

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION  
REGULATIONS COMMITTEE MEETING  
Friday, July 27, 2012  
8:30 a.m.

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

AGENDA

(Item #01)

- I. Call Meeting to Order - 8:30 a.m.
- II. Roll Call
- III. Approval of June 22, 2012 Committee Minutes (Item #02)
- IV. Regulation No. 11, Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; And Recycling Grants Program APPENDIX I (Items #05-11)
- Docket No. 12-007-R
  - Lorielle Gutting for Arkansas Department of Environmental Quality
  - Minute Order (Initiate)
- V. Regulation No.14, Regulations and Administrative Procedures for the Waste Tire Program APPENDIX II (Items #12-15)
- Docket No. 11-006-R
  - Lorielle Gutting for Arkansas Department of Environmental Quality
  - Minute Order (Adopt)
- VI. Adjourn

**ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**REGULATIONS COMMITTEE MEETING**  
**8:30 a.m., Friday, June 22, 2012**

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

**Committee Members Attending:** J. Bates, J. Chamberlin, D. Hendrix, L. Hitchcock, S. Jorgensen, J. Simpson, and R. Young.

**Members Absent:** L. Sickel, W. Thompson, and B. White.

**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**

Chair Young asked for a motion to approve the minutes of the May meeting. Commissioner Samples moved to approve the minutes and Commissioner Hendrix seconded the motion. The minutes were approved.

**Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 11-002-R.**

Mr. Mike Bates stated that the proposed changes are necessary in order for the regulation to conform to statutory language affected by federal rules and to incorporate changes into Arkansas's air permitting program related to the regulation of GHGs. A public hearing was held and several comments were received. He asked the Committee to recommended adoption of the minute order adopting the amendments to the regulation.

Commissioner Hendrix made a motion to recommend adoption of the minute order to the Commission adopting the amendments to Regulation No. 19. Commissioner Jorgenson seconded the motion.

**Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 11-003-R**

Mr. Mike Bates stated that the proposed changes are necessary in order for the regulation to conform to statutory language affected by the federal rules, and to incorporate changes into Arkansas's air permitting program related to the regulation of GHG. He asked the

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Committee to recommend adoption of the minute order to the Commission adopting the changes to the regulation.

Commissioner Hendrix made a motion to recommend adoption of the minute order to the Commission and Commissioner Jorgenson seconded the motion.

### **Regulation No. 9, Permit Fee Regulation; Docket No. 11-007-R**

Mr. Mike Bates stated that the proposed changes are necessary in order to prevent imposition of fees on emissions of carbon dioxide ("CO2") and methane which would occur as a result of changes made to other air regulations (Regulation Nos. 19 and 26) that conform to statutory language affected by federal rules, and to incorporate changes into Arkansas's air permitting program related to the regulation of CO2 and methane. He asked the Committee to recommend adoption of the minute order to the Commission adopting the changes to the regulation.

Commissioner Hendrix made a motion to recommend adoption of the minute order to the Commission and Commissioner Jorgenson seconded the motion.

Commissioners asked questions and discussion followed.

### **Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control - Emergency Rulemaking; Docket No. 12-003-R**

Mr. Mike Bates stated that the petition to adopt an emergency rulemaking for Regulation No. 19 was made in response to the federal deferral of permitting requirements for biogenic CO2 emissions. Failure to implement these revisions would have adverse impacts on the general welfare of the state and requires adoption of an emergency rule by the department. The department requests that the Commission consider the promulgation of an emergency rulemaking to amend Regulation No. 19 to ensure that the regulation will remain consistent with and be no more stringent than federal regulations

Commissioner Chamberlin made a motion to recommend adoption of the minute order to the Commission and Commissioner Hendrix seconded the motion.

### **Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program - Emergency Rulemaking; Docket No. 12-004-R**

Mr. Mike Bates stated that the changes to Regulation No. 26 include the deferral of CO2 emissions from bioenergy and other biogenic sources under the Title V Program until July 21, 2014. Failure to implement these revisions would have adverse impacts on the general

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welfare of the state and requires adoption of an emergency rule by ADEQ. The implementation of this emergency rule for biogenic CO2 emission deferral will keep entities from having to comply with permitting requirements which are otherwise more stringent than federal requirements, and could prevent them from being subject to more costly PSD permit fees and compliance as a result of the biogenic CO2 emissions that will be deferred with this rule. The department requests that the Commission consider the promulgation of an emergency rulemaking to amend Regulation No. 26 to ensure that the regulation will remain consistent with and be no more stringent than federal regulations.

Commissioner Chamberlin made a motion to recommend adoption of the minute order to the Commission and Commissioner Hendrix seconded the motion.

### **Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 12-005-R**

Mr. Mike Bates explained that the changes to the regulation are being proposed in response to the United States Environmental Protection Agency's ("EPA") deferral of the application of the PSD and Title V permitting requirements of biogenic CO2 emissions from bioenergy and other biogenic stationary sources. Making the proposed amendments will maintain consistency between federal air pollution control programs and the Commission's regulations governing air pollution in Arkansas and it will maintain compliance with the federal deferral of permitting requirements for biogenic CO2 emissions.

Commissioner Bates made a motion to recommend adoption of the minute order to the Commission and Commissioner Hendrix seconded the motion.

### **Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 11-006-R**

The substantive changes to Regulation No. 26 are being proposed in response to the EPA's "Deferral for CO2 Emissions from Bioenergy and other Biogenic Sources under the Prevention of Significant Deterioration ("PSD") and Title V Programs, Final Rule" ("Final Rule"). Making the proposed amendments will maintain consistency between federal air pollution control programs and the Commission's regulations governing air pollution in Arkansas and it will maintain compliance with the federal deferral of permitting requirements for biogenic CO2 equivalent emissions." The department requests that the Commission consider the initiation of rulemaking to amend Regulation No. 26 to ensure the regulation will remain consistent with and be no more stringent than federal requirements.

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Commissioner Bates made a motion to recommend adoption of the minute order to the Commission and Commissioner Hendrix seconded the motion.

### **Regulation No. 30, Hazardous Substance Remedial Action Trust Fund Site Priority List; Docket No. 11-008-R**

Amendments include deleting five sites from the state priority list following the completion of cleanups at these sites, and to add one additional site to the list in order to investigate potential contamination or environmental risks from that site.

Commissioner Simpson made a motion to recommend adoption of the minute order to the Commission and Commissioner Hitchcock seconded the motion.

### **Regulation No. 23, Hazardous Waste Management; Docket No. 12-001-R**

Amendments adopt newly-revised federal rules published between July 1, 2010 and December 31, 2011 and make editorial revisions to existing provisions. These revisions are necessary to keep the state hazardous waste regulations current with the corresponding federal requirements.

Commissioner Hendrix made a motion to recommend adoption of the minute order to the Commission and Commissioner Chamberlin seconded the motion.

### **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, July 27, 2012  
9:00 a.m.

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

AGENDA  
(Item #03)

- I. Call Meeting to Order - 9:00 a.m.
- II. Roll Call
- III. Approval of June 22, 2012, Commission Meeting Minutes (Item #04)
- IV. Department Reports
- A. Director's Report
- B. Status of Regulations Monthly Report (Item #26)
- C. Division Permit Reports (Items #27-34)
- V. Public Comments
- VI. Commission Reports
- A. Regulations Committee - Randy Young
1. Regulation No. 11, Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program APPENDIX I (Items #05-11)
- Docket No. 12-007-R
- Lorielle Gutting for Arkansas Department of Environmental Quality
- Minute Order (Initiate)
2. Regulation No. 14, Regulations and Administrative Procedures for the Waste Tire Program APPENDIX II (Items #12-15)
- Docket No. 11-006-R
- Lorielle Gutting for Arkansas Department of Environmental Quality
- Minute Order (Adopt)
- VII. Arkansas Wastewater Licensing Committee APPENDIX III (Items #16-18)
- Craig Uyeda for Arkansas Wastewater

Licensing Committee

- Minute Order-Ellington (Adopt)
- Minute Order-Winn (Adopt)

VIII. Solid Waste Licensing Committee

- David Rose for Solid Waste Licensing Committee
- Minute Order (Adopt)

APPENDIX IV  
(Items #19-22)

X. Administrative Hearing Officer - Charles Moulton

A. Southwestern Electric Power Company-John W. Turk, Jr. Power Plant

- Docket No. 11-014-P
- Motion for Relief from Stay
- Chad L. Wood for Southwestern Electric Power Company
- Minute Order (Adopt)

APPENDIX V  
(Items #23-24)

B. Settled Cases per Regulation No. 8

1. In the Matter of Arif Chaudry d/b/a Kwik Pik

- Docket No. 12-003-NOV

APPENDIX VI  
(Item #25)

XI. Nominations Committee - Lynn Sickel

1. Nominations for Chair
2. Nominations for Vice Chair

XII. Adjourn

**ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**REGULAR COMMISSION MEETING  
9:00 a.m., Friday, June 22, 2012**

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

**Commissioners Attending:** J. Bates, L. Bengal, J. Chamberlin, D. Hendrix, L. Hitchcock, S. Jorgensen, D. Samples, J. Simpson, and R. Young.

**Commissioners Absent:** J. Fox, L. Sickel, W. Thompson, and B. White.

**Visitors:** Craig Noble, City Corporation; Ann Faitz, Little Rock; Steve Ferron, AOMA; Chuck Buttry, AEF/Trinity Consultants; Chuck Nestrud, Chisenhall, Nestrud & Julian; Randy Thurman, AEF; Vince Blubaugh, Little Rock, Marcy Taylor, Mitchell Law Firm, Kelly McQueen, Little Rock; and Gerald Weber, Mountain View.

**Call to Order**

Chair Chamberlin called the meeting to order at 9:00 a.m.

**Quorum**

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

**Approval of Minutes**

Chair Chamberlin asked for a motion approving the May 2012 meeting minutes. Commissioner Samples made a motion to approve the minutes and Commissioner Young seconded the motion. The motion passed.

**Director's Report**

Director Marks discussed proposed United States Environmental Protection Agency ("EPA") federal funding cuts and reported that all Arkansas counties will be in attainment under the new proposed PM standard.

She announced the upcoming orientation next month for the new commissioners and invited anybody that wanted to attend.

She stated that the new Green Bag Lunch Program had started and the ENVY award winners will make presentations to industries explaining how they implemented their new recycling programs along with their results.



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Marks announced upcoming meetings for the Solid Waste Plan and the Regulation No. 2 Working Group.

ADEQ is finalizing their response to the Asbestos Work Group regarding their concerns with the proposed amendments to the asbestos regulation.

### **Public Comments**

#### **Chuck Buttry**

Mr. Buttry, Chairman of the Arkansas Environmental Federation Air Quality Committee discussed upcoming rulemaking changes regarding the National Ambient Air Quality Standards issued by the Environmental Protection Agency.

Commissioners asked questions and discussion followed.

#### **Jerry Weber**

Mr. Weber of Friends of the North Fork and White Rivers updated the Commission regarding frac sand mining in Izard County.

### **Commission Reports**

#### **A. Regulation Committee - Randy Young**

##### **1. Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 11-002-R**

Commissioner Young stated that the Regulations Committee had met and heard a report from the Arkansas Department of Environmental Quality regarding proposed changes to Regulation No. 19. A public hearing was held and several comments were received. Amendment of Regulation No. 19 is necessary in order for the regulation to conform to statutory language affected by federal rules and to incorporate changes into Arkansas's air permitting program related to the regulation of GHGs.

Commissioner Young made a motion to adopt the changes to Regulation No. 19 and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-21)**

##### **2. Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 11-003-R**

Commission Young stated that the Regulations Committee had met and heard a report from Mike Bates. The proposed changes are necessary in order for the regulation to conform to statutory language affected by the federal rules, and to incorporate changes into Arkansas's air permitting program related to the regulation of GHGs.

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Commissioner Young made a motion to adopt the amendments to Regulation No. 26 and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-22)**

### **3. Regulation No. 9, Permit Fee Regulation; Docket No. 11-007-R**

Commissioner Young stated that the Regulations Committee had met and heard a report from Mike Bates. The proposed changes are necessary in order to prevent imposition of fees on emissions of carbon dioxide ("CO2") and methane which would occur as a result of changes made to other air regulations (Regulation Nos. 19 and 26) that conform to statutory language affected by federal rules, and to incorporate changes into Arkansas's air permitting program related to the regulation of CO2 and methane.

Commissioner Young made a motion to adopt the amendments to Regulation No. 9 and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-23)**

### **4. Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control - Emergency Rulemaking; Docket No. 12-003-R**

Commissioner Young stated that the Regulations Committee had heard a report from Mike Bates. The changes to Regulation 19 are being proposed in response to EPA's Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration ("PSD") and Title V Programs published in the Federal Register July 20, 2011. The Rule defers PSD and Title V permitting requirements for biogenic CO2 emissions from bioenergy and other biogenic stationary sources until July 21, 2014. An additional change is proposed to move the existing "stay" provision from Reg. 19.904(G)(6) to the Severability section at Reg.19.1006.

Commissioner Young made a motion to initiate the emergency rulemaking process and Commissioner Simpson seconded the motion. The motion passed. **(Minute Order No. 12-24)**

### **5. Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program - Emergency Rulemaking; Docket No. 12-004-R**

Commissioner Young stated that the Regulations Committee had heard a report from Mike Bates. The changes to Regulation No. 26 are being proposed in response to the EPA's Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the PSD and Title V Programs published in the Federal Register July 20, 2011. The Rule defers PSD and Title V permitting requirements for biogenic

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CO2 emissions from bioenergy and other biogenic stationary sources until July 21, 2014.

Commissioner Young made a motion to initiate the emergency rulemaking process and Commissioner Simpson seconded the motion. The motion passed. **(Minute Order No. 12-25)**

### **6. Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 12-005-R**

Commissioner Young stated that the Regulations Committee heard a report from Mike Bates. The substantive changes to Regulation No. 19 are being proposed in response to the EPA's deferral of the application of the PSD and Title V permitting requirements of biogenic CO2 emissions from bioenergy and other biogenic stationary sources until July 21, 2014. It is also proposed that the greenhouse gases "stay" provision is removed, without revision, to clarify the applicability of the clause. Making the proposed amendments will maintain consistency between federal air pollution control programs and the Commission's regulations governing air pollution in Arkansas and it will maintain compliance with the federal deferral of permitting requirements for biogenic CO2 emissions.

Commissioner Young made a motion to initiate the rulemaking process and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-26)**

### **7. Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 12-006-R**

Commissioner Young stated that the Regulations Committee heard a report from Mike Bates. The changes to Regulation No. 26 are being proposed in response to the EPA's deferral of the application of the PSD and Title V permitting requirements of biogenic CO2 emissions from bioenergy and other biogenic stationary sources until July 21, 2014. The amendments to Regulation No. 26 include the deferral for CO2 emissions from bioenergy and other biogenic sources under the Title V Program in the definition of CO2 equivalent emissions. The Department requests that the Commission consider the initiation of rulemaking to amend Regulation No. 26 to ensure that the regulation will remain consistent with and be no more stringent than federal requirements.

Commissioner Young made a motion to initiate the rulemaking process and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-27)**

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### **8. Regulation No. 30, Hazardous Substance Remedial Action Trust Fund Site Priority List; Docket No. 11-008-R**

Commissioner Young stated that the Regulations Committee heard a report from Ryan Benefield. ADEQ proposes deleting five (5) sites and adding one site to the State Priority List.

Commissioner Young made a motion to adopt the amendments to Regulation No. 30 and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-28)**

### **9. Regulation No. 23, Hazardous Waste Management; Docket NO. 12-001-R**

Commissioner Young stated that the Regulations Committee heard a report from Ryan Benefield. ADEQ proposes to amend Regulation No. 23 in order to adopt Federal revisions to the hazardous waste management rules. A public hearing was held and no comments were received.

Commissioner Young made a motion to adopt the amendments to Regulation No. 23 and Commissioner Samples seconded the motion. The motion passed. **(Minute Order No. 12-29)**

### **In the Matter of Mike Murfik, d/b/a Bull Market; Docket No. 11-005-MISC**

Judge Moulton gave a brief overview of the case and stated that a joint minute order was in the packet. ADEQ has no objection to Petitioner's Motion to Stay Oral Argument, with the agreement that the Commission will issue a Minute Order to affirm, modify, or reverse the Recommended Decision (Order No. 5) after resolution of the eligibility of the alleged second release, which will be a new matter requiring a separate final administrative decision.

Commissioner Young made a motion to adopt the joint minute order and Commissioner Hendrix seconded the motion. The motion passed. **(Minute Order No. 12-30)**

### **Administrative Hearing Officer-Charles Moulton**

#### **A. Settled Cases per Regulation No. 8**

##### **1. In the Matter of Hillside Bayou, LLC; Docket No. 11-006-NOV**

Judge Moulton reported that the parties had met and resolved the issues and filed a Consent Administrative Order. The case is closed.

##### **2. In the Matter of Steve Norris; Docket No. 11-013-NOV**

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Judge Moulton reported that the parties had met and resolved the issues and filed a Consent Administrative Order. The case is closed.

### **3. In the Matter of Billy Carr; Docket No. 11-014-NOV**

Judge Moulton reported that the parties had met and resolved the issues and filed a Consent Administrative Order. The case is closed.

### **4. In the Matter of Great Lakes Chemical Corporation-Central Plant; Docket No. 12-005-NOV**

Judge Moulton reported that the parties had met and resolved the issues and filed a Consent Administrative Order. The case is closed.

### **Adjourn**

There was no other business to come before the Commission. Chair Chamberlin adjourned the meeting.

**Commission Meeting Minutes**

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**APPROVED MINUTE ORDERS  
REGULAR COMMISSION MEETING**

- 12-21** The Commission adopted a Minute Order adopting amendments to Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 11-002-R.
- 12-22** The Commission adopted a Minute Order adopting the amendments to Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 11-003-R.
- 12-23** The Commission adopted a Minute Order adopting the amendments to Regulation No. 9, Permit Fee Regulation; Docket No. 11-007-R.
- 12-24** The Commission adopted a Minute Order initiating the emergency rulemaking process for Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 12-003-R.
- 12-25** The Commission adopted a Minute Order initiating the emergency rulemaking process for Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 12-004-R.
- 12-26** The Commission adopted a Minute Order initiating the rulemaking process for Regulation No. 19, Regulation of the Arkansas Plan of Implementation for Air Pollution Control; Docket No. 12-005-R.
- 12-27** The Commission adopted a Minute Order initiating the rulemaking process for Regulation No. 26, Regulation of the Arkansas Operating Air Permit Program; Docket No. 12-006-R.
- 12-28** The Commission adopted a Minute Order adopting amendments to Regulation No. 30, Hazardous Substance Remedial Action Trust Fund Site Priority List; Docket No. 11-008-R.
- 12-29** The Commission adopted a Minute Order adopting the amendments to Regulation No. 23, Hazardous Waste Management; Docket No. 12-001-R.

**Commission Meeting Minutes**

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**12-30**      The Commission adopted a Minute Order staying the Oral Argument In the Matter of Mike Murfik, d/b/a Bull Market; Docket No. 11-005-MISC.

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

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

**PETITION TO INITIATE RULEMAKING TO AMEND  
REGULATION NO.11: REGULATIONS FOR SOLID WASTE DISPOSAL FEES;  
LANDFILL POST-CLOSURE TRUST FUND; AND RECYCLING GRANTS PROGRAM**

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or the “Department”), for its Petition to Initiate Rulemaking to Amend Regulation No. 11: Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program, states:

1. ADEQ proposes to initiate this rulemaking to incorporate statutory changes passed by the General Assembly that amend various provisions of the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, particularly Act 602 and Act 819 of 2011, Act 189 of 2009, and Act 1325 of 2005; to establish regulations for the Computer and Electronic Equipment Recycling and Grant Program; to clarify provisions of the Landfill Post-Closure Trust Fund; to clarify the recycling grant program timelines and obligations contained in Ark. Code Ann. § 8-6-609; and to make minor stylistic revisions.

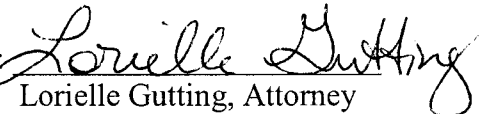
2. Lorielle Gutting and Roger Lawrence from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is 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. An analysis of the impact to small businesses required pursuant to Ark. Code Ann. § 25-15-302 is attached as Exhibit "D" and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "E" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" 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 No. 11.

Respectfully Submitted,

By:   
Lorielle Gutting, Attorney  
Arkansas Department of  
Environmental Quality  
5301 Northshore Drive  
North Little Rock, Arkansas 72218  
(501) 682-0884

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**



**REGULATION NO. 11**

**REGULATIONS FOR SOLID WASTE DISPOSAL FEES;  
LANDFILL POST-CLOSURE TRUST FUND; AND  
RECYCLING GRANT PROGRAMS**

**INITIAL DRAFT**

Submitted to the  
Arkansas Pollution Control & Ecology Commission in July 2012

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## CHAPTER ONE: GENERAL PROVISIONS

### **Reg.11.101 Purpose**

#### **(A) Purpose**

It is the purpose of this regulation, pursuant to the provisions of the Solid Waste Management and Recycling Fund Act, ~~Arkansas Code Annotated (A.C.A.)~~ Ark. Code Ann. § 8-6-601 et seq. et seq.; the Landfill Post-Closure Trust Fund Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 et seq. et seq.; and the Regional Solid Waste Management Districts and Boards Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. et seq., to develop and implement systems for:

- (1) The collection of fees for waste received at landfill facilities within the State of Arkansas, and the collection of fees for waste generated within the ~~State~~ state and transported to landfill facilities in other states;
- (2) The administration of a landfill post-closure trust fund program; and
- (3) The administration of a solid waste management planning and recycling grants program.

#### **(B) Recycling Grant Fund Usage**

Fees collected, in accordance with ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. et seq., will be used to fund a solid waste management planning and recycling grants program for local governments for integrated waste management planning and construction. The fund also will ~~also~~ be used for administrative costs incurred by Regional Solid Waste Management Districts, as well as for waste management compliance and enforcement activities by the Department of Environmental Quality.

#### **(C) State Marketing Board for Recyclables**

An apportionment of fees collected from landfills where private industry bears the expenses of operating and maintaining a landfill solely for the disposal of wastes generated by the industry, in accordance with ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. et seq., shall be used by the Arkansas State Marketing Board for Recyclables in the administration and performance of its duties.

#### **(D) Landfill Post-Closure Trust Fund Usage**

Fees collected for waste received at landfills, in accordance with ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 et seq. et seq., will provide a trust fund to be used for landfill post-closure corrective actions pursuant to statutory provisions.

**(E) Fees Encourage Recycling and Solid Waste Reduction Activities**

These laws and this regulation encourage the recycling of wastes and solid waste reduction activities by applying fees to solid waste which is received at Arkansas landfills or to solid waste which is generated within Arkansas but transported to disposal facilities in other states.

**(F) Waste Amount Determinations**

These laws and this regulation provide a means, through reporting and record-keeping systems, to monitor waste amounts generated within the ~~State~~ state and, in turn, provide information to the Department and local governments which helps ensure that adequate solid waste management systems are available to the citizens of the State of Arkansas.

**Reg.11.102 Short Title**

This regulation shall be known and may be cited by the short title, Regulation 11: Solid Waste Management Fees, Funds and Grants.

**Reg.11.103 Definitions**

All terms used in this regulation, unless the context otherwise requires, or unless specifically defined in the enabling legislation, shall have their usual meanings. In addition, for purposes of this regulation, the following definitions apply, unless otherwise noted:

“**Agent of the Grantee**” means any corporation, “profit or nonprofit”, or any person rendering services to the grantee under the terms of this regulation and under the terms of a written agreement with the grantee for the stated purpose of implementing the grantee’s solid waste programs.

“**Applicant**” means a District as defined in ~~A.C.A.~~ Ark. Code Ann. § 8-6-702, a local government, or a delegated authority or agent of such District or government that makes application for a grant pursuant to this regulation.

“**Board**” means a Regional Solid Waste Management Board formed under ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. et seq. and pursuant to the authority of the Arkansas Pollution Control and Ecology Commission as provided by Ark. Code Ann. § 8-6-707.

“**Commission**” means the Arkansas Pollution Control and Ecology Commission.

“**Compacted Cubic Yard of Waste**” means a volume equal to 3’ x 3’ x 3’ of solid waste which has received any amount of mechanical compaction.

“**Department**” means the Arkansas Department of Environmental Quality, or its successor.

“**Director**” means the Director of the Arkansas Department of Environmental Quality or the Director’s designee.

“**District**” means a Regional Solid Waste Management District formed under ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. et seq. and pursuant to the authority of the Arkansas Pollution Control and Ecology Commission as provided by Ark. Code Ann. § 8-6-707.

“**Expense Itemization**” means a listing of expenditures that includes expenditure date, item purchased, purchase price, and name of vendor.

“**Facility**” means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal, treatment, or processing of solid waste.

“**Fund Decisions**” means final administrative decisions by the Director on applications for or disbursement of funds pursuant to the Department’s administration of fund programs represented under this regulation and the final decision of the Director on any disputes arising under any such fund.

“**Grant Decisions**” means final administrative decisions by the Director on all applications for grants pursuant to the Department’s administration of grant programs represented under this regulation and the final decision of the Director on any disputes arising under any such grant.

“**Grant Round**” means a single grant cycle that the Department opens with the acceptance of new applications for funding and ends with the disbursement of grant awards from funds available for the grant cycle.

“**Grantee**” means the grant applicant awarded funding for a grant proposal.

“**In-Kind Contribution**” means a contribution to a grant or fund project, which is not cash, but has value, such as real estate, goods, or services, which is provided by the grantee or another contributor.

“**Landfill**” means a solid waste management landfill facility subject to permitting requirements provided under Regulation 22.

“**Landfill**” means, for purposes of the Landfill Post-Closure Trust Fund Program, landfills permitted under the Arkansas Solid Waste Management Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-201 et seq. et seq., and subject to permitting requirements provided under Regulation 22, and applies to all landfills which, upon receipt of solid waste at the landfill gate, are required to participate in the fee system for landfill disposal, except those landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character.

“**Landfill Gate**” means the entry point at a solid waste management landfill facility at which the waste is received from the landfill customer, the waste is weighed or measured, waste receipt

fees are determined, and waste tickets are issued, except those landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character.

**“Material Recovery Facility”** means a facility, not subject to permitting requirements under Regulation 22, which is engaged in the storage, processing, and resale of recovered materials and receives source-separated recyclable materials.

**“Municipal Landfill”** means a permitted solid waste management landfill facility, except for those where private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry. Such a facility is subject to requirements provided under Regulation 22.

**“Owner”** means the person or any other responsible party who owns a facility or any part of a facility.

**“Operator”** means an individual or individuals charged with the responsibility of managing or operating a solid waste management facility, including the responsibility for assuring the operations of said facility is in accordance with the provisions of this regulation and other applicable regulations.

**“Permittee”** means any individual, corporation, company, firm, partnership, association, trust, local solid waste authority, institution, ~~County~~ county, ~~City~~ city, town or municipal authority or trust, venture or other legal entity holding a solid waste disposal permit, as provided in the Arkansas Solid Waste Management Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-201 et seq. et seq.

**“Post-Closure Corrective Action”** means any measures deemed necessary by the Director to prevent or abate contamination of the environment from any landfill which has been approved as properly closed by the Department, pursuant to Regulation 22.

**“Private Industry Landfill”** means a solid waste management landfill facility, subject to permitting requirements under Regulation 22, where private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry.

**“Recycling”** means the systematic collection, sorting, ~~decontamination~~ decontaminating, and ~~return~~ returning of waste materials to commerce as commodities for use or exchange.

**“Regional Solid Waste Management Board”** means ~~Regional Solid Waste Management Board~~ a “Board” formed under ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. et seq. and pursuant to the authority of the Arkansas Pollution Control and Ecology Commission as provided by Ark. Code Ann. § 8-6-707.

**“Regional Solid Waste Management District”** means ~~Regional Solid Waste Management District~~ a “District” established pursuant to ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. et seq. and pursuant to the authority of the Arkansas Pollution Control and Ecology Commission as provided by Ark. Code Ann. § 8-6-707.



“**Solid Waste**” means any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, ~~as amended (68 Stat. 923.)~~ 42 U.S.C. § 2011 et seq., as amended.

“**Solid Waste Disposal Permit**” means a permit, subject to requirements provided under Regulation 22, issued by the State of Arkansas under provisions of the Arkansas Solid Waste Management Act, ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq.~~ et seq., for the construction and operation of a solid waste landfill facility.

“**Solid Waste Management**” means management activities including, but not limited to, the storage, collection, transfer, transportation, treatment, utilization, processing, and final disposal of solid waste including, but not limited to, the prevention, reduction, or recycling of wastes.

“**Solid Waste Management Plan**” means a plan, subject to requirements provided under Regulation 22, which is developed according to the provisions of the Arkansas Solid Waste Management Act, ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq.~~ et seq., and guidelines of the Department, and which is subject to written approval by the Department.

“**Solid Waste Management System**” means the entire process of source reduction, storage, collection, transportation, processing, waste minimization, recycling, and disposal of solid wastes by any person engaging in the process as a business or by any municipality, authority, trust, county, or by any combination thereof.

“**Solid Waste Material Recovery Facility**” means a solid waste handling facility, subject to permitting requirements under Regulation 22, that provides for the extraction from mixed solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

“**Solid Waste Reduction Activities**” means other activities that divert materials from landfills for reuse including, without limitation:

(A) Using waste items as raw materials in a production process, such as adding shingles to asphalt mix for paving;

(B) Using waste items to produce an end product without recycling, such as returning wood chips to citizens as mulch;

(C) Using waste items as fuel, such as burning wood chips or tire chips in a waste-to-fuel process; or

(D) Other activities as approved by the Department.

“**Solid Waste Services Area**” means Solid Waste Services Area as described in the Regional Solid Waste Management Districts and Boards Act, ~~A.C.A. Ark. Code Ann. § 8-6-701 et seq.~~ et seq.

**“Tipping Fee”** means a charge made by a landfill or a transporter to its customers for waste received and may or may not include the disposal fees imposed under this regulation.

**“Ton”** means a short ton consisting of a net weight measure of two thousand pounds (2,000 lbs.)

**“Transfer Station”** means any facility, subject to permitting requirements under Regulation 22, that is used to manage the removal, compaction, or transfer of solid waste from collection vehicles and containers, or from other private and commercial vehicles to greater capacity transport vehicles.

**“Transporter or Solid Waste Transporter or Hauler”** means any individual, corporation, company, firm, partnership, association, trust, local solid waste authority, institution, ~~County~~ county, ~~City~~ city, town, municipal authority or trust, venture or other legal entity transporting solid waste and licensed pursuant to the Regional Solid Waste Management Districts and Boards Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. ~~et seq.~~ *et seq.*

**“Uncompacted Cubic Yard of Waste”** means a volume equal to a 3’ x 3’ x 3’ of solid waste which has received no amount of mechanical compaction.

## CHAPTER TWO: SOLID WASTE MANAGEMENT LANDFILL AND OUT-OF-STATE TRANSPORTER DISPOSAL FEE SYSTEM

### Reg.11.201 Authority to Administer Disposal Fee System

**Statutory Authority** — Pursuant to the Solid Waste Management and Recycling Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-601 et seq. et seq.~~, and to the Landfill Post-Closure Trust Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-1001 et seq. et seq.~~, the Commission is given the authority to promulgate regulations and the Department is given the authority to implement Commission regulations, to issue administrative policies and procedures, and to administer the Solid Waste Management Disposal Fee System.

### Reg.11.202 Applicability

#### (A) Fee Applicability

- (1) Landfill fees established by this regulation shall be applicable to all landfills receiving solid waste under the provisions of the Arkansas Solid Waste Management Act, ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq. et seq.~~, except those landfills operated by a regulated public utility for ash generated by the combustion of coal to produce electric energy.
- (2) Transporter fees established by of this regulation shall be applicable for any solid waste transporter who is transporting solid waste generated within the ~~State~~ state that is to be disposed of out of the ~~State~~ state.

#### (B) Onset of Landfill Fees

The collection of landfill fees pursuant to ~~A.C.A. Ark. Code Ann. §§ 8-6-601 and § 8-6-1001 et seq. et seq.~~, and imposed herein, commenced October 1, 1989, for ~~public~~ publicly and privately owned and operated municipal landfills and on July 16, 1991, for applicable private industry owned and operated landfills.

