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APPELLATION CONTROL
& ECOLOGY COMMISSION
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d. Exhibit D contains the Regulation Number 24 Tracking Sheet ("Tracking Sheet") and is attached hereto and incorporated by reference. The Tracking Sheet provides the rulemaking timeline.

e. Exhibit E contains the proposed Minute Order and is attached hereto and incorporated by reference. Upon approval of the Minute Order, the rulemaking process will be complete and the regulation shall be repealed.

WHEREFORE, ADEQ requests that the Commission finalize the rulemaking process, adopt the proposed Minute Order, and repeal Regulation No. 24.

Respectfully submitted,

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
8001 National Drive
P. O. Box 8913
Little Rock, Arkansas 72219-8913

BY: 
DARA A. HALL

EXHIBIT A

STATEMENT OF BASIS AND PURPOSE

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

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

STATEMENT OF BASIS AND PURPOSE FOR REGULATION NO. 24, PROCEDURES FOR THE CREATION OF REGIONAL SOLID WASTE MANAGEMENT DISTRICTS

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate or repeal rules and regulations. Various statutes grant the Commission the power and responsibility to promulgate or repeal rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department"). These statutes include, but are not limited to, Ark. Code Ann. Sections 8-1-106, 8-1-203, 8-2-204, 8-4-201, 8-4-202, 8-4-311, 8-4-409, 8-5-501, 8-6-207, 8-6-602, 8-6-610, 8-6-704, 8-6-905, 8-6-1201, 8-6-1204, 8-6-1401, 8-6-1402, 8-6-1904, 8-7-226, 8-7-506, 8-7-802, 8-7-903, 8-7-1304, 8-7-1310, 8-9-304, 8-9-403, 8-9-609, 8-10-301, 8-10-303, 8-10-304, 15-57-316, 15-58-202, 15-58-205, 15-58-503, and 15-58-508.

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."

PREPARED BY:
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: 
DARA A. HALL

EXHIBIT B

RESPONSIVENESS SUMMARY

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

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

**RESPONSIVENESS SUMMARY FOR REGULATION NO. 24, PROCEDURES
FOR THE CREATION OF REGIONAL SOLID WASTE MANAGEMENT
DISTRICTS**

The Arkansas Department of Environmental Quality received no comments during the public comment period.

PREPARED BY:
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: 
DARA A. HALL

EXHIBIT C

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY COMMISSION

~~PROCEDURES FOR THE CREATION~~

~~OF~~

~~REGIONAL SOLID WASTE MANAGEMENT DISTRICTS~~

~~ACT 752 OF 1991~~

~~OCTOBER, 1991~~

~~Arkansas Regulations~~

~~Department of Pollution Control and Ecology Commission~~
~~Solid Waste Management Division~~

~~Regulation No. 24~~

~~Procedures for the Creation of Regional Solid Waste~~
~~Management Districts~~

~~INTRODUCTION~~

~~Arkansas Act 752 established eight (8) original regional solid waste management districts. The act also provides for the creation of new Regional Solid Waste Management Districts. The authority for the Commission to adopt procedures is prescribed in Section 2, Subchapter 7, Paragraph 8-6-708. This legislation provides for new districts to be created using specific guidelines as outlined in the act. Herein are the procedures for the creation and designation of new Regional Solid Waste Management Districts.~~

~~DEFINITIONS:~~

~~"Board" or "Regional Board" means a Regional Solid Waste Management Board established pursuant to Act 752 of 1991.~~

~~"Commission" means the Arkansas Department of Pollution Control and Ecology Commission.~~

~~"Department" means the Arkansas Department of Pollution Control and Ecology.~~

~~"Director" means the Director of the Arkansas Department of Pollution Control and Ecology.~~

~~"District" means a Regional Solid Waste Management District.~~

~~PROCEDURES FOR DESIGNATION OF NEW SOLID WASTE MANAGEMENT DISTRICTS.~~

~~I. ELIGIBILITY~~

~~—1. A proposed new District shall only be composed of whole county jurisdictions, and each district shall contain more than one (1) county unless that county has a population of at least fifty thousand (50,000) according to the latest decennial census.~~

~~—2. A single county District may be designated if the District was previously formed under the Joint County and Municipal Solid Waste Disposal Act, Act 699, which includes a county having a population of at least sixty thousand (60,000) persons and which has made application to the Department for a solid waste disposal permit on or before January 1, 1991.~~

~~—3. A single county District may be recognized if it is created by interlocal agreement of the local governments in any county with a population of at least ninety thousand (90,000) persons and in which there is a permitted landfill on January 1, 1991.~~

~~—4. Upon petition to the Commission, any solid waste management system operating under the authority of Act 699 with five (5) or more counties currently being served by these authorities upon notification to the regional board, shall be designated as a regional solid waste management district.~~

~~—5. The Commission, after notification of the regional board or boards, upon the request of a county or district, may transfer a county into an existing district not designated under the provisions of items 2 or 3 above.~~

~~—6. When new districts are designated those counties that remain a part of the original district shall continue to be a member of the original district and shall comply with the provisions of Act 752.~~

~~—II. REQUIREMENTS:~~

~~—1. All new districts must be designated by the Commission.~~

~~—2. Eligible entities requesting designation must submit documentation that the appropriate regional solid waste management board(s) has been notified.~~

~~—3. Unless a waiver has been granted by the Commission, eligible entities requesting designation must submit documentation that each local government within the district has resolved, and is:~~

~~—a) Aware of the duties, responsibilities, and powers conferred by Act 752 of 1991;~~

