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Delegation/RCRA: U.S. Environmental Protection Agency Federal Register Notice Authorizing Arkansas-Initiated Changes of State Hazardous Waste Management Program

Arkansas Environmental, Energy, and Water Law Blog

02/02/2016

The United States Environmental Protection Agency ("EPA") issued a January 29th Federal Register Notice of a direct final rule that is a final authorization of two Arkansas-Initiated Changes to its Hazardous Waste Program implementing the Resource Conservation and Recovery Act ("RCRA"). See 81 Fed. Reg. 4961.

EPA determined that the changes are "minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this Final direct action."

Arkansas obtained delegation of the federal RCRA program many years ago.

The Arkansas regulations to implement the program are found in Arkansas Pollution Control and Ecology Regulation No. 23. In order to continue to qualify for RCRA delegation, the state must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal RCRA program.

EPA describes the Arkansas changes as:

... to Arkansas Regulation No. 23 Sections 264.1030(c) and 265.142(a) introductory paragraph, analogous to 40 CFR 264.1030(c) and 265.142(a) introductory paragraph, respectively.

EPA states the amendments clarify the state's regulations and make its regulations more internally consistent.

In a companion Federal Register Notice, EPA addresses the Arkansas changes through a proposed rule.

The agency references the changes by direct federal rule and notes it did not make a proposal prior to the direct final rule because it does not believe the action is controversial and expects no comments opposing it. Unless it receives opposing comments during the comment period, the direct final rule becomes effective sixty days after publication and the agency will not take further action on the proposal. If comments are received, then it will withdraw the direct final rule and it will not take effect. See 81 Fed. Reg. 5006.

[Click here to download both Federal Register Notices.](#)