FR 62217-62224, October 25, 2004.
  - (B) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks; 69 FR 22602-22661, April 26, 2004.
  - (C) Hazardous Waste – Nonwastewaters From Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; Mass Loadings-

Based Listing; 70 FR 9137-9180; February 24, 2005; as corrected by Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Designation of Five Chemicals as Appendix VIII Constituents; Addition of Four Chemicals to the Treatment Standards of F039 and the Universal Treatment Standards; Correction; 70 FR 35032-35034, June 16, 2005.

(D) Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; 70 FR 10776-10825, March 4, 2005; as corrected by Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Correction; 70 FR 35034-35041, June 16, 2005.

(E) Waste Management System; Testing and Monitoring Activities; Methods Innovation Rule and SW-846 Final Update IIIB, 70 FR 34537-34592, June 14, 2005; as corrected by 70 FR 44150-44151, August 1, 2005.

(F) Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Equipment, 70 FR 45508-45520, August 5, 2005

3. The Department is proposing the following changes to the state-specific provisions of Regulation No. 23:

(A) Characteristic of Ignitability; Definition of Flammable Compressed Gas and Oxidizer (§ 261.21(a)(3) and (4)).

(B) Deletion of the Notification of Regulated Waste Activity (“NORWA”) Form; (Appendix II to Section 262).

(C) Fee Schedule for Renewal of Post-Closure Permits (§§ 6(a)(3)(iii) and 6(a)(4)(iii) ).

4. A detailed discussion of each revision is provided in the Statement of Basis and Purpose at Exhibit “B.”

5. *Compliance with Executive Order 05-04*: Regulation No. 23 addresses the State’s hazardous waste management program, and therefore the provisions of this Regulation and these revisions thereto ultimately affect approximately 2,200 small businesses in Arkansas. The revisions contained in this Petition substantially codify existing State and Federal regulations. As such, they are not subject to the provisions of Sections 3-5 of Executive Order 05-04. An overview of the projected impact of each specific provision proposed for adoption in this regulation is included in the Statement of Basis and Purpose at Exhibit “B” and in the Economic Impact/Environmental Benefit Analysis at Exhibit “C.”

6. Mike Bates, Chief, Hazardous Waste Division, will be available to answer questions concerning this proposed rulemaking. A 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 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 initial Statement and Basis of Purpose is attached at Exhibit “B”. A copy of the completed economic impact/environmental benefit analysis pursuant to Regulation No. 8.3.5.2 is attached at Exhibit “C.” The questionnaire for filing proposed rules and regulations with the Arkansas Legislative Council and Joint Interim Committee is attached at Exhibit “D.” The legislative Financial Impact Statement is attached at Exhibit “E.” A proposed Minute Order which initiates this request is attached at Exhibit “F.”

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

Respectfully submitted,

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MIKE BATES  
Chief, Hazardous Waste Division  
Arkansas Department of Environmental Quality  
(501) 682-0831