ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION
REGULATIONS COMMITTEE MEETING
Friday, February 26, 2010
8:30 a.m.

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, ARKANSAS 72118

AGENDA

(Item #01)

I. Call Meeting to Order – 8:30 a.m.

II. Roll Call

III. Approval of January 22, 2010 Committee Minutes ***(Item #02)***

IV. Regulation No. 21, Arkansas Asbestos Abatement Regulation **APPENDIX I (Items #05-13)**

- **Docket No. 10-001-R**
- **Mike Bates for Arkansas Department of Environmental Quality**
- **Minute Order (Initiate)**

V. Adjourn

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATIONS COMMITTEE MEETING
8:30 a.m., Friday, January 22, 2010

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas

Committee Members Attending: J. Chamberlin, D. Hendrix, L. Sickel, J. Simpson, B. White, and R. Young.

Members Absent: S. Henderson.

Call to Order
Commissioner Young called the meeting to order at approximately 8:30 a.m.

Quorum
Commission Secretary called roll and a quorum was declared.

Approval of Minutes
Commissioner Young asked for a motion to approve the minutes of the December meeting. Commissioner Hendrix moved to approve the minutes and Commissioner White seconded the motion. The minutes were approved.

Regulation No. 23, Hazardous Waste Management; Docket No. 09-005-R.
Mr. Clyde Rhodes asked to withdraw Regulation No. 23 from the agenda. It will be refiled once the legislature has adjourned. Commissioner Young stated that the petition for rulemaking has been withdrawn.

Recommendation for Petition for Variance from Regulation Filed by Entergy, Arkansas, Inc., Southwestern Electric Power Company, Inc. and Arkansas Electric Cooperative Corporation; Docket No. 10-001-MISC
Three electric utilities (“Petitioners”) that operate coal-fired electric generating plants in Arkansas filed a petition seeking a variance from a provision in Regulation 19 involving an upcoming deadline for installing air pollution control equipment. Petitioners must comply with provisions of the Best Available Retrofit Technology requirements set by federal air pollution regulations and incorporated into Regulation 19. Petitioners contend that a letter from the U. S. Environmental

Protection Agency to the Arkansas Department of Environmental Quality has created doubt with regard to whether the installation of the new emission control equipment will be in place in time to meet the deadline. The director issued a recommendation to the commission that the petition for a variance from the deadline be approved. The Sierra Club filed a petition requesting a public hearing be held prior to any decision by the commission on the variance request.

Commissioners asked questions and discussion followed.

Ms. Kelly McQueen, attorney for Petitioners, discussed their response and asked for a final decision today.

Commissioner Young discussed a proposed minute order. Commissioner Young and the parties discussed possible dates for the public hearing.

Mr. Benjamin Jones asked that the public hearing be as soon as possible.

Mr. Levi Guter, representing the Sierra Club discussed the time line for the public hearing and the importance for adequate notice to the public because it affects the health of everybody and air quality throughout Arkansas.

Ms. Kelly McQueen discussed the requirements for a public hearing and stated that there was no need for a response to comments. She also asked for this matter to be considered at the February meeting.

Judge O'Malley discussed the requirements of a public hearing and the importance of having the parties file a the response to comments.

Commissioner Hendrix asked that this discussion be moved to the entire commission meeting. Commissioner Young agreed to continue the discussion before the entire commission.

Adjourn
There was no other business to come before the committee. Commissioner Young adjourned the meeting.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION
REGULAR COMMISSION MEETING
Friday, February 26, 2010
9:00 a.m.

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, ARKANSAS 72118

AGENDA

(Item #03)

I. Call Meeting to Order - 9:00 a.m.

II. Roll Call

III. Approval of January 22, 2010, Commission Meeting Minutes ***(Item #04)***

IV. Department Reports
A. Director's Report

B. Division Permit Reports **(*Items #28-33)***

V. Public Comments

VI. Commission Reports
A. Regulations Committee – Randy Young
1. Regulation No. 21, Arkansas Asbestos Abatement Regulation **APPENDIX I (Items #05-13)**
- **Docket No. 10-001-R**
- **Mike Bates for Arkansas Department of Environmental Quality**
- **Minute Order (Initiate)**

VII. IGP No. ARR000000 **APPENDIX II (Items 14-19)**
- **Docket No. 09-011-P**
- **Arkansas Environmental Federation**
  - **Motion for Relief from Automatic Stay**
  - **Proposed Minute Order**
    - **Charles Nestrud for Arkansas Environmental Federation**
- **Arkansas Department of Environmental Quality**
  - **Response to AEF's Motion for Relief from Automatic Stay**
  - **Proposed Minute Order**
  - **Motion for Modification of Automatic Stay**
  - **Proposed Minute Order**
    - **Jamie Ewing for Arkansas Department of Environmental Quality**

VIII. Administrative Hearing Officer – Michael O'Malley

A. Recommended Decision — **APPENDIX III (Items #20-21)**

1. In the Matter of Northwest Arkansas Conservation Authority – NACA Wastewater Treatment Plant
- **Docket No. 09-016-P**
- **Minute Order (Adopt)**

2. In the Matter of DeSoto Gathering Company, LLC — **APPENDIX IV (Items #22-23)**
- **Docket No. 09-019-P**
- **Minute Order (Adopt)**

B. Settled Cases per Regulation No. 8

1. In the Matter of Clean Harbors El Dorado, LLC — **APPENDIX V (Items #24-25)**
- **Docket No. 09-011-NOV**

2. In the Matter of Great Lakes Chemical Corporation — **APPENDIX VI (Items #26-27)**
- **Docket No. 09-008-P**

IX. Adjourn

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULAR COMMISSION MEETING
9:00 a.m., Friday, January 22, 2010

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas

Commissioners Attending: J. Chamberlin, D. Hendrix, C. McGrew, D. Samples, J. Shannon, L. Sickel, J. Simpson, B. White, and R. Young.

Commissioners Absent: L. Bengal, S. Henderson, W. Thompson, and E. Valdez.

Visitors: Mark Bowles and Paul Means, Entergy Arkansas, Inc.; Senator Barbara Horn, Senate District 21; Carmie Henry, Arkansas Electric Cooperative; Walter Wright, Mitchell Law Firm; Janet Henry, SWEPCO; George Heintzen, Conway Corporation; Craig Noble, City Corporation; Robert Walker, Little Rock; Rel Corbin Little Rock; Terry Horton, FTN; Wilandra Deca and L. B. Langford, Sierra Club; Joe Wankum, North Little Rock; Max Adcock, MS School; Dina Nash, League of Woman Voters; Barbara Jarvis, Little Rock; William Saunders, Sierra Club; Andrew Parker, Governor's Office; and Charles Moulton, Attorney General's Office.

Call to Order
Chair Simpson called the meeting to order at 9:00 a.m.

Chair Simpson recognized special guests Senator Barbara Horn, State Representatives Bubba Powers and Randy Stewart, and Andrew Parker from Governor Beebe's office.

Quorum
Commission Secretary called roll and announced that a quorum was present.

Approval of Minutes
Chair Simpson asked for a motion approving the October 2009 meeting minutes. Commissioner Young made a motion to approve the minutes. Commissioner Hendrix seconded the motion. The motion passed.

Director's Report
Director Marks updated the commission regarding the Total Maximum Daily Load Study that is being preformed by the Environmental Protection Agency ("EPA") and the Illinois River Watershed and she announced that a meeting will be held in Fort Smith for EPA and the contractor to explain how the study will be conducted.

She discussed EPA's Clean Water Act Enforcement Implementation Team, the Office of Enforcement and Compliance Assistance, and the Short Term Oversight Team.

Director Marks reported on the upcoming legislative session and discussed upcoming budget cuts.

She updated the commission on the leak of raw sewage at Marble Falls, discussed a meeting with the members of the Sewer Improvement District, reported on a public meeting held in Jasper with all the users of the system, and discussed short-term and long-term fixes.

Director Marks discussed penalty violations, assessments and offered to provide training to the commissioners explaining the process of penalty assessments.

She read EPA's letter to Steve Drown regarding a presentation to Mo Shafii and presented Mr. Shafii with a plaque from EPA.

Chair Simpson announced that all public comments pertaining to the Southwestern Electric Power Company would be heard later in the meeting.

Public Comments
William Saunders
William Saunders of the Sierra Club announced that Garner Jones had passed away.

Rel Corbin
Mr. Rel Corbin of Little Rock discussed coal usage, poisons found in coal, alternatives to coal usage, stated he was against the use of coal, and stressed the importance of alternative usages for energy.

Robert Walker
Mr. Robert Walker of Little Rock discussed the best available technology, stated he was against coal usage, and discussed alternatives to coal usage.

George Heintzen
Mr. George Heintzen, Director of Power Quality and Major Accounts of Conway Corporation, also representing City Light and Power of Jonesboro, and West Memphis Utilities, discussed the current power usage in Arkansas, the inability for companies to follow standards without knowing future limits, and the impracticability of making investments without knowing EPA approved limits that will determine the design requirements. He urged the commission to approve the Petition for Variance.

Representative Bubba Powers
Representative Bubba Powers stated that the legislature passed this statute just for these situations. He asked the commission to grant the Petition for Variance and expedite this as soon as possible.

Senator Barbara Horn
Senator Barbara Horn stated that they were unified and loyal in support of Entergy, Arkansas, Inc., Southwestern Electric Power Company, Inc., and Arkansas Electric Cooperative Corporation. She asked the commission to grant the Petition for Variance.

Lane Larrieu
Mr. Lane Larrieu spoke about the history of Arkansas as a agricultural state and discussed the importance of taking care of the state for future generations.

Commission Reports
A. Chair John Simpson
1. Stipends - 2010
Chair Simpson asked for a motion approving the Stipend amounts for 2010. Commissioner Shannon made a motion to approve the minute order. Commissioner White seconded the motion. The motion passed. **(Minute Order No. 10-01)**

B. Regulations Committee - Randy Young
1. Regulation No. 23, Hazardous Waste Management; Docket No. 09-005-R
Commissioner Young stated that the department had asked that Regulation No. 23 be pulled down until it obtained review from the legislative committees. Commissioner Young announced that the rulemaking would be deferred until after the legislature adjourned.

2. Recommendation for Petition for Variance from Regulation Filed by Entergy Arkansas, Inc., Southwestern Electric Power Company, Inc. ("SWEPCO"), and Arkansas Electric Cooperative Corporation; Docket No. 10-001-MISC
Commissioner Young stated that a petition seeking a variance from provisions in Regulation 19 involving a deadline for installing air pollution control equipment to comply with provisions of the Best Available Retrofit Technology ("BART") requirements set by federal air pollution regulations was filed by Entergy Arkansas, Inc., Southwestern Electric Power Company, Inc., and Arkansas Electric Cooperative Corporation. The petitioners contend that a letter from EPA to the department has created doubt that the air pollution control equipment will be in place in time to meet the deadline. The director issued a recommendation to the commission that the petition

for a variance from the deadline be approved. The Sierra Club filed a petition requesting a public hearing be held prior to any decision by the commission on the variance request. Commissioner Young discussed a proposed minute order setting a public hearing date. Commissioner Young and the parties discussed possible dates for the public hearing.

Commissioner Young made a motion to approve a minute order with February 8, 2010, for the date of the public hearing. Commissioner Samples seconded the motion.

Mr. Levi Guter stated that the Sierra Club objected to the hearing dates because it did not allow the public enough time to respond.

Ms. Kelly McQueen, for petitioners, asked that they also be allowed to submit a response to comments. Commissioner Young agreed to the request.

Chair Simpson noted the objection of the Sierra Club.

Commissioner Young amended the minute order to include allowing the petitioner to file a response to comments and asked that the minute order be adopted as amended.

Commissioners asked questions and discussion followed.

Commissioner Young clarified his motion to include the date of February 8, 2010, for the public hearing and to allow the petitioners to submit a response to comments. The motion passed. **(Minute Order No. 10-02)**

Public Comments
Carmie Henry
Mr. Carmie Henry, Vice President of Governmental Affairs for Electric Cooperatives of Arkansas spoke in favor of affirming the air permit that ADEQ granted for the construction of the John W. Turk, Jr. Electric Power Generating Plant in Hempstead County.

Senator Barbara Horn
Senator Barbara Horn spoke about their continued loyalty to Entergy, Arkansas, Inc., Southwestern Electric Power Company, Inc. (“SWEPCO”), and Arkansas Electric Cooperative Corporation and stated she was in favor of the Turk Plant.

Robert Walker
Mr. Robert Walker spoke against the construction of the John W. Turk, Jr. Electric Power Generating Plant.

Administrative Hearing Officer – Michael O'Malley
A. Recommended Decision
1. Southwestern Electric Power Company; Consolidated Docket No. 08-006-P

Mr. Richard H. Mays, for the Sierra Club and National Audubon Society and Audubon Arkansas thanked the commission for the extended time allowance. He argued that technology exists today to allow a company to generate electricity, to provide jobs, and at the same time to protect the environment through today's existing technology. He stated that this facility is going to be one of the largest sources of pollution in the state. He discussed the Arkansas Public Service Commission, the Arkansas Court of Appeals, and the case before the Supreme Court.

Ms. Kelly McQueen interjected and stated what Mr. Mays was discussing was beyond what has been put in the request for oral argument and requested the commission to stop the discussion.

Judge O'Malley disagreed and stated that there is no rule that says Mr. Mays can't argue what he wants to argue. Discussion followed.

Mr. Mays stated that there are two reasons that exist that show why this permit should not be issued at this time. One, the Supreme Court has before it the validity of the Certificate of Need. Another issue is that EPA issued an order that the Arkansas Department of Environmental Quality ("ADEQ") has failed to provide an adequate justification in this permit to support its conclusion that integrated gasification combined cycle technology should not be considered as best available technology.

Commissioner Shannon asked a question regarding presenting evidence to the commission that was not in the record and discussion followed.

Mr. Charlie Moulton stated that it is fundamentally unfair to start adding evidence without the other side having an opportunity to rebut it.

Mr. Mays argued that there is a technology that ADEQ did not consider according to EPA, and it is a technology that can be used with coal, but it emits far fewer emissions than does the technology they're proposing to use.

Judge O'Malley objected on the grounds that this is new evidence that was not introduced in this case.

Mr. Mays turned over his presentation to Mr. Frederick W. Addison.

Mr. Frederick W. Addison, for Hempstead County Hunting Club, Dr. Mary O'Boyle, YCR Limited Partnership and F. Patrick Schultz discussed issues concerning fundamental fairness, the American legal jurisprudence system, the fairness to the litigants that are involved and the fairness of the process. Mr. Addison discussed their previous request for disclosure, argued that the Plum Point Plant is the most relevant and recent permit in Arkansas and should be considered, and stated that the use of meteorological data from the Shreveport Airport is fatally flawed because it is nothing like the Turk Plant site. He discussed SWEPCO's Welsh Plant in Texas and pollution at Caney Creek.

Ms. Kelly McQueen, for Southwestern Electric Power Company, gave a brief overview of the facts and the extensive evidence that was submitted in this matter. She discussed the facility with innovative ultra supercritical combustion technology and the state of the art suite of pollution control technology. She argued that the Turk Plant permit is one of the most stringent for any pulverized coal plant in the United States.

Commissioner Shannon asked a question regarding presenting evidence to the commission that was not heard before and discussion followed.

Ms. McQueen stated that Judge O'Malley meticulously and comprehensively documented his review of the record and the evidence that was submitted and urged the commission to adopt his recommended decision. She discussed Regulation No. 8, Best Available Control Technology ("BACT") and Maximum Achievable Control Technology, the Shreveport Airport modeling, the Welsh Plant and the Plum Point Permit. She urged the commission to affirm Judge O'Malley's recommended decision in all regards.

Ms. Anne Weinstein, for Arkansas Department of Environmental Quality, stated that the Commission needed to focus on the decision that was issued by Judge O'Malley and the requests that were listed in the request for oral argument. She argued that after two years of evaluating all these documents ADEQ issued the permit. At the hearing Judge O'Malley carefully weighed the testimony and evidence that was presented, he addressed all the arguments that were raised, and he balanced everything fairly and found that the petitioners did not meet their burden of proof. She asked the commission to adopt the minute order adopting his recommended decision.

Mr. Addison discussed PM10, compared the BACT, the sulphuric acid mist, and the lead levels in the Plum Point Permit to the Turk

permit. He argued that stack tests are extremely relevant because they show actually what the facility is accomplishing. He argued that the commission should not approve a plan with limits that are higher than the Plum Point facility. He asked the commission to approve the proposed minute order by the Hunting Club and the Sierra Club and Audubon Society.

Mr. Mays discussed the airport modeling, the differences in the two sites, and argued that these differences make the permit invalid.

Commissioners asked questions and discussion followed.

Commissioner Samples made a motion to adopt the Judge's recommended decision as presented. Commissioner Sickel seconded the motion.

Commissioner Chamberlin made a substitute motion to continue this issue for 50 days. The motion died for lack of a second.

Commission Secretary called a roll call vote with Commissioners Hendrix, McGrew, Samples, Shannon, Sickel, White, and Young voting "Yes" and Commissioner Chamberlin voting "No". The motion passed. **(Minute Order No. 10-03)**

B. Settled Cases per Regulation No. 8
1. In the Matter of Anthony Timberlands, Inc.-Bearden; Docket No. 09-013-P
Judge O'Malley reported that the parties had met and resolved the issues and filed a Permit Appeal Resolution. The case is closed.

2. In the Matter of Eastern Tank Services, Inc.; Docket No. 09-004-P
Judge O'Malley reported that the parties had met and resolved the issues and filed a Consent Administrative Order. The case is closed.

C. Annual Case Report
Judge O'Malley stated that a copy of the Annual Case Report has been provided to the commissioners and stated that if they had any questions they could call him.

Adjourn
There being no further business the meeting was adjourned.

THE NEXT COMMISSION MEETING IS SCHEDULED FOR 9:00 a.m., Friday, February 26, 2010.

APPROVED MINUTE ORDERS
REGULAR COMMISSION MEETING

10-01 The commission adopted a Minute Order adopting the Stipends for 2010.

10-02 The commission adopted a minute order setting up a public hearing regarding the Director's Recommendation for Petition from Variance from Regulation filed by Entergy Arkansas, Inc., Southwestern Electric power Company, Inc., and Arkansas Electric Cooperative Corporation; Docket No. 10-001-MISC.

10-03 The commission adopted a Minute Order regarding the Recommended Decision (Order No. 15) In the Matter of Southwestern Electric Power Company; Consolidated Docket No. 08-006-P

ADEQ
ARKANSAS
Department of Environmental Quality

Memorandum

TO: Michael O'Malley, Hearing Officer
Arkansas Pollution Control and Ecology Commissioners

FROM: Mike Bates, Chief, Air Division

DATE: February 12, 2010

SUBJECT: Proposed Revisions to Regulation Number 21, Arkansas Asbestos Abatement Regulation

The Arkansas Department of Environmental Quality (ADEQ) proposes revisions to Regulation Number 21, Arkansas Asbestos Abatement Regulation. Regulation Number 21 is applicable to all owners and operators conducting a demolition or renovation activity; persons conducting inspections, air monitoring, developing management plans, and designing and/or conducting asbestos response actions; and training providers.

The Department proposes this rulemaking to require air monitoring for asbestos fibers to be conducted before, during, and after a project, whereas the current regulation only requires air monitoring to be performed after the project is completed. The proposed changes also require that air monitoring be conducted by an independent third party who is not an agent of the firm doing the renovation. The proposed changes also require photos of individuals seeking asbestos training certification and increases reporting requirements from training providers. The proposed changes will reduce asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death. Making the proposed change will improve the overall effectiveness and enforceability of asbestos abatement regulation, and help ensure the proper training and efficient certification of asbestos workers in the state.

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO REGULATION NO. 21, ARKANSAS AESBESTOS ABATEMENT REGULATION)	DOCKET NO. 10-____-R

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NUMBER 21, ARKANSAS AESBESTOS ABATEMENT REGULATION

The Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "the Department"), for its Petition to Initiate Rulemaking to Amend Regulation Number 21, Arkansas Asbestos Abatement Regulation, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 21, Arkansas Asbestos Abatement Regulation. Regulation Number 21 is applicable to all owners and operators conducting a demolition or renovation activity; persons conducting inspections, air monitoring, developing management plans, and designing and/or conducting asbestos response actions; and training providers. The Department proposes this rulemaking to require air monitoring for asbestos fibers to be conducted before, during, and after a project, whereas the current regulation only requires air monitoring to be performed after the project is completed. The proposed changes also require that air monitoring be conducted by an independent third party who is not an agent of the firm doing the renovation. The proposed changes also require photos of individuals seeking asbestos training certification and increases reporting requirements from training providers. The proposed changes will reduce asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death. Making the proposed change will improve the overall effectiveness and enforceability of asbestos abatement regulation, and help ensure the proper training and efficient certification of

asbestos workers in the state.

2. The proposed regulatory amendments precipitated by the above-referenced need involve the following:

(a) Changes made to Reg. 21.611 of Regulation Number 21. The proposed regulatory amendment seeks to require training providers to notify the Department in advance of the course attendees' name, address, telephone number, fax number (if applicable), and e-mail address (if applicable), as well as specific course information, including title of the course, date and address where the course will be conducted, and the name of the instructor conducting the course. The proposed regulatory amendment also seeks to require training providers to submit to the Department within ten (10) days of class completion the course name and type, dates the course was conducted, a roster of attendees, including for each attendee: name and address, course completion certificate number, a class photo with a caption identifying each person (or individual photos of each student), and the instructor's name.

(b) Changes made to Reg. 21.901(G) of Regulation Number 21. The proposed regulatory amendment seeks to require that air monitoring be conducted before and during a project (in addition to after the project as currently required).

(c) Changes made to Reg. 21.901(G)(1) of Regulation Number 21. The proposed regulatory amendment seeks to require that air monitoring be conducted by an independent party who is not an employee of the firm doing the renovation or demolition.

(d) Changes made to Reg. 21.1501(D) of Regulation Number 21. The proposed regulatory amendment seeks to require individuals being certified to submit a photo of themselves.

3. In addition to the substantive changes above, the Department seeks to further modify the regulation in order to implement these changes. The following changes will improve the effectiveness and enforceability of the asbestos abatement regulation amendments described above.

(a) The proposed regulation will reduce most fees by 25%.

(b) The regulation was reformatted to meet the Commission's current regulation formation guidelines. Minor nonsubstantive wording changes were made to allow the reformatting to proceed.

(c) Chapter 26 was deleted since it contained transition language which no longer applies.

(d) Numerous terms were defined in Chapter 4 even though those terms were not used elsewhere in the regulation. These definitions have been deleted.

(e) The following definition were added: "Air Monitor," "Commercial Asbestos," "EPA," "Individual," "Person or Persons," and "Thorough Inspection."

(f) The applicability section was amended to clarify that the regulation covers disposal of asbestos containing waste.

4. The proposed changes to Regulation Number 21 have been reviewed by the Arkansas Economic Development Commission (AEDC) as required Under Act 143 of 2007.

5. Mike Bates or other Air Division staff from ADEQ will be available to answer

questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit "**A**" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "**B**", and a copy of a Financial Impact Statement for the proposed revision is attached as Exhibit "**C**", both of which are incorporated by reference. A memo regarding compliance with Act 143 of 2007 is attached as Exhibit "**D**" and hereby incorporated by reference. An analysis of the impact to small business required pursuant to Act 143 of 2007 (formerly Executive Order 05-04), is attached as Exhibit "**E**" and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "**F**" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "**G**" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation Number 21.

Respectfully Submitted,
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
5301 Northshore Drive
North Little Rock, Arkansas 72118

By: Mike Bates
Mike Bates

Pollution Control and Ecology Commission # 014.00-021

ARKANSAS POLLUTION CONTROL and ECOLOGY COMMISSION

REGULATION NO. 21 ARKANSAS ASBESTOS ABATEMENT REGULATION

INITIAL DRAFT

Submitted to the PC&E Commission February, 2010

EXHIBIT A

TABLE OF CONTENTS

CHAPTER 1: TITLE

Reg. 21.101 Title

The following rules and regulations of the Arkansas Pollution Control and Ecology Commission adopted pursuant to the Removal of Asbestos Material Act, (Section 3, Act 308 of 1997 codified at A.C.A. § 20-27-1001 et seq.) hereinafter referred to as "the Act" and the Arkansas Water and Air Pollution Control Act, (Section 7, Act 163 of 1993 codified at A.C.A. § 8-4-101 et seq.) shall be known as the "Asbestos Abatement Regulation" or ~~[~~"Regulation 21"~~]~~).

CHAPTER 2: PURPOSE

Reg. 21.201 Purpose

The purpose of this regulation is ~~to provide for the following:~~

(A) To protect public health and safety and the environment;

(B) To administer and enforce a program for the licensing of Asbestos Abatement Contractors, Asbestos Abatement Consultants and Training Providers and for the certification of Air Monitors, Contractor/~~s~~Supervisors, Inspectors, Management Planners, Project Designers, and Workers in accordance with the Asbestos School Hazard Abatement Reauthorization Act (ASHARA [MAP]), 40 CFR Part 763~~.~~; and

(C) To establish and enforce standards for demolitions, renovations, and disposal of friable asbestos-containing materials in order to reduce visible emission of asbestos-containing materials as provided by the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR, Part 61, and to establish standards for response actions as provided by the Asbestos Model Accreditation Plan, 40 CFR, Part 763, Subpart E, ASHARA.

CHAPTER 3: APPLICABILITY

Reg. 21.301 Applicability

The provisions of this regulation are applicable to all owners and operators conducting a demolition or renovation activity; persons conducting inspections, air monitoring, developing management plans, and designing and/or conducting asbestos response actions; the management and disposal of asbestos containing waste materials; and training providers.

CHAPTER 4: DEFINITIONS

"ACBM" or asbestos-containing building material means any friable and nonfriable asbestos-containing material that is in or on interior structural members or other parts of a facility.

"ACM" or asbestos-containing material means any ~~asbestos~~ material ~~which~~ that contains more than one percent (1%) of friable and/or nonfriable asbestos material.

"Adequately wetted" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"**Aggressive air sampling**" means artificially circulating the air so that fibers remain airborne during sample collection.

"AHERA" means Asbestos Hazard Emergency Response Act, published at Section 203 of Title II of TSCA, Section 15 U.S.C. 2643.

"Air analysis" means the microscopic examination of collected air samples to determine airborne fiber concentrations.

~~**"Air filtration system"** means a system designed to contain asbestos fibers in a specified area and prevent such fibers from getting into the outside air. Such systems shall utilize HEPA (High Efficiency Particulate Air) filters to capture such fibers.~~

"Air monitor" means any person who collects airborne samples for analysis of asbestos fibers.

"Air monitoring" means the process of measuring the airborne asbestos fiber concentration of a specific quantity of air over a given amount of time ~~for purposes of clearance air monitoring as prescribed by this regulation~~ before, during, or after demolition or renovation activities.

"Air sampling" means the collection of units of air to determine airborne fiber concentration for purposes of clearance air monitoring as prescribed by this regulation.

"Asbestos abatement consultant" means any person or other legal entity, however organized, that acts as an agent for the owner or operator in performing demolitions, renovations, air monitoring, and/or response actions which will involve, or may involve, the removal or disturbance of ~~RACM~~ ACM in any facility. This does not include in-house personnel performing work associated with the performance of that person's employment

"Asbestos abatement contractor" means any person or other legal entity, however organized, that acts as an agent for the owner or operator in performing demolitions, renovations, air monitoring, and/or response actions which will involve, or may involve, the removal or disturbance of ~~RACM~~ ACM in any facility. This does not include in-house personnel performing work associated with the performance of that person's employment

"Asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this regulation. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovations operations, this term also includes regulated asbestos-containing waste and materials contaminated with asbestos including disposable equipment and clothing.

"ASHARA" means Asbestos School Hazard Abatement Reauthorization Act.

~~**"Bridging encapsulant"** means the application of a sealant which provides a coating over the surface of RACM to prevent the release of asbestos fibers.~~

"Category I nonfriable asbestos-containing material ~~(ACM)~~" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than ~~1% (one percent)~~ one percent (1%) asbestos as determined using the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

"Category II nonfriable asbestos-containing material ~~(ACM)~~" means any material, excluding category I nonfriable ACM, containing more than ~~1% (one percent)~~ one percent (1%) asbestos as determined using the methods specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Certificate" means a document issued by the Department to any person certifying that person has satisfactorily completed such asbestos training, examination (as provided in ~~Section~~ Chapter 18 of this regulation), and other requirements of this regulation to perform the duties of the following: Air Monitor, Contractor/~~s~~Supervisor, Inspector, Management Planner, Project Designer, and Worker.

"Certification" means the status or classification of an individual who has been accredited in accordance with the EPA Model Accreditation Plan requirements and has satisfactorily met the additional State requirements described in this regulation.

"Certified Industrial Hygienist (CIH)" means a person certified in the comprehensive practice of Industrial Hygiene by the American Board of Industrial Hygiene.

"Clearance air monitor" means as required by this regulation, any person who measures the airborne fiber concentration of a specific quantity of air over a given amount of time at the conclusion of any demolition, renovation, or asbestos response action for which containment was utilized.

"Consent Administrative Order (CAO)" means an administrative order entered into by consent of the parties, including the Department.

"Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

"Commission" means the Arkansas Pollution Control and Ecology Commission.

"Contractor/~~s~~Supervisor" means any person who supervises the following activities with respect to friable ACM in a facility: a response action other than a SSSD activity, a maintenance activity that disturbs friable ACM, or a response action for a major fiber release episode and meets the certification requirements of this regulation.

"Cutting" means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

"Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or intentional burning of a facility.

"Department" means the Arkansas Department of Environmental Quality or its successor ~~Pollution Control and Ecology~~.

"Director" means the Director of the Arkansas Department of Environmental Quality or its successor ~~Pollution Control and Ecology~~.

"Emergency renovation operation~~s~~" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

"Encapsulation" means the coating of ACM with a bonding or sealing agent to prevent the release of airborne fibers.

"EPA" means the United States Environmental Protection Agency.

"Facility" means any institutional, commercial, public, industrial, school, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this regulation is not excluded, regardless of its current use or function.

"Facility component" means any part of a facility, including equipment.

"Friable asbestos-containing building material (ACBM)" means any friable asbestos-containing material that is in or on interior structural members or other parts of a school, ~~or~~ public building, or ~~and~~ commercial building.

"Friable asbestos material" means any material~~s~~ containing more than one percent (1%) asbestos as determined by using the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than ten ~~10~~ percent (10%) as determined by a method other than point counting by Polarized Light Microscopy (PLM), verify

the asbestos content by point counting using PLM. The term includes nonfriable asbestos-containing material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Glovebag ~~procedure~~" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials. Properly installed and used, glovebags provide a small work area enclosure typically used for small-scale short-duration asbestos stripping operations. Information on glovebag installation, equipment and supplies, and work practices is contained in the Occupation Safety and Health Administration's (OSHA's) final rule on occupational exposure to asbestos (Appendix G to 29 CFR 1910.1001).

"Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

"HEPA" means High Efficiency Particulate Air (filter).

"HVAC System" means ~~H~~heating, ventilation, and air conditioning system.

"Individual" means any natural person.

"In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

"Inspection" means an activity undertaken in a facility to determine the presence or location, or to assess the condition, of friable or nonfriable ACM or suspect ACM, whether by visual or physical examination or by collecting samples of such material. This term includes reinspection of friable and nonfriable ~~known or assumed~~ ACM, known or assumed, which has been previously identified. This definition does not apply to the following:

(A) Periodic visual surveillance solely for the purpose of recording or reporting a change in the condition of identified or assumed ACM;

(B) Regulatory compliance inspections conducted by Federal, State, or local government officials; and

(C) Visual ~~inspections~~ observations conducted solely for the purposes of determining completion of response actions.

"Inspector" means any ~~person~~ individual who inspects for ACM in a facility and meets the certification requirements of this regulation.

"Installation" means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

"Leak-tight" means solids or liquids cannot escape or spill out. It also means dust-tight.

"License" means a document issued by the Department to an Asbestos Abatement Contractor, Asbestos Abatement Consultant, or Training Provider who meets the criteria for licensing described in this regulation.

"Major fiber release episode" means any uncontrolled or unintentional disturbance of ACM, resulting in a visible emission, which involves the falling or dislodging of more than ~~3~~ three square or linear feet of friable ACM.

~~**"Malfunction"** means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of asbestos are increased. Failure of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset conditions, equipment breakdown, or process failure.~~

"Management planner" means any person who prepares management plans for a school and and who meets the certification requirements of this regulation.

"Management plan" means a formal written procedure for appropriate actions for surveillance and management of ACM.

"MAP" means a Model Accreditation Plan~~.~~ pursuant to the Asbestos Model Accreditation, Plan; Interim Final Rule, published at 40 CFR, Part 763, Appendix C to Subpart E as of October 13, 2005.

"Minor fiber release episode" means any uncontrolled or unintentional disturbance of ACM, resulting in a visible emission, which involves the falling or dislodging of ~~3~~ three square or linear feet or less of friable ACM.

"NESHAP" means National Emission Standards for Hazardous Air Pollutants as found in 40 CFR Part 61 as of May 19, 2009.

"Nonfriable asbestos containing material" means any material containing more than one percent (1%) asbestos as determined using the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Nonscheduled renovation operation" means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.

"Notice of Deficiency (NOD)" means a written ~~enforcement~~ document which identifies deficiencies in a Notice of Intent.

"Notice of Intent (NOI)" means a written notice to the Department which provides detailed information concerning renovations of RACM and all demolitions.

"Notice of Violation (NOV)" means a written notification to a person of alleged violations. The notice of violation **(NOV)** initiates an administrative enforcement action.

"Outside air" means the air outside buildings and structures including but not limited to, the air under a bridge or in an open air ferry dock.

"Owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

"Particulate asbestos material" means finely divided particles of asbestos or material containing asbestos.

"Penetrating encapsulant" means a liquid material applied to RACM to control airborne fiber release by penetrating into the material and binding the fibers together.

"Permitted landfill" means a waste disposal facility in Arkansas which has received a permit from the Department, authorizing the receipt and disposal of certain waste materials under the provisions of the Arkansas Solid Waste Management Code.

"Person or Persons" means any individual, corporation, or other legal entity.

"Phase contrast microscopy (PCM)" means ~~a method of analyzing air samples utilizing~~ the method of analyzing air samples published at the National Institute for Occupational Safety and Health (NIOSH), Method 7400, issue 2 entitled "ASBESTOS and OTHER FIBERS by PCM" ~~Fibers"~~ published in the NIOSH Manual of Analytical Methods, ~~Third~~ Fourth Edition, ~~Second Supplement,~~ August 15, 1994 ~~1987~~.

"Planned renovations operations" means a renovation operation, or a number of such operations, in which some RACM will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time based on operating experience.

"Project designer" means any person who designs the following activities with respect to friable ACM in a facility: a response action other than a small-scale short-duration ~~maintenance~~ activity, a maintenance activity that disturbs friable ACM other than a small-scale short-duration maintenance activity, or a response action for a major fiber release episode and meets the certification requirements of this regulation.

"Regulated asbestos-containing material (RACM)" means

(A) ~~f~~Friable asbestos material;

(B) ~~c~~Category I nonfriable ACM that has become friable;,

(C) ~~c~~Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; ~~or~~

(D) ~~e~~Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this regulation~~.~~;

(E) Resilient flooring which contains ACM that will be or has been removed by breaking, sanding, grinding, cutting, or abrading; or

(F) Mastic used as a binder.

"Remove" means to take out RACM or facility components that contain or are covered with RACM from any facility.

"Renovation" means altering ~~in any way~~ a facility or any facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

"Resilient floor covering" means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than one percent (1%) asbestos as determined using polarized light microscopy according to the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy, as of June 19, 1995.

"Response action" means a method, including removal, encapsulation, enclosure, repair, and operation and maintenance, that protects human health and the environment from friable ACM.

"School" means any elementary or secondary school as defined in Section 198 of the Elementary and Secondary Act of 1965 (20 U.S.C. 2854).

"Small-scale short-duration activities (SSSD)" means:

(A) ~~t~~Tasks ~~such as~~ including, but not limited to:

(1) removal of asbestos-containing insulation on pipes;

(2) removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(3) replacement of an asbestos-containing gasket or a valve;

(4) installation or removal of a small section of drywall; or

(5) installation of electrical conduits through or proximate to asbestos-containing materials~~;~~.

(B) SSSD can be further defined by the following considerations:

(1) removal of small quantities of ACM only if required in the performance of another maintenance activity not intended as asbestos abatement;

(2) removal of asbestos-containing thermal system insulation not to exceed amounts greater ~~that~~ than those which can be contained in a single glovebag;

(3) minor repairs to damaged thermal system insulation which do not require removal;

(4) repairs to a piece of asbestos-containing wallboard; and

(5) repairs, involving encapsulation, enclosure, or removal, to small amounts of friable ACM only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

"Strip" means to take off RACM from any part of a facility or facility component.

"**Suspect building material**" means any building material which is not glass, wood, or metal.

"Thorough inspection" means an inspection which:

(A) is written;

(B) describes the current state of the facility, or portion of the facility if the inspection did not encompass the entire facility, and the building materials therein;

(C) includes all suspect building materials accessible through non-invasive means;

(D) identifies if the inspection encompasses the entire facility or a portion thereof;

(E) includes a judgment of conditions (good, poor) of asbestos-containing material; and

(F) uses documented sampling methodology.

"Training day" means a day consisting of eight ~~8~~ consecutive hours (including lunch and breaks) in which an approved training course is conducted.

"Training provider" means any person or other legal entity, however organized, who conducts some or all of the training programs for asbestos professional disciplines which are regulated in this regulation and meets the licensing requirements of this regulation.

"Transmission electron microscopy (TEM)" means a method of analyzing air samples and bulk samples through the use of a transmission electron microscope operated under procedures listed in 40 CFR, Part 763, Subpart E, Appendix A (AHERA), as of June 19, 1995. The transmission electron microscope utilizes an electron beam that is focused onto a thin sample.

"Visible emissions" means any emissions which are visually detectable without the aid of instruments, coming from any RACM or asbestos-containing waste material. This does not include uncondensed water vapor.

"Waste generator" means any owner or operator of a source covered by this regulation whose action or process produces asbestos-containing waste materials.

"Waste shipment record" means the shipping documents required to be originated and signed by the waste generator, and used to track and substantiate the disposition of asbestos-containing waste material.

"Working days" means the days Monday through Friday, including any holidays which fall on any of the days Monday through Friday.

"Worker" means any person who meets the certification requirements of this regulation and carries out any of the following activities with respect to friable ACM in a facility: a response action other than a SSSD activity, a maintenance activity that disturbs friable ACM other than a SSSD activity, or a response action for a major fiber release ~~episode and meets the certification requirements of this regulation~~.

