

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY  
COMMISSION

IN THE MATTER OF REPEAL OF )  
REGULATION NO. 24, PROCEDURES )  
FOR THE CREATION OF REGIONAL )  
SOLID WASTE MANAGEMENT DISTRICTS ) DOCKET NO. 06-007-R

PETITION TO INITIATE RULEMAKING TO REPEAL REGULATION NO. 24,  
PROCEDURES FOR THE CREATION OF REGIONAL SOLID WASTE  
MANAGEMENT DISTRICTS

The Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "the Department"), for its Petition to Initiate Rulemaking to Repeal Regulation No. 24, Procedures For The Creation Of Regional Solid Waste Management Districts, states:

1. The Department proposes this rulemaking primarily because the regulation has become superfluous and eliminating it would simplify and streamline the regulatory provisions that a governmental body would need to navigate to create a new regional solid waste management district.
2. 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 Department. In 1991 the Commission adopted Regulation 24, Procedures For The Creation Of Solid Waste Management Districts. This regulation was adopted to conform to Act 752 of 1991 which is now codified at Ark Code Ann. § 8-6-707. In 1995 the Commission adopted Regulation 22 Solid Waste Management. This new regulation included a chapter on Regional Solid Waste Districts and Boards which

incorporated all the needed rules and provisions from Regulation 24. In addition an alternative statutory scheme for the formation of Regional Solid Waste Districts was created and is now codified at Ark. Code Ann. § 8-6-723. This method does not require Department approval or input. Additionally Ark. Code Ann. § 8-6-723(c) specifically states “The Arkansas Pollution Control and Ecology Commission shall have no authority to add or otherwise change the boundaries of a district created under this section.”

3. Repealing Regulation 24 would simplify and streamline the regulatory provisions that any governmental bodies desiring to create a new regional solid waste district would have to navigate. Eliminating Regulation 24 would clarify the proper regulation to utilize. And conversely it would not add any additional confusion to this area of law than already exists due to the two divergent statutory schemes authorizing the creation of regional solid waste districts.

4. Regulation 24 needs to be repealed to prevent any inconsistencies occurring between the two regulations and the two applicable statutes that govern the creation of regional solid waste districts. Eliminating Regulation 24 would eliminate the need to update Regulation 24 to provide consistency between the regulations and the statutes. Any needed regulations belong in Regulation 22’s Chapter two (2) entitled Regional and Local Solid Waste Management Systems.

5. Dara A. Hall and Harry Elliot from ADEQ will be available to answer questions concerning the repeal of Regulation 24. A red-lined version of the regulation to be repealed 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 repeal is attached as exhibit “C”, both of which are incorporated

by reference. An analysis of the impact to small businesses required pursuant to Executive Order 05-04, is attached as Exhibit “D” and is hereby incorporated by reference. A copy of the Environmental 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 repeal Regulation 24.

Respectfully Submitted,

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By: \_\_\_\_\_  
Dara A. Hall