

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: Revisions to the Requirements for Trans-boundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes. 75 FR 1253-1262; January 8, 2010. This federal rule implemented changes to the agreements concerning the trans-boundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD), established notice and consent

requirements for spent lead-acid batteries intended for reclamation in a foreign country, specified that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, D.C., and requires U.S. receiving facilities to match EPA-provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.

EPA published its cost estimate and benefit analysis for this rule at 75 FR 1249-1250, anticipating a nationwide impact (all 50 states, plus territories) of \$910,000 for the first year of implementation and \$460,000 for each subsequent year. ADEQ staff have reviewed this analysis and the federal rulemaking docket, and compared this to Arkansas annual hazardous waste report data for the foreign export of batteries, and determined that this revision will have minimal effect on Arkansas handlers.

I.2: Hazardous Waste Technical Corrections and Clarifications Rule. 75 FR 12989-13009, March 18, 2010; and 75 FR 31716-31717, June 4, 2010. This federal rule made a number of technical changes that correct existing errors in the hazardous waste regulations that have occurred over time in numerous final rules published in the *Federal Register*, such as typographical errors, incorrect or outdated citations, and omissions. Some of the corrections are necessary to make conforming changes to all appropriate parts of the RCRA hazardous waste regulations for new rules that have since been promulgated. In addition, these changes clarify existing parts of the hazardous waste regulatory program and update references to Department of Transportation (DOT) regulations that have changed since the publication of various federal RCRA final rules. This rulemaking was amended on June 4, 2010 (75 FR 31716-31717) by withdrawing six of the revisions set out in the original Federal Register notice.

EPA conducted a review of the financial impact of this rule (75 FR 13000) and determined that as it is entirely editorial in nature and contains no federal mandates, that it posed no significant financial impact to regulated hazardous waste handlers. ADEQ staff have reviewed EPA's analysis in both the FR notice and the rulemaking docket, and concurred with this analysis.

I.3: Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion. 75 FR 51671-51678, August 23, 2010. This federal rule establishes a delisting decision for specific wastes produced at the Tokusen, Inc. plant in Conway, which otherwise would be considered F006 hazardous wastes. EPA announced its final decision to delist these wastes on August 23, 2010; this action incorporates the decision into Regulation No. 23 in order to place the delisting into effect.

This rulemaking affects only a single, specific facility (Tokusen, Inc., in Conway) and while it should result in significant savings for the Tokusen facility, has no financial impact or beneficial effect for any other Arkansas facility.

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 August 31, 2010. No economic impact is anticipated for this action.

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.

With the exception of the site-specific delisting decision for Tokusen, Inc. in Conway, no significant economic impact is anticipated to any regulated facility from these amendments.

Sources and Assumptions: See above discussion of the financial impact of each federal revision.

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