CHAPTER 5: GENERAL PROVISIONS

Reg. 21.501 Asbestos Inspection

The owner or operator of a demolition, renovation, or response action shall conduct, or have conducted, a thorough inspection of ~~thoroughly inspect~~ the affected facility or part of the facility for the presence of asbestos including category I and category II nonfriable asbestos prior to the commencement of the demolition, renovation, or response action.

Reg. 21.502 Project Design

A project design is required prior to renovation, demolition, or response action ~~for any job greater than~~ that is not a SSSD or minor release episode that involves RACM. ~~The person performing the project design must meet the certification provisions of this regulation.~~ The project design must be a written document, specific to the job in question. A copy must be maintained at the job site and be made available to Department employees upon request.

Reg. 21.503 Licensing and/or Certification Provisions

A person must meet the licensing and/or certification provisions of this regulation prior to engaging in renovations, demolitions, or response activities involving RACM including, but not limited to, the following:

(A) A person supervising any of the following activities with respect to RACM in a facility—a response action other than a SSSD activity, a maintenance activity that disturbs RACM other than a SSSD ~~maintenance~~ activity, or a response action for a major fiber release episode—must be trained, certified as a Contractor/Supervisor, and meet all other requirements of this regulation;

(B) A person conducting an inspection for ACM in a facility must be trained, certified as an Inspector, and meet all other requirements of this regulation;

(C) A person preparing management plans for schools must be trained, certified as a Management Planner, and meet all other requirements of this regulation;

(D) A person designing the following activities with respect to RACM in a facility—a response action other than a SSSD ~~maintenance~~ activity~~;~~, a maintenance activity that disturbs RACM other than a SSSD ~~maintenance~~ activity, or a response action for a major fiber release episode—must be trained, certified as a Project Designer, and meet all other requirements of this regulation;

(E) A person who carries out any of the following activities with respect to RACM in a facility—a response action other than a SSSD activity, a maintenance activity that disturbs RACM other than a SSSD activity, or a response action for a major fiber release episode—must be trained, certified as a Worker, Contractor/Supervisor, or Air Monitor , and meet all other requirements of this regulation; and

(F) A person conducting ~~clearance~~ air monitoring as prescribed in this regulation must be trained, ~~and~~ certified as an Air Monitor, and meet all other requirements of this regulation.

CHAPTER 6: NOTIFICATIONS

Reg. 21.601 Demolition

For any demolition of a facility or facility component (even if no asbestos is present), the owner or operator shall submit a written NOI to the Department, by ~~which must be either~~ hand deliver~~ed~~, post~~-~~marked by U.S. Postal Service, or post-marked by a commercial delivery service ~~to the Department~~ at least ~~10~~ ten working days before any demolition activity begins ~~(such as site preparation which would break up, dislodge, or similarly disturb asbestos~~ containing ~~material)~~. Such notice must be accompanied by the required fee which is described in Chapter 22 of this regulation.

Reg. 21.602 Demolition Under Order of a Government Agency

For any facility being demolished under order of a State or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, the owner or operator shall submit a written NOI to the Department by hand delivery, ~~deliver~~ postmarked by U.S. Postal Service, or commercial delivery service ~~a NOI~~ as early as possible before, but not later than ~~the following~~ one working day following commencement of demolition.~~to the Department.~~ Such notice shall be accompanied by the required fee which is described in ~~Section~~ Chapter 22 of this regulation.

Reg. 21.603 Renovation Projects

For any renovation project, including any nonscheduled renovation operation~~,~~ involving the following amounts of RACM: at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or at least ~~1~~ one cubic meter (~~or~~ 35 cubic feet) where the length could not be measured previously, the owner or operator shall submit a NOI to the Department by either hand~~-~~deliver~~ed~~, ~~or~~ post~~-~~marked by U.S. Postal Service, or post-marked by commercial delivery service at least ~~10~~ ten working days before asbestos stripping, ~~or~~ removal work, or any other activity begins (such as site preparation that would break up or dislodge or similarly disturb asbestos containing material). Such notice must be accompanied by the required fee which is described in ~~Section~~ Chapter 22 of this regulation.

Reg. 21.604 Planned Renovation Operations

For planned renovation operations involving individual, nonscheduled operations of a combined additive amount of RACM to be removed or stripped during a calendar year in the amounts of at least 80 linear meters (260 linear feet) of pipe, at least 15 square meters (~~or~~ 160 square feet) on other facility components, or at least ~~1~~ one cubic meter (~~or~~ 35 cubic feet) of facility components where the length or area could not be measured previously, the owner or operator shall submit a written NOI to the Department by hand deliver~~yr~~, post-marked by the U.S. Postal Service, or post-marked by a commercial delivery service ~~a NOI to the Department~~ by December 21 for the upcoming calendar period of January 1 through December 31. This notice must be accompanied by the required fee which is described in ~~Section~~ Chapter 22 of this regulation. To determine whether this paragraph applies to planned operations involving nonscheduled operations, the

owner or operator shall predict the combined additive amount of RACM to be removed or stripped during a calendar year of January 1 through December 31.

Reg. 21.605 Emergency Renovation Operations

For emergency renovation operations involving ~~the~~ a sudden, unexpected event ~~necessitating the renovation greater than~~ that is not a SSSD or minor episode of RACM, the owner or operator shall submit a written NOI to the Department by hand delivery, ~~or~~ post-marked by the U.S. Postal Service, or post-marked by a commercial delivery service ~~a NOI to the Department~~ as early as possible ~~before~~, but not later than the following working day. Such notice must be accompanied by the required fee which is described in ~~Section~~ Chapter 22 of this regulation.

Reg. 21.606 NOI Requirements

All written NOI's shall be submitted on a form provided by the Department ~~(see Attachment A)~~ and shall include the following:

(A) ~~A~~an indication of whether the notice is the original or a revised notification;

(B) ~~N~~name, address, and telephone number of both the facility owner and operator and the asbestos abatement contractor owner or operator;

(C) ~~T~~type of operation: demolition or renovation;

(D) ~~D~~description of the facility or affected part of the facility including the size (square meters [square feet] and number of floors) age, and present and prior use of the facility;

(E) ~~P~~procedure, including analytical methods, employed to detect the presence of RACM and category I and category II nonfriable ACM;

(F) ~~E~~estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface areas in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off ~~the~~ facility components where the length or area could not be measured previously. Also, estimate the approximate amount of category I and category II nonfriable ACM in the affected part of the facility that will not be removed before demolition;

(G) ~~L~~location and street address (including building number or name and floor or room number, if appropriate), city, county, and state, of the facility being demolished or ~~f~~ renovated;

(H) ~~S~~scheduled starting and completion dates of asbestos removal work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb ~~asbestos material~~ ACM) in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the

beginning and ending dates of the report period as described in ~~6.4 of this Section~~ Reg. 21.604;

(I) ~~S~~scheduled starting and completion dates of demolition or renovation of RACM;

(J) ~~D~~description of planned demolition or renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components;

(K) ~~D~~description of work practices and engineering controls to be used to comply with the requirements of this subpart, including asbestos removal and waste-handling emission control procedures;

(L) ~~N~~name and location of the waste disposal site where the asbestos-containing waste material will be deposited;

(M) ~~A~~a certification that at least one Contractor/~~s~~Supervisor trained as required by this regulation will supervise the stripping and removal described by this notification;

(N) ~~F~~for facilities described in ~~6.2 of thisSection~~ Reg. 21.602, the name, title, and authority of the State or~~f~~ local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification;

(O) ~~F~~for emergency renovations described in ~~6.5 of thisSection~~ Reg. 21.605, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden;

(P) ~~D~~description of procedures to be followed in the event that unexpected RACM is found or category II nonfriable ACM becomes crumbled, pulverized, or reduced to powder;

(Q) ~~N~~name, address, and telephone number of the waste transporter; and

(R) ~~N~~name, address, Department certification number, and telephone number of the Inspector, Project Designer, and Air Monitor**.**

Reg. 21.607 Incomplete Notifications

The Department shall review all notifications for accuracy and completeness. Notifications which are incomplete or do not otherwise meet the notification requirements of this ~~section~~ chapter shall:

(A) ~~B~~be returned to the owner or operator along with a NOD;

(B) ~~B~~be corrected and resubmitted by the owner or operator within a time frame specified by the Department in the NOD; and

(C) ~~B~~be subject to a new notification period.

Reg. 21.608 Beginning Date/Asbestos Removal Change

An owner or operator who has already submitted a~~n~~ NOI shall notify the Department, as necessary, (1) when the beginning date for prepping and/or removal has changed and/or (2) when the amount of asbestos affected changes by at least 20% ~~percent~~. The owner or operator shall also provide, in writing, the reason(s) for the change. Changes shall be submitted in letter form or on a revised notification form with the required fee which is described in ~~Section~~Chapter 22 of this regulation. Delivery of the updated notice by the U.S. Postal Service, commercial delivery service, or hand delivery is ~~acceptable~~required.

(A) For any start date earlier than the date provided to the Department, the owner or operator shall notify the Department in writing at least 10 working days prior to the beginning of any stripping or removal work;

(B) For any start date after the date provided to the Department, the owner or operator shall notify the Department by telephone as soon as possible before the original start date and provide the Department with a written notice of the new start date as soon as possible before, and no later than, the original start date.

Reg. 21.609 Changes to the NOI

An owner or operator who has already submitted a~~n~~ NOI shall notify the Department of the following changes. These changes may be submitted by phone or fax. There will be no fee for these submittals.

(A) Ending date,

(B) Scheduled work hours,

(C) Engineering controls and work practices,

(D) Disposal site, or

(E) Air Monitor, Inspector, and/or Project Designer.

Reg. 21.610 Changes in Operator

Changes in operator will result in the submittal of a new NOI with a new notification period and a new fee as described in ~~Section~~Chapter 22 of this regulation.

Reg. 21.611 Training Provider's Required Submittals

Training Providers licensed pursuant to this regulation shall:

(A) Submit to the Department a notice of any scheduled MAP asbestos-related training course. Said notice must be submitted at least seven working days prior to the course being conducted unless good cause is demonstrated to the Department that a seven day advance notice is not feasible.

(B) The notice required pursuant to (A) above shall include the following information:

(1) Name of the Licensed Training Provider,

(2) To the extent available contact information for the Licensed Training Provider, including:

(a) address;

(b) telephone number,

(c) facsimile number, and

(d) e-mail address.

(3) Course information, including:

(a) title of course,

(b) date and address where course will be conducted, and

(c) name of instructor conducting the course.

(4) Notices of changes or cancellations of courses shall be submitted to the Department at least two days prior to the scheduled date of a course unless good cause is demonstrated to the Department that two days advance notice is not feasible.

(C) Submit to the Department, within ten (10) days of completion of each course:

(1) Course name [discipline and type (initial or refresher)],

(2) Dates the course was conducted,

(3) A roster of course attendees successfully completing the course, including the following information:

(a) Name, and address of each attendee,

(b) Course completion certificate number,

(c) Class photograph or individual photos which clearly shows the faces of each student successfully completing the course and a caption identifying each attendee, and

(4) The course instructor's name.

(D) Notify EPA or the Department, as appropriate, in advance whenever it changes course instructors.

CHAPTER 7: RECORD KEEPING

Reg. 21.701 On Site Documents

The owner or operator shall keep at the site copies of:

(A) all licenses and certifications issued by the Department pursuant to this regulation for each person participating in a demolition, renovation, or response action~~.~~, and

(B) the Project Design

Reg. 21.702 Wetting Operations

The owner or operator shall keep at the site copies of any written approval issued by the Department such as prior written approval from the Director to allow the owner or operator to not use wetting where it would cause unavoidable damage to equipment or present a safety hazard or to use an alternate collection device. The owner or operator shall also be required to keep copies of the recorded temperature for the area containing the facility components for the beginning, middle, and end of each workday for any period during which wetting operations were suspended due to freezing temperatures.

Reg. 21.703 Site Visit by the Department

The owner or operator shall make available upon request by the Department during a site visit the following:

(A) A copy of the ~~survey~~ inspection, including results of bulk sample analysis, air monitoring data, ~~and~~

(B) A copy of the NOI or any revised NOI ~~sent~~ submitted in compliance with this regulation and the attached order of any State or local government official ordering the demolition of a facility due to structural unsoundness and danger of imminent collapse if applicable~~.~~,

(C) A copy of the project design, and

(D) Certifications and licenses of personnel participating in demolition, renovation, or response actions.

Reg. 21.704 Copies

Copies of all items listed in Reg. 21.701 ~~7.1~~ and Reg. 21.702 ~~7.2~~ shall be kept by the operator for a minimum of ~~2~~ two years.

CHAPTER 8: WORK PROCEDURES - APPLICABILITY

Reg. 21.801 Applicability

Asbestos demolition, renovation ~~project~~s, or response actions which are not ~~involve the removal of greater than~~ a SSSD or a minor fiber release episode ~~of RACM~~ shall be conducted by persons licensed or certified in accordance with this regulation, or may be conducted by permanent employees of the facility owner, provided such permanent employees have been trained and certified for asbestos abatement in accordance with these regulations.

CHAPTER 9: GENERAL WORK PROCEDURES

Reg. 21.901 Work Procedure Compliance

Each owner or operator of ~~(1)~~ ~~all~~ any demolition~~s~~ or ~~and~~ ~~(2)~~ ~~all~~ any renovation~~s~~ involving projects of at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or at least 1 cubic meter (~~or~~ 35 cubic feet) where the length could not be measured previously shall comply with the following work procedures.

(A) Generally, the owner or operator of a demolition, renovation, or response action to whom this regulation applies shall remove all RACM from a facility before ~~being~~ the facility is demolished or renovated or any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. If a facility is demolished by intentional burning, all RACM including category I and category II nonfriable ACM must be removed in accordance with this regulation before burning.

(B) The owner or operator need not remove ACM before demolition if:

(1) It is category I nonfriable ACM that is not in poor condition and is not friable;

(2) It is on a facility component that is encased in concrete or other similarly hard material and is adequately ~~wet~~ wetted whenever exposed during demolition;

(3) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately ~~wet~~ wetted at all times until disposed; or

(4) It is category II nonfriable asbestos-containing material and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

(C) The owner or operator shall ensure that no RACM ~~shall~~ will be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless one Contractor/~~s~~Supervisor who is trained and meets all certification requirements of this regulation is present during all such activities.

(D) When a facility component that contains, is covered with, or is coated with RACM is taken out ~~from~~ of a facility as a unit or in sections, the owner or operator shall:

(1) Ensure that the ~~Adequately wet~~ RACM is adequately wetted when exposed during cutting and disjointing operations; and

(2) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

(E) When RACM is stripped from a facility component while it remains in place in the facility, the owner or operator shall adequately wet the RACM during the stripping operation.

(F) In renovation operations, wetting is not required if:

(1) The owner or operator has obtained prior written approval from the Director or his/her designee based upon a written application that such wetting to comply with this regulation would unavoidably damage equipment or present a safety hazard; and

(2) The owner or operator uses one of the following emission control methods:

(a) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air. The owner or operator may alternatively use air cleaning and shall, for fabric filter collection devices installed after January 10, 1989, provide for easy inspection for faulty bags. After January 10, 1989, if the use of a fabric filter creates a fire or explosion hazard, or the Director determines a fabric filter is not feasible, the Director may authorize as a substitute the use of wet collectors designed to operate with a unit contacting energy of at least 9.95 kilopascals (or 40 inches water gage pressure), or use a HEPA filter that is certified to be at least 99.97 percent efficient for 0.3 micron particles. The Director may authorize the use of filtering equipment other than described in Reg. 21.901(F) ~~9.6~~ if the owner or operator demonstrates to the Director's satisfaction that it is equivalent to the described equipment in filtering particulate asbestos material. A copy of any authorization from the Director must be retained at the site.

(b) A glove-bag system designed and operated to contain particulate asbestos material produced by the stripping of the asbestos materials.

(c) Leak-tight wrapping to contain all RACM prior to dismantlement.

(G) The owner or operator shall cause air monitoring to be conducted in the area of the proposed renovation or demolition (for which containment will be utilized and which involved projects greater than 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet), or at least one cubic meter (35 cubic feet) where the length could not be measured previously) prior to the beginning of any actual renovation or demolition for the purposes of establishing baseline data.

(H) The owner or operator shall cause air monitoring to be conducted each day during the renovation or demolition in the outside perimeter of the area of the proposed renovation or demolition (for which containment was utilized and which involved projects greater than 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet), or at least one cubic meter (35 cubic feet) where the length could not be measured previously) in order to verify that asbestos fibers are not being released from the containment area.

(I) The owner or operator shall cause ~~ensure that~~ clearance air monitoring to ~~shall~~ be conducted inside containment after the completion of any renovation, demolition, or asbestos response action involving RACM ~~friable ACBM~~ for which containment was utilized and which involved projects greater than 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet), or at least ~~1~~ one cubic meter (35 cubic feet) where the length could not be measured previously.

(J) The owner or operator shall cause ~~ensure that~~ such sampling to be ~~is~~ conducted by a person who has met the certification requirements of this regulation for the ~~Contractor/s~~Supervisor ~~and~~ Air Monitor~~ing~~ discipline~~s~~ as provided in this regulation and is not an employee of the licensed asbestos firm conducting the demolition, renovation, or asbestos activities.

(K) The owner or operator shall cause ~~ensure that~~ sampling analysis to be ~~is~~ conducted by a laboratory which, for PCM analysis, uses NIOSH method 7400~~. F~~ and for TEM analysis, the laboratory must be approved by the National Institute of Standards (NIST) or Technology National Voluntary Laboratory Acc~~e~~reditation Program (NVLAP).

(L) The owner or operator shall cause ~~ensure that~~ aggressive air sampling to ~~shall~~ be conducted after removal and cleanup activities have been completed to determine the final clearance level.

(1) Aggressive sampling results indicate an air fiber count of 0.01 fibers per cubic centimeter (f/cc) or less when using PCM; or

(2) If TEM is used, an arithmetic mean of less than or equal to 70 structures per square millimeter (s/mm²), or a Z-test result that is less than or equal to 1.65.

(M) If the aggressive air sampling analysis reveals an airborne fiber count greater than 0.01 f/cc (or 70 s/mm² or Z-test of 1.65) then the area shall be cleaned again, followed by additional aggressive air sampling. This process shall continue until the required air level has been achieved.

(N) Aggressive clearance sample collection shall be done in accordance with the requirements of 40 CFR Part 763, Subpart E, Appendix A(II)(B)(17) (AHERA) in effect on June 19, 1995.

~~**Reg. 21.902**~~

~~The Department recommends clearance~~ ~~Air monitoring~~ ~~shall~~ ~~be performed by a certified Air Monitor who is not an agent of the licensed asbestos firm conducting the demolition, renovation, or asbestos activities.~~

CHAPTER 10: DISPOSAL PREPARATION

Reg. 21.1001 Disposal Preparation

The owner or operator shall dispose of RACM from all demolitions and all renovations involving projects of at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or at least ~~1~~ one cubic meter (or 35 cubic feet) where the length could not be measured previously in ~~a manner to comply~~ accordance with the following work procedures:

(A) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections as provided in this regulation, it shall be stripped or contained in leak-tight wrapping except for large facility components as provided in this section. If stripped either:

(1) ~~Adequately wet t~~The RACM shall be adequately wetted during stripping; or

(2) ~~Use a~~ A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping must be used. The system must exhibit no visible emissions to the outside air or be designed and operated as provided in Reg. 21.901(F) ~~Section 9.6 of this regulation~~.

(B) For large facility components such as reactor vessels, large tanks, and steam generators, the RACM is not required to be stripped if:

(1) The component is removed, transported, stored, disposed of, or reused without disturbing the RACM;

(2) The component is encased in a leak-tight wrapping; and

(3) During all loading and unloading operations and during storage, the leak-tight wrapping is labeled according to the following:

Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of the waste so that the signs are visible. The markings must be displayed in such a manner and location that a person can easily read the legend; conform to the requirements for 51 centimeters (cm) X 36 cm (20 inches (in) X 14 in) upright format signs specified in 29 CFR 1910.145 (d)(4) and this paragraph; and display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

Legend:
DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD

Authorized Personnel Only
Notation:
2.5 cm (1 in~~ch~~) Sans Serif, Gothic or Block
2.5 cm (1 in~~ch~~) Sans Serif, Gothic or Block
1.9 cm (3/4 in~~ch~~) Sans Serif, Gothic or Block
14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(C) For all RACM, including material that has been removed or stripped:

(1) ~~Adequately wet t~~The material must be adequately wetted and ~~ensure that it~~ remain~~s~~ adequately wetted ~~wet~~ until collected and contained or treated in preparation for disposal in accordance with this regulation; and

(2) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material;

(3) Transport the material to the ground via leak-tight chutes or containers if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections;

(4) RACM contained in leak-tight wrapping that has been removed in accordance with the following provisions of this regulation need not be wetted if:

(a) The owner or operator is complying with the provisions of Reg. 21.1001(A)(2) ~~10.1(A)(ii) as set out in this regulation~~;

(b) The owner or operator has received prior written approval from the Director to not wet because of resulting equipment damage or safety hazard and is using an alternate method approved in writing by the Director as set out in this regulation; or

(c) The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible when the temperature at the point of wetting is below 0° ~~degrees~~ C (or 32° ~~degrees~~ F); and for periods during when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the Director during normal business hours at the demolition or renovation site. The owner or operator shall retain the temperature records for at least ~~2~~ two years.

CHAPTER 11: DISPOSAL

Reg. 21.1101 Disposal

Each owner or operator of a facility shall dispose of RACM from all demolitions and all renovations involving projects of at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or at least 1 cubic meter (~~or~~ 35 cubic feet) where the length could not be measured previously in a manner to comply with the following work procedures. As applied to demolitions and renovations, the requirements of this section do not apply to category I nonfriable ACM waste and category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.

(A) ~~Discharge n~~No visible emissions may be discharged to the outside air during the collection ~~process (including incineration)~~, packaging, ~~or~~ transporting, treatment (including incineration), or disposal process of any asbestos-containing waste material generated by the source, or use one of the following emission control and waste treatment methods specified in this section:

(1) Adequately wet asbestos-containing waste material as follows:

(a) Mix asbestos waste from a control device ~~asbestos waste~~ to form a slurry; adequately wet other asbestos-containing waste material;

(b) ~~Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or u~~Use the methods specified in this regulation to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air;

(c) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping;

~~(d) Label the containers or wrapped materials specified in this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(2) or 1926.58(k)(2)(iii). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible; and~~

~~(e) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated and comply with all applicable Department of Transportation (DOT) requirements.~~

(2) Process asbestos-containing waste material into nonfriable forms as follows:

(a) Form all asbestos-containing waste material into nonfriable pellets or other shapes; and

(b) Discharge no visible emissions to the outside air from collection and processing operations, including incineration, or use the method provided for in this regulation to clean emissions containing particulate asbestos material before they escape to or are vented to the outside air.

(3) For facilities demolished where the RACM is not removed prior to demolition as provided in this regulation, ~~adequately wet~~ asbestos-containing material shall be adequately wetted at all times during and after demolition and ~~keep~~ kept wet during handling and loading for transport to a disposal site. Asbestos-containing waste materials covered by this paragraph may be shipped via ~~do not have to be sealed in~~ leak-tight containers, ~~or~~ wrapping, or bulk shipping device ~~but may be transported and disposed of in bulk~~.

(4) Use an alternative emission control and waste treatment method that has received prior approval by the Director as provided in this regulation.

(B) Label the containers or wrapped materials specified in this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(2) or 1926.1101, as of December 12, 2008. The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible;

(C) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated and comply with all applicable Department of Transportation (DOT) requirements;

(D) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at a ~~disposal site approved by a~~ landfill that is permitted to accept Class I waste and that meets the requirements of NESHAP or an EPA approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of 40 CFR Part 61 as in effect December 14, 2000.

(E) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that signs are visible. The markings must conform to the requirements specified in Reg. 21.1001(B)(3) ~~10.1(B)(iii) of this regulation~~.

(F) For all asbestos-containing waste material transported off the facility site a copy of a waste shipment record, signed by the generator and transporter(s), shall accompany the shipment of asbestos-containing waste material.~~:~~

~~(1) Maintain waste shipment records, using a form including the following information:~~

~~(a) The name, address, and telephone number of the waste generator;~~

~~(b) The name and address of the Department's ADPC&E Asbestos Section;~~

~~(c) The approximate quantity in cubic meters (or cubic yards);~~

~~(d) The name and telephone number of the disposal site operator;~~

~~(e) The name and physical site location of the disposal site;~~

~~(f) The date transported;~~

~~(g) The name, address, and telephone number of the transporter(s); and~~

~~(h) A certification that the contents of this the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transportation by highway according to applicable international and government regulations.~~

~~(2) Provide a copy of the waste shipment record, described in Reg. 21.1101(D)(1) this section, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site. (See form in Appendix A.)~~

~~(3) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or owner or operator of the designated disposal site to determine the status of the waste shipment.~~

~~(4) Report in writing to the Department if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:~~

~~(a) A copy of the waste shipment record for which a confirmation of delivery was not received; and~~

~~(b) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts;.~~

~~(5) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 two years;.~~

~~(6) Furnish upon request, and make available for inspection by the Director, all records required to be kept by this regulation.~~

Reg. 21.1102 Standards for Generators

The generator shall:

(A) Prepare a waste shipment record, using a form including the following information:

(1) The name, address, and telephone number of the waste generator;

(2) The name and address of the Department's ~~ADPC&E~~ Asbestos Section;

(3) The approximate quantity in cubic meters (or cubic yards);

(4) The name, address and telephone number of the waste transporter(s);

(5) The name, physical site location and telephone number of the designated disposal site;

(6) The date transported from the generator site;

(7) The date received and accepted at the designated waste disposal site; and

(8) A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transportation by highway according to applicable international and government regulations

(B) The waste generator shall contact the transporter and/or owner or operator of the designated disposal site if a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, to determine the status of the waste shipment.

(C) The waste generator shall report in writing to the Department if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the

waste was accepted by the initial transporter. The report shall include the following information:

(1) A copy of the waste shipment record for which a confirmation of delivery was not received; and

(2) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos-containing waste shipment and the results of those efforts~~;~~.

(a) The waste generator shall retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least ~~2~~ two years~~;~~.

(b) The waste generator shall furnish upon request, and make available for inspection by the Director, all records required to be kept by this regulation.

Reg. 21.1103 Standards for Waste Transporters

(A) The waste transporter shall sign the waste shipment record upon acceptance of the shipment from the generator;

(B) The shipment shall be delivered to the designated waste disposal facility as expeditiously as possible;

(C) The waste transporter shall obtain the signature of the owner or operator of the designated waste disposal facility upon delivery of the shipment of asbestos-containing waste material;

(D) The waste transporter shall provide a copy of the waste shipment record to the designated waste disposal facility owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site. ~~(See form in Appendix A.)~~

Reg. 21.1104 Waste Disposal Sites

Standards for designated waste disposal sites:

(A) The owner or operator of the designated waste disposal facility shall sign and date the waste shipment record upon its receipt and acceptance of the shipment.

(B) Each owner or operator of an active waste disposal site that received asbestos-containing waste material from a source covered by this regulation shall meet the following requirements:

(1) ~~Rather than meet the no visible emission requirement of this regulation, at the end of each operating day, or a~~At least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

(a) Be covered with at least ~~15~~ fifteen centimeters (or ~~6~~ six inches) of compacted nonasbestos-containing material; or

(b) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturers to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the Director. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent;

(c) ~~Rather than meet the no visible emission requirement of this section, u~~Use an alternative emissions control method that has received prior written approval by the Director demonstrating the following criteria:

(i) The alternative method will control asbestos emissions equivalent to currently required methods;

(ii) The suitability of the alternative method for the intended application;

(iii) The alternative method will not violate other laws or regulations; and

(iv) The alternative method will not result in increased water pollution, land pollution, or occupational hazards

(C) For all asbestos-containing waste material received, the owner or operator of the active waste disposal site shall:

(1) Maintain a copy of the waste shipment records as addressed in Reg. 21.1101(F)(1) using a form with the following information:

(a) The name, address, and telephone number of the waste generator;

(b) The name ~~and~~ address and telephone number of the transporter(s);

(c) The quantity of the asbestos-containing waste material in cubic meters (cubic yards); and

~~(d) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers. Report in writing to the Department official responsible for administering the Asbestos program for the waste generator (identified in the waste shipment record), and, if different, the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the disposal site, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report; and~~

(e) The date of the receipt.

(D) As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

(E) Upon discovering a discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator and, if different, the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

(F) Report in writing to the Department official responsible for administering the Asbestos program for the waste generator (identified in the waste shipment record), and, if different, the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the disposal site, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report; and

(G) Furnish upon request and make available during normal business hours for inspection by the Department all records required under this chapter ~~section~~.

(H) Retain a copy of all records and reports required by this chapter ~~section~~ for at least ~~2~~ two years.

(I) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(J) Upon closure of a facility, submit to the Department a copy of records of asbestos waste disposal locations and quantities.

(K) The Department shall be notified in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Department at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

(1) Scheduled start~~ing~~ and completion dates;

(2) Reason(s) for disturbing the waste;

(3) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material (if deemed necessary, the Department may require changes in the emission control procedures to be used); and

(4) Location of any temporary storage site and the final disposal site.

(L) Within 60 days of a site becoming inactive and after the effective date of this regulation, a notation shall be recorded, in accordance with State law, on the deed to the facility property and on any other instrument that would normally be examined during a title search. This notation will in perpetuity notify any potential purchaser of the property that:

(1) The land has been used for the disposal of asbestos-containing waste material; and

(2) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in Reg. 21.1102(B)(6) ~~Section 11.2(B)(vi)~~ have been filed with the Department.

CHAPTER 12: LICENSES (GENERAL)

Reg. 21.1201 Licenses

Licenses shall be issued to Asbestos Abatement Contractors, Asbestos Abatement Consultants and Training providers. Such licenses shall be issued for a period not to exceed 12 months.

Reg. 21.1202 Renewal

Any Asbestos Abatement Contractor, Asbestos Abatement Consultant or Training provider may apply for the renewal of a license issued by the Department. Such renewals are valid for a period not to exceed 12 months.

Reg. 21.1203 Annual Fee

The Department shall assess an annual fee for all initial licenses and for all renewals of licenses. The amounts of such fees, listed in Chapter ~~Section~~ 22 of this regulation, shall be determined by the Department

Reg. 21.1204 Licensing and Certification Requirements

Persons ~~or business entities~~ who do not maintain offices in the state of Arkansas and who perform work in this state as an Asbestos Abatement Contractor, Asbestos Abatement Consultant or Training provider, as defined in this regulation, are subject to the licensing and certification requirements of the Act and this regulation.

Reg. 21.1205 Licensing Requirement Exemptions

State and federal governments (and subdivisions thereof) and permanent employees of a school district shall be exempt from the licensing requirements of Chapter ~~Section~~ 13 of this regulation.

Reg. 21.1206 Permanent Employees

The permanent employee described in Reg. 21.1205 ~~12.5~~ shall:

(A) Be trained in the proper disciplines in accordance with ASHARA and certified with the Department, and

(B) Conduct only asbestos-related activities which are associated with the performance of that person's permanent employment. If the employee conducts asbestos-related activities on any other buildings or structures not associated with that person's permanent employment, then the appropriate license fee must be paid.

CHAPTER 13: ASBESTOS ABATEMENT CONSULTANTS AND CONTRACTORS LICENSES

Reg. 21.1301 License Application and Renewal

Application for licenses or renewals shall be made to the Department and shall include the following:

(A) A completed application on a form provided by the Department;

(B) Annual Asbestos Abatement Consultant or Asbestos Abatement Contractor license fee as described in Chapter ~~Section~~ 22 of this regulation;

(C) Proof that the Asbestos Abatement Contractor has at least one supervisor who qualifies as a Contractor/~~s~~Supervisor as determined by this regulation and who has been certified by the Department in the appropriate disciplines;

(D) A completed Disclosure Statement on a form provided by the Department; and

(E) Proof of $1,000,000 liability insurance coverage in the form of a certificate of insurance issued by an insurance carrier authorized to do business in Arkansas by the Arkansas Insurance Department that must certify the following ~~which meets the following requirements~~:

(1) ~~The certificate of insurance must demonstrate professional l~~Liability insurance coverage for the types of asbestos services provided, including abatement and inspection work; and

(2) ~~shall contain a~~A rider requiring that the insurer shall notify the Department in writing ~~at least 30~~ within 10 days ~~prior to~~ of any substantive changes made to the policy including, but not limited to, termination or failure to renew, or any reduction of the monetary limits of coverage~~;~~.

~~(3) The certificate of insurance must be produced by an Arkansas Resident Local Agent licensed by the Insurance Commissioner of the State of Arkansas.~~

CHAPTER 14: TRAINING PROVIDER LICENSES

Reg. 21.1401 Licenses

Application for licenses ~~or renewals~~ of approved Training Providers shall be made to the Department and shall include the following:

(A) A completed application on a form provided by the Department;

(B) Enclosure of the annual training provider fee described in Chapter ~~Section~~ 22 of this regulation;

(C) A statement certifying that each course complies with the requirements of the 40 CFR Part 763, Appendix C to Subpart E (MAP);

(D) Resumes of all instructors;

(E) Sample course agendas; and

(F) For new applicants, ~~A~~ a completed ~~training provider~~ disclosure statement on a form provided by the Department. Governmental agencies and public institutions of higher learning are exempted from this requirement.

Reg. 21.1402 Requirements in Lieu of 40 CFR Part 763, Appendix C to Subpart E

Training providers who ~~have not received the approval~~ do not supply the certification described in Reg. 21.1401(C) ~~Section 14.1(C)~~ of this Section but wish to be licensed to teach the course under this regulation shall also submit the following:

(A) The course provider's name, address and telephone number;

(B) A list of any other states that currently approve the training course;

(C) The course curriculum;

(D) A letter from the provider of the training course that clearly indicates how the course meets the MAP and the requirements of this regulation, specifically addressing the following:

(1) Length of training days in 8-hour increments;

(2) Amount and type of hands-on training;

(3) Examination (length, format, and minimum passing score); and

(4) Topics covered in the course;

(E) A copy of all course materials (including student manuals, instructor notebooks, handbooks and any other printed materials);

(F) A description of the training methods to be used to present each topic (such as lecture, video, or hands-on);

(G) A detailed statement about the development of the examination used in the course;

(H) Names and qualifications of all course instructors. Instructors must have academic and/or field experience in asbestos abatement; and

(I) A description of, and an example of, the certificates issued to students who attend and successfully complete the course by passing the required written examination. Each certificate shall include the following information:

(1) A unique certificate number;

(2) The name of the student;

(3) The discipline of the training course completed;

(4) The dates of the training course;

(5) The location of the training;

(6) The name of the instructor;

(7) An expiration date of one (1) year after the date upon which the person successfully completed the course and the examination;

(8) The name, address, and telephone number of the training provider that issued the certificate; and

(9) A statement that the person receiving the certificate has completed the required training for asbestos accreditation under the provisions of TSCA Title II.

Reg. 21.1403 Refresher Training Courses

The following minimum information is required for approval of refresher training courses by the State of Arkansas~~.~~:

(A) The length of training in ~~half-days~~ half days or days;

(B) The topics covered in the course;

(C) A copy of all course materials (student manuals, instructor notebooks, handouts, etc.);

(D) The names and qualifications of all course instructors. Instructors must have academic and/or field experience in asbestos abatement; and

(E) A description of and an example of the ~~numbered~~ certificates issued to students who complete the refresher course. Certificates shall contain the same information as described in Reg. 21.1402(I) ~~14.2 of this regulation~~.

CHAPTER 15: CERTIFICATION/ACCREDITATION

Reg. 21.1501 Certification

Any person seeking certification in the discipline of Air Monitor, Contractor/~~s~~Supervisor, Inspector, Management Planner, Project Designer, ~~and~~ or Worker shall provide the Department with the following:

(A) The most recent certificate issued by the training provider as proof of successful completion of the applicable training course which has been approved under the provisions of 40 CFR Part 763, Appendix C to Subpart E (MAP) and subsequent revisions (photocopies will not be accepted without prior approval from the Department);

(B) A completed application on a form provided by the Department;

(C) The applicable annual certification fee listed in ~~Section~~ Chapter 22 of this regulation.

(D) A current photograph of the person requesting certification that:

(1) If printed, shows the face of the person seeking certification no less than ¾ of an inch wide;

(2) If digital, has a resolution of at least 72 dpi and is in a format specified by the Department; or

(3) Instead of providing a photograph, the person seeking certification may come to the Department's central office during normal business hours where one will be taken.

(E) A completed Disclosure Statement from pursuant to Arkansas Pollution Control and Ecology Regulation No. 8.

Reg. 21.1502 Supervision

Certified Air Monitors, Contractor/~~s~~Supervisors, Inspectors, Management Planners, Project Designers, and Workers shall work under the supervision of a facility or firm licensed pursuant to the provisions of this regulation.

Reg. 21.1503 Certification Time Frame

~~Department c~~Certificates ~~will be~~ issued by the Department shall remain valid for a period of one year from date of training unless suspended or revoked pursuant to Chapter 21 of this regulation.

CHAPTER 16: RENEWAL OF LICENSES AND CERTIFICATIONS

Reg. 21.1601 Contractors/Consultants Renewal

Asbestos Abatement Contractors and Asbestos Abatement Consultants shall submit the following in order to renew their licenses:

(A) ~~R~~A renewal application on a form provided by the Department;

(B) Proof of insurance as described in Reg. 21.1301(E) ~~Section 13.1 (E) of this regulation~~; and

(C) ~~R~~A renewal fee as described in ~~Section~~ Chapter 22 of this regulation.

Reg. 21.1602 Training Providers Renewal

Asbestos Training Providers shall submit the following in order to renew their licenses.~~:~~

(A) Renewal application on a form provided by the Department; and

(B) Renewal fee as described in Section Chapter 22 of this regulation.

Reg. 21.1603 Other Renewals

Air Monitors, Contractor/~~s~~Supervisors, Inspectors, Management Planners, Project Designers, and Workers shall submit the following in order to renew their certification status:

(A) An official certificate from a~~n~~ Licensed Training Provider documenting successful completion of an approved asbestos refresher course ~~conducted by an approved asbestos training provider for the applicable course~~ applicable to each discipline for which renewal is sought;

(B) An official certificate of training for the ~~2-hour~~ 2 hour Arkansas Regulation Course if the refresher course was not provided by an Arkansas licensed asbestos training course;

(C) Air Monitors who have been certified under the provisions that they are a Certified Industrial Hygenist shall also submit proof of their current certification status;~~:~~

(D) An application on a form provided by the Department; and

(E) Renewal fee as described in ~~Section~~ Chapter 22 of this regulation.

CHAPTER 17: LAPSED LICENSES OR CERTIFICATES

Reg. 21.1701 Expired Licenses/Certificates

Any license or certificate holder who allows a license or certificate to expire shall not ~~be allowed to~~ conduct asbestos-related work in Arkansas until all renewal requirements have been met and a new license or certificate has been issued by the Department.

