

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 11, REGULATIONS FOR )  
SOLID WASTE DISPOSAL FEES; LANDFILL )  
POST-CLOSURE TRUST FUND; SOLID )  
WASTE MANAGEMENT AND RECYCLING )  
FUND DISTRIBUTION PROGRAMS )

DOCKET NO. 16-\_\_-R

**PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 11,**  
**REGULATIONS FOR SOLID WASTE LANDFILL DISPOSAL FEES; LANDFILL**  
**POST-CLOSURE TRUST FUND; SOLID WASTE MANAGEMENT AND**  
**RECYCLING FUND DISTRIBUTION PROGRAMS**

Comes now the Arkansas Department of Environmental Quality (ADEQ), for its Petition to Initiate Rulemaking to Amend Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 11, Regulations for Solid Waste Landfill Disposal Fees; Landfill Post-Closure Trust Fund; Solid Waste Management and Recycling Fund Distribution Programs, states:

1. The following amendments are proposed for Regulation No. 11 pursuant to the provisions of Ark. Code Ann. §§ 8-6-207(b)(1), 8-6-602(d), 8-6-610, and 8-6-613(c), that allow the APC&EC to promulgate regulations implementing the substantive statutes charged to the ADEQ for administration and enforcement.

2. The proposed regulatory amendments are as follows:

A. To amend Reg.11.205 to incorporate existing statutory law concerning “(C) Fee Schedule for Computer & Electronic Waste Fund Distribution Program” that becomes effective when the Landfill Post-Closure Trust Fund balance equals or is less than fifteen million dollars (\$15,000,000) as provided in Ark. Code Ann. § 8-6-1002(a)(3)(B);

B. To amend Chapter 3 concerning the Landfill Post-Closure Trust Fund Program to incorporate statutory changes made by the General Assembly in Act 1037 of 2015 to allow Landfill Post-Closure Trust Fund monies to be used to close waste tire processing or disposal sites that are owned and operated by a regional solid waste management district under limited circumstances and to strike all provisions that have been rendered obsolete by the statutory changes, including:

- i. Amendment of Reg.11.303(B) to add eligible waste tire processing facilities and waste tire disposal sites to the facilities under the Landfill Post-Closure Trust Fund Program;
- ii. Amendment of Reg.11.303(C) to strike language that was moved to Reg.11.205(B) and clarified to comport with statutory language;
- iii. Amendment of Reg.11.304(A) to add eligible waste tire processing facilities and waste tire disposal sites to the list of facilities that may receive funding from the Landfill Post-Closure Trust Fund;
- iv. Amendment of Reg.11.305 to include eligible waste tire processing facilities and waste tire disposal sites in the facilities to which the provisions and benefits of the Landfill Post-Closure Trust Fund apply;
- v. Amendment of Reg.11.306(A)(2) is added concerning the eligibility requirements for a waste tire processing facility or disposal site to receive monies from the Landfill Post-Closure Trust Fund; and
- vi. Amendment of Reg.11.306(B)(3) is added to explain the method by which the Director makes a funding determination for a waste tire processing facility or disposal site to receive monies from the Landfill Post-Closure Trust Fund for a waste tire processing facility or disposal site.

C. To amend Chapter 5 concerning the Computer and Electronic Equipment Recycling Grants Program to incorporate statutory changes made by the General Assembly in Act 1176 of 2015 to the method for distribution of electronic waste recycling

funds to the Regional Solid Waste Management Districts and to strike all provisions that have been rendered obsolete by the statutory changes, including:

- i. Amendment of Reg.11.502 to include the addition of the Computer and Electronic Equipment Recycling Distribution Fund Program; procedural and methodology information for allocating funding to each District; distribution procedures; and the allowance of a joint electronic waste project using combined funds;
- ii. Amendment to strike Reg.11.503 concerning District eligibility under the grant program that was statutorily changed to a distribution program;
- ii. Amendment to newly renumbered Reg.11.503 (currently Reg.11.504) to strike provisions on application prioritization, distribution within the District, and adequate revenues; renumber provisions related to permits and licenses and equipment and facility purchasing; and clarify statutory audit requirements;
- iii. Amendment to newly renumbered Reg.11.504 (currently Reg.11.505) to add provisions related to administrative costs and additional recycling programs;
- iv. Amendment to strike Reg.11.506 because the grant program was changed to a distribution program with the formula under Reg.11.502;
- v. Amendment to newly renumbered Reg.11.505 (currently Reg.11.507) to reflect the statutory change to a distribution program;
- vi. Amendment to strike Reg.11.508 and Reg.11.509 to remove the procedures for the grant program under prior law;
- vii. Amendment to newly renumbered Reg.11.506 (currently Reg.11.510) to remove all provisions rendered obsolete by statutory changes, leaving only the provisions of Right of Entry and Access;
- viii. Amendment to newly renumbered Reg.11.507 (currently Reg.11.511) to remove all provisions rendered obsolete by statutory changes except Earned Interest on Distribution Funds; and
- ix. Removal of Reg.11.512 concerning language on appeals process for the grant program, that was rendered obsolete by statutory changes.



D. To amend other Chapters of the Regulation for consistency with the statutory changes made by the General Assembly and primarily concerning terminology and program name changes; and

E. To make minor, non-substantive stylistic and formatting corrections throughout the Regulation.

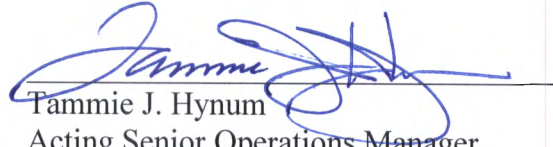
3. These changes will make the regulation consistent with the newly amended provisions of the Solid Waste Management Act, Ark. Code Ann. § 8-6-601 *et seq.* and the Post-Closure Trust Fund Act, Ark. Code Ann. § 8-6-1001 *et seq.* The proposed changes to the regulation are required to implement Acts 1037 and 1176 of 2015.

4. Tammie J. Hynum, acting Senior Operations Manager of the Office of Land Resources of ADEQ, will be available to answer questions concerning this proposed rulemaking. A mark-up version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Governor’s approval is attached as Exhibit “B”; a copy of the Legislative Questionnaire is attached as Exhibit “C”; and a copy of the Financial Impact Statement is attached as Exhibit “D”, all of which are incorporated by reference. A proposed Minute Order is attached as Exhibit “E” and is hereby incorporated by reference.

5. This regulatory amendment is exempt from the requirement for an Economic Impact/Environmental Benefit Analysis under Reg.8.812 because the proposed changes incorporate language of a state statute without substantive change. Reg.8.812(A)(2).

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No. 11.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Tammie J. Hynum", is written over a horizontal line.

Tammie J. Hynum  
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