

**BEFORE THE ARKANSAS POLLUTION
CONTROL AND ECOLOGY COMMISSION**

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 11: REGULATIONS FOR) DOCKET NO. 12-007-R
SOLID WASTE DISPOSAL FEES;)
LANDFILL POST-CLOSURE TRUST FUND;)
AND RECYCLING GRANTS PROGRAM)

RESPONSE TO COMMENTS

On July 27, 2012, the Arkansas Pollution Control and Ecology Commission (“APC&EC”) passed Minute Order 12-31, which initiated rulemaking procedures for amendments to APC&EC Regulation No. 11, Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program. A public hearing on the proposed changes was held on September 5, 2012. The deadline for submitting written comments was October 5, 2012.

One written comment was received regarding the proposed amendments. That comment is set out below, with the Department’s response following. A copy of the emailed comment letter is attached as Exhibit A.

Comment from Mark S. Koch of FTN Associates, Ltd.:

I would like to respectfully submit the following comment on Reg 11. There exist a few landfill facilities which are adjacent to old landfills operated by municipalities or other in the distant past. The fact that are adjacent has nothing to do with common ownership or operation. Should one of those older facilities have an issue, the elimination of eligibility to address the older facility under the current regulation seems arbitrary. My comment is listed below.

Section 11.308(B) current reads:

“Closed areas or operational phases are not eligible for funding when the areas or phases are contiguous to any landfill which is receiving solid waste when the Director determines that corrective action is necessary.”

I recommend adding the following language at the end of the paragraph listed above.

“Unless it can be determined that no common ownership or operation of the two facilities in question exists or has existed in the past.”

Thank you for your consideration.

Response:

ADEQ acknowledges the comment. The comment is outside the scope of the proposed changes to Regulation No. 11 as presented to the Commission for rulemaking. This comment could be considered if initiated through third-party rulemaking. The Department will maintain this comment for future Regulation 11 changes. Therefore, no changes to the rulemaking to reflect the comment are proposed.

In addition to the written comment above, ADEQ Solid Waste Chief Roger Lawrence submitted a comment for correction.

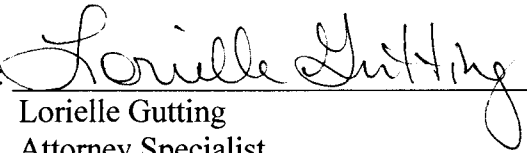
An error was discovered in the mark-up draft of Reg.11.205(G). The proposed draft inadvertently omitted “transporter”, which is required by Ark. Code Ann. § 8-6-1004.

Reg.11.205(G) is proposed to be amended as follows:

(F)(G) Quarterly Report Forms

~~The Department shall mail quarterly reporting forms to each landfill permittee and to each transporter prior to the calendar quarters ending the last day of December, March, June, and September, respectively. Failure to receive this form does not relieve a landfill facility permittee or a transporter from fee liability.~~ A landfill permittee and a transporter of solid waste that is generated within the state, but to be disposed of outside the state, shall submit quarterly reports in a format approved by the Department.

Respectfully Submitted,

By:  _____

Lorielle Gutting
Attorney Specialist
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
(501) 682-0884
gutting@adeq.state.ar.us