Reg. 21.1702 Refresher Course

Any license or certificate holder may complete the appropriate refresher course within 12 months of the expiration of the license or certificate without being required to comply with the initial training requirements.

CHAPTER 18: TRAINING

Reg. 21.1801 Training Providers

Formal training for licensing and certification, which is intended to meet the training requirements of the Act and this regulation, may be conducted by any educational institution, business entity, or individual that is approved by the Department.

Reg. 21.1802 Minimum Requirements

Each training course for each discipline taught shall meet the requirements of the MAP and this regulation including the following minimum requirements:

(A) For Workers:

(1) Course length must be a minimum of 32 hours (four 8-hour days) including lectures, demonstrations, instruction on individual respirator fit-testing, and course review with a minimum of 14 hours devoted to hands-on instruction; and

(2) A closed-book written exam of at least 50 multiple-choice questions and a minimum passing score of at least 70 percent.

(B) For Inspectors:

(1) Course length must be a minimum of 24 hours (three 8-hour days) including lectures, demonstrations, instruction on individual respirator fit-testing, course review and a minimum of ~~4~~ four hours of hands-on instruction; and

(2) A closed-book written exam of at least 50 multiple-choice questions and a minimum passing score of 70 percent.

(C) For Management Planners**:**

(1) All persons seeking accreditation as Management Planners shall complete a 24-hour (three 8-hour days) Inspector training course as outlined in this section and a 16-hour (two 8-hour days) Management Planner training course. Possession of current and valid Inspector accreditation shall be a prerequisite for admission to the Management Planner training course. The Management Planner course shall include lectures demonstrations, and course review~~, and a written examination~~; and

(2) A closed-book written exam of at least 50 multiple choice questions with a minimum passing score of 70 percent.

(D) For Project Designers:

(1) Course length must be a minimum of 24 hours (three 8-hour days) including lectures, demonstrations, a field trip, and course review; ~~and a written examination;~~ and

(2) A closed-book written exam of at least 100 multiple choice questions and a minimum passing score of at least 70 percent.

(E) For Contractor/~~s~~Supervisors:

(1) Course length must be a minimum of 40 hours (five 8-hour days) including lectures, demonstrations, and instruction on individual respirator fit-testing, course review, and ~~a written examination with at least~~ a minimum of 14 hours of hands-on training; and

(2) A closed-book written exam of 100 multiple choice questions with a minimum passing score of 70 percent.

(F) For Air Monitors**:**

(1) All persons seeking accreditation as an Air Monitor shall complete a 40-hour (five 8-hour days) Contractor/~~s~~Supervisor training course as outlined in this section and an Air Monitoring training course; unless, the applicant possesses certification as a Certified Industrial Hygienist, then current Certified Industrial Hygienist certification will replace the requirement of the Air Monitoring training course. Air Monitors are required to take the Contractor/~~s~~Supervisor course and the applicable refresher course. Possession of current and valid Contractor/~~s~~Supervisor accreditation shall be a prerequisite for admission to the Air Monitoring training course. Course length must be a minimum of 12 hours (one and one-half 8-hour days) including lectures, demonstrations, instruction, course review, and ~~a written examination with at least 4~~ a minimum of four hours of hands-on training; and~~.~~

(2) A closed-book written exam of 50 multiple choice questions with a minimum passing score of 70 percent.

Reg. 21.1803 Separate Discipline Training

Each discipline shall have its own separate and distinct training course and shall not be combined with any other training courses.

Reg. 21.1804 Examination

A member of the licensed training provider staff must be present at all times during the written examination.

Reg. 21.1805 Department Representatives

Provisions shall be made to allow a representative of the Department to attend one or more presentations of any course conducted by a ~~for which a training license has been issued~~ licensed training provider, without payment of any associated fees. This attendance shall be for the purpose of determining compliance with this regulation and the correctness of the information being presented. The Director may revoke, suspend, or deny the application of any training license on the basis of findings resulting from this attendance.

Reg. 21.1806 Out of State Training

Individuals who have successfully completed approved training courses conducted by a training provider not licensed in accordance with this regulation, ~~outside the state of Arkansas~~ shall attend a ~~2~~ two hour awareness training course to learn about Arkansas asbestos regulatory requirements and policies. Such awareness training shall be conducted by a training provider which has been ~~approved and~~ licensed in accordance with this regulation.

Reg. 21.1807 Minimum Record Keeping Requirements

All ~~approved providers of accredited asbestos~~ licensed training providers ~~courses~~ must comply with the following minimum record keeping requirements:

(A) Training course materials. A licensed training provider must retain copies of all instructional materials used in the delivery of the classroom training such as student manuals, instructor notebooks, and handouts.

(B) Instructor qualifications. A licensed training provider must retain copies of all instructors' resumes and the documents approving each instructor issued by either EPA or the Department. Instructors must be approved by either EPA or the Department before teaching courses for accreditation purposes~~. A training provider must notify EPA or the Department, as appropriate, in advance whenever it changes course instructors.~~ Records must accurately identify the instructors that taught each particular course for each date that a course is offered.

(C) Examinations. A licensed training provider must document that each person who receives an accreditation certificate for an initial training course has achieved a passing score on the examination. These records must clearly indicate:

(1) the date upon which the exam was administered,

(2) the training course title,

(3) ~~and~~ the discipline for which the exam was given,

(4) the name of the person who supervised the exam,

(5) a copy of the exam, and

(6) the name and test score of each person taking the exam.

The topic and dates of the training course must correspond to those listed on that person's accreditation certificate.

(D) Accreditation certificates. The licensed training providers shall maintain records that document:

(1) the names of all persons who have been awarded certificates,

(2) their certificate numbers,

(3) the disciplines for which accreditation was conferred,

(4) training and expiration dates,

(5) ~~and~~ the training location~~.~~, and

(6) a class photograph which clearly shows the faces of each student successfully completing the course and a caption identifying each attendee.

The licensed training provider shall maintain the records in a manner that allows verification by telephone of the ~~required~~ information required in (1)-(6).

(E) Verification of certificate information. Providers of refresher training courses shall confirm that their students possess valid accreditation before granting course admission. Licensed t~~T~~raining providers offering the initial Management Planner or Air Monitor training courses shall verify that students have met the prerequisite training and certification ~~of possessing valid Inspector accreditation~~ at the time of course admission.

(F) Records retention and access. The licensed training provider shall maintain all required records for a minimum of ~~3~~ three years.

(G) The licensed training provider must allow reasonable access to all records required by this regulation and the MAP for the approval of asbestos training providers, to ~~both~~ the Department and the ~~U.S.~~ EPA, on request.

(H) If a licensed training provider ceases to conduct training, the training provider shall notify the Department and allow the opportunity for the Department to take possession of that provider's asbestos training records.

(I) The Department may require a training provider to produce copies or provide for inspection of any of the asbestos training records or materials listed in this Section.

CHAPTER 19: TRAINING COURSE CONTENT

Reg. 21.1901 Worker

The Worker training course shall adequately address the following topics:

(A) Physical characteristics of asbestos~~.~~:

(1) Identification of asbestos~~,~~;

(2) Aerodynamic characteristics~~,~~;

(3) Typical uses~~,~~;

(4) Physical appearance~~,~~; and

(5) Summary of abatement control options.

(B) Potential health effects related to asbestos exposure~~.~~:

(1) Nature of asbestos-related disease;

(2) Routes of exposure;

(3) Dose-response relationships and the lack of a safe exposure level;

(4) Synergistic effect between cigarette smoking and asbestos exposure;

(5) Latency periods for asbestos-related diseases; and

(6) Discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(C) Employee personal protective equipment~~.~~:

(1) Classes and characteristics of respirator types;

(2) Limitations of respirators;

(3) Proper selection and inspection;

(4) Donning, use, maintenance and storage procedures for respirators;

(5) Methods for field testing of the face piece-to-face seal (positive and negative-pressure fit checks);

(6) Qualitative and quantitative fit testing procedures;

(7) Variability between field and laboratory protection;

(8) Factors that alter respiratory fit (e.g., facial hair);

(9) Components of a proper respiratory protection program;

(10) Selection and use of personal protective clothing;

(11) Use, storage, and handling of nondisposable clothing; and

(12) Regulations covering personal protective equipment.

(D) State-of-the-art work practices~~.~~:

(1) Proper work practices for asbestos abatement activities, including descriptions of proper construction;

(2) Maintenance of barriers and decontamination enclosure systems;

(3) Positioning of warning signs;

(4) Lock-out of electrical and ventilation systems;

(5) Proper working techniques for minimizing fiber release;

(6) Use of wet methods;

(7) Use of negative pressure exhaust ventilation equipment;

(8) Use of HEPA vacuums;

(9) Proper cleanup and disposal procedures;

(10) Work practices for removal, encapsulation, enclosure, and repair of ACM;

(11) Emergency procedures for sudden releases;

(12) Potential exposure situations;

(13) Transport and disposal procedures; and

(14) Recommended and prohibited work practices.

(E) Personal hygiene~~.~~:

(1) Entry and exit procedures for the work area;

(2) Use of showers;

(3) Avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and

(4) Potential exposures, such as family exposure.

(F) Additional safety hazards—Hazards encountered during abatement activities and how to deal with them, including:

(1) Electrical hazards;

(2) Heat stress;

(3) Air contaminants other than asbestos;

(4) Fire and explosion hazards;

(5) Scaffold and ladder hazard;

(6) Slips, trips, and falls; and

(7) Confined spaces.

(G) Medical monitoring.—OSHA and EPA Worker Protection Rule requirements for physical examinations, including:

(1) Pulmonary function test,

(2) Chest x-rays, and

(3) Medical history for each employee.

(H) Air monitoring.—Procedures to determine airborne concentrations of asbestos fibers, including:

(1) Descriptions of aggressive air sampling, ~~sampling equipment and methods~~;

(2) Sampling equipment and methods;

(3) Reasons for air monitoring;

(4) Types of samples; and

(5) Interpretation of results.

(I) Relevant Federal, Arkansas, and local regulatory requirements, procedures, and standards, with particular attention directed at relevant EPA, OSHA, and State regulations concerning asbestos abatement workers.

(J) Establishment of respiratory protection programs.

(K) Course review.—A review of key aspects of the training course.

Reg. 21.1902 Contractor/Supervisor

The Contractor/sSupervisor training course shall adequately address the following topics:

(A) The physical characteristics of asbestos and ACM.:

(1) Identification of asbestos,;

(2) Aerodynamic characteristics,;

(3) Typical uses,;

(4) Physical appearance,;

(5) Review of hazard assessment considerations,; and

(6) Summary of abatement control options.

(B) Potential health effects related to asbestos exposure.:

(1) Nature of asbestos-related diseases—,;

(2) Routes of exposure,;

(3) Dose-response relationships and the lack of a safe exposure level,;

(4) Synergism between cigarette smoking and asbestos exposure,; and

(5) Latency period for diseases.

(C) Employee personal protective equipment.:

(1) Classes and characteristics of respirator types;

(2) Limitations of respirators;

(3) Proper selection and inspection;

(4) Donning, use, maintenance and storage procedures for respirators;

(5) Methods for field testing of the face piece-to-face seal (positive and negative-pressure fit checks);

(6) Qualitative and quantitative fit testing procedures;

(7) Variability between field and laboratory protection factors that alter respiratory fit (e. g., facial hair);

(8) Components of a proper respiratory protection program;

(9) Selection and use of personal protective clothing ~~and use of personal protective clothing~~;

(10) Use, storage, and handling of nondisposable clothing; and

(11) Regulations covering personal protective equipment.

(D) State-of-the-art work practices. Proper work practices for asbestos abatement activities including:

(1) Descriptions of proper construction and maintenance of barriers and decontamination enclosure systems;

(2) Positioning of warning signs;

(3) Lock-out of electrical and ventilation systems;

(4) Proper working techniques for minimizing fiber release;

(5) Use of wet methods;

(6) Use of negative pressure exhaust ventilation equipment;

(7) Use of HEPA vacuums and proper cleanup and disposal procedure;

(8) Work practices for removal, encapsulation, enclosure, and repair of ACM;

(9) Emergency procedures for unplanned releases;

(10) Potential exposure situations;

(11) Transport and disposal procedures and recommended and prohibited work practices; and

(12) New abatement-related techniques and methodologies may be discussed.

(E) Personal hygiene~~.~~:

(1) Entry and exit procedures for the work area;

(2) Use of showers;

(3) Avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and

(4) Potential exposures, such as family exposure, shall also be included.

(F) Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including~~,~~:

(1) Electrical hazards;

(2) Heat stress;

(3) Air contaminants other than asbestos;

(4) Fire and explosion hazards;

(5) Scaffold and ladder hazards;

(6) Slips, trips, and falls; and

(7) Confined spaces.

(G) Medical monitoring. OSHA and EPA Worker Protection Rule requirements for physical examinations including:

(1) Pulmonary function test~~,~~;

(2) Chest X-rays~~,~~; and

(3) Medical history for each employee.

(H) Air monitoring. Procedures to determine airborne concentrations of asbestos fibers including:

(1) Descriptions of aggressive air sampling~~,~~;

(2) Sampling equipment and methods~~,~~;

(3) Reasons for air monitoring~~,~~;

(4) Types of samples~~,~~; and

(5) Interpretation of results.

(I) Relevant Federal, Arkansas ~~State~~, and local regulatory requirements, procedures and standards including:

(1) Requirements of TSCA Title II;

(2) National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), Subparts A (General Provisions) and M (National Emission Standard for Asbestos);

(3) OSHA standards for permissible exposure to airborne concentrations of asbestos fibers respiratory protection (29 CFR 1910.134) and subsequent changes;

(4) OSHA Asbestos Construction Standard (29 CFR 1910.1101) or any subsequent revisions; and

(5) EPA Worker Protection Rule (40 CFR Part 763, Subpart G) or any subsequent revisions.

(J) Respiratory Protection Programs and Medical Monitoring Programs.

(K) Insurance and liability issues~~.~~:

(1) Contractor issues~~,~~;

(2) Worker's compensation coverage and exclusions~~,~~;

(3) Third-party liabilities and defenses~~,~~; and

(4) Insurance coverage and exclusions.

(L) Record keeping for asbestos abatement projects~~.~~:

(1) Records required by Federal, Arkansas, and local regulations; and

(2) Records recommended for legal and insurance purposes;

(M) Supervisory techniques for asbestos abatement activities~~.~~: Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(N) Contract specifications. Discussions of key elements that are included in contract specifications.

(O) Course review~~.~~: A review of key aspects of the training course.

Reg. 21.1903 Inspector

The Inspector training course shall adequately address the following topics:

(A) Background information on asbestos~~.~~:

(1) Identification of asbestos and examples~~,~~;

(2) Discussion of the uses and locations of asbestos in buildings~~,~~; and

(3) Physical appearance of asbestos.

(B) Potential health effects related to asbestos exposure ~~-~~:

(1) Nature of asbestos-related diseases;

(2) Routes of exposure;

(3) Dose-response relationships and the lack of a safe exposure level;

(4) Synergistic effect between cigarette smoking and asbestos exposure;

(5) Latency periods for asbestos-related diseases; and

(6) Discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancers of other organs.

(C) Functions/qualifications and role of Inspectors~~-~~:

(1) Discussions of prior experience and qualifications for Inspectors and ~~m~~Management ~~p~~Planners~~-~~;

(2) Discussions of the functions of an accredited Inspector as compared to those of an accredited Management Planner~~-~~; and

(3) Discussion of inspection process including inventory of ACM and physical assessment.

(D) Legal liabilities and defenses~~-~~:

(1) Responsibilities of the Inspector and Management Planner~~-~~;

(2) Discussion of comprehensive general liability policies~~-~~;

(3) Claims-made and occurrence-based policies~~-~~;

(4) Environmental and pollution liability policy clauses~~-~~;

(5) State liability insurance requirements~~-~~; and

(6) Bonding and the relationship of insurance availability to bond availability.

(E) Understanding building systems. The interrelationship between building systems including:

(1) Overview of common building physical plan layout;

(2) Heating, ventilation, and air conditioning (HVAC) system types;

(3) Physical organization, and where asbestos is found on HVAC components;

(4) Building mechanical systems, their types and organization, and where to look for asbestos on such systems;

(5) Inspecting electrical systems, including appropriate safety precautions; and

(6) Reading blueprints and as-built drawings.

(F) Public/employee/building occupant relations~~-~~:.

(1) Notifying employee organizations about the inspection;

(2) Signs to warn building occupants;

(3) Tact in dealing with occupants and the press;

(4) Scheduling of inspections to minimize disruptions; and

(5) Education of building occupants about actions being taken.

(G) Pre-inspection planning and review of previous inspection records~~-~~:

(1) Scheduling the inspection and obtaining access;

(2) Building record review;

(3) Identification of probable homogeneous areas from blueprints or as-built drawings;

(4) Consultation with maintenance or building personnel;

(5) Review of previous inspection, sampling, and abatement records of a building; and

(6) Role of the Inspector in exclusions for previously performed inspections

(H) Inspecting for friable and nonfriable ACM and assessing the condition of friable ACM~~-~~:

(1) Procedures to follow in conducting visual inspections for friable and nonfriable ACM;

(2) Types of building materials that may contain asbestos;

(3) Touching materials to determine friability;

(4) Open return air plenums and their importance in HVAC systems;

(5) Assessing damage, significant damage, potential damage, and potential significant damage;

(6) Amount of suspected ACM, both in total quantity and as a percentage of the total area;

(7) Type of damage;

(8) Accessibility;

(9) Material's potential for disturbance;

(10) Known or suspected causes of damage or significant damage; and

(11) Deterioration as assessment factors.

(I) Bulk sampling/documentation of asbestos.:

(1) Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/5-85-03 0ctober 1985)" and any subsequent revisions.;

(2) Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.;

(3) Sampling of nonfriable materials.;

(4) Techniques for bulk sampling.;

(5) Inspector sampling and repair equipment.;

(6) Patching or repair of damage from sampling;

(7) Discussion of polarized light microscopy.;

(8) Choosing an accredited laboratory to analyze bulk samples.; and

(9) Quality control and quality assurance procedures.

The Department recommends that all bulk samples collected from school or public and commercial buildings be analyzed by a laboratory accredited under the NVLAP administered by NIST.

(J) Inspector respiratory protection and personal protective equipment.:

(1) Classes and characteristics of respirator types;

(2) Limitations of respirators;

(3) Proper selection and inspection;

(4) Donning, use, maintenance, and storage procedures for respirators;

(5) Methods for field testing of the face piece-to-face seal (positive and negative-pressure fit checks);

(6) Qualitative and quantitative fit testing procedures;

(7) Variability between field and laboratory protection factors that alter respiratory fit (e.g,. facial hair);

(8) Components of a proper respiratory protection program;

(9) Selection and use of personal protective clothing; and

(10) Use, storage, and handling of nondisposable clothing.

(K) Record keeping and writing the inspection report~~.~~:

(1) Labeling of samples and keying sample identification to sampling location;

(2) Recommendations on sample labeling;

(3) Detailing of ACM inventory;

(4) Photographs of selected sampling areas and examples of ACM condition; and

(5) Information required for school buildings under TSCA Title II, Section 203(i)(1).

(L) Regulatory review. The following topics should be covered:

(1) NESHAP (40 CFR Part 61, Subparts A and M); EPA Worker Protection Rule (40 CFR Part 763, Subpart G);

(2) OSHA Asbestos Construction Standard (29 CFR 1910.1101);

(3) OSHA respirator requirements (29 CFR 1910.134); The Friable Asbestos in Schools Rule (40 CFR Part 763, Subpart F); and

(4) Applicable Arkansas ~~State~~ and local regulations and differences between Federal and State requirements where they apply and the effects, if any, on public and nonpublic schools or commercial or public buildings.

(M) Field trip. This includes a field exercise including:

(1) Walk-through inspection;

(2) On-site discussion about information gathering and the determination of sampling locations ;

(3) On-site practice in physical assessment; and

(4) Classroom discussion of field exercise.

(N) Course review. A review of key aspects of the training course.

Reg. 21.1904 Management Planner

The Management Planner training course shall adequately address the following topics:

(A) Course overview. The role and responsibilities of the Management Planner:

(1) Operations and maintenance programs;

(2) Setting work priorities ; and

(3) Protection of building occupants.

(B) Evaluation/interpretation of survey results:

(1) Review of TSCA Title II requirements for inspection and management plans for school buildings as given in Section 203(i)(1) of TSCA Title II;

(2) Interpretation of field data and laboratory results; and

(3) Comparison of field inspector's data sheet with laboratory results and site survey.

(C) Hazard assessment:

(1) Amplification of the difference between physical assessment and hazard assessment;

(2) Role of the Management Planner in hazard assessment;

(3) Explanation of significant damage, potential damage, and potential significant damage;

(4) Use of a description (or decision tree) code for assessment of ACM;

(5) Assessment of friable ACM; and

(6) Relationship of accessibility, vibration sources, use of adjoining space and air plenums and other factors to hazard assessment.

(D) Legal implications.:

(1) Liability;

(2) Insurance issues specific to planners;

(3) Liabilities associated with interim control measures, in-house maintenance, repair and removal; and

(4) Use of results from previously performed inspections.

(E) Evaluation and selection of control options.:

(1) Overview of encapsulation.;

(2) Enclosure.;

(3) Interim operations and maintenance and removal.;

(4) Advantages and disadvantages of each method.;

(5) Response actions described via a decision tree or other appropriate method.;

(6) Work practices for each response action.;

(7) Staging and prioritizing of work in both vacant and occupied buildings.; and

(8) Need for containment barriers and decontamination in response actions.

(F) Role of other professionals.:

(1) Use of industrial hygienists, engineers, and architects in developing technical specifications for response actions;

(2) Any requirements that may exist for architect sign-off of plans; and

(3) Team approach to design of high-quality job specifications.

(G) Developing an operations and maintenance (O & M) plan.:

(1) Purpose of the plan;

(2) Discussion of applicable EPA guidance documents;

(3) What actions should be taken by custodial staff; proper cleaning procedures;

(4) Steam cleaning and HEPA vacuuming;

(5) Reducing disturbance of ACM;

(6) Scheduling O & M for off-hours;

(7) Rescheduling or canceling renovation in areas with ACM;

(8) Boiler room maintenance;

(9) Disposal of ACM;

(10) In-house procedures for ACM-bridging and penetrating encapsulant;

(11) Pipe fittings, and metal sleeves;

(12) Polyvinyl chloride (PVC), canvas, and wet wraps;

(13) Muslin with straps, fiber mesh cloth;

(14) Mineral wool and insulating cement;

(15) Discussion of employee protection programs and staff training; and

(16) Case study in developing an O & M plan (development, implementation process, and problems that have been experienced).

(H) Regulatory review. Focusing on:

(1) The OSHA Asbestos Construction Standard found at 29 CFR 1910.1101 and subsequent revisions;

(2) NESHAP found at 40 CFR Part 61, Subpart A (General Provisions) and M (National Emission Standard for Asbestos);

(3) EPA Worker Protection Rule found at 40 CFR Part 763.;

(4) Subpart G; TSCA Title II; and

(5) Applicable Arkansas regulations.

(I) Record keeping of the Management Planner.;

(1) Use of field inspector's data sheet along with laboratory results,;

(2) Ongoing record keeping as a means to track asbestos disturbance,; and

(3) Procedures for record keeping.

(J) Assembling and submitting the management plan.

(1) Plan requirements for schools in TSCA Title II Section 203(I)(1)~~,~~; and

(2) The management plan as a planning tool.

(K) Financing abatement actions~~.~~:

(1) Economic analysis and cost estimates~~,~~;

(2) Development of cost estimates~~,~~;

(3) Present costs of abatement versus future operation and maintenance cost~~,~~; and

(4) Asbestos School Hazard Abatement Act grants and loans.

(L) Course review. A review of key aspects of the training course.

Reg. 21.1905 Project Designer

The Project Designer training course shall adequately address the following topics:

(A) Background information on asbestos.

(1) Identification of asbestos~~,~~;

(2) Examples and discussion of the uses and locations of asbestos in buildings~~,~~; and

(3) Physical appearance of asbestos.

(B) Potential health effects related to asbestos exposure~~.~~:

(1) Nature of asbestos-related disease and routes of exposure;

(2) Dose-response relationships and the lack of a safe exposure level;

(3) Synergistic effect between cigarette smoking and asbestos exposure;

(4) Latency periods for asbestos-related diseases; and

(5) Discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(C) Overview of abatement construction projects~~.~~:

(1) Abatement as a portion of a renovation project~~,~~; and

(2) OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1910.1101).

(D) Safety system design specifications~~.~~:

(1) Design, construction and maintenance of containment barriers and decontamination enclosure systems;

(2) Positioning of warning signs;

(3) Electrical and ventilation system lockout;

(4) Proper working techniques for minimizing fiber release;

(5) Entry and exit procedures for the work area;

(6) Use of wet methods;

(7) Proper techniques for initial cleaning;

(8) Use of negative-pressure exhaust ventilation equipment;

(9) Use of HEPA vacuums;

(10) Proper cleanup and disposal of asbestos;

(11) Work practices as they apply to encapsulation, enclosure, and repair; and

(12) Use of glovebags and a demonstration of glovebag use.

(E) Field trip. A visit to an abatement site or other suitable building site, including on-site discussions of abatement design and building walk-through inspection~~.~~ ~~Including~~ and a discussion of the rationale for the concept of functional spaces during the walk-through.

(F) Employee personal protective equipment~~.~~:

(1) Classes and characteristics of respirator types;

(2) Limitations of respirators;

(3) Proper selection and inspection;

(4) Donning, use, maintenance and storage procedures for respirators;

(5) Methods for field testing of the face piece-to-face seal (positive and negative-pressure fit checks);

(6) Qualitative and quantitative fit testing procedures;

(7) Variability between field and laboratory protection factors that alter respiratory fit (e.g., facial hair);

(8) Components of a proper respiratory protection program;

(9) Selection and use of personal protective clothing;

(10) Use, storage, and handling of nondisposable clothing; and

(11) Regulations covering personal protective equipment.

(G) Additional safety hazards. Hazards encountered during abatement activities and how to deal with them including:

(1) Electrical hazards;

(2) Heat stress;

(3) Contaminants other than asbestos; and

(4) Fire and explosion hazards;

(H) Fiber aerodynamics and control:

(1) Aerodynamic characteristics of asbestos fibers;

(2) Importance of proper containment barriers;

(3) Settling time for asbestos fibers;

(4) Wet methods in abatement;

(5) Aggressive air monitoring following abatement, and

(6) Aggressive air movement and negative-pressure exhaust ventilation as a cleanup method.

(I) Designing abatement solutions:

(1) Discussions of removal, enclosure, and encapsulation methods; and

(2) Asbestos waste disposal.

(J) Final clearance process:

(1) Discussion of the need for a written sampling rationale for aggressive final air clearance;

(2) Requirements of a complete visual inspection; and

(3) Relationship of the visual inspection to final air clearance.

(K) Budgeting/cost estimating~~.~~:

(1) Development of cost estimates~~,~~;

(2) Present costs of abatement versus future operation and maintenance costs~~,~~; and

(3) Setting priorities of abatement jobs to reduce costs.

(L) Writing abatement specifications~~.~~:

(1) Preparation of and need for a written project design~~,~~;

(2) Means and methods specifications versus performance specifications~~,~~;

(3) Design of abatement in occupied buildings~~,~~;

(4) Modification of guide specifications for a particular building~~,~~;

(5) Worker and building occupant health/medical considerations~~,~~; and

(6) Replacement of ACM with nonasbestos substitutes.

(M) Preparing abatement drawings~~.~~:

(1) Significance and need for drawings~~,~~;

(2) Use of as-built drawings as base drawings~~,~~;

(3) Use of inspection photographs and on-site reports~~,~~;

(4) Methods of preparing abatement drawings~~,~~;

(5) Diagraming containment barriers~~,~~;

(6) Relationship of drawings to design specifications~~,~~; and

(7) Particular problems related to abatement drawings.

(N) Contract preparation and administration.

(O) Legal/liabilities/defenses~~.~~:

(1) Insurance considerations;

(2) Bonding~~,~~ and hold-harmless clauses;

(3) Use of abatement contractor's liability insurance; and

(4) Claims-made versus occurrence-based policies.

(P) Replacement of asbestos with asbestos-free substitutes.

(Q) Role of other consultants~~.~~:

(1) Development of technical specification sections by industrial hygienists or engineers~~,~~; and

(2) Multi-disciplinary team approach to abatement design.

(R) Occupied buildings~~.~~:

(1) Special design procedures required in occupied buildings~~,~~;

(2) Education of occupants~~,~~;

(3) Extra monitoring recommendations~~,~~;

(4) Staging of work to minimize occupancy exposure ~~,~~;and

(5) Scheduling of renovation to minimize exposure.

(S) Relevant Federal, Arkansas ~~State~~ and local regulatory requirements, procedures and standards, including, but not limited to:

(1) Requirements of TSCA Title II;

(2) NESHAP (40 CFR Part 61) Subparts A (General Provisions) and M (National Emission Standard for Asbestos);

(3) OSHA Respirator Standard found in 29 CFR 1910.134;

(4) EPA Worker Protection Rule found in 40 CFR Part 763, Subpart G;

(5) OSHA Asbestos Construction Standard found in 29 CFR 1910.1101; and

(6) OSHA Hazard Communication Standard found in 29 CFR 1910.59.

(T) Course review~~.~~: A review of key aspects of the training course.

Reg. 21.1906 Air Monitor

The Air Monitor~~ing~~ training course shall adequately address the following topics:

(A) Generally, types of air monitoring:~~.~~

(1) Personal air monitoring~~,~~;

(2) Area air monitoring~~,~~;

(3) Preclearance air monitoring~~,~~; and

(4) Clearance air monitoring;

(B) Purpose and intent of clearance air monitoring;

(C) How to conduct clearance air monitoring;

(D) How to conduct aggressive sampling;

(E) Calibration of instruments;

(F) Selection of appropriate equipment and media;

(G) Sample placement;

(H) Calculations, chain of custody, preparation of reports, and sample labeling;

(I) General discussion of laboratories;

(J) Health considerations including decontaminating the equipment and the person performing the air monitoring;

(K) Hands-on demonstration of the following:

(5) Calculations~~,~~;

(6) Calibration of instruments~~,~~;

(7) Placement of air monitors~~,~~;

(8) Aggressive air monitoring~~,~~;

(9) Decontamination procedures~~,~~; and

(10) Labeling; and

(L) Course overview.

Reg. 21.1907 Out of State Training

Arkansas regulatory awareness training course ~~. Th~~is a 2-hour course ~~is~~ for ~~persons~~ individuals who have successfully completed an ASHARA-approved training course conducted by a training provided not licensed in accordance with this regulation. ~~outside the state of Arkansas.~~ The course shall address, at a minimum, the following topics:

(A) The Department's relationship with the EPA, including the delegation of authority to operate Federal regulations;

(B) The Department's authority to enforce regulations on Federal facilities;

(C) The difference between NESHAP and this regulation;

(D) The relationship between the Department and OSHA; and

(E) The certification and licensing requirements in Arkansas.

CHAPTER 20: REFRESHER TRAINING COURSE

Reg. 21 .2001 Refresher Training

Asbestos abatement Contractor/~~s~~Supervisors, Inspectors, Management Planners, Project Designers, and Workers shall annually attend a refresher training course for reaccreditation in their respective disciplines, with the exception that Air Monitors will receive the refresher training through the Contractor/~~s~~Supervisors training course.

After completing the annual refresher course, each person shall be eligible to apply to the Department to have his or her State of Arkansas certification renewed in accordance with ~~Section~~ Chapter 16 of this regulation.

Reg. 21.2002 Minimum Length

The minimum length for each refresher course for each discipline shall be as follows:

(A) For Workers, one ~~(1)~~ full day (eight ~~[8]~~ hours);

(B) For Contractor/supervisors, one ~~(1)~~ full day (eight ~~[8]~~ hours);

(C) For Inspectors, one-half (½) day (four ~~[4]~~ hours);

(D) For Management Planners, one-half (½) day (four ~~[4]~~ hours) ~~of inspector~~ of inspector refresher training and one-half (½) day of management planning refresher course; and

(E) For Project Designers, one ~~(1)~~ full day (eight ~~[8]~~ hours)~~; and~~ .

Reg. 21.2003 Minimum Requirements

Each refresher training course shall, at a minimum, address the following:

(A) Changes in Federal and State regulations~~,~~;

(B) Developments in state-of-the-art procedures~~,~~; and

(C) Review of key aspects of the initial training course.

Reg. 21.2004 Separate Refresher Courses

Refresher courses shall be conducted as separate and distinct courses and shall not be combined with any other training during the period of the refresher course.

CHAPTER 21: DENIAL AND REVOCATION

Reg. 21.2101 Denial, Suspension and Revocation

The Department may deny the application, suspend~~,~~ or revoke the license or certification of Asbestos Abatement Contractors, Asbestos Abatement Consultants, Air Monitor~~s~~ing, Contractor/~~s~~Supervisors, Inspectors, Management Planners, Project Designers, or Workers for reasons including, but not limited to, the following:

(A) Performing work requiring accreditation at a job site without being in physical possession of initial and current accreditation certificates and/or licenses~~.~~;

(B) Permitting the duplication and/or use of one's own accreditation certificate and/or license by another;

(C) Performing work for which certification and/or licensing has not been received;

(D) Obtaining certification from a training provider that does not have approval to offer training for the particular discipline from either EPA or from the Department;

(E) Failure to comply with the terms of a ~~NOV or CAO issued by the Department~~ Consent Administrative Order ("CAO"), a Default Administrative Order ("DAO"), an Emergency Order ("EO"), or any other final order issued by the Department and/or the Commission.

(F) Being subject to a final order imposing a civil penalty or conviction under Section 16 TSCA, 15 U.S.C. 2615 or 2647, for violations of 40 CFR Part 763, or Section 113 of the Clean Air Act, 42 U.S.C. 7413, for violations of 40 CFR Part 61, Subpart M; or

(G) Any violation of the provisions of the Act or this regulation.

Reg. 21.2102 Non-accredited Persons

The following persons are not accredited for purposes of this regulation:

(A) Any person who obtains accreditation through fraudulent representation of training or examination documents;

(B) Any person who obtains training documentation through fraudulent means;

(C) Any person who gains admission to and completes refresher training through fraudulent representation of initial or previous refresher training documentation; or

(D) Any person who obtains accreditation through fraudulent representation of accreditation requirements such as education, training, professional registration, or experience.

Reg. 21.2103 Training Licensing

Training course approval or Training Provider licensing may be revoked for the following reasons:

(A) Misrepresentation of the extent of a training course's approval pursuant to this regulation;

(B) Failure to submit required information or notifications in a timely manner;

(C) Failure to maintain requisite records;

(D) Falsification of accreditation records, instructor qualifications, or other accreditation information;

(E) Failure to adhere to the training standards and requirements of the EPA MAP or State Accreditation Program, as appropriate;

(F) Failure to comply with the terms of a NOV or CAO issued by the Department;

(G) Being subject to a final order imposing a civil penalty or conviction under Section 16 TSCA, 15 U.S.C. 2615 or 2647, for violations of 40 CFR Part 763, or Section 113 of the Clean Air Act, 42 U.S.C. 7413, for violations of 40 CFR Part 61, Subpart M; or

(H) Any violation of the provisions of the Act or this regulation.

CHAPTER 22: FEE ASSESSMENT

Reg. 21.2201 Fee Assessment

In order to support the costs of operating the asbestos program in the state of Arkansas, the Department will assess the fees as described in this section.

Reg. 21.2202 Asbestos Abatement Consultant

Any Asbestos Abatement Consultant desiring a license to conduct asbestos abatement activities will be assessed an annual fee of $375. ~~$500.00. This fee will be prorated at $41.67 per month for the first fee, then will be $500 thereafter due December 31.~~

Reg. 21.2203 Asbestos Abatement Contractor

Any Asbestos Abatement Contractor desiring a license to conduct asbestos abatement activities will be assessed an annual fee of $375. ~~$500.00. This fee will be prorated at $41.67 per month for the first fee, then will be $500 thereafter due December 31.~~

Reg. 21.2204 Training Provider

Any Training Provider desiring a license to conduct asbestos training courses will be assessed an annual fee of $375. ~~$500.00~~.

Reg. 21.2205 Air Monitor

Any person desiring certification as an Air monitor will be assessed an annual fee of $112.50 ~~$150.00~~.

Reg. 21.2206 Contractor/Supervisor

Any person desiring certification as a Contractor/Ssupervisor will be assessed an annual fee of $112.50 ~~$150.00~~.

Reg. 21.2207 Inspector

Any person desiring certification as an Inspector will be assessed an annual fee of $112.50 ~~$150.00~~.

Reg. 21.2208 Management Planner

Any person desiring certification as a Management Planner will be assessed an annual fee of $112.50 ~~$150.00~~.

Reg. 21.2209 Project Designer

Any person desiring certification as a Project Designer will be assessed an annual fee of $112.50 ~~$150.00~~.

Reg. 21.2210 Worker

Any person desiring certification as a Worker will be assessed an annual fee of $26.40 ~~$35.00~~.

Reg. 21.2211 Multiple Certificates

Any person desiring certification in two or more disciplines, including ~~as an~~ Air Monitor, Contractor/~~s~~Supervisor, Inspector, Management Planner, or Project Designer ~~who makes application at one time for more than one certificate~~ will be assessed a $112.50 ~~$150.00~~ fee for the first certificate and a $56.25 ~~$75.00~~ fee for each additional ~~request~~ discipline within the same twelve month period.

Reg. 21.2212 Replacement

Any person requesting a replacement for any stolen, lost, or destroyed certification or license shall be assessed a fee of $15~~.00~~.

Reg. 21.2213 Processing

Any person desiring processing of certificates to be completed within thirty-six hours of submission to the ~~agency~~ Department will be assessed an expedited processing fee of $50~~.00~~.

