

EXHIBIT A:

STATEMENT OF BASIS & PURPOSE

Statement of Basis and Purpose

The Arkansas Department of Environmental Quality maintains and administers a hazardous waste management program to implement the provisions of the Arkansas Hazardous Waste Management Act (Arkansas Code, Annotated, §§ 8-7-201 *et seq.*) and to provide a program which is, at a minimum, equivalent in force and effect to the Federal program as established by the Resource Conservation and Recovery Act, as amended, including but not limited to the Hazardous and Solid Waste Amendments. To this end, the Department, through the procedures of the Arkansas Pollution Control and Ecology Commission, conducts rulemaking at least annually in order to adopt the additions and revisions to the federal hazardous waste regulations promulgated by EPA during the preceding year and update the State hazardous waste program in order to maintain its equivalency to federal requirements.

In January, 2012, the Commission proposed to amend its Regulation No. 23 (Hazardous Waste Management) in order to adopt Federal revisions to the hazardous waste management rules. A public hearing was held at the Arkansas Department of Environmental Quality's (ADEQ) headquarters in North Little Rock on March 8, 2012, to receive comments on the proposed revisions.

The federal regulation changes proposed to be added to Regulation 23, listed by topic and date of publication in the *Federal Register*, include:

1. **Withdrawal of the Emission Comparable Fuel Exclusion.** 75 FR 33712-33724, June 10, 2010. This federal rule withdrew a conditional exclusion from Federal regulations promulgated on December 19, 2008 at 73 FR 77954-78017 for so-called Emission Comparable Fuels (ECF). These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA withdrew this conditional exclusion because the Agency concluded in response to public comments and subsequent litigation that ECF was more appropriately classified as a discarded material and regulated as a hazardous waste. The Commission did not adopt the December 2008 Federal exclusion for emission comparable fuels. When EPA published this notice rescinding the exclusion for emission comparable fuels and reinstating most of the previous requirements under 40 CFR 261.38, numerous changes were made to the previous language at 40 CFR 261.38 and its accompanying Table 1, and the more stringent, 2008 federal standards for comparable fuels were carried over into the reinstatement of the provisions of this section. The Department is therefore proposing to adopt the revised federal provisions at Regulation No. 23, § 261.38 to maintain equivalence between the State regulations at § 261.38 and the corresponding Federal rules.
2. **Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances.** 75

FR 78918-78926, December 17, 2010. This federal rule removed saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded.

3. **Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities.** 75 FR 79304-79308, December 20, 2010. This Federal rule made technical corrections to six provisions under the 40 CFR 262, Subpart K “Academic Laboratories” rule.
4. **Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes.** 76 FR 34147-34157, June 13, 2011. This Federal rule provided alternative treatment standards allowing for the use of best demonstrated available technologies (BDAT) for treating hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. In addition, this action removed carbamate regulated constituents from the table of Universal Treatment Standards.
5. **Hazardous Waste Manifest Printing Specifications Correction Rule.** 76 FR 36363-36366, June 22, 2011. This federal revision amended the printing specification regulations for uniform hazardous waste manifests to indicate that the use of red ink, as well as other distinct colors, or other methods to distinguish the copy distribution notations from the rest of the printed form and data entries is permissible (rather than required) for commercially-printed manifests as well as manifests from other authorized sources.
6. **Miscellaneous Technical Corrections.** EPA promulgated an extensive “Burden Reduction Rule” on April 4, 2006, at 71 FR 16862. The Department recommended and the Commission adopted the provisions of this federal rule piecemeal, and in that process several paragraphs from that rule were inadvertently omitted from the Commission’s rulemaking initiated in January 2008 in Docket No. 08-002-R. Since the adoption of that Rulemaking, the Department and U.S. EPA Region 6 have reviewed Regulation No. 23 and recommended that the following provisions of EPA’s burden reduction rule be incorporated into the Regulation for more clear consistency with the corresponding federal rules. The Department is therefore proposing the adoption of specific technical and editorial amendments to the following rules addressed under the Burden Reduction rule as well similar federal corrections in Title 40 of the Code of Federal Regulations:
 - **§ 264.16(a)(4):** Allows a more streamlined approach to providing OSHA emergency response training under the provisions of 29 CFR 1910.120(p)(8) and 1910.120(g);

- **§ 264.195(b)-(h):** Provides a more streamlined, comprehensive approach to weekly inspections of hazardous waste tank storage units;
- **§ 265.251(c):** An editorial correction which deletes past deadlines for installing liners at existing waste pile units;
- **§ 264.301(e)(2)(i)(C):** Incorporates a federal revision changing the reference for “underground drinking water source” from 40 CFR 144 to an internal reference in Regulation No. 23, as § 270.2;
- **§ 264.314(a):** Revises the prohibition of disposal of bulk or non-containerized liquids in RCRA Subtitle C hazardous waste landfills;
- **§ 264.552(e)(4)(iv)(F):** Incorporates a change in reference to the Toxicity Characteristic Leaching Procedure (TCLP) from 40 CFR 144.3 to an internal reference in Reg. No. 23 § 260.11;
- **§ 264.1030(c):** Clarifies that until such time as a RCRA facility operator subject to the provisions for air emission standards for process vents receives a final permit for affected units, he or she remains subject to the appropriate requirements under Section 265, Subsection AA of Regulation No. 23;
- **§ 265.1(c)(4):** Reasserts the requirements for operators of underground injection wells subject to RCRA interim status or equivalent controls to comply with the federal standards for these activities;
- **§ 265.142(a):** Makes an editorial correction to confirm that operators of hazardous waste containment buildings under RCRA interim status must comply with the annual requirements to prepare and update a closure cost estimate;
- **§ 268.7(b)(3)(ii):** Streamlines the exchange of LDR notifications between generators and treatment, storage, and disposal facilities by requiring only the manifest number of the first waste shipment if the characteristics of the waste stream do not change.
- **§ 273.34(d):** Makes an editorial revision to the provisions for labeling containers of universal waste mercury-containing devices.