~~—b) It is their intent to become a member of the district; or in the case of "Section 5 Districts", local governments have been advised of the designation and that the local government was served by the authority that was in~~

~~existence at the time of passage of Act 752.~~

~~4. Eligible entities requesting designation must also provide the Department the following documentation:~~

~~a) a listing of the city(s) and county government geo-political boundaries;~~

~~b) a listing of the city(s) and county officials by name and the city they represent;~~

~~c) a board resolution stipulating that the new governmental entities have been made aware of their responsibilities and requirements mandated by Act 752 of 1991, and their intent to meet and comply with the act.~~

~~5. Eligible entities requesting designation must also submit documentation that the district has complied with, or is capable of complying with the requirement of:~~

~~a) Developing a needs assessment report;~~

~~b) Developing policies, procedures and criteria for the Certificate of Need process;~~

~~c) Establishing programs to encourage recycling;~~

~~d) Maintaining an office at such places as it may determine;~~

~~e) To sue and be sued in its own name and to plead and be impleaded;~~

~~f) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the district;~~

~~g) Provide the Department with the necessary documentation to assure there will be financial and personnel resources available to function as a district;~~

~~h) Demonstrating that the purpose of the proposed new district is to address local exigencies, needs, and other requirements of Act 752.~~

~~i) To carry out all other powers and duties conferred by Act 752 and other applicable acts.~~

~~6. A county shall not be included in the boundaries of more than one regional solid waste management district formed from a regional solid waste planning district. The Commission shall insure that all counties will be included, and in good standing, with one of the regional solid waste management districts. When a county moves from one District to another, the~~

gaining District must provide to the Department the following documentation:

- ~~—a) a listing of the city(s) and county government geo-political boundaries;~~
 - ~~—b) a listing of the city(s) and county officials by name and the city they represent;~~
 - ~~—c) a Board resolution stipulating that the new governmental entities have been made aware of their responsibilities and requirement mandated by Act 752 of 1991, and their intent to meet and comply with the act.~~
- ~~—7. Counties of the original eight (8) Solid Waste Management Districts, created under Sec. 8-6-703 of Act 752, may not form a new District, under the provisions of 8-6-707, which would include all but a single county as members.~~

EXHIBIT D

ADEQ REGULATIONS TRACKING SHEET

Regulation No. 24

Common Name: Procedures for the Creation of Solid Waste Management Districts

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>N/A</u>	<u>N/A</u>	<u>N/A</u>
Industrial/ Environmental Groups	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

2. Proposed regulations presentation to Commission's **Regulations Committee** for approval to proceed to public comment period.

Date: 08/25/06 By: Dara A. Hall

Comments/Approval: approved

3. **Legal notice** of proposed regulations and public hearing.

<u>publication</u>	<u>dates of publication</u>
<u>Arkansas Democrat Gazette</u>	<u>September 28, 29, 2006</u>

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.

<u>location</u>	<u>date</u>	<u>hearing chairman</u>
<u>Little Rock</u>	<u>10/30/06</u>	<u>Commissioner Henderson</u>

6. Date of final day of public comment period: 11/14/06

7. **Final proposed regulation** and **response to comments** prepared by Department.

Date initiated: NA Date completed: NA

8. Formal presentation to the **Public Health & Welfare Committee** of the Legislative Council (Except Regs. 7, 8, 13, 15 & 20).

Date: 11/16/06 By: Steve Martin

Comments/Approval: approved

9. Formal presentation of proposed final regulation to the **Administrative Rules & Regulations Subcommittee** of the Legislative Council (All Regs).
- Date: 05/30/06 By: Steve Martin, Dawn Guthrie
- Comments/Approval: approved
10. Presentation of proposed final regulation to Commission's **Regulations Committee**.
- Date: 07/27/07 By: Dara A. Hall, Harry Elliott
- Comments/Approval: _____
11. Provide Commission members with copy of proposed final regulation prior to Commission meeting.
- Date Mailed: 07/17/07
12. Present proposed final regulation to the **Commission** for adoption.
- Date: 07/27/07 By: Dara A. Hall, Harry Elliott
- Comments/Approval: _____
13. Send two copies of adopted regulation to **Secretary of State** (regulation becomes effective twenty days after filing).
- Date mailed: _____
14. Formally submit adopted regulation to **EPA** (if necessary) with Governor's submittal letter.
- Date mailed: _____

PREPARED BY:
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: _____

DARA A. HALL

EXHIBIT E

PROPOSED MINUTE ORDER

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT: Repeal of Regulation
No. 24, Procedures For The Creation
Of Regional Solid Waste
Management Districts

Docket No. 06-007-R

MINUTE ORDER NO. _____

PAGE 1 OF 1

Pursuant to public notice and hearing, and in consideration of comments received, the Arkansas Pollution Control and Ecology Commission hereby repeals Regulation 24, Procedures For The Creation Of Regional Solid Waste Management Districts.

ORDERED this 27th day of July, 2007, by order of the Arkansas Pollution Control and Ecology Commission.

BY: _____
Dana Samples Chairman

ATTEST: _____
Teresa Marks, ADEQ Director

APPROVED: _____
Mike Beebe, Governor

COMMISSIONERS:

____ B. Ackerman
____ L. Bengal
____ S. Henderson
____ C. McGrew
____ J. Simpson
____ D. Samples
____ T. Schueck

____ J. Shannon
____ L. Sickel
____ W. Thompson
____ E Valdez
____ B. White
____ R. Young

____ submitted by: Dara A. Hall PASSED: 07/27/07
Dana Samples, Chairman