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# Hazardous Waste Update: Penny Wilson (Arkansas Department of Energy and Environment – Division of Environmental Quality) Environmental Federation Webinar Presentation

07/23/2020

Penny J. Wilson of the Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) undertook a webinar presentation for the Arkansas Environmental Federation titled:

*Hazardous Waste Update (“Presentation”*

Ms. Wilson serves as Manager of the Compliance Branch of DEQ’s Office of Land Resources.

Ms. Wilson’s *Presentation* provided an update and addressed a number of issues related to the federal and Arkansas Resource Conservation and Recovery Act (“RCRA”) hazardous waste program. The RCRA Subtitle C program is applicable to generators, transporters and hazardous waste treatment, storage and disposal facilities. It also includes requirements for used oil and universal waste.

The State of Arkansas was delegated the federal RCRA Subtitle C program many years ago. As a result, DEQ undertakes the relevant activities such as hazardous waste:

- Rulemaking
- Permitting action
- Compliance monitoring/enforcement
- Site remediation
- Pollution prevention/waste minimization

The relevant Arkansas Pollution Control and Ecology Commission rule implementing this program is Rule 23. It is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act.

A focus of Ms. *Wilson’s Presentation* was DEQ activities “in these Not-So-Normal times.” The *Presentation* referenced:

- U.S. Environmental Protection Agency’s (“EPA”) June 30, 2018, launch of the e-Manifest system, noting its use to transition from the paper-intensive hazardous waste manifest tracking requirements to an electronic system

The e-Manifest was noted to be a:

. . . single hub for one-stop reporting of manifest data, a new innovation in RCRA compliance monitoring. . . (referencing data mining)

Ms. Wilson defined data mining as:

. . . the process of finding anomalies, patterns, and correlations within large data sets to predict outcomes.

Data mining is also noted to be utilized as a stand-alone inspection tool to conduct a “thorough investigation of records available through the existing RCRA Information System.”

The use of the data mined by the Inspector Supervisor was addressed, including what happens if anomalies are found (requisition of additional information) and use to make a compliance determination.

DEQ has received training on data mining from Region 6 and began use of it in May 2020 (21 reviews have been conducted). The results are identified as:

- Number of reviews that identified violations = 3
- Number of facilities that notified incorrectly = 2
- Did their generator status change?
- No Change = 11
- VSQG to SQG = 1
- VSQG to LQG = 1
- Still under review = 8
- Number of e-Manifests reviewed = 65
- Amount of hazardous waste not reported = 4,434 pounds
- Number of secondary violations = 5

The secondary violations cited include:

- 262.20(a)(1) – Failure to use a manifest
- 262.41 – Failure to submit an Annual Report (cited 2 times)
- 262.41(d) Failure to include each transporter on the Annual Report
- 262.41(e) – Failure to include each hazardous waste generated on the Annual Report

The conclusion regarding data mining is stated as:

- A different way to make compliance determination
- Allows inspectors to take a deep dive into the data
- Identifies alleged violations at the core of the RCRA program. . . hazardous waste identification

The *Presentation* also addressed what it described as the “Top Violations:”

- Labeling
- Accumulation Start Dates
- Universal Waste Labeling
- Used Oil Labeling
- Waste Identification
- Personnel Training
- Contingency Plan
- Annual Reports

The upcoming revisions to Rule No. 23 were noted. The current proposed changes were stated to include:

- Revised Definition of Solid Waste
- Generator Improvements Rule
- e-Manifest User Fee Rule
- Import/Export federal provisions

- CCR Exemptions
- A few technical or typographical corrections

Future changes to Rule No 23 were stated to include:

- Pharmaceutical Rule
- Air Bag Rule
- Aerosol Can Rule (add to Universal Waste)
- Change to Ignitability determinations (published July 7, 2020)
- 85 FR 40594

Ms. Wilson also mentioned that DEQ plans to present training on the new rules being adopted, such as:

- Revised Definition of Solid Waste
- Generator Improvement Rules

The *Presentation* included an option to sign up for updates which address hazardous waste generators deadlines for monitoring, inspection and generation fees, annual reports, and other related issues.

(<http://www.adeg.state.ar.us/poa/pi/emaillists.aspx>)

A copy of Ms. Wilson's slides can be downloaded [here](#).