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until superceded by actions taken by the Department or Commission under this Act.

(c) No existing civil or criminal remedies, public or private, for any wrongful action shall be excluded or impaired by this Act.

(d) The provisions of this Act, and the rules and regulations promulgated pursuant to this act, shall govern if the same conflict with the provisions of the Arkansas Water and Air Pollution Control Act, as amended (Section 82-1902 et seq., Ark. Stats. Ann.), or the Arkansas Solid Waste Management Act (Section 82-2701 et seq., Ark. Stats. Ann.), or any action taken by the Department or Commission under said Acts.

(e) Any person adversely affected by a violation of this Act or of any rules, regulations, or orders issued pursuant thereto, shall have a private right of action for relief against such violation. [Acts 1979, No. 406, § 15, p. 765.]

#### **82-4216. Venue for legal proceedings.**

All legal proceedings affecting hazardous waste treatment and/or hazardous waste disposal facilities in this State shall be brought in the county in which the facility is located. [Acts 1979, No. 406, § 16, p. 765.]

**Emergency.** Section 19 of Acts 1979, No. 406, read: "It has been found and it is hereby declared by the General Assembly of the State of Arkansas that it is essential to the health, welfare and safety of the people of the State of Arkansas and to the minimizing of environmental damage that hazardous wastes be managed in an environmentally sound manner; that the knowledge and technology necessary for alleviating adverse health, environmental, and esthetic impacts resulting from current hazardous waste management and disposal practices are generally available at costs within the financial

capabilities of those who generate such wastes, but that such knowledge and technology are not widely used; that existing practices and laws are inadequate; that this Act and the implementation thereof are necessary to the accomplishment of the proper management of hazardous wastes and to the welfare of the State of Arkansas and her people. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval." Approved March 14, 1979.

### RESOURCE RECLAMATION

#### **82-4217. Short title.**

This Act [§§ 82-4217 — 82-4224] may be cited as the "Arkansas Resource Reclamation Act of 1979." [Acts 1979, No. 1098, § 1, p. 2266.]

#### **82-4218. Legislative findings.**

The Legislature of this State finds, and it is declared that:

(a) The disposal of hazardous wastes, although currently necessary for certain forms of hazardous wastes, represents an inefficient use of

natural resources and may present long-term threats to the environment and to the public health and safety;

(b) Technically and economically feasible treatment methods are becoming increasingly available and offer the advantages of complete destruction of such wastes or the recovery and reclamation of some, if not all, constituents of such wastes;

(c) In addition to the recovery or reclamation of natural resources treatment of hazardous wastes reduces the volume of hazardous wastes which must be disposed of and thereby reduces the associated threats to the environment and to the public health and safety;

(d) Interstate cooperation is necessary to assure that the volume of hazardous wastes which must be disposed of within the State is reduced through a comprehensive program which encourages and, where appropriate, requires the treatment of hazardous wastes; and

(e) The Hazardous Waste Management Act of 1979 [ §§ 82-4201 — 82-4216 ] authorizes the Department of Pollution Control and Ecology to encourage the development of interstate agreements for the management of hazardous wastes and to enter into such agreements, with the concurrence of the Governor. [ Acts 1979, No. 1098, § 2, p. 2266. ]

#### 82-4219. Declaration of policy.

The Legislature of this State declares that it is the policy of this State and the purpose of this Act [ §§ 82-4217 — 82-4224 ] to:

(a) Establish a statewide program designed to protect society and the environment from the risks and burdens associated with the continued practice of disposing of those forms of hazardous wastes which could otherwise be treated;

(b) Encourage the development and utilization of techniques which result in the recovery, reclamation and conservation of resources of the State, including the reclamation or safeguarding of abandoned hazardous waste disposal sites; and

(c) Encourage interstate cooperation and interstate agreements which would provide a requisite balance of disposal and treatment facilities among the states and which would reduce the amount of hazardous wastes disposed of in the State, irrespective of the origin of such wastes. [ Acts 1979, No. 1098, § 3, p. 2266. ]

#### 82-4220. Definitions.

As used in this Act [ §§ 82-4217 — 82-4224 ], the term:

(a) "Act" means the Arkansas Resource Reclamation Act of 1979, [ . ]

(b) "Department" means the Department of Pollution Control and Ecology, [ . ]

(c) "Director" means the Director of the Department, [ . ]

(d) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof

may enter the environment or be emitted into the air, or discharged into any waters, including groundwaters, [.]

(e) "Facility" means a site, location, or building which is used for the purpose of treating or disposing of hazardous wastes.

(f) "Generation of Hazardous Wastes" means the act of producing hazardous wastes as a result of such operations as pollution control devices, industrial processes, hazardous waste treatment facilities, commercial enterprises, the generation of electricity, the production of steam or mechanical power, the formulation of pesticides, or from the release of hazardous materials into the environment as a result of accidents of inadequate disposal facilities.

(g) "Hazardous Wastes" means those wastes which are defined or classified as hazardous wastes by regulation of the Department, or by regulation of the United States Environmental Protection Agency.

(h) "Person" means any individual, corporation, company, firm, partnership, association, trust, joint stock company, state agency, government instrumentality or agency, institution, county, city, town, or municipal authority or trust, venture, or any other legal entity, however organized.

(i) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous wastes, so as to neutralize such wastes or so as to render such wastes less hazardous, safer for transport, amenable to recovery, amenable to storage, amenable to disposal, or reduce in volume. [Acts 1979, No. 1098, § 4, p. 2266.]

**Compiler's Notes.** The bracketed (c) and (d) were inserted by the compiler. periods at the end of subdivisions (a), (b),

#### 82-4221. Powers and duties.

The Department shall have the following powers and duties:

(a) To enter into such agreements or compacts, between one [1] or more states or with the federal government, as may be necessary and appropriate to effectuate a program consistent with the purposes of this Act [ §§ 82-4217 — 82-4224], provided that such agreements or compacts first receive the approval of the Governor;

(b) To adopt such regulations as may be necessary and appropriate to enforce within the State the terms of any interstate agreement or compact developed pursuant to the provisions of this Act;

(c) To limit by conditions of permit, and by the number of permits issued to hazardous waste disposal facilities, the amount of hazardous wastes that can be lawfully disposed of in the State during any one