

Executive Summary

For proposed changes to APC&EC Rule No. 23

Introduction:

The proposed changes to APC&EC Rule No. 23 incorporate Federal rules to maintain Arkansas' equivalency and to maintain our authorization for the Hazardous Waste Program. Changes also incorporate State government transformation as well as Act 315.

The timely adoption of these proposed changes is supported by the Arkansas regulated community.

Listed below are the Federal Rules being adopted with this rulemaking and a brief description of each.

Revised Definition of Solid Waste

- Revised the rules to encourage recycling hazardous waste; and improve accountability and oversight of recycling while allowing flexibilities.
 - Three (3) conditional exclusions:
 - Generator Controlled Exclusion
 - Recycling can occur on-site or off-site as long as it is by the same "person"
 - Transfer-Based Exclusion
 - Hazardous waste may be transferred to an off-site third-party reclamation facility
 - Remanufacturing Exclusion
 - Allows the transfer of certain spent solvents from one manufacturer to another for "remanufacturing"
 - Only available to the pharmaceutical, organic chemical, plastics and resins, and/or paints and coatings industries
 - Codified the definition of legitimate recycling (distinguishes between real recycling and sham recycling)
 - Reclamation must be legitimate: 3 Factors are mandatory and 1 Factor must be considered

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- Must provide a useful contribution (mandatory)
- Must produce a valuable product or intermediate (mandatory)
- Must be managed as a valuable product (mandatory)
- The final product should not contain significant concentrations of hazardous constituents that aren't found in analogous products (must be considered)

Generator Improvements Rule

- Revises the hazardous waste generator regulations by making them easier to understand and provides greater flexibility in how hazardous waste is managed
 - Primary objective of the rule is to consolidate most of the generator requirements into Section 262 and to reduce cross-references
 - The rule directly responds to feedback EPA received from the regulated community, states, communities, and other stakeholders
 - Reorganizes, consolidates, and explains requirements in greater detail.
 - Clarifies and incorporates guidance, notices, and policies

e-Manifest User Fee Rule

- Establishes the method EPA will use to determine user fees to the electronic and paper manifests submitted to the national e-Manifest system
- ADEQ must adopt the User Fee Rule to maintain equivalency, but will not be authorized; EPA will retain enforcement authority

Import/Export Rule

- EPA published the regulations governing imports and exports of hazardous waste and certain other materials in order to strengthen public accessibility and transparency of import and export related documentation
 - Provides that no Confidential Business Information (CBI) claims may be asserted by any person with respect to documents related to the export, import, and transit of hazardous waste and export of excluded cathode ray tubes (CRTs)
 - EPA does not authorize States to administer the Federal import/export provisions of the hazardous waste regulations
- ADEQ must adopt this rule to maintain equivalency with the Federal program, but will not be authorized

Coal Combustion Residuals (CCR) for exclusion from hazardous waste

- Expands the current exclusion in APC&EC Rule No. 23 Section 261.4(b)(4) to include specific waste streams associated with combustion of coal or other fossil fuels