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Resource Conservation Recovery Act: U.S. Environmental Protection Agency Direct Final Rule Approving Arkansas Program Revisions

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The United States Environmental Protection Agency ("EPA") issued an August 11th Federal Register Notice of a direct final rule approving the most recent State of Arkansas's Resource Conservation Recovery Act ("RCRA") program revisions. See 81 Fed. Reg. 53025.

RCRA is the federal statute that creates the framework for management of hazardous and non-hazardous solid waste.

Like most of the federal environmental statutes, RCRA can be delegated to states who develop and maintain a program that is equivalent to, consistent with, and no less stringent than the federal program. Arkansas obtained delegation of RCRA many years ago.

The Arkansas RCRA regulations are encompassed in Arkansas Pollution Control and Ecology Commission Regulation No. 23. Despite initial receipt of delegation, Arkansas and other states that wish to maintain delegated status must adopt into their own program (i.e., state regulations) subsequent changes to the federal RCRA rules.

The August 11th direct final rule represents EPA's determination that the Arkansas Department of Environmental Quality's ("ADEQ") changes to its regulations satisfy all requirements for final authorization.

EPA states that ADEQ submitted on November 30, 2015, a final complete program revision application seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between October 4, 2005 and January 3, 2014, including the adoption of portions of:

- RCRA Clusters XVI and XVII
- RCRA Clusters XXII and XXIII (Checklists 211, 213, 214, and 228 through 232)

EPA made this determination through a direct final rule because it deems it noncontroversial. However, the federal agency states that if it receives written comments which oppose the authorization during the comment period it will withdraw the direct final rule. As a result, it has issued a companion proposed rule with this decision in the same Federal Register. See 81 Fed. Reg. 53100.

[A copy of the Federal Register Notice with the direct and proposed rule can be downloaded here.](#)