Reg. 21.2214 Demolition – Greater than One Square/Linear Foot of ACM

Any NOI involving demolition of a facility as described in ~~Sections 6.1~~ Reg. 21.601 and Reg. 21.602 ~~6.2~~ which contains greater than ~~1~~ one square/~~1~~ one linear foot of ACM ~~will~~ shall be accompanied by a fee of $75 ~~$100.00~~**.**

Reg. 21.2215 Demolition – 160 Square/260 Linear to 5,000 Square/Linear Feet of RACM

Any NOI involving demolition of a facility as described in ~~Sections 6.1~~ Reg. 21.601 and Reg. 21.602 ~~6.2~~which contains 160 square/260 linear to 5000 square/5000 linear feet of RACM ~~will~~ shall be accompanied by a fee of $225 ~~$300.00~~**.**

Reg. 21.2216 Demolition – 5,001 Square/Linear to 10,000 Square/Linear Feet of RACM

Any NOI involving demolition of a facility as described in ~~Sections 6.1~~ Reg. 21.601 and Reg. 21.602 ~~6.2~~which contains between 5001 square/5001 linear and 10,000 square/10,000 linear feet of RACM ~~will~~ shall be accompanied by a fee of $375 ~~$500.00~~**.**

Reg. 21.2217 Demolition – Greater than 10,000 Square/Linear Feet of RACM

Any NOI involving demolition of a facility as described in ~~Sections 6.1~~ Reg. 21.601 and Reg. 21.602 ~~6.2~~which contains greater than 10,000 square/10,000 linear of RACM ~~will~~ shall be accompanied by a fee of $750 ~~$1000.00~~**.**

Reg. 21.2218 Renovation – 160 Square/260 Linear to 5,000 Square/Linear Feet of RACM

Any NOI involving renovation of a facility as described in ~~Section 6.3~~ Reg. 21.603 which contains 160 square/260 linear to 5,000 square/5,000 linear feet of RACM ~~will~~ shall be accompanied by a fee of $225 ~~$300.00~~.

Reg. 21.2219 Renovation – 5001 Square/260 Linear to 5,000 Square/Linear Feet of RACM

Any NOI involving renovation of a facility as described in ~~Section 6.3~~ Reg. 21.603 which contains 5001 square/linear to 10,000 square/10,000 linear feet of RACM ~~will~~ shall be accompanied by a fee of $375 ~~$500.00~~**.**

Reg. 21.2220 Renovation – Greater than 10,000 Square/Linear Feet of RACM

Any NOI involving renovation of a facility as described in ~~Section 6.3~~ Reg. 21.603 which contains more than 10,000 square/10,000 linear feet of RACM ~~will~~ shall be accompanied by a fee of $750 ~~$1,000.00~~**.**

Reg. 21.2221 Emergency Renovation NOI

Any NOI involving emergency renovation operations as described in ~~Section 6.5~~ Reg. 21.605 ~~will~~ shall be accompanied by a fee of $225 ~~$300.00~~**.**

Reg. 21.2222 Annual NOI

Any NOI for a twelve-month notice as described in ~~Section 6.4~~ Reg. 21.604 ~~will~~ shall be accompanied by a fee of $1,125 ~~$1,500.00~~**.**

Reg. 21.2223 NOI Revision

Any revision of an original NOI as described in ~~Section 6.8~~ Reg. 21.608 shall be accompanied by a submittal fee of $50~~.00~~**.**

CHAPTER 23: POWERS AND DUTIES OF THE DIRECTOR

Reg. 21.2301 Application Requirements

The Director, or his/her designee, shall review applications for initial Asbestos Abatement Contractor and Asbestos Abatement Consultant licenses and renewals thereof based upon a satisfactory submittal of the following:

(A) A completed application with submission of the annual license fee described in ~~Section~~ Chapter 22 of this regulation,

(B) Proof that the Asbestos Abatement Contractor has one full-time employee in a supervisory capacity, who has been certified by the Department as a Contractor/~~s~~Supervisor.

Reg. 21.2302 Application Review

The Director, or his/her designee, shall review applications for initial certificates and renewals thereof based upon ~~Sections~~ Chapters 15 and 16 of this regulation and any other information the Director, or his/her designee, deems relevant to determine whether such application shall be approved or denied.

Reg. 21.2303 Training Provider Licenses

The Director, or his/her designee, shall review applications for the initial training provider licenses and renewals based upon ~~Sections~~ Chapters 15 and 16 of this regulation and any other information the Director, or his/her designee, deems relevant to determine whether such application shall be approved or denied.

Reg. 21.2304 Disapproval

The Director, or his/her designee, shall set forth to the applicant in writing the basis for a decision to disapprove an application for a license, certificate, renewal, or revocation. Any denial, disapproval, or revocation by the Director, or his/her designee, may be appealed as provided in the Commission's Regulation Number 8, Administrative Procedures.

Reg. 21.2305 Adoption by Reference

To establish minimum performance standards for the abatement of ACM under the Act, specific regulations promulgated by the EPA in 40 CFR Part 61, Subpart M (National Emissions Standards for Hazardous Air Pollutants) ~~and all subsequent revisions~~ are hereby adopted as provisions of the regulation as though set forth herein line for line and word for word with the exception that all reference therein to the "Administrator" shall be considered as reference to the "Director of the Arkansas Department of ~~Pollution Control and Ecology~~ Environmental Quality," and all reference to the "United States Environmental Protection Agency" shall be considered a reference to the "Arkansas Department of ~~Pollution Control and Ecology~~ Environmental Quality"; further, the effective date of provisions adopted herein by reference as provisions of

this regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking, and the effective date of the Federal regulations adopted herein shall have no bearing on the effective date of any provisions of this regulation. The following Federal regulations are hereby adopted from Title 40, Code of Federal Regulations, Part 61, Subpart M:

(A) Section 61.140;

(B) Section 61.141;

(C) Section 61.145;

(D) Section 61.147;

(E) Section 61.148;

(F) Section 61.150;

(G) Section 61.151;

(H) Section 61.152; and

(I) Section 61.154.

All are as adopted as final rules by the EPA on or before December 14, 2000 ~~November 20, 1990 (and all subsequent revisions)~~ and Appendix C of Title 40, Code of Federal Regulations, Part 763, Subpart E as adopted as interim final rule by the United States Environmental Protection Agency on or before February 3, 1994 ~~(and all subsequent revisions)~~. The Commission, within 180 days after the date of promulgation of any new or revised Federal regulations pertaining to National Emissions Standards for Hazardous Air Pollutants or the TSCA Asbestos Model Accreditation Plan, shall conduct rulemaking with reference to this regulation to adopt such provisions. Such new or revised federal ~~relations~~ regulations, upon the date of their publication as final rules of the EPA, shall constitute minimum guidelines to the Commission in formulating rulemaking proposals to this regulation but shall not be construed to limit or to interfere with the adoption of provisions more stringent than Federal regulations.

CHAPTER 24: RECIPROCITY

Reg. 21.2401 Reciprocity

~~Training and examination for initial certification may be waived if the applicant presents the certificate from a training course which has been accredited by EPA Asbestos Model Accreditation Plan (MAP) pursuant to 40 CFR 763 and submits proof of attendance to a 2-hour Arkansas Regulation Number 21 awareness course.~~

(A) Individuals applying for an initial certification under this regulation who have not received training in this regulation by training providers licensed by the state of Arkansas must submit:

(1) An original certificate of completion of a two hour Arkansas Awareness class taught by an Arkansas licensed training provider, and

(2) An original certificate of completion of a two hour Arkansas Awareness class taught by an Arkansas licensed training provider, and

(B) In lieu of past certificates, an applicant may submit the most current training certificate and a copy of a certificate for a current asbestos certification by a state or territory or tribe to which EPA has delegated authority, similar to the delegation to Arkansas, as described in Section 21.201 (B) of this regulation.

CHAPTER 25: REVIEW OF ACTIONS

Reg. 21.2501 Review of Actions

As provided in Section IV of the Act, an aggrieved party to any action taken under the authority of the Act of this regulation by the Director of the Department, with respect to licenses and certificates, shall have rights of redress as provided in Part I of the Arkansas Water and Air Pollution Control Act, as amended, including but not limited to, A.C.A. § 8-4-218 and the Arkansas Pollution Control and Ecology Commission Regulation No. 8.

CHAPTER 26: ENFORCEMENT DATE

Reg. 21.2601 Reserved

~~Unless otherwise provided, **Asbestos Abatement Consultants** shall have 90 days after the effective date of this regulation to come into compliance with these licensing requirements.~~

RESERVED

Reg. 21.2602 Reserved

~~Unless otherwise provided, **Inspectors, Management Planners, Project Designers**, and **Air Monitors** shall have six months to come into compliance with these certification requirements~~

RESERVED

CHAPTER 27: EFFECTIVE DATE

Reg. 21.2701 Effective Date

This regulation and any amendment thereof shall be in full force and effect ~~20~~ 10 days after filing with the Secretary of State.

~~PROMULGATED this _____ day of _____, 1997~~

~~By ORDER OF THE POLLUTION CONTROL AND ECOLOGY COMMISSION~~

~~BY~~
~~Chairman~~

~~ATTEST: APPROVED:~~

~~_____~~
~~Randall Mathis, Director Mike Huckabee, Governor~~
~~State of Arkansas~~

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
DIVISION Air Division
DIVISION DIRECTOR Mike Bates
CONTACT PERSON Mike Bates
ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118-5317
PHONE NO. (501) 682-0750 **FAX NO.** (501) 682-0753 **E-MAIL** bates@adeq.state.ar.us
NAME OF PRESENTER AT COMMITTEE MEETING Karen Bassett or Mike Bates
PRESENTER E-MAIL bassett@adeq.state.ar.us or bates@adeq.state.ar.us

INSTRUCTIONS

A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

****

1. What is the short title of this rule?
Regulation Number 21

2. What is the subject of the proposed rule?
Arkansas Pollution Control and Ecology Commission Regulation Number 21, Arkansas Asbestos Abatement Regulation

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes____ No X

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes_____ No X

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes_____ No_____

5. Is this a new rule? Yes_____ No___X___ If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes_____ No__X____If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes_X_No___If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

See the attached Petition to Initiate Rulemaking for a summary and Exhibit A for a mark-up copy of the changes.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

A.C.A §8-4-201; §8-4-202, and §8-4-311.

7. What is the purpose of this proposed rule? Why is it necessary?

Regulation Number 21 will be amended will improve the overall effectiveness and enforceability of asbestos abatement regulation, and help ensure the proper training and efficient certification of asbestos workers in the state. The proposed changes will reduce asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

http://www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes___X____No_____
If yes, please complete the following:
Date: *April 6, 2010*
Time: *2:00 PM*
Place: *ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, AR*

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
Tuesday, April 20, 2010

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
On or about July 15, 2010

12. Do you expect this rule to be controversial? Yes____No ___X__If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

ADEQ held the first stakeholder meeting on September 13, 2007, to receive suggestions on regulatory changes. Additional meetings were held on September 24, 2008, and December 21, 2009. Many of the proposed changes, including the additional monitoring and photo submission are the result of input received from the stakeholders. Potential commentors and positions are unknown at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Environmental Quality
DIVISION Air Division
PERSON COMPLETING THIS STATEMENT Elizabeth Sartain
TELEPHONE NO. (501) 682-0719 **FAX NO.** (501) 682-0753 **EMAIL:** Sartain@adeq.state.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE
Regulation Number 21

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes X No _____

2. Does this proposed, amended, or repealed rule affect small businesses?
   Yes X No _____

   If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.
   See Exhibit "E"

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
   Not Applicable

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	N/A	General Revenue	N/A
Federal Funds	N/A	Federal Funds	N/A
Cash Funds	N/A	Cash Funds	N/A
Special Revenue	N/A	Special Revenue	N/A
Other (Identify)	N/A	Other (Identify)	N/A
Total	N/A	Total	N/A

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
See Exhibit F for estimate costs to parties subject to this proposed amendment.	

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year	**Next Fiscal Year**
$0	$0

MEMORANDUM

To: Arkansas Pollution Control and Ecology Commission

From: Mike Bates, Chief, Air Division, Arkansas Department of Environmental Quality

Date: February 12, 2010

RE: Compliance with Act 143 of 2007

Please see the Economic Impact Statement (Exhibit E of the Rulemaking Packet) and the attached email from Mr. Jeremy Spann to Ms. Pat Brown of the Arkansas Economic Development Commission. On February 01, 2010, Mr. Spann properly submitted the proposed rule changes to AEDC for review pursuant to Act 143 of 2007. At such time as AEDC provides documentation of its review of the rule, ADEQ will supplement this memorandum by filing the response from AEDC with the Commission's Administrative Hearing Officer and placing a scanned copy of the response on the Commission's website.

Spann, Jeremy

From: Spann, Jeremy
Sent: Monday, February 01, 2010 1:57 PM
To: 'pbrown@arkansasedc.com'
Cc: Bates, Mike; Porta, Mike; Davis, Anthony; Sartain, Elizabeth
Subject: Proposed Changes to Regulation 21, Economic Impact Statement

Ms. Brown,
The Arkansas Department of Environmental Quality (ADEQ) proposes revisions to Regulation Number 21, Arkansas Asbestos Abatement Regulation. In accordance with Act 143 of 2007, please see the attached mark-up copy of the proposed regulation, the Economic Impact Statement of Proposed Rules or Regulations, and its Appendix A, Arkansas Pollution Control and Ecology Commission Economic Impact/Environmental Benefit Analysis, for your review.

ADEQ plans to petition the Arkansas Pollution Control and Ecology Commission (APC&EC) to initiate rulemaking at the Commission's meeting on February 26, 2010. Thank you for your assistance in this matter.

Jeremy Spann

EXHIBIT D

ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04 and Act 143 of 2007: Regulatory Flexibility

Department Arkansas Department of Environmental Quality

Divisions Air Division

Contact Person Mike Bates Date February 12, 2010

Contact Phone (501) 682-0750 Contact Email bates@adeq.state.ar.us

Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 21

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, Please explain the nature of such complaints.

The proposed changes to Regulation Number 21, Arkansas Abatement Regulation, will require air monitoring for asbestos fibers to be conducted before and during and after a renovation or demolition project, whereas the current regulation only requires air monitoring to be performed after the project is completed. The proposed changes also require that air monitoring be conducted by an independent third party who is not an agent of the firm doing the renovation. Through additional air monitoring the proposed amendments will help ensure the reduction of asbestos fibers entering the environment.

By requiring photos of individuals seeking asbestos training certification and by requiring increased reporting from training providers, the Department can better ensure that individuals receiving certification are the individuals who were trained.

The proposed changes to Regulation Number 21 are the result of stakeholder participation and contributions, and therefore the changes can be considered complaints of the original regulation. Making the proposed change will improve the overall effectiveness and enforceability of asbestos abatement regulation, and help ensure the proper training and efficient certification of asbestos workers in the state. Please see the attached Exhibit F, Arkansas Pollution Control and Ecology Commission Economic Impact/Environmental Benefit Analysis, for a detailed review of the costs and benefits of the proposed amendments.

2. What are the top three benefits of the proposed rule or regulation?

The top three benefits of the proposed regulation amendments to Regulation Number 21 are as follows:

1) A reduction of asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death.

2) By requiring photos of individuals seeking certification the Department can better ensure that individuals receiving certification are the individuals who were trained.

3) Advanced notification of training classes and submittal of specific information within 10 days of class completion will help ensure the proper and efficient certification of individuals by the Department.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

If the proposed revisions are not implemented, more asbestos fibers will be released into the atmosphere, resulting in increased morbidity and premature death. If just one premature death is prevented each nine years the proposed changes will have a positive economic benefit.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

There are no known market-based alternatives or voluntary standards that would achieve the same purpose of the proposed amendments for Regulation Number 21.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing recordkeeping, auditing and inspecting associated with this new rule or regulation.

The proposed amendments to Regulations Number 21 will not create any new costs to the state government.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

The proposed amendments will create new compliance requirements for licensed asbestos abatement firms. There are currently 105 licensed asbestos contractors and/or consultants, some of which are small businesses.

The proposed rule will require individuals seeking certification in asbestos disciplines to submit a photograph (print or digital image) of themselves or come to the Department's offices during normal business hours and have one taken free of charge. There are currently 733 individuals with certifications.

The proposed regulation will mandate training providers comply with certain reporting requirements. Specifically it will require they notify the Department in advance of all classes and submit information to the Department within 10 days of class completion. These changes will impact all licensed training providers. There are currently eleven licensed training providers in Arkansas.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

The proposed amendments will not create any barriers to entry.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

The proposed amendments require additional air monitoring that is estimated to have an average mid-point annual economic impact of $873,000 per year. This cost per renovation will vary with the length of job. The estimated cost of the individual photograph submittal requirement is $2.60 per year. This cost, combined with a reduction of $8.60 per year of worker certification fees, results in a net annual benefit to workers of $6.60 per year. The proposed amendments require additional reporting requirements for training providers. These changes are estimated to have an annual cost of $133.46 for each training provider. Fees for training providers are being reduced by $125 per year, resulting in a net increase of $8.46 per year per training provider.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

The proposed amendments apply to asbestos regulation practices and will not contain different requirements for different sized entities.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The proposed additional air monitoring requirements will directly (negatively) affect licensed asbestos abatement firms and will indirectly affect their clients. The proposed changes will result in nominal increased cost of time, effort and resources for training providers. The proposed changes will decrease most fees by 25%.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

The proposed changes to Regulation Number 21 are based on the regulation of asbestos abatement found in 40 C.F.R. Part 61, Subpart M.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

ADEQ held the first stakeholder meeting on September 13, 2007 to receive suggestions on regulatory changes. Additional meetings were held on September 24, 2008, and December 21, 2009. Many of the proposed changes, including the additional monitoring and photo submission are the result of input received from the stakeholders.

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

Rule Number & Title: Regulation No. 21, Arkansas Asbestos Abatement Regulation

Petitioner: Arkansas Department of Environmental Quality (ADEQ)

Contact/Phone/Electronic mail: Mike Porta, (501) 682-0752, porta@adeq.state.ar.us

Analysis Prepared by: Mike Porta

Date Analysis Prepared: December 2009

2A. ECONOMIC IMPACT

1. Who will be affected economically by this proposed rule?

State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.

The additional air monitoring requirements will (negatively) directly affect licensed asbestos abatement firms and will indirectly affect their clients. There are currently 105 licensed asbestos contractors and/or consultants.

The proposed rule will require individuals seeking certification in asbestos disciplines to submit a photograph (print or digital image) of themselves or come to the Department's offices during normal business hours and have one taken free of charge. The proposed rule will also reduce the fees associated with these certifications by 25%. These changes will impact (positively) all certified individuals. There are currently 733 individuals with certifications.

The proposed regulation will mandate training providers comply with certain reporting requirements. Specifically it will require they notify the Department in advance of all classes and submit information to the Department within 10 days of class completion. The proposed rule will also reduce training provider licensing fees by 25%. These changes will have a slight negative impact on all licensed training providers. There are currently 11 licensed training providers in Arkansas.

Sources and Assumptions:

The source for number of licensed asbestos contractors and/or consultants is the ADEQ asbestos licensing database.

The source for number of certified individuals is the ADEQ asbestos licensing database.

The source for the number of licensed training providers is the ADEQ asbestos licensing database.

2. What are the economic effects of the proposed rule? State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

The monitoring requirements will have a total average annual economic impact of $873,000 per year. This cost per renovation will vary with the length of job. Please see the attached appendix for more information.

Sources and Assumptions:

Please see the attached appendix for detailed sources and assumptions.

3. List any fee changes imposed by this proposal and justification for each.

This proposed regulation will reduce most asbestos related fee by 25%. The following table shows the current and the proposed fees

License Fees for Firms		
License Type	Current Fee	Proposed Fee
Asbestos abatement consultant	$500	$375
Asbestos abatement contractor	$500	$375
Training provider	$500	$375

Certification Fees for Individuals		
Certification Type[1]	Current Fee	Proposed Fee
Air Monitor[1]	$150	$112.50
Contractor/Supervisor[1]	$150	$112.50
Inspector[1]	$150	$112.50
Management Planner[1]	$150	$112.50

[1] Currently an individual with two or more certificates, excluding worker, will pay $150 for the first certificate and $75 for each additional certificate issued at the same time. Under the proposed revision the 50% discount for additional certificates will apply if they are issued within the same 12 month period.

Project Designer[1]	$150	$112.50
Worker	$35	$26.40
Replacement certificate or license	$15	$15
36 hour processing	$50 each	$50 each

Notice of Intent Fees		
Notice of Intent Type	Existing fee	Proposed Fee
Demolition involving not more than 1 square or linear foot of ACM	$0	$0
Demolition involving more than 1 ft^2 or linear foot of ACM but less than 160 ft^2 or 260 linear feet of ACM	$100	$75
Demolition involving more than 160 ft^2 or 260 linear feet of RACM but not more than 5,000 ft^2 or linear feet of RACM	$300	$225
Demolition involving more than 5,000 ft^2 or linear feet of RACM but not more than 10,000 ft^2 or linear feet of RACM	$500	$375
Demolition involving more than 10,000 ft^2 or linear feet of RACM	$1,000	$750
Renovation involving more than 160 ft^2 or 260 linear feet of RACM but not more than 5,000 ft^2 or linear feet of RACM	$300	$225
Renovation involving more than 5,000 ft^2 or linear feet of ACM but not more than 10,000 ft^2 or linear feet of ACM	$500	$375
Renovation involving more than 10,000 ft^2 or linear feet of RACM	$1,000	$750
Annual NOI	$1,500	$1,125
NOI Revision	$50	$50
Emergency NOI	$300	$225

4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?

The proposed regulation revisions will not result in any increase cost to ADEQ in manpower and associated resources.

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.

There are no known beneficial or adverse impacts to any other state agencies. There is no known other state agency's rule that could address this issue. This propose rule revision will not conflict with or have nexus to any other state agency's rule.

Sources and Assumptions:

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

There are no known less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule.

Sources and Assumptions:

2B. ENVIRONMENTAL BENEFIT

1. What issues affecting the environment are addressed by this proposal?

The revisions to this regulation are intended to prevent asbestos fibers from entering the environment.

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

By requiring photos of individuals seeking certificates, the Department will be better able to enforce proper worker related asbestos abatement practices. Increased reporting from training providers will also help ensure effective training. These changes will increase confidence that the individuals receiving certification are the individuals who were trained. Proper training and increased reporting requirements will improve the success of the additional air monitoring. The proposed changes combined will help ensure that asbestos fibers are not being released into the environment, and will improve the overall effectiveness and enforceability of asbestos abatement regulation.

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

If the proposed revisions are not implemented it is more likely that asbestos fibers will be released into the atmosphere due to less effective and enforceable regulation, resulting in an increased morbidity and premature deaths. If just one premature death is prevented each nine years the proposed changes will have a positive economic benefit.

Sources and Assumptions:

Please see the attached appendix for detailed sources and assumptions.

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

See item 3 above.

Economic Impact and Environmental Benefit Analysis
Appendix

Introduction

Regulation 8, at 8.812(A) requires an economic impact and environmental benefit analysis of proposed changes to a regulation unless the changes are exempt. According to 8.812(C), when a portion of a proposed rule is exempt but the remainder is not then an economic impact and environmental benefit analysis shall be prepared on all parts of the rule not exempt. Those parts of the rule exempt shall be identified with an explanation of which exemptions apply and why they apply.

For this proposed rule the following changes will require an impact and environmental benefit analysis:

> The requirement that air monitoring be done before and during a project (in addition to after the project as now required).—*21.901(G)*
>
> The requirement that air monitoring be done by an independent party who is not an agent of the firm doing the renovation.—*21.901(G)(1)*
>
> The requirement that individuals being certified to submit a photo of themselves.—*21.1501(D)*
>
> The requirement that training providers provide a photo of their students and identify the individuals in the picture(s) as well as specify the other information training providers are required to submit—*21.611*

The analysis of these proposed changes can be found below.

In addition to the above changes the proposed regulation will reduce most fees by 25%.

Air monitoring

Costs estimates

The proposed regulation will require that air monitoring be done before, during, and after, a project done inside containment. Currently monitoring is only required after the project. Also the regulation will require that the monitoring be conducted by an independent party who is not an employee of the firm doing the renovation.

In an effort to determine the cost of these changes we surveyed firms who do monitoring and developed the following price ranges:

Monitoring Event Costs

	low	mid point	high
Baseline	$250	$530	$810
3 day job	$650/day	$700/day	$750/day
5 day job	$600/day	$650/day	$700/day
10 day job	$550/day	$550/day	$550/day

The next step was to determine how many jobs may be subject to monitoring. In actual practice no demolitions are conducted inside containment. If containment is needed prior to a demolition, a renovation is first conducted the demolition follows once all RCAM has been removed. For purposed of this document we looked at the number of renovations conducted during the last 12-month period (December 2008 to November 2009). For the purposes of this analysis it was assumed that all renovations were conducted inside containment and would require monitoring.

Our records indicate that there were 376 renovations during this time period. Of these, 104 were single-day renovations and 272 were multi-day renovations. For the multi-day jobs a survey of our inspectors indicate the approximately 75% are 3-day jobs, 20% 5-day jobs, and 5% 10 day jobs.

The estimated annual cost of the monitoring is presented in the table below:

Estimated Annual Monitoring Costs

Job length	number	monit.-days	Estimated Costs		
			low	mid point	high
Baseline (1 day)	376	376	$94,000	$192,000	$305,000
3 day	204	612	$378,000	$428,000	$459,000
5 day	54	270	$162,000	$176,000	$189,000
10 day	14	10	$77,000	$77,000	$77,000
TOTAL			$771,000	$873,000	$1,030,000

The baseline monitoring costs were estimated by the total number of renovations (376) by the low, mid point and high cost estimates. The cost of the multi day jobs was estimated by number of jobs by the number of days by the low, mid point, and high cost estimates.

Environmental Benefit

The benefit of increased monitoring will be a decrease of asbestos fibers being released into the air. This will result in a decrease in morbidity and a decrease in premature deaths. In order to compare these benefits to the cost, they must be monetized. According to the OAQPS Economic Analysis Resource Document:

> Monetizing the benefits of a regulation involves estimating society's willingness to pay (WTP) for quantified changes in environmental service flows. In economics, WTP refers to the maximum amount an individual is willing to pay to acquire a benefit. It is

measured as the reduction in income required to return an individual to the level of utility he or she enjoyed prior to receiving the benefit.[2]

The economics literature discussing the value of changes in fatality risks is rather extensive and provides a relatively strong basis for monetizing benefits when the number of deaths avoided as a result of a regulatory action can be calculated.

Value of a Statistical Life (VSL). Monetary estimates of changes in fatality risk are often expressed in terms of VSL. The term "value of a statistical life" is easily misinterpreted and should be carefully described when used in benefit analysis. In particular, VSL refers to the WTP for reductions in the risk of premature death aggregated over the population experiencing the risk reduction; that is, VSL refers to the sum of many small reductions in fatality risks. (It is important to note that VSL does not attempt to value the life of an identified individual.) For example, if the annual risk of death is reduced by 1 in 1,000,000 for each of 2,000,000 people, then two statistical lives are saved each year as a result of the risk reduction measures. If each individual is willing to pay $5 for the risk reduction of 1 in 1,000,000, then the value of each statistical life saved is $5 million.[3]

In previous EPA rulemakings they have used a VSL of $6.324 million in 2000 dollars.[4] Adjusting that to 2008 dollars yields a value of $7.907 million.

With a mid-point cost of $873,000 per year this means if just one statistical life is saved each nine years the proposed changes will have a positive economic benefit.

Individual Photograph Submittal

The Department currently issues certifications to individuals who wish to work in various asbestos disciplines. Specifically, we certify the disciplines of contractor/supervisor, air monitor, inspector, management planner, project designer, and worker. The proposed rule will require individuals seeking certification in these disciplines to submit a photograph (print or digital image) of themselves or come to the Department's offices during normal business hours and have one taken free of charge. The proposed rule will also reduce the fees associated with these certifications by 25%. The fee for contractor/supervisor, air monitor, inspector, management planner, and project designer certifications are currently $150/year each; they will be reduced to $112.50. Workers currently pay a certification fee of $35/year; this proposed rule will reduce this to $26.40. It is common in the asbestos industry for individuals to hold multiple certifications. We currently offer a discount if they apply for the certifications at the same time. The proposed regulation will extend this discount if they apply for the multiple certifications during the same year.

[2] OAQPS Economic Analysis Resource Document, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Innovative Strategies and Economics Group, April 2009, page 7-11.
[3] Ibid pp 7-15, 7-16.
[4] Impacts of the SAMI Strategies: An Independent Analysis of the Benefits and Economic Impacts; Conducted by: U.S. Environmental Protection Agency, U.S. National Park Service, U.S, Forrest Service; April 2002; page 14.

In estimating the economic impact of this change we considered the increase cost of submitting the photograph as well as the decreased cost of certification fees. We chose the worker certification as the worst case to consider since their fees, and thus the savings from reduced fees, are the lowest. Also, few workers (only one as of December 2009) have multiple certifications so that the cost of submitting a photograph can not be spread among several certificates.

Passport photos, which will also meet the requirements of Regulation 21, are widely available across the state for a fee of $8. We estimate it will take 30 minutes to have the photo taken at $10/hr or a cost of $5 for the time involved. This brings the total cost to $13. The photo need only be submitted once and can be used in future years as long as it is current. For purposes of this analysis we assumed the photo will remain current for five years. This brings the annual cost of photo submission to $2.60/year. Worker certification fees will be reduced $8.60/year meaning these changes will have a net annual benefit to workers of $6.60.

Training Provider Submittals

This regulation will mandate training providers comply with certain reporting requirements. Specifically it will require they notify us in advance of all classes and submit information to us within 10 days of class completion.

The information required in advance of classes will be:

> Name, address, telephone number, fax number (if applicable), and e-mail address (if applicable;
>
> Course information including title of the course, date and address where the course will be conducted, and the name of the instructor conducting the course; and
>
> Notices of changes or cancellations.

Information required after the class will be:

> Course name and type,
>
> Dates the course was conducted,
>
> A roster of attendees, including, for each attendee: name and address, course completion certificate number, and a class photo with a caption identifying each person (or individual photos of each student), and
>
> The instructor's name.

Currently all training providers provide the pre-class information on a voluntary basis and some of them provide the post-class information. However, since this rule change will mandate these submittals we have attempted to estimate the cost of compliance. In doing so we did not attempt

to estimate the cost to each individual training provider but rather average cost across the entire industry.

As for the pre-class submittals, ADEQ employees estimated the time it would take to prepare and submit the required information by actually going through the process. The process consisted of opening a word processing program and starting with a blank page. The necessary information was typed and the resulting document was e-mailed to an ADEQ address. The entire process took three minutes and twelve seconds. This time could be shortened further through the use of word processing templates.

Post-class submittals will include some of the same information as the pre-class submittals and will also include a class roster and photos of the students. To determine the time necessary to take the pictures of a class ADEQ employees simulated a class picture taking session. Fifteen pictures (considered a median class size) were taken with the models holding a piece of paper with numbers 1 through 15. The pictures were then downloaded to a computer. This process took five minutes and 40 second.

The next step is to identify the individuals in the pictures. In our example a table was created using the class roster identifying each individual by the number they were holding. This took three minutes and 57 seconds. Finally the other required documents were prepared and the pictures (resized for e-mail) and documents e-mailed to an ADEQ e-mail address. This process took two minutes and fourteen seconds.

The entire process including picture taking and downloading and document preparation and submission took fifteen minutes and six seconds.

During the past year the eleven licensed training providers taught a total of 273 classes for an average of 24.8 per training provider. Only basic clerical skills are needed to comply with these reporting requirements. People with these skills can be hired at $15/hour. (The Department recognizes that different training providers have different business practices and some of them do their own clerical work; however, we did not base this calculation on the value of a training provider's time since their skills are not needed to comply with these requirements.)

Doing the math, we have a total of 18 minutes and 18 seconds per class times 24.8 classes per year gives us 454 minutes per year or 7.56 hours per year. At $15/hour this comes to $113.46/year for each training provider.

In addition we have the capital equipment requirement, i.e. digital camera. Digital cameras can be purchased for $100 or less. They items should last at least five years, for an annual cost of $20/year.

The total average annual cost will be $133.46/yr for each training provider ($113.46 dollars for the time and $20 for the equipment). Fees on training providers are being reduced by $125/hr so the average net change will be an increase of $8.46 per year per training provider.

Exempt Changes

The following changes are exempt under 8.812(A)(4) from requirement to perform an economic impact analysis:

The regulation was reformatted to meet the Commission's current regulation formation guidelines. Minor non-substantive wording changes were made to allow the reformatting to proceed.

Minor changes were made so that one consistent style is used throughout the regulation

Chapter 11 was reorganized.

Chapter 26 was deleted since it contained transition language which no longer applies.

Numerous terms were defined in Chapter four even though those terms were not used elsewhere in the regulation. These definitions have been deleted.

Changes With a De Minimis Positive Economic Impact

The following changes will have a de minimis positive economic impact (i.e. they will lower cost to regulated entities.)

The requirement that liability insurance must be issued by an Arkansas resident agent was dropped.—*21.1301(E) p13-1*

The requirement that contractors and consultant license fees expire December 31 was dropped. They will now be issued for a period of 12 months. Because of this the fees will no longer be prorated. —*21.2202 & 21.2203 p22-1*

The proposed revisions will allow individuals who have multiple certifications to take advantage of the fee discount for additional certification even if they don't apply for them all at the same time.—*21.2211 p22-2*

Changes With No Economic Impact

The following changes clarify current practice and or procedures. These changes will have no economic impact since they codify what is already being done.

The applicability section was amended to clarify that the regulation covers disposal of asbestos containing waste.

The following definition were added: "Air monitor"

"Commercial Asbestos"
"EPA"
"Individual"
"Person or Persons"
"Thorough Inspection

The proposed regulation clarifies:

the reciprocity requirements in chapter 24
the fact that training providers may be required to provide copies of any records that they are required to keep under 21.1807(I)
that a project design, certificates and licenses must be kept on site of a reno/demo, and individuals are required to submit a disclosure statement in accordance with regulation 8.
that floor tile is RACM if removed by breaking, sanding, grinding, cutting, or abrading. *chapter 4 RACM definition p4-7*
that all project designs be written and specific to the job in question.—*21.502, p5-1*
the minimum amount of liability insurance coverage is $1,000,000.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

SUBJECT: Petition to Initiate Rulemaking – Regulation No. 21 DOCKET NO. 10- -R

MINUTE ORDER NO. 10-

On February 12, 2010, the Arkansas Department of Environmental Quality ("Department" or "ADEQ") filed a Petition to Amend Regulation No. 21, Arkansas Asbestos Abatement Regulation, ("Petition"). The Petition has been designated as Docket No. 10-___-R.

The Commission's Regulations Committee met on February 26, 2010, to review the Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the proposed revisions to Regulation No. 21.

1. The Department shall file an original and two (2) copies and a computer disk in Word of all materials required under this Minute Order.

2. Persons submitting written public comments shall submit their written comments to the Department. Within ten (10) business days following the adoption or denial of the proposed rule, the Department shall deliver the originals of all comments to the Commission Secretary.

3. A public hearing shall be conducted on April 6, 2010, beginning at 2:00 p.m. in the ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, and AR 72118-5317.

4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing pursuant to Reg. 8.806 of Regulation No. 8, unless an extension of time is granted.

5. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a Statement of Basis and Purpose as required by Reg. 8.808 and 8.815 of Regulation No. 8.

6. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a proposed Minute Order deciding this matter.

7. The Department shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

8. The Regulations Committee may consider this matter at its June 2010 meeting. In the event that the appropriate legislative committees do not complete review of the proposed rule by the above date, the Regulations Committee and the Commission will consider the proposed amendments to the regulation after review by the appropriate legislative committee. Members of the Regulations Committee may ask questions of the Department and any person that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

9. At its regularly scheduled June 2010 meeting, the presentation of oral statements and legal arguments shall be regulated as follows:

a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. The Chair, in his discretion, may extend the one (1) hour public comment period.

b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.

c. Department legal counsel or other designated Department employee will be permitted ten (10) minutes in which to address the Commission.

d. At the conclusion of all comments, the Chairman will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring comments who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

10. The Commission concurs with the Arkansas Economic Development Commission that the Department has taken sufficient steps to protect the interested of impacted small businesses as required in Act 143 of 2007.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

SUBJECT: Petition to Initiate Rulemaking – Regulation No. 21

DOCKET NO. 10- -R

MINUTE ORDER NO. 10-

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

_____ L. Bengal	_____ L. Sickel
_____ J. Chamberlin	_____ J. Shannon
_____ S. Henderson	_____ W. Thompson
_____ D. Hendrix	_____ E. Valdez
_____ C. McGrew	_____ B. White
_____ D. Samples	_____ R. Young

Mike Bates
Submitted by: Mike Bates

DATE PASSED

Chair, J. Simpson

CHISENHALL, NESTRUD & JULIAN, P.A.
ATTORNEYS AT LAW
REGIONS CENTER
400 WEST CAPITOL, SUITE 2840
LITTLE ROCK, ARKANSAS 72201
TELEPHONE (501) 372-5800
FAX (501) 372-4941
www.cnjlaw.com

January 18, 2010

Honorable Michael O'Malley
ARKANSAS POLLUTION CONTROL
& ECOLOGY
101 E. Capitol Ave., Suite 205,
Little Rock, AR 72201

Re: Arkansas Environmental Federation
Docket No. 09-011-P

Enclosed please find a Motion for Relief from Automatic Stay, and a proposed Minute Order for consideration by the Commission. I have been in discussions with ADEQ to determine whether this motion is supported or not opposed by ADEQ. While such discussions have been positive, as of the end of last week there has been no official position by ADEQ. We will continue discussions with ADEQ which hopefully will result in an agreed upon Minute Order.

Please present this Motion to Commission Chairman Simpson, and assuming his preference is to present this matter to the full Commission, place this Motion on the agenda for the January 22, 2010 meeting.

Very truly yours,

CHISENHALL, NESTRUD & JULIAN, P.A.

Charles R. Nestrud

CRN/seh

Cc Jamie Ewing

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF IGP NO. ARR000000	)	DOCKET NO. 09-011-P

MOTION FOR RELIEF FROM AUTOMATIC STAY

Arkansas Environmental Federation ("AEF") moves that theArkansas Pollution Control and Ecology Commission ("APC&EC") grant for relief from the stay on Permit No. ARR0000 (the "Permit"), which is the renewal of the Industrial General Permit for Arkansas.

The standard applicable to this request is found in Arkansas Code Annotated § 8-4-205(c)(6), which provides in pertinent part that:

> (C) Notwithstanding (the permit stay), upon application by any party, the Commission may ... modify the terms of a stay, or terminate a stay under appropriate circumstances to avoid substantial *prejudice* to any party. (Emphasis added).

Therefore, the APC&EC can modify the stay upon a showing of substantial prejudice to the permittee or others.

AEF and ADEQ agree that the automatic stay has resulted in prejudice to new facilities which do not have access to an industrial general permit and whose plans for operation have been and will be unduly delayed. Existing facilities that have timely applied for a renewal of their industrial general permit continue to be covered under the expired industrial general permit until that permit is renewed. Accordingly, continuing in effect the expired industrial general permit so it is also available to new facilities is reasonable and appropriate.

AEF and ADEQ disagree with respect to the merits of this appeal, and in particular the procedure that should be followed to promulgate the renewal permit.

Through this motion, AEF requests the APC&EC to modify the terms of the automatic stay by allowing new facilities to apply for and obtain coverage under the expired industrial general permit.

CONCLUSION

For all the reasons set forth above, the APC&EC should modify the terms of the automatic stay by allowing new facilities to apply for and obtain coverage under the expired industrial general permit.

