

# ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

## ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

**Rule Number & Title:** Regulation No. 23, Hazardous Waste Management  
**Petitioner:** ADEQ Hazardous Waste Division  
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### STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT

Is the proposed rule exempt from economic impact/environment benefit analysis for one of the following reasons?	YES	NO
▶ The proposed rule incorporates the language of a federal statute or regulation without substantive change	X	
▶ The proposed rule incorporates or adopts the language of an Arkansas state statute or regulation without substantive change		X
▶ The proposed rule is limited to matters arising under Regulation No. 8 regarding the rules of practice or procedure before the Commission		X
▶ The proposed rule makes only <i>de minimis</i> changes to existing rules or regulations, such as the correction of typographical errors, or the renumbering of paragraphs or sections; or	X	
▶ The proposed rule is an emergency rule that is temporary in duration.		X

If the proposed rulemaking does not require the following Analysis due to one or more of the exemptions listed above, state in the Petition to Initiate Rulemaking which exemptions apply, and explain specifically why each is applicable.

### RULE SUMMARY:

#### **I. Federal Revisions**

**I.1: Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas** 73 FR 57, January 2, 2008.

This federal revision amended a previously existing exclusion from the definition of solid waste that applies to oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled by inserting them back into the petroleum

refining process and when certain other conditions are met. The exclusion allows these materials to be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery. The revision adds “gasification” to the list of already recognized petroleum refinery processes into which oil-bearing hazardous secondary materials can be legitimately recycled, and adds a definition for the term “gasification” at Section 260.10. which applies only to this specific exclusion.

The cost/benefit analysis prepared by the U.S. EPA for this rule was published at 73 FR 68-69. ADEQ has reviewed this analysis and found no significant discrepancies.

A search of Arkansas hazardous waste generators revealed 7 facilities under SIC code 2911 which would be affected by this particular rule: Lion Oil Company of El Dorado; MacMillan Ring-Free Oil of El Dorado (inactive); MacMillan Ring-Free Oil of Norphlet (inactive); White River Bituminous of Batesville (inactive); Berry Petroleum Company of Stephens; Carter Oil Company of North Little Rock; and Cross Oil Refining and Marketing, of Smackover.

### **I.2: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments. 73 FR 18970-18984; April 8, 2008.**

This federal revision finalized amendments to the October 12, 2005 rule - National Emission Standards for Hazardous Air Pollutants (NESHAP): Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II Standards). It clarified compliance monitoring provisions and corrected typographical errors and omissions found in the earlier regulation. EPA does not consider these provisions to be either more or less stringent than the pre-existing federal and state regulations, since they simply make explicit an authority that has been and remains available under the RCRA omnibus authority and its implementing regulations (Reg. No. 23 § 270.32(b)).

This rule applies specifically to incinerators, cement kilns, boilers, and industrial furnaces that combust hazardous wastes, as well as generally to facilities covered under NAICS codes 324, 325, 3273, 3279, 5622, and 5629. Arkansas facilities impacted by this revision include Clean Harbors of El Dorado, Reynolds Metals of Gum Springs, Ash Grove Cement of Foreman, FutureFuels of Batesville, and the Pine Bluff Arsenal Chemical Demilitarization Facility.

### **I.3: Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. 73 FR 31768, June 4, 2008.**

This federal revision amends the F019 listing to exempt wastewater treatment sludges generated from zinc phosphating processes used in automobile assembly, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal and the waste is disposed in a landfill unit subject to certain liner requirements. Wastes

that meet these conditions will be exempted from the listing from their point of generation, and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal. Generators are required to maintain records on site to show that the waste meets to conditions of the listing.

A search of Arkansas hazardous waste generators revealed only one facility in the NAICS codes addressed by this rule (336111 and 336112): Tenneco Automotive of Paragould.

**I.4: Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; (73 FR 72954-72960), December 1, 2008.**

The rule establishes a new Subsection K within Section 262 of Regulation No. 23, which creates an alternative set of generator requirements applicable to laboratories owned by eligible academic entities that are flexible and protective, and address the specific nature of hazardous waste generation and accumulation in these laboratories. That is, eligible academic laboratories that are large quantity generators (LQGs), small quantity generators (SQGs), or conditionally exempt small quantity generators (CESQGs) may choose to have their laboratories be subject to Section 262, Subsection K in lieu of the existing generator regulations. This exemption applies to laboratories at the university and teaching hospital level. Laboratories in high schools and similar secondary schools are not eligible for this exemption.