#### (C) Onset of Transporter Fees

The collection of transporter fees on solid waste that is generated and transported within Arkansas that is to be disposed of outside the ~~State~~ state pursuant to ~~A.C.A. Ark. Code Ann. § 8-6-601 et seq. et seq.~~, and imposed herein, commenced September 1, 1993.

#### (D) Fee Responsibility

It is the responsibility of a landfill permittee or a transporter to insure that all fees are submitted in accordance with the provisions of this regulation.

**Reg.11.203      Short Title**

The fee systems, described herein, shall be known and may be cited by the short title: Disposal Fees.

**Reg.11.204      Disposal Fee Plan**

**(A)      Required Disposal Fee Plan**

Each landfill and each transporter, required under this regulation to pay disposal fees, shall provide a written Disposal Fee Plan to the Department that establishes an accurate method of quantifying the amount of solid waste received and a suitable means of calculating the amount of disposal fees payable to the Department pursuant to ~~A.C.A.~~ Ark. Code Ann. §§ 8-6-606 and § 8-6-1003, ~~et seq.~~, et seq. and this regulation.

**(B)      Landfill's Disposal Fee Plan**

If the existing Operating Plan and Narrative, required under Regulation 22, does not adequately address waste and recycle stream accounting, the landfill permittee shall update the Operating Plan and Narrative to conform to the requirements of this regulation. The Department will provide a format for permittees to follow when establishing the disposal fee plan portion of the Operating Plan and Narrative. The Disposal Fee Plan shall be considered an integral part of the Operating Plan required under Regulation 22. The Disposal Fee Plan shall not be subject to permit modification fee charges required under Regulation 9.

**(C)      Transporter's Disposal Fee Plan**

The Department will provide a format for each transporter to follow when establishing a Disposal Fee Plan.

**(D)      Initiation Date**

New or revised Disposal Fee Plans will be effective on the first day of the first quarterly reporting cycle after written approval, by the Department, of the Disposal Fee Plan or Operational Plan.

**(E)      Submittal Date**

**(1)      Landfills**

Landfills, with Operating Plans which do not adequately address disposal fee accounting, shall submit a Disposal Fee Plan to the Department no later than ninety (90) days following the effective date of this regulation.

**(2) Transporters**

A Disposal Fee Plan shall be submitted to the Department no later than ninety (90) days following the effective date of this regulation.

**(F) Resubmittal Date**

Any Disposal Fee Plan that is not approved must be rewritten and resubmitted for approval within thirty (30) days of the date of the written disapproval notice from the Department. Disapproval of a submitted Disposal Fee Plan is a decision of the Director and may be appealed under Regulation 8; Administrative Procedures.

**(G) Request for Extension**

A landfill or a transporter may, in writing, request an extension from the Department at least two (2) weeks prior to the Disposal Fee Plan due date. If the request is approved, the Department will issue a written extension agreement.

**Reg.11.205 Fee Schedule and Collection of Fees**

**(A) Fee Schedule for Municipal Landfills and for Out-of-State Transporters**

The following fee schedule for fees imposed under the provisions of the Solid Waste Management and Recycling Fund Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 ~~et seq.~~ et seq., shall be effective, based on the following methods of measure, for each landfill, except as specified herein, and for each out-of-state transporter:

- (1) Twenty-five cents (25¢) for each uncompacted cubic yard of solid waste received at a landfill or transported out of state for disposal; and
- (2) Forty-five cents (45¢) for each compacted cubic yard of solid waste received at a landfill or transported out of state for disposal; or
- (3) One dollar and fifty cents (\$1.50) for each ton of solid waste received at a landfill or transported out of state for disposal.

**(B) Fee Schedule for Municipal Landfills**

The following fee schedule for fees imposed under the provisions of the Landfill Post-Closure Trust Fund Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 ~~et seq.~~ et seq., shall be effective, based on the following methods of measure, for each permitted landfill, except as specified herein:

- (1) Fifteen cents (15¢) for each uncompacted cubic yard of solid waste received at a landfill;

(2) Thirty cents (30¢) for each compacted cubic yard of solid waste received at a landfill;  
or

(3) One dollar (\$1.00) for each ton of solid waste received at a landfill.

**(C) Fee Schedule for Private Industry Landfills**

The following fee schedule for fees imposed under the provisions of the Solid Waste Management and Recycling Fund Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 ~~et seq.~~ et seq., shall be effective, based on the following methods of measure for each applicable landfill facility where private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, except for those landfills operated by a regulated public utility for ash generated by the combustion of coal to produce electric energy:

(1) Ten cents (10¢) for each uncompacted cubic yard of solid waste received at a landfill;  
and

(2) Twenty cents (20¢) for each compacted cubic yard of solid waste received at a landfill; or

(3) Fifty cents (50¢) for each ton of solid waste received at a landfill.

**(D) Scales and Weight Reporting Requirements**

(1) (a) Pursuant to ~~A.C.A.~~ Ark. Code Ann. § 8-6-606(d), by January 1, 2004, all permitted facilities identified by regulation of the Arkansas Pollution Control and Ecology Commission as Class 1 and Class 3C landfills, ~~except those permitted landfills that shall comply with closure requirements before January 1, 2005,~~ shall install scales and ~~commence weighing~~ weigh all solid waste received at the landfill.

(b) This requirement may be satisfied utilizing an alternative weighing system approved by the Director of the Arkansas Department of Environmental Quality.

(2) Class 1 and Class 3C landfills shall be required to weigh all loads in excess of one (1) ton (~~2,000 pounds~~), unless otherwise authorized in writing by the Arkansas Department of Environmental Quality. This provision authorizes Class 1 and Class 3C landfills to estimate weights for residential and other similar loads weighing less than one (1) ton (~~2,000 pounds~~).

(3) Class 1 and Class 3C landfills shall install and operate scales for the purpose of weighing solid waste received at the landfill gate and shall maintain and operate the scales in accordance with the U.S. Department of Agriculture standards.

(4) ~~Beginning January 1, 2004, except~~ Except as provided in (D)(1) and (D)(2) above:

- (a) All quarterly reports required herein to be submitted by Class 1 and Class 3C landfill permittees to the Arkansas Department of Environmental Quality shall accurately state the total weight of solid waste received at the landfill, and the total weight of solid waste received at the landfill shall be based upon the recorded weight scale measurements; and
- (b) The recorded weight scale measurements of solid waste received at Class 1 and Class 3C landfills shall be used to calculate the solid waste disposal fees payable to the Arkansas Department of Environmental Quality by Class 1 and Class 3C landfill permittees.

**(E) Fee Collection**

Fees imposed pursuant to the provisions of the Solid Waste Management and Recycling Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-601 et seq.~~ *et seq.*, or the Landfill Post-Closure Trust Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-1001 et seq.~~ *et seq.*, or both, whichever is applicable, shall be assessed and collected as follows:

- (1) Fees shall be assessed and collected based upon solid waste amounts received at landfill facilities within the ~~State~~ state and on solid waste that is generated and transported within the ~~State~~ state that is to be disposed outside the ~~State~~ state.
  - (a) Fees for solid waste received at landfill facilities within Arkansas shall be submitted to the Department by the landfill.
  - (b) Fees for solid waste that is generated in Arkansas but transported out of state shall be submitted to the Department by the transporter.
- (2) Fees shall be due and payable quarterly and shall be based upon solid waste amounts received or transported during the previous quarter and shall be calculated in accordance with procedures set forth in an approved disposal fee plan submitted by the landfill or transporter, pursuant to the provisions of this regulation.
- (3) Fees for a newly permitted landfill or fees for a new transporter shall begin at the onset of operation.

**(EF) Unreported Fees May Be Estimated**

When the information on the quarterly report is incomplete, ~~or~~ when the quarterly report is not submitted by the due date, or when the Department has determined that a landfill facility or a transporter has misreported the amount of waste received or transported, the Department may estimate the fee amounts due based on one (1) or more of the following sources of information:

- (1) Projected waste amounts, as defined in a landfill operating permit or a transporter license;
- (2) Waste amounts as determined by applying current service area population and per ~~capital~~

capita solid waste multipliers;

- (3) Waste amounts as determined by a Department audit; ~~or~~
- (4) Waste amounts as reflected in previously submitted quarterly reports or in a survey; or
- (5) Waste amounts reflected by any other reasonable means, as determined by the Department, to measure or weigh the solid waste.

**(FG) Quarterly Report Forms**

~~The Department shall mail quarterly reporting forms to each landfill permittee and to each transporter prior to the calendar quarters ending the last day of December, March, June, and September, respectively. Failure to receive this form does not relieve a landfill facility permittee or a transporter from fee liability. A landfill facility permittee shall submit quarterly reports on a form approved by the Department.~~

**(H) Landfill Fee Exemptions**

Solid waste collected during the annual Keep Arkansas Beautiful and Keep America Beautiful campaigns that are sponsored by the Keep Arkansas Beautiful Commission are exempt from the landfill disposal fee pursuant to Ark. Code Ann. §§ 8-6-606(e), 8-6-612(d), and 8-6-1003(c).

**Reg.11.206 Record Keeping and Reporting**

**(A) Adequate Record Keeping**

- (1) The owner, operator, or any other responsible party of any permitted landfill facility and each out-of-state transporter or any other responsible party shall establish and maintain adequate records in order to facilitate the reporting process and to assure accurate waste net weight or amounts and fee determinations.
- (2) At a minimum, each facility or transporter shall have in place a waste ticket system, whereby a ticket is provided to the customer and the facility or transporter retains a duplicate of the ticket.
- (3) These records shall be maintained on a daily basis, as the solid waste is received at a landfill gate, and shall include, at a minimum, the customer name, the geographic source of the waste, by county at the least, the type or kind of solid waste, defined herein, received or transported, and the net weight or amounts (compacted and uncompact) of the waste.



**(B) Fee Determination**

Quarterly reports shall relate the total net weight or amounts of solid waste either received at a landfill facility gate within Arkansas or generated within the state and transported out of state for disposal.

- (1) Waste net weight or amounts and fee amounts shall be determined utilizing one or more of the following methods, or another method that has received written approval by the Department, and shall be calculated in accordance with procedures set forth in an approved disposal fee plan, pursuant to this regulation:
  - (a) If the waste has received any amount of mechanical compaction, such as in the delivery vehicle, upon receipt at a landfill gate, the waste amounts on the quarterly report shall be reported in compacted cubic yards with the respective fee amounts as calculated and as set forth herein and in the approved disposal fee plan;
  - (b) If the waste has not received any amount of mechanical compaction, such as in the delivery vehicle, upon receipt at a landfill gate, the waste amounts on the quarterly report shall be reported in uncompacted cubic yards with the respective fee amounts calculated as set forth herein and in the approved disposal fee plan; or
  - (c) If the landfill operates on a weight basis, the waste net weight reported on the quarterly report shall be reported in tons with the respective fee amounts calculated as set forth herein and in the approved disposal fee plan.
- (2) Each landfill facility, landfill permittee or owner, operator or any other responsible party shall provide and maintain an adequate means of recording the amount of waste that is received by the landfill, as required under Regulation 22. Such records shall be used by the landfill to calculate disposal fees submitted quarterly to the Department and shall be available to the Department for inspection.
- (3) Each transporter shall provide and maintain an adequate means of recording the amount of waste that is collected from its customers and transported to a landfill disposal facility out of state. At a minimum, the transporter ~~retains~~ shall retain a copy of each ticket or receipt received from the landfill. The ticket received from the landfill shall be used by the transporter to calculate disposal fees to be submitted quarterly to the Department. Such records shall be available to the Department for inspection.

**(C) Waste Reduction**

If a landfill or transporter chooses to remove recyclable materials from the solid waste suitable for marketing or beneficial reuse, disposal fee credit, to be reflected on the quarterly reports to the Department, may be received for such materials, provided that the following conditions are

met:

- (1) Suitable materials, approved by the Department as recyclable and marketable, pursuant to Regulation 28, or that can otherwise be put to a beneficial reuse, may be set aside from the waste that has been received and ticketed, but prior to disposal.
- (2) Materials set aside for recycling shall have been completely removed from the premises for marketing, or otherwise put to a beneficial reuse that has been approved by the Department, before credits for such materials shall be approved by the Department.
- (3) Records showing types, descriptions, and net weight or amounts of materials removed for marketing or beneficial reuse, and the final destination of such materials, shall be maintained by the landfill or transporter. Such records shall be available to the Department for inspection.
- (4) Credit shall be applied solely to materials that were previously included in the solid waste net weight or amounts and fee calculations submitted to the Department, as specified in this regulation.
- (5) In order for any waste reduction means or methodology to be utilized by a landfill or a transporter that involves the setting aside, prior to disposal, of materials from waste that has been received, such a means or methodology shall be a part of the approved disposal fee plan, as specified in this regulation.

**(D) Not Allowed in Fees Calculation**

For purposes of the assessment of fees under this regulation, net weight or amounts calculations shall be determined on waste upon receipt at the landfill gate. This prohibits, at the least, the following:

- (1) Calculating the net weight or amounts for fees after marketable or beneficially reusable materials have been removed from the waste stream;
- (2) Calculating the net weight or amounts for fees after the waste has been tipped and baled at a landfill facility;
- (3) Calculating the net weight or amounts for fees after the waste has been placed in a landfill cell; or
- (4) Calculating the net weight or amounts for fees based on landfill cell capacities.

**(E) Quarterly Reporting Dates**

Each landfill and each transporter shall submit to the Department on or before January 15, April 15, July 15, and October 15 of each year, a quarterly report which accurately states the total net weight or amounts of solid waste received at or transported to a landfill facility during the previous quarter.

**(F) Determining Vehicle Capacity**

For record keeping and reporting purposes, under this regulation, commercial waste transportation vehicles and trailers, shall be presumed to be full to vehicle capacity upon being received at a landfill facility gate, unless otherwise demonstrable.

**(G) Records Availability**

Any records, reports, or information obtained under this regulation and any permits, permit applications, and related documentation shall be available to the Department for inspection and copying during normal business hours, unless otherwise deemed necessary by the Department, and any records obtained by the Department shall be available to the public for inspection and copying during normal business hours.

**(H) Records Location**

The landfill facility owner, operator, or any other responsible party shall maintain records at the facility and a transporter or any other responsible party shall maintain records at the quarterly reporting address, unless an alternative location is required and has been requested in writing and approved by the Department.

**(I) Record Confidentiality**

Upon a satisfactory showing to the Director that the records, reports, permits, documentation, or information, or any part thereof, if made public, would divulge methods, processes, or customer lists entitled to protection as trade secrets, then the Director shall consider, treat, and protect such records, reports, or information as confidential.

**(J) Restriction of Confidentiality**

As necessary to carry out the provisions of this regulation, information afforded confidential treatment may be transmitted under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of this state or of the United States, if the landfill permittee, owner, operator or any other responsible party, or the transporter, or any other responsible party, to which the information pertains is informed at least two (2) weeks prior to the transmittal, and if the information has been acquired by the Department under the provisions of this regulation.

**Reg.11.207 Payment of Fees**

Fees imposed pursuant to the separate provisions of this subchapter shall be collected as follows:

**(A) Fee Submission**

On or before January 15, April 15, July 15, and October 15 of each year, each landfill facility permittee and each transporter shall pay to the Department the full fee amount owed for the preceding quarter. Payment shall be made by check or money order payable to the Department.

**(B) Timely Payments**

A landfill permittee or a transporter shall be deemed to have made a timely payment and shall avoid a late payment charge if the permittee or transporter complies with both of the following:

- (1) The payment enclosed is for the full amount owed for the preceding quarter and no further Departmental action is required for collection; and
- (2) The payment is received by the Department or is postmarked by the United States Postal Service on or before the final day on which the payment is due, or the payee presents a receipt indicating the payment was mailed by registered or certified mail on or before the final day on which the payment is due.

**Reg.11.208 Late Payment Charge and Notice**

**(A) Late Payment Charges**

A late payment charge of ten percent (10%) of the quarterly fee amount will be added to the net amount due if full payment is not received by the Department within fifteen (15) calendar days after the due date. An additional five percent (5%) of that quarterly fee amount will be added to the net amount for each additional month or fraction thereof during which such failure continues past the first fifteen (15) calendar days, not to exceed a total of twenty-five percent (25%).

**(B) Late Payment Charge Notification**

If the Department determines that any landfill permittee or transporter has not made a timely payment of the fee, a notification will be sent. Failure of the Department to send such notice shall not operate as a waiver of a late payment charge.

**Reg.11.209 Adjustments**

**Report or Fee Adjustments** — Upon written approval by the Department, any adjustments to any previous quarterly report or fee payment, found upon review or as the result of an audit by the Department, and any unpaid late payment charges may be reflected on the next quarterly report and fee payment.

**Reg.11.210 Termination of Fees**

**(A) Stopped Operation**

In the event a landfill or a transporter permanently ceases receiving or transporting waste, the permittee or transporter shall immediately submit a final quarterly report, along with final fee payment, for the quarter during which the landfill closed or the landfill or transporter stopped operation and shall indicate on the report the final date upon which the landfill or transporter ceased receiving waste.

**(B) Refunds**

After operations have ceased, a landfill permittee or a transporter may seek a refund of any fee overpayment.

**Reg.11.211 Petitioning Director for Review of Fees**

**(A) Petition Filing**

Any landfill permittee or transporter, who disagrees with the fee amount due, may file a petition for review with the Director within twenty (20) calendar days following the payment or payment due date. The petition must contain:

- (1) A statement of the fee amount the landfill permittee or transporter admits is due and payable;
- (2) A statement of the fee amount the landfill permittee or transporter contests; and
- (3) Documentation of the amount of solid waste received during the contested payment period including, but not limited to, daily gate or transporting receipts showing the geographic source of waste, the type or kind of waste, defined in this regulation and in Regulation 22, received, and the net weight or amounts of the waste.

**(B) Petition Review**

The Director shall review the petition and make a final determination of the amount of the contested fee. Such notice shall contain:

- (1) The name, business address, and permit or transporter billing identification number of the landfill permittee or transporter;
- (2) The Director's decision and date of decision; and
- (3) A statement that the landfill permittee or transporter may request an adjudicatory hearing and Commission review on whether the decision of the Director should be modified and

that such a request shall be in the form and manner required of Regulation 8: Administrative Procedures.

**(C) Late Fee Due and Payable**

If ~~the~~ a landfill permittee or a transporter files a petition for review, the full amount of the contested fee and the adjustment the permittee or transporter admits is due and payable shall be paid by the date the petition for review is due. Any late payment charges also shall ~~also~~ be due and payable by the date the petition for review is due.

**(D) Procedures Stayed**

Upon the filing of a petition for review, the timely payment procedures and late payment charges contained in this regulation are automatically stayed for the amount of the fee which is contested. Payment of the full amount of the fee, as determined by the Director following a petition for review, shall be due within thirty (30) calendar days of issuance of the Director's decision and late payment charges shall then begin to accrue on that amount.

**(E) Petition Determination**

Notwithstanding the preceding, the filing of a petition for review, which is deemed by the Director to be frivolous and completely without merit, shall not operate as a stay of the timely payment procedures and late payment charges. If the Director determines that the petition for review is frivolous and completely without merit, the notice of the Director's decision, as described in this regulation, shall so state.

**(F) Subsequent Quarterly Fees**

Filing a petition for review of a fee does not affect the application of the timely payment procedures or late payment charges for any subsequent quarterly fee or adjustment.

**Reg.11.212 Appeals**

**Appeal Procedures** — Fees imposed under this regulation shall constitute a specific condition imposed on a landfill permittee or on a transporter. Provided a landfill permittee or a transporter disagrees with the final decision of the Director following a petition to review fees, the permittee or transporter may appeal such decision by requesting a Commission review, in accordance with Regulation 8: Administrative Procedures, and with the Arkansas Solid Waste Management Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-201 et seq. et seq.

### **Reg.11.213 Penalties**

**Fee Penalty Procedures** — A landfill permittee or transporter failing or refusing to pay the fee required under the provisions of this regulation in a timely manner shall be subject to late payment procedures and charges as established in this regulation. ~~Refusal~~ Failure to pay the required fees shall constitute grounds for legal action by the Department, which may result in assessment of civil penalties, as provided in the Arkansas Solid Waste Management Act, ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq.~~ et seq., or the revocation of a landfill permit, issued pursuant to ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq.~~ et seq., or both.

### **Reg.11.214 Audit**

**Department Audit** — At the discretion of the Department, an audit of ~~the~~ a landfill permittee's or a transporter's records or the operation of the landfill or transporter, or both, may be performed to assure compliance with this regulation. An audit by the Department may include, but shall not be limited to, an unannounced on-site visit to monitor the operation and operating procedures of a landfill or a transporter, or a requirement that additional records be submitted for review, or both.

### **Reg.11.215 Right of Entry and Access**

**Department Entry Rights** — The Department or any authorized employee or agent shall have right of entry during normal business hours, unless otherwise deemed necessary by the Department, to any public or private property for the purpose of obtaining information or conducting investigations, examining or copying any books, papers, records, or memoranda pertaining to the operation of the facility or transporter necessary or appropriate for the purpose of this regulation.

### **Reg.11.216 Fund Establishment**

**Funds Affected** — Fees collected under this regulation, pursuant to the Solid Waste Management and Recycling Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-601 et seq.~~ et seq., shall be deposited into the State Treasury and shall be credited to the Solid Waste Management and Recycling Fund and to the Marketing Board Fund. Fees collected under this regulation, pursuant to the Arkansas Landfill Post-Closure Trust Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-1001 et seq.~~ et seq., shall be deposited into the State Treasury and shall be credited to the Landfill Post-Closure Trust Fund.

## **CHAPTER THREE: THE LANDFILL POST-CLOSURE TRUST FUND PROGRAM**

### **Reg.11.301 Authority to Administer Trust Fund Program**

**Statutory Authority** — Under the Landfill Post-Closure Trust Fund Act, ~~A.C.A. Ark. Code Ann. § 8-6-1001 et seq.~~ *et seq.*, the Commission is given the authority to promulgate regulations and the Department is given the authority to implement Commission regulations, to issue administrative policies and procedures, and to administer the Landfill Post-Closure Trust Fund Program.

### **Reg.11.302 Short Title**

This program shall be known and may be cited by the short title: Post-Closure Fund.

### **Reg.11.303 Availability of Landfill Post-Closure Trust Funds**

#### **(A) Funding Specificity**

Landfill Post-Closure Trust Funds are to be made available on specific individual corrective action cases from post-closure landfill disposal fees imposed under this regulation.

#### **(B) Funding Guidelines and Mechanisms**

This regulation and Regulation 22 provide compliance guidelines for a landfill to follow in order to be eligible for funding consideration by the Landfill Post-Closure Trust Fund Program. Disposal fees, collected in accordance with ~~A.C.A. Ark. Code Ann. § 8-6-1001 et seq.~~ *et seq.*, and with this regulation, provide the funding mechanism for the Landfill Post-Closure Trust Fund.

#### **(C) Funding Cap**

In the event that the total amount in the Landfill Post-Closure Trust Fund equals or exceeds twenty-five million dollars (\$25,000,000), no additional fees shall be collected under the Landfill Post Closure Trust Fund provisions of Ark. Code Ann. §§ 8-6-1003 and 8-6-1004 until the total amount in the fund equals or is less than fifteen million dollars (\$15,000,000), at which time such collection of fees shall resume to the credit of the Landfill Post-Closure Trust Fund. In the event that the total amount in the Landfill Post-Closure Trust Fund reaches twenty-five million dollars (\$25,000,000), fees shall be collected pursuant to Ark. Code Ann. § 8-6-612 to the credit of the Solid Waste Management and Recycling Fund for support of the computer and electronic equipment recycling program.



**(D) Funding Availability**

(1) Landfill Post-Closure Trust Fund moneys are to be made available, upon written approval from the Director, for specific landfill post-closure corrective action cases and activities as set forth herein, pursuant to ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 et seq. et seq., and to Regulation 22.

(2) Any expenditures in excess of ~~\$50,000.00~~ fifty thousand dollars (\$50,000) per site from the Landfill ~~Post-closure~~ Post-Closure Trust Fund, for corrective action ~~for~~ to remedy ~~to~~ environmental impacts of closed disposal sites previously operated as a landfill pursuant to state law will be prioritized and authorized by the Commission, by adoption of a Minute Order, after addressing corrective actions needed to address environmental impacts from permitted landfills closed properly.

For purposes of Reg.11.303(D)(2), “closed disposal site” means a disposal site previously operated as a landfill pursuant to state law that ceased receiving waste prior to October 1, 1991, performed closure activities approved by the Department, and did not pay into the Landfill Post-Closure Trust Fund.

**Reg.11.304 Department Responsibilities**

**(A) Use of Funds**

In accordance with the provisions of ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 et seq. et seq., of Regulation 22, and with this regulation, the Landfill Post-Closure Trust Fund shall be used by the Department for landfill post-closure corrective action, which is defined as any measures deemed necessary by the Director to prevent or abate contamination of the environment from any landfill which has been certified as properly closed by the Department.

**(B) Project Evaluation**

The Department shall evaluate for funding those projects which comply with the requirements and the intent of ~~A.C.A.~~ Ark. Code Ann. § 8-6-1001 et seq. et seq.

**(C) Project Selection and Administration**

Unless allowed elsewhere in this regulation or in Regulation 22, corrective action measures shall be selected by the Department and corrective action work shall be monitored by the Department or its agent.

**Reg.11.305      Applicability**

The provisions and benefits of the Landfill Post-Closure Trust Fund shall apply to landfill facility classifications as determined in Regulation 22 and in this regulation.

**Reg.11.306      Eligible Projects and Activities**

**(A)      Applicability**

The Landfill Post-Closure Trust Fund Program applies to all landfills subject to permitting requirements provided under Regulation 22, which, upon receipt of solid waste at the landfill gate, are required to participate in the fee system for landfill disposal and which otherwise comply with the provisions set forth herein and in Regulation 22, except for those landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character.

**(B)      Funding Determination**

The fund shall be used if the Director determines that:

- (1) **Closed Landfill** — A landfill, which is no longer receiving waste and has received an approved closure from the Department, pursuant to Regulation 22, regardless of when it ceased operating, is causing groundwater contamination or is causing other contamination that, in the determination of the Director, is a hazard to public health or endangers the environment; and
- (2) **Owner Obligation Met or Emergency Exists** — The landfill permittee, owner, operator, or any other responsible party of the landfill site has expended at least ten thousand dollars (\$10,000) toward corrective action, unless the landfill permittee or owner or any other responsible party, cannot be located or the Director determines an emergency exists necessitating immediate corrective action, in which case the Department shall take action to recover the ten thousand dollars (\$10,000) from the landfill permittee, owner, operator, or any other responsible party.

**(C)      Owner/Other Responsible Party Unavailable**

If, after proper closure of a landfill, the Department determines that the landfill permittee, owner, operator, or any other responsible party cannot be located or cannot otherwise satisfy, in whole or part, post-closure maintenance obligations, the Department is authorized to expend the necessary funds from the Landfill Post-Closure Trust Fund to satisfy the requirements of State state and federal law and to prevent or abate releases to the environment.

**(D) Refunds**

In the event that preliminary studies are required before implementation of a corrective measure to confirm or deny the existence of suspected contamination and those studies indicate that contamination is not present, the Department shall refund any moneys, in excess of ten thousand dollars (\$10,000), the landfill permittee, owner, operator, or any other responsible party contributed to the studies.

**Reg.11.307 Owner or Other Responsible Party Obligations**

**(A) Financial Assurance**

A landfill permittee, owner, operator, or any other responsible party of a landfill shall establish, and at all times maintain, financial assurance for the post-closure maintenance of said landfill, pursuant to Regulation 22.

**(B) Owner/Other Responsible Party Contribution**

The landfill permittee, owner, operator, or any other responsible party shall make the initial contribution, required herein, to the Department for use in the corrective action work after the measure has been selected in accordance with Regulation 22.

**(C) Owner/Other Responsible Party Failed Obligation**

If the Department is required to expend funds from the Landfill Post-Closure Trust Fund due to the failure of ~~an~~ a landfill permittee, owner, operator, or any other responsible party to meet the requirements of the subsection, the Department may pursue collection and recovery of the funds.

**Reg.11.308 Projects and Activities Not Eligible**

**(A) Third-Party Compensation**

The fund shall not be used to compensate third parties for damages to property caused by the contamination. However, projects or studies that address an alternate potable water supply system for affected residences or other entities may be considered eligible.

**(B) Areas Adjacent to Existing Landfill**

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

**(C) Routine Activities**

Except as provided herein, funds shall not be used by a landfill permittee in the performance of routine post-closure care and monitoring activities, pursuant to Regulation 22.

**Reg.11.309 Disbursement of Funds**

**(A) Contracting**

The Department may, at its discretion, enter into a contract or another written agreement with a Regional Solid Waste Management District, or any other responsible public or private party, for corrective action services.

**(B) Distribution of Funds**

Depending upon the specific corrective action project, periodic payments will be made to a fund recipient during the corrective action process or upon final inspection by the Department, or both.

**Reg.11.310 Reporting and Oversight Requirements**

**(A) Record Keeping**

A fund recipient shall maintain an ~~orderly~~ accurate accounting system to document that expenditures are made in accordance with the project budget.

**(B) Reporting**

A fund recipient shall comply with reporting conditions specified in the contract documents or other written agreements.

**(C) Expense Documentation**

A fund recipient shall, when requested, submit copies of bids, invoices on equipment or services, canceled checks, or other documentation relative to the project.

**(D) Right of ~~entry~~ Entry and ~~access~~ Access**

Department personnel shall have the right of entry to the premises of a fund recipient and shall have the right of access to all records relative to a funded project or activity.

**(E) Modifications**

After the Department has approved funding for a project, modifications may be made to the project provided documentation of the proposed changes has received written approval from the Department.

**(F) Notice of Irregularities**

It shall be the responsibility of a fund recipient to immediately notify the Department in the event that conditions set forth in the contract or Commission regulations cannot be or have not been met. Funding for a project that does not meet such conditions may be terminated by the Department. Funds set aside, but not utilized, for a specific project shall be returned to the Landfill Post-Closure Trust Fund.

**Reg.11.311 Appeals of Funding Decisions**

A funding decision may be appealed by requesting an adjudicatory hearing and Commission review, in accordance with Regulation 8: Administrative Procedures.

## CHAPTER FOUR: SOLID WASTE MANAGEMENT AND RECYCLING GRANTS PROGRAM

### **Reg.11.401 Authority to Administer Grants Program**

Under the Solid Waste Management and Recycling Fund Act, ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. *et seq.*, the Commission is given the authority to promulgate regulations and the Department is given the authority to implement Commission regulations, to issue administrative policies and procedures, and to administer the Solid Waste Management and Recycling Grants Program.

### **Reg.11.402 Short Title**

This program shall be known and may be cited by the short title, Recycling Grants.

### **Reg.11.403 Applicant Eligibility**

Pursuant to the provisions of ~~A.C.A.~~ Ark. Code Ann. § 8-6-609, the following entities are considered eligible to apply for and to receive grants:

- (A) **Cities and Counties:** Duly incorporated cities and towns and ~~County~~ county governments of the State of Arkansas.
- (B) **Solid Waste Authorities:** Authorities incorporated under ~~A.C.A.~~ Ark. Code Ann. § 14-233-101 et seq. *et seq.*
- (C) **Regional Solid Waste Management Boards:** Boards formed pursuant to ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. *et seq.*, which have entered into agreements pursuant to ~~A.C.A.~~ Ark. Code Ann. § 8-6-701 et seq. *et seq.*, and are empowered to administer a grant award pursuant to the requirements of ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. *et seq.*
- (D) **Subordinate Service Districts:** Subordinate Service Districts which are formed pursuant to ~~A.C.A.~~ Ark. Code Ann. § 14-14-708 et seq. *et seq.*, and are empowered to administer a grant award pursuant to the requirements of ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. *et seq.*
- (E) **Multi-County or Multi-Regional Projects,** provided that concurrent resolutions regarding the joint application have been adopted by participating Regional Solid Waste Management District Boards and that a joint application is signed by the Board Chairman for each Regional Solid Waste Management District.

