



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Hazardous Waste Management/Rule No. 23: Arkansas Department of Energy & Environment - Division of Environmental Quality Addresses Appropriate Submission of Contingency Plan

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Ms. Penny M. Wilson, CPM, authored a March 25th memorandum submitted to the Arkansas Department to the Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) Hazardous Waste Generator email list addressing what she described as a:

. . . reoccurring misinterpretation of Arkansas Pollution Control & Ecology Commission (“APC&EC”) Rule No. 23 (Hazardous Waste Management).

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

The Resource Conservation and Recovery Act (“RCRA”) provides the United States Environmental Protection Agency (“EPA”) the authority to control hazardous waste from the “cradle-to-grave.” This includes the generation, transportation, treatment, storage and disposal of hazardous waste. EPA promulgated regulations to implement these requirements. Subtitle C of RCRA focuses on hazardous solid waste.

Pursuant to Subtitle C, EPA may authorize states to implement key provisions of hazardous waste requirements in lieu of EPA. DEQ was delegated the RCRA Subtitle C program many years ago. The Hazardous Waste Branch of the Office of Land Resources implements Arkansas’s RCRA Subtitle C Waste Management Program governing the management and disposition of hazardous waste, used oils, and universal waste.

Both the federal (i.e., EPA) and Arkansas hazardous waste regulations require a large generator of hazardous waste to comply with the preparedness, prevention, and emergency procedures standards. Large quantity generators are required to develop a written contingency plan whose objective is to minimize and contain the hazards of chemical releases, spills, leaks, fires and explosions. The contingency plan must be kept at the facility at all times.

The memorandum quotes APC&EC No. 23 Section 262.262(a) as stating that:

. . . the large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services)” (emphasis added).

Ms. Wilson’s memorandum addressing contingency plan submission to local emergency responders notes that there have been:

. . . instances of Arkansas hazardous waste generators submitting their contingency plan to the Arkansas Department of Emergency Management (ADEM) in order to meet the requirement of APC&EC Rule No. 23 Section 262.262(a).

The memorandum clarifies that the Arkansas Department of Emergency Management (“ADEM”) serves as a “liaison” between the local offices of emergency management and coordinates with senior officials of federal, state, and local governments, and entities within the private sector having roles and responsibilities for emergency management. It is emphasized that ADEM does not respond to individual incidents at hazardous waste facilities to provide emergency services. As a result, the memorandum is intended to provide that ADEM does not fall within the scope of the 262.262(a) phrase “local emergency responders.”

A copy of the DEQ memorandum can be downloaded [here](#).