

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 22, SOLID WASTE ) DOCKET NO. 07-012 -R  
MANAGEMENT RULES )

STATEMENT OF BASIS AND PURPOSE

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Under Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department").

This regulation is being amended to incorporate changes made by Act 1337 passed by the legislature in 2003, codified at A.C.A. § 8-6-606(d)(1), and Act 452 of 2007, codified at A.C.A. § 8-14-104(a)(2) and Act 1281 of 2007, which is an appropriation act that is not codified.

Act 1337 of 2003 amended A.C.A. § 8-6-606(d)(1) and requires landfill operators to install scales and weigh loads of waste deposited at Class 1 and Class 3C facilities. An Amendment of Regulation 22 is necessary to make the regulation conform to statutory language affected by the Act.

Act 452 of 2007 amended A.C.A. § 8-14-104(a)(2) and requires ADEQ to promulgate regulations prohibiting any person or entity from knowingly placing or disposing of the bulb or tube portion of an electric lighting device containing more than two-tenths milligram per liter of leachable mercury in a landfill. Regulation No. 22.709 has been amended to comply with Act 452.

## EXHIBIT A

Act 1281 of 2007 requires the Arkansas Pollution Control and Ecology Commission to prioritize and authorize the expenditures of all funds in excess of \$50,000 per site from the Landfill Post-Closure Trust Fund for corrective action at landfills that were permitted and certified closed by ADEQ. The requirements of Act 1281 of 2007 are set forth in a new section, Regulation No. 22.1304.

On November 21, 2007, ADEQ filed a Petition to Initiate Rule-making to Amend Regulation No. 22 to incorporate these changes. At its regularly scheduled meeting on December 7, 2007, the Arkansas Pollution Control and Ecology Commission initiated this rulemaking on Regulation 22. A public hearing was held in Little Rock, Arkansas on January 17, 2008. The public comment period expired on January 28, 2008. One public comment was received. The commenter suggested that the words, but unpermitted, in proposed changes to Regulation No. 22 be deleted as shown by the mark-up below to read as follows:

Any expenditures in excess of \$50,000 per site from the Landfill Post-Closure Trust Fund, for corrective action to remedy environmental impacts of closed disposal sites previously operated as a landfill pursuant to state law, ~~but unpermitted,~~ 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.

This modification clarifies the regulation and makes it conform to Act 1281 of 2007.

Regulation 22 and this rulemaking contain no technical standards which must be addressed pursuant to Regulation No. 8, Section 3.6.2(3).

The Commission finds that the proposed revisions to Regulation No. 22 facilitate implementation of the substantive statutes administered by the Department, concerning landfills. These rules are in the public interest, and are necessary to insure compliance with state law.

EXHIBIT A

Prepared by:  
Arkansas Department of  
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By: Anne Weinstein