**Partnerships Between Public Entities and Private Recycling Interests:** Public entities identified herein partnered with private recycling interests to provide recycling services, provided that the public entity maintains ownership of facilities and equipment purchased with grant funds and that the public entity assumes responsibility for meeting the requirements of this regulation.

**Reg.11.404 Responsibilities of District Board**

**(A) Regional Plan**

Unless otherwise excused by the Director, each District shall have a solid waste management plan. The plan must meet the solid waste planning requirements of ~~A.C.A. Ark. Code Ann. § 8-6-201 et seq. et seq.~~ et seq., and of Regulation 22: ~~The Arkansas Solid Waste Management Regulation~~ Solid Waste Management, and must have been reviewed and approved by the Department prior to the opening of the grant round. All projects approved by Regional Solid Waste Management Boards for funding in that District must be compatible with the approved District plan on file with the Department or must document to demonstrate why a deviation is necessary.

**(B) Application Prioritization**

Each Board is responsible for the grant application process and acceptance of grant applications from within its District. Each District shall prioritize and select grant projects from within District boundaries for submission to the Department, such selection being in the sole discretion of the District. To ensure that every grant approved by the Boards meets the intent and requirements of ~~A.C.A. Ark. Code Ann. § 8-6-609~~, Boards shall submit a list and brief description of planned projects to the Department sixty (60) calendar days prior to each grant round for written pre-approval by the Department, and shall submit such information no later than July 15 of each year.

**(C) Administrative Allocation**

Each Board shall ensure that no more than twenty-five percent (25%) of the annual allocation of grant funds be used for administrative purposes. However, total funds for administrative purposes for all Districts shall not exceed five hundred thousand dollars (\$500,000). To determine if the cap of five hundred thousand dollar dollars (\$500,000) ~~cap~~ is exceeded, the Department shall multiply the annual allocation of grant funds in any given grant round by twenty-five percent (25%). If such product is equal to or less than five hundred thousand dollars (\$500,000), Districts may then use up to twenty-five percent (25%) of that year's allocation for administrative purpose. In the event that twenty-five percent (25%) of the funds available in a given grant round exceeds five hundred thousand dollars (\$500,000), the Department shall determine the administrative allocation for each District by utilizing the following formula to ensure the cap of five hundred thousand dollar dollars (\$500,000) ~~cap~~ is not exceeded:

- (1) Divide five hundred thousand dollars (\$500,000) by the total amount of funds available in the grant round to derive the percentage to be used in determining the amount of administrative funds available for each District.
- (2) Multiply the percentage derived in part (1) above by the amount allocated to each District to determine each District's administrative allotment for a given grant round.

For the purposes of the Recycling Grants Program, administrative expenses are expenses for the administration of the Regional Solid Waste Management District's solid waste management plan and may include record keeping, periodic reporting requirements, budgeting, and other related activities. Examples of administrative expenses include the salaries and fringe benefits of the District Director and other staff supporting the administration of the plan (including accounting, payroll and human resources, information technology, legal, and procurement functions); the cost of supplies and equipment used for administrative functions or activities; rent, utilities, phone service, postage, and licenses associated with the administrative office of the Regional Solid Waste Management District; and other expenditures approved by the Department.

Examples of expenses **not** considered administrative expenses for the purposes of the Recycling Grants program include, but are not limited to:

1. Solid Waste Plan development or updates. These expenses are defined through a separate grant category and are not considered an administrative expense;
2. Solid Waste Education and Public Awareness. These expenses are defined through a separate grant category and are not included in the definition of administrative expenses; and
3. Expenses directly related to recycling or waste reduction activities, including but not limited to, necessary salaries and wages with related fringe benefits, operating costs for collection or processing facilities, collection or processing equipment, insurance on collection/processing facilities and equipment, and costs to market materials.

**(D) Distribution within District**

Boards shall make distribution of grant funds to approved grant projects within their District as scheduled in the grant application and subject to the grantee's compliance with all grant conditions. Funds shall not be disbursed by the Boards prior to the start of the project.

**(E) Adequate Revenues**

Boards shall ensure that the grantee show that adequate revenues are being collected to support the long-term operation and maintenance of a grant-funded project prior to the disbursement of any grant funds.

**(F) Permits and Licenses**

Boards shall ensure that grantee has obtained all applicable federal, ~~State~~ state, and local permits and licenses prior to disbursement of funds.



**(G) Equipment and Facility Purchasing**

Boards shall conform to, and ensure that all applicants conform to all ~~State~~ state laws that are applicable to the purchase, use or sale of equipment and facilities secured with ~~State~~ state funding including, but not limited to, ~~State~~ state laws on commodity purchases and bids for construction by local governments.

**(H) Equipment Usage**

Boards shall ensure that facilities or equipment purchased with grant funds disbursed by the Boards be used ~~exclusively for the general purposes~~ no less than fifty percent (50%) of the time on recycling activities or other grant-funded projects as specified in the grant application. Facilities or equipment purchased with grant funds shall not be sold, traded, or transferred except for the purpose of upgrading recycling facilities or improving recycling programs within the ~~State~~ state, with the Department's written consent.

**Reg.11.405 Grant-Eligible Activities, ~~and Projects,~~ and Programs**

The following activities, projects, or programs, in addition to other activities that support the objectives of increasing and improving recycling as a waste-management strategy, consistent with the intent of ~~A.C.A.~~ Ark. Code Ann. § 8-6-601, et seq. et seq., are eligible for grant funding:

**(A) Solid Waste Planning**

Planning studies are eligible for funding if an applicant's proposed study meets the solid waste planning requirements of ~~A.C.A.~~ Ark. Code Ann. § 8-6-201 et seq. et seq., § 8-6-1901 ~~et seq. et seq.~~ et seq., Regulation 22: Solid Waste Management, and the Minimum Requirements for Regional Solid Waste Management District Plans as set forth in the Statewide Solid Waste Management Plan. The funded planning study must include goals for the diversion of recyclable materials from disposal at landfills or incinerators and must set out methods for increasing recycling in the study area. Only first-year costs for planning staff are eligible. Boards may expend an amount equal to no more than ten percent (10%) of their administrative allocation for plan updates.

**(B) Recycling or Composting Equipment and Material Recovery Facilities (~~MRF's~~ MRFs)**

Recycling equipment and recycling facilities are eligible for funding if existing facilities and equipment do not provide adequate and efficient service for the project area. The facilities must meet the objectives of the solid waste management plan for recycling facilities. Composting facilities and equipment are also eligible. Equipment is to be used no less than fifty percent (50%) of the time on recycling activities or other grant-funded projects. Pursuant to Ark. Code Ann. § 8-6-610(b)(2)(D), applicants shall provide information that reasonably demonstrates that existing mechanical processing equipment or facilities are not serving or could not serve the relevant area. The applicant must describe in detail the equipment to be purchased and explain

why the applicant has concluded that such equipment is not available in the private sector.

**(C) Solid Waste Education and Public Awareness Programs**

Education and public awareness activities and materials are eligible if, in accordance with the legislative intent of A.C.A. Ark. Code Ann. § 8-6-601 et seq. et seq., they are part of a plan for introducing or promoting recycling, composting, or other solid waste management practices that divert wastes from landfills, encourage waste reduction and stimulate demand for products produced from recycled materials.

**(D) Transfer Stations**

Waste transfer stations which accept three (3) or more recyclable materials, as identified in Regulation 28, are eligible for funding.

**(E) Recycling Programs**

Recycling activities that meet the intent and requirements of Ark. Code Ann. § 8-6-601 et seq. are eligible for funding.

**(F) Waste Reduction Activities**

Other waste stream reduction activities that divert the flow of materials away from landfills to be put to beneficial use are eligible for funding.

**(G) Recycling System Activities**

Activities that support and are an integral part of a recycling system, including without limitation, operation, construction, and logistical systems, are eligible for funding.

**Reg.11.406 Existing Equipment or Facilities**

~~Grant~~ Pursuant to Ark. Code Ann. § 8-6-609(c)(2), grant assistance shall not be provided for the purpose of purchasing mechanical processing equipment or facilities if existing mechanical processing equipment and or facilities efficiently and adequately serve the relevant area, unless the Department Regional Solid Waste Management Board determines and submits the rationale for the determination along with the grant application to the Department that the equipment or facility is an indispensable component to the otherwise eligible project and would more efficiently serve the relevant area.

## **Reg.11.407 Departmental Responsibilities**

### **(A) Departmental Approval**

Once grant project applications are submitted to the Department, the Department shall approve of those projects which comply with the requirements and intent of ~~A.C.A.~~ Ark. Code Ann. § 8-6-601 et seq. et seq., and this regulation.

### **(B) Funding Cycle for Grant Rounds**

At least once per year the Department will accept and review applications for funding. Pre-applications will be received by the Department no later than July 15 of each year. On or before August 15 of each year, the Department will notify each District of the amount of funds available for the current grant round. A new grant round will open September 15 of each year. Applications will be accepted until December 31 of each year and funds will be disbursed no later than March 31 of the following year after the grant round opens. ~~The Department will determine the amount of funds available for the current grant round.~~ Funds collected under the provisions of ~~A.C.A.~~ Ark. Code Ann. § 8-6-607 and deposited ~~in~~ into the State Treasury to the credit of the Solid Waste Management Recycling Fund, less up to twenty-five percent (25%) for administrative support for the Department, shall annually be allocated to each of the approved Districts, utilizing a combination of two (2) methods referred to as Method A and Method B. Fifty percent (50%) of set aside funds will be determined by using Method A and fifty percent (50%) will be determined using Method B. The total figures obtained from each method will be combined to arrive at each District's fund distribution.

#### **Method A:**

- (1) The Department shall determine the amount of funds within each Planning and Development District, organized under ~~A.C.A.~~ Ark. Code Ann. §§ 14-166-201 through § 14-166-205 and recognized by the Governor based upon the same distribution as general revenue support is distributed to the Planning and Development Districts in the current fiscal year.
- (2) The Department shall adjust the distribution within the Planning and Development Districts to coincide with the boundaries of the Regional Solid Waste Management Districts (Districts) by determining each ~~County's~~ county's share of the funds available within each Planning and Development District. Each ~~County's~~ county's share shall be based upon the proportion that each ~~County's~~ county's population bears to the total population in the Planning and Development District to which the ~~County~~ county is assigned, multiplied by the amount of funds determined to be available within the Planning and Development District. The ~~County's~~ county's proportional share, as determined, shall be added to all other counties' shares within the same District.

#### **Formula for Method A:**

- (1) Begin with fifty percent (50%) of the total remaining grant funds.

- (2) Divide equally by the eight (8) Planning and Development Districts.
- (3) Multiply this result by the most recent federal decennial census population of each County county.
- (4) Divide this result by the ~~ADD~~ Planning and Development District population in which the County county is located. (This determines the portion per County county.)
- (5) Individual County county portions are grouped and totaled by each District to give the District's allocation under Method A.

**Method B:**

The remaining fifty percent (50%) of set-aside funds in a grant round shall be based upon the ratio of the current decennial Regional Solid Waste Management District's population divided by the most recent federal decennial ~~State~~ state population.

**Formula for Method B:**

- (1) Begin with each District's total population.
- (2) Divide by the ~~State's~~ state's most recent federal decennial census population. (This determines the District's percentage.)
- (3) Multiply by the total remaining grant funds.
- (4) Equals each District's allocation under Method B.

**(C) Fund Rollover**

Funds set aside for each District in a grant round that are not awarded to the District by March 31 of the year following the grant round opening will be rolled over to the next round and become a part of the total funds available for all Districts in that grant round.

**(D) Combined Funds**

Funds set aside for two or more Districts in a grant round may be combined to fund a joint application provided that concurrent resolutions regarding the joint application have been adopted by participating Boards and provided that the joint application has been signed by the Board Chairman for each District.

**(E) Forms Provided**

The Department shall provide the forms necessary for the application process.

**(F) Estimated Funds Available**

The Department shall provide an estimate of funds available to each District by August 15 of each year along with notification of pre-approved projects. Notification shall be made at least thirty (30) calendar days prior to each grant round. Pre-applications for upcoming grant rounds will be received no later than July 15 of each year.

**Reg.11.408 Disbursement of Funds**

**Disbursement of Funds** — The Department shall disburse grant funds to Districts following written approval of grant applications in a given grant round if all requirements from the previous round are complete. Grant funds shall not be disbursed after March 31 of each year unless the Department approves a request for extension to the grant round by a Regional Solid Waste Management District.

**Reg.11.409 Reporting and Oversight Requirements**

**(A) Record Keeping**

Boards shall require grantees to maintain an ~~orderly~~ accurate accounting system to document that grant expenditures are made in accordance with the project budget.

**(B) Reporting**

- (1) Until all grant funds have been expended on a project, regional solid waste management boards shall provide the Department with an annual report summarizing:
  - (a) Progress in the project; and
  - (b) ~~Expenditures from the grant award~~ An expense itemization for each grant award. An expense itemization is a listing of expenditures that includes expenditure date, item purchased, purchase price, and name of vendor.
- (2) For a period of five (5) years after a grant recipient's receipt of grant funds, regional solid waste management boards shall provide the Department with an annual report summarizing:
  - (a) Tonnage of materials collected by the grant recipient; and
  - (b) Revenues produced by the sale of materials collected.
- (3) ~~Reporting requirements described herein became effective as of July 1, 2003, grant reporting period.~~ The reports shall be filed annually on or before September 1.

- (4) Failure by a board to file the required reports shall provide grounds for the department to withhold disbursement of grant funds for subsequent grant rounds.

**(C) Submittal Required**

Boards must submit an annual expense itemization for each grant, including date of purchase, item purchased, ~~vendor~~, purchase price, and ~~vendor invoice or purchase order number~~. When equipment is purchased, Boards shall submit copies of invoices, purchase orders, checks, or other supporting documents to the Department with progress reports. These documents should include serial numbers, vehicle identification numbers or other identifiers and physical location of the equipment. ~~These requirements became effective as of the July 1, 2003, grant reporting period~~. Funds for the next grant round will not be disbursed until these requirements for the previous round, and the requirements in this regulation are complete.

**(D) Right of Entry and Access**

- (1) Department personnel shall have the right of entry during normal business hours, unless otherwise deemed necessary by the Department, to the premises of a grant-funded facility and the right of access to all records pertaining to a grant-funded project or activity.

- (2) ~~Boards shall maintain, or have access to, copies of all bids, paid invoices on equipment or services, and canceled checks pertinent to the project. Upon request, such records shall be available for inspection by the Department or for submittal to the Department. These requirements became effective as of the July 1, 2003, grant reporting period~~. Boards shall maintain copies of invoices, purchase orders, checks, or other supporting documents for grant expenditures at the Regional Solid Waste District office and shall produce these items upon request for on-site inspection by the Department.

**(E) Modifications**

After the Department has approved a grant, modifications may be made to the grant project if the grantee submits adequate documentation of the proposed changes and receives written approval by the Board and the Department. Modifications that alter the grant category or materially change the project must be public noticed under the provisions of this regulation.

**(F) Notice of Irregularities**

It shall be the responsibility of the Boards to immediately notify the Department in the event that the grantee has not met conditions of the Department approved grant application. A grant may be terminated by the Board or the Department, if either the Board or the Department determines that the grantee is unable or unwilling to complete or meet the conditions of the grant as set forth in the grant application. If a grant is terminated, grant funds shall be reimbursed in accordance with ~~A.C.A. § 8-6-610(C)~~ Ark. Code Ann. § 8-6-610(c). Funds returned may be used to fund the next prioritized project with written approval from the Department. Funds not reallocated within one hundred twenty (120) days shall be returned to the Department for allocation in the next

grant round.

**(G) Forms**

The Department shall provide forms to be used by the Districts in the reporting process.

**(H) Audit Requirements**

Each Regional Solid Waste Management Board shall procure an annual financial audit.

- (1) Such audits shall be conducted following each District's fiscal year end.
- (2) Such audits shall, at the minimum define recycling grant funds and other grant funds distributed by the Department ~~received~~ separate from other District revenues, delineating interest and/or other receipts received as a result of the funds and documenting their expenditure. Such audits shall also identify project or contractual costs separate from administrative costs.
- (3) Such audits shall be conducted by ~~accountants~~ a Certified Public Accountant in good standing with the Arkansas State Board of Public Accountancy and in accordance with the Governmental Auditing and Reporting Standards issued by the Comptroller General of the United States.
- (4) Each audit report and accompanying comments and recommendations shall be reviewed by the appropriate Regional Solid Waste Management Board.
- ~~(4)~~(5) Copies of each Regional Solid Waste Management District's annual audit report shall be filed with the Department, and the Division of Legislative Audit, and shall be available for public inspection with the books and records of the District.
- (6) An audit report containing a qualified opinion or adverse opinion shall require written explanation and supporting documentation from the Regional Solid Waste Management Board or the Regional Solid Waste Management Board's chairman or designee and shall become part of the audit report.
- (7) An audit report with an unqualified opinion, but containing control deficiencies, significant deficiencies, or material weaknesses shall require written explanation and supporting documentation from the Regional Solid Waste Management Board or the Regional Solid Waste Management Board's chairman or designee and shall become part of the audit report.
- ~~(5)~~(8) Failure to provide the Department and the Division of Legislative Audit with a full and complete annual audit report within nine (9) months of the District's fiscal year ending date shall be cause to suspend or terminate any and all ~~Solid Waste Management and Recycling Grant Funds~~ revenue from funding programs that are administered by the Department unless otherwise authorized by the Director.

**(I) Limitations**

The provisions of this chapter, unless specifically set forth elsewhere, shall not apply to the Computer and Electronic Equipment Recycling Grants Program.

## **Reg.11.410      Conditions of Grant**

### **(A)      Funds Forfeited**

Funds for any grant project not started prior to ~~the date that pre-applications for the next grant round are submitted to the Department~~ July 15 of each year will be forfeited and become a part of the total funds available for all Districts in the next grant round unless the project delay receives written approval by the Board and the Department. District administrative grants are excluded from this requirement.

If, within a three-year period beginning on the date that the Department awards a grant, the grantee does not meet the conditions of the grant prescribed under ~~A.C.A. Ark. Code Ann. § 8-6-610(b)~~ and this regulation, the Department may order the grantee to reimburse the grant award in accordance with ~~A.C.A. Ark. Code Ann. § 8-6-610(c)~~, plus interest ~~monies~~ moneys earned from the holding of grant funds by grant recipient. If the grantee fails to meet the conditions in the first year after the grant award, the grantee may be required to reimburse one hundred (100%) of the grant. If the grantee fails to meet the conditions in the second year of the grant award, the grantee may be required to reimburse sixty-six (66%) of the grant. If the grantee fails to meet the conditions in the third year after the grant award, the grantee may be required to reimburse thirty-three (33%) of the grant. Grantees will be ineligible for further grant awards until reimbursement is made. Reimbursed ~~monies~~ moneys will become a part of the total fund available for all Districts in the next grant round.

### **(B)      Earned Interest on Grant Awards**

Interest ~~monies~~ moneys earned from the holding of grant funds by grant recipients or Districts shall be used exclusively for recycling programs consistent with the District's Solid Waste Management Plan. It shall be the responsibility of grantees to monitor the collection of earned interest and direct interest ~~monies~~ moneys to the project supported by the grant award or to other recycling program(s) consistent with the applicable District's Solid Waste Management Plan.

### **(C)      Project Deadlines**

All ~~grantees~~ grant applicants shall actively develop recycling programs, as outlined in the grant application, and expend all grant funds within three (3) years following the date of disbursement of funds by the Department unless a written extension is granted by the Department.

### **(D)      Markets Sought**

All ~~grantees~~ grant applicants shall seek to market or reuse the materials diverted under the recycling program from deposition in landfill ~~or incinerators~~ in the period of three (3) years following the grant award.

### **(E)      Notice Published**



~~Thirty (30) days prior to submission of a grant application, the applicant shall be required to insert in a newspaper of general circulation in the area affected a notice describing the applicant's grant request and soliciting written comments from the public for a twenty day period. Proof of publication of the notice and copies of the comments shall accompany the grant application.~~ The grant applicant shall insert in a newspaper of general circulation in the area affected a notice describing the applicant's grant request and soliciting written comments from the public. The comment period shall last for thirty (30) calendar days after the date of publication and may be concurrent with an application submission to the Department. Proof of publication of the notice and copies of comments submitted shall be forwarded to the Department. Grants cannot be approved or funded until these items are received by the Department.

**(F) Solid Waste Management Plan on File**

All grant applicants shall have a solid waste management plan on file with the Department within the first year following the date of the grant awarded by the Department.

**Reg.11.411 Appeals of Grant Decisions**

**(A) Appeals**

The following persons shall have the right to appeal any grant decisions as defined herein made by the Department:

- (1) A grant applicant;
- (2) A grantee;
- (3) Provided the matter to be appealed is subject to a public comment period, any person who submitted written comments on the contested matter within the comment period;
- (4) A Regional Solid Waste Management District Board; or
- (5) Any other person entitled by law to contest the Director's decision.

**(B) Review**

Any such person may appeal a grant decision by requesting an adjudicatory hearing and Commission review in accordance with Regulation 8: Administrative Procedures, provided however that the definition of "grant decisions" contained herein will apply instead of the definition of "grant decisions" contained in Regulation 8. Such request shall be in the form and manner required by Regulation 8.

**CHAPTER FIVE: ~~SEVERABILITY AND EFFECTIVE DATE~~ COMPUTER  
AND ELECTRONIC EQUIPMENT  
RECYCLING GRANTS PROGRAM**

**Reg.11.501      Authority to Administer Grants Program**

Under Ark. Code Ann. § 8-6-613, a program for the recycling of computer and electronic equipment is created. Pursuant to Ark. Code Ann. § 8-6-613(c) and the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 et seq., the Commission is given the authority to promulgate regulations and the Department is given the authority to implement Commission regulations, to issue administrative policies and procedures, and to administer the Solid Waste Management and Recycling Grants Program.

**Reg.11.502      Short Title**

This program shall be known and may be cited by the short title, Computer and Electronic Equipment Recycling Grants.

**Reg.11.503      Applicant Eligibility**

Pursuant to the provisions of Ark. Code Ann. § 8-6-609, the following entities are considered eligible to apply for and to receive grants:

- (A)      Cities and Counties:** Duly incorporated cities and towns and county governments of the State of Arkansas.
- (B)      Solid Waste Authorities:** Authorities incorporated under Ark. Code Ann. § 14-233-101 et seq.
- (C)      Regional Solid Waste Management Boards:** Boards formed pursuant to Ark. Code Ann. § 8-6-701 et seq., which have entered into agreements pursuant to Ark. Code Ann. § 8-6-701 et seq., and are empowered to administer a grant award pursuant to the requirements of Ark. Code Ann. § 8- 6-601 et seq.
- (D)      Subordinate Service Districts:** Subordinate Service Districts which are formed pursuant to Ark. Code Ann. § 14-14-708 et seq., and are empowered to administer a grant award pursuant to the requirements of Ark. Code Ann. § 8-6-601 et seq.
- (E)      Multi-County or Multi-Regional Projects,** provided that concurrent resolutions regarding the joint application have been adopted by participating Regional Solid Waste Management District Boards and that a joint application is signed by the Board

Chairman for each Regional Solid Waste Management District.

**Partnerships Between Public Entities and Private Recycling Interests:** Public entities identified herein partnered with private recycling interests to provide recycling services, provided that the public entity maintains ownership of facilities and equipment purchased with grant funds and that the public entity assumes responsibility for meeting the requirements of this regulation.

**Reg.11.504      Responsibilities of District Board**

**(A)      Regional Plan**

Unless otherwise excused by the Director, each District shall have a solid waste management plan. The plan must meet the solid waste planning requirements of Ark. Code Ann. § 8-6-201 et seq., and of Regulation 22: Solid Waste Management, and must have been reviewed and approved by the Department prior to the opening of the grant round. All projects approved by Regional Solid Waste Management Boards for funding in that District must be compatible with the approved District plan on file with the Department or must provide documentation to demonstrate why a deviation is necessary.

**(B)      Application Prioritization**

Each Board is responsible for the grant application process and acceptance of grant applications from within its District. Each District shall prioritize and select grant projects from within District boundaries for submission to the Department, such selection being in the sole discretion of the District. To ensure that every grant approved by each Board meets the intent and requirements of Ark. Code Ann. § 8-6-609, each Board shall submit a list and brief description of planned projects to the Department by January 1 of each year, which is sixty (60) calendar days prior to the opening of each grant round, for written pre-approval by the Department.

**(C)      Distribution within District**

Each Board shall distribute grant funds to approved grant projects within its District as scheduled in the grant application and subject to the grantee's compliance with all grant conditions. Funds shall not be disbursed by the Boards prior to the start of the project.

**(D)      Adequate Revenues**

Each Board shall ensure that the grantee demonstrates that adequate revenues are collected to support the long-term operation and maintenance of a grant-funded project prior to the disbursement of any grant funds.

**(E)      Permits and Licenses**

Each Board shall ensure that the grantee has obtained all applicable federal, state, and local permits and licenses prior to disbursement of funds.

**(F) Equipment and Facility Purchasing**

Each Board shall conform to, and ensure that all applicants conform to all state laws that are applicable to the purchase, use, or sale of equipment and facilities secured with state funding including, but not limited to, state laws on commodity purchases and bids for construction by local governments.

**Reg.11.505 Grant-Eligible Activities, Projects, and Programs**

The following activities, projects, or programs in addition to other activities that support the objectives of increasing and improving computer and electronic equipment recycling as a waste-management strategy, consistent with the intent of Ark. Code Ann. § 8-6-601 *et seq.*, are eligible for grant funding:

**(A) Solid Waste Education and Public Awareness Programs**

Education and public awareness activities and materials are eligible if, in accordance with the legislative intent of Ark. Code Ann. § 8-6-601 *et seq.*, they are part of a plan for introducing or promoting computer and electronic equipment recycling.

**(B) Computer and Electronic Equipment Transportation Cost**

Cost incurred in the process of transporting computer and electronic equipment for the purpose of recycling or reuse. Funds may be used to pay a contractor or local or district transporter.

**(C) Computer and Electronic Equipment Supplies**

Cost incurred to purchase materials associated directly with reuse, recycling, processing, or transportation of computer and electronic equipment.

**(D) Computer and Electronic Equipment Collection Cost**

Wages incurred for physical labor to collect, process, and transport computer and electronic equipment for the purpose of reuse or recycling. Wages that directly relate to a specific computer or electronic equipment recycling project and have received the prior written approval from the Department as specifically attributable to an approved project are eligible. Administrative costs are not eligible pursuant to Reg.11.506(A).

**(E) Contractual Services**

Cost incurred for services contracted outside of the district or local facility for management of computer and electronic equipment collection, processing, or transportation.

**Reg.11.506 Ineligible Grant Activities, Projects, and Programs**

**(A) Administrative Costs**

Funding assistance shall not be used for costs that do not directly relate to a specific computer or electronic equipment recycling project and have not received written approval from the Department as specifically attributable to an approved project. Examples of ineligible administrative expenditures include, but are not limited to: administrative salaries; planning; land acquisition, unless part of a building acquisition; and food.

**(B) Retroactive Costs**

Funding assistance shall not be provided to reimburse for cost incurred by a grantee for a computer or electronic equipment project prior to the date that a project is approved for funding by the Department.

**Reg.11.507 Existing Equipment or Facilities**

Pursuant to Ark. Code Ann. § 8-6-609(c)(2), grant assistance shall not be provided for purchasing mechanical processing equipment or facilities if existing mechanical processing equipment or facilities efficiently and adequately serve the relevant area, unless the Regional Solid Waste Management Board determines and submits the rationale for the determination along with the grant application to the Department that the equipment or facility is an indispensable component to the otherwise eligible project and would more efficiently serve the relevant area.

**Reg.11.508 Departmental Responsibilities**

**(A) Departmental Approval**

Once grant project applications are submitted to the Department, the Department shall approve of those projects which comply with the requirements and intent of Ark. Code Ann. § 8-6-601 *et seq.*, and this regulation.

**(B) Funding Cycle for Grant Rounds**

At least once per year the Department will accept and review applications for funding. Pre-applications will be received by the Department beginning January 1 of each year. On or before February 1 of each year, the Department will notify each District of the amount of funds available for the current computer and electronic equipment grant round. A new grant round will open March 1 of each year. Applications will be accepted until June 1 of each year and funds will be disbursed no later than September 1 of the current grant round. Funds collected under the provisions of Ark. Code Ann. § 8-6-607 and deposited into the State Treasury to the credit of the Solid Waste Management Recycling Fund, shall annually be allocated to each of the

approved Districts, utilizing a combination of two (2) methods referred to as Method A and Method B. Fifty percent (50%) of set-aside funds will be determined by using Method A and fifty percent (50%) will be determined using Method B. The total figures obtained from each method will be combined to arrive at each District's fund distribution.

**Method A:**

- (1) The Department shall determine the amount of funds within each Planning and Development District, organized under Ark. Code Ann. §§ 14-166-201 through 14-166-205 and recognized by the Governor based upon the same distribution as general revenue support is distributed to the Planning and Development Districts in the current fiscal year.
- (2) The Department shall adjust the distribution within the Planning and Development Districts to coincide with the boundaries of the Regional Solid Waste Management Districts (Districts) by determining each county's share of the funds available within each Planning and Development District. Each county's share shall be based upon the proportion that each county's population bears to the total population in the Planning and Development District to which the county is assigned, multiplied by the amount of funds determined to be available within the Planning and Development District. The county's proportional share, as determined, shall be added to all other counties' shares within the same District.

**Formula for Method A:**

- (1) Begin with fifty percent (50%) of the total remaining grant funds.
- (2) Divide equally by the eight (8) Planning and Development Districts.
- (3) Multiply this result by the most recent federal decennial census population of each county.
- (4) Divide this result by the Planning and Development District population in which the county is located. (This determines the portion per county.)
- (5) Individual county portions are grouped and totaled by each District to give the District's allocation under Method A.

**Method B:**

The remaining fifty percent (50%) of set-aside funds in a grant round shall be based upon the ratio of the current decennial Regional Solid Waste Management District's population divided by the most recent federal decennial state population.

**Formula for Method B:**

- (1) Begin with each District's total population.
- (2) Divide by the state's most recent federal decennial census population. (This determines the District's percentage.)
- (3) Multiply by the total remaining grant funds.
- (4) Equals each District's allocation under Method B.

**(C) Fund Rollover**

Funds set aside for each District in a grant round that are not awarded to the District by September 1 of the year following the grant round opening will be rolled over to the next round and become a part of the total funds available for all Districts in that grant round.

**(D) Combined Funds**

Funds set aside for two (2) or more Districts in a grant round may be combined to fund a joint application provided that concurrent resolutions regarding the joint application have been adopted by participating Boards and provided that the joint application has been signed by the Board Chairman for each District.

**(E) Forms Provided**

The Department shall provide the forms necessary for the application process.

**(F) Estimated Funds Available**

The Department shall provide an estimate of funds available to each District by February 1 of each year along with notification of pre-approved projects. Notification shall be made at least thirty (30) calendar days prior to each grant round. Pre-applications for upcoming grant rounds will be received beginning January 1 of each year.

**Reg.11.509 Disbursement of Funds**

**Disbursement of Funds** — The Department shall disburse grant funds to Districts following written approval of grant applications in a given grant round if all requirements from the previous round are complete.

## **Reg.11.510 Reporting and Oversight Requirements**

### **(A) Record Keeping**

Boards shall require grantees to maintain an accurate accounting system to document that grant expenditures are made in accordance with the project budget.

### **(B) Reporting**

(1) Until all grant funds have been expended on a project, Regional Solid Waste Management Boards shall provide the Department with an annual report summarizing:

(a) Progress in the project; and

(b) An expense itemization for each grant award.

(2) For a period of five (5) years after a grant recipient's receipt of grant funds, Regional Solid Waste Management Boards shall provide the Department with an annual report summarizing:

(a) Tonnage of materials collected by the grant recipient; and

(b) Revenues produced by the sale of materials collected.

(3) The reports shall be filed annually on or before February 1.

(4) Failure by a board to file the required reports shall provide grounds for the Department to withhold disbursement of grant funds for subsequent grant rounds.