Respectfully Submitted,

Charles R. Nestrud
CHISENHALL, NESTRUD & JULIAN, P.A.
400 W. Capitol Ave., Suite 2840
Little Rock, Arkansas 72201
(501) 372-5800

By: 
Charles R. Nestrud, AR BAR 77095

CERTIFICATE OF SERVICE

I, Charles R. Nestrud, do hereby certify that I have served a copy of the foregoing pleading upon the parties of record by U.S. Mail, postage prepaid, this 19 day of January, 2010.

Charles R. Nestrud

On July 1, 2009, Arkansas Department of Environmental Quality ("ADEQ") promulgated General Permit No. AR000000 (the Industrial General Permit or "IGP").

On July 29, 2008, the Arkansas Environmental Federation ("AEF") filed a Third Party Request for Commission Review and Adjudicatory Hearing challenging the Permit. Docket No. 09-011-P.

Arkansas Code Annotated §8-4-205(c)(6) provides in pertinent part that:

> During the pendency of the appeal to the commission:
>
> (B) The issuance, modification, or revocation of a permit or that part of a permit that is the subject of the appeal shall be stayed; and
>
> (C) Notwithstanding [subdivision (B) above], upon application by any party, the commission may provide for a stay, modify the terms of a stay, or terminate a stay under appropriate circumstances to avoid substantial prejudice to any party.

Arkansas Pollution & Ecology Commission ("Commission") Regulation No. 8, Section 2.5.12(c) provides the procedures for seeking relief from an automatic stay:

On January 19, 2009, AEF filed a Motion for Relief from Automatic Stay. The motion asks the Commission to modify the automatic stay by allowing new facilities to apply for and obtain coverage under the expired industrial general permit.

Pursuant to APC&EC Regulation 8, Section 2.5.12(c), the Secretary forwarded the motion to the Chair and the Chair directed the Commission Secretary to add the motion to the agenda for the January 22, 2009, Commission meeting.

On January 22, 2009, the Commission considered AEF's motion and heard from all parties.

Based upon consideration of the parties' pleadings and presentations, the Commission finds and determines as follows:

1. AEF's motion has been properly filed and the matter is properly before the Commission.

2. AEF has established that substantial prejudice will occur if the automatic stay is

not modified. Therefore AEF's motion should be granted pending a final decision of the Commission.

3. This decision modifies the automatic stay by allowing new facilities to apply for and obtain coverage under the expired industrial general permit.

COMMISSIONERS:

_____	**L. Bengel**	_____	**L. Sickel**
_____	**S. Henderson**	_____	**J. Chamberlin**
_____	**D. Hendrix**	_____	**W. Thompson**
_____	**C. McGrew**	_____	**E. Valdez**
_____	**D. Samples**	_____	**B. White**
_____	**J. Shannon**	_____	**R. Young**

_____

Chair, John Simpson

Submitted by: Charles R. Nestrud

DATE PASSED:_____

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF IGP NO. ARR000000	))	**DOCKET NO. 09-011-P**

RESPONSE TO MOTION FOR RELIEF FROM AUTOMATIC STAY

Comes now the Arkansas Department of Environmental Quality ("ADEQ"), by and through its attorney, Jamie L. Ewing, and for its Motion for Relief from Automatic Stay provides the following:

ADEQ cannot support the relief requested by Petitioner Arkansas Environmental Federation ("AEF"). Arkansas law only allows a relief from stay in "appropriate circumstances to avoid substantial prejudice to any *party*." AEF, a nonprofit association, is the only other party to this appeal and has not proven that they will suffer substantial prejudice as a result of the stay of the permit.

Arkansas law also states that the automatic stay applies to the permit that is the subject of the appeal. The law does not allow ADEQ to offer permit coverage under the expired 2004 IGP. Thus, the relief requested by AEF cannot be granted. Any relief from stay must apply to the IGP issued in 2009.

I. Relief From Stay is Only Applicable to Parties

The request for relief from stay should be denied because the relief is only available to parties to the appeal. Ark. Code Ann. §8-4-205(c)(6)(C) and Reg.8.612(B) states that, "the Commission may...terminate a stay under appropriate circumstances to avoid substantial prejudice to any *party* (emphasis added)." The parties to this appeal are ADEQ and AEF, not facilities that may potentially need new coverage under the general

permit. In fact, AEF has previously stated that it does not represent all facilities covered by the 2009 IGP. See Reply to ADEQ's Response to Motion for Summary Judgment at 1, "Any suggestion that AEF had authority to speak on behalf of all potentially affected facilities is flattering, but incorrect."

It is important to note that AEF's motion offers no evidence of how AEF has suffered substantial prejudice from the automatic stay of the permit. Thus, the request should be denied.

II. Relief From Stay can Only be Granted for the Permit Under Appeal

Ark. Code Ann. §8-4-205(c)(6)(B) and Reg.8.612(A)(2) states, "During the pendency of the appeal to the commission...the issuance...of a permit that is *the subject of the appeal* shall be stayed...." (Emphasis added). AEF has appealed the issuance of the 2009 IGP, not the expired 2004 permit. The automatic stay does not apply to the 2004 permit because it is not the subject of the appeal. Thus, the only relief available is relief from the stay of the 2009 IGP.

Likewise, the requested relief cannot be granted because ADEQ cannot issue permit coverage under the expired 2004 IGP.

III. Conclusion

For the foregoing reasons, ADEQ requests that AEF's Request for Relief from Stay be denied.

Respectfully Submitted,
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72223

By: _____
Jamie Ewing, Attorney Specialist
ADEQ, Legal Division

CERTIFICATE OF SERVICE

I, Jamie L Ewing, do hereby certify that I have served a copy of the foregoing pleading upon the following parties/counsel of record by U.S. Mail, this 12th day of Feb, 2010.

Charles R. Nestrud
CHISENHALL, NESTRUD & JULIAN, P.A.
400 W. Capitol Ave., Suite 2840
Little Rock, Arkansas 72201

Allan Gates
Mitchell Williams Law Office
425 West Capitol Avenue
Suite 1800
Little Rock, AR 72201-3525

William A. Eckert
QUATTLEBAUM, GROOMS, TULL & BURROW
111 Center Street, Ste. 1900
Little Rock, Arkansas 72201

Mark Allison
DOVER DIXON HORNE PLLC
Suite 3700
425 West Capitol Avenue
Little Rock, AR 72201

Jamie L Ewing

Jamie Ewing, Attorney Specialist
ADEQ, Legal Division

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

In The Matter of IGP No. ARR000000

DOCKET NO. 09-011-P

MINUTE ORDER NO. 09-____ **PAGE 1 OF 1**

On July 1, 2009, Arkansas Department of Environmental Quality ("ADEQ") promulgated NPDES General Permit No. AR000000 (Industrial Stormwater General Permit or "IGP").

On July 29, 2009, the Arkansas Environmental Federation ("AEF") filed a Third Party Request for Commission Review and Adjudicatory Hearing challenging the permit, Docket No. 09-011-P.

On January 19, 2009, AEF filed a Motion for Relief from Automatic Stay. The motion asks the Commission to modify the automatic stay by allowing new facilities to apply for and obtain coverage under the expired IGP, issued in 2004.

Pursuant to APC&EC Regulation 8, Section 2.5.12(c), the Secretary forwarded the motion to the Chair and the Chair directed the Commission Secretary to add the motion to the agenda for the February 26, 2010, Commission meeting. ADEQ filed a response to AEF's motion on February 12, 2010.

On February 26, 2010, the Commission considered AEF's motion, ADEQ's response and heard from all parties.

Based upon consideration of the parties' pleadings and presentations, the Commission denies AEF's Motion for Relief from Automatic Stay.

COMMISSIONERS:

_____	**L. Bengel**	_____	**L. Sickel**
_____	**S. Henderson**	_____	**J. Chamberlin**
_____	**D. Hendrix**	_____	**W. Thompson**
_____	**C. McGrew**	_____	**E. Valdez**
_____	**D. Samples**	_____	**B. White**
_____	**J. Shannon**	_____	**R. Young**

_____ Submitted by: Jamie L. Ewing DATE PASSED:_____

John Simpson, Chair

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF IGP NO. ARR000000	))	**DOCKET NO. 09-011-P**

MOTION FOR MODIFICATION OF AUTOMATIC STAY

Comes now the Arkansas Department of Environmental Quality ("ADEQ"), by and through its attorney, Jamie L. Ewing, and for its Motion for Relief from Automatic Stay provides the following:

Petitioners, Arkansas Environmental Federation ("AEF") filed a Motion for Relief from Automatic Stay with the Arkansas Pollution Control and Ecology Commission. ADEQ has responded to that Motion and files it own Motion for Modification of the Automatic Stay because ADEQ appreciates the increased administrative burden placed upon new facilities that must obtain individual permits. This administrative burden also applies to the operations of ADEQ during the pendency of the appeal. Thus, ADEQ requests a modification of the automatic stay of Permit No. AR000000, Industrial General Stormwater Permit ("2009 IGP"). Ark. Code Ann. §8-4-205(c)(6)(C) and Reg.8.612(B) states, "[U]pon the request of any party, the Commission may...modify the terms of a stay...under appropriate circumstances to avoid substantial prejudice to any party."

ADEQ requests the automatic stay be modified to lift the automatic stay from the 2009 IGP, expect for those conditions specifically addressed in AEF's Request for Hearing and Declaratory Order. Based on ADEQ's review of the Request for Hearing, the conditions of the 2009 IGP that would remain stayed are: 1.9.5, 1.9.6(b), 1.9.7, 2.2,

3.2, 3.3, 3.4, 3.5, 3.8.2, 3.11, 3.12.3(b), 4.2, 4.3, 4.6.4, 4.6.10, and 5.2.[1] As to these conditions, ADEQ asks that the Commission modify the stay to identify analogous provisions under the 2004 IGP as alternative conditions applicable during the pendency of this appeal. The following conditions from the 2004 IGP would be in effect during the pendency of the appeal: Part I, Section A.3.e, A.3.h, A.7.a, A.7.i., the whole of Part II, Section B, Section C.1.a.i., Section D.1, Part III, Section A.4.2, A.4.b.i.A, and A.4.f.

With the stay lifted, both new and existing facilities would be able to apply for coverage under the 2009 IGP. For purposes of existing facilities needing to seek coverage, the effective date of the permit would be the date the proposed Minute Order is signed by the Commission.

For the foregoing reasons, ADEQ requests that the Commission grant its request for a modification of the automatic stay of Permit No. AR000000. A Minute Order describing this modification of the automatic stay is attached to this Motion.

Respectfully Submitted,
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72223

By: _____
Jamie Ewing, Attorney Specialist
ADEQ, Legal Division

[1] However, some issues raised in AEF's request for hearing did not identify the specific conditions being appealed. ADEQ would work with AEF to identify the full and complete list of all conditions being appealed.

CERTIFICATE OF SERVICE

I, Jamie L. Ewing, do hereby certify that I have served a copy of the foregoing pleading upon the following parties/counsel of record by U.S. Mail, this 12th day of Feb., 2010.

Charles R. Nestrud
CHISENHALL, NESTRUD & JULIAN, P.A.
400 W. Capitol Ave., Suite 2840
Little Rock, Arkansas 72201

Allan Gates
Mitchell Williams Law Office
425 West Capitol Avenue
Suite 1800
Little Rock, AR 72201-3525

William A. Eckert
QUATTLEBAUM, GROOMS, TULL & BURROW
111 Center Street, Ste. 1900
Little Rock, Arkansas 72201

Mark Allison
DOVER DIXON HORNE PLLC
Suite 3700
425 West Capitol Avenue
Little Rock, AR 72201

Jamie Ewing, Attorney Specialist
ADEQ, Legal Division

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

In The Matter of IGP No. ARR000000

DOCKET NO. 09-011-P

MINUTE ORDER NO. 09-_____

On July 1, 2009, Arkansas Department of Environmental Quality ("ADEQ") promulgated NPDES General Permit No. AR000000 (Industrial Stormwater General Permit or "2009 IGP").

On July 29, 2009, the Arkansas Environmental Federation ("AEF") filed a Third Party Request for Commission Review and Adjudicatory Hearing challenging the permit, Docket No. 09-011-P.

On February 12, 2010, ADEQ filed a Motion for Modification of Automatic Stay. The Motion requested that the Commission modify the automatic stay to lift the stay from all parts of the 2009 IGP, except those portions appealed by AEF in their Request for Commission Review. For those portions of the permit that remain under the automatic stay, all facilities seeking coverage under the 2009 IGP would be required to follow the corresponding terms and conditions of the expired IGP issued in 2004.

Pursuant to APC&EC Regulation 8, Section 2.5.12(c), the Secretary forwarded the Motion to the Chair and the Chair directed the Commission Secretary to place the Motion on the agenda for the February 26, 2010, Commission meeting.

On February 26, 2010, the Commission considered the Motion and heard from all parties and found that the automatic stay of the 2009 IGP is modified as follows:

1) The automatic stay is lifted from all conditions of the 2009 IGP except the following that are the subject of the appeal by AEF: 1.9.5, 1.9.6(b), 1.9.7, 2.2, 3.2, 3.3, 3.4, 3.5, 3.8.2, 3.11, 3.12.3(b), 4.2, 4.3, 4.6.4, 4.6.10, and 5.2.
2) During the pendency of the appeal, in place of the above-listed conditions, all facilities seeking coverage under the 2009 IGP will be subject to the following terms and conditions found in the expired IGP, issued in 2004: Part I, Section A.3.e, A.3.h, A.7.a, A.7.i., the whole of Part II, Section B, Section C.1.a.i., Section D.1, Part III, Section A.2.b., A.4.b.i.A, A.4.c.iv and A.4.f.
3) For purposes of the modification of the automatic stay, the effective date of the permit is the date of this Minute Order.

COMMISSIONERS:

_____	**L. Bengel**	_____	**L. Sickel**
_____	**S. Henderson**	_____	**J. Chamberlin**
_____	**D. Hendrix**	_____	**W. Thompson**
_____	**C. McGrew**	_____	**E. Valdez**
_____	**D. Samples**	_____	**B. White**
_____	**J. Shannon**	_____	**R. Young**

_____ Submitted by: Jamie L. Ewing DATE PASSED:_____

John Simpson, Chair

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF NORTHWEST ARKANSAS CONSERVATION AUTHORITY - NACA WASTEWATER TREATMENT PLANT	))))	**DOCKET NO. 09-016-P ORDER NO. 5**

RECOMMENDED DECISION

Appearances: Mr. Robert D. Kellogg and Mr. Samuel E. Ledbetter for Save the Illinois River, Inc.; Mr. Allan Gates and Ms. Marcella J. Taylor for Northwest Arkansas Conservation Authority; and Ms. Jamie Ewing for Arkansas Department of Environmental Quality.

FINDINGS AND ORDER

On November 4, 2009, Save the Illinois River, Inc. ("Petitioner") filed a Request by Save the Illinois River, Inc. for Commission Review and Hearing. Petitioner sought review of a permit issued by the Arkansas Department of Environmental Quality ("ADEQ") to Northwest Arkansas Conservation Authority ("NACA"). The permit allows NACA to discharge from its proposed Regional Wastewater Treatment Plant in Benton County, Arkansas.

On February 1, 2010, Petitioner filed Petitioner's Dismissal with Prejudice stating that it was dismissing with prejudice its petition in this docket.

The administrative hearing officer finds that Petitioner is voluntarily dismissing its request for a hearing with prejudice. The AHO concludes that the request for hearing should be dismissed.

IT IS THEREFORE ORDERED:

1. That the Request by Save the Illinois River, Inc. for Commission Review and Hearing is dismissed with prejudice.

2. That this docket is closed.

RECOMMENDATION

It is the recommendation of the administrative hearing officer that the Arkansas Pollution Control and Ecology Commission adopt and affirm, without modification, the above Recommended Decision.

This 3rd day of February 2010.

Michael O'Malley

Michael O'Malley
Administrative Hearing Officer

CERTIFICATE OF SERVICE

I, Patricia Goff, Commission Secretary, hereby certify that a copy of the foregoing Order No. 5, In the Matter of Northwest Arkansas Conservation Authority - NACA Wastewater Treatment Plant; Docket No. 09-016-P, has been mailed by certified mail or by first class mail, postage prepaid, to the following parties of record, this 3rd day of February 2010.

CERTIFIED MAIL 7007 2560 0001 2210 8021
Robert D. Kellogg
Moricoli & Schovanec, P.C.
Two Leadership Square
211 N. Robinson, Ste. 1200
Oklahoma City, OK 73102-7114
(405) 235-3357
(405) 232-6515

CERTIFIED MAIL 7007 2560 0001 2210 8014
Allan Gates
Mitchell, Williams, Selig, Gates &
Woodyard, P.L.L.C.
425 West Capitol Ave., Ste. 1800
Little Rock, AR 72201
(501) 688-8800
(501) 688-8807

CERTIFIED MAIL 7007 2560 0001 2210 8007
Samuel E. Ledbetter
McMath Woods, P.A.
711 West Third Street
Little Rock, AR 72201
(501) 396-5400
(501) 374-5118

Jamie Ewing
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
(501) 682-0918
(501) 682-0891

Patricia Goff
Commission Secretary
Arkansas Pollution Control and Ecology Commission
101 East Capitol, Suite 205
Little Rock, Arkansas 72201
(501) 682-7890
FAX: 682-7891

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

Northwest Arkansas Conservation Authority - NACA Wastewater Treatment Plant

Docket No. 09-016-P

MINUTE ORDER NO. 10 -____

On February 3, 2010, Michael O'Malley, Administrative Hearing Officer ("AHO"), issued Order No. 5 (Recommended Decision) in Docket No. 09-016-P, which is a case styled: In the Matter of Northwest Arkansas Conservation Authority – NACA Wastewater Treatment Plant.

Order No. 5 dismisses with prejudice the request for commission review and hearing filed by Save the Illinois River, Inc.

The record compiled in this docket by the AHO and Order No. 5 came before the Commission at its February 26, 2010 meeting. After considering the matter, the Commission adopts and affirms, without modification, Order No. 5 (Recommended Decision) entered on February 3, 2010.

COMMISSIONERS:

_____ L. Bengal
_____ J. Chamberlin
_____ S. Henderson
_____ D. Hendrix
_____ C. McGrew
_____ D. Samples
_____ J. Shannon
_____ L. Sickel
_____ J. Simpson
_____ W. Thompson
_____ E. Valdez
_____ B. White
_____R. Young

_____ SUBMITTED BY: Michael O'Malley PASSED: 02/26/10
J. Simpson, Chair

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF DESOTO GATHERING COMPANY, LLC	))	**DOCKET NO. 09-019-P ORDER NO. 2**

RECOMMENDED DECISION

Appearances: Mr. Michael O. Parker, pro-se; Mr. John F. Peiserich for DeSoto Gathering Company, LLC; and Mr. Matthew Brown for Arkansas Department of Environmental Quality.

1. FINDINGS OF FACT AND CONCLUSIONS OF LAW

On December 30, 2009, Michael O. Parker ("Petitioner"), appearing pro-se, filed a Request for Adjudicatory Hearing and Commission Review ("Request for Hearing"). Petitioner sought a hearing on a permit issued to DeSoto Gathering Company, LLC ("DeSoto") to construct, operate, and maintain certain equipment located at DeSoto's Yellowstone CPF-3 gathering compressor station.

On January 21, 2010, Petitioner filed a Withdrawal of Request for Adjudicatory Hearing and Commission Review ("Withdrawal Request"). The Withdrawal Request asked that this proceeding be closed.

On January 25, 2010, DeSoto and the Arkansas Department of Environmental Quality ("ADEQ") filed separate responses to the Withdrawal Request. DeSoto and ADEQ do not object to the Withdrawal Request.

There is no Arkansas Pollution Control and Ecology Commission regulation governing a voluntary withdrawal of a Request for Hearing. Pursuant to Reg.8.611, the Arkansas Rules of Civil Procedure apply and it allows a voluntary dismissal of an action without prejudice. *Ark. R. Civ. P. 41(a)(1)*. The

administrative hearing officer concludes that the Withdrawal Request is proper and that it should be granted.

IT IS THEREFORE ORDERED:

1. That Petitioner's Withdrawal of Request for Adjudicatory Hearing and Commission Review is granted without prejudice.

2. That this docket is closed.

RECOMMENDATION

It is the recommendation of the administrative hearing officer that the Arkansas Pollution Control and Ecology Commission adopt and affirm, without modification, the findings of fact and conclusions of law set out in the above Recommended Decision.

This 27th day of January 2010.

Michael O'Malley

Michael O'Malley
Administrative Hearing Officer

CERTIFICATE OF SERVICE

I, Patricia Goff, Commission Secretary, hereby certify that a copy of the foregoing Order No. 2, In the Matter of DeSoto Gathering Company, LLC; Docket No. 09-019-P, has been mailed by certified mail or by first class mail, postage prepaid, to the following parties of record, this 27th day of January 2010.

CERTIFIED MAIL 7007 2560 0001 2210 8069
Michael O. Parker
Attorney at Law
425 West Capitol, Ste. 3700
Little Rock, AR 72201
(501) 375-9151
(501) 375-6484

CERTIFIED MAIL 7007 2560 0001 2210 8052
John F. Peiserich
Perkins & Trotter, PLLC
PO Box 251618
Little Rock, AR 72225-1618

Matthew Brown
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
(501) 682-0886
(501) 682-0891

Patricia Goff
Commission Secretary
Arkansas Pollution Control and Ecology Commission
101 East Capitol, Suite 205
Little Rock, Arkansas 72201
(501) 682-7890
FAX: 682-7891

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

Desoto Gathering Company, LLC

Docket No. 09-019-P

MINUTE ORDER NO. 10 -____

On January 27, 2010, Michael O'Malley, Administrative Hearing Officer ("AHO"), issued Order No. 2 (Recommended Decision) in Docket No. 09-019-P, which is a case styled: In the Matter of Desoto Gathering Company, LLC.

Order No. 2 grants the Petitioner's Withdrawal of Request for Adjudicatory Hearing and Commission Review without prejudice.

The record compiled in this docket by the AHO and Order No. 2 came before the Commission at its February 26, 2010 meeting. After considering the matter, the Commission adopts and affirms, without modification, Order No. 2 (Recommended Decision) entered on January 27, 2010.

COMMISSIONERS:

_____ L. Bengal	**_____ L. Sickel**
_____ J. Chamberlin	**_____ J. Simpson**
_____ S. Henderson	**_____ W. Thompson**
_____ D. Hendrix	**_____ E. Valdez**
_____ C. McGrew	**_____ B. White**
_____ D. Samples	**_____R. Young**
_____ J. Shannon	

_____ SUBMITTED BY: Michael O'Malley PASSED: 02/26/10
J. Simpson, Chair

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CLEAN HARBORS EL DORADO LLC
309 AMERICIAN CIRCLE
EL DORADO, ARKANSAS 71730
PERMIT 10H-RN1
EPA ID No. ARD069748192
AFIN 70-00098

JAN 27 2010
3R 4:00
LIS 09-130

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "Order") is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act (Act 406 of 1979, as amended; A.C.A. §8-7-201 et seq.), and the Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation No. 23, APC&EC Regulation No. 8, and APC&EC Regulation No. 7. The issues herein, as they pertain to Clean Harbors El Dorado LLC, El Dorado, Union County, Arkansas (hereinafter "Respondent" or "Clean Harbors") having been settled by the agreement of Clean Harbors and the Arkansas Department of Environmental Quality - Hazardous Waste Division (hereinafter "ADEQ"), it is hereby agreed and stipulated by all parties that the Findings of Fact and Order and Agreement be entered herein.

FINDINGS OF FACT

1. On November 12-14, 2008, ADEQ conducted a Compliance Evaluation Inspection (hereinafter "CEI") at the Clean Harbors El Dorado facility located at 309 American Circle in El Dorado, Arkansas.
2. Based on the findings of the CEI on November 12-14, 2008, conditions were identified which ADEQ alleges are violations of Permit 10H-RN1 and APC&EC Regulation No. 23. The alleged

violations were identified in the CEI Report which was mailed to Clean Harbors on February 11, 2009, which is hereby incorporated by reference into this Order.

3. In March 2009, ADEQ received a response letter from Clean Harbors dated March 18, 2009, regarding the November 12-14, 2008, CEI, which is hereby incorporated by reference into this Order. Incorporation of Clean Harbor's Response letter in this Order is not to be construed as an acceptance by ADEQ of any statements made in the response letter.

4. On April 9, 2009, ADEQ sent a letter to Clean Harbors requesting additional information regarding their response to the November 12-14, 2008, CEI Report.

5. On May 11, 2009, ADEQ received a response letter from Clean Harbors regarding ADEQ's letter of April 9, 2009, which is hereby incorporated by reference into this Order. Incorporation of Clean Harbor's Response letter in this Order is not to be construed as an acceptance by ADEQ of any statements made in the response letter.

6. Based on the non-compliance issues observed on January 29, 2009, and on February 25, 2009, a condition was identified which ADEQ alleges is a violation of Permit 10H-RN1 and APC&EC Regulation No. 23. The alleged violation is identified in the CEI Report that was mailed to Clean Harbors on March 23, 2009, which is hereby incorporated by reference into this Order.

7. On April 23, 2009, Clean Harbors submitted to ADEQ a Response to CEI Report dated March 23, 2009, which is hereby incorporated by reference into this Order. Incorporation of Clean Harbor's Response letter in this Order is not to be construed as an acceptance by ADEQ of any statements made in the response letter.

8. On February 8, 2009, ADEQ conducted a CEI at the Clean Harbors El Dorado facility as the result of an incident.

9. Based on the findings of the CEI on February 8, 2009, conditions were identified which ADEQ alleges are violations of Permit 10H-RN1 and APC&EC Regulation No. 23. The alleged

violations were identified in the CEI Report which was mailed to Clean Harbors on April 8, 2009, which is hereby incorporated by reference into this Order.

10. On May 7, 2009, Clean Harbors submitted to ADEQ a Response to CEI Report of February 8, 2009, which is hereby incorporated by reference into this Order. Incorporation of Clean Harbor's Response letter in this Order is not to be construed as an acceptance by ADEQ of any statements made in the response letter.

11. On March 5, 2009, and March 21, 2009, ADEQ conducted a CEI as the result of two incidents at the Clean Harbors' facility.

12. Based on the findings of the CEI on March 5, 2009, and March 21, 2009, conditions were identified which ADEQ alleges are violations of APC&EC Regulation No. 23 and Permit 10H-RN1. The alleged violations were identified in the CEI Report which was mailed to Clean Harbors on May 11, 2009, which is hereby incorporated by reference into this Order.

13. On June 11, 2009, Clean Harbors submitted to ADEQ a Response to the CEI Report of May 11, 2009, which is hereby incorporated by referenced into this Order. Incorporation of Clean Harbor's Response letter in this Order is not to be construed as an acceptance by ADEQ of any statements made in the response letter.

14. Pursuant to APC&EC Regulation No. 23, Section 264.147(a) and the provisions of Clean Harbors Permit 10H-RN1, Module II.Q.3, Respondent is required to provide financial assurance for liability to third parties for suddenly-occurring incidents. Assurance is required for at least $1million, with an annual aggregate up to $2 million with a $0 deductible.

15. Clean Harbors' liability policy has an anniversary date of May 1; at which time Clean Harbors must renew the policy and provide proof of renewal to ADEQ. In addition to the certificate of insurance, APC&EC Regulation No. 23, Section 264.147(a)(1) requires the facility to submit a signed duplicate of the insurance policy. Upon ADEQ review of the May 1, 2009, renewed policy, ADEQ found that the policy included a deductible of $1 million. According APC&EC

Regulation No. 23 and Clean Harbors' Permit 10H-RN1, Section II.Q.3, Clean Harbors must cover the full amount of financial liability coverage; therefore, Clean Harbors' must provide financial liability coverage with a $0 deductible.

16. On May 22, 2009, ADEQ served Clean Harbors with a notice of deficiency (NOD), indicating that the offered policy was unacceptable due to the deductible, and set ten (10) working days for Clean Harbors to correct the policy or provide an acceptable alternative mechanism.

17. On June 2, 2009, Clean Harbors responded by telephone and on June 3, 2009, by email, stating Clean Harbors' intentions to address the problem with their insurer. Clean Harbors submitted to ADEQ, language for a proposed endorsement to the policy.

18. On June 30, 2009, ADEQ revised the proposed endorsement to acceptable terms and returned it to Clean Harbors.

19. On July 2, 2009, Clean Harbors' insurance broker acknowledged to ADEQ by email, receipt of these revisions.

20. On September 2, 2009, Clean Harbors, their insurance broker and the ADEQ obtained tentative agreement on an acceptable endorsement to the policy to comply with APC&EC Regulation No. 23.

21. Based on a review of Clean Harbors' third party liability coverage policy, a condition was identified which ADEQ alleges is a violation of Permit 10H-RN1 and APC&EC Regulation No. 23. The alleged violation, as provided below, is identified in the letter mailed to Clean Harbors on May 22, 2009, which is hereby incorporated by reference into this Order:

    a. APC&EC Regulation No. 23, Section 264.147(a) and Permit 10H-RN1, Module II.Q.3 – Failure to provide financial assurance for liability to third parties for bodily injury and property damage for sudden accidental occurrences arising from operations of the facility.

22. On December 4, 2009, ADEQ received a hand delivered document with an attachment titled "Clean Harbor EL Dorado Levels of Contingency Plan Implementation and Reporting for

Incidents Involving Fires and/or Explosions" and a corresponding flowchart titled "Clean Harbors El Dorado Notification Tree" (hereinafter collectively "Contingency Plan Implementation and Reporting Procedures").

23. Without admitting or denying the alleged violations, Clean Harbors agrees to the following Order in full settlement and compromise of the alleged violations of APC&EC Regulation No. 23 and Permit 10H-RN1 as stated herein.

ORDER AND AGREEMENT

1. Within thirty (30) calendar days of the effective date of the Order, Clean Harbors shall submit to ADEQ a Class 1 Permit modification request to incorporate the plan of implementation of the Contingency Plan titled "Levels of Contingency Plan Implementation and Reporting for Incidents Involving Fires and/or Explosions". Additionally, upon the approval by ADEQ of the Class 1 Permit modification, Clean Harbors shall notify all persons on the mailing list as stated in the Permit within ninety (90) calendar days of the approved Class 1 Permit modification.

2. Within thirty (30) calendar days of the effective date of the Order, Clean Harbors shall submit to ADEQ a Class 1 Permit modification request to clarify APC&EC Permit 10H-RN1, Module III O to only store: (i) water reactive waste and oxidizer waste; or (ii) water reactive-like waste and oxidizer-like waste in the respective DRS Buildings. Additionally, Clean Harbors will document in their operating record information supporting the water reactive-like waste and oxidizer-like waste determinations (including but not limited to the following: waste profiles, MSDS and analytical results). Upon the approval by ADEQ of the Class 1 Permit modification, Clean Harbors shall notify all persons on the mailing list as stated in the Permit within ninety (90) calendar days of the approved Class 1 Permit modification.

3. Within thirty (30) calendar days of the effective date of the Order, Clean Harbors shall submit to ADEQ a Class 1 Permit modification request to update the Waste Analysis Plan to incorporate the Fingerprint Analysis Completion Time and Date Log. Additionally, upon the approval by ADEQ of the Class 1 Permit modification, Clean Harbors shall notify all persons on the mailing list as stated in the Permit within ninety (90) calendar days of the approved Class 1 Permit modification.

4. Within thirty (30) calendar days of the effective date of this Order, Clean Harbors shall submit to ADEQ, documentation that the recommendations presented in the Professional Engineers Certification Report dated April 8, 2009 for the repair of the Saturator have been implemented.

5. Within thirty (30) calendar days of the effective date of this Order, Clean Harbors shall submit to ADEQ copies of their updated Standard Operating Procedures (hereinafter "SOPs") for processing calcium carbide waste and other similar waste.

6. Within thirty (30) calendar days of the effective date of this Order, Clean Harbors shall submit to ADEQ for approval, a signed duplicate of their May 1, 2009, renewal certificate of liability coverage insurance that fits the requirements for liability insurance according to APC&EC Regulation No. 23, Section 264.147(a)(1) and Permit 10H-RN1, Module II.Q.3. The policy shall include, but is not limited to, coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million with a $0 dollar deductible.

7. In compromise and full settlement of the alleged violations specified in the Findings of Fact, Clean Harbors agrees to pay a civil penalty of SEVENTY THOUSAND DOLLARS ($70,000.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment shall be made payable to the ADEQ, Attention: Fiscal Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. In the event that Clean Harbors fails to pay the

civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs of collection.

8. Clean Harbors shall submit to ADEQ one (1) electronic and one (1) hard copy of all reports, documents, plans or specifications required under the terms of this Order.

9. All submittals required by the Order, excluding the requirement for the payment submittal in paragraph 7 above, shall be electronically emailed to bernhardt@adeq.state.ar.us, or submitted by Certified Mail or hand delivered, to Karen Bernhardt, Enforcement and Inspection Branch, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

10. All submittals shall be subject to reasonable review fees pursuant to APC&EC Regulation No. 23, Section 6(t).

11. Clean Harbors hereby designates a Project Manager who shall be responsible for overseeing the implementation of all site investigation and remediation tasks subject to the requirements of this Order. The Project Manager shall communicate with ADEQ on all technical issues which arise under this Order and shall be empowered to agree on minor modifications in the implementation of any of the requirements of this Order when such modifications are deemed by ADEQ to further the purpose of this Order.

    Clean Harbors may change their Project Manager by providing written notice of such change to the ADEQ. The initial Project Manager shall be:

    Kathy Shoemaker
    Clean Harbors El Dorado
    309 American Circle
    El Dorado, Arkansas 71730
    Ph No. (870) 863-7173

12. All requirements of this Order are subject to approval by ADEQ. In the event of any deficiencies, Clean Harbors shall, within thirty (30) calendar days of the receipt of written notification by ADEQ, submit any additional information or changes requested, or take additional actions as specified by ADEQ. Failure to adequately respond to the notice of

deficiency within thirty (30) calendar days constitutes a failure to meet a deadline and subjects Clean Harbors to the stipulated penalties established in paragraph 13 below, provided that such notice clearly declares that failure to respond within thirty (30) calendar days of receipt is a failure to meet requirements established by this Order.

13. If Clean Harbors fails to submit to ADEQ any reports or plans, or meet any other requirement of this Order within the applicable deadline established in the Order, ADEQ may assess stipulated penalties for delay in the following amounts:

    a. First day through the tenth day: $500/day or less

    b. Eleventh day through the twentieth day: $750/day or less

    c. Twenty-first day through the thirtieth day: $1,000/day or less

    d. Each day beyond the thirtieth day: $2,500/day or less

    These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of Clean Harbors failure to comply with the requirements of this Order.

14. If any event occurs, including but not limited to Natural Disasters, which causes or may cause delay in the achievement of compliance by Clean Harbors with the requirements of this Order, Clean Harbors shall notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the deadline has passed. The written notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken and to be taken to minimize the delay, and the timetable by which those measures are implemented.

15. ADEQ may grant a written extension of any provision of this Order, provided that Clean Harbors requested such an extension in writing and provided that the delay or anticipated delay has been caused by circumstances beyond the control of and without the fault of Clean Harbors. The time for performance may be extended for a reasonable period but, in no event longer than the period

of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without fault of Clean Harbors and the length of delay attributable to such circumstances shall rest with Clean Harbors.

16. Nothing contained in this Order shall be construed as a waiver of ADEQ's enforcement authority over violations not specifically addressed herein; nor does this Order exonerate past, present, or future conduct which is not expressly addressed herein. Nothing contained herein shall relieve Clean Harbors of any other obligations imposed by any local, state, or federal laws, nor shall this Order be deemed in any way to relieve Clean Harbors of its responsibilities for obtaining or complying with any necessary permits or licenses.

17. This Order is subject to public review and comments in accordance with A.C.A. Section 8-4-103 (d) and is therefore not effective until thirty (30) calendar days after public notice of the Order is given. ADEQ retains the right and discretion to rescind this Order based on comments received within the thirty-day public comment period or based on any other considerations which may subsequently come to light. Additionally, this Order is subject to being reopened upon Arkansas Pollution Control & Ecology Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

18. This Order shall apply to and be binding upon ADEQ and upon Clean Harbors, their successors, and assigns. Any changes in ownership or corporate status of Clean Harbors, including, but not limited to, any transfer of shares, assets or other real or personal property, shall in no way alter Clean Harbors obligations under this Order.

19. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this Order and to legally bind that party to its terms and conditions.

20. The Request for Hearing is withdrawn and the docket shall be closed immediately without further action from the Arkansas Pollution Control and Ecology Commission in accordance with Section 8.615 of Regulation 8.

SO ORDERED THIS 2nd **DAY OF** February **, 2010.**

Teresa Marks

TERESA MARKS
DIRECTOR

APPROVED AS TO FORM AND CONTENT:

CLEAN HARBORS EL DORADO LLC

BY: Signature Ron Hines

Print or Type Name Ron Hines

Title General Manager

Date 1-27-2010

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
101 EAST CAPITOL
SUITE 205
LITTLE ROCK, ARKANSAS 72201
PHONE: (501) 682-7890
FAX: (501) 682-7891

February 4, 2010

CERTIFIED MAIL 7007 2560 0001 2210 8038
William A. Eckert
Quattlebaum, Grooms, Tull & Burrow, PLLC
111 Center Street, Ste., 1900
Little Rock, AR 72201

Benjamin Jones
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

RE: In the Matter of Clean Harbors El Dorado LLC; Docket No. 09-011-NOV

Dear Mr. Eckert and Mr. Jones:

On February 3, 2010, you filed a Consent Administrative Order ("CAO") in the above-referenced docket. Pursuant to Reg.8.615, the appeal has been withdrawn and no further action is required by the parties or administrative hearing officer in order to close this docket. Therefore, this docket is officially closed. However, the commission may reopen the docket if it initiates a review of the CAO or if it grants a petition to set aside the CAO.

The administrative hearing officer will report this matter to the commission at its next meeting, which is scheduled for Friday, February 26, 2010. Please contact me if you have any questions.

Respectfully,

Michael O'Malley

Michael O'Malley
Administrative Hearing Officer

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF:

LIS-10-026

GREAT LAKES CHEMICAL CORP.
Central Plant
AFIN:70-00012
EPA ID#: ARD043195429
RCRA Permit No. 18H RN1 M002 **Docket No. 09-008-P**

PERMIT APPEAL RESOLUTION

This Permit Appeal Resolution is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act, ARK. CODE ANN. § 8-7-201, et seq., and the regulations issued thereunder, as a resolution of this matter. The issues having been settled by the agreement of Great Lakes Chemical Corporation—Central Plant ("GLCC") and the Arkansas Department of Environmental Quality ("ADEQ"), it is hereby agreed and stipulated that the following Findings of Fact and Order and Agreement be entered herein.