## **II. State Revisions**

### **II. 1 Regulations Incorporated by Reference**

This administrative amendment moves forward the window within which specific federal regulations listed at Section 3(b)(1) through (4) are incorporated by reference to those published in the Federal Register on or before June 30, 2009. No economic impact is anticipated for this action.

### **II. 2. Delete provision for state-specific manifests.**

In the preceding update to Regulation No. 23, the Commission adopted the federal Uniform Manifest Rule, which established a single, commercially-provided form for documenting the shipment of hazardous wastes. ADEQ formerly provided and required the use of a state-specific manifest for this purpose, and discontinued this practice upon the adoption and implementation of the uniform manifest rule. Consequently, Section 6(v), which established the fee for individual state manifests, is removed and reserved.

No economic impact is anticipated from this revision.

### **II. 3. Corrected Citations to Regulation No. 8.**

On January 23, 2009, the Commission revised Regulation No. 8 (Administrative Procedures) to bring it up to date with current policies and practices, and renumbered the chapters and paragraphs within the Regulation in conformance with the Commission's standard format. As a result, a number of citations within Regulation No. 23 concerning the third-party rulemaking process and the public notice of an application for a RCRA permit required updates in order to point the user to the correct requirements under Regulation No. 8. With the exception of updating the internal citations to specific provisions in Regulation No. 8, no change is made to the requirements of either regulation.

No economic impact is anticipated from this revision.

### **II. 4 Delete Chapter 4; Move Waste Generation Fees to Section 6**

In December 2008 the regulatory language for implementing the Hazardous Substance Site State Priority List, formerly comprising Chapter 4 of this Regulation, was moved to Regulation No. 30, promulgated on December 5, 2008, and effective January 25, 2009. This action deletes the duplicated language from Regulation No. 23, by removing and reserving all of Chapter 4. Section 25 (Fees on the Generation of Hazardous Waste) is reformatted and renumbered, and moved to become paragraph (aa) of Section 6 (Fees and Costs) of the Regulation, consolidating this provision with the remainder of the hazardous waste management fee schedule. With the exception of renumbering the paragraphs, no change is made to the text of the regulation.

No economic impact is anticipated from this revision.

## **STEP 2: THE ANALYSIS**

Federal revisions discussed in Paragraph I above are not subject to this requirement for economic analysis and environmental benefit, as they codify existing Federal regulations.

The impact and benefit of State-initiated revisions in Paragraph II above are addressed below:

### **2A. ECONOMIC IMPACT**

#### **1. Who will be affected economically by this proposed rule?**

*State: a) the specific public or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.*

No economic impact is anticipated to any regulated facility from these amendments.

Sources and Assumptions: N/A

**2. What are the economic effects of the proposed rule?**

*State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.*

No economic impact is created by the state-initiated revisions in this proposed rulemaking.

Sources and Assumptions: N/A

**3. List any fee changes imposed by this proposal, and the justification for each.**

None.

**4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?**

No additional costs to ADEQ are anticipated from the state-initiated revisions in this proposed rulemaking.

Sources and Assumptions: N/A

**5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? *Identify state agency and/or rule.***

No.

Sources and Assumptions: N/A

**6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose as this proposed rule?**

No.

Sources and Assumptions: N/A

**2B. ENVIRONMENTAL BENEFIT**

**1. What issues affecting the environment are addressed by this proposal?**

None. The state-initiated revisions in this proposed rulemaking are purely administrative in nature.

**2. How does this rule protect, enhance, or restore the natural environment for the well being of all Arkansans?**

Arkansas businesses will continue to benefit from a regulatory environment that is equivalent to the corresponding Federal requirements, and effective in ensuring that hazardous wastes and similar regulated materials are managed in an environmentally safe manner.

Sources and Assumptions: [N/A](#)

**3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?**

The delegation and program cooperative agreements between ADEQ and U.S. EPA require that the Department make an earnest effort to maintain consistency between State and Federal regulations. While all components proposed in this revision are optional for the state to adopt them or not, the current State requirements corresponding to these proposed revisions are in the main more stringent, and Arkansas businesses would face a greater burden in maintaining compliance than those in neighboring and other states.

Sources and Assumptions: [N/A](#)

**4. What risks are addressed by the proposal and to what extent are these risks anticipated to be reduced?**

None. The state-initiated revisions in this proposed rulemaking are purely administrative in nature.

Sources and Assumptions: [N/A](#)