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Hazardous Waste Rules: Arkansas Department of Energy and Environment -Division of Environmental Quality Notes Regulation No. 23 Updates

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) issued a Notification to hazardous waste generators referencing the adoption of five new rules.

The rules include:

- Revised Definition of Solid Waste,
- e-Manifest User Fee,
- Hazardous Waste Generator Improvement Rule,
- Import/Export Rule, and
- Coal Combustion Residuals exemption

The rules have been incorporated in Arkansas Pollution Control and Ecology Commission Rule No. 23.

DEQ was one of the first states to receive from the United States Environmental Protection Agency (“EPA”) delegation of the federal Resource Conservation and Recovery Act (“RCRA”) Subtitle C hazardous waste program in the 1980’s. It maintains such delegation by ensuring that its program is in force and effect to and no less stringent than the federal RCRA program.

EPA’s authorization of Arkansas’s hazardous waste management program means that the state is responsible for implementation in lieu of EPA. DEQ is provided the necessary legislation to administer this program through the Arkansas Hazardous Waste Management Act and the Arkansas Resource Reclamation Act.

Like many states, Arkansas has, however, enacted a number of requirements under its hazardous waste program that are either in addition to, more stringent than, or broader in scope than the minimum standards of the RCRA program. As a result, in determining which regulatory requirements apply in Arkansas, it is necessary to review Rule No. 23 as opposed to the federal RCRA regulations found at 40 C.F.R. 260-279.

The objective of the federal and Arkansas programs is to provide a cradle to grave management scheme for hazardous wastes to ensure they are not mismanaged in a manner that will impact human health or the environment. Both programs are focused on hazardous waste. To be a hazardous waste, the material

must first meet the definition of solid waste. Further, it is the responsibility of all solid waste generators to determine whether their waste is hazardous. In the event a hazardous waste is generated, there are a number of standards that apply to how the waste is managed.

A hazardous waste generator, by rule, is any entity, by site whose acts or processes generate (produce or bring about) a solid waste that is:

- Listed in the hazardous waste regulations,
- Determined to be characteristically hazardous, or
- Otherwise identified as a hazardous waste

In its November 17th notification DEQ references as particularly important the “Hazardous Waste Generator Improvements Rule.” DEQ states that:

. . . because it finalizes a much-needed update to rules pertaining to the regulated community, which makes the rules easier to understand, facilitates better compliance, provides greater flexibility in how hazardous waste is managed, and closes important gaps in the regulations. Additionally, it finalizes a number of clarifications without increasing burden, including a reorganization of the hazardous waste generator regulations so that all of the generator regulations are in one place. Two (2) key provisions of the new Hazardous Waste Generator Improvements Rule include, but are not limited to:

1. Allowing a hazardous waste generator to avoid increased burden of a higher generator status when generating episodic waste provided the episodic waste is properly managed, and;
2. Allowing a very small quantity generator (VSQG) to send its hazardous waste to a large quantity generator under control of the same person.

A copy of the notification containing a link to Rule 23 can be found [here](#).