### **(C) Submittal Required**

Boards must submit an annual expense itemization for each grant, including date of purchase, item purchased, purchase price, and vendor. When equipment is purchased, Boards shall submit copies of invoices, purchase orders, checks, or other supporting documents to the Department with progress reports. These documents should include serial numbers, vehicle identification numbers or other identifiers and physical location of the equipment. Funds for the next grant round will not be disbursed until these requirements for the previous round, and the requirements in this regulation are complete.

### **(D) Right of Entry and Access**

(1) Department personnel shall have the right of entry during normal business hours, unless otherwise deemed necessary by the Department, to the premises of a grant-funded facility and the right of access to all records pertaining to a grant-funded project or activity.



(2) Boards shall maintain copies of invoices, purchase orders, checks, or other supporting documents for grant expenditures at the Regional Solid Waste District and shall produce these items upon request for on-site inspection by the Department.

**(E) Modifications**

After the Department has approved a grant, modifications may be made to the grant project if the grantee submits adequate documentation of the proposed changes and receives written approval by the Board and the Department. Modifications that alter the grant category or materially change the project must be public-noticed under the provisions of this regulation.

**(F) Notice of Irregularities**

It shall be the responsibility of the Boards to immediately notify the Department in the event that the grantee has not met conditions of the Department approved grant application. A grant may be terminated by the Board or the Department, if either the Board or the Department determines that the grantee is unable or unwilling to complete or meet the conditions of the grant as set forth in the grant application. If a grant is terminated, grant funds shall be reimbursed in accordance with Ark. Code Ann. § 8-6-610(c). Funds returned may be used to fund the next prioritized project with written approval from the Department. Funds not reallocated within one hundred twenty (120) calendar days shall be returned to the Department for allocation in the next grant round.

**(G) Forms**

The Department shall provide forms to be used by the Districts in the reporting process.

**(H) Audit Requirements**

Each Regional Solid Waste Management Board shall procure an annual financial audit.

- (1) Such audits shall be conducted following each District's fiscal year end.
- (2) Such audits shall, at the minimum, define recycling grant funds and other grant funds distributed by the Department separate from other District revenues, delineating interest and/or other receipts received as a result of the funds and documenting each expenditure. Such audits also shall identify project costs or contractual costs separate from administrative costs.
- (3) Such audits shall be conducted by a Certified Public Accountant in good standing with the Arkansas State Board of Public Accountancy and in accordance with the Governmental Auditing and Reporting Standards issued by the Comptroller General of the United States.
- (4) Each audit report and accompanying comments and recommendations shall be reviewed by the appropriate regional solid waste management board.
- (5) Copies of each Regional Solid Waste Management District's annual audit report shall be filed with the Department and the Division of Legislative Audit. Copies shall also be available for public inspection with the books and records of the District.

- (6) An audit report containing a qualified opinion or adverse opinion shall require written explanation and supporting documentation from the Regional Solid Waste Management Board, and shall become part of the audit report.
- (7) An audit report with an unqualified opinion, but containing control deficiencies, significant deficiencies, or material weaknesses shall require written explanation and supporting documentation from the Regional Solid Waste Management Board and shall become part of the audit report.
- (8) Failure to provide the Department and the Division of Legislative Audit with a full and complete annual audit report within nine (9) months of the District's fiscal year ending date shall be cause to suspend or terminate any and all revenue from funding programs that are administered by the Department unless otherwise authorized by the Director.

**Reg.11.511      Conditions of Grant**

**(A) Funds Forfeited**

Funds for any grant project not started prior to the date that pre-applications for the next grant round are submitted to the Department will be forfeited and become a part of the total funds available for all Districts in the next grant round unless the project delay receives written approval by the Board and the Department.

If, within a three-year period beginning on the date that the Department awards a grant, the grantee does not meet the conditions of the grant prescribed under Ark. Code Ann. § 8-6-610(b) and Regulation 11, the Department may order the grantee to reimburse the grant award in accordance with Ark. Code Ann. § 8-6-610(c), plus interest moneys earned from the holding of grant funds by the grant recipient. Grantees will be ineligible for further grant awards until reimbursement is made. Reimbursed moneys will become a part of the total fund available for all Districts in the next grant round.

**(B) Earned Interest on Grant Awards**

Interest moneys earned from the holding of grant funds by a grant recipient or District shall be used exclusively for computer and electronic equipment recycling programs consistent with the District's Solid Waste Management Plan. It shall be the responsibility of the grantee to monitor the collection of earned interest and direct interest moneys to the project supported by the grant award or to other recycling programs consistent with the applicable District's Solid Waste Management Plan.

**(C) Project Deadlines**

All grantees shall develop recycling programs, as outlined in the grant application, and expend all grant funds within three (3) years following the date of disbursement of funds by the Department unless a written extension is granted by the Department.

**(D) Markets Sought**

All grantees shall seek to market or reuse the materials diverted under the recycling program from disposal into a landfill in the period of three (3) years following the grant award.

**(E) Notice Published**

The applicant shall insert in a newspaper of general circulation in the area affected a notice describing the applicant's grant request and soliciting written comments from the public. The comment period shall last for thirty (30) calendar days after the date of publication and may be concurrent with an application submission to the Department. Proof of publication of the notice and copies of comments submitted shall be forwarded to the Department. Grants cannot be approved or funded until these items are received by the Department.

**Reg.11.512      Appeals of Grant Decisions**

**(A) Appeals**

The following persons shall have the right to appeal any grant decisions as defined herein made by the Department:

- (1) A grant applicant;
- (2) A grantee;
- (3) Provided the matter to be appealed is subject to a public comment period, any person who submitted written comments on the contested matter within the comment period;
- (4) A Regional Solid Waste Management District Board; or
- (5) Any other person entitled by law to contest the Director's decision.

**(B) Review**

Any such person may appeal a grant decision by requesting an adjudicatory hearing and Commission review in accordance with Regulation 8: Administrative Procedures, provided however that the definition of "grant decisions" contained herein will apply instead of the definition of "grant decisions" contained in Regulation 8. Such request shall be in the form and shall follow the procedures required by Regulation 8.

## **CHAPTER SIX: SEVERABILITY AND EFFECTIVE DATE**

### **~~Reg.11.501~~ Reg.11.601      Severability**

If any provision of this regulation or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end provisions of this regulation are declared to be severable.

### **~~Reg.11.502~~ Reg.11.602      Effective Date**

This regulation is effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** Arkansas Department of Environmental Quality  
**DIVISION** Solid Waste Management Division  
**DIVISION DIRECTOR** Roger Lawrence  
**CONTACT PERSON** Lorielle Gutting  
**ADDRESS** 5301 Northshore Drive, North Little Rock, AR 72218-5317  
**PHONE NO.** 501-682-0884 **FAX NO.** 501-682-0891  
**E-MAIL** gutting@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**  
**Subcommittee on Administrative Rules and Regulations**  
**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 No. 11: Solid Waste Management Fees, Funds and Grants.

2. What is the subject of the proposed rule?

Regulation No. 11 contains the regulations for solid waste disposal fees; Landfill Post-Closure Trust Fund; and the Recycling Grants Program.

3. Is this rule required to comply with federal statute or regulations? Yes \_\_\_\_\_  
No   X  

If yes, please provide the federal regulation and/or statute citation.

Not applicable.

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?  NA

When does the emergency rule expire?  NA

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No  X

5. Is this a new rule? Yes \_\_\_\_\_ No  X  If yes, please provide a brief summary explaining the regulation.

Not applicable.

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.

Not applicable.

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."

Incorporate statutory changes passed by the General Assembly that amend various provisions of the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, particularly Act 602 and Act 819 of 2011, Act 189 of 2009, and Act 1325 of 2005; establish regulations for the Computer and Electronic Equipment Recycling and Grant Program; clarify provisions of the Landfill Post-Closure Trust Fund; clarify the recycling grant program timelines and obligations contained in Ark. Code Ann. § 8-6-609; and make minor stylistic revisions.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Ark. Code Ann. § 8-6-602(d). Act 602 of 2011 (amends Ark. Code Ann. § 8-6-612); Act 819 of 2011 (amends Ark. Code Ann. §§ 8-6-603 and 8-6-609) and Act 1325 of 2005 (amends Ark. Code Ann. § 8-6-609(c)(1)).

7. What is the purpose of this proposed rule? Why is it necessary?

The amendments to Regulation 11 incorporate statutory changes passed by the General Assembly that amend various provisions of the Solid Waste Management

EXHIBIT B

and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, particularly Act 602 and Act 819 of 2011, Act 189 of 2009, and Act 1325 of 2005; establish regulations for the Computer and Electronic Equipment Recycling and Grant Program; clarify provisions of the Landfill Post-Closure Trust Fund; clarify the recycling grant program timelines and obligations contained in Ark. Code Ann. § 8-6-609; and make minor stylistic revisions.

8. Will a public hearing be held on this proposed rule? Yes  X  No \_\_\_\_\_

If yes, please complete the following:

Date:  September 5, 2012

Time:  2:00 -4:00 p.m.

Place:  APC&EC Commission Room, 5301 Northshore Drive, North Little Rock, AR

9. When does the public comment period expire for permanent promulgation?

The period for receiving all written comments shall conclude ten (10) business days after the public hearing pursuant to APC&EC Reg.8.806(B). The projected date for the close of public comment period will be approximately 4:30 p.m. September 20, 2012.

10. What is the proposed effective date of this proposed rule?

Final promulgation of the rule is anticipated on January 25, 2013. The rule will become effective 10 days after filing with the Arkansas Secretary of State, the State Library and the Bureau of Legislative Research, which is anticipated to be February 4, 2013.

11. Do you expect this rule to be controversial? Yes \_\_\_\_\_ No  X  If yes, please explain.

Not applicable.

12. 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.

Unknown.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Environmental Quality  
**DIVISION** Solid Waste Management Division  
**PERSON COMPLETING THIS STATEMENT** Lorielle Gutting  
**TELEPHONE NO.** 682-0884 **FAX NO.** 682-0891  
**EMAIL:** gutting@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 No. 11: Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fees; Illegal Dumps Program; and Recycling Grants Program

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes \_\_\_\_\_ No  X

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibitive, please explain.

Not applicable.

3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Not applicable.

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
(Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_



4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected.

**Current Fiscal Year**

None

**Next Fiscal Year**

None

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$0

## MEMORANDUM

TO: ROGER LAWRENCE  
CHIEF, SWM DIVISION

THROUGH: TAMMY HARRELSON  
CHIEF, LEGAL DIVISION

FROM: LORIELLE GUTTING  
STAFF ATTORNEY, LEGAL DIVISION

DATE: July 2, 2012

RE: ANALYSIS OF PROPOSED CHANGES  
FOR REGULATION NO. 11

---

Pursuant to Ark. Code Ann. § 25-15-302, a determination must be made whether or not the proposed rules will affect small businesses.

1. The proposed amendment incorporates statutory changes passed by the General Assembly that amend various provisions of the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, particularly Act 602 and Act 819 of 2011, Act 189 of 2009, and Act 1325 of 2005; establishes regulations for the Computer and Electronic Equipment Recycling and Grant Program; clarifies provisions of the Landfill Post-Closure Trust Fund; clarifies the recycling grant program timelines and obligations contained in Ark. Code Ann. § 8-6-609; and makes minor stylistic revisions.

2. The proposed amendment will not have an effect on small businesses. Therefore, there is no means known to exist to make the rule less costly for small businesses without compromising the objective of the rule pursuant to Ark. Code Ann. § 25-15-302(b).

## **ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS**

*Answer to best of the proponent's ability, as required by APC&EC Regulation 8, Chapter 3.5*

### **STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT (to be included in petition to initiate rulemaking)**

#### **APC&EC REGULATION NO. 11 REGULATIONS FOR SOLID WASTE DISPOSAL FEES; LANDFILL POST-CLOSURE TRUST FEES; ILLEGAL DUMPS PROGRAM AND RECYCLING GRANTS PROGRAM FEBRUARY 2008 UPDATE**

**1A.** Is the proposal expressly addressed by a Federal requirement? **No.**

If yes, see 1B.

If no, an Economic Impact/Environmental Benefit Analysis is not required.

**1B.** If 1A is YES, is proposed regulation equivalent, or more stringent, or less stringent than federal requirement? **N/A**

- If equivalent – Economic Impact/Environmental Benefit Analysis is not required
- If more stringent - Economic Impact/Environmental Benefit Analysis is required
- If less stringent - Economic Impact/Environmental Benefit Analysis is not required, but does require federal agency approval prior to adoption if the proposal is part of an authorized state program.

### **STEP 2: THE ANALYSIS (to be included in petition to initiate rulemaking, if required)**

#### **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.

*(a) Ark. Code Ann. § 25-15-302(a)(2)(C) exempts from the required analysis rules that “substantially codify existing state or federal law.” Since most of the changes proposed in this rulemaking codify into the regulation new and existing state laws as outlined above, this rulemaking should be exempt from the analysis. Those changes that do not codify new and existing laws are minor administrative and stylistic changes that should not affect small businesses. Deadlines are clarified under the recycling grants program, but should not have an economic impact on small businesses.*

*(b) There are approximately 18 regional solid waste management districts and their respective counties and municipalities within their jurisdictional boundaries.*

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.

*1) Unknown. The Department doesn't have sufficient data to determine an estimated increase or decrease. However, the proposed changes provide clarification to deadlines and should not have an economic impact.*

*2) Unknown. There is no anticipated cost to implement this rule on small businesses or the Department.*

3. List any fee changes imposed by this proposal and justification for each.

*None.*

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?

*None.*

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 is no known impact to another state agency nor is there another state agency's rule that could address any of the proposed changes. This rulemaking is not in conflict with, nor has any nexus to, any other relevant state agency's rule.*

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

*No.*

## **2B. ENVIRONMENTAL BENEFIT**

1. What issues affecting the environment are addressed by this proposal?

*While the rule is mostly administrative, it is expected to provide indirect long-term positive effects on the environment. The regulation pertains to solid waste disposal fees, the Landfill-Post-Closure Trust Fund, and the Recycling Grants Program.*

2. How does this proposed rule protect, enhance, or restore the natural environment for the well-being of all Arkansans?

*The regulation pertains to solid waste disposal fees, the Landfill-Post-Closure Trust Fund, and the Recycling Grants Program. Minimizing waste placed in landfills is crucial through the recycling program and providing mechanisms for proper landfill maintenance is crucial to the environment and human health.*

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

*Unknown.*

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

*Unknown.*

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to  
Initiate Rulemaking  
Regulation No. 11**

**MINUTE ORDER NO. 12-**

**Docket No. 12- -R**

**PAGE 1 OF 3**

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On July 11, 2012, the Arkansas Department of Environmental Quality, (“ADEQ”) filed a Petition to Initiate Rulemaking to Amend Regulation No. 11: Regulations for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fees; Illegal Dumps Program; and Recycling Grants Program. The Petition has been designated as Docket No. 12-\_\_\_\_-R.

The Commission's Regulations Committee met on the 27th day of July, 2012, to review the Petition and it recommends that the Commission institute a rulemaking proceeding to consider adopting the proposed amendments to Regulation No. 11. The Regulations Committee also recommends adoption of the following procedures and schedule.

1. The Arkansas Department of Environmental Quality (“ADEQ”) shall file an original and one (1) copy and a computer disk in Word of all materials required under this Minute Order. This requirement does not apply to transcripts.

2. Persons submitting written public comments shall submit them to ADEQ and ADEQ will deliver the originals of all comments to the Commission Secretary at the conclusion of the proceeding.

3. A public hearing shall be conducted on September 5, 2012 at 2:00 p.m. at APC&EC Commission Room, 5301 Northshore Drive, North Little Rock, Arkansas.

4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing, at 4:30 p.m. September 20, 2012, unless an extension of time is granted.

5. ADEQ shall file, not later than fourteen (14) days before the Commission meets to consider adoption of the proposed rule, a Statement of Basis and Purpose and Responsive Summary as required by Reg.8.814 and Reg. 8.815. In addition, ADEQ shall file a proposed Minute Order deciding this matter.

6. ADEQ 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.

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to  
Initiate Rulemaking  
Regulation No. 11**

**MINUTE ORDER NO. 12-**

**Docket No. 12- -R**

**PAGE 2 OF 3**

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7. The Regulations Committee and the Commission may consider this matter at their December 2012 meeting. In the event 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 committees. Members of the Regulations Committee may ask questions of any persons that made oral or written comments and it will make a recommendation to the Commission.

8. At the Commission meeting, the presentation of oral statements and legal arguments will 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. At the discretion of the Chair, the one (1) hour oral statement period may be extended.

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. ADEQ shall be permitted ten (10) minutes in which to address the Commission.

d. At the conclusion of all statements, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements 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.

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to  
Initiate Rulemaking  
Regulation No. 11**

**MINUTE ORDER NO. 12-**

**Docket No. 12- -R**

**PAGE 3 OF 3**

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9. Pursuant to Ark. Code Ann. § 25-15-302, the Commission finds the proposed regulation does not affect small businesses.

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:**

\_\_\_\_\_ **J. Bates**  
\_\_\_\_\_ **L. Bengal**  
\_\_\_\_\_ **J. Fox**  
\_\_\_\_\_ **D. Hendrix**  
\_\_\_\_\_ **L. Hitchcock**  
\_\_\_\_\_ **S. Jorgensen**

\_\_\_\_\_ **D. Samples**  
\_\_\_\_\_ **L. Sichel**  
\_\_\_\_\_ **J. Simpson**  
\_\_\_\_\_ **W. Thompson**  
\_\_\_\_\_ **B. White**  
\_\_\_\_\_ **R. Young**

\_\_\_\_\_  
**John Chamberlin, Chair**

**Submitted by: Lorielle Gutting**

**DATE PASSED: July 27, 2012**



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

**IN THE MATTER OF PROMULGATION OF )  
REGULATION NO. 14, REGULATIONS AND ) DOCKET NO. 11-006-R  
ADMINISTRATIVE PROCEDURES FOR )  
THE WASTE TIRE PROGRAM )**

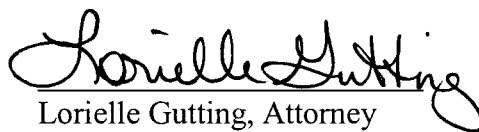
**MOTION TO ADOPT AMENDMENTS TO REGULATION NO. 14**

Comes now the Arkansas Department of Environmental Quality (“ADEQ” or “Department”), by and through its attorney, Lorielle Gutting, and for its Motion to Adopt Amendments to Regulation No. 14, states:

1. On December 2, 2011, the Arkansas Pollution Control and Ecology Commission (hereinafter “APC&EC” or “Commission”) granted ADEQ’s Petition to Initiate Rulemaking to Amend Regulation No. 14.
2. A public hearing was held at ADEQ Headquarters in North Little Rock, Arkansas on March 7, 2012. The public comment period ended on March 21, 2012. No written comments were submitted and no oral comments were received at the public hearing.
3. ADEQ filed its Response to Comments and its Statement of Basis and Purpose before the Commission on April 11, 2012.
4. Pursuant to APC&EC Reg.8.814, ADEQ submits the following documents supporting adoption of the regulation to the Commission for its consideration:
  - a. Exhibit A – Final Proposed Regulation
  - b. Exhibit B – Regulation Tracking Sheet
  - c. Exhibit C – Proposed Minute Order

WHEREFORE, ADEQ prays that the Commission adopt the Proposed Minute Order adopting the amendments to Regulation No. 14.

Respectfully submitted,

A handwritten signature in black ink, reading "Lorielle Gutting". The signature is written in a cursive style with a large initial "L" and a long, sweeping underline.

Lorielle Gutting, Attorney  
Arkansas Department  
of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118

# ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



## REGULATION NO. 14

### REGULATIONS AND ADMINISTRATIVE PROCEDURES FOR THE WASTE TIRE PROGRAM

Adopted by the  
Arkansas Pollution Control & Ecology Commission  
in July 2012

EXHIBIT A

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## **CHAPTER 1: GENERAL PROVISIONS**

### **Reg.14.101 Intent**

The purpose of this regulation is to protect the public health, welfare and the environment by providing for the regulation of waste tire collection, storage, transporting, processing and disposal and to encourage reducing, reusing, recycling and retreading of waste tires.

### **Reg.14.102 Authority**

Title 8, Chapter 9, Subchapter 4 of the Arkansas Code Annotated (Ark. Code Ann.), as amended by Acts 518, 519, and 529 of 1993, Act 1315 of 1995, Act 1292 of 1997, Acts 1164 and 775 of 1999, Act 1304 of 2003, Acts 961, 1822, and 1951 of 2005, and Act 744 of 2011 (“Acts”) authorizes the Arkansas Pollution Control and Ecology Commission (“Commission”) to adopt rules and regulations necessary for the Arkansas Department of Environmental Quality (“Department”) to implement and effectuate the powers and duties of the Commission as established under the Acts.

## CHAPTER 2: DEFINITIONS

### Reg.14.201 Definitions

For the purposes of this regulation, unless otherwise stated herein, the following definitions apply:

**“Abatement”** means the removal of waste tires from stock piles or other sites with accumulations of whole or shredded scrap tires.

**“Automobile Tire”** means any motor vehicle tire with a load rating of “F” or lower.

**“Baling”** means a method of volume reduction whereby tires are compressed into bales.

**“Board”** means unless otherwise specified, a Regional Solid Waste Management Board as established pursuant to Ark. Code Ann. § 8-6-703 *et seq.*

**“Civil Engineering Application”** means the use of waste tires in lieu of or in addition to natural occurring materials (such as rock, sand, dirt, gravel, etc.) in construction. This definition does not include land reclamation.

**“Commission”** means the Arkansas Pollution Control and Ecology Commission.

**“Compacted and Baled Tires”** means tires that have been mechanically compressed and tied with interlocking wrappings that have been approved by the Department.

**“Department”** means the Arkansas Department of Environmental Quality, or its successor.

**“Director”** means unless otherwise specified, the Director of the Arkansas Department of Environmental Quality or the Director’s designee.

**“Disclosure Statement”** means a written statement regarding business and legal activities as defined in Ark. Code Ann. § 8-1-106 *et seq.*

**“Distribution Cycle”** means a single quarterly funding cycle that the Department opens with the acceptance of District quarterly reports which detail moneys received and expended, tires collected, and other program related information as determined by the Department; and ends with the distribution of grant moneys from funds available for the distribution cycle.

**“District”** means unless otherwise specified, a Regional Solid Waste Management District as defined in Ark. Code Ann. § 8-6-702 *et seq.*

**“Fee Paid Tire”** means waste tire in which a state waste tire fee has been collected, reported, and paid on the replacement tire sold at retail.



**“Grant Decisions”** means final administrative decisions by the Director on all applications for grants pursuant to the Department’s administration of the Waste Tire Program created under Ark. Code Ann. § 8-9-401 *et seq.* and the final decision of the Director on any disputes arising under any such grant.

**“Grant Round”** means a two-year grant cycle that the Department opens with the acceptance of new applications for funding and ends with eligibility approval to Districts to participate in quarterly distribution cycles during the given two-year period.

**“Load Rating”** means the system of trade designations that identifies the weight carrying capacity range of a tire.

**“Manufacture Reject Tire”** means a tire rendered defective in the manufacturing process.

**“Motor Vehicle”** means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated primarily on the roads of this State, used to transport persons or property, and propelled by power other than muscular power.

**“Non-Fee Paid Tire”** means waste tire in which no state waste tire fee has been collected, reported, and paid on a replacement tire sold at retail.

**“Operator”** means any person who performs any operation at a permitted waste tire processing or disposal facility requiring individual judgment which may directly affect the proper operation of the facility. Operator shall not be deemed to include any official solely exercising general administrative supervision.

**“Permit”** means a written consent issued by the Department authorizing a person or business to construct, operate, and/or maintain a waste tire processing facility, a waste tire disposal facility, or a waste tire collection center.

**“Permitted Site”** means any site used for collection, storage, processing, or disposal of waste tires which has a current valid operating permit issued by the Department.

**“Person”** means any individual, corporation, company, firm, partnership, association trust, state agency, government instrumentality or agency, institution, county city, town or municipal authority or trust, venture or other legal entity, however organized.

**“Processed Tire”** means tires and commingled tire parts and pieces that have been cut, shredded, or otherwise altered so that they are no longer whole and/or no longer identifiable.

**“Quantity”** means the weight, volume, or actual number of tires.

**“Recycling”** means the systematic collecting, sorting, decontaminating, and returning of waste materials to commerce as commodities for use or exchange.

**“Regional Solid Waste Management Board”** means a “Board” created under Ark. Code Ann. § 8-6-701 *et seq.*

**“Regional Solid Waste Management District”** means a “District” created under Ark. Code Ann. § 8-6-701 *et seq.*

**“Registered Professional Engineer”** means professional engineer registered in the State of Arkansas.

**“Registered Used Tire Dealer”** means a tire retailer who is registered with the Arkansas Department of Finance and Administration as a Waste Tire Fee Collecting Agent and who sells both new and used tires.

**“Residuals”** means any liquids, sludges, metals, fabric or byproducts resulting from the processing or storage of tires. Residuals do not include processed tires held for recycling provided the conditions of Chapter 14 are met.

**“Specialty Tire”** means any tire not specifically covered by any other definition in this section including without limitation traction engines, road rollers, vehicles that run only on a track, bicycles, and farm tractors and trailers.

**“Tire”** means a continuous solid or pneumatic rubber covering that is used for encircling the wheel of a motor vehicle.

**“Tire Derived Fuel” or “TDF”** means fuel derived from whole tires or processed tires.

**“Tire Manufacturer”** means a manufacturing operation engaged in the final assembly of the basic components of a tire.

**“Tire Recycling”** means any process by which waste tires, processed tires, compressed and baled tires, or residuals are reused or returned to use in the form of products or raw materials.

**“Truck Tire”** means any motor vehicle tire with a rim size greater than nineteen inches (19”) and a load rating of “F” or higher including without limitation wide-base or extra-wide single tire.

**“Used Tire”** means a tire that is repairable or retreadable for its original intended purpose but shall not include a tire being held for ninety (90) calendar days or less for the purpose of retreading or repairing the tire.

**“Waste Tire”** means a whole tire that is no longer repairable or retreadable or no longer suitable for its original intended purpose because of wear, damage, or defect. Waste tire includes, but is not limited to, used tires and processed tires.

**“Waste Tire Collection Center”** means a site where used or waste tires are collected from the public prior to being offered for recycling or disposal and where fewer than three thousand (3,000) loosely stored tires are kept on the site on any given day or up to a maximum of ten thousand (10,000) tires which have been compacted and baled are kept on the site on any given day.

**“Waste Tire Generator”** means any person who generates by removing from rim for disposal or stores waste tires on property owned or leased by that person.

**“Waste Tire Management Facility”** means a permitted facility involved in the collection, storage, recycling, processing, and/or disposal of waste tires.

**“Waste Tire Monofill”** means a separately permitted landfill or landfill unit specifically designed and rated for the sole disposal of waste tires, and where the area has been prepared in such a manner that the tires can be recovered at a later date.

**“Waste Tire Originating From a Tire Manufacturer”** means those new tires which originate from a tire assembly process and are determined by the tire manufacturer to be either defective or unfit for use on a motor vehicle.

**“Waste Tire Processing Facility”** means a site where equipment is used to cut, chip, grind, or otherwise alter whole waste tires.

**“Waste Tire Site”** means a site at which one thousand (1,000) or more unpermitted used or waste tires are accumulated in the outdoors, whether loosely stored or compacted and baled, or a combination thereof.

**“Waste Tire Transporter”** means a person who collects and transports from one place to another, twenty-five (25) or more whole, used or waste tires, processed tires, or tire residuals for storage, processing, recycling, reuse, resale, or energy recovery.

**“Wide-base Tire or Extra-wide Single Tire”** means a tire approximately four hundred fifty-five millimeters (455 mm) wide that is used on a motor vehicle in which the front axle load exceeds the load capacity of a truck tire.

## CHAPTER 3: WASTE TIRE PERMIT EXEMPTIONS

### Reg.14.301 Exemptions

- (A) A permit is not required for a tire retreading business, where fewer than one thousand (1,000) waste tires are kept on the business premises.
- (B) A permit is not required for a single facility that, in the ordinary course of business, removes tires from motor vehicles, if fewer than one thousand (1,000) waste tires are kept onsite.
- (C) A permit is not required for a site designated by a regional solid waste management district, serving as a waste tire collection center, where fewer than one thousand (1,000) tires are kept on the premises.
- (D) A person who leases or owns real property may use one thousand (1,000) or less waste tires for soil erosion control and drainage purposes, construction and building material, civil engineering applications or to secure covers over silage, hay, straw or agricultural products after obtaining authorization for such use from both the Department and the District in which the project will be located. Authorization by the Department may include requirements of the property owner to:
  - (1) Adequately prevent the tires from becoming a health, safety, and/or fire hazard; and
  - (2) Secure the tires in the event of flooding or other occurrence so that the tires will remain in place; and to take any other measures deemed necessary by the Department.

If more than one thousand (1,000) tires are located on the property, then the Department may require the owner or lessor to meet the general permitting requirements in this regulation. Authorization from the Department and the District in which the project will be located may include alternative end use requirements outlined in this regulation.

## CHAPTER 4: WASTE TIRE FEES

### **Reg.14.401 Fees Imposed at Retail**

Subject to Ark. Code Ann. § 8-9-404 *et seq.*, fees shall be imposed upon the sale of each new motor vehicle tire sold at retail. The fees shall be charged by the tire retailer to the person who purchases a motor vehicle tire for use on a motor vehicle and not for resale. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale. The fees, imposed less five percent (5%) of fees collected, shall be retained by the tire retailer as administration cost, and paid monthly to the Director of the Department of Finance and Administration.

### **Reg.14.402 Authorization of Fee Amounts**

- (A) The fees on automobile tires and truck tires shall be imposed at the rate of two dollars (\$2.00) per tire.
- (B) An additional fee on truck tires shall also be imposed at the rate of three dollars (\$3.00) per tire.

### **Reg.14.403 Exclusions**

- (A) The terms “sold at retail” and “retail sales” do not include the sale of new tires to a person solely for the purpose of resale, provided the subsequent retail sale in this State is subject to the fee.
- (B) The fees imposed by this Chapter do not apply to retreaded tires or tires included as part of the equipment of a new motor vehicle.

### **Reg.14.404 Import Fees**

In addition to the fee imposed on new tires, a fee shall be imposed at the rate of one dollar (\$1.00) per tire on all waste automobile and truck tires that are imported into Arkansas. Subject to authorization by the Arkansas Pollution Control and Ecology Commission, this fee shall not apply if the waste tires are being imported to a permitted waste tire processing facility for recycling or reuse. The fee imposed shall be paid by the importer to the Arkansas Department of Finance and Administration in accordance with Ark. Code Ann. § 26-18-101 *et seq.* and any regulations promulgated by the Arkansas Department of Finance and Administration.

### **Reg.14.405 Fee Remittance**

The fees shall be collected by the Director of the Arkansas Department of Finance and Administration and shall be subject to the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 *et seq.*

**Reg.14.406 Fee Imposed After Sales Taxes Computed**

Fees imposed by this Chapter shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale.

**Reg.14.407 No Additional Charge to Customer**

It shall be the responsibility of the tire retailer to accept, at no additional cost to the customer other than those fees collected pursuant to this regulation, any or all used or waste tires for which a new replacement tire was purchased.

**Reg.14.408 Responsibility for Tires Collected**

The tire retailer shall ensure that any used or waste tires collected through the tire retailer's business are transported by a licensed waste tire transporter to a permitted waste tire collection center, solid waste management facility, waste tire processing facility, or to a registered used tire dealer. This requirement shall also include proper stacking or placement of the tires in collection containers.

**Reg.14.409 Tire Retailer Administration Cost**

All fees imposed, less five percent (5%) of fees collected pursuant to Reg.14.402(A) and (B) which may be retained by the tire retailer for administration costs, shall be submitted monthly to the Director of the Arkansas Department of Finance and Administration.

**Reg.14.410 Filing of Return**

Each tire retailer shall file a return with the Director of the Arkansas Department of Finance and Administration, with a copy to the applicable District, on or before the twentieth (20<sup>th</sup>) of each month, showing the total fees collected for both automobile and truck tires during the preceding calendar month, and shall remit the fees along with the return to the Arkansas Department of Finance and Administration. The Director of the Arkansas Department of Finance and Administration shall prescribe the form and contents of the return. At a minimum, the form shall indicate separately the number of automobile tires and the number of truck tires sold for which a fee was collected. In addition, the form shall indicate in which County or District the tires were sold.

