

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 23: HAZARDOUS WASTE) DOCKET NO. 17____-R
MANAGEMENT)**

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

Comes now, the Arkansas Department of Environmental Quality (ADEQ), by and through Tori Gordon, Associate Director, Office of Land Resources, for its Petition to Initiate Rulemaking to Amend Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 23: Hazardous Waste Management, states:

1. The United States Environmental Protection Agency (EPA) has promulgated specific changes to the hazardous waste management regulations (40 C.F.R. Parts 260-279), published in the *Federal Register* between January 13, 2015, and April 17, 2015 that affect the hazardous waste management program implemented by ADEQ pursuant to the Hazardous Waste Management Act and the APC&EC Regulation No. 23, Hazardous Waste Management.

2. ADEQ initiates this rulemaking to incorporate federal updates to adopt the revised definition of “solid waste” and related changes pursuant to Ark. Code Ann. § 8-7-209(b)(1) for which ADEQ is charged with the administration and enforcement.

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

- A. Definition of Solid Waste. 80 FR 1694-1814, January 13, 2015. This federal rule revises several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The purpose of these revisions is to ensure that the hazardous

secondary materials recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary material.

- B. Vacatur of the Comparable Fuels Rule and the Gasification Rule. 80 FR 18777 - 18780, April 8, 2015. This federal rule is revising regulations associated with the comparable fuels exclusion and the gasification exclusion, originally issued by EPA under the Resource Conservation and Recovery Act (RCRA). These revisions implement vacatur orders by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014.
- C. Disposal of Coal Combustion Residuals from Electric Utilities. 80 FR 21302 - 21501, April 17, 2015. This federal rule is codifying a list of wastes generated primarily from processes that support the combustion of coal or other fossil fuels that when co-disposed with coal combustion residuals are not subject to hazardous waste regulations. This action codifies long-standing Agency guidance and reflects Congressional intent.

4. The following state-specific revisions are proposed for inclusion in APC&EC

Regulation No. 23:

- A. Miscellaneous corrections, language, and formatting changes 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.

5. Tori Gordon, Associate Director of the Office of Land Resources at ADEQ, will be available to answer questions concerning this proposed rulemaking.

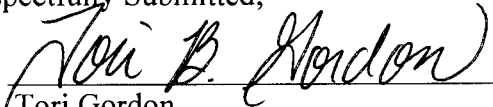
6. Exhibits attached to this petition and incorporated by reference include:

- A. A mark-up version of the regulation showing the proposed changes as Exhibit A;
- B. A copy of the Governor's approval as Exhibit B;
- C. A copy of the Legislative Questionnaire as Exhibit C;
- D. A copy of the Financial Impact Statement as Exhibit D; and
- E. A proposed Minute Order as Exhibit E.

7. Pursuant to Reg.8.812(A)(1), the provisions of Reg. 8.812 do not apply and an Economic Impact/Environmental Benefit Analysis is not required because this proposed regulation incorporates and adopts federal regulation without substantive change.

WHEREFORE, 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,

By: 

Tori Gordon

Associate Director
Office of Land Resources
5301 Northshore Drive
North Little Rock, Arkansas 72218
(501) 682-0962
gordont@adeq.state.ar.us