

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 17. DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION PREVENTION

ARTICLE 1. GENERAL

PREAMBLE

- 1. Sections Affected**
R18-17-102
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 49-104
Implementing statute: A.R.S. § 49-968
- 3. The effective date of the rules:**
May 30, 2000
- 4. A list of all previous notices appearing in the Arizona Administrative Register.**
Notice of Rulemaking Docket Opening: 6 A.A.R. 924, March 3, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Deborah K. Blacik or Martha L. Seaman
Address: Arizona Department of Environmental Quality
Rule Development Section, M0836A-829
3033 North Central Avenue
Phoenix, AZ 85012
Telephone: (602) 207-2223, (800) 234-5677, ext 2223 (Arizona only)
Fax: (602) 207-2251
TTD: (602) 207-4829
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The purpose of this rulemaking is to identify the current toxic substances list that facilities are required to use in completing the annual toxic data report required under A.R.S. § 49-962. A.R.S. § 49-968 requires the Director to adopt by rule any substance the EPA established as a toxic substance under the federal pollution prevention act of 1990 (42 United States Code § 13102(3)). This rulemaking incorporates the 1999 toxic substance list adopted by the EPA. Since the EPA adopts a new list every year this rule will need to be amended annually.

The Arizona Department of Environmental Quality (ADEQ) expects the probable impact of this rule to be minimal because facilities are currently required under federal law to submit "Form R" to EPA which contains this toxic substances list. Many facilities have voluntarily submitted this toxic data report to ADEQ on an annual basis.

A.R.S. § 49-968 provides that this rulemaking is exempt from the requirements of the Administrative Procedures Act except for public notice requirements.

7. Reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. Summary of the economic, small business, and consumer impact:

A. Identification of Rule

This rule is codified in Chapter 17, Pollution Prevention, Article 1, General (R18-17-102).

B. Expected Impacts

State law requires ADEQ to adopt the same chemicals established by EPA under the federal Pollution Prevention Act of 1990 (42 U.S.C. § 13102(3)) for facilities to include in their annual reporting requirements. The law also requires ADEQ, when adding or deleting a substance to the list, to use the same criteria described in the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. § 11023(d)).

ADEQ expects this rule amendment to have minimal to no economic impact. Facilities currently are required by federal law to complete an annual toxic chemical release report (Form R) using the current federal list and submit it to EPA. Many facilities in Arizona voluntarily have submitted this report to ADEQ. Thus, ADEQ's assessment indicates a relatively minor impact upon facilities and ADEQ with no impact on consumers nor the general public. ADEQ expects no impact to private and public employment or to state revenues. But ADEQ does anticipate benefits to outweigh any costs that might accrue.

C. Small Businesses

ADEQ expects that some small businesses may be impacted in a very minor degree, but they would be required to complete Form R to EPA anyway. Thus, because this rule imposes no additional impacts to these small businesses, it was neither necessary nor feasible to assess a reduction of impacts or a less costly alternative for small businesses.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the principal comments and the agency response to them:

The agency received no comments regarding this rule.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.

Not applicable

13. Incorporations by reference and their location in the rules.

Table II, entitled "EPCRA SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR 1999" as found in "Toxic Chemical Release Inventory Reporting Forms and Instructions", adopted by the Environmental Protection Agency as of February, 2000 is incorporated by reference in R18-17-102.

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

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Section

R18-17-102. Toxic Substances List

ARTICLE 1. GENERAL

R18-17-102. Toxic Substances List

Under A.R.S. § 49-968 the Director adopts the substances listed in Table II entitled "EPCRA SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR ~~1998~~ 1999". Table II entitled "EPCRA SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR ~~1998~~ 1999" as found in "Toxic Chemical Release Inventory Reporting Forms and Instructions", adopted by the Environmental Protection Agency as of February ~~1999~~ 2000, and no future additions or amendments, is incorporated by reference.