**Reg.14.411 Revenues Deposited**

(A) The Arkansas Department of Finance and Administration shall deposit the proceeds of the waste tire fee in the State Treasury as special revenues and shall credit the proceeds to the following special funds created on the books of the State Treasurer, the State Auditor, and the Chief Fiscal Officer of the State in the following proportions:

- (1) One hundred percent (100%) of the proceeds collected under Reg.14.402(B) and ninety-two percent (92%) of the proceeds collected under Reg.14.402(A) shall be deposited into

the fund known as the Waste Tire Grant Fund. Interest and other revenue received as a result of these funds shall also be deposited into the Waste Tire Grant Fund.

- (2) Eight percent (8%) of the proceeds collected under Reg.14.402(A) shall be deposited into the Arkansas Department of Environmental Quality Fee Fund, as created in Ark. Code Ann. § 8-1-105 *et seq.*

(B) In addition to all moneys appropriated by the Arkansas General Assembly to the Waste Tire Grant Fund, there shall be deposited into the Waste Tire Grant Fund any federal government moneys designated to enter the Waste Tire Grant Fund, any moneys received by the State as a gift or donation to the Waste Tire Grant Fund, and all interest upon money deposited into the Waste Tire Grant Fund.

#### **Reg.14.412 Administration of Grant Fund**

The Waste Tire Grant Fund shall be administered by the Department, which shall authorize grants and administrative expenditures from the fund in accordance with this regulation and applicable state laws.

#### **Reg.14.413 Proceeds of the Fee**

For the purposes of this Chapter, “proceeds of the fee” shall mean all funds collected and received by the Arkansas Department of Finance and Administration under this Chapter, and interest and penalties on delinquent waste tire fees.

## CHAPTER 5: TIRE GRANT PROGRAM

### Reg.14.501 Allocation of Tire Grant Funds

(A) District Boards are responsible for the administration of the Waste Tire Program within their respective service areas. The Districts shall be the sole eligible recipients of grant funding available through the Waste Tire Grant Fund. Pursuant to Ark. Code Ann. § 8-9-401 *et seq.*, waste tire funds shall be allocated to the Districts using four (4) separate types of funding disbursements, hereinafter known as Additional Truck Tire Grants, Waste Tire Abatement Grants, Support Grants, or Waste Tire Management Grants, and shall follow distribution procedures described herein.

#### (1) Additional Truck Tire Fees

- (a) Funds collected as Additional Truck Tire Fees shall be distributed quarterly to the Districts within which the waste tires were disposed when replaced by new tires on which additional truck tire fees were imposed when purchased at retail. The formula for distribution of additional truck tire grants shall be based on the number of truck tires disposed in the prior calendar year in accordance with Ark. Code Ann. § 8-9-404 *et seq.*
- (b) As required by Ark. Code Ann. § 8-9-403 *et seq.*, each District shall develop and implement a manifest system to track the flow and number of waste tires within their service area.
- (c) The Department shall not disburse Additional Truck Tire Grants in amounts greater than funds available from proceeds of the Additional Truck Tire Fees.

#### (2) Abatement Grants

- (a) Of the total amount of grant funds available to the Districts, excluding Additional Truck Tire Grants, ten percent (10%) shall be set aside for special grants to Districts to be utilized for Abatement Grants and Support Grants based upon funding availability.
- (b) A District may utilize existing reserves or apply for waste tire abatement grants for the removal of waste tires from illegal disposal sites, including those determined to be non-fee paid tires.
- (c) These funds may be used only when the person(s) responsible for abatement of a site is either unable or unwilling to properly and timely abate the site.
- (d) Nothing herein shall relieve the responsible person from any financial liability for such abatement.



- (e) After the utilization of special grant funds for the abatement of an illegal waste tire site, any funds recovered by the Department or the District from the person(s) responsible shall be returned to the Waste Tire Grant Fund, or shall be returned to the District in instances where reserves held by a District are utilized to pay for site abatement.

### (3) Support Grants

- (a) A District, whose tire disposal costs exceeds waste tire management funds, may apply for support funds using a support grant request form prescribed by the Department. To qualify for support funds, a District must have:
  - (i) A system in place for assessing fees on non-fee paid tires to pay for their management, and
  - (ii) Verified that available funds are insufficient to finance waste tire management within the District.
- (b) In determining if a District's funds are insufficient to finance waste tire management, the Department will compare a District's estimated upcoming quarter expenses to their total available funds for the upcoming quarter.

### (4) Waste Tire Management Grants

- (a) The total remaining funds, excluding Additional Truck Tire Grant and Abatement or Support Grant Funds, shall be available for distribution to the Districts as Waste Tire Management Grant Funds. Waste Tire Management Grant Funds will be utilized to fund management of tires in accordance with Ark. Code Ann. § 8-9-405(a)(5), except where reserves are utilized for abatement of waste tires from illegal disposal sites as specified in this Chapter.
- (b) After determining total funds available at the end of the preceding quarter and after reviewing reports from each District for the preceding quarter, the Department shall distribute Waste Tire Management Grant Funds to each District as specified herein, utilizing a combination of two methods, hereafter referred to as Method A and Method B. Fifty percent (50%) of set aside funds will be determined using Method A and fifty percent (50%) of the set aside funds will be determined using Method B. The allocation figures obtained from each method will be combined to arrive at each District's fund distribution.
  - (i) Method A:

Disbursement of fifty percent (50%) of the set-aside funds in a grant distribution cycle shall be determined as follow:

The Department shall determine the amount of funds within each Planning and Development District organized under Ark. Code Ann. § 14-166-201 *et seq.* and

recognized by the Governor based upon the same distribution as general revenue support is distributed to the Planning and Development Districts in the current fiscal year.

The Department shall adjust the distribution within the Planning and Development Districts to coincide with the boundaries of the Districts by determining each county's share of the funds available within each Planning and Development District. Each county's share shall be based upon the proportion that each county's population bears to the total population in the Planning and Development District to which the county is assigned, multiplied by the amount of funds determined to be available within the Planning and Development District. The county's proportional share, as determined, shall be added to all other counties' share within the same District.

Formula for Method A:

- I Begin with fifty percent (50%) of the total remaining grant funds.
- II Divide equally by the eight Regional Planning and Development Districts.
- III Multiply this result by the population of each county according to the most recent federal decennial census.
- IV Divide this result by the Planning and Development District population in which the county is located. This determines the portion per county.
- V Individual county portions are grouped and totaled by each new District to give each District's allocation.

(ii) Method B:

Disbursement of fifty percent (50%) of the set-aside funds in a grant distribution cycle shall be based upon District reporting and manifesting of tires disposed for the previous year.

Formula for Method B:

- I Add the total of each District's automobile and truck tires disposed together to determine a statewide total for all tires disposed.
- II Divide the total of each District's automobile and truck tires disposed by the statewide total of automobile and truck tires disposed to determine a ratio for each District.
- III Multiply the ratio for each District by the amount of the fifty percent (50%) grant funds to determine the per District allocation amounts.

(B) Emergency

If the Department determines that an emergency exists that constitutes a threat to human health or the environment, it may, at its discretion, utilize funds available under the Abatement and Support Grants; for the remediation of the emergency conditions.

(C) Waste Tire Management Fund District Obligations

- (1) District Administration Apportionment. Of the total waste tire management grant funds allocated to each District, no more than ten percent (10%) per calendar year may be used by the District to administer the Waste Tire Program.
- (2) Unawarded Funds. Funds set aside for each District in a grant distribution cycle that are not awarded to the District will be rolled over to the next grant distribution cycle.
- (3) Reserve Funds. Prior to the quarterly distribution of waste tire management grant funds the Department shall determine, based upon reports received from each District that:
  - (a) Funds held in reserve have been reported for each District.
  - (b) All interest and other revenue received by each District as a result of the Waste Tire Program has been included in the report.
  - (c) An amount not to exceed the total of a District's previous year's waste tire grant disbursements has been held in reserve by a District or by one (1) or more Districts within a combined District.
- (4) If a District is found to have an overage of funds in reserve, the District shall not be eligible to receive additional waste tire management grant funds until the District has expended, or shows obligations to expend the reserves within the current quarter or longer upon approval of the Department. Funds not awarded shall be rolled over to the next grant distribution cycle.
- (5) Joined Districts. Two (2) or more Districts may be combined, for purposes of receiving joint waste tire management grant funding provided that any joint application, contract or agreement has been signed by the Regional Solid Waste Management Board chairman for each District and provided that such Districts have joined together for the purpose of sharing all resources and funds available among each District within the joined Districts.

(D) Interest and Other Revenue

Interest and all other revenues received by a District relative to the Waste Tire Management Program shall be utilized for waste tire management program activities.

(E) Contingency

If a District is unwilling or unable to meet the requirements of the program, the Department may authorize another District to assume the administration of the waste tire management system and may transfer funds from the waste tire grant fund to the authorized District for this purpose. All equipment held by the District but purchased with waste tire program funds for this purpose may be utilized.

**Reg.14.502 Eligible Projects and Activities**

Project Eligibility

Regional Solid Waste Management Boards, individually or collectively, are eligible to apply for and to receive grants for purposes authorized by the provisions of Ark. Code Ann. § 8-9-405 *et seq.*

**Reg.14.503 Requirements of Regional Solid Waste Management District**

A District must meet the following requirements and provide complete documentation to the Department as follows:

(A) Waste Tire Management Plan

A District must have a waste tire management plan for the disposal or recycling of tires in the District, as required by Ark. Code Ann. § 8-6-717(c). The tire management plan must be a part of the District's Regional Solid Waste Management Plan or must be submitted with the tire grant application for departmental approval. The Department shall prescribe the content of waste tire management plans.

(B) Tire Recycling Feasibility

In order to apply for funds for contracts, equipment or facilities to be used in the processing of tires destined for landfill disposal, monofilling or other long-term storage, or land reclamation, the District must verify that the feasibility of recycling alternatives has been explored. The District must further verify that tire grant funds and revenues from recovered material or energy will not be sufficient to finance the recycling alternative of such tires.

(C) Required Comment Letters

Prior to a District submitting a grant application or a grant contract to the Department, the District shall insert a notice in a newspaper of general circulation in the area affected describing the District's grant request and soliciting written comments from the public. Copies of these comments shall accompany the grant application or contract, or shall be forwarded to the Department when received by the District.

(D) Accountability

Records shall be kept by the District and made available to the Department on all waste tire counts and Waste Tire Program funds, including interest and other revenue received as a result of the Waste Tire Program.

(E) Application Materials

Application forms, changes, contracts or other documents must be completed in good order when submitted to the Department. Additional materials may be required, including but not limited to the following:

- (a) A copy of the District's waste tire management plan or comprehensive solid waste management plan that incorporates a waste tire management plan.
- (b) Specifications and designs, approved by a professional engineer registered in the State of Arkansas, unless otherwise approved by the Department, for grant-funded construction of facilities or bid-quote specifications for equipment when the cost of such construction or equipment exceeds twenty-five thousand dollars (\$25,000).
- (c) Copies of proposed specifications for a service contract and an estimate of the cost of the services to be contracted.
- (d) A project budget summarizing the approximate costs of grant-eligible items or contract services to be funded and costs of facilities and activities not grant funded but an integral part of the proposed project.
- (e) Verification that the applicant has conformed with all applicable procurement laws on contracting for services and on the purchase, use, or sale of equipment and facilities to be secured with state funds.

**Reg.14.504 Arkansas Department of Environmental Quality Responsibilities**

(A) Approval of Funding

The Department shall be responsible for reviewing and evaluating all grant applications, changes, and proposed projects in order to determine eligible project and contract costs, the merit and ranking of proposed grant projects, the amount of the award, and the conditions of approval for a grant award.

(B) Grant Rounds

- (1) At least once biennially, the Department will accept and review applications, contracts, changes and proposed projects for funding eligibility. The Department shall give at least sixty (60) calendar days advance notice of the commencement of a new grant round to Regional Solid Waste Management Boards, and the Regional Solid Waste Management

Boards shall be required to submit a new waste tire grant application for each grant round.

- (2) Additional Truck Tire Fees. Disbursements shall be made quarterly.
- (3) Abatement or Support Grants. Unless an emergency exists, disbursements shall be made quarterly.
- (4) Waste Tire Management Grants. Disbursements shall be made quarterly.

(C) Departmental Review of Application, Contracts, Changes, and Proposed Projects

- (1) If an application, contract, change, or proposed project is rejected for incompleteness or lack of documentation, the Department shall return it to the applicant with an explanation of its deficiencies.
- (2) The eligibility of specific project or contract costs for funding shall be determined by the Department. If upon review the Department determines that a grant application, contract, change, or proposed project is so poorly prepared or inadequately presented that an adequate review is made difficult or impossible, the Department may declare the application, contract, change, or proposed project ineligible. The Department shall provide the applicant with a statement of deficiencies in the application, contract, change, or proposed project in its letter of final determination.
- (3) Notice of Final Determination. The Department shall notify a District in writing of the approval or disapproval of its applications contracts, changes, or proposed projects for funding. If an application, contracts, changes, or proposed projects is not approved for funding, a brief explanation of the rationale for not funding the District shall accompany such notice.

(D) Supervision and Oversight Responsibilities

As determined necessary, the Department may conduct program implementation audits of each District to ensure that waste tire funds are appropriately expended and accounted for and that adequate waste tire management services are provided to the public, tire retailers, and other waste tire generators.

**Reg.14.505 Conditions of Grant Award**

The Department may attach conditions to the award of a grant in order to meet the legislative intent and requirements of Ark. Code Ann. § 8-9-401 *et seq.* These conditions shall include at the minimum:

- (A) Waste Tire Program. All District Boards must meet state requirements for adequate waste tire management, collection and recycling or disposal set out in this regulation or as determined by the Department.

(B) Permits and Licenses. Prior to the awarding of any grant funds, the District and/or their contractors must possess and be in compliance with current necessary permits and licenses required by state law.

(C) Service Contracts and the Purchase, Use, and Sale of Equipment and Facilities.

(1) The District must conform to all applicable procurement laws on contracting for services and on the purchase, use or sale of equipment and facilities secured with state funds.

(2) The Department reserves the right of title or to order the transfer or sale of equipment which is purchased with grant funds but is no longer used for the general purposes stated in the grant application.

(D) Contract Services. The District will award only the per tire or per ton amounts needed to cover the cost of the winning bid on a contract for services. Funding received by a District that is over and above the cost of the winning bid shall be carried in reserve and utilized for other eligible projects as described in Ark. Code Ann. § 8-9-405 *et seq.*

(E) Administrative Expenses.

Of the total waste tire management grant funds allocated to each District, no more than ten percent (10%) per calendar year may be used by the District to administer the Waste Tire Program. Administrative expenses shall be limited to actual costs incurred and may include grant administration costs, including salaries; office equipment; taxes, except taxes assessed on purchases of collection or processing equipment or vehicles used exclusively for collection or processing activities; insurance, except where coverage is on collection or processing equipment or vehicles used exclusively for collection or processing activities; office utilities, phone or postage; licenses and/or permits; legal costs; accounting costs, vehicle registration, except for registration fees assessed on collection or processing equipment or vehicles registration, except for registration fees assessed on collection or processing equipment or vehicles; land acquisition; consulting, if related to the services of a professional engineer at a permitted or proposed processing facility or civil engineering project; office space; and other expenditures approved by the Department.

(F) Terms of Contracts. No grant funds shall be used for a contract in which the term of the contract is longer than that authorized by Ark. Code Ann. § 19-11-238 *et seq.*

#### **Reg.14.506 Disbursement of Grant Funds**

Accounting. The Department shall observe all applicable state accounting procedures and regulations in the disbursement of funds connected with this grants program.

## **Reg.14.507 Reporting and Oversight Requirements**

### **(A) Accounting.**

- (1) The District shall follow a budget and maintain an orderly accounting system to document waste tire revenues and expenditures.
- (2) The District shall observe all applicable accounting procedures and regulations in the management of funds connected with this grant program.
- (3) Waste Tire Program funds shall be accounted for separate from other types of funds held by the District.

**(B) Audit Procedures.** Pursuant to Ark. Code Ann. § 8-6-704(d), each District's annual financial audit shall define expenditures and shall define waste tire grant funds received separately from other District revenues, delineating interest, and other receipts received as a result of the funds.

### **(C) Reporting.**

Quarterly. Within thirty (30) calendar days from the end of each quarter, using a report format to be provided by the Department, each District shall, at the least, provide the Department with quarterly reports summarizing progress in the project and expenditures from the grant award, as well as all revenue received or generated as a result of the District's implementation of the Waste Tire Program. Such report shall include the number and types of fee-paid tires processed and the number and types of non-fee paid tires processed, as well as other information, as determined by the Department, including but is not limited to the following:

The submission of documentation of revenues and expenditures for the three-month period and reserve funds.

- (D) Right of Entry and Access.** Department personnel shall have the right of entry to the premises of any grant-funded facility and the right of access to all records pertaining to any grant-funded project. Denial of access shall result in automatic suspension of the grant.
- (E) Notice of Irregularities.** It shall be the responsibility of the District to immediately notify the Department in the event that the District cannot meet the implementation schedule for a waste tire program or other conditions of the grant award.
- (F) Modifications.** After a grant award has been made, modifications may be made to the grant project only if the District submits adequate documentation with a change order to the Department. The change order will be on a form provided by the Department. The Department will review any changes requested and will determine if any modifications are to be allowed.



### **Reg.14.508 Suspension or Termination of Grant**

(A) Notice. Upon written notice by the Director to the affected District, a grant may be suspended or terminated if the Director determines that because of the District's inability or unwillingness to complete or meet the conditions of the grant there is just cause for suspending or terminating the grant. Such notice shall be sent by certified mail no later than thirty (30) calendar days prior to the effective date of suspension or termination. Such notice shall include:

- (1) The Director's decision to suspend or terminate the grant, the date of the Director's decision, and the effective date of the suspension or termination;
- (2) A statement in reasonable detail giving the explanation of just cause for the suspension or termination;
- (3) Notice of any applicable conditions;
- (4) If the action taken is suspension, a statement that the District's failure to address the reasons for suspension in a timely manner may result in termination of the grant; and
- (5) A statement that the District may request, in accordance with Reg.14.510, an adjudicatory hearing and Commission review on whether the decision of the Director should be reversed or modified.

(B) Suspension Procedures. Suspension shall be for a period of time to be approved by the Department after negotiations with the District, but not to exceed twelve (12) months. During the period of suspension no funds shall be disbursed to the District and the District must demonstrate to the Department's satisfaction that the reasons for suspension have been addressed and corrected in order for the grant funding to be reinstated. If, at the end of the specified suspension period, the Director determines that the grant project and conditions cannot be continued or completed, the grant shall be automatically terminated and the Director shall notify the District of such termination.

(C) Termination Procedures. Termination of a grant need not be preceded by suspension proceedings as described in this Chapter.

(D) Waste Tire Management During Suspension Period or Following Termination. In the event that a suspension or termination has been executed, the Department may authorize another District to assume the administration of the waste tire management system within the District receiving the suspension or termination.

### **Reg.14.509 Reimbursement of Funds to the Department**

(A) Reimbursement Requirement. The Director may order the District to reimburse the Department a part of or all of the funds awarded if the Director determines that the District has not met the conditions of the grant or in the event that the Department must authorize another District to assume the administration of the waste tire management system within a

District due to a District's inability or unwillingness to complete or meet conditions of the grant.

- (B) Reimbursement Order. Written notice of the Director's decision to order reimbursement shall be sent to the affected District by certified mail with a statement notifying the District that the District may request an adjudicatory hearing and Commission review on whether the decision of the Director should be reversed or modified.

#### **Reg.14.510 Appeals of Grant Decisions**

##### **(A) Right of Appeal**

Grant decision may be appealed by any person or entity entitled by law to contest the Director's decision.

##### **(B) Adjudicatory Hearing**

Any such person may appeal a grant decision by requesting an adjudicatory hearing and Commission review in accordance with Arkansas Pollution Control and Ecology Commission Regulation Number 8: Administrative Procedures.

## **CHAPTER 6: ALTERNATIVE END USES**

### **Reg.14.601 Project Approval**

Proposed alternative end use projects shall require approval by both the District and the Department and will be reviewed using a two-tier approach as described herein.

- (A) The District in which waste tires or residuals will be utilized shall set any policies, form any standards, and develop any review process that it feels appropriate that do not conflict with any law or regulation. The District shall be responsible for the initial review and approval of specific sites and corresponding construction specification and details.
- (B) Upon approval by the District, the District shall submit a complete copy of the proposed project to the Department for the second level of review. The Department's review will include, at a minimum, environmental protection, technical adequacy, regulatory compliance, and grant fund eligibility, if applicable.

### **Reg.14.602 Project Proposal Requirements**

The Department, at its discretion, may require the proposal to be prepared by a professional engineer, registered in the State of Arkansas. The proposal shall include the following information unless otherwise specified by the Department in writing:

- (A) Legal description, address, and directions to the proposed site;
- (B) A map or aerial photograph indicating land use within a one-fourth (1/4) mile radius of the proposed site which shall be of adequate scale to show all residences, structures, surface waters, public and private water supply sources, access roads, historic sites, and other existing man-made features relating to the site;
- (C) Maps indicating the existence of any regulated wetlands or flood plains on or adjacent to the site;
- (D) A site plan map that delineates survey boundary locations, the location of existing or proposed access roads, existing buildings and improvements including any staging and storage areas for incoming waste tires, general site topography, and existing and proposed drainage characteristics including any run-on/run-off control systems;
- (E) A list of the waste tire generator(s) including both name, location, and mailing address;
- (F) Concurrence of the landowner indicating acceptance and responsibility of the waste tires or residuals, and an agreement to indemnify the Department from any future liability resulting from the waste tire alternative end use project;

- (G) Statement(s) from any local regulatory body having jurisdiction over the project, including planning, building, code enforcement, and/or drainage departments that the project complies with applicable regulations;
- (H) Any applicable environmental permits;
- (I) Project specifications and details including a description of the proposed application, the quantity of waste tires anticipated to be used in the project, construction methods and materials, construction drawings and details and a project schedule. Additionally, the reason for using tire chips in place of other materials must be substantiated; an explanation shall be provided demonstrating how the engineering properties of these materials will be beneficial to the project; and
- (J) An explanation of how the project will comply with other pertinent Chapters of this regulation, including storage requirements, fire safety requirements, and waste tire processing requirements.

**Reg.14.603 Review Considerations**

The following conditions shall be considered by reviewing parties in determining the appropriateness of proposed waste tire end use applications:

- (A) The level of engineering/technical detail provided as compared to the complexity of the project. Relatively simple uses of the waste tires such as for erosion control may require only a minimum amount of pre-project planning and construction drawing detail. Projects that will use waste tires in a manner that their failure could endanger life or damage property, shall require more engineering effort and detail; therefore, detailed construction drawings and specifications shall be provided that are signed and stamped by a registered professional engineer;
- (B) Availability (or lack) of more cost effective, efficient, or dependable materials that could be used instead of the waste tires. This factor recognizes that in most cases, cost, efficiency, and dependability are important factors in the selection of materials to incorporate into a project. When waste tires are superior to other materials in these respects, incorporating them into the project is a reasonable alternative – when they are not, the legitimacy of their use cannot be substantiated;
- (C) The probability of injury or damage should be balanced against the risk of failure; and
- (D) Where tires are proposed as a substitute for another material, the applicant shall demonstrate that the waste tires will perform in a manner similar to the material for which it is substituted. In addition, if waste tire bales are used as structural members, a demonstration must be submitted showing that the bales exhibit adequate properties to perform as structural members. The demonstration may include previous projects where the baled tire performed satisfactorily under similar conditions, literature describing similar installations, or test data showing that the material meets required performance standards.

#### **Reg.14.604 Additional Safeguards**

The Department reserves the right to grant conditional approval for an alternative end use project and impose additional operating and/or design requirements as needed to ensure technical adequacy and protection of the environment.

#### **Reg.14.605 Posting of Financial Assurance**

The District in which an alternative end use project is located may require posting of separate financial assurance for a given application.

#### **Reg.14.606 Exemptions**

The following uses of waste tires may be exempted from the review and approval requirements of this Chapter as determined by the Department on a case-by-case basis:

- (A) A person who owns or leases real property may use five hundred (500) or less tires for soil erosion control, drainage improvements, or to secure covers over silage, hay, straw, or agricultural products.
- (B) The use of shredded waste tires as leachate collection media under solid waste landfills in place of traditional aggregate if the proposed alternative end use is approved during the permitting process or subsequent modifications.
- (C) The use of shredded waste tires in on-site waste water soil absorption systems in place of traditional aggregate if the shredded waste tires meet Arkansas Department of Health specifications and guidelines.
- (D) The use of shredded waste tires, baled tires or crumb rubber in road or highway construction projects if alternative end use projects are conducted by, in association with, or under the guidance of the Arkansas Highway & Transportation Department or other roadway authority, as applicable.
- (E) Suitable processed tire materials may be used in the construction of daily and intermediate cover systems for all landfills if the use is authorized by the Department; shown to not present a threat to human health and the environment; and shown to control disease, vectors, fires, odors, blowing litter, or scavenging.

## **CHAPTER 7: WASTE TIRE PROHIBITIONS**

### **Reg.14.701 Integral Part of Existing Facility**

A person shall not maintain a waste tire site.

### **Reg.14.702 Prohibited Manner of Management**

A person shall not transport, transfer, store, collect, recycle, or otherwise manage processed, used, or waste tires in any manner that may:

- (A) Create a nuisance;
- (B) Breed or harbor mosquitoes, snakes, insects, rodents, and/or other vectors;
- (C) Cause a discharge of any constituents derived from waste tires into the air or waters unless otherwise permitted by the Department; or
- (D) Create other hazards to the public health, safety, or environment as may be determined by the Department.

### **Reg.14.703 Unauthorized Disposal**

It is unlawful for any person to dispose of used or waste tires or portions of used or waste tires in the State, unless such tires are disposed of for processing, or are collected for processing, at a permitted waste tire processing facility, at a waste tire collection center, or at a permitted solid waste disposal facility authorized to accept waste tires.

### **Reg.14.704 Land Restriction**

Tires shall not be deposited into any permitted landfill as a method of ultimate disposal unless shredded or split into sufficiently small parts to assure their proper disposal. For purposes of disposal, a sufficiently small part means that the tire has been cut into four (4) substantially equal pieces or into two (2) pieces around the circumference of the tread.

### **Reg.14.705 Tire Monofills Restrictions**

- (A) No new monofills shall be permitted unless the applicant demonstrates that there is no feasible recycling alternative.
- (B) Waste tire monofills shall be permitted, designed, constructed, and operated in accordance with the standards set forth in Reg.22.501.

**Reg.14.706 Contracting Waste Tire Transporter**

A person shall not contract with a waste tire transporter for the transportation of waste, used and/or processing tires unless the transporter has a current transporter license issued by the Department or is exempt from license requirements.

**Reg.14.707 Open Burn**

A person shall not cause or permit the open burning of tires in the State of Arkansas.

**Reg.14.708 Processing or Baling of Monofill Tires**

Only automobile tires which have been processed by cutting, shredding, or splitting into sufficiently small parts to assure proper disposal or automobile tires processed by baling, may be disposed at a disposal site that has a permit issued for a landfill designed and operated as a waste tire monofill. Whole truck tires may be placed in a waste tire monofill in accordance with the facility's permit without cutting, shredding, splitting, or baling. Whole baled tires may be disposed of in a waste tire monofill that has been prepared in such a manner that the tires can be recovered at a later date. Whole baled tires shall be deposited in a waste tire monofill in such a way that avoids or minimizes the collection of explosive gases and liquids as required by the Department.

## **CHAPTER 8: WASTE TIRE SITE NOTIFICATION**

### **Reg.14.801 Notification Requirement**

The owner or operator of any waste tire site shall provide notification to the Department and the applicable District on a Form TP 1 (Waste Tire Site Notification).

### **Reg.14.802 Plan and Implementation Schedule**

The owner or operator of any waste tire site shall submit a written plan to the Department for review and approval that specifies a method and time schedule for the removal, disposal, or recycling of the tires. The owner or operator shall implement the approved plan according to the approved schedule.

### **Reg.14.803 Waste Tire Sites Required to Close**

Waste tire sites that are not an integral part of a permitted waste tire processing facility or collection center shall close in compliance with the closure requirements specified in this regulation.

### **Reg.14.804 Responsibility**

Individuals responsible for creating illegal waste tire piles or responsible for allowing the stockpiling of waste tires shall be responsible for properly removing and disposing of the waste tires in a manner approved by the Department.

### **Reg.14.805 Technical Assistance**

Regional Solid Waste Management Boards and the Department, as required, shall provide technical assistance to owners and operators of waste tire sites regarding disposition of waste tires.



## **CHAPTER 9: GENERAL PERMITS**

### **Reg.14.901 Eligibility**

The following waste tire facilities or equipment shall operate pursuant to a general permit and shall meet requirements set out in this regulation:

- (A) A waste tire collection center which stores no more than three thousand (3,000) waste tires at any one (1) time or up to a maximum of ten thousand (10,000) tires that have been compacted and baled at any one (1) time;
- (B) A waste tire processing facility used for processing not more than five hundred (500) waste tires during any thirty (30) calendar days; or
- (C) The owner or operators of mobile baling, chopping, cutting, or shredding equipment if they comply with the following conditions:
  - (1) The baling, chopping, cutting, or shredding equipment is located at the waste tire site or waste tire collection center for a period not to exceed one hundred twenty (120) calendar days;
  - (2) The waste tire site has notified the Department as required or the collection center has submitted the notification required by this regulation; and
  - (3) All processed tires and residuals are removed from the site for recycling or further processing, or are disposed of in a permitted solid waste management facility within thirty (30) calendar days after the completion of the chopping, cutting, or shredding operation.

### **Reg.14.902 Notification**

To obtain coverage under a general permit, the owners and operators of qualifying facilities or mobile equipment shall notify the Department on Form TP 6 (Waste Tire General Permit Notification) thirty (30) calendar days before the operation begins or the existing general permit coverage expires.

### **Reg.14.903 Reporting and Permit Fees**

Owners or operators of mobile baling, chopping, cutting, or shredding equipment must report to the Department by March 1 annually describing their activities on Form TP 5 (Processing Facility Annual Report). The annual permit fee is one hundred dollars (\$100.00).

### **Reg.14.904 Ineligible Facilities**

Any waste tire processing facility which does not fulfill the requirements of coverage under a general permit shall obtain a waste tire processing facility permit or shall close in accordance with the requirements of this regulation.

**Reg.14.905 Permit Period**

The general permit for a collection center or processor shall be valid for five (5) years. The general permit for a mobile chopper, cutter, or shredder shall be valid for five (5) years.

## **CHAPTER 10: WASTE TIRE COLLECTION CENTER REQUIREMENTS**

### **Reg.14.1001 Establishment of Waste Tire Collection Centers**

Regional Solid Waste Management Regional Boards shall establish, individually or collectively, waste tire collection centers for their residents. The number of waste tire collection centers established in a District shall be outlined in the Solid Waste Management Board's Waste Tire Management Plan. Collection centers should be located at sites that ensure a maximum travel distance to the site is less than sixty (60) miles from any boundary within their respective regions. Storage capacity of sites must ensure that the needs of the public and tire retailers in the District's service area are met sufficiently.

### **Reg.14.1002 Permit Required – Waste Tire Collection Centers**

Waste tire collection centers shall meet the requirements contained in this regulation for waste tire collection centers, as well as the general permitting requirements contained in this regulation, unless exempt from permitting as specified in Reg.14.301.

### **Reg.14.1003 Application**

Waste tire collection centers shall submit to the Department Form TP 6 (Waste Tire General Permit Notification Application) requesting coverage under the General Permit, prior to operating. The waste tire collection centers shall submit to the Department Form TP 8 (Waste Tire Collection Center Annual Report) by March 1 annually.