FINDINGS OF FACT

1. On March 30, 2009, ADEQ, on its own initiative, issued a draft permit modification of GLCC's Resource Conservation and Recovery Act ("RCRA") Permit No. 18H-RN1-M002.

2. On May 6, 2009, GLCC submitted written comments on ADEQ's draft Class 2 Permit Modification.

3. On May 27, 2009, ADEQ issued its final permitting decision on the modification of GLCC's RCRA Class 2 Permit.

4. On June 26, 2009, GLCC filed its Request for Commission Review and Adjudicatory Hearing with the Arkansas Pollution Control and Ecology Commission seeking

review of that part of the Class 2 permit modification increasing the required financial assurance for Closure/Post-Closure/Corrective Action from $12,180,990 to $16,179,961, based upon a U.S. Environmental Protection Agency, Region 6 consultant's review of permit conditions and its estimate of third party costs to conduct the closure, post-closure and corrective action activities.

5. On August 12, 2009, GLCC submitted a Class 3 Permit Modification to ADEQ which proposed modification to the Permit to reflect current facility operating conditions and to modify the current Remedial Action Decision Document. The purpose of the modification is to eliminate several treatment units from the RCRA permitted Groundwater Treatment Unit and the RCRA permitted Leachate Treatment Unit.

6. GLCC and ADEQ have agreed to a resolution of the Appeal, the terms of which are stated in this Permit Appeal Resolution ("PAR").

ORDER AND AGREEMENT

Therefore, GLCC and ADEQ do hereby stipulate and agree:

1. ADEQ has issued and will support the final Modified Permit attached to this PAR. The terms of the final Modified Permit attached hereto are incorporated herein as if set forth word for word herein.

2. The financial assurance for Closure/Post-Closure/Corrective Action associated with the Modified Permit will be $11,800,000.

3. This PAR is subject to public review. If this PAR is reopened and set aside the Appeal shall be simultaneously reinstated. Subject to the foregoing, in accordance with APC&EC Regulation No. 8, § 8.615(A), the Request for Commission Review and Adjudicatory Hearing in this matter is hereby withdrawn.

ENTERED into this 17th day of February, 2010.

Teresa Marks, Director
Arkansas Department of Environmental Quality

APPROVED AS TO FORM AND CONTENT:

Name

Environmental Supervisor
Title

Great Lakes Chemical Corp.

ADEQ

A R K A N S A S
Department of Environmental Quality

February 3, 2010

Great Lakes Chemical Corporation – Central Plant
Attn: Tom Hammons
Environmental Manager
P.O. Box 7020
El Dorado, AR 71730

RE: GLCC RCRA Class 3 Permit Modification (18H-RN1-M003)
Great Lakes Chemical Company (GLCC) – Central Plant
EPA ID # ARD043195429; AFIN: 70-00012

Dear Mr. Hammons:

The Arkansas Department of Environmental Quality – Hazardous Waste Division (ADEQ) previously public noticed a RCRA Class 3 Permit modification in the *El Dorado News-Times* on December 23, 2009, to eliminate several individual treatment units from the RCRA permitted Groundwater Treatment Unit (GWTU) and the RCRA permitted Leachate Treatment Unit (LTU). In addition, this Permit modification also revised the facility's Remedial Action Decision Document (RADD) to reflect the elimination of these individual units located within the GWTU and LTU treatment units.

The thirty (30) day public comment period has ended and the only comments received were from Great Lakes Chemical Company (GLCC). All applicable responses to comments are in the attached Responsiveness Summary.

The RCRA Class 3 Permit modification is approved, pursuant to Regulation No. 23, Section 270.42(d). Therefore, please find enclosed 1) the final Fact Sheet; 2) the applicable Permit Replacement Pages; 3) the Responsiveness Summary and; 4) the Notice of Decision.

With this approval, all applicable RCRA corrective action cost estimates can now be immediately adjusted down from $13,017,719.91 to $5,269,230.00 to reflect current Permit operating requirements. In addition, the eliminated units are now subject to the RCRA closure requirements, pursuant to the approved RCRA closure schedule, as specified in the GLCC RCRA Part B Application. Once RCRA-cleaned closed, the facility's RCRA closure financial assurance cost can then be adjusted down.

This final permitting decision may be appealed by filing a written Request for Commission Review and Adjudicatory Hearing with the Secretary of the Commission within 30 days of the Certificate of Service (mailing) (as stipulated in Regulation 8, Section 2.1.14). If you want to appeal this matter, your appeal must be filed in accordance with Arkansas Pollution Control & Ecology Commission's (APC&EC or Commission) Regulation No. 8, available at www.adeq.state.ar.us. If you have any questions regarding the appeal procedure, please contact your attorney. All appeal procedures must be filed with the Commission's Secretary who is located at 101 E. Capitol, Suite 205, Little Rock, AR 72201. For directions to the Commission's office, call (501) 682-7893.

If you have any questions or concerns, please contact me at (501) 682-0834 or at bennett@adeq.state.ar.us.

Sincerely,

Richard Bennett

Richard Bennett, E.I.
Permit Engineer
Hazardous Waste Division

Enclosures

RB:GLCC-cover-ltr rev 1-21-10.doc

Responsiveness Summary

Great Lakes Chemical Company (GLCC)

RCRA Class 3 Permit Modification
(Permit 18H-RN1-M003)

On December 23, 2009, ADEQ public noticed the intent to issue a RCRA Class 3 Permit Modification to Great Lakes Chemical Company (GLCC). This Permit modification eliminates several individual treatment units located within the RCRA permitted Groundwater Treatment Unit (GWTU) and within the RCRA permitted Leachate Treatment Unit (LTU). With the elimination of these individual units, GLCC will utilize the RCRA permitted GWTU and LTU as filter treatment units (only) prior to deep-well disposal. In addition, this RCRA Permit modification also modifies the facility's Remedial Action Decision Document (RADD) to reflect the elimination of the above treatment units within the GWTU and the LTU.

A thirty (30) day public comment period was implemented and the only comments received during the comment period were from GLCC. GLCC's comments with ADEQ's responses are summarized below. In addition, the GLCC comments are attached.

GLCC Comment #1:

> In accordance with our agreement, GLCC asks ADEQ to remove the following language from the above-referenced Permit modification:
>
> at p. 1 of Module IV(b), Section A, 1st paragraph, lines 4 and 5:
>
> > ....with ultimate disposal via a permitted Class I hazardous waste injection well
>
> Removal of this language will allow the Permit Appeal Resolution to timely proceed and will allow the issue of the Class V wells to be resolved outside of the Permit appeal as agreed.
>
> > ADEQ Response: *Agreed. The referenced language has been removed, as requested. All issues regarding the management activities with the onsite Class V injection wells will be handled separately.*

GLCC Comment #2:

> In accordance with our agreement, GLCC asks ADEQ to remove the following language from the above-referenced Permit modification:

at p. 1 of Module IV(b), Section A, 3rd paragraph:

> Recovered groundwater can only be injected into the permitted Class I injection wells cited with the Permit. No recovered groundwater should be injected into Class V Non-Hazardous Waste Injection wells.

Removal of this language will allow the Permit Appeal Resolution to timely proceed and will allow the issue of the Class V wells to be resolved outside of the Permit appeal as agreed.

> ADEQ Response: *Agreed. The referenced language has been removed, as requested. All issues regarding the management activities with the onsite Class V injection wells will be handled separately.*

End of Responsiveness Summary

Attachment

Comments Received

Chemtura

Great Lakes Chemical Corp.
A Chemtura Company
P. O. Box 7020
El Dorado, AR 71730
870-862-5141 tel
870-864 1523 fax

January 8, 2010

Mr. Clyde Rhodes
Chief, Hazardous Waste Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Re: Great Lakes Chemical Corporation—Central Plant
RCRA Permit 18H-RN1-M002
EPA ID # ARD043195429, AFIN: 70-00012

Great Lakes Chemical Corporation—Central Plant (GLCC) has received the December 17, 2009 letter from Arkansas Department of Environmental Quality (ADEQ or the Department) enclosing a draft Class 3 permit modification which eliminates several treatment units from the RCRA permitted Groundwater Treatment Unit and the RCRA permitted Leachate Treatment Unit, and revises GLCC's Remedial Action Decision Document (RADD) to reflect the eliminated units. The Class 3 permit modification also includes language regarding the Class I and Class V injection wells. Notice of the Class 3 permit modification was published for public comment in the *El Dorado News-Times* on December 23, 2009.

As you are aware, ADEQ issued an agency initiated permit modification increasing GLCC's financial assurance in excess of $4,000,000 and that permit modification is the subject of a currently pending permit appeal. See, Request for Commission Review and an Adjudicatory Hearing filed by GLCC on June 26, 2009, *In the Matter of Great Lakes Chemical Corporation—Central Plant,* Docket No 09-008-P, before the Arkansas Pollution Control and Ecology Commission. ADEQ and GLCC ultimately agreed that the way to settle that matter was for GLCC to request a permit modification proposing to eliminate certain treatment units from the groundwater and leachate treatment units and revise the RADD, thus eliminating the need for the increased financial assurance.

As the Permit Appeal Resolution documentation was being prepared, ADEQ sent an inquiry to GLCC regarding the groundwater recovery system and the Class V injection wells. The inquiry resulted in a telephone conference between ADEQ and GLCC on December 10, 2009, during which GLCC offered to cease the groundwater bromine recovery operations until such time as the issue regarding whether the Class V wells were being properly used was resolved between ADEQ and GLCC, and both parties agreed to resolve any questions regarding the Class V wells outside of the aforementioned current permit appeal.

Although GLCC immediately ceased use of the Class V wells as agreed to, ADEQ issued and published for comment a draft permit modification which combined the modifications to deal with the financial assurance issue with the use of the Class V wells.

In accordance with our agreement, GLCC asks ADEQ to remove the following language from the above-referenced permit modification:

at p. 1 of Module IV(b), § A, 1st paragraph, lines 4 and 5:

> ...with ultimate disposal via a permitted Class I hazardous waste injection well

and

at p. 1 of Module IV(b), § A, 3rd paragraph:

> Recovered groundwater can only be injected into the permitted Class I injection wells cited with the Permit. No recovered groundwater should be injected into Class V Non-Hazardous Waste Injection wells.

Removal of this language will allow the Permit Appeal Resolution to timely proceed and will allow the issue of the Class V wells to be resolved outside of the permit appeal as agreed.

Sincerely,

Thomas D. Hammons

Tom Hammons
Environmental Supervisor

Arkansas Department of Environmental Quality (ADEQ)

FACT SHEET

Facility Name:	Great Lakes Chemical Corporation, Central Plant (GLCC)
RCRA Permit No.	18H-RN1-M003
Location:	2226 Haynesville Highway (Highway 15 South) El Dorado, Union County, Arkansas 71731
EPA I. D. Number:	ARD043195429
AFIN:	70-00012

ACTION: Great Lakes Chemical Corporation – Central Plant (GLCC) requested a Resource Conservation and Recovery Act (RCRA) Class 3 Permit modification to RCRA Permit 18H-RN1-M002 on August 12, 2009, revised on November 4, 2009. This RCRA Class 3 Permit modification eliminates several individual treatment units from within the RCRA permitted Groundwater Treatment Unit (GWTU) and the RCRA permitted Leachate Treatment Unit (LTU). The specific individual treatment units eliminated from within the GWTU and the LTU are specified below:

GWTU: TT-21-104; TT-21-105; TT-21-112; TT-21-200; FB-21-107; FB-21-108; FB-21-116; FP-21-102; FP-21-106

LTU: TT-27-101; TT-27-102; TT-27-106; TT-27-111; TT-27-112; TT-27-113; TT-27-114; TT-27-115; TT-27-116; TT-27-117; TT-27-120; CL-27-108; FB-27-109; FP-27-102; FP-27-103; FP-27-104; HE-27-107; OG-27-106

With the elimination of these individual treatment units, GLCC will only filter recovered groundwater and leachate within the GWTU and the LTU, respectively, (in lieu of full treatment) prior to deep-well disposal.

In addition, this RCRA Permit modification modifies the facility's Remedial Action Decision Document (RADD) to reflect the elimination of the above treatment units within the GWTU and the LTU.

PERMIT DESCRIPTION: The RCRA Permit is applicable to three existing hazardous waste treatment units; 1) Process Water Treatment Plant (PWTP); 2) Groundwater Treatment Unit (GWTU); and 3) Leachate Treatment Unit (LTU). The Permit also contains groundwater detection monitoring and post-closure care requirements for Cell No. 1 of a closed hazardous waste landfill at the facility. The RCRA Permit also includes a final Remedial Action Decision Document (RADD) concerning the corrective action decision for all applicable Solid Waste Management Units (SWMUs) at the facility. The duration of the Permit renewal is ten (10) years as set forth in §270.50 of Regulation No. 23.

FACILITY LOCATION: The Great Lakes Chemical Corporation, Central Plant is located at 2226 Haynesville Highway (Highway 15 South), El Dorado, Arkansas. The plant lies west of Highway 15 South, approximately 1 mile southwest of the intersection of Highways 82 and 15

South, in a portion of Section 1, Township 18 South, Range 16 West, Union County, Arkansas. The total acreage of the Central Plant site is approximately 1,240 acres.

BASIS FOR PERMIT CONDITIONS: The basis for the conditions contained in the Permit can be found in general in Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 23, specifically in Sections 264 and 270. The basis for Corrective Action conditions that are part of this Permit renewal can be found in the U. S. Hazardous and Solid Waste Amendments (HSWA) of 1984 to the U. S. Resource Conservation and Recovery Act (RCRA), and the Arkansas Remedial Action Trust Fund Act of 1985 (Arkansas Code Annotated Section 8-7-501 and following sections).

VARIANCES AND WAIVERS: The Permittee requested no variances or waivers in this RCRA Class 3 Permit modification request.

COMMENTS: A thirty (30) day public comment period was administered pertaining to this RCRA Class 3 Permit modification request. A public notice was published in the *El Dorado News-Times* on December 23, 2009, and the public comment period ended on January 21, 2010. The only comments received during the public comment period were those submitted by GLCC.

LEGAL STANDING: Submitting written comments to ADEQ on a tentative Permitting decision, or making verbal comments for the record at any formal public hearing, provides individuals with legal standing to appeal a final Department Permitting decision. Comments supporting or opposing a tentative decision will provide legal standing. Only parties with legal standing may appeal a Permitting decision.

BASIS FOR PROCEDURES: The procedures for reaching a final decision on the Permit modification, for requesting a hearing, for determining legal standing, or for appealing a Department decision are contained in APC&EC Regulation No. 8. Regulation No. 8 is also available at the Department web site: http://www.adeq.state.ar.us

DOCUMENTS ON FILE: Individuals may view the RCRA Class 3 Permit modification and the administrative record for this Permit action. The administrative record for this facility is available for review by the public at the ADEQ Records Management Section at ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas, or at the Barton Public Library, located at 200 East 5th Street in El Dorado, Arkansas.

Documents comprising the administrative record for this RCRA Class 3 Permit Modification included the following:

1. RCRA Class 3 Permit Modification Request dated August 12, 2009; revised November 4, 2009
2. RCRA Permit Change Pages (including revised Remedial Action Decision Document (RADD)
3. Fact Sheet
4. Public Notice

End of Fact Sheet

ADEQ

ARKANSAS
Department of Environmental Quality

NOTICE OF DECISION & PERMIT MODIFICATION SIGN-OFF SHEET

Facility Name:	Great Lakes Chemical Company (GLCC)
Permittee:	Great Lakes Chemical Company (GLCC)
Facility Location:	El Dorado, Union County, Arkansas
EPA I.D. Number:	ARD043195429
AFIN:	70-00012
Permit Number:	18H-RN1-M003

This Class 3 Permit Modification for a RCRA Hazardous Waste Management facility is issued by the Arkansas Department of Environmental Quality (ADEQ) to Great Lakes Chemical Company (GLCC) to modify RCRA Permit 18H-RN1-M002. This Class 3 RCRA Permit Modification eliminates several individual treatment units within the RCRA permitted Ground Water Treatment Unit (GWTU) and the Leachate Treatment Unit (LTU). The specific treatment units removed are:

GWTU: TT-21-104; TT-21-105; TT-21-112; TT-21-200; FB-21-107; FB-21-108; FB-21-116; FP-21-102; FP-21-106

LTU: TT-27-101; TT-27-102; TT-27-106; TT-27-111; TT-27-112; TT-27-113; TT-27-114; TT-27-115; TT-27-116; TT-27-117; TT-27-120; CL-27-108; FB-27-109; FP-27-102; FP-27-103; FP-27-104; HE-27-107; OG-27-106

This RCRA Permit modification also revises the Permit's associated Remedial Action Decision Document (RADD) to reflect the elimination of the above individual treatment units. With this approval, all applicable RCRA corrective action cost estimates (only) can now be immediately adjusted down from $13,017,719.91 to $5,269,230.00 to reflect current Permit operating requirements.

Instructions:

Attach this Notice of Decision & Permit Modification Sign-off Sheet to the front of Permit 18H-RN1-M002 where it shall become part of Permit 18H-RN1-M003.

Issued this 31st Day of January, 2010

Clyde E. Rhodes, Jr., Chief
Hazardous Waste Division
Arkansas Department of Environmental Quality

ADEQ's decision to issue this RCRA Class 3 Permit Modification to Permit 18H-RN1-M002 is final for purposes of appeal as of the date indicated in the Certificate of Service (mailing) below.

Right to Adjudicatory Hearing:

This final permitting decision may be appealed by filing a written Request for Commission Review and Adjudicatory Hearing with the Secretary of the Commission within 30 days of the Certificate of Service (mailing) below (as stipulated in Regulation 8, Section 2.1.14). If you want to appeal this matter, your appeal must be filed in accordance with Arkansas Pollution Control & Ecology Commission's (APC&EC or Commission) Regulation No. 8, available at www.adeq.state.ar.us. If you have any questions regarding the appeal procedure, please contact your attorney. All appeal procedures must be filed with the Commission's Secretary who is located at 101 E. Capitol, Suite 205, Little Rock, AR 72201. For directions to the Commission's office, call (501) 682-7893.

I, Deron Ford, hereby certify that a copy of this Notice of Decision & Permit Sign-off Sheet has been mailed to Tom Hammons, Environmental Manager, Great Lakes Chemical Company, P.O. Box 7020, El Dorado, AR 71730, on this 3rd day of February, 2010.

Deron Ford

Signature of person mailing this not

Great Lakes Chemical Corporation

Permit 18H-RN1-M003

RCRA Class 3 Permit Modification

Permit Replacement Pages

MODULE IV(b) - TREATMENT IN TANKS
GROUNDWATER TREATMENT UNIT (GWTU)

A. MODULE HIGHLIGHTS

Groundwater recovered at the site contains chloride, bromide salts, and organic compounds. Groundwater is pumped to the GWTU where it is filtered (only) and is then either: 1) routed to the Bromine Unit for bromine recovery or 2) routed directly to the Class I injection wells for disposal. Due to a no-migration petition, effective May 13, 1998, pre-treatment of recovered groundwater is not required prior to disposal in the two (2) Class I injection wells.

The GWTU consists of a filter and tanks made of plastic-lined steel. Secondary containment for the GWTU consists of concrete basins lined with High-Density Polyethylene (HDPE).

Groundwater is pumped to the GWTU where it is filtered through FP-21-100 to remove solids/sediment, then it flows into two Tailwater Tanks (TT-21-109 and TT-21-110). From the Tailwater Tanks, the filtered groundwater is pumped to either the Bromine Unit or directly to the permitted Class I underground injection control (UIC) wells.

B. PERMITTED AND PROHIBITED WASTE IDENTIFICATION

1. The Permittee may treat a total volume of 360,000 gallons per day of hazardous waste in the tanks and associated equipment subject to the terms of this Permit, as shown in the following tables. The tanks and equipment utilized in the treatment process are listed below:

HAZARDOUS WASTE NO.	DESCRIPTION
K117	Wastewater from the production of EDB (recovered groundwater)
U067	Ethylene Dibromide (recovered groundwater)

TANK/UNIT IDENTIFIER	DESIGN CAPACITY (GALLONS)	DESCRIPTION	SECONDARY CONTAINMENT
TT-21-109	37,500	**Tailwater Surge Tank (East),** FRP, flat bottom. 20' Dia. X 16' SWD.	Shared Concrete Basin Tank Leak Detection
TT-21-110	37,500	**Tailwater Surge Tank (West),** FRP, flat bottom. 20' Dia. X 16' SWD.	
FP-21-100		**Filter/CGW Inlet Filter**	Concrete Basin Daily Leak Inspection

2. The Permittee shall not store in tanks or treat hazardous waste that is not identified in Permit Module IV(b), Condition B.1.

C. SECONDARY CONTAINMENT AND INTEGRITY ASSESSMENTS

The Permittee shall operate and maintain the secondary containment system in accordance with the detailed design plans and descriptions contained in Sections C.2.4 and C.4 of the Part B Application. [Regulation No. 23 §264.193(b)-(f)]

D. OPERATING REQUIREMENTS

1. The Permittee shall not place hazardous waste or treatment reagents in the tank system if they could cause the tank, its ancillary equipment, or a containment system to rupture, leak, corrode, or otherwise fail. [Regulation No. 23 §264.194(a)]

2. The Permittee shall prevent spills and overflows from the tank or containment system using the methods described in Sections C.3.2 and Table C.3-1 of the Part B Application. [Regulation No. 23 §264.194(b)]

E. RESPONSE TO LEAKS OR SPILLS

In the event of a leak or a spill from the tank system, from a secondary containment system, or if a system becomes unfit for continued use, the Permittee shall remove the system from service immediately and complete the following actions: [Regulation No. 23 §264.196(a)-(f)]

1. Stop the flow of hazardous waste into the system and inspect the system to determine the cause of the release.

2. Remove waste and accumulated precipitation from the system within 24 hours of the detection of the leak to prevent further release and to allow inspection and repair of the system. If the Permittee finds that it will be impossible to meet this time period, the Permittee shall notify the Director and demonstrate that the longer time period is required.

   If the collected material is RCRA hazardous waste, it must be managed in accordance with all applicable requirements of Regulation No. 23, Sections 262-264. The Permittee shall note that if the collected material is discharged through a point source to waters of the state or to a POTW, it is subject to requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting under Regulation No. 23 §264.196(d).

3. Contain visible releases to the environment. The Permittee shall immediately conduct a visual inspection of all releases to the environment and based on that inspection: (1) prevent further migration of the leak or spill to soils or surface water and (2) remove and properly dispose of any visible contamination of the soil or surface water.

4. Close the system in accordance with the Closure Plan, Module E of the Part B Application, unless the following actions are taken:

   a. For a release caused by a spill that has not damaged the integrity of the system, the Permittee shall remove the released waste and make any necessary repairs to fully restore the integrity of the system before returning the tank system to service.

   b. For a release caused by a leak from the primary tank system to the containment system, the Permittee shall repair the primary system prior to returning it to service.

   c. For a release to the environment caused by a leak from the aboveground portion of the tank system that does not have secondary containment, and can

be visually inspected, the Permittee shall repair the tank system before returning it to service.

d. If the Permittee replaces a component of the tank system to eliminate the leak, that component must satisfy the requirements for new tank systems or components in Regulation No. 23 §264.192 and §264.193.

5. For all major repairs to eliminate leaks or restore the integrity of the tank system, the Permittee must obtain a certification by an independent, qualified, Arkansas registered professional engineer that the repaired system is capable of handling hazardous waste without release for the intended life of the system before returning the system to service. Examples of major repairs are: installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment vault.

F. INSPECTION SCHEDULES AND PROCEDURES

1. The Permittee shall inspect the tank systems in accordance with the Inspection Schedule in Sections A.10 and C.5, and Appendix C.5-1 of the Part B Application and shall complete the items in Permit Module IV, Conditions F.2 and F.3, as part of those inspections.

2. The Permittee shall inspect the overfill controls in accordance with Inspection Schedule in Section C.3-2 and Appendix C.3-1 of the Part B Application. [Regulation No. 23 §264.195(a)]

3. The Permittee shall inspect the following components of the tank system once each operating day: [Regulation No. 23 §264.195(b)]

   a. Aboveground portions of the tank systems to detect corrosion or release of waste;

   b. Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design;

   c. Construction materials and the area immediately surrounding the externally accessible portion of

the tank system, including the secondary containment systems, to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

4. The Permittee shall document compliance with Permit Module IV, Conditions F.2 and F.3, and place this documentation in the operating record for the facility. [Regulation No. 23 §264.195(d)]

G. RECORDKEEPING AND REPORTING

1. The Permittee shall report to the Director within 24 hours of detection when a leak or spill occurs from the tank system or secondary containment system to the environment. [Regulation No. 23 §264.196(d)(1)] (A leak or spill of one pound or less of hazardous waste that is immediately contained and cleaned-up need not be reported.) [Regulation No. 23 §264.196(d)(2)] (Releases that are contained within a secondary system need not be reported.) If the Permittee has reported the release pursuant to Regulation No. 23 §264.196(d), this report satisfies the requirements of this Permit Condition. [Regulation No. 23 §264.196(d)(3)]

2. Within 30 days of detecting a release to the environment from the tank system or secondary system, the Permittee shall report the following information to the Director: [Regulation No. 23 §264.196(d)(3)]

   a. Likely route of migration of the release;

   b. Characteristics of the surrounding soil (including soil composition, geology, hydrology, and climate);

   c. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, the Permittee shall provide the Director with a schedule of when the results will be available. This schedule must be provided before the required 30-day submittal period expires;

   d. Proximity of downgradient drinking water, surface water, and populated areas; and

   e. Description of response actions taken or planned.

3. The Permittee shall submit to the Director all certifications of major repairs to correct leaks within seven days after returning the tank system to use. [Regulation No. 23 §264.196(f)]

H. CLOSURE AND POST-CLOSURE CARE

At closure of the tank system(s), the Permittee shall follow the procedures in the Closure Plan, Module E of the Part B Application. [Regulation No. 23 §264.197(a)]

I. RESERVED

J. SPECIAL TANK PROVISIONS FOR IGNITIBLE/REACTIVE WASTE

1. The Permittee shall not place ignitable or reactive waste in the tank system or in the secondary containment system, unless the procedures specified in Section A.11 of the Part B Application are followed. [Regulation No. 23 §264.198(a)]

2. The Permittee shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or any adjoining property line that can be built upon, as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981). [Regulation No. 23 §264.198(b) and §264.18(g)]

K. SPECIAL TANK PROVISIONS FOR INCOMPATIBLE WASTES

1. The Permittee shall not place incompatible wastes or incompatible wastes and materials in the same tank system or the same secondary containment system unless the procedures specified in Section A.11 of the Part B Application are followed. [Regulation No. 23 §264.199(a)]

2. The Permittee shall not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material unless the requirements of Permit Module IV(b), Condition K.1, are met. [Regulation No. 23 §264.199(b)]

END OF MODULE IV(b)

MODULE IV(c) - TREATMENT IN TANKS
LEACHATE TREATMENT UNIT (LTU)

A. MODULE HIGHLIGHTS

The LTU provides management of leachates collected from the two closed landfill facilities (Cell No. 1 and the North/South Landfill). Leachates contain chloride and bromide salts, and organic constituents. The LTU includes units for filtration of the leachates. Under the no migration exemption, effective May 13, 1998, leachates may be disposed in the permitted Class I UIC wells without further treatment.

The tanks in the LTU are constructed of corrosion-resistant or corrosion-proof materials. The materials of construction are: stainless steel, epoxy vinyl ester (Derakane) coated stainless steel, High-Density Polyethylene (HDPE), or Fiberglass Reinforced Plastic (FRP).

The following describes the process when the LTU is operated to manage leachates. Leachates from the North/South Landfill and hazardous waste landfill Cell No. 1 are combined in a header and pumped to the LTU.

Leachates are filtered through a 10-micron filter (FP-27-100) and then filtered leachates flow by gravity to the Treated Leachate Storage Tank (TT-27-110). From the Treated Leachate Storage Tank, leachates are further filtered for metals through a 20-micron filter (FP-27-105). Leachates are then pumped to permitted Class I underground injection control (UIC) wells for disposal. Leachate can only be injected into the permitted Class I injection wells cited with the Permit. No leachate should be injected into Class V Non-Hazardous Waste Injection wells.

B. PERMITTED AND PROHIBITED WASTE IDENTIFICATION

1. Due to the EPA no-migration exemption on underground injection control (UIC) wells WDW-5 and WDW-6, the Permittee is not required to treat influent to the LTU. The LTU is authorized to process 20 gallons per minute in the filtration only mode (Non-Treatment Operation). The major tanks and equipment utilized in the LTU treatment process are listed below:

HAZARDOUS WASTE NO.	DESCRIPTION
F039	Multi-source leachate
K117	Wastewater from the production of Ethylene Dibromide (recovered groundwater)
K118	Spent adsorbent solids from purification of EDB in the production of EDB via bromination-placed in Cell 1
K132	Spent adsorbent media contaminated with Methyl Bromide-placed in Cell 1
U067	Ethylene Dibromide (recovered groundwater)

TANK/UNIT IDENTIFIER	DESIGN CAPACITY (GALLONS)	DESCRIPTION	SECONDARY CONTAINMENT
TT-27-110 *(Formerly TS-18-001 ALT)*	20,000	**Treated Leachate Storage Tank,** 12'0" X 23'9" SWD, FRP, Augusta Fiberglass Coatings	Shared Concrete Containment Daily Leak Inspection
FP-27-100	10 gpm	**Leachate Influent Solids Filter/Surge Tank,** bag filter	
FP-27-105	10 gpm	**Metal Reductions Filter,** bag filter	

2. The Permittee shall not store in tanks or treat hazardous waste that is not identified in Permit Module IV(c), Condition B.1.

C. SECONDARY CONTAINMENT AND INTEGRITY ASSESSMENTS

The Permittee shall operate and maintain the secondary containment system in accordance with the detailed design plans and descriptions contained in Sections D.2.4 and D.4 and Appendix D.1-2 of the Part B Application. [Regulation No. 23 §264.193(b)-(f)]

D. OPERATING REQUIREMENTS

1. The Permittee shall not place hazardous waste or treatment reagents in the tank system if they could cause the tank, its ancillary equipment, or a containment

system to rupture, leak, corrode, or otherwise fail. [Regulation No. 23 §264.194(a)]

2. The Permittee shall prevent spills and overflows from the tank or containment system using the methods described in Section D.3.2, Table D.3-1 and Appendix D.3-1 of the Part B Application. [Regulation No. 23 §264.194(b)]

E. RESPONSE TO LEAKS OR SPILLS

In the event of a leak or a spill from the tank system, from a secondary containment system, or if a system becomes unfit for continued use, the Permittee shall remove the system from service immediately and complete the following actions: [Regulation No. 23 §264.196(a)-(f)]

1. Stop the flow of hazardous waste into the system and inspect the system to determine the cause of the release.

2. Remove waste and accumulated precipitation from the system within 24 hours of the detection of the leak to prevent further release and to allow inspection and repair of the system. If the Permittee finds that it will be impossible to meet this time period, the Permittee shall notify the Director and demonstrate that the longer time period is required.

   If the collected material is RCRA hazardous waste, it must be managed in accordance with all applicable requirements of Regulation No. 23, Sections 262-264. The Permittee shall note that if the collected material is discharged through a point source to waters of the state or to a POTW, it is subject to requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting under Regulation No. 23 §264.196(d).

3. Contain visible releases to the environment. The Permittee shall immediately conduct a visual inspection of all releases to the environment and based on that inspection: (1) prevent further migration of the leak or spill to soils or surface water and (2) remove and properly dispose of any visible contamination of the soil or surface water.

4. Close the system in accordance with the Closure Plan, Module E of the Part B Application, unless the following

actions are taken:

a. For a release caused by a spill that has not damaged the integrity of the system, the Permittee shall remove the released waste and make any necessary repairs to fully restore the integrity of the system before returning the tank system to service.

b. For a release caused by a leak from the primary tank system to the containment system, the Permittee shall repair the primary system prior to returning it to service.

c. For a release to the environment caused by a leak from the aboveground portion of the tank system that does not have secondary containment, and can be visually inspected, the Permittee shall repair the tank system before returning it to service.

d. If the Permittee replaces a component of the tank system to eliminate the leak, that component must satisfy the requirements for new tank systems or components in Regulation No. 23 §264.192 and §264.193.

5. For all major repairs to eliminate leaks or restore the integrity of the tank system, the Permittee must obtain a certification by an independent, qualified, Arkansas registered professional engineer that the repaired system is capable of handling hazardous waste without release for the intended life of the system before returning the system to service. Examples of major repairs are: installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment vault.

F. INSPECTION SCHEDULES AND PROCEDURES

1. The Permittee shall inspect the tank systems in accordance with the Inspection Schedule in Sections A.10, D.5, and Appendix D.5-1 of the Part B Application and shall complete the items in Permit Module IV(c), Conditions F.2 and F.3, as part of those inspections.

2. The Permittee shall inspect the overfill controls in accordance with the Inspection Schedule in Section D.3-2

and Appendix D.3-1 of the Part B Application. [Regulation No. 23 §264.195(a)]

3. The Permittee shall inspect the following components of the tank system once each operating day: [Regulation No. 23 §264.195(b)]

   a. Aboveground portions of the tank systems to detect corrosion or release of waste;

   b. Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design;

   c. Construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment systems, to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

4. The Permittee shall document compliance with Permit Module IV, Conditions F.2 and F.3, and place this documentation in the operating record for the facility. [Regulation No. 23 §264.195(d)]

G. RECORDKEEPING AND REPORTING

1. The Permittee shall report to the Director within 24 hours of detection when a leak or spill occurs from the tank system or secondary containment system to the environment. [Regulation No. 23 §264.196(d)(1)] (A leak or spill of one pound or less of hazardous waste that is immediately contained and cleaned-up need not be reported.) [Regulation No. 23 §264.196(d)(2)] (Releases that are contained within a secondary system need not be reported.) If the Permittee has reported the release pursuant to Regulation No. 23 §264.196(d), this report satisfies the requirements of this Permit Condition. [Regulation No. 23 §264.196(d)(3)]

2. Within 30 days of detecting a release to the environment from the tank system or secondary system, the Permittee shall report the following information to the Director: [Regulation No. 23 §264.196(d)(3)]

a. Likely route of migration of the release;

b. Characteristics of the surrounding soil (including soil composition, geology, hydrology, and climate);

c. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, the Permittee shall provide the Director with a schedule of when the results will be available. This schedule must be provided before the required 30-day submittal period expires;

d. Proximity of downgradient drinking water, surface water, and populated areas; and

e. Description of response actions taken or planned.

3. The Permittee shall submit to the Director all certifications of major repairs to correct leaks within seven days after returning the tank system to use. [Regulation No. 23 §264.196(f)]

H. CLOSURE AND POST-CLOSURE CARE

At closure of the tank system(s), the Permittee shall follow the procedures in the Closure Plan, Module E of the Part B Application. [Regulation No. 23 §264.197(a)]

I. RESERVED

J. SPECIAL TANK PROVISIONS FOR IGNITIBLE/REACTIVE WASTE

1. The Permittee shall not place ignitable or reactive waste in the tank system or in the secondary containment system, unless the procedures specified in Section A.11 of the Part B Application are followed. [Regulation No. 23 §264.198(a)]

2. The Permittee shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or any adjoining property line that can be built upon, as

required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981). [Regulation No. 23 §264.198(b) and §264.18(g)]

K. SPECIAL TANK PROVISIONS FOR INCOMPATIBLE WASTES

1. The Permittee shall not place incompatible wastes or incompatible wastes and materials in the same tank system or the same secondary containment system unless the procedures specified in Section A.11 of the Part B Application are followed. [Regulation No. 23 §264.199(a)]

2. The Permittee shall not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material unless the requirements of Permit Module IV, Condition K.1, are met. [Regulation No. 23 §264.199(b)]

END OF MODULE IV(c)

STATE OF ARKANSAS

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

Revised Remedial Action Decision Document (RADD)

Great Lakes Chemical Corporation - Central Plant
El Dorado, Union County, Arkansas

February 2010

Revised Remedial Action Decision Document (RADD)

Great Lakes Chemical Corporation - Central Plant
EPA I.D. No. ARD043195429
El Dorado, Union County, Arkansas

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Revised Remedial Action Decision Document (RADD)

Great Lakes Chemical Corporation - Central Plant
EPA I.D. No. ARD043195429

A. Introduction

Great Lakes Chemical Corporation (Great Lakes) owns and operates a chemical manufacturing facility that includes hazardous waste management operations under a Resource Conservation Recovery Act (RCRA) Permit (ADEQ RCRA Permit 18H, as modified) for post closure of a hazardous waste landfill and treatment of hazardous wastes in tanks. In addition, the permit requires corrective actions for discovered releases at Solid Waste Management Units (SWMUs) under Module XII(b) of the permit.

The Hazardous and Solid Waste Amendments of 1984 (HSWA) to the RCRA program requires all facilities seeking a RCRA permit to investigate the possible releases of hazardous substances into the environment from all SWMUs and Areas of Concern (AOCs), regardless of the time such activities may have occurred. ADEQ approved the *RFI Work Plan (RFIWP)* Final Report on 07/22/99 for the required investigations. Great Lakes has since completed all investigations of SWMUs, soils, groundwater, and has determined the full extent of all releases of hazardous substances into the environment.

The U.S. Environmental Protection Agency (EPA) Region 6 developed a *November 2000 Corrective Action Strategy (CAS)* for guidance to accelerate corrective action at RCRA facilities with releases of hazardeus ~~e~~onstituents. The two primary objectives of this guidance are to prioritize corrective action at facilities, and streamline corrective action administrative procedures, resulting in the protection of human health and the environment. The CAS is a performance-based approach that emphasizes results over process.

Great Lakes is participating in the Arkansas Department of Environmental Quality (ADEQ) and the U.S. Environmental Protection Agency (EPA) Region 6 Corrective Action Strategy (CAS) Pilot Program.

Great Lakes submitted a Notice of Intent (NOI) to participate in the CAS Pilot program on 03-20-00, and ADEQ advised of additional NOI requirements in a 06-08-00 letter. Great Lakes submitted additional information supporting the NOI in the *2000 Ground Water Conditions Status Report,* December 2000 and made presentations of this report in a CAS Scoping Meeting on 01-31-01.

Great Lakes submitted a draft *CAS Workplan* on 05-21-01. Revisions to the NOI and CAS Workplan were submitted on 08-01-01, based upon discussions between ADEQ, EPA, and Great Lakes.

Great Lakes developed and presented performance standards (i.e., source control, statutory/regulatory requirements, final risk goal) at the Scoping Meeting, in the *Risk Evaluation Report* (RER), August 2001, and the *Response to Review Comments Risk Evaluation Report,* dated May 2002.

Great Lakes evaluated and proposed risk management activities in the April 2003 *Risk Management Plan* (RMP), to ensure protection of human health and the environment for releases that do not meet the established performance standards. The purpose of the RMP is to define a course of action to achieve and maintain the established performance standards. This process will utilize the data collected during performance monitoring and the methods described in the Conceptual Site Model (CSM) to evaluate if the performance standards are being met.