### **Reg.14.1004 Disposal Fees**

- (A) An individual resident of the District shall not be charged a fee for discarding four (4) or fewer automobile tires at a waste tire collection center per month or more often at the discretion of the District.
- (B) A retail seller of tires shall not be charged a fee for discarding, at a waste tire collection center, a number of automobile and truck tires equal to the number of tires for which the retailer seller has collected and paid the waste tire fee levied by Ark. Code Ann. § 8-9-404 *et seq.*
- (C) Any state or other governmental entity within this state that is required to purchase tires on state contract may dispose of an equal number of waste automobile and truck tires equal to the number of tires for which they have paid the waste tire fee levied by Ark. Code Ann. § 8-9-404 *et seq.* provided that they can show proof that said fee was paid to a retail seller of tires registered with the Arkansas Department of Finance and Administration to collect and pay the waste tire fee levied. Such state or other governmental entity may dispose of said waste tires in a District other than the District in which the waste tires were purchased at retail without being charged any additional fee.

(D) A waste tire collection center may collect an equitable fee, to be established by the respective District, on all non-fee paid automobile and truck tires. The fee shall be posted for the public, and the Department notified of the total fees collected on the District's quarterly grant report. Any fees charged for said tires must not be in excess of the costs of properly removing and disposing of such tires. The District shall not charge for said tires in excess of the cost of removing and disposing of said tires.

(E) If a waste tire collection center accepts large specialty tires, the District shall establish their own fees for accepting such tires in amounts sufficient to cover the increased disposal costs associated with these types of tires. The District will provide the Department with a price scale prior to collecting fees, and the Department shall be notified of the total fees collected on the District's quarterly grant report. Any fees charged for said tires must not be in excess of the costs of properly removing and disposing of such tires.

**Reg.14.1005 Recordkeeping and Annual Reporting**

The owner or operator of a waste tire collection center shall record and maintain for one (1) year information regarding their activities, which shall be used to complete Form TP 8 (Waste Tire Collection Center Annual Report) due by March 1 annually to the Department. Records shall be maintained onsite and available for inspection by the Department personnel during normal business hours.

**Reg.14.1006 Annual Permit Fee**

Annual waste tire collection center permit fee is twenty-five dollars (\$25.00).

**Reg.14.1007 Storage**

A permitted waste tire collection center may collect a maximum of three thousand (3,000) loose tires or a maximum of ten thousand (10,000) compacted and baled tires at the site. Storage shall be in accordance with waste tire storage requirements described in this regulation.

**Reg.14.1008 Access**

Access to the facility must be controlled at all times in accordance with the Chapter 14: Storage Requirements.

## **CHAPTER 11: WASTE TIRE TRANSPORTER REQUIREMENTS**

### **Reg.14.1101 Prior to Commencing Operations**

All waste tire transporters shall submit an application and obtain a waste tire transporter license from the Department prior to commencing waste tire operations, unless otherwise approved by the Department.

### **Reg.14.1102 Transporters**

This Chapter is applicable to transporters of used tires, waste tires, processed tires, baled tires, and tire residuals.

### **Reg.14.1103 License Required – Waste Tire Transporters**

Waste tire transporters shall obtain a license and shall meet the requirements contained in this regulation for waste tire transporters.

### **Reg.14.1104 Exemptions**

Persons who use company-owned or company-leased vehicles to transport tire casings for the purposes of retreading between company-owned or company-franchised retail tire outlets and retread facilities owned or franchised by the same company are not considered waste tire transporters unless they also transport used tires, waste tires, processed tires, and/or tire residuals.

### **Reg.14.1105 Decals**

Any person engaged in collecting or transporting used tires, waste tires processed tires, and/or tire residuals equal to twenty-five (25) or more tires for the purpose of resale, storage, disposal, or processing shall display a current transporter decal obtained from the Department. The decal shall be displayed on the window outside of the driver's front door of each truck used to transport tires. Common carriers are not required to display decals but must carry a copy of their fleet transporter license in each vehicle.

### **Reg.14.1106 Application**

To obtain a waste tire transporter license and approval to transport processed, used, waste tires, and/or tire residuals a collector transporter shall submit an application on Form TP 2 (Waste Tire Transporter License Application) to the Department.

For a new transporter, the application shall be submitted at least thirty (30) calendar days before the transporter intends to begin transporting waste tires.

**Reg.14.1107 Fleet Application**

A corporate entity or local government may submit one application to license its entire fleet of vehicles.

**Reg.14.1108 License Change**

The waste tire transporter shall provide written notice to the Department within thirty (30) calendar days of any change to their license if:

- (A) The place of business is relocated;
- (B) The transporter's name, home address, and/or telephone number has changed;
- (C) The transporter has purchased a new vehicle intended for transporting waste tires or sold the vehicle originally licensed by the Department.

**Reg.14.1109 Sanctions**

A waste tire transporter license shall be non-transferable. A transporter license may be suspended, or revoked in whole or in part, or an application for license may be denied, for cause, including but not limited to the following:

- (A) Violation of any part of Ark. Code Ann. § 8-9-401 *et seq.* or this regulation; or
- (B) Misrepresentation of any material fact in the license application.

**Reg.14.1110 Appeal**

Appeal of suspension, revocation, or denial of initial or renewal license procedures shall be in accordance with the conditions of Arkansas Pollution Control and Ecology Commission Regulation 8: Administrative Procedures.

**Reg.14.1111 Recordkeeping**

Waste tire transporters shall maintain a record of each individual collection and delivery to a permitted or approved processing, storage, or disposal facility.

**Reg.14.1112 Vehicle, Trailer and Equipment Maintenance**

All vehicles and equipment used for the collection and transportation of whole used or scrap tires shall be constructed, operated, and maintained to prevent loss of whole used or scrap tires during transport and to prevent health nuisances and safety hazards to operating personnel and the public.

**Reg.14.1113 Out-of-State Transporter**

Out-of-state transporters shall meet the same requirements as in-state transporters except as specified in Ark. Code Ann. § 8-9-404 *et seq.*

**Reg.14.1114 Disclosure Statement**

The applicant shall file a disclosure statement at the time of application in accordance with Ark. Code Ann. § 8-1-106 *et seq.* An exemption will be allowed if a facility has submitted to the Department a disclosure statement within twelve (12) months preceding the date of application or is otherwise exempt from disclosure requirements.

**Reg.14.1115 Recordkeeping, License Fees, Annual Reporting, and License Renewal**

(A) Recordkeeping

A waste tire transporter shall record and maintain for one (1) year information regarding its activities which records shall be available for inspection by Department personnel during normal business hours.

(B) License Fees, Annual Reporting, and License Renewal

All waste tire transporter licenses expire February 28 of each year regardless of the issuance date. Waste tire transporters shall submit to the Department an annual report on Form TP 3 (Waste Tire Transporter Annual Report and License Application), provided by the Department annually by March 1 along with the annual transporter license fee as a condition of holding a license. The annual license fee per vehicle is twenty-five dollars (\$25.00) and ten dollars (\$10.00) for the decal, up to a maximum of two hundred fifty dollars (\$250.00) for a fleet license. The replacement fee for a lost or destroyed registration decal is ten dollars (\$10.00).

**Reg.14.1116 Compliance**

Any person or persons who fail to comply with this regulation is subject to having their waste tire transporter license revoked, as well as other penalties provided by law.

**Reg.14.1117 Decal Removal**

When a waste tire transporter license expires or is revoked, the applicant shall immediately remove all waste tire transporter decals from all vehicles.

**Reg.14.1118 Disposition Sites**

A waste tire transporter shall leave waste tires and processed tires for storage or disposal only in a permitted waste tire processing or collection facility, at a permitted solid waste management facility, or at another site approved by the Department.

### **Reg.14.1119 Procedures to Suspend, Revoke, or Deny License**

Suspension, revocation, or denial of licensure procedures are as follows:

- (A) The Department may suspend or revoke a license or deny an initial or renewal license for:
  - (1) Failure to maintain a complete and accurate record of tire shipments;
  - (2) Falsification of waste shipping documents or waste tire manifests;
  - (3) Delivery of waste and/or used tires to a facility not permitted to accept the tires;
  - (4) Failure to comply with any rule or order issued by the Commission pursuant to the requirements of this regulation;
  - (5) Failure to submit the annual report required by this Chapter;
  - (6) Illegal dumping of waste and/or used tires or tire residuals; or
  - (7) Collection or transportation of waste and/or used tires without a valid transporter license.
- (B) A waste tire transporter license may be suspended for a period of six (6) months depending upon the seriousness of the offense(s). A waste tire transporter license is revoked automatically upon a second suspension. If the license is suspended or revoked, a transporter shall not transport waste and/or used tires regulated under this regulation.
- (C) The holder of a waste tire transporter license that has been revoked by the Department may reapply for a license pursuant to this regulation as if applying for the first time, after a period of at least six (6) months from the date of revocation.
- (D) Procedures for appeal of suspension, revocation or denial of initial or renewal of a transporter license shall be in accordance with the requirements of the Arkansas Pollution Control and Ecology Commission Regulation 8: Administrative Procedures.



## **CHAPTER 12: WASTE TIRE PROCESSING FACILITY REQUIREMENTS**

### **Reg.14.1201 Permit Required – Waste Tire Processing Facilities**

Waste tire processing facilities shall obtain a permit and shall meet the requirements contained in this regulation for waste tire processing facilities (Waste Tire Processing Facility Requirements) or shall meet the general permit requirements contained in this regulation.

### **Reg.14.1202 Permit Modifications Required**

Permitted solid waste management facilities shall apply for a permit modification to authorize the storage and processing of waste tires if they maintain a waste tire site and process the waste tires for recycling or disposal.

### **Reg.14.1203 Storage**

All whole tires, used tires, tire bales, waste tires, processed tires, and tire residuals shall be stored in accordance with the waste tire storage requirements described in this regulation.

### **Reg.14.1204 Storage Limit**

A waste tire processing facility may not accept any waste tires for processing if it has reached its storage limit. The storage limit for processing facilities is thirty (30) times the daily capacity of the processing equipment used. Owners or operators of waste tire processing facilities shall provide processing equipment specifications from which daily capacity may be determined. In extraordinary cases, such as where a specific project requires a large accumulation of baled or shredded tires to complete an alternative end use initiative, the Department shall have the authority to increase the storage limit, provided all other requirements of this regulation are met.

### **Reg.14.1205 Duration**

At least seventy-five percent (75%) of both the waste tires and processed tires that are delivered to or that are contained on the site of the waste tire processing facility must either be processed and removed from the facility during the year for disposal or recycling from the facility during the year, or disposed of on the site in a permitted solid waste management facility.

### **Reg.14.1206 Temporary Cover – Emergency Event**

Earthen cover material will not be required for processed tires meeting the requirements of this Chapter. However temporary cover material may be used or required to mitigate fire hazards or to assist in fire suppression, or for vector control in the event of an emergency situation. The owner or operators shall properly remove, process, or dispose of the subject material within sixty (60) calendar days of such emergency event. Notification will be made to the Department in accordance with the facility permit.

**Reg.14.1207 Recordkeeping**

The owner or operator of a waste tire processing facility shall record and maintain information regarding their activities. The records shall be available for inspection by Department personnel during normal business hours.

**Reg.14.1208 Prior to Construction or Operation**

Processing facilities shall comply with this and all other regulations and must obtain all necessary environmental permits prior to commencing construction or operation.

**Reg.14.1209 Vector Control**

An approved vector control program must be operational at all times for tires stored outdoors.

**Reg.14.1210 Emergency Preparedness**

The owner or operator shall submit, for review and approval, an emergency preparedness plan that adequately mitigates all fire hazards, and provides for the safety and health of all persons who may be potentially affected by a fire event at the facility. Once approved, implementation of the plan shall begin immediately, and shall be completed within thirty (30) calendar days.

Communication equipment shall be maintained at all facilities to ensure that the site operator can contact local fire protection authorities in the event of fire.

Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. An adequate water supply shall be available for use by the local fire authority.

All of the fire control requirements of this Chapter shall apply unless the local fire authority having jurisdiction over a particular facility determines that different requirements are necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property.

**Reg.14.1211 Operator License Requirement**

All operators of waste tire processing facilities shall be licensed as solid waste management facility operators in accordance with Arkansas Pollution Control and Ecology Commission Regulation 27.

**Reg.14.1212 Application and Annual Permit Fees**

Applications for processing facility permits shall be submitted to the Department on TP 4 (Waste Tire Processing Facility Permit Application). Engineering components of the waste tire processing facility shall be designed and/or examined by a professional engineer licensed in the State of Arkansas. Annual permit fee is one hundred dollars (\$100.00).

### **Reg.14.1213 Disclosure Statement**

The applicant shall file a disclosure statement at the time of application as mandated by Ark. Code Ann. § 8-1-106. An exemption will be allowed if a facility has submitted to the Department a disclosure statement within twelve (12) months preceding the date of application or is otherwise exempt from disclosure requirements.

### **Reg.14.1214 Permit Transfers – Waste Tire Processing Facilities**

Permits for waste tire processing facilities are transferable provided the current permittee submits an administratively complete application including but not limited to the following:

- (A) A written request for the permit transfer presented on a form provided by the Department;
- (B) A certification by the current permittee that all facility engineering design, operational plans, and other permit application documents have or will be furnished to the proposed permittee prior to permit transfer as well as certification that the facility was constructed according to design;
- (C) Adequate documentation from the current permittee showing that the proposed permittee shall have ownership or control of the site for which transfer of permits is being requested;
- (D) A completed disclosure statement of the proposed permittee;
- (E) A permit transfer fee in accordance with the Department's current fee schedule as found in the Arkansas Pollution Control and Ecology Commission Regulation No. 9; and
- (F) Proof of financial assurance that complies with the requirements of this regulation is submitted within thirty (30) calendar days of the documented date of asset transfer.

### **Reg.14.1215 Annual Reporting**

Owners and operators of waste tire processing facilities shall submit to the Department an annual report by March 1 that summarizes information on facility activities. The report shall be submitted to the Department on Form TP5 (Waste Tire Processing Facility Annual Report).

## **CHAPTER 13: REQUIREMENTS FOR FINAL DISPOSAL OF WASTE TIRES AT A PERMITTED SOLID WASTE DISPOSAL FACILITY**

### **Reg.14.1301 Landfilling Requirements**

- (A) Whole tires shall not be deposited into a landfill as a method of ultimate disposal unless shredded or split into sufficiently small parts to assure their proper disposal.
- (B) For purposes of disposal, “sufficiently small part” means that the tire has been cut into four (4) substantially equal pieces or into two (2) pieces around the circumference of the tread. Landfills that receive waste tires must also meet and comply with the conditions and standards contained in Arkansas Pollution Control and Ecology Commission Regulation 22.

### **Reg.14.1302 Cover Requirement**

Tires shall be covered at least weekly or as required by the permit with earthen cover material or other alternate cover as approved by the Department.

### **Reg.14.1303 Recordkeeping**

The owner or operator of a permitted solid waste disposal site shall record and maintain for one (1) year information regarding their activities. The records shall be made available for inspection by Department personnel during normal business hours.

### **Reg.14.1304 Annual Reporting**

Owners and operators of waste tire disposal facilities shall submit to the Department an annual report on Form TP 10 (Waste Tire Disposal Facility Annual Report) by March 1 annually that summarizes the information collected regarding their activities. In addition, waste tire monofills shall meet annual reporting requirements under Arkansas Pollution Control and Ecology Commission Regulation 22.

## CHAPTER 14: STORAGE REQUIREMENTS

### **Reg.14.1401 Indoor Tire Storage**

Waste tires stored indoors shall be stored under conditions that meet the most current standards published by the National Fire Protection Association.

### **Reg.14.1402 Outdoor Above-Ground Tire Storage**

All waste tire sites, collection centers, and any processing or disposal facilities which store used tires, waste tires, or processed tires outdoors above ground must comply with the following technical and operational standards:

- (A) A waste tire site shall not be constructed, maintained, or operated in or within two hundred feet (200') of any wetland, transitional wetland, or isolated wetlands. A person may maintain a waste tire site setback within the two hundred-foot setback upon demonstration to the Department that permanent control methods for residuals will result in compliance with water quality standards of the Department. Storm water control methods shall meet storm water requirements of the Department. The site shall be managed in such a way as to divert storm water or flood waters around and away from the storage piles. Specifically, if an open-top container or trailer is utilized to collect and store waste tires at a waste tire collection center, a storm water permit will not be required if the container or trailer is covered with a tarp or placed under some type of constructed cover during inclement weather and/or when the business is closed. If waste tires are collected and stored without benefit of a container or trailer, a storm water permit from the Department's Water Division will be required unless approval is received, in writing, from the Department's Water Division that a permit is not required. This Chapter shall not apply to artificial reefs constructed pursuant to Department approval.
- (B) Waste tires shall be stored separately from used tires in such a manner that is easily recognizable. If not segregated to be easily recognizable, used tires shall be determined to be waste tires.
- (C) An outdoor waste tire pile or processed tire pile shall have no greater than the following maximum dimensions:
  - (1) Width: fifty feet (50');
  - (2) Length: one hundred feet (100'); and
  - (3) Height: fifteen feet (15').
- (D) A fifty-foot wide fire lane shall be placed around the perimeter of each waste tire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times.
- (E) The owner or operator shall develop and implement a program to control mosquitoes and rodents or request such control measures from the local mosquito and vector control office, so as to protect the public health and welfare. Mosquito control measures may include covering containers and trailers used for the collection and storage of waste tires with a tarp

or placing them under some type of constructed cover during inclement weather and/or when the business is closed.

- (F) If the site receives tires from persons other than the operator of the site, a sign legible from a distance of twenty feet (20') shall be posted at the entrance of the site stating operating hours, cost of disposal and site rules.
- (G) No operations involving the use of open flames shall be conducted within twenty-five feet (25') of a waste tire pile.
- (H) An approach and all weather access road to the waste tire site shall be kept passable for any motor vehicle at all times.
- (I) Access to the site shall be controlled through the use of fences, gates, natural barriers, or other means approved by the Department. However, at waste tire collection centers where waste tires are collected and stored in containers and trailers, the installation of a fence will not be necessary if the collection center utilizes another method that is approved by the Department, such as the use of a heavy duty cable.
- (J) Effective surface water run-on/run-off controls, such as berms and ditches, shall be established for all waste tire storage and processing areas to prevent surface water from entering the storage and/or processing area and to prevent liquid runoff from a potential tire fire from leaving the site or entering surrounding water bodies. A waste tire collection center which allows tires to be deposited on the ground or a concrete slab will be required to meet this requirement. However, a waste tire collection center which utilizes any type of container or trailer for collection and storage will not be required to berm the storage area.
- (K) Fire protection services for the site shall be assured and documented in the operating records through notification to local fire protection authorities. A fire safety survey shall be conducted by the local fire protection authorities.
- (L) Communication equipment shall be maintained at the waste tire site to assure that the site operator can contact local fire protection and emergency authorities in case of a fire.
- (M) The waste tire site shall be kept free of grass, underbrush, and other potentially flammable vegetation at all times.
- (N) The operator of the site shall prepare and keep at the site an emergency preparedness manual. The manual shall be updated at least once a year, upon changes in operations at the site.
- (O) The operator of the site shall immediately notify the Department in the event of a fire or other emergency if that emergency has potential off-site effects and will submit a written report within two (2) weeks.
- (P) Adequate equipment to aid in the control of fires shall be provided and maintained at the facility at all times.
- (Q) The operator of the site shall maintain records of the quantity of waste tires and processed tires received at the site, stored at the site, and shipped from the site.
- (R) The minimum separations distances between exposed buildings and piles or between isolated piles shall be in accordance with National Fire Protection Association Standards.

## **CHAPTER 15: CLOSURE REQUIREMENTS**

### **Reg.14.1501 Closure Mandate**

The owner or operator of any waste tire site that does not meet the requirements of this regulation, or any facility permitted under this regulation that will no longer accept, collect, or process tires shall close such site in accordance with this Chapter within sixty (60) calendar days.

### **Reg.14.1502 Procedures**

In closing any waste tire site, the owner or operator shall:

- (A) Stop public access to the site;
- (B) Post a notice indicating the site is closed and the nearest site where waste tires can be deposited;
- (C) Notify the Department and local government having jurisdiction of the onset of closure;
- (D) Remove all waste tires, processed tires, and residuals to a permitted waste tire processing facility, permitted solid waste management facility, or a legitimate user of waste tires as approved by the Department;
- (E) Make such repairs to the site to effectively promote surface water flow; and
- (F) Notify the Department when closure is complete.

### **Reg.14.1503 Closure Plan**

All permits issued under this regulation shall include an approved closure plan. The closure plan shall include, at a minimum:

- (A) A description of how the closure requirements will be met;
- (B) A closure schedule, including time period for completion;
- (C) A plan for site rehabilitation if deemed necessary by the Department; and
- (D) Proof of financial responsibility pursuant to this regulation.

### **Reg.14.1504 Closure Approval**

After receiving notification that site closure is complete, the Department shall inspect the site. If the closure is found to be satisfactory, the Department shall approve the closure in writing. If the facility was required to provide proof of financial responsibility for closure by this regulation, the Director or his or her designee shall release the financial instruments within thirty (30) calendar days of closure approval.

## **CHAPTER 16: ENFORCEMENT**

### **Reg.14.1601 Penalties and Enforcement**

Any person who violates any provision of this regulation shall be subject to the same penalty and enforcement provisions as are contained in the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-204.



## **CHAPTER 17: FINANCIAL ASSURANCE REQUIREMENTS**

### **Reg.14.1701 General Requirements/Applicability**

Owners or operators of waste tire processing facilities must file and maintain financial assurance of closure with the Director as set forth in Arkansas Pollution Control and Ecology Commission Regulation 22. Financial assurance may also be required for certain waste tire collection centers and waste tire sites if the Department determines it to be warranted, and the following sections are applicable.

### **Reg.14.1702 Amount of Financial Assurance Required**

- (A) The amount of financial assurance required of the owner or operator shall be established by the Director based upon the estimated closure costs. This required amount may be adjusted to take into account any changes in the requirements of the permit.
- (B) The owner or operator may appeal the Director's decision as set forth in Ark. Code Ann. § 8-6-1603.

### **Reg.14.1703 Filing of Financial Assurance**

- (A) New Waste Tire Processing Facilities/Disposal Facilities – Within ten (10) business days after the final decision to issue a permit for a new waste tire processing facility, the Director shall notify the permittee in writing of the amount of financial assurance required as established by this Chapter. The permittee must, before the permit can be effective, file with the Director, financial assurance meeting the requirements of this Chapter and in at least that amount, unless otherwise determined by an appeal pursuant of Regulation 14.1702(B).
- (B) Incremental Filing – For waste tire processing facilities which seek to utilize an incremental operational plan as set forth in the permit application, the permittee may initially file financial assurance covering only closure of the initial increments. The permittee must, at least thirty (30) calendar days prior to beginning operation of a subsequent increment not covered by financial assurance, file adequate assurance for that increment with the Director.

### **Reg.14.1704 Mechanisms of Financial Assurance**

Owners or operators of waste tire processing facilities that are required by the Director to post financial assurance shall select a financial assurance mechanism from those allowable mechanisms identified in Arkansas Pollution Control and Ecology Commission Regulation 22.

## **CHAPTER 18: SEVERABILITY AND EFFECTIVE DATE**

### **Reg.14.1801 Severability**

If any provision of this regulation or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

### **Reg.14.1802 Effective Date**

This regulation shall be effective ten (10) days after filing the same with the Secretary of State, the State Library, and the Bureau of Legislative Research.

## ADEQ REGULATIONS TRACKING SHEET

Regulation No. 14

Common Name: Regulations and Administrative Procedures for the Waste Tire Program

1. **Strawman review** of draft regulations by key groups.

	<u>initiated</u>	<u>completed</u>	<u>incorporated</u>
EPA	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
ADEQ Legal/Admin.	<u>√</u>	<u>√</u>	<u>√</u>
Industrial/ Environmental Groups	<u>√</u>	<u>√</u>	<u>√</u>

*Comments:* The amendments to Regulation No. 14 are to incorporate legislative changes to conform to statutory language of Act 744 of 2011, to update the definitions of automobile tire and truck tire to bring current with industry standards, and to make minor stylistic revisions.

2. Proposed regulations presentation to Commission's **Regulations Committee** for approval to proceed to public comment period.

*Date:* December 2, 2011

*By:* Lorielle Gutting, Attorney, ADEQ

*Comments/Approval:* Committee recommended adoption of Petition to Initiate Rulemaking

3. **Legal notice** of proposed regulations and public hearing.

publication

dates of publication

Arkansas Democrat-Gazette

December 7 and 8, 2011

4. Provide **Legislative Council** with three copies of proposed regulations and the legislative questionnaire at least ten days prior to the first public hearing.

5. Hold **public hearing(s)** on the proposed regulations.

location

date

hearing chairman

ADEQ Headquarters, NLR

March 7, 2012

Mr. Loren Hitchcock, APC&EC Commissioner

6. Date of final day of public comment period: March 21, 2012, 4:30 p.m.

7. **Final proposed regulation** and **response to comments** prepared by Department.

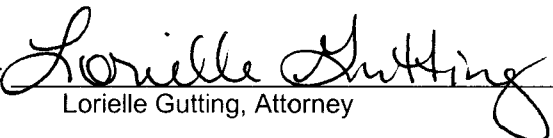
*Date initiated:* April 6, 2012

*Date filed:* April 11, 2012

### EXHIBIT B

8. Formal presentation to the **Public Health & Welfare Committee** of the Legislative Council.  
*Date:* May 17, 2012      *By:* Teresa Marks, Director, ADEQ  
*Comments/Approval:* Passed out of Committee as Reviewed
  
9. Formal presentation of proposed final regulation to the **Administrative Rules & Regulations Subcommittee** of the Legislative Council (All Regs).  
*Date:* June 13, 2012      *By:* Teresa Marks, Director, ADEQ  
*Comments/Approval:* Passed out of Committee as Reviewed
  
10. Presentation of proposed final regulation to Commission's **Regulations Committee**.  
*Date:* July 27, 2012      *By:* Lorielle Gutting, Attorney, ADEQ  
*Comments/Approval:* Anticipate recommendation for adoption
  
11. Provide Commission members with copy of proposed final regulation prior to Commission meeting.  
*Date Delivered:* July 13, 2012
  
12. Present proposed final regulation to the **Commission** for adoption.  
*Date:* July 27, 2012      *By:* Lorielle Gutting, Attorney, ADEQ  
*Comments/Approval:* Anticipate adoption of amendments
  
13. Send two copies of adopted regulation to **Secretary of State** (regulation becomes effective ten days after filing).  
*Date mailed:* July 30, 2012 (anticipated)
  
14. Formally submit adopted regulation to **EPA**.  
*Date mailed:* Not applicable to this regulation.

PREPARED BY:  
ARKANSAS DEPARTMENT  
OF ENVIRONMENTAL QUALITY

By:   
Lorielle Gutting, Attorney

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to  
Adopt Amendments to  
Regulation No. 14**

**MINUTE ORDER NO. 12-**

**Docket No. 11-006-R**

**PAGE 1 OF 1**

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Pursuant to public notice and hearing, and in consideration of public comments received, the Arkansas Pollution Control and Ecology Commission hereby adopts amendments to Regulation No. 14, Regulations and Administrative Procedures for the Waste Tire Program.

PROMULGATED THIS 27<sup>TH</sup> DAY OF JULY, 2012, BY ORDER OF THE  
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.

BY: \_\_\_\_\_  
John Chamberlin, Chairman

ATTEST: \_\_\_\_\_  
Teresa Marks, Director

**COMMISSIONERS:**

_____	<b>J. Bates</b>	_____	<b>D. Samples</b>
_____	<b>L. Bengal</b>	_____	<b>L. Sickel</b>
_____	<b>J. Fox</b>	_____	<b>J. Simpson</b>
_____	<b>D. Hendrix</b>	_____	<b>W. Thompson</b>
_____	<b>L. Hitchcock</b>	_____	<b>B. White</b>
_____	<b>S. Jorgensen</b>	_____	<b>R. Young</b>

\_\_\_\_\_  
**John Chamberlin, Chair**

Submitted by: Lorielle Gutting      DATE PASSED: July 27, 2012

**EXHIBIT C**



A R K A N S A S  
Department of Environmental Quality

## MEMORANDUM

To: Pollution Control & Ecology Commission

FROM: Craig Uyeda, Executive Secretary, AWLC

DATE: July 11, 2012

SUBJECT: New Board Members Appointment to the AWLC

The Arkansas Wastewater Licensing Committee (AWLC), agreed unanimously, to request that Lisa Ellington, Paragould Light, Water and Cable, Paragould, Arkansas and William Winn, City of Fayetteville Water and Sewer, Fayetteville, Arkansas, be appointed for a three year term on the Board to expire on May 31, 2015.

Miss Ellington and Mr. Winn's position on the AWLC fills the requirements stated in Regulation 3, 3.201(A); "Five (5) members, to be appointed by the commission, of which three (3) members shall be active wastewater treatment plant operators licensed by the department..."

Therefore, the AWLC respectfully requests that the Pollution Control & Ecology Commission accepts these nominations.

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

LOCATION - SUBJECT  
Appointment to the  
Arkansas Wastewater  
Licensing Committee

MINUTE ORDER NO. 12 - \_\_\_\_\_

PAGE 1 OF 1

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The Commission hereby appoints, William Winn, City of Fayetteville Water and Sewer, Fayetteville, Arkansas, to a three year term on the Arkansas Wastewater Licensing Committee to commence June 1, 2012 and to expire on May 31, 2015.

COMMISSIONERS

\_\_\_\_\_ J. Bates  
\_\_\_\_\_ L. Bengal  
\_\_\_\_\_ J. Chamberlin  
\_\_\_\_\_ D. Hendrix  
\_\_\_\_\_ L. Hitchcock  
\_\_\_\_\_ S. Jorgensen

\_\_\_\_\_ D. Samples  
\_\_\_\_\_ J. Shannon  
\_\_\_\_\_ L. Sickel  
\_\_\_\_\_ J. Simpson  
\_\_\_\_\_ W. Thompson  
\_\_\_\_\_ B. White  
\_\_\_\_\_ R. Young

\_\_\_\_\_ SUBMITTED BY: Craig Uyeda PASSED: \_\_\_\_\_  
J. Chamberlin, Chair

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

LOCATION - SUBJECT  
Appointment to the  
Arkansas Wastewater  
Licensing Committee

MINUTE ORDER NO. 12 - \_\_\_\_\_

PAGE 1 OF 1

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The Commission hereby appoints, Lisa Ellington, Paragould Water, Light and Cable, Paragould, Arkansas, to a three year term on the Arkansas Wastewater Licensing Committee to commence June 1, 2012 and to expire on May 31, 2015.

COMMISSIONERS

\_\_\_\_\_ J. Bates  
\_\_\_\_\_ L. Bengal  
\_\_\_\_\_ J. Chamberlin  
\_\_\_\_\_ D. Hendrix  
\_\_\_\_\_ L. Hitchcock  
\_\_\_\_\_ S. Jorgensen

\_\_\_\_\_ D. Samples  
\_\_\_\_\_ J. Shannon  
\_\_\_\_\_ L. Sickel  
\_\_\_\_\_ J. Simpson  
\_\_\_\_\_ W. Thompson  
\_\_\_\_\_ B. White  
\_\_\_\_\_ R. Young

\_\_\_\_\_ SUBMITTED BY: Craig Uyeda PASSED: \_\_\_\_\_  
J. Chamberlin, Chair



# ADEQ

ARKANSAS  
Department of Environmental Quality

TO: Pollution Control and Ecology Commission Members

FROM: Elizabeth Hoover *E. Hoover*  
Executive Secretary  
Solid Waste Licensing Committee

DATE: July 11, 2012

SUBJECT: Solid Waste Licensing Committee  
Member Appointments

Arkansas Code Annotated §8-6-904 establishes the Solid Waste Licensing Committee and authorizes the Commission to appoint nine of the ten Committee members.

Attached you will find a proposed minute order for use in appointing two individuals to the Committee, as well as a Membership Nominee Profile Form for each of them. This item of business has been placed on the agenda for the July meeting. Bill J. Burrough, Jr., is being nominated to the vacant position formerly held by John Lee, and Randy J. Harper is being nominated to the vacant position formerly held by Gary Oden. Both Mr. Lee and Mr. Oden are retired and have resigned from the Committee.

Established in 1985 as a voluntary Committee involved primarily with the development of a certification program for sanitary landfill operators, today, the Solid Waste Licensing Committee continues to advise and assist in the administration of this Program, which now certifies approximately 950 solid waste management facility operators, and has become one of the largest nationwide with virtually every solid waste management facility worker in the state holding a license.

cc: Teresa Marks, Director  
Karen Bassett, Chief Deputy Director  
Ryan Benefield, Deputy Director  
Roger Lawrence, Chief, Solid Waste Management Division  
Susan Speake, Programs Branch Mgr., Solid Waste Management Division  
David Rose, Acting Chairman, Arkansas Solid Waste Licensing Committee

**SOLID WASTE LICENSING COMMITTEE  
MEMBERSHIP NOMINEE PROFILE FORM**

<b>Return Completed Form and Attachments to:</b> Arkansas Department of Environmental Quality Attn: Elizabeth Hoover - SWMD 5301 Northshore Drive North Little Rock, AR 72118-5317 Fax #: (501) 682-0611	<b>Date Received:</b>
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Name of Nominee: (First) <u>Bill</u> (Middle Initial) <u>J</u> (Last) <u>Burrough Jr</u>	
Employer: <u>City of Hot Springs</u>	Licenses Held: (check all that apply)
Type of Facility: <u>Collection &amp; Transfer Station</u>	1A    1B    1C
Business Address: <u>218 Runyon Street</u>	2A    2B    2C
City: <u>Hot Springs</u>	3A    3B <input checked="" type="checkbox"/> 3C
County: <u>GARLAND</u>	State: <u>AR</u> Zip: <u>71901</u>
Job Title: <u>SANITATION DIRECTOR</u>	Business Phone: (501) <u>321-6511</u>

**PERSONAL INFORMATION**

Home Address: <u>530 FILES RD, C-23</u>
City: <u>Hot Springs</u> State: <u>AR</u> Zip: <u>71913</u>
Home Phone: (501) <u>622-7978</u>

Date of high school diploma or GED: (month/year) <u>1983 DIPLOMA</u>
Do you have any college credits? <input checked="" type="checkbox"/> YES    NO    Number of credit hours:
Did you complete college? YES <input checked="" type="checkbox"/> NO    Type of degree?
Are you currently licensed? <input checked="" type="checkbox"/> YES    NO    Enter License number: <u>002322</u>

How long have you been a licensed operator? \_\_\_\_\_

How many years of solid waste experience do you have? 18    Hours of solid waste training? unknown - Hundreds

Previous Employment:

BFI/ALLIED WASTE - BFI of ARKANSAS

Please provide any additional information you feel pertinent: I HAVE WORKED IN THE INDUSTRY for many years, both as a SENIOR MANAGER or DEPT HEAD. I HAVE BOTH PUBLIC AND PRIVATE SECTOR EXPERIENCE.

To the best of my knowledge, I affirm the above information is true and correct.

Applicant Signature: Bill Burrough    Date: 6/25/12

## SOLID WASTE LICENSING COMMITTEE MEMBERSHIP NOMINEE PROFILE FORM

<b>Return Completed Form and Attachments to:</b> Arkansas Department of Environmental Quality Attn: Elizabeth Hoover - SWMD 5301 Northshore Drive North Little Rock, AR 72118-5317 Fax #: (501) 682-0611	<b>Date Received:</b>
---	-----------------------

Name of Nominee:	(First) <b>Randy</b> (Middle Initial) <b>J</b> (Last) <b>Harper</b>	
Employer:	Arkansas Environmental Training Academy / SAU Tech	Licenses Held: (check all that apply) N/A
Type of Facility:	State Environmental Training Center (Higher Education)	1A 1B 1C
Business Address:	PO Box 3499	2A 2B 2C
City:	Camden	3A 3B 3C
County:	Ouachita	State: Arkansas Zip: 71711
Job Title:	Director	Business Phone: (870) 574-4550

### PERSONAL INFORMATION

Home Address:	234 International		
City:	Camden	State:	Arkansas
Home Phone:	( 870 ) 574-1930	Zip:	71701

Date of high school diploma or GED: (month/year) **May 1984**

Do you have any college credits?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Number of credit hours: <b>140 +</b>
Did you complete college?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Type of degree? <b>BS in Engineering Physics (Industrial Technology)</b>
Are you currently licensed?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Enter License number:

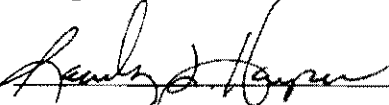
How long have you been a licensed operator? **N/A**

How many years of solid waste experience do you have? **6 Years** Hours of solid waste training?

Previous Employment:  
**City of Hot Springs, Arkansas.**

Please provide any additional information you feel pertinent: **As the Director of the AETA, I have reported to the Arkansas Solid Waste Licensing Committee on a quarterly basis. I am responsible to see that the AETA is providing adequate training for the licensing of Solid Waste Operators statewide.**

To the best of my knowledge, I affirm the above information is true and correct.

Applicant Signature:  Date: 9 July 2012



**Randy J. Harper, REM**  
**Director, Arkansas Environmental Training Academy**  
**Southern Arkansas University Tech**

Dear Commission Members,

My name is Randy Harper and I am seeking to become a member of the Arkansas Solid Waste Licensing Committee. I have spent my professional career in public service and vocational, technical, and adult education. I hold a Bachelors Degree in Engineering Physics (Industrial Technology emphasis) from Southern Arkansas University, Associates of Applied Science in Environmental Science from Southern Arkansas University Tech and I am a graduate of the Camden, Arkansas Leadership Program.

I currently serve as the Director of the Arkansas Environmental Training Academy. The Academy is part of the Southern Arkansas University System and is located on the SAU Tech campus. The Academy is made up of five distinct divisions; Water Treatment & Distribution, Wastewater Treatment, Solid Waste Management, Backflow Prevention, and Environmental Health and Safety. The Academy conducts training on campus, at training locations statewide, and by Internet delivery.

As the designated Environmental Training Center for the State of Arkansas, the mission of the Academy is to provide quality training and educational programs to aid the management and operating staff of municipal, commercial and industrial facilities statewide in meeting state and federal licensing and certification requirements.

The licensing of Solid Waste personnel is essential to protect our employees, the public, and the environment of the State of Arkansas. Thank you for considering my application to become a member of the Solid Waste Licensing Committee.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Randy J. Harper".

Randy J. Harper  
Director, Arkansas Environmental Training Academy  
Southern Arkansas University Tech

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The Commission hereby appoints the following individual to serve out the remainder of an unexpired three-year term on the Arkansas Solid Waste Licensing Committee to commence July 27, 2012, and to expire January 26, 2015:

<u>Position</u>	<u>Affiliation</u>	<u>Name</u>
Licensed Solid Waste Management Facility Operator (At-Large)	City of Hot Springs	Bill J. Burrough, Jr.

The Commission further appoints the following individual to serve out the remainder of an unexpired three-year term on the Arkansas Solid Waste Licensing Committee to commence July 27, 2012, and to expire April 24, 2015.

<u>Position</u>	<u>Affiliation</u>	<u>Name</u>
Educational Representative	Arkansas Environmental Training Academy	Randy J. Harper

**COMMISSIONERS:**

_____ <b>J. Bates</b>	_____ <b>D. Samples</b>
_____ <b>L. Bengal</b>	_____ <b>L. Sickel</b>
_____ <b>J. Chamberlin</b>	_____ <b>J. Simpson</b>
_____ <b>J. Fox</b>	_____ <b>W. Thompson</b>
_____ <b>L. Hitchcock</b>	_____ <b>B. White</b>
_____ <b>D. Hendrix</b>	_____ <b>R. Young</b>
_____ <b>S. Jorgensen</b>	

\_\_\_\_\_ **SUBMITTED BY:** David Rose **PASSED:** \_\_\_\_\_  
**J. Chamberlin, Chair**

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

IN THE MATTER OF:	)	
	)	
SOUTHWESTERN ELECTRIC	)	
POWER COMPANY	)	DOCKET NO. 11-015-P
	)	
John W. Turk, Jr. Power Plant	)	
Permit No. AR0051136	)	

**REQUEST FOR REINSTATEMENT OF AUTOMATIC  
STAY OF PERMIT CONDITIONS**

Southwestern Electric Power Company (“SWEPCO”), by and through its attorneys Gill Ragon Owen, P.A., respectfully requests the Arkansas Pollution Control and Ecology Commission (“APC&EC” or the “Commission”) reinstate the automatic stay of condition numbers 15(2)(a)(i) and 15(2)(c), found at pages 4-5 of Part II of Permit No. AR0051163 (the “Permit”) which is the National Pollutant Discharge Elimination System permit for the John W. Turk, Jr. Power Plant (“Turk Plant”) located in Hempstead County, Arkansas. In support of its Request for Reinstatement of the Automatic Stay of the Permit Conditions, SWEPCO states the following:

**FACTUAL BACKGROUND**

1. SWEPCO is a utility operating company subsidiary of American Electric Power Company, Inc., and is the primary owner and operator of the Turk Plant.
2. The Turk Plant will obtain cooling water through operation of a submerged remote cooling water intake structure (“CWIS”) located in the Little River. To the extent the facility obtains cooling water from its CWIS and not a public water system, the facility is required to comply with Section 316(b) of the Clean Water Act and the regulations promulgated thereunder.

3. The Permit was issued by the Director of the Arkansas Department of Environmental Quality (“ADEQ”) through her authorized representative, the Chief of the Water Division, on October 24, 2011.

4. To demonstrate compliance with Section 316(b), the Permit includes monitoring conditions which require the facility, among other things, to conduct impingement sampling at a frequency of no less than once per month, and to conduct visual or remote inspections of the CWIS at least weekly when the CWIS is in operation.

5. On November 23, 2011, SWEPCO filed the above-captioned Permit appeal. Through its Permit appeal, SWEPCO sought to incorporate alternative monitoring requirements for impingement sampling and visual inspections into the Permit, as authorized under Federal regulations, on the basis that the technical design features of the Turk Plant CWIS make it nearly impossible for impingement of aquatic organisms to occur at the CWIS and that normal flow and visibility conditions in the Little River make compliance with the existing monitoring conditions infeasible, potentially unsafe, and extremely costly.

6. Upon filing of SWEPCO’s Request for Hearing in the above-captioned appeal, the CWIS monitoring conditions which are the subject of this appeal were stayed by operation of Ark. Code Ann. § 8-4-205(c)(6)(B) and APC&EC Regulation No. 8.612(A)(2).

7. On November 22, 2011, third-party Petitioners filed a separate Permit appeal challenging certain provisions of the Permit related to the discharge authorized by the Permit. The Permit appeal by third-party Petitioners was assigned Docket No. 11-014-P, and the Permit provisions which were the subject of that appeal were also automatically stayed by operation of Ark. Code Ann. § 8-4-205(c)(6)(B) and APC&EC Regulation No. 8.612(A)(2).

8. To avoid the substantial prejudice that would result to SWEPCO and others if the facility was not allowed to discharge according to the terms of the Permit prior to the resolution of the Permit appeal, on November 23, 2011, SWEPCO requested the Commission lift the automatic stay of those Permit provisions related to the facility's discharge.

9. On December 2, 2011, the Commission entered an order lifting the automatic stay of all the Permit provisions which were the subject of the appeals by both SWEPCO and third-party Petitioners, thus requiring the facility to comply with the existing monitoring conditions when the CWIS begins withdrawing cooling water from the Little River.

10. On December 27, 2011, third-party Petitioners withdrew their challenges to the Permit, and Docket No. 11-014-P was closed soon thereafter.

11. Since that time, SWEPCO has engaged in earnest, good-faith negotiations with ADEQ to devise acceptable alternative monitoring conditions for impingement sampling and visual inspections. In April 2012, SWEPCO submitted a detailed *Alternatives Proposal and Associated Technical Summary*. Thereafter, SWEPCO and ADEQ reached an agreement on alternative monitoring conditions for operation of the CWIS. By agreement of the Parties, the alternative monitoring conditions will be substituted for the existing monitoring conditions which are the subject of the Permit appeal through entry of a Permit Appeal Resolution ("PAR") and issuance of a Permit modification, both of which require a 30-day public notice and comment period before becoming final and effective. Although the Parties have reached agreement on the alternative monitoring conditions to be included in the Permit modification, until such time as the Permit modification is final and effective, the facility remains obligated to comply with the existing monitoring conditions.



12. At the time the automatic stay was lifted by the Commission, construction of the CWIS was not complete, and the facility was obtaining water for ongoing construction, testing, and commissioning activities through a contractual arrangement with Hope Water & Light.

13. Construction of the CWIS is now complete, and the construction schedule anticipates that water to cool to the main boiler will be required during commissioning activities that will take place as soon as the end of July 2012. However, the required public notice period on the PAR and Permit modification overlap the period during which the Turk Plant will need to obtain cooling water through operation of the CWIS in order to maintain the current commissioning schedule.

14. Requiring the facility to comply with the existing monitoring conditions during the PAR and Permit modification proceedings pose the same practical and safety concerns that support modification of the Permit, and provide no additional environmental benefit. Such an outcome is impractical, illogical and not in the public interest, particularly in light of the fact that SWEPCO and ADEQ have agreed on alternative monitoring provisions that protect the environment and assure proper operation of the CWIS.

#### REQUEST TO REINSTATE AUTOMATIC STAY

15. Upon request 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. Ark. Code Ann. § 8-4-205(c)(6)(B); APC&EC Regulation No. 8.612(A)(2).

16. Reinstatement of the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2)(c) is appropriate under these circumstances to avoid the substantial prejudice that will result to SWEPCO if it is forced to delay commissioning activities or risk non-compliance if it is

unable to perform the monitoring required by the existing Permit until the PAR and the Permit modification are processed and the alternative conditions become final and effective.

17. Reinstatement of the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2)(c) will also avoid the substantial prejudice that will result to SWEPCO's customers and co-owners should SWEPCO be forced to delay commissioning activities and completion of construction of the Turk Plant in a timely fashion.

18. Reinstatement of the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2)(c) is also appropriate due to the changes in circumstances, particularly that third-party Petitioners have withdrawn their challenges to the Permit, and SWEPCO and ADEQ have reached agreement on the alternative monitoring conditions which will be substituted for the existing monitoring conditions that SWEPCO is requesting the Commission to stay.

19. If the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2)(c) is reinstated, SWEPCO requests that it instead be allowed to comply with the alternative monitoring conditions attached to this Request, which have been submitted to ADEQ for inclusion in the PAR and Permit modification. *See Exhibit A hereto.*

20. If the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2) is reinstated to allow SWEPCO to comply with the alternative monitoring conditions in place of the existing monitoring conditions, SWEPCO can avoid the significant costs associated with a delay to construction and commissioning activities, which is in both the public's and SWEPCO's best interests.

21. In accordance with APC&EC Regulation No. 8.612(C), SWEPCO requests that this Request to Reinstate Automatic Stay be placed on the agenda for the Commission's next regularly scheduled meeting on July 27, 2012.

WHEREFORE, SWEPCO respectfully requests that the Commission, at its next regularly scheduled meeting on July 27, 2012, reinstate the automatic stay of condition numbers 15(2)(a)(i) and 15(2)(c) of Permit No. AR0051163, and instead allow SWEPCO to comply with the alternative monitoring conditions attached to this Request, which have been submitted to ADEQ for inclusion in the PAR and Permit modification. A proposed Minute Order granting its Request has been filed concurrently with this Request. SWEPCO acknowledges that any activities SWEPCO may undertake in reliance on the modified stay are not relevant to the merits of any challenges to the Permit.

Respectfully Submitted,

SOUTHWESTERN ELECTRIC POWER  
COMPANY

By: \_\_\_\_\_



Of Counsel:  
Janet J. Henry, Esq.  
American Electric Power Service Corp.  
1 Riverside Plaza  
Columbus, OH 43215  
(614) 716-1612

Chad L. Wood  
GILL RAGON OWEN, P.A.  
425 W. Capitol Avenue, Suite 3801  
Little Rock, Arkansas 72201  
(501) 376-3800  
(501) 372-3359 facsimile  
[wood@gill-law.com](mailto:wood@gill-law.com)

**CERTIFICATE OF SERVICE**

I, Chad L. Wood, hereby certify that the foregoing REQUEST FOR REINSTATEMENT OF AUTOMATIC STAY OF PERMIT CONDITIONS was served via U.S. mail postage pre-paid and electronic mail this 20 day of July, 2012, to:

Ms. Jamie Ewing  
Mr. Ben Jones  
Arkansas Department of  
Environmental Quality  
5301 Northshore Dr.  
North Little Rock, AR 72118



---

Chad L. Wood

15. Compliance with Section 316(b) of Clean Water Act

To the extent this facility obtains cooling water from its intake structure and not a public water system, the permittee shall comply with the requirements of 40 C.F.R. § 125, Subpart I for "Track I" facilities (implementing the requirements of Section 316(b) of the clean water Act). Satisfaction of the following conditions shall be deemed compliance with such requirements:

1. Cooling Water Intake Structure Requirements

The permittee shall design and construct the cooling water intake structure in accordance with the following performance standards:

- a. Intake flow shall be limited to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system.
- b. The maximum through-screen design intake velocity shall be 0.5 feet per second.
- c. The total design intake flow shall not exceed five (5) percent of the annual mean flow of the Little River in the vicinity of the cooling water intake structure.

2. Monitoring

a. Biological Monitoring

In accordance with 40 CFR 125.85, the permittee shall conduct the following alternative monitoring procedures when the cooling water intake structure is in operation to demonstrate compliance with the biological monitoring requirements of Section 316b of the Clean Water Act:

- (i) As an alternative to conducting monthly impingement sampling, the permittee shall operate the air burst system on the intake screen at least once per week during operation of the intake structure and perform impingement sampling at least once per quarter. The impingement sampling shall be performed no sooner than 24 hours after the previous air burst operation so that the impingement sampling results are representative of at least a 24 hour time period. During the quarterly impingement sampling the facility shall perform a visual observation of the intake screen in accordance with 2.c. listed below. If conditions are unsafe for divers to conduct the quarterly impingement sampling, then the permittee shall attempt to reschedule the impingement sampling at a time when conditions allow for safe performance of the impingement sampling, and shall keep a record of the conditions which preclude safe performance of the impingement sampling. If conditions do not allow for safe performance of the impingement sampling during a calendar quarter, then no impingement sampling is required for that calendar quarter. The permittee shall include the results of the impingement sampling in each annual report submitted in

accordance with Part II.15.3 of this permit. This annual report shall also include any calendar quarters when impingement sampling was not conducted along with the reasons it was not conducted.

(ii) The permittee shall conduct entrainment sampling over a 24-hour period at a frequency of no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance. For the purposes of this permit and based upon the location of the intake structure, this primary period has been determined to be April through September.

In accordance with 40 C.F.R. § 125.87(a), the permittee may request a reduction in monitoring frequency for the entrainment and impingement monitoring after two years of normal operations. This request must be made in writing to the Department. Any reduction in monitoring frequency may not take place until written permission has been received. The purpose of the supporting impingement and entrainment data is to demonstrate that operation of the weekly air burst technology will ensure that the intake screen is functioning as designed. Therefore, any approved reduction of the frequency of monitoring will be determined based on the results of the entrainment and impingement monitoring as well as the quantity of sampling events achieved during the first two years of normal operations.

b. Velocity Monitoring

In accordance with 40 C.F.R. § 125.85, as an alternative to measuring the through-screen velocity, to demonstrate compliance with the maximum through-screen design intake velocity of 0.5 ft/sec, the permittee shall: (i) conduct a weekly air burst through the intake screen during operation of the intake structure; (ii) perform impingement sampling in the manner and frequency stated in Part II.15.2.a ; and (iii) conduct visual or remote inspection of the intake screen in the manner and frequency stated in Part II.15.2.c.-

c. Visual or Remote Inspections

The permittee shall conduct visual inspections of the submerged cooling water intake structure and associated above-ground components at least quarterly during periods in which the cooling water intake structure is in operation or employ remote monitoring devices. The quarterly visual inspection of the intake screen may be performed at the same time as the quarterly impingement sampling. If conditions are unsafe for divers to conduct the quarterly visual observation, then the permittee shall attempt to reschedule the visual observation at a time when conditions allow for safely observing the submerged screen, and shall keep a record of the conditions which preclude safe observation of the submerged screen. If conditions do not allow for safe observation of the submerged screen during a calendar quarter, then no visual observation of the submerged screen is required for that calendar quarter. The permittee shall include the dates of visual observations of the intake screen and associated above-ground components on each annual report submitted in accordance

with Part II.15.3 of this permit. This annual report shall also include any calendar quarters when visual observations were not conducted on the intake screen along with the reasons they were not conducted.

In accordance with 40 C.F.R. § 125.87(a), the permittee may request a reduction in monitoring frequency for the visual inspections of the intake screen after two years of normal operations. This request must be made in writing to the Department. Any reduction in monitoring frequency may not take place until written permission has been received. The purpose of the visual inspections is to demonstrate that operation of the weekly air burst technology will ensure that the intake screen is functioning as designed. Therefore, any approved reduction of the frequency of visual inspections will be determined based on the results of the visual inspections as well as the quantity of visual inspections achieved during the first two years of normal operations.

3. Record Keeping and Reporting

The permittee shall keep records of all the data used to complete the permit application and any supplemental information developed under 40 C.F.R. § 125.86 for a period of at least three years from the date of permit issuance unless instructed by the Department within such three year period to keep such data for a longer period. The permittee shall keep records of all compliance monitoring data submitted under Part II.15.2 above for a period of at least three years from the date such data is collected unless instructed by the Department within such three year period to keep such data for a longer period. Within sixty days of each anniversary of the commencement of operation of the cooling water intake structure, the permittee shall prepare and submit to the Department an annual status report containing records collected pursuant to Part II.15.2 above.

On October 24, 2011, the Arkansas Department of Environmental Quality (“ADEQ”) issued National Pollutant Discharge Elimination System (“NPDES”) permit number AR0051136 (the “Permit”) to Southwestern Electric Power Company (“SWEPCO”) for the John W. Turk Jr. Power Plant.

On November 22, 2011, the Sierra Club filed a Request for Commission Review and Adjudicatory Hearing challenging the Permit. Docket No. 11-014-P. On November 23, 2011, SWEPCO filed a Request for Hearing challenging certain monitoring provisions included in Other Condition No. 15(2) of the Permit. 11-015-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.

On December 2, 2011, the Arkansas Pollution Control and Ecology Commission (the “Commission”) entered an order lifting the automatic stay of all of the terms and conditions of the Permit subject to the Permit appeals filed by both Sierra Club and SWEPCO. Minute Order No. 11-35.

On December 27, 2011, the Sierra Club withdrew its challenges to the Permit, and on January 27, 2012, the Commission entered an order dismissing Sierra Club’s appeal with prejudice. Minute Order 12-07.

On July 20, 2012, SWEPCO file a Request for Reinstatement of the Automatic Stay of Permit Conditions (the “Request”). The Request asks the Commission to reinstate the automatic stay of two of the monitoring provisions which are the subject of the subject of SWEPCO’s Permit appeal, and instead allowing SWEPCO comply with the alternative monitoring conditions that have been submitted ADEQ for inclusion in the Permit Appeal Resolution (“PAR”) and Permit modification.



Pursuant to APC&EC Regulation 8.612(C), the Secretary forwarded SWEPCO's Request to the Chairman for immediate consideration, and the Chairman caused the Motion to be placed on the agenda for the July 27, 2012, Commission meeting.

On July 27, 2012, the Commission considered SWEPCO's Motion and heard from all the parties who were present. Based on consideration of the parties' pleadings and presentations, the Commission finds and determines as follows:

1. SWEPCO's Request has been properly filed and the matter is properly before the Commission.

2. SWEPCO has established that it as well as others will suffer substantial prejudice if the automatic stay is not reinstated to allow SWEPCO to operate its cooling water intake structure as needed for commissioning activities in accordance with the monitoring conditions submitted to ADEQ for inclusion in the PAR and Permit modification. Allowing SWEPCO to obtain cooling water in accordance with the monitoring conditions submitted for inclusion in the PAR and Permit modification will ensure that any withdrawal of cooling water is in accordance with State and Federal laws and regulations. As such, SWEPCO's Request to Reinstate the Automatic Stay of Permit Conditions should be granted pending a final resolution by the Commission to the Permit appeal.

3. This decision of the Commission reinstates the automatic stay of Permit condition numbers 15(2)(a)(i) and 15(2)(c), and SWEPCO is directed to instead comply with the terms of the monitoring conditions submitted to ADEQ for inclusion in the PAR and Permit modification.

4. Any actions and any and all expenditures incurred by SWEPCO in reliance on reinstatement of stay of the Permit conditions are strictly at SWEPCO's own risk, and SWEPCO may not argue that the costs it incurs or the status of construction should be considered by the Commission in deciding the Permit appeal.

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

In the Matter of Southwestern  
Electric Power Company,  
John W. Turk, Jr. Power Plant

Docket No. 11-015-P

MINUTE ORDER NO. 12-\_\_\_\_\_

PAGE 3 OF 3

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**COMMISSIONERS**

_____	<b>J. Bates</b>	_____	<b>D. Samples</b>
_____	<b>L. Bengal</b>	_____	<b>L. Sickel</b>
_____	<b>J. Chamberlin</b>	_____	<b>J. Simpson</b>
_____	<b>J. Fox</b>	_____	<b>W. Thompson</b>
_____	<b>D. Hendrix</b>	_____	<b>B. White</b>
_____	<b>L. Hitchcock</b>	_____	<b>R. Young</b>
_____	<b>S. Jorgensen</b>		

\_\_\_\_\_ **SUBMITTED BY: Chad L. Wood**      **PASSED: \_\_\_\_\_**  
**J. Chamberlin, Chair**

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ARIF CHAUDHRY d/b/a/  
KWIK PIK  
7201 S ZERO ST.  
FORT SMITH, ARKANSAS

LIS 12-017  
AFIN: 66-00830

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "CAO") is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.*, Ark. Code Ann. § 8-7-508, The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, and the regulations promulgated thereunder, in particular Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation Number 12 (Storage Tank Regulations.) All Code of Federal Regulations references contained herein are incorporated by reference in APC&EC Reg. 12.104.

The issues herein having been settled by agreement of Arif Chaudhry d/b/a Kwik Pik, (hereinafter "Respondent") and the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ or Department"), it is hereby agreed and stipulated that the following Findings of Fact and Order and Agreement be entered.

## FINDINGS OF FACT

1. The Respondent is the owner of two underground storage tanks (hereinafter “USTs”), located at Kwik Pik, 7201 S Zero Street, Sebastian County, Fort Smith, Arkansas (hereinafter “the site”).
2. On June 15, 2010, a compliance inspection was conducted at the site. During the inspection, the Department identified the USTs as ineligible for fuel delivery or deposit. In accordance with Ark. Code Ann. § 8-7-814, the Department affixed a red tag on each of the USTs.
3. On April 29, 2011, Department personnel received a “State of Arkansas Notification for Underground Storage Tanks” form from the Respondent. The Notification form identified the Respondent as the owner of the USTs at the site.
4. On May 3, 2011, Department personnel conducted an onsite inspection of this facility. The inspector discovered at the time of the visit that the USTs had been placed into service prior to registration with the Department. This act is a violation of APC&EC Reg. 12.201(A) and Ark. Code Ann § 8-7-813(a).
5. During the period of time while the USTs were unregistered, the Respondent received a regulated substance into the unregistered USTs. This act is a violation of APC&EC Reg. 12.201(B)(1) and Ark. Code Ann. § 8-7-813(c)(1).
6. The Respondent received a regulated substance into the USTs while they were red tagged. This act is a violation of APC&EC Reg. 12.110 and Ark. Code Ann. § 8-7-814.
7. On January 23, 2012, ADEQ issued a Notice of Violation (hereinafter “NOV”), LIS No. 12-017, to the Respondent with a proposed civil penalty assessment of Seven Thousand One Hundred Twenty-Five Dollars and Zero Cents (\$7,125.00).

**ORDER AND AGREEMENT**

WHEREFORE, Respondent and the Arkansas Department of Environmental Quality do hereby stipulate and agree:

1. For all of the violations noted above the Respondent agrees to pay a total penalty in the amount of Five Thousand Four Hundred Dollars and Zero Cents (\$5,400.00). Payment shall be made in six monthly installments, in the amount of Nine Hundred Dollars (\$900.00) each, beginning 30 days of the effective date of this CAO and shall be made to the Arkansas Department of Environmental Quality and mailed to the attention of the Fiscal Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. Failure to comply with the terms of the installment payment plan shall immediately revoke this settlement offer and result in the original amount of the penalty being fully reinstated.

2. If the Respondent fails to submit to ADEQ any reports or plans, or to meet any other requirement of this CAO within the applicable deadline established in this CAO, the Respondent consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- a) First day through fourteenth day: \$100.00 per day
- b) Fifteenth day through thirtieth day: \$500.00 per day
- c) Each day beyond thirtieth day: \$1,000.00 per day

These stipulated penalties for delay in scheduled performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the Respondent's failure to

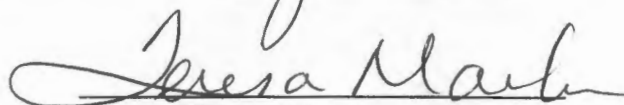
Comply with requirements of this CAO. ADEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

3. Nothing in this CAO shall be construed as a waiver by ADEQ of its authority to recover from any responsible party costs incurred for undertaking corrective action in connection with the site described herein nor of its authority over violations not specifically addressed herein. Also, this CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits; nor does it exonerate any past, present, or future conduct except as expressly addressed herein.

4. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and is therefore not final until thirty (30) calendar days after public notice of the CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period or based on any other considerations which may subsequently come to light. If the CAO is set aside, the NOV shall be reinstated.

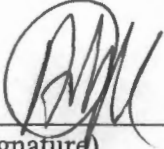
5. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

SO ORDERED THIS 14<sup>th</sup> DAY OF June, 2012.