This RADD represents ADEQ's decision regarding the *Risk Management Plan*, and affords the public the opportunity to participate in decisions regarding potentially hazardous substances within their communities.

B. Background

Great Lakes is a Delaware corporation incorporated in 1933. On July 1, 2005, Great Lakes and Crompton Corporation merged to form Chemtura Corporation with principal executive offices located at 199 Benson Road, Middlebury, Connecticut. Chemtural Corporation is a Delaware corporation. The Great Lakes Arkansas facility is a wholly owned subsidiary controlled by Chemtura Corporation and continues to operate under the name of Great Lakes Chemical Corporation.

The facility is known as the Great Lakes Central Plant and is one of four facilities operated by Great Lakes in the El Dorado, Arkansas, area. The Central Plant is located on approximately 1,200 acres of land southwest of the City of El Dorado, Union County, Arkansas, on Arkansas Highway 15, approximately one mile south of US Highway 82. The specific location is in Section 1, Township 18 South, Range 16 West, at approximate coordinates 33°11'00" N, 92°42'30" W. The facility location is shown in Figure 2 and Figure 3.

Great Lakes manufactures elemental bromine, brominated organic, and brominated inorganic compounds in seven process units by approximately 30 different manufacturing processes at the Central Plant. The Standard Industrial Classification (SIC) codes for the facility are 2819 (industrial inorganic chemicals) and 2869 (industrial organic chemicals). The area where the Central Plant is located was primarily used for oil production, timber and agriculture, prior to the site being utilized for chemical production by Great Lakes.

The essential raw material for bromine is brine from Company-owned wells in Arkansas. The Arkansas properties are located atop the Smackover lime deposits, which constitute a vast underground sea of bromine-rich brine. Incident to the production of certain halogenated compounds, hazardous wastes are generated.

Southern Arkansas experienced an oil boom in the 1920-30's. A Halliburton oil field equipment service facility began operating in the location at the site of the present transportation and truck maintenance operation. The property and buildings, which are still used, were sold to Great Lakes by Halliburton. Part of the site was then leased to Taylor and Lee who operated the first transportation service for Great Lakes before selling the business to Hertz/Penske. Dana Suttles Trucking currently provides transportation services to Great Lakes.
The first parcel of land was acquired by Great Lakes in 1964 for the original processing facility.

Additional land was acquired for the plant as production increased and the line of products was expanded. Facility structures include process units, sump and sewer systems, underground and above ground utilities, roads, warehouses, firewater pond, stormwater pond, office buildings and parking lots. Forty (40) Solid Waste Management Units (SWMUs) were identified at the facility and are shown in Figure 1.

Three (3) categories of past and current potential sources of soil contamination exist at the facility. These areas are summarized in Tables 1-3. The first category (see Table 1) consists of SWMUs that were investigated and remediated under the facility *Consent Administrative Order (CAO) LIS 85-073* and *Permit 18H*. These SWMUs are designated Group 1 SWMUs in Permit 18H and are shown in Table 4.

The second category (see Table 2) contains SWMUs not remediated under the CAO that are listed as Group 2 SWMUs in Permit 18H. Several of these SWMUs were investigated and it was determined that No Further Action (NFA) was necessary. Rationale for these determinations is presented in the 1995 *Description of Current Conditions Report*. Finally, eight (8) SWMUs (see Table 3) remained to undergo a phased investigation, as described in the *RCRA Facility Investigation (RFI) Work Plan*. These SWMUs were investigated and the results reported in the RER. Of these eight SWMUs, only two, the Railroad Loading Area and E4 – Fine Chemicals Sump, require further action. In addition to these two SWMUs, corrective action is required for groundwater.

Ground water recovery systems have been in operation at the Central Plant, since 1989 as an interim measure under the authority of *CAO LIS 85-073*, beginning with the Interim Ground Water Recovery System (IGWRS) wells located at the North and South Landfills. These wells are screened in isolated pockets of sand located within the Channel Clay and recover impacted ground water beneath the closed landfills.

In 1993, eight (8) wells were brought online to pump from the deeper Main Sands of the Cockfield (MSC) aquifer. Three (3) shallow Inter-Bedded Unit (IBU) wells and six (6) more MSC wells were added to the system. The *Final Report Ground Water Recovery Plan RCRA Part B Permit 18H, December 1993* (GWRP), integrated and superceded all previous groundwater recovery systems and certain monitoring programs at the plant. The GWRP was an interim measure required by Permit 18H. A ground water recovery effectiveness evaluation was completed in 1995 and six (6) additional wells were added in 1996 to increase the zone of capture. Four (4) recovery wells were added to the system in 1999. As of December 31, 2005, approximately 456 million gallons of contaminated ground water have been extracted from beneath the Central Plant.

C. Scope and Role of Operable Units

Great Lakes has various environmental permits for a number of units that will facilitate treatment, disposal, and/or recycling of remedial action wastes at the site for the duration of the remediation project.

- ADEQ *Hazardous Waste (RCRA) Permit 18H*, as revised. The Permit includes: Post

Closure Hazardous Waste Landfill Cell 1, a Process Water Treatment Plant (PWTP) with a capacity of 835,200 gallons per day (gpd), a Ground Water Treatment Unit (GWTU) with a capacity of 360,000 gpd, a Leachate Treatment Unit (LTU) with a capacity of 28,800 gpd, and Corrective Action at Solid Waste Management Units.

- ADEQ *Air Permit 1077-AR-6*, as revised. The Consolidated Air Permit covers all air discharges.
- ADEQ *Underground Injection Control (UIC) Permit 11-U*, as revised. The *UIC* wells disposal capacity totals 835,200 gpd, or 417,600 gpd in each of two wells (WDW-5 and WDW-6). Disposal wells WDW-3 and WDW-4 are currently inactive, but not closed. Great Lakes received a no migration petition from EPA for WDW-5 and WDW-6 on 5-13-98. A no migration petition allows the disposal of hazardous constituents without treatment to Universal Treatment Standards. UIC is the primary method of disposal for waste water.
- ADEQ *NPDES Permit AR0001171*, as revised. This permit allows the discharge of storm water and non-contact cooling water to receiving surface waters.

D. Summary of Site Risks

Great Lakes has identified where hazardous constituents exceed U.S. EPA Region 6 screening levels and require risk management. These areas include SWMU 5 - Railroad Loading Area (RRLA), SWMU E4 - Fine Chemicals Sump (both areas hereafter referred to as the RRLA), and ground water.

A risk analysis of the RRLA was presented in the RER and indicated the following:

- Acetone, bromoform, bromomethane, dibromomethane, 1,2-dichloropropane, 1,2-dibromoethane (ethylene dibromide or EDB), 1,2-dichloroethane (ethylene dichloride or EDC), 1-bromo-2-chloroethane, 2-butanone (methyl ethyl ketone), methylene chloride, and toluene were detected at levels exceeding the May 1996 EPA Soil Screening Guidance (EPA/540/R95/128) or other derived Dilution Attenuation Factor (DAF) 1 screening levels.
- Specific to soils, EDB and EDC exceeded the high priority outdoor industrial worker screening level; whereas 1,2-dichloropropane exceeded the low priority level.
- Risk analysis was performed to evaluate affects from multiple non-carcinogenic constituents which by themselves are below industrial worker screening levels. The cumulative Hazard Index (HI) was calculated to be 0.26 (see Table 5). Therefore, because the HI is less than 1, there is no unacceptable risk from multiple non-carcinogenic constituents.
- Site specific target risk levels of 1×10^{-5} were calculated for EDB, EDC and 1,2-dichloropropane taking into account site-specific exposure times. Concentrations of these constituents exceeded these site-specific risk levels.

There are four (4) potential receptors for RRLA hazardous constituents:

- Outdoor workers may be potentially exposed to elevated vapor concentrations in the RRLA.
- Constituents may leach from soil into ground water and increase concentrations beneath the Administration Building, vapors may enter an enclosed space, potentially impacting indoor workers.
- Constituents may leach from soil into ground water and migrate to the onsite surface water

receptor, an area of poor drainage where ground water may reach the surface above Maximum Contaminant Levels (MCLs), and at property boundaries with concentrations of contaminants greater than MCLs.

- Constituents may leach from soil into ground water and migrate beyond the facility property boundaries at concentrations above MCLs.

Hazardous and non-hazardous constituents (primarily chloride) are present in the groundwater. Hazardous constituents include 1,2-dibromoethane (EDB), 1,2-dichloroethane (EDC) and others as presented in the RER. Chlorides were historically managed within previous CAOs and *Permit 18H.* The regulation of non-hazardous constituents within *Permit 18H* was contested by Great Lakes shortly after permit issuance.

Joint Settlement Stipulation LIS 92-193, APC&EC, July 25, 1994, established the resolution of contested permit conditions between ADEQ and Great Lakes:

> "ADEQ and Great Lakes agree, however, that hazardous constituents and chlorides portion of the groundwater remediation shall be managed together for consistency and ease of implementation. ADEQ and Great Lakes agree, however, that the Arkansas Hazardous Waste Management Act (A.C.A. § 8-7-201 et seq) and the Federal Resource Conservation Recovery Act (42 U.S.C.§ 6901 et seq) do not provide jurisdiction over the chlorides portion of the groundwater remediation. Accordingly, ADEQ agreed that chlorides remediation criteria shall be established under other applicable state and/or Federal laws."

E. Summary of Corrective Action Objectives

Corrective action objectives are established through the application of performance standards. The three (3) CAS performance standards are:

- Source Control Performance Standard: Source control refers to the control of materials that include or contain hazardous wastes or hazardous constituents that act as a reservoir for migration of contamination to soil, sediment, ground water, surface water, or air, or as a source for direct exposure. Sources are not always stationary, but can migrate from a landfill or surface impoundment where contamination originally was released. Contaminated ground water plumes are not generally considered a source material, although non-aqueous phase liquids (NAPL) in the ground water generally would be viewed as source material.
- Statutory and Regulatory Performance Standard: Statutes and regulations may dictate media-specific contaminant levels that must be achieved, such as MCLs in drinking water. These requirements may be specified in Federal, state, and local laws and regulations.
- Final Risk Goal Performance Standard: The final risk goal is the level of protection to be achieved and maintained by the facility. The final risk goal is established by the administrative authority based on land use, special subpopulations, contaminant concentrations based on acceptable risk, the location at which the levels are measured, and the remediation time frame.

RRLA Corrective Action Objectives:

Source control, through the removal of constituents in soil which may act as a reservoir for migration to air (vapors) or ground water, will be used to manage site risk.

The statutory and regulatory performance standard includes provisions for worker protection evaluations through performance monitoring. Workplace protection is regulated by OSHA.

The Final Risk Goal Performance Standard is to remediate soil contamination (hazardous constituents) such that residual levels are protective of outdoor industrial workers on site and protective of surface water and ground water at the potential receptors (regulatory or risk based standards will not be exceeded in surface water or at the property boundaries).

Ground Water Corrective Action Objectives:

Source control, through the removal of hazardous constituents and chlorides in groundwater that may pose an unacceptable risk to potential receptors, will be used to manage site risk.

The statutory and regulatory performance standard shall be to contain/recover ground water such that MCLs, regulatory and/or risk based concentrations for constituents in ground water will not be exceeded at the receptor points, which include surface water and property boundaries.

The Final Risk Goal Performance standard is to remediate groundwater such that residual levels of all contaminants are protective of receptors at points of potential exposure.

F. Proposed/Recommended Remedies

Great Lakes constructed and operates a soil vapor extraction (SVE) and air sparging (AS) remediation system in the RRLA and the COPT Area. SVE is an accepted, cost-effective technique for removing volatile organics from contaminated soil. The extraction point layout is illustrated in Figure 5. SVE systems have many advantages that make the technology applicable to a range of sites (see Section H).

Risk management activities for ground water include:

- Continue/modify current ground water recovery, treatment, and monitoring programs established under *Permit 18H.*
- Add additional recovery wells, if necessary, as determined by annual reviews.
- If necessary, conduct additional area-specific remediation.

The current recovery system is shown in Figure 6. Refer to Section H for the justification for the proposed remedy.

G. Remedial Action Levels

The RMP defined a course of action to achieve and maintain the established performance standards using a *process of continuing risk evaluation.* This process utilizes the data collected

during performance monitoring to evaluate if the performance standards are being met. Preliminary Remediation Goals (PRGs) are target concentrations used during analysis and selection of a risk management strategy. These targets are the maximum constituent concentrations that can be present at a given release area and still achieve the performance standards at the location of potential receptors. Risk management activities are designed around achieving or maintaining the PRG concentrations. As indicated by their designation, these concentrations are *preliminary* and not final remediation goals. The PRGs calculated are "alert levels", concentrations designed to provide a warning that the risk management activities may need to be enhanced. PRGs, which are based on source size and distance to receptors, are subject to revisions, based on changing site conditions. Updated PRGs will be presented in the Annual Corrective Action Strategy Reports.

SWMU 5 RRLA (which also includes SWMU E4 – Fine Chemicals Sump):

- Source Control: Cleanup technologies include air sparging/soil vapor extraction to remove contaminants in soil, which are potential sources of ground water contamination or reservoirs for vapor migration.
- Statutory and Regulatory Performance Standard: The statutory and regulatory performance standard includes provisions for worker protection evaluations through performance monitoring. Workplace protection is regulated by OSHA
- Final Risk Goal Performance Standard: Remediate soil contamination such that residual levels are protective of outdoor industrial workers on site and protective of surface water and ground water (see discussion of standards for surface water and groundwater below).

Groundwater:

- Source Control: The source control performance standard includes groundwater extraction through pumping, treatment (filtering only) and disposal as currently established in Permit 18H-RN1. Treatment of recovered groundwater involves filtration only at the GWTU and either: 1) bromine recovery at the Bromine Unit, with ultimate disposal in a permitted Class I hazardous waste injection well; or 2) direct disposal in a Class I injection well. Due to a no-migration petition, treatment of recovered groundwater prior to disposal at the Class I injections wells is not required. Recovered groundwater can only be injected into the permitted Class I injection wells cited with the Permit. No recovered groundwater should be injected into Class V Non-Hazardous Waste injection wells.
- Statutory and Regulatory Performance Standard: The statutory and regulatory performance standard shall be to contain/recover ground water such that regulatory and/or risk based concentrations for constituents in ground water will not be exceeded at the receptor points, which include surface water and property boundaries. The performance standards for potential drinking water receptors are MCLs or in the absence of MCLs, MCLGs, the EPA Region 6 low-priority screening standard. The performance standards for surface water, presented in the *2005 Annual Corrective Action Strategy Report*, are ecological risk-based concentrations, as well as APC&EC Regulation No. 2 criteria.
- Final Risk Goal Performance Standard: For constituents without a published MCL, the performance standard will be to contain/recover ground water such that the $1x10^{-6}$ carcinogenic risk or a hazard quotient of 1 for non-carcinogenic risk levels, regulatory and/or MCLs will not

be exceeded at the receptor points. The performance standards for surface water are *ecological* risk-based concentrations, and APC&EC Regulation No. 2 criteria.

PRGs are the target constituent concentrations that can be present within the facility property boundaries and still achieve the Performance Standards discussed above at the location of potential receptors. PRG concentrations allowed on the facility property are higher than the Performance Standards and will vary based on the distance to potential receptors.

H. Justifications for Selections

Performance monitoring programs have been/will be developed to verify that the risk management activities achieve and maintain the established performance standards for the RRLA and groundwater. The RRLA program will evaluate risks to workers in the RRLA and determine when remediation goals have been achieved. The ground water monitoring program is designed to detect if ground water impacts are migrating toward receptor points at unacceptable levels.

Soil Vapor Extraction (SVE) Justification:

- SVE is an in situ technology that can be implemented with minimum site disruption.
- SVE can potentially treat large volumes of soil at reasonable costs when compared to other technologies.
- The standard equipment used in SVE is readily available, easily installed using accepted construction techniques, and can be easily mobilized.
- SVE effectively reduces Volatile Organic Constituent (VOC) concentrations in unsaturated soils, which further reduces the potential of contaminant concentrations resulting from vapor migration and precipitation infiltration.
- SVE can be an integral component of a complete remedial program, which often includes Air Sparging and ground water extraction and treatment.
- SVE vapor treatment options allow design flexibility and will meet applicable CAS performance standards.

Performance monitoring in the RRLA will consist of determining if risk based performance standards are being met and evaluating remediation effectiveness. An ambient air sampling program will be implemented to ensure that there is no unacceptable risk to workers. The schedule includes a provision for planning, conducting and reporting the results of air monitoring. If the risk evaluation warrants, an action plan will be developed which may include additional assessment and/or corrective action.

SVE Remediation system effectiveness will be evaluated by:

- Monitoring flow rates.
- Collecting and analyzing vapor samples from the system discharge for constituents of concern. The frequency will be monthly during the first year of operation and quarterly thereafter.
- Collecting and analyzing vapor samples from selected monitoring points for constituents of concern. The frequency will be quarterly during the first year of operation and semiannually thereafter.

- Prior to remediation termination, conducting an evaluation of constituent of concern concentrations in soil in accordance with SW-846 to verify concentrations are below PRGs.

Groundwater Justification:

This program is designed to control and monitor groundwater conditions at the Central Plant facility. The program includes monitoring wells in three areas: Perimeter, Intermediate, and Source Area. The Perimeter consists of organic-free wells surrounding the organic plumes, which monitor if constituents are migrating toward the property boundaries or receptors. The Intermediate wells consist of moderately impacted wells that will be sampled to provide early warning of migration before constituents reach the perimeter. Source Area wells will monitor the most impacted wells to evaluate cleanup efforts and provide data to develop isoconcentration maps. The monitoring program is described in Appendix C of the RMP and has been updated in subsequent Annual Corrective Action Strategy Reports. The current groundwater monitoring program is presented in Table 6.

Groundwater data from wells located in the PRG Zones (shown in Figures 2 and 3 the 2005 Annual CAS Report) will be compared to the calculated alert levels, which are also presented in the annual report. If constituents without PRGs are detected at levels of concern (i.e., above MCLs or screening levels), the data will be evaluated using the Domenico model process described in the CSM. The concentration in each well and the distance to the nearest potential receptor will be used to determine if the detected constituent concentration will result in a level which exceeds the MCL, or ecological screening standard, at the potential receptor. If the risk evaluation warrants, an action plan will be developed which may include additional assessment or corrective action.

I. Schedule

The implementation schedule for Risk Management measures is as follows:

- Implement an area ground water monitoring program to modify/replace the current *Permit 18H* Module XII(b) monitoring and groundwater recovery programs.
- Continue operation of ground water recovery system.
- Develop and implement air monitoring program and report results to ADEQ in the *Annual Corrective Action Strategy Risk Management Monitoring Report.*
- Continue operation and monitoring of RRLA remediation system
- Submit the *Annual Corrective Action Strategy Risk Management Monitoring Report* by/on March 1 of each year.

Special Conditions

Great Lakes shall continue operations and maintenance of the ground water recovery system in accordance with the *Final Report Ground Water Recovery Plan RCRA Part B Permit 18H*, December 1993, as modified by this RADD.

- Inorganic Contaminants: Chloride, Bromide, pH, specific conductance
- Continue operations, maintenance, and monitoring of the French drain and/or groundwater recovery systems at the North/South Landfills as necessary to prevent groundwater to surface

discharges

Site Work Area Maps

Figure 3: Topography and Flood Zone
Figure 4: Vicinity Topographic Map with Public Water, Injection, and Plant Water Wells
Figure 5: Vapor Extraction System Point and Piping Layout
Figure 6: Groundwater Recovery System
Figure 7: Groundwater Recovery Piping Layout
Figure 8: Plan View/North South Landfill French Drains
Figure 9: Cell 1 and North/South Landfill Wells and Pipeline Layout

J. Public Participation

All documents and correspondence associated with this project are available for public viewing at the following locations:

Arkansas Department of Environmental Quality
Central Records Section
5301 Northshore Drive
North Little Rock, AR 72218

and

The Barton Public Library
200 East 5th Street
El Dorado, Arkansas

K. Coordination with other Divisions/Agencies

It is important to involve/inform other divisions of ADEQ and other agencies in the development of a Remedial Action Decision Document (RADD), as applicable. To keep EPA informed of all corrective action work, EPA Region 6 was provided a copy of the Public Notice and Draft RADD for review and comment.

Divisions Consulted	Sent Notice of Decision
X Water	Yes
X NPDES	Yes
X Air	Yes
____ Solid Waste	___
____ Regulated Storage Tanks	___
X Environmental Preservation & Tech Ser.	Yes
___ Mining	___

Agencies Consulted		Sent Notice of Decision
X	EPA, Region 6	Yes
X	Ark. State Health Dept.	Yes
____	Office of Emergency Services	____
____	Ark. State Clearinghouse	____
____	Ark. State Historic Preservation	____
____	U.S. Army Corps of Engineers	____

The Notice of Decision Document will be sent to EPA, all applicable branches of the Hazardous Waste Division, and to all divisions and agencies listed above.

L. List of Documents Used to Prepare the RADD

CAO-LIS 85-073

Joint Settlement Stipulation LIS 92-193, Arkansas Pollution and Ecology Commission, July 25, 1994

RCRA Permit 18H: This Permit is based on the assumption that the information submitted in the June, 1989 *Part B Permit Application*, revised November 6, 1989, January 26, 1990, February 23, 1994, and December 5, 1994, the updated *Part A Application* submitted January 16, 1995, the revised Part A and Part B permit applications submitted November 8, 1996, and the revised Part A and Part B permit applications submitted May 2002 (hereafter referred to as the *Part B Application*), is accurate and that the facility will be operated as specified in the Part B Application and this Permit.

Final Report 1993 Groundwater Quality Assessment RCRA Part B Permit 18H, May 1993

Final Report Ground Water Recovery Plan RCRA Part B Permit 18H, December 1993
Description of Current Conditions Report, February 1993, as revised November 1995

RFI Work Plan, May 1993

RFI Work Plan Report, May 1993, as revised November 1995 and April 1997

2000 Ground Water Conditions Status Report, December 2000

Corrective Action Strategy Work Plan, July 2001

Notice of Intent (NOI) Corrective Action Strategy, August 2001

Risk Evaluation Report, August 2001 as revised May 2002

Risk Management Plan, April 2003

2005 Annual Corrective Action Strategy Report, March 2006

RCRA Class 3 Permit Modification Request, August 12, 2009; as revised November 4, 2009

TABLE 1
Group 1 - Solid Waste Management Units
Remediated under CAO-LIS 85-073

SWMU	Description
1	Tail Brine Pond
2	Tail Brine Solids Pits
3	Storm Water Pond
4, 12-16	COPT Area (includes Process Water Pond (SWMU 4), Cooling Water Pond (SWMU 12), Old Acid Pits (SWMUs 13 & 14), and Triangular Area (SWMUs 15 & 16))
6	IOB Pond
17	North Solid Waste Disposal Landfill
18	South Solid Waste Disposal Landfill
20	Solid Waste Landfill
21	Spray Dryer Pond
22	Laboratory Field Lines
35	Feed Brine Pond

TABLE 2
Group 2 - Solid Waste Management Units

SWMU	Description
A	Drainage to Bayou de Loutre from the COPT area to NPDES outfall #2.
B	Drainage to Little Cornie Bayou from where the concrete lined ditch exits the North-South landfill to NPDES outfall #3.
C	Truck washdown sump south of entrance road in truckyard
D	Pumper truck oil changing area sump and discharges
E	All facility process sewers and sumps
G	Spoil pile from cleanout of stormwater retention pond
H	Wetland area on east side of stormwater retention pond and adjacent to spoil pile.
I	Drum crusher unit, sump, and empty drum handling area
J	Truck washdown tank
K	Unidentified solid waste dump site (300'SW of tail brine pond)
5	Railroad loading area
7	Hazardous waste drum storage area
10	Solid waste landfill
19	Tail brine sludge disposal landfill
24	Waste acid tanks
25	West stormwater sump
26	East stormwater sump
27	Tail acid storage tanks
28	Calcium-bromide pond
29	Unidentified pond (old tail brine pond)
30	Acid disposal well #1
31	Acid disposal well #2
36	Fire water pond NO INVESTIGATION REQUIRED IN ACCORDANCE WITH JOINT SETTLEMENT STIPULATION LIS 92-193
37	Central Warehouse

TABLE 3
Eight SWMUs That Undergo a Phased Investigation
as described in the *RCRA Facility Investigation*

SWMU	Description	RFI/Risk Evaluation Results
C	Truck Washdown Sump	NFA
D	Oil Changing Area	
E	Facility Sumps and Sewers	
E1	TCO Sumps	NFA
E2	BOC Sump	
E3	CaBr Sump	
E4	Fine Chemicals Sump	Requires further action - will be included with SWMU 5 Railroad Loading Area
E5	NaHS Sump	NFA
E6	lOB Sump	
G	Storm Water Pond Spoil Pile	
5	Railroad Loading Area	Undergoing Corrective Action
19	Tail Brine Sludge Disposal Landfill	NFA
25	West Side Sump Spoil Pile	
38	Newly Identified SWMU	

GREAT LAKES CHEMICAL CORPORATION
CENTRAL PLANT, EL DORADO, ARKANSAS

Table 4: Group 1 Solid Waste Management Unit Closure Status Summary

SWMU NUMBER	NAME OF SWMU	SIZE AND TYPE OF WASTES	STATUS, YEARS IN SERVICE	CLOSURE PLAN APPROVAL DATE	CLOSURE DATE	CERTIFICATION REPORT DATE	CERTIFICATION SUBMITTAL DATE	APPROVAL STATUS
1	Tail Brine Pond	60,000 sq. ft. Lime solids with Lime solids with trace of process waste water solids	Closed. 1970-1993	Aug. 22, 1990	Sep. 1993	Sep. 1994	Sep. 1994	Approved August 29, 1995
2	Two Small Pits South of the Tail Brine Pond	1000 sq. ft. Tail brine sludge composed of lime solids and salts	Closed. 1978-1988	March 1, 1988	Feb. 1989	April 1989	April 4, 1989	Approved May 11, 1989
3	Storm Water Pond	85,000 sq. ft. Storm water discharge and intercept spills from east side of plant	In use	Repair/Replacement Plan approved Aug. 1989	Not Applicable	Nov. 1990	Nov. 1989	Certification complete in accordance with CAO section I.5.
4 12-16	COPT	83,400 sq. ft. total Process waste waster, acid, cooling water, sewage from plant, NAHS plant seal water	Closed, 1970's-1990	May 1990	July 1991	July 2, 1991	July 1991	Certification complete in accordance with CAO section I.5.
6	IOB Pond	20,000 sq. ft. Homogeneous waste water from tetrabromobisphenol-A process	Closed, 1974-1989	Feb. 1989 Revised May 1985	Aug. 3, 1989	Aug. 31, 1989	Aug. 1989	Certification complete in accordance with CAO section I.5.
17 18 20	North Landfill South Landfill Solid Waste Landfill	16 acres solids wastes from plant, spent packaging material and filter cake (CaBr)	Closed. 1968-1979	Feb. 18, 1989	Aug. 3, 1990	Aug. 24, 1990	Aug. 28, 1990	Certification complete in accordance with CAO section I.5.
21	Spray Dryer Pond	1,900 sq. ft. Waste water and settled solids from spray dryer process and DE-83 process	Closed. 1977-1989	Nov. 1988	Sep. 1, 1989	Sep. 1989	Sep. 1989	Certification complete in accordance with CAO section I.5.
22	Laboratory Field Lines	Not applicable Disposal of trace concentrations of GLCC lab chemicals	Clean Closed. 1974-1987	July 1987	July 1988	Sep. 1988	Sep. 1988	Certification complete in accordance with CAO section I.5.
35	Feed Brine Pond	20,000 sq. ft. Feed brine with minimal solids	Clean Closed. 1965-1994	Original-Feb. 17, 1989 Clean Closure Plan-Sep. 16, 1994	Work Completed Jan. 1995	June 1995	June 12, 1995	Certification complete in accordance with CAO section I.5.

Table 5
Summary of RRLA Soil Data
Conceptual Site Model

RRLA Soil Summary

			all concentrations in mg/kg				
LOCATION maximum value	DEPTH	CONSTITUENT	RESULTS maximum value	INDUSTRIAL OUTDOOR 10^{-6} or HQ=1	INDUSTRIAL OUTDOOR 10^{-5} or HQ=10	SITE-SPECIFIC INDUSTRIAL SCREENING	Carc /Noncarc
GP-08C	24	1,2-Dibromoethane	440	3.5E-02	3.5E+00	1.17	C
GP-15C	12	1,2-Dichloroethane	100	9.5E-01	9.5E+01	31.5	C
GP-05C	16	1,2-Dichloropropane	63	9.5E-01	9.5E+01	31.8	C
GP-03C	16	2,4,6-Tribromophenol	7.2	2.3E+04	1.8E+05	1.8E+05	NC
RP-12	6	2-Butanone (MEK)	7.91	3.4E+04	3.4E+04		NC
GP-06C	24	Acetone	1.5	7.6E+05	7.6E+06		NC
SS-23	16	Acetonitrile	0.62	2.5E+03	2.5E+04		NC
GP-03C	6	Bromoform	130	2.7E+02	2.7E+04		C
RP-12	22	Bromomethane	2.45	1.6E+01	1.6E+02		NC
GP-15C	24	Dibromomethane	0.12	6.7E+02	6.7E+03		NC
GP-03C	16	Methylene chloride	30	2.5E-01	2.3E+03		C
GP-03C	16	Toluene	280	5.2E+02	5.2E+03		NC

Cumulative Risk from Multiple Constituents									
HQ = 1 Constituents	Detected Concentration	THQ	Integrated Screen, acarc	oral	dermal	Inh	RfDo (mg/kg-d)	RfDi (mg/kg-d)	VT (m^3/kg)
Acetone	1.5	2.0E-04	7.6E+03	1.0E-05	0.0E+00	1.0E-02	1.0E-01	1.0E-01	1.26E+04
Acetonitrile	0.62	2.4E-04	2.5E+03			5.0E-02		1.7E-02	2.34E+04
MEK	7.91	2.3E-04	3.4E+04	1.7E-06	0.0E+00	5.0E-03	6.0E-01	2.9E-01	1.95E+04
Dibromomethane	0.12	1.8E-04	6.7E+02	1.0E-02	0.0E+00	1.8E-01	1.0E-02	1.0E-02	1.10E+04
Bromomethane	2.45	1.5E-01	1.6E+01	7.1E-02	0.0E+00	7.7E-06	1.4E-03	1.4E-03	1.81E+03
Tribromophenol	7.2	3.1E-04	2.3E+04	3.3E-03	2.7E-03		3.0E-02		
Toluene	280	1.1E-03	2.5E+03	5.0E-04	0.0E+00	5.1E-02	2.0E-01	1.1E-01	3.56E+03
	Total THQ	8.26							

INPUTS	
HQ	1
BWa	70
Ata	9125
ED	25
EFout	200
EFo	250
IRSa	100
SAao	5300
AFw	0.2
ABS semival	0.1
ABS vol	
IRAa	20
PEF	1.32E+09
ATc	25550

(from Table A-5 of Risk Management Plan)

Table 6
CAS Monitoring Program

WELLS*

IBU

Perimeter		Intermediate		Source Area	
AA-04A	PM-23	AA-06A	PM-27	AP2-05	IP-42
AA-08A	PM-32	GM-29U	PM-28	GM-10U	NS-003
AA-12A	PM-34	NS-038	PM-29	GW-33	PW-23
AA-14A	PM-36	NS-090	PM-41	GW-39	SW-02
NS-082	PM-38	PM-18	PM-42	IP-16	TB-01
PM-01	PM-39	PM-24	SD-31		TR-18
PM-05	PM-55	PM-25	SW-43	All operating recovery wells	

MSC

Perimeter		Intermediate		Source Area
AA-01	AA-26	AA-04	NS-093	GW-17
AA-05	CL-03	AA-24	PM-13A	GW-53
AA-08	PM-04	GM-04L	PM-17B	IP-17
AA-12	PM-26	GW-21	PM-20	SW-48
AA-14	PM-35	NS-021	PM-30	SW-51
AA-15	PM-40	NS-030	PM-43	All operating recovery wells
AA-17		NS-087	PM-46R	

FREQUENCY

Perimeter - semiannually
Intermediate - semiannually
Source Area - semiannually

CONSTITUENTS

Volatiles	Semivolatiles
1,2-Dibromoethane (EDB)	1,4-Dibromobenzene
1,2-Dichloroethane (EDC)	1-Bromo-3-toluene
1,2-Dichloropropane	2,4,6-Tribromophenol (TBP)
1-Bromo-2-chloroethane	2,4-Dibromophenol
Benzene	2,6-Dibromophenol
Bromobenzene	3&4-Methylphenol
Bromoform	3-Bromophenol
Chloroform	Phenol
Methylene chloride	
Toluene	

* The list of wells monitored may change to respond to changing site conditions. Changes to monitoring program and justification will be provided in Annual CAS reports.

Figure 1: SWMU Locations

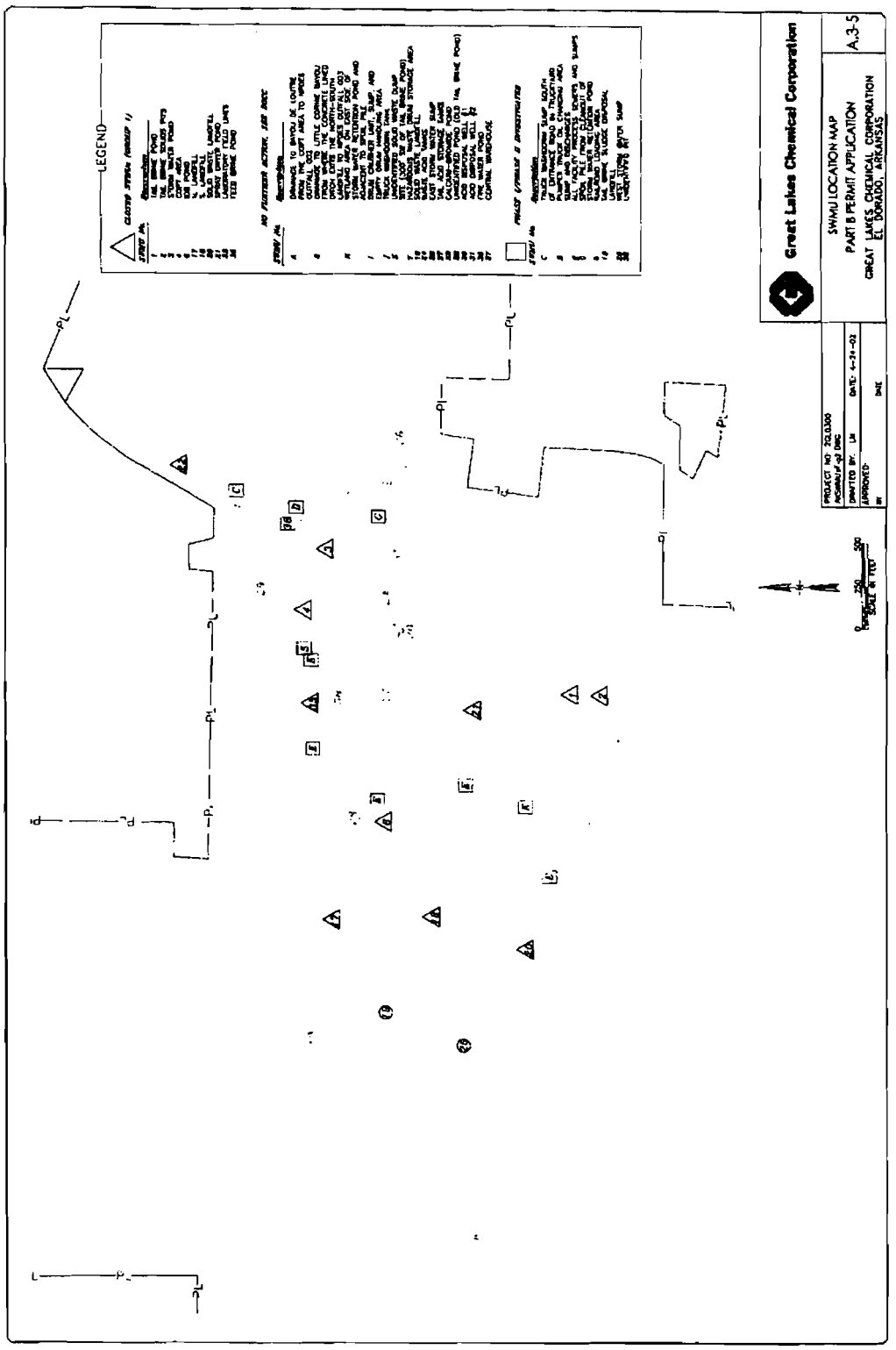


Figure 2: Aerial Photograph

Figure 3: Topography and Flood Zone

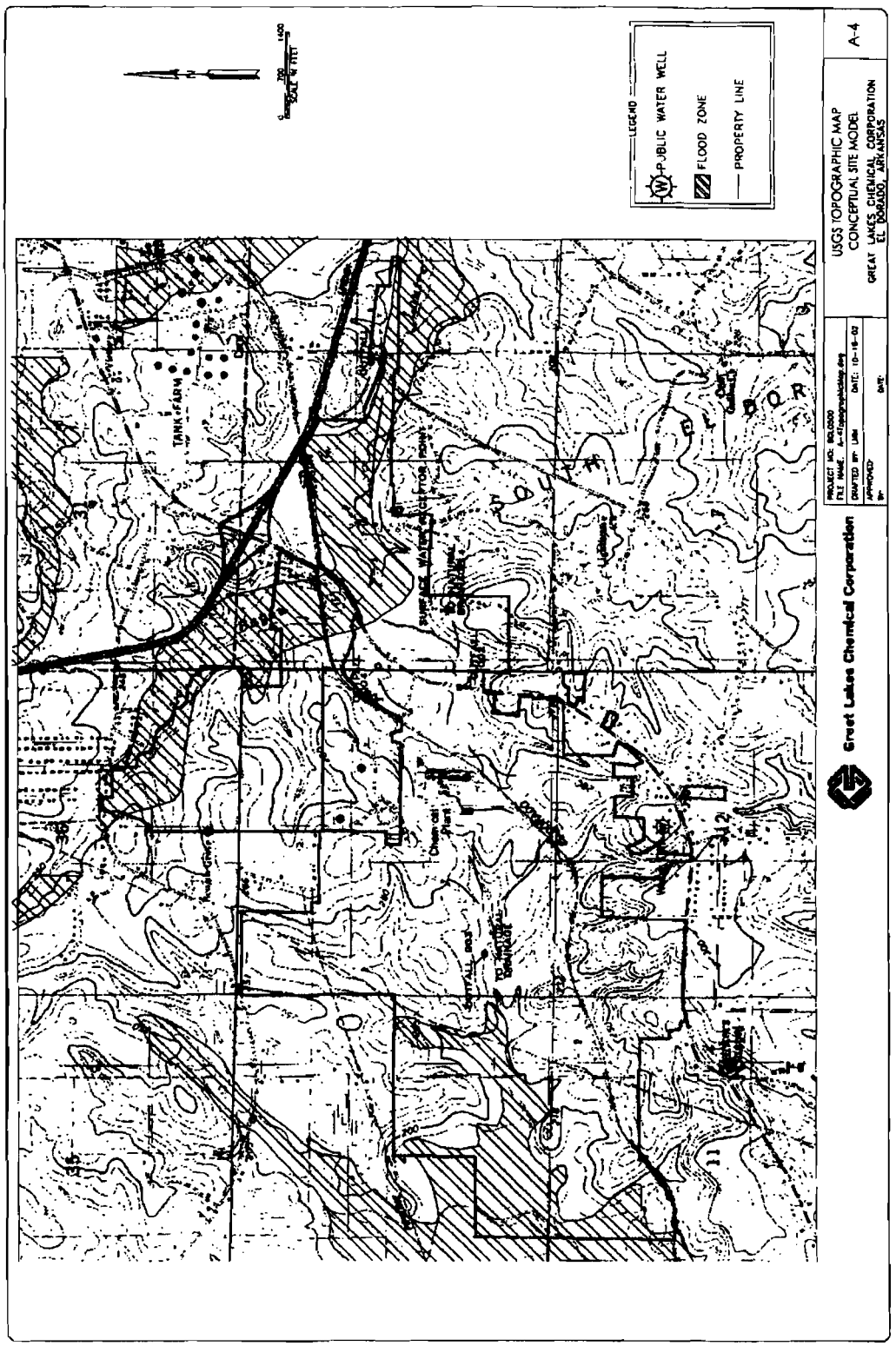


Figure 4: Vicinity Topographic Map with Public Water, Injection, and Plant Water Wells