  
Teresa Marks, Director

APPROVED AS TO FORM AND CONTENT:

Arif Chaudhry d/b/a/  
Kwik Pik

BY:  TITLE: President  
(Signature)

ARIF CHAUDHRY DATE: 6/7/12  
(Type or Print Name)

# Proposed Schedule of Regulation Changes before the APC&EC

Updated July 2012

Reg #	Description	Stakeholder	<u>Date Reg. is to be Before Commission to Initiate Rulemaking</u>	Date Public comment closes	<u>Status Dates before Legislative Committee</u>	<u>Status Date Reg is to be before the Commission for Final Adoption</u>
2	Establishing water quality standards for surface waters of the State of Arkansas, September 26, 2011. <ul style="list-style-type: none"> <li>• <i>Update based upon EPA approvals/disapprovals/Triennial Review</i></li> </ul>	Yes	Dec. 2012			
6	State administration of the National Pollutant Discharge Elimination System (NPDES), effective June 18, 2008. <ul style="list-style-type: none"> <li>• <i>Pesticide permit-by-rule.</i></li> </ul>		08/24/12			
8	Administrative procedures, effective February 28, 2009. <ul style="list-style-type: none"> <li>• <i>Adopt regulations under Chapter 2 governing public notice/participation and issuance of general permits (Act 731 of 2011).</i></li> <li>• <i>Add notification for rulemaking by electronic mail (Reg. 8.802) (Act 195 of 2011).</i></li> <li>• <i>Remove the requirement to submit SSN in disclosure statements (Reg. 8.204) (Act 222 of 2011).</i></li> <li>• <i>License revocation.</i></li> <li>• <i>Confidential materials procedure [ID other reg.s requiring changes to sections governing confidential information received.]</i></li> <li>• <i>Change time to respond to NOV's to 30 days (consistent with ARCP).</i></li> </ul>	Yes	Fall 2012 <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			



Reg #	Description	Stakeholder	<u>Date Reg. is to be Before Commission to Initiate Rulemaking</u>	Date Public comment closes	<u>Status Dates before Legislative Committee</u>	<u>Status Date Reg is to be before the Commission for Final Adoption</u>
11	<p>Solid Waste Disposal Fees; Post-Closure Trust Fees; Illegal Dumps Program; and Recycling Grants Program, effective December 18, 2008.</p> <ul style="list-style-type: none"> <li>• <i>Exempt state fees from the collections associated with annual clean-ups (Act 189 of 2009).</i></li> <li>• <i>Add landfill disposal fees for recycling and electronic equipment. (Act 602 of 2011)</i></li> <li>• <i>Adopt provisions covering other solid waste reduction activities eligible for recycling grants, annual reporting requirements, and clarifying the public comment period for grant applications (Act 819 of 2011).</i></li> </ul>	June 5, 2012	07/27/12			
14	<p>Administrative procedures for the Waste Tire Program, effective February 23, 2006.</p> <ul style="list-style-type: none"> <li>• <i>Includes changes to definitions of automobile, truck, and super single tires (Act 744 of 2011).</i></li> </ul>		12/02/11	03/21/12	May 17, 2012- PH&W June 13,2012- R&R	July 27, 2012
15	<p>Arkansas Open-Cut Mining and Land Reclamation Code, effective May 28, 2006.</p> <ul style="list-style-type: none"> <li>• <i>Add pecuniary gain option (Act 609of 2011).</i></li> </ul>	Yes	02/24/12	04/16/12	June 14, 2012-Ag July 2012	July 27, 2012
18	<p>Arkansas Air Pollution Control Code, effective June 18, 2010.</p> <ul style="list-style-type: none"> <li>• <i>Update NAAQS definition/addition of PM<sub>2.5</sub>.</i></li> </ul>	Yes	08/24/12			

Reg #	Description	Stakeholder	<u>Date Reg. is to be Before Commission to Initiate Rulemaking</u>	Date Public comment closes	<u>Status Dates before Legislative Committee</u>	<u>Status Date Reg is to be before the Commission for Final Adoption</u>
19	Arkansas plan of implementation for air pollution control, effective July 18, 2009. <ul style="list-style-type: none"> <li>Update incorporation by reference to the PSD rules (Chapter 9), other PM<sub>2.5</sub> changes, other federal rule changes, and update NAAQS definitions. This will be in preparation for another SIP revision.</li> <li>Biomass exemption (emergency rulemaking and standard rulemaking) and move GHG stay clause to Severability Section.</li> </ul>	Yes  Yes	08/24/12  06/22/12	08/15/12		
21	Arkansas Asbestos Abatement Regulation, effective October 8, 2011. <ul style="list-style-type: none"> <li>Draft additional changes.</li> </ul>	Yes	Fall 2012			
26	Arkansas Operating Air Permit Program, effective January 25, 2009. <ul style="list-style-type: none"> <li>Biomass exemption (emergency rulemaking and standard rulemaking).</li> <li>"Incorporation of PM<sub>2.5</sub> changes and other federal rule changes.</li> </ul>	Yes	06/22/12  08/24/12	08/15/12		
30	Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List, effective June 13, 2010. <ul style="list-style-type: none"> <li>Add and de-list sites.</li> </ul>		10/26/12			

TO: Arkansas Pollution Control and Ecology Commission

FROM: James F. Stephens, Chief, Mining Division *JFS*

DATE: July 10, 2012

SUBJECT: Quarterly Crooked Creek Written Report No. 42

This Quarterly Report is being furnished to the commission as requested for information purposes and not as a regular agenda item. Questions will be answered as necessary.

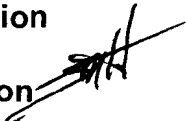
1. We have not received any new applications for in-stream mining permits.
2. No permits have been issued in the Crooked Creek area during this reporting period.
3. There have not been any complaints received for the Crooked Creek area during this reporting period.
4. There have been no new enforcement actions initiated.
5. There have not been any inspections of the area during this reporting period.



A R K A N S A S  
Department of Environmental Quality

# Memorandum

**To:** Commissioners  
Arkansas Pollution Control and Ecology Commission

**From:** Joe Hoover, Chief, Regulated Storage Tanks Division 

**Date:** July 11, 2012

**Subject:** RST Trust Fund Quarterly Report Ending June 30, 2012

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Pursuant to Arkansas Code Annotated §8-7-906(g)(3), the Commission shall review the balance of the Arkansas Petroleum Storage Tank Trust Fund, as adjusted to reflect the obligations and liabilities of the fund, at least quarterly and report the rate of collection for the fee for the upcoming quarter to the director. The environmental assurance fee is currently being collected at the maximum rate of the three-tenths of one cent per gallon on motor fuel and distillate special fuel purchased in or imported into Arkansas.

The RST Division submits the attached financial status report in compliance with the code.

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# ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

## RST Division - Petroleum Storage Tank State Trust Fund Financial Status Report for Period Ending June, 2012

I. Fund Balance on June 1, 2012 -----		\$ 20,536,225.92
II. Receipts		
1. Previously reported -----	\$ 119,021,010.48	
2. June receipts -----	<u>\$ 752,130.30</u>	
Total receipts to date -----		\$ 119,773,140.78
III. Expenditures		
1. Previously reported -----	\$ 98,484,784.56	
2. June expenditures -----	<u>\$ 918,572.66</u>	
Total expenditures to date -----		<u>\$ 99,403,357.22</u>
IV. Fund Balance on June 30, 2012 -----		\$ 20,369,783.56
V. Interest		
1. Previously reported -----	\$ 9,647,861.43	
2. June Interest -----	<u>\$ 3,904.10</u>	
Total interest to date -----	<u>\$ 9,651,765.53</u>	
VI. Total investments on June 30, 2012 -----		<u>\$ 19,000,000.00</u>
VII. Funds available on June 30, 2012 -----		<u>\$ 1,369,783.56</u>

**STATUS OF TRUST FUND**

Fund balance on 06/30/12-----		\$ 20,369,783.56
Reserve for emergency projects -----		\$ 350,000.00
Current claims received -----		\$ 627,166.34
Claims approved but unpaid -----		\$ -
Other corrective action obligations (estimated) -----		\$ 10,911,101.53
Potential third party obligations (estimated) -----		<u>\$ 542,500.00</u>
Adjusted balance -----		<u>\$ 7,939,015.69</u>

CERTIFIED TRUE AND CORRECT

  
David C. Kinnard, CPA  
Fiscal Division Chief

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY  
SOLID WASTE DIVISION - RECYCLING & MARKETING BRANCH**

**MEMORANDUM:**

**TO:** Pat Goff, Commissioners Office

**FROM:** ADEQ Tax Credit Program

**DATE:**

**SUBJECT:** Monthly Report

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Title of Company: Ironwood Services, Inc.  
Amount requested: \$55,224.40  
Amount approved: \$16,567.32  
Date approved: May 31, 2012

Title of Company: Bobby R. Martin, LLC  
Amount requested: \$113,013.96  
Amount approved: \$50,620.24  
Date approved: June 19, 2012

Title of Company: Metal Recycling Corp.  
Amount requested: \$467,322.80  
Amount approved: \$140,196.84  
Date approved: June 20, 2012

Title of Company: Metal Recycling Corporation  
Amount requested: \$467,322.80  
Amount approved: \$140,196.84  
Date approved: June 20, 2012

Title of Company: Sol Alman Company  
Amount requested: \$975.00  
Amount approved: \$975.00  
Date approved: June 25, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$241,412.91  
Amount approved: \$191,336.46  
Date approved: July 2, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$175,794.99  
Amount approved: \$52,738.50  
Date approved: July 2, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$158,830.26  
Amount approved: \$47,649.08  
Date approved: July 3, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$134,967.00  
Amount approved: \$40,490.10  
Date approved: July 3, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$859,931.28  
Amount approved: \$257,979.38  
Date approved: July 5, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$72,750.25  
Amount approved: \$21,825.08  
Date approved: July 6, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$787,196.04  
Amount approved: \$9,341.10  
Date approved: July 6, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$390,531.53  
Amount approved: \$117,159.46  
Date approved: July 6, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$15,603.90  
Amount approved: \$4,681.17  
Date approved: July 9, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$403,432.61  
Amount approved: \$120,905.22  
Date approved: July 9, 2012

Title of Company: Delta Plastics of the South  
Amount requested: \$15,603.90  
Amount approved: \$4,681.17  
Date approved: July 9, 2012

Title of Company: Southern Disposal, Inc.  
Amount requested: \$37,211.00  
Amount approved: \$11,163.30  
Date approved: July 17, 2012





FACILITY	AFIN	REQUESTS	PERMIT TYPE
Reynolds Consumer Products Holdings, Inc.	3000030	MODIFICATION	TITLE V
Firestone Building Products Company, Inc.	5000006	MODIFICATION	MINOR
Tyson Foods, Inc. - Pine Bluff Feed Mill	3500299	DE MINIMIS	MINOR
Porocel Corporation	6000004	MODIFICATION	MINOR
Bunge North America , Inc.	4700119	DE MINIMIS	MINOR
Lexicon, Incorporated	6001801	DE MINIMIS	MINOR
Geo Specialty Chemicals	6000001	MODIFICATION	MINOR
Welspun Pipes, Inc.	6004184	DE MINIMIS	MINOR
Baldor Electric Company	6600041	MODIFICATION	TITLE V
El Dorado Chemical Company	7000040	MODIFICATION	TITLE V
Federal Drier and Storage Company	4300113	MODIFICATION	MINOR
Arkansas Poly, Inc.	1700100	TITLE V RENEWAL	TITLE V
Riceland Foods, Inc.	0100008	MODIFICATION	TITLE V
Arkansas Reclamation Company, LLC	7300785	MODIFICATION	MINOR
Unimin Corporation	3300002	DE MINIMIS	MINOR
Superior Industries International Arkansas, LLC	7200270	MINOR MOD	TITLE V
Gavilon Grain, LLC	3501003	NEW	REG18.315
ConAgra Frozen Packaged Foods	5800263	DE MINIMIS	MINOR
Remington Arms Company, LLC	4300024	DE MINIMIS	MINOR
Union Power Station	7000543	TITLE V RENEWAL	TITLE V
Delta Oil Mill	5400019	NEW	REG18.315

PERMIT NUMBER	FINAL
0448-AOP-R6	06/06/2012
0698-AR-13	06/06/2012
1577-AR-2	06/06/2012
0635-AR-11	06/06/2012
1904-AR-3	06/06/2012
2022-AR-5	06/07/2012
0362-AR-8	06/07/2012
2145-AR-4	06/07/2012
0996-AOP-R14	06/07/2012
0573-AOP-R13	06/18/2012
1495-AR-4	06/18/2012
1331-AOP-R4	06/18/2012
0908-AOP-R5	06/18/2012
2150-AR-5	06/20/2012
0620-AR-11	06/20/2012
1302-AOP-R17	06/20/2012
2288-A-REG315	06/21/2012
1582-AR-7	06/22/2012
1272-AR-8	06/22/2012
1861-AOP-R5	06/26/2012
1089-A-REG315	06/28/2012

# ADEQ

ARKANSAS  
Department of Environmental Quality

## MEMORANDUM

To: Commission Members

From: J. Ryan Benefield, Acting Chief; Hazardous Waste Division *JB*

Date: July 2, 2012

Subject: Permit Modification Issued for the Month of June 2012

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- FutureFuels (Permit 11H-RN1): Class 1 Permit Modification (Emergency Coordinator Update); Received 6/1/12; Approved 6/26/12

# ADEQ

ARKANSAS  
Department of Environmental Quality

## Memorandum

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**TO** : Arkansas Pollution Control and Ecology Commission

**FROM** : Bryan Leamons, Engineer Supervisor, Solid Waste Division *BL*

**DATE** : July 9, 2012

**SUBJECT** : Monthly Permit Decisions

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During June 2012, the Solid Waste Division issued the following permits:

Permit Number	Facility Name and Action	Effective Date
0018-SWTP	Issuance of Final Waste Tire Processing Permit – White River Recycling and Reclamation Facility – White River RSWMD.	6/19/2012
0151-S1-R4	Approval of Minor Permit Modification and Transmittal of Permit Addendum – BFI Waste Systems of Arkansas Class 1 Landfill.	6/27/2012

cc: Roger Lawrence, Chief - SWMD



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: July 10, 2012

SUBJECT: Monthly Permit/Authorization Decisions

Since the last report, the Mining Division has issued/denied the following permits/authorizations:

Open-Cut Mining (Transfer)

Pavecon, Ltd.	0737-MN-A1	Benton County
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Quarry Mining NOI (New)

Rock-It Natural Stone, Inc.	0100-MQ	Johnson County
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Quarry Mining NOI (Renewal)

Capital Quarries	0012-MQ-A3	Randolph County
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# ADEQ

ARKANSAS  
Department of Environmental Quality

**TO:** Commission Members

**FROM:** Mo Shafii, Assistant Chief, Water Division 

**DATE:** July 10, 2012

**SUBJECT:** Water Permits

The Permit Branch of the Water Division issued 41 recycling authorizations under AOGC B-17 and the following permits during the previous month.

Facility Name	Permit Number	County
SMACKOVER RESOURCES/PATTON #7	0001-WG-SW-4	Ouachita
EDNA OIL COMPANY	0010-WG-SW-2	Ouachita
C C & P OIL COMPANY	0015-WG-SW-2	Ouachita
DON MASON & SON/DUNN #2 SWD	0059-WG-SW-2	Union
TDX ENERGY/S.T. CRONE #2 SWD	0100-WG-SW-3	Columbia
INLAND ENERGY/RITCHIE BAKER	0121-WG-SW-2	Union
SMACKOVER RESOURCES/CUNNINGHAM	0214-WG-SW-2	Ouachita
COLUMBIA OIL COMPANY INC	0232-WG-SW-1	Columbia
HENRY CORLEY OIL/PATTON #A-4	0252-WG-SW-3	Ouachita
SMACKOVER RESOURCES, INC	0275-WG-SW-1	Ouachita
BONANZA CREEK/DORCHEAT #1	0356-WG-SW-7	Columbia
JERRY LANGLEY OIL/WALKER #1	0366-WG-SW-2	Ouachita
CORLEY TRUST/W.A. SMITH #1-A	0390-WG-SW-2	Ouachita
LANGLEY, JERRY	0411-WG-SW-1	Union
JERRY LANGLEY OIL/J.TRIMBLE #2	0426-WG-SW-2	Union
BERG.LANEY,BROWN/COOK #9	0427-WG-SW-3	Union
LAMKIN PRODUCTION/TIDWELL # 10	0483-WG-SW-2	Ouachita
CORELY TRUST,LLC/WILSON #7 SWD	0502-WG-SW-2	Union
JERRY LANGLEY OIL/ELSIE PEACE	0510-WG-SW-2	Ouachita
FOUR R OPERATING/UMSTEAD MURPH	0511-WG-SW-2	Ouachita
FOUR R OPERATING/MURPHY A-1	0521-WG-SW-2	Union
FOUR R OPERATING/MCKEN #D-11	0523-WG-SW-2	Ouachita
FOUR R OPERATING/ RL HARDIN #1	0525-WG-SW-2	Ouachita
FOUR R OPERATING CO/BELSHE #2	0526-WG-SW-3	Union
FOUR R OPERATING CO.,LLC	0551-WG-SW-1	Union
BONANZA CREEK ENERGY/MCWILLIAM	0556-WG-SW-4	Columbia

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880

[www.adeq.state.ar.us](http://www.adeq.state.ar.us)

THOMPSON OIL COMPANY, MIKE	0557-WG-SW-2	Ouachita
BONANZA CREEK ENERGY/EM HUTCH.	0559-WG-SW-4	Columbia
BONANZA CREEK ENERGY /TALLEY#1	0560-WG-SW-3	Columbia
BONANZA CREEK ENERGY/MCKAMIE	0578-WG-SW-3	Lafayette
JERRY LANGLEY OIL,LLC/FORCH A	0580-WG-SW-2	Ouachita
FOSTER, BILL/MCKINNON #3	0585-WG-SW-1	Union
SMACKOVER RESOURCES/SAXON #4	0586-WG-SW-1	Union
THOMPSON OIL ,LLC/FARRIS #1	0589-WG-SW-1	Ouachita
FOUR R OPERATING/SMRECKER	0594-WG-SW-1	Union
LANGLEY, JERRY OIL/TDMURPHYB1	0595-WG-SW-1	Union
THOMPSON OIL, LLC	0596-WG-SW-2	Ouachita
JERRY LANGLEY OIL/SAXON #2	0600-WG-SW-2	Union
PACIFIC ATLANTIC OIL/DEBO #3	0624-WG-SW-1	Union
LANGLEY,JERRY OIL/LOUIS-WERNER	0626-WG-SW-1	Union
THOMPSON OIL. LLC/LANEY #5 SWD	0640-WG-SW-1	Ouachita
BONANZA CREEK ENERGY/SOUTER	0642-WG-SW-3	Columbia
JERRY LANGLEY OIL/J.BERRY #6	0656-WG-SW-2	Union
BERG,LANEY & BROWN/BALLARD #3	0684-WG-SW-1	Union
JERRY LANGLEY OIL CO, LLC	0688-WG-SW-3	Union
FOUR R OPERATING/DORFMAN #1SWD	0704-WG-SW-1	Union
HARVEST OIL. LTD/SMITH #2 SWD	0713-WG-SW-2	Bradley
BONANZA CREEK/BODCAW V-1 SWD	0727-WG-SW-3	Lafayette
B & S PRODUCTION/FREEMAN-SMITH	0728-WG-SW-2	Calhoun
SMACKOVER RESOURCES/M.ALPHIN20	0730-WG-SW-1	Union
BONANZA CREEK ENERGY/CALDWELL	0735-WG-SW-1	Union
BHP BILLITON PETRO/COOPER	0736-WG-SW-2	White
TERRA RENEWAL,LLC/SQUIRES SWD	0751-WG-SW-4	Conway
BONANZA CREEK ENERGY/CASSIE MC	0753-WG-SW-1	Columbia
BHP BILLITON PETRO/SRE 8-12	0765-WG-SW-4	Faulkner
JERRY LANGLEY OIL/ROBERSTON 15	0775-WG-SW-1	Ouachita
FOUR R OPERATING/HURT #8 SWD	0777-WG-SW-1	Union
BONANZA CREEK/BODCAW A-5 SWD	0785-WG-SW-1	Lafayette
BONANZA CREEK/WILLIS B #5 SWD	0786-WG-SW-1	Columbia
DON MASON & SON/LAWTON B#11	0788-WG-SW-1	Union
BONANZA CREEK ENERGY/BARTON #2	0790-WG-SW-2	Columbia
BONANZA CREEK ENERGY/PHILLIPS	0799-WG-SW-1	Columbia
BONANZA CREEK ENERGY/CONLLIN	0800-WG-SW-1	Columbia
CALHOUN PRODUCTION/GAUGHAN 5	0811-WG-SW	Calhoun
PERRY, CITY OF	2013-WR-4	Perry
TAMMY ALEXANDER	3569-WR-2	Sevier
SMITTY'S SEPTIC SERVICE	4395-WR-5	Baxter
VILLAGES OF CROSS CREEK	4811-WR-2	Benton
TERRA RENEWAL SERVICES, INC.	4812-WR-4	Pope
TERRA RENEWAL SERVICES, INC.	4823-WR-5	Logan
STONE DAM CREEK WWTP	4853-WR-2	Faulkner



TERRA RENEWAL SERVICE, INC	4906-WR-2	Independence
FAIRFIELD BAY WASTEWATER CORP	5084-W	Van Buren
TERRRA RENEWAL SERVICES	5121-W	Howard
STATELINE VACUUM SVC/WALLER #1	5132-W	Columbia
APEX/FCC, LLC-MT.VERNON	5136-W	Faulkner
LITTLE ROCK WWTP/ADAMS FIELD	AR0021806	Pulaski
MARION, CITY OF	AR0021971	Crittenden
COTTON PLANT, CITY OF	AR0033391	Woodruff
POCAHONTAS, CITY OF	AR0034835C	Randolph
ENTERGY ARKANSAS-WHITE BLUFF	AR0036331	Jefferson
ARK PARKS LAKE OUACHITA	AR0036811	Garland
ARK PARKS WOOLY HOLLOW	AR0037087	Faulkner
KNOBEL, CITY OF	AR0043290	Clay
RECOVERY CENTERS OF ARKANSAS	AR0045560	Pulaski
DIAMONDHEAD RESORT WWTF	AR0048615	Garland
CROSSROADS SUBDIVISION	AR0050563	Saline
ENTERGY AR.DBA HOT SPRING PLNT	ARG550314	Hot Spring
CRAIG WILSON	ARG550411	Lonoke
NAT.GAS PIPELINE OF AM. GC#3	ARG670716	White
CENTERPOINT ENERGY/BT1 TEST	ARG670722	Logan
SHEEHAN PIPE LINE CONSTR.CO.	ARG670723	White
CENTERPOINT ENERGY/BT38/BM26	ARG670724	Conway
CENTERPOINT ENERGY/LINE JM	ARG670725	Phillips
ROBINSON VALVE REPLACEMENT	ARG670726	Benton
PAULINE WHITAKER PKWY PROJECT	ARG670727	Benton
SOURCEGAS ARK/N HUNTSVILLE	ARG670728	Madison
CHERI WHITLOCK RD REPLACEMENT	ARG670729	Benton
HUTCHENS ASPHALT PLANT	ARG670730	Washington
DIXIELAND ROAD REPLACEMENT	ARG670731	Benton
CENTERPOINT ENERGY,LLC -WALKER	ARG670733	Franklin
CITY OF LONOKE (PESTICIDE)	ARG870068	Lonoke
CITY OF HOPE (PESTICIDE)	ARG870069	Hempstead
RIVIANA FOODS, INC	ARR000035	Monroe
PERFECTION PLUS	ARR000071	Pulaski
TWO PINE LANDFILL	ARR000235	Pulaski
HARRIS BAKING CO	ARR000288	Benton
TRIAD TRANSPORT INC	ARR000304	Saline
UNILEVER MANUFACTURING (US)INC	ARR000333	Craighead
ARKANSAS SOYENERGY GROUP, LLC	ARR000427	Arkansas
B & B ENTERPRISE	ARR000764	Pulaski
LAFAYETTE COUNTY TRANSFER STAT	ARR000871	Lafayette
JT'S WASHOUT FACILITY, LLC	ARR000967	Faulkner
JEFFERSON COUNTY RECYLCING	ARR000971	Jefferson
THERRAL STORY WELL SERVICES	ARR000983	Columbia
SADDLEBOCK BREWING, LLC	ARR000984	Washington

THERMO-TILE	ARR000985	Johnson
SOUTHWEST AR REG SW DALLAS CO	ARR000988	Dallas
RED PEARCY OIL CO.	ARR000989	Randolph
RAKKO CONCRETE	ARR000991	Craighead
STEPHENSON OIL CO., INC.	ARR000992	White
BRAZELL OIL CO INC	ARR000993	Boone
A-PAK-CO, LLC	ARR000994	Lafayette
SAINT-JEAN INDUSTRIES, INC	ARR00A027	Cleburne
TYSON FOODS-BERRYVILLE FURTHER	ARR00A051	Carroll
BILCO COMPANY, THE	ARR00A215	Poinsett
CAMERON VALVE	ARR00A283	Pulaski
PLANT MAINTENANCE SERVICES	ARR00A322	Boone
KLIPSCH GROUP. INC	ARR00A333	Hempstead
PINECREST LUMBER-GREEN BAY PKG	ARR00A635	Conway
BATESVILLE WOOD YARD	ARR00C250	Independence
ENTERGY AR.DBA HOT SPRING PLNT	ARR00C348	Hot Spring
SGL CARBON LLC	ARR00C390	Franklin
WEST MEMPHIS MS4 PERMIT	ARR040025	N.E.C.
SHERWOOD, CITY OF/MS4 PERMIT	ARR040027	N.E.C.
JONESBORO MS4 PERMIT	ARR040033	N.E.C.
AR STATE UNIVERSITY MS4 PERMIT	ARR040037	N.E.C.
PINE BLUFF, CITY OF/MS4 PERMIT	ARR040042	N.E.C.
SOUTHRIDGE VILLAGE	ARR10B851	Cleburne
SOUTHRIDGE VILLAGE	ARR10B851	Cleburne
WATERVIEW ESTATES/PH II	ARR150142	Pulaski
WATERVIEW ESTATES/PH II	ARR150142	Pulaski
SOUTHERN COMFORT ESTATES	ARR150306	Lonoke
SOUTHERN COMFORT ESTATES	ARR150306	Lonoke
SOUTHBEND	ARR150309	Craighead
SOUTHBEND	ARR150309	Craighead
STONEHENGE SUBDIVISION	ARR150561	Lonoke
STONEHENGE SUBDIVISION	ARR150561	Lonoke
SOUTH MOORE ESTATES	ARR150863	Garland
SOUTH MOORE ESTATES	ARR150863	Garland
WESTCLIFFEE SUBDIVISION	ARR150923	Saline
JEWELS ESTATES	ARR151142	Faulkner
JEWELS ESTATES	ARR151142	Faulkner
WILDWOOD GARDENS	ARR151179	Garland
WILDWOOD GARDENS	ARR151179	Garland
7 POINT LAKE SUBDIVISION	ARR151230	Faulkner
7 POINT LAKE SUBDIVISION	ARR151230	Faulkner
SHADOW RIDGE SUBDIVISION	ARR151421	Faulkner
SHADOW RIDGE SUBDIVISION	ARR151421	Faulkner
WHITE EAGLE SUBDIVISION	ARR151543	Garland
WHITE EAGLE SUBDIVISION	ARR151543	Garland

WESTPARK VILLAGE	ARR151553	Pulaski
WESTPARK VILLAGE	ARR151553	Pulaski
WINDSOR LANDING	ARR151563	Craighead
WINDSOR LANDING	ARR151563	Craighead
WIN MEADOW SUBDIVISION	ARR151631	Faulkner
WIN MEADOW SUBDIVISION	ARR151631	Faulkner
13TH STREET PROPERTY PROJECT	ARR151753	Jefferson
13TH STREET PROPERTY PROJECT	ARR151753	Jefferson
SMITH PIT/HULBERT DEVELOPMENT	ARR151791	Crittenden
SMITH PIT/HULBERT DEVELOPMENT	ARR151791	Crittenden
STONE LINKS SUBDIVISION	ARR151857	Pulaski
TEXAS DOT #ATL-CSJ-0610-07-085	ARR151964	Miller
TEXAS DOT #ATL-CSJ-0610-07-085	ARR151964	Miller
EAGLE PASS SUBDIVISION	ARR152016	Garland
TRAMMEL ESTATES	ARR152153	Pulaski
TRAMMEL ESTATES	ARR152153	Pulaski
QUALITY TOPSOIL & DIRT PIT,LLC	ARR152214	Pulaski
THE WOODS @ CHAFFEE CROSSING	ARR152373	Sebastian
THE WOODS @ CHAFFEE CROSSING	ARR152373	Sebastian
VILLAGE @ NORTHWOODS CREEK	ARR152504	Pulaski
THE GROVE-CAMPUS CREST DEV	ARR152687	Faulkner
THE GROVE-CAMPUS CREST DEV	ARR152687	Faulkner
WESTWOOD ACRES	ARR152700	Garland
WESTWOOD ACRES	ARR152700	Garland
EL DORADO SOFTBALL COMPLEX	ARR152705	Union
EL DORADO SOFTBALL COMPLEX	ARR152705	Union
ROGERS RECYCLE CENTER	ARR152842	Benton
STAGECOACH WATERLINE EXTENSION	ARR153010	Lonoke
STAGECOACH WATERLINE EXTENSION	ARR153010	Lonoke
LANDERS PROJECT ON SHACKLEFORD	ARR153047	Pulaski
EVRAZ STRATCOR, INC.	ARR153059	Garland
EVRAZ STRATCOR, INC.	ARR153059	Garland
CITY-BENTONVILLE/SE I ST. IMPR	ARR153174	Benton
CITY-BENTONVILLE/SE I ST. IMPR	ARR153174	Benton
TERRACE MEADOWS SUBDIVISION	ARR153206	White
TERRACE MEADOWS SUBDIVISION	ARR153206	White
DECATUR ASSEMBLY OF GOD CHURCH	ARR153290	Benton
DECATUR ASSEMBLY OF GOD CHURCH	ARR153290	Benton
TEXARKANA REGIONAL AIRPORT	ARR153313	Miller
KIRK RD TO PRIDE VALLEY PROJ.	ARR153342	Pulaski
KIRK RD TO PRIDE VALLEY PROJ.	ARR153342	Pulaski
VUONG FARM	ARR153373	Benton
VUONG FARM	ARR153373	Benton
TLC/TELCO	ARR153389	Union
TLC/TELCO	ARR153389	Union

TWO PRAIRIE SUBDIVISION	ARR153408	Lonoke
TWO PRAIRIE SUBDIVISION	ARR153408	Lonoke
THE VILLAGE AT BRODIE CREEK	ARR153412	Pulaski
THE VILLAGE AT BRODIE CREEK	ARR153412	Pulaski
RICHARDSON BUSINESS CENTER	ARR153455	Pulaski
THE MEADOWS OF ROGERS	ARR153466	Benton
THE MEADOWS OF ROGERS	ARR153466	Benton
SPRINGWATER SUBDIVISION/PH 6	ARR153480	Saline
SPRINGWATER SUBDIVISION/PH 6	ARR153480	Saline
WASHINGTON COUNTY/SE WATER EXT	ARR153500	N.E.C.
WASHINGTON COUNTY/SE WATER EXT	ARR153500	N.E.C.
CONWAY MUNICIPAL AIRPORT	ARR153540	Faulkner
THE EAGLE BUSINESS COMPLEX	ARR153548	Ouachita
THE EAGLE BUSINESS COMPLEX	ARR153548	Ouachita
CAMDEN WATER UTILITIES/16"MAIN	ARR153598	Ouachita
CAMDEN WATER UTILITIES/16"MAIN	ARR153598	Ouachita
RESS COMMERCE DRIVE ADDITION	ARR153617	Craighead
RESS COMMERCE DRIVE ADDITION	ARR153617	Craighead
SARGENT/BARTHOLOMEW STOCK POND	ARR153626	Washington
SARGENT/BARTHOLOMEW STOCK POND	ARR153626	Washington
SOUTHERN ARK U. RODEO ARENA	ARR153636	Columbia
BIRDSONG PEANUT BUYING POINT	ARR153801	Lawrence
SPRING MEADOWS GRADING	ARR153817	Benton
CMN BUSINESS PARK, LOT 9A	ARR153818	Washington
PROPOSED GUYOT SUBDIVISION	ARR153821	White
PARK GREEN COLLEGIATE VILLAGE	ARR153830	Washington
RICHLAND HILLS	ARR153833	Saline
ORSCHELN FARM & HOME RETAIL	ARR153835	Washington
CHAPEL CREEK II	ARR153836	Faulkner
ARK HWY DEPT/JOB #FA6707	ARR153837	Sharp
ARK HWY DEPT/JOB #100402	ARR153838	N.E.C.
ARK HWY DEPT/JOB #090293	ARR153839	Benton
ARK HWY DEPT/JOB #090235	ARR153840	Carroll
ARK HWY & DEPT/JOB #061186	ARR153841	Hot Spring
ARK HWY DEPT/JOB #040583	ARR153842	Washington
ARK HWY DEPT/JOB #040478	ARR153843	Sebastian
CORY DICE BROILER HOUSES	ARR153844	Nevada
HWY 212 & 425 PROJECT	ARR153846	Lincoln
LEWISVILLE ASU	ARR153847	Lafayette
WILLIAM & SILKE ENGBERG/LOT 8	ARR153849	Pulaski
DARDANELLE ELEMENTARY SCHOOL	ARR153851	Yell
ENTERGY ARKANSAS/BENTON N-S	ARR153852	Saline
W.PLANT-BUTLER REPLACEMENT JOB	ARR153853	Columbia
ROCK CREEK RESIDENTIAL CAMPUS	ARR153854	Garland
SOURCE GAS/ZINC-HARMON RD EXT	ARR153856	Boone

USACOE/ST.FRANCIS RIVER LEVEE	ARR153857	N.E.C.
MCGEORGE CONTR/HEARTWOOD SAND	ARR153858	Dallas
THE VILLAGE @ LONDON (PH1)	ARR153859	Pope
USACE/GATES DITCH CLEANING	ARR153860	Greene
CITY/SPRINGDALE/JOHNSON RD JOB	ARR153861	Washington
OUACHITA RIVER PIPELINE PROJ.	ARR153862	Union
THE RESERVE CENTENNIAL SUB.	ARR153863	Faulkner
HYLTON ROAD IMPROVEMENTS	ARR153864	Washington