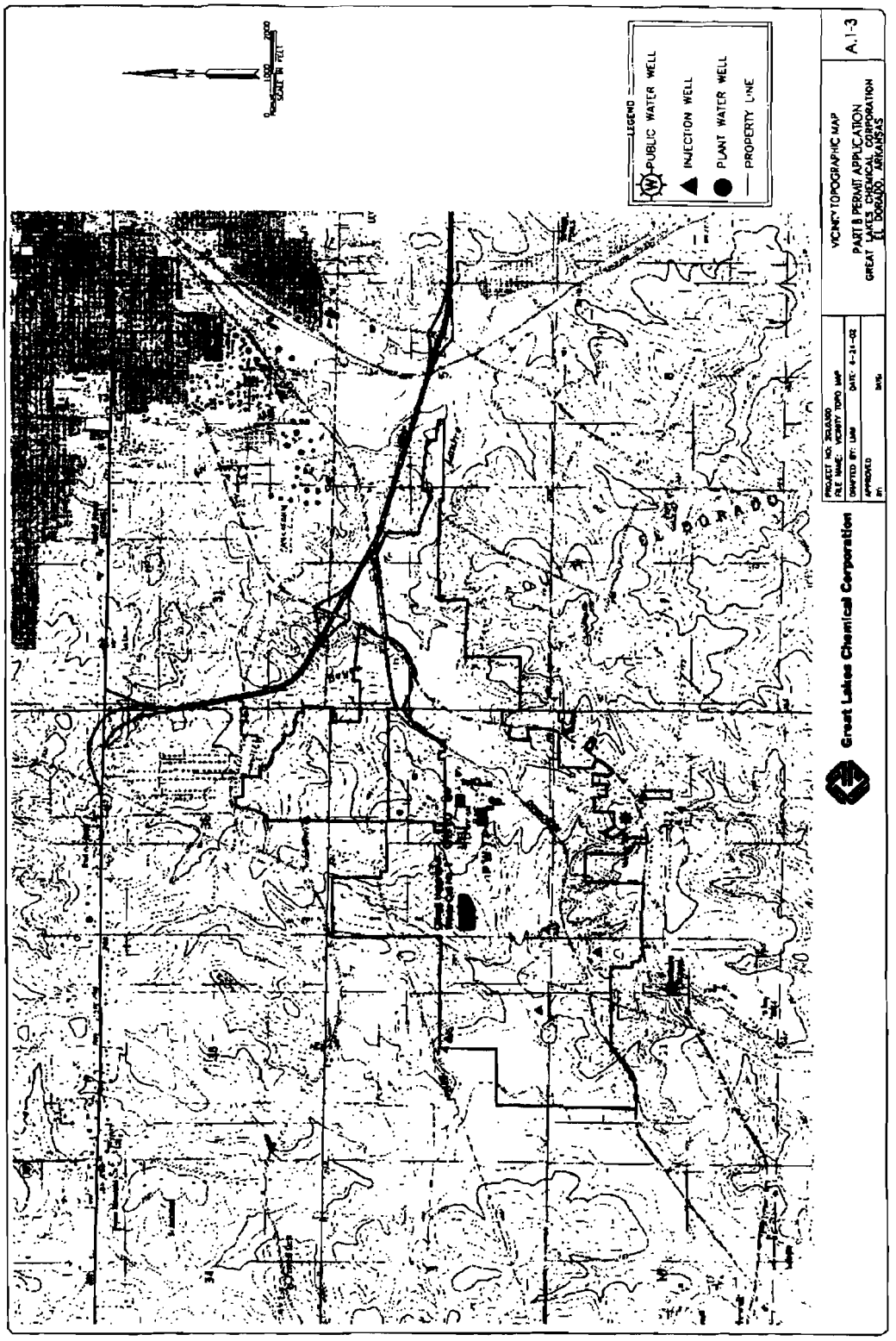


Figure 5: Vapor Extraction System Point and Piping Layout

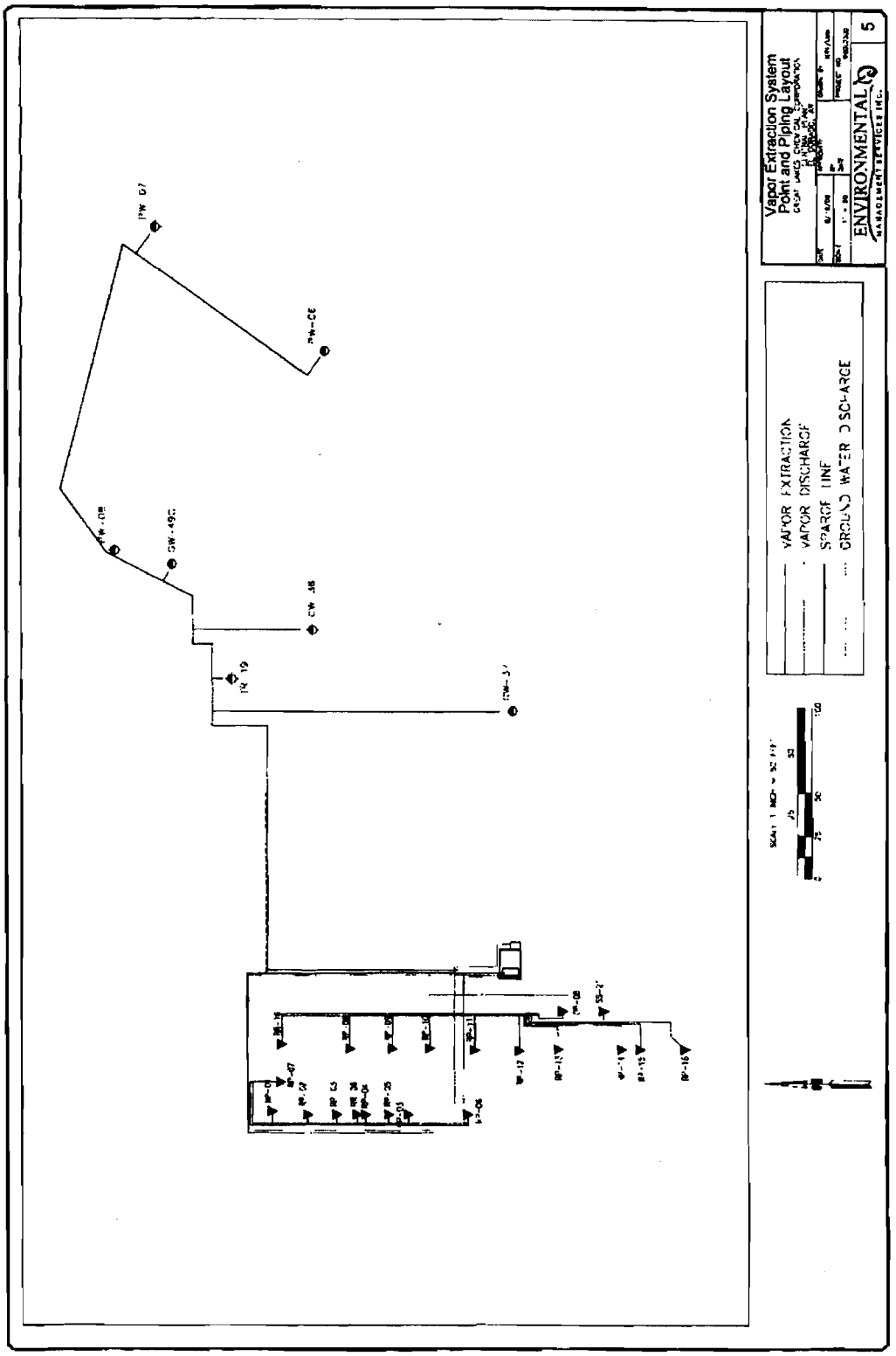


Figure 6: Groundwater Recovery System

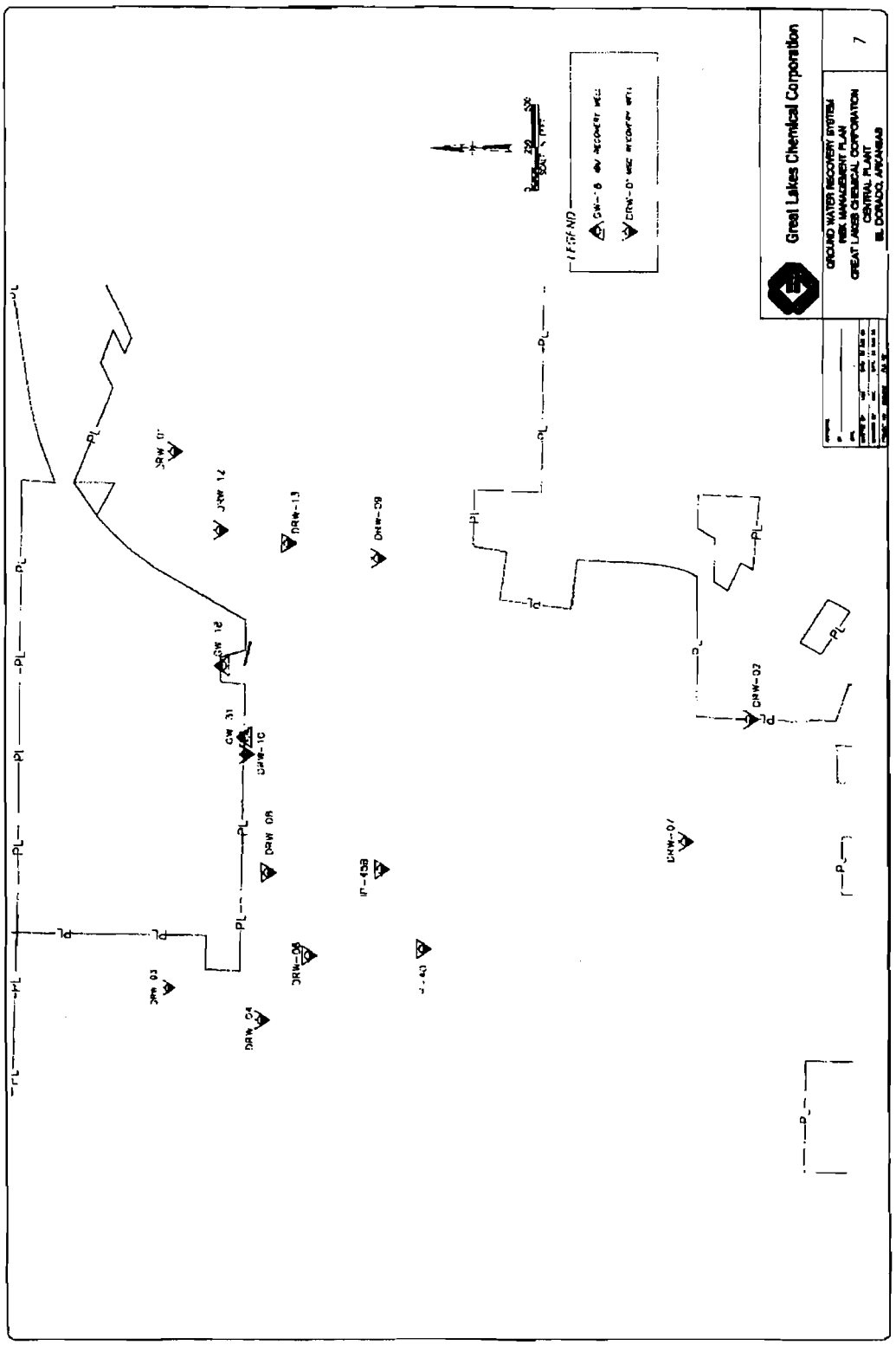


Figure 7: Groundwater Recovery Piping Layout

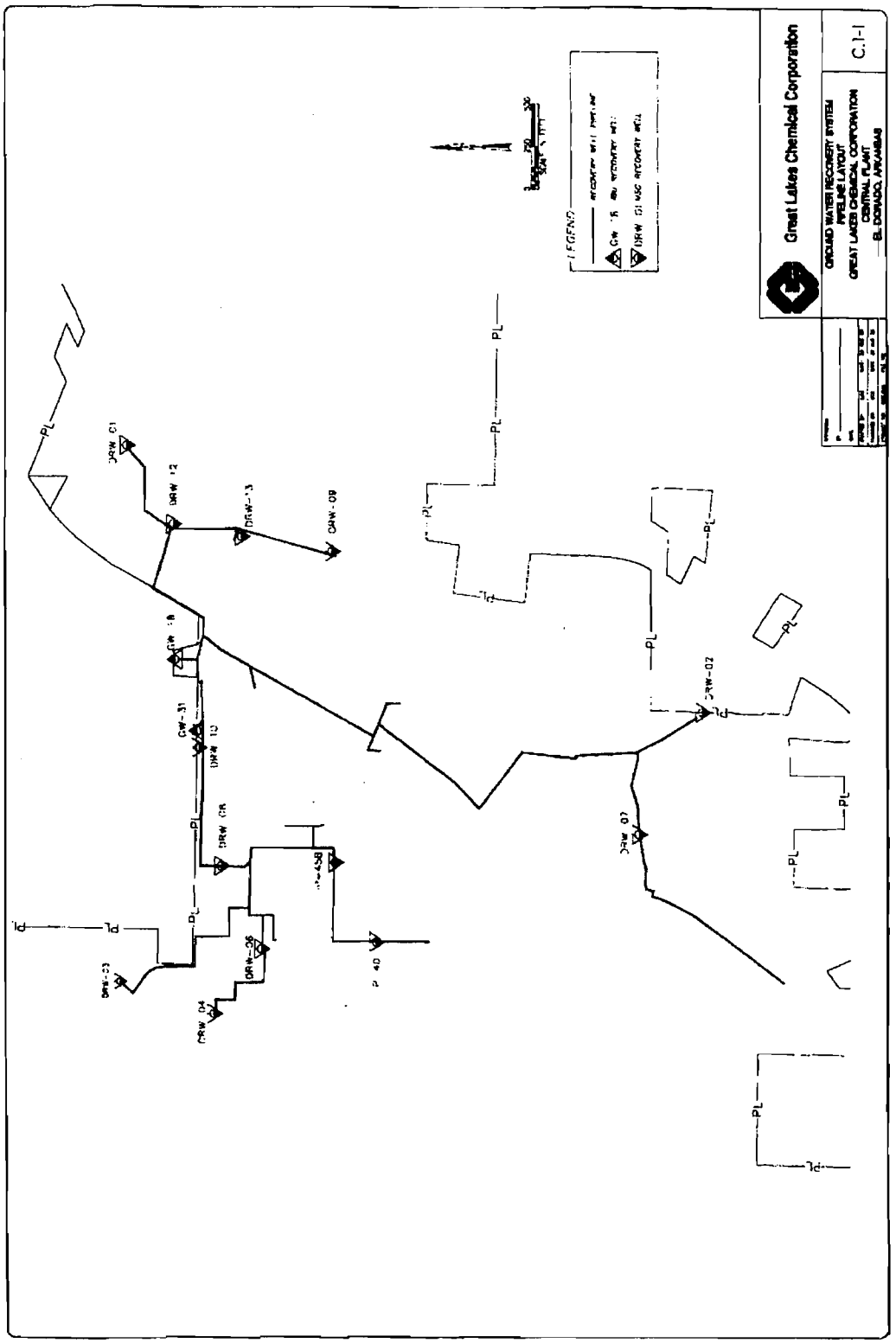


Figure 8: Plan View/North South Landfill French Drains

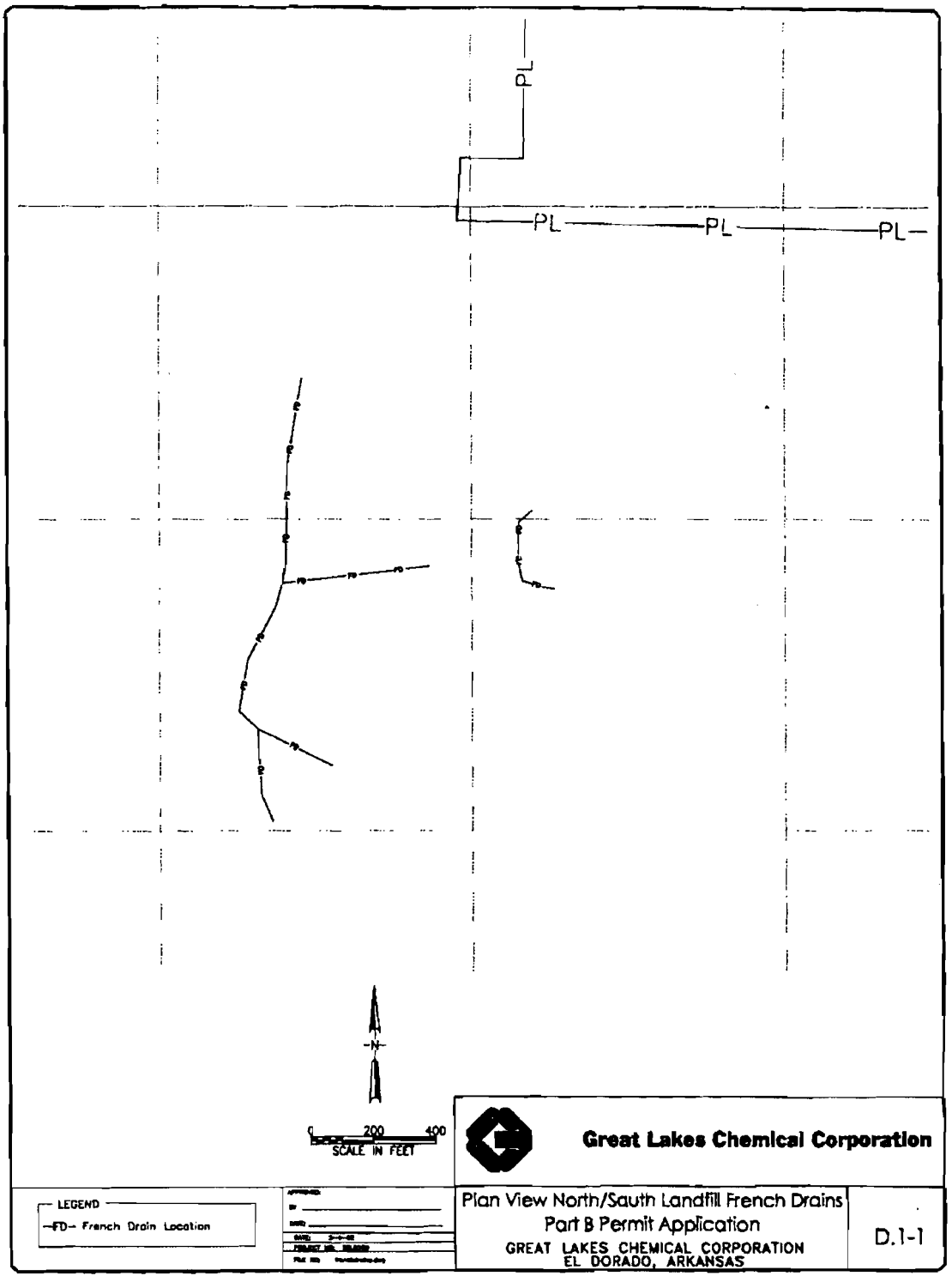
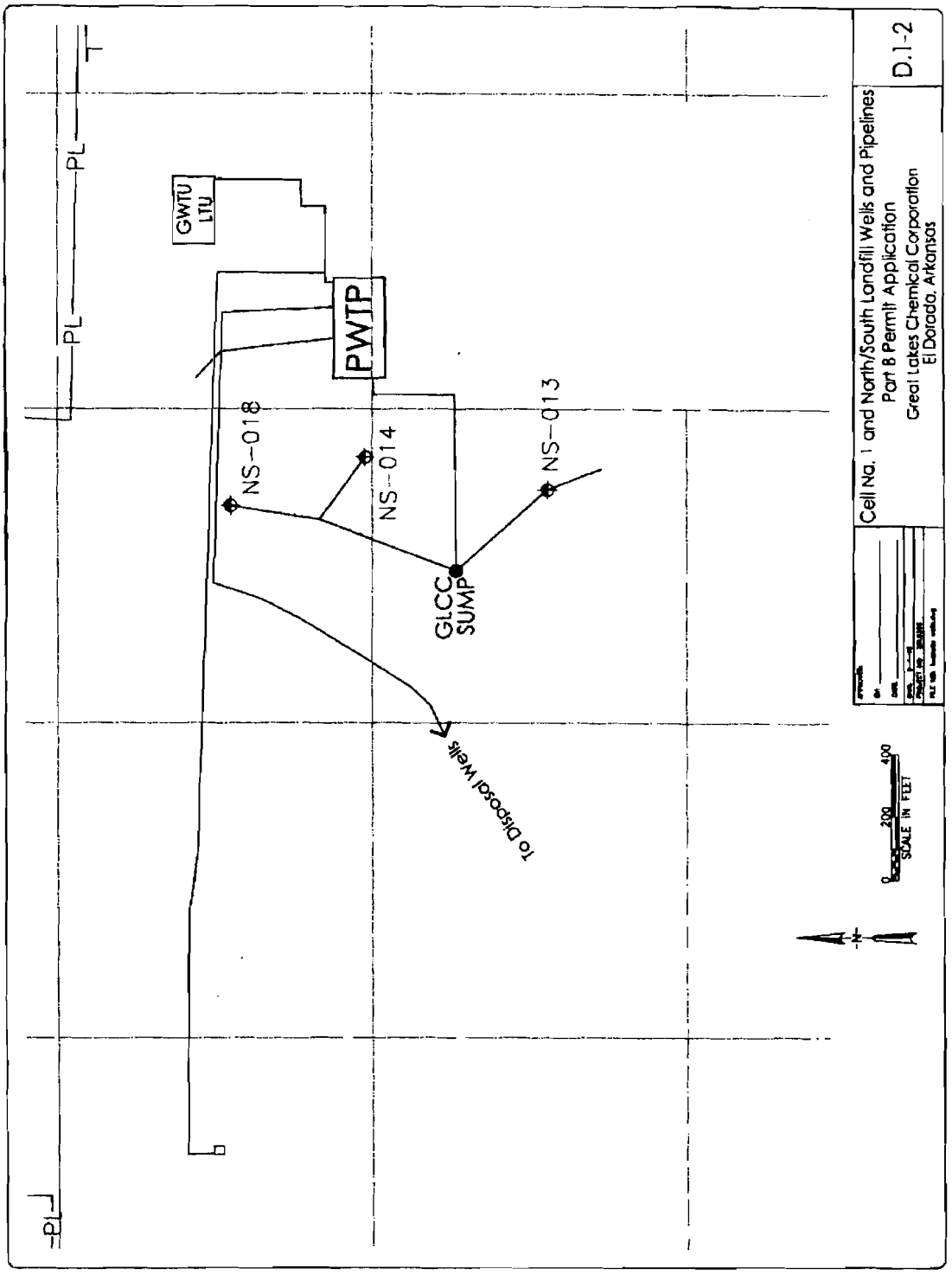


Figure 9: Cell 1 and North/South Landfill Wells and Pipeline Layout



END OF RADD

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
101 EAST CAPITOL
SUITE 205
LITTLE ROCK, ARKANSAS 72201
PHONE: (501) 682-7890
FAX: (501) 682-7891

February 18, 2010

CERTIFIED MAIL 7007 2560 0001 2210 9790
Marcella J. Taylor
Mitchell Williams Law Firm
425 W. Capitol Ave., Ste. 1800
Little Rock, AR 72201

Anne Weinstein
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

RE: In the Matter of Great Lakes Chemical Corporation; Docket No. 09-008-P

Dear Ms. Taylor and Ms. Weinstein:

On February 18, 2010, you filed a Permit Appeal Resolution ("PAR") in the above-referenced docket. Pursuant to Reg.8.615, the appeal has been withdrawn and no further action is required by the parties or administrative hearing officer in order to close this docket. Therefore, this docket is officially closed. However, the commission may reopen the docket if it initiates a review of the PAR or if it grants a petition to set aside the PAR.

The administrative hearing officer will report this matter to the commission at its next meeting, which is scheduled for Friday, February 26, 2010. Please contact me if you have any questions.

Respectfully,

Michael O'Malley
Administrative Hearing Officer

ADEQ
ARKANSAS
Department of Environmental Quality

Memorandum

TO : **Arkansas Pollution Control and Ecology Commission**

FROM : **Bryan Leamons, Engineer Supervisor, Solid Waste Division** BL

DATE : **February 1, 2010**

SUBJECT : **Monthly Permit Decisions**

During January 2010, the Solid Waste Division issued the following permits:

Permit Number	Facility Name and Action	Effective Date
0308-S1-R1	Jefferson County Class 1 - Addendum to Permit	1/28/2010
0261-S1-R2	Saline County RSWMD Class 1 – Addendum to Permit	1/27/2010

cc: Karen Bassett, Acting Chief - SWMD

ADEQ
ARKANSAS
Department of Environmental Quality

MEMORANDUM

To: Commission Members

From: Clyde E. Rhodes, Jr., Chief, Hazardous Waste Division

Date: February 2, 2010

Subject: Permit Modification Issued for the Month of January 2010

The following Permit Modifications were issued by the Technical Branch of the Hazardous Waste Division during the month of January 2010:

Permit Modifications

- PBCDF (Permit 29H-RN1): Class 1 Modification (Operating Updates to LIC/MPF to coincide w/ Trial Burns); Received 12/23/09; Approved 01/08/10
- Koppers (24H-RN1): Class 1 Modification (Groundwater update/liability insurance removal); Received 12/21/09; Approved 01/12/10
- Reynolds Metals (30H): Class 1 Modification (Contingency Plan Update); Received 01/09/10; Approved 01/13/10
- Clean Harbors (10H-RN1): Class 2 Modification (add waste codes for tank storage); Received 09/11/09; Approved 01/20/10
- Sporting Goods (20H-RN1): Class 1 Modification (Groundwater statistics change); Received 12/28/09; Approved 01/25/10
- Great Lakes Chemical Company (18H-RN1): Class 3 Modification (Closure of Permitted Units; Adjustment of Financial Assurance); Received 08/13/09; Approved 01/31/10

Arkansas Department of Environmental Quality
Air Division
Permit Section

MEMORANDUM

To: **Commissioners**
Arkansas Pollution Control and Ecology Commission

From: **Mike Bates, Chief, Air Division**

Date: **February 2, 2010**

Subject: **Final Air Permits**

Please find attached a list of the final permitting decisions for the month of January, 2010.

FACILITY	AFIN	REQUESTS	PERMIT TYP	PERMIT NUMBER	FINAL
Arkat Nutrition, Inc.	2100144	MODIFICATION	MINOR	2085-AR-1	01/04/2010
Ball Metal Food Container Corp.	7200048	TITLE V RENEWAL	TITLE V	0782-AOP-R4	01/05/2010
Reynolds Consumer Products Holdings, Inc. dba Reyn	3000030	TITLE V RENEWAL	TITLE V	0448-AOP-R5	01/11/2010
Producers Rice Mill	0100025	DE MINIMIS	MINOR	0428-AR-14	01/22/2010
Bekaert Corporation	1700043	DE MINIMIS	MINOR	0299-AR-15	01/22/2010
Great Lakes Chemical Corporation - Central Plant	7000012	MINOR MOD	TITLE V	1077-AOP-R1	01/26/2010
GFI, Inc.	0500392	NEW	MINOR	2187-A	01/26/2010
University of Arkansas Central Utility Plant	7200026	DE MINIMIS	MINOR	2011-AR-3	01/27/2010
CenterPoint Energy - Helena Compressor Station	5400120	TITLE V RENEWAL	TITLE V	1217-AOP-R5	01/27/2010

ADEQ
ARKANSAS
Department of Environmental Quality

MEMORANDUM

TO: Arkansas Pollution Control and Ecology Commission

FROM: James F. Stephens, Chief, Surface Mining and Reclamation Division JFS

DATE: February 10, 2010

SUBJECT: Monthly Permit/Authorization Decisions

Since the last report, the Mining Division has issued/denied the following permits/authorizations:

Non-Coal Mining Permit (New)

Sandy Hills, Inc.	0694-MN	Hempstead County

Non-Coal Mining Permit (Renewal)

Keck Farms	0580-MN-A1	Benton County

Non-Coal Mining Permit (Reclamation only one year extension)

Michelle's Excavating	0589-MN	Greene County

Quarry Unconditional Authorization to Quarry (New)

Bluebird Sand LLC	0074-MQ	Izard County
Evergreen Processing, LLC	0075-MQ	Izard County
Vista Crest Properties, LLC	0076-MQ	Sevier County

Quarry Unconditional Authorization to Quarry (Renewal)

Chrisman Ready Mix	0034-MQ-A1	Johnson County

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

MEMORANDUM

TO: Commission Members

FROM: Mo Shafii, Assistant Chief, Water Division

DATE: February 10, 2010

SUBJECT: Water Permits

The Permit Branch of the Water Division issued the following permits during the month of January.

Individual Discharge Permits

Facility Name	Permit Number	County
GULF COAST PIPELINE/NANCE FORD	AR0051284	Grant
ARK HWY & TRANS DEPT	AR0048992	Independence
FAIRFIELD BAY C.C./LYNN CREEK	AR0044580	Van Buren
OLIVETAN BENEDICTINE	AR0044211	Craighead
EGYPT, CITY OF	AR0043524	Craighead
DELIGHT, CITY OF	AR0041432	Pike
RAVENDEN, CITY OF	AR0041254	Lawrence
ARK PARKS MILLWOOD DAM PARK	AR0037079c	Little River
ARK PARKS MILLWOOD DAM PARK	AR0037079	Little River
NEWPORT, CITY - WATER	AR0037044	Jackson
MARIANNA, CITY OF North	AR0034169	Lee
MARIANNA, CITY OF South	AR0034142	Lee
LAKE CITY, CITY OF	AR0034134	Craighead
MOUNT IDA, CITY OF	AR0033855	Montgomery
PARAGOULD CITY LIGHT & WATER	AR0033766	Greene
HOLLY GROVE, CITY OF	AR0022438	Monroe
LEACHVILLE, CITY OF	AR0022012	Mississippi
MCNEIL, CITY OF	AR0021555	Columbia
BEARDEN, CITY OF	AR0021474	Ouachita
VICTORY LUMBER	AR0050482	Ouachita
CENTERPOINT ENERGY/DL-29-PH 5	ARR153176	Craighead
CENTRAL AR WATER/TRANS,MAIN	ARR153168	Pulaski
BARNETTE SOIL EXCESS PIT	ARR153157	Miller
FAYETTEVILLE EXPRESS PIPELINE	ARG670592	Phillips
FAYETTEVILLE EXPRESS PIPELINE	ARG670591	Woodruff
PAUL RYBOLT/CASELL LAKE	ARG500054	Miller
BLUEBIRD SAND PROCESSING PLANT	ARR153148	IzARd
WAL-MART SUPERCENTER #126-07	ARR153171	Pulaski
SYLVAN HILLS MIDDLE SCHOOL	ARR153169	Pulaski
PINE BLUFF ARMED FORCES RESVR	ARR153156	Jefferson

CITY/CONWAY-STONE DAM CRK WWTP	AR0033359	Faulkner
PATTERSON SUBSTATION/SW ELECTR	ARR153150	Little River
STONECRAFTERS QUARRY	ARG500055	Faulkner
ARK HWY DEPT/JOB #100646	ARR153166	Lawrence
ARK HWY DEPT/JOB #100644	ARR153165	Poinsett
ARK HWY DEPT/JOB #090241	ARR153164	Benton
ARK HWY DEPT/JOB #070288	ARR153163	Dallas
ARK HWY DEPT/JOB #030353	ARR153162	Miller
NUNN, ROY RESIDENCE	ARG550322	Faulkner

No-Discharge (Land Application) Permits

Permit Number	Facility Name	County
00274-WG-LA	TERRACO ENV. SERVICE, LLC	White
00290-WG-LA	TERRACO ENV. SERVICES, LLC	White
00291-WG-LA	LOCATION SERVICE, INC.	White
00292-WG-LA	LOCATION SERVICE, INC.	White
00293-WG-LA	LOCATION SERVICE, INC.	White
00294-WG-LA	LOCATION SERVICE, INC.	White
00295-WG-LA	LOCATION SERVICE, INC.	White
00296-WG-LA	LOCATION SERVICE, INC.	White
00297-WG-LA	LOCATION SERVICE, INC.	White
00298-WG-LA	LOCATION SERVICE, INC	Cleburne
00299-WG-LA	TERRACO ENV. SERVICE LLC	Van Buren
01242-WG-P	XTO ENERGY, INC.	Cleburne
01243-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01244-WG-P	SOUTHWESTERN ENERGY	Pope
01247-WG-P	JERRY LANGLEY OIL CO., LLC	Ouachita
01248-WG-P	CHESAPEAKE OPERATING, INC.	White
01249-WG-P	XTO ENERGY, INC.	Van Buren
01250-WG-P	STEPHENS PRODUCTION CO.	Sebastian
01251-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01252-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01253-WG-P	STEPHENS PRODUCTION COMPANY	Sebastian
01254-WG-P	CHESAPEAKE OPERATING, INC.	White
01255-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01256-WG-P	STEPHENS PRODUCTION CO.	Franklin
01257-WG-P	STEPHENS PRODUCTION COMPANY	Sebastian
01258-WG-P	SOUTHWESTERN ENERGY CO	Faulkner
01259-WG-P	SOUTHWESTERN ENERGY CO	Faulkner
01260-WG-P	SOUTHWESTERN ENERGY CO.	Van Buren
01261-WG-P	SOUTHWESTERN ENERGY CO.	White
01262-WG-P	SOUTHWESTERN ENERGY CO.	White
01263-WG-P	SOUTHWESTERN ENERGY CO.	Conway
01264-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01265-WG-P	STEPHENS PRODUCTION CO.	Crawford
01266-WG-P	XTO ENERGY, INC.	White
01267-WG-P	XTO ENERGY, INC.	White
01269-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01270-WG-P	BONANZA CREEK ENERGY RESOURCES	Columbia
01271-WG-P	XTO ENERGY, INC.	Faulkner
01272-WG-P	XTO ENERGY, INC.	Faulkner

01273-WG-P	TYPHOON ENERGY, LLC	Stone
01274-WG-P	TYPHOON ENERGY, LLC	Stone
01275-WG-P	TYPHOON ENERGY, LLC	Stone
01276-WG-P	TYPHOON ENERGY, LLC	Stone
01277-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01278-WG-P	SOUTHWESTERN ENERGY CO.	Van Buren
01279-WG-P	SOUTHWESTERN ENERGY CO.	Conway
01280-WG-P	SOUTHWESTERN ENERGY	Pope
01281-WG-P	SOUTHWESTERN ENERGY CO	Faulkner
01282-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01283-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01284-WG-P	SOUTHWESTERN ENERGY CO.	Conway
01285-WG-P	CHESAPEAKE OPERATING, INC.	Van Buren
01286-WG-P	HIGHLAND OIL & GAS	Logan
01287-WG-P	XTO ENERGY, INC.	Faulkner
01288-WG-P	HIGHLAND OIL & GAS, LLC	Sebastian
01289-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01290-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01291-WG-P	CHEASPEAKE OPERATING, INC.	Faulkner
01292-WG-P	XTO ENERGY, INC.	Cleburne
01293-WG-P	JAMES LANGLEY OPERATING CO.	Union
01294-WG-P	CHESAPEAKE OPERATING, INC.	Conway
01296-WG-P	SOUTHWESTERN ENERGY CO.	Cleburne
01297-WG-P	SOUTHWESTERN ENERGY CO.	Van Buren
0707-WG-SW-1	LBOC,LLC/LANGLEY # 2 SWD	Ouachita
0758-WG-SW	PERDUE COMM/PERDUE-TOWNSEND 6	Union
2871-WR-1	BACON CREEK FARMS	Pike
3663-WR-2	BRUCE & PAULETTE STEWART	Pike
4340-WR-1	REID, DWIGHT/REID FARMS	Pike
4786-WR-3	OZARK WATER & SEWER, CITY OF	Franklin
4788-WR-1	VALUE STREAM ENVIRONMENTAL SVC	Pulaski
4792-WR-5	TERRA RENEWAL SERVICES.HWY 154	Yell
4800-WR-1	TERRA RENEWAL SERVICE/HWY 67 N	Jackson
4811-WR-1	BENTON COUNTY WATER DIST #1	Benton
4839-WR-3	TERRA RENEWAL SERVICES, INC	Miller
5065-W	W.DALE WAGAR/4 ACRE RANCH	Baxter

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE DIVISION - RECYCLING & MARKETING BRANCH

MEMORANDUM:

TO: Pat Goff, Commissioners Office

FROM: ADEQ Tax Credit Program

DATE: 021010

SUBJECT: Monthly Report for January 2010

Title of Company: Bill Carwell, individual
Amount requested: $3,199.00
Amount approved: $959.70
Date approved: 012210

Title of Company: Pinnacle Records Management, LLF d/b/a Shred Smart
Amount requested: $93,310.00
Amount approved: $88,000.00
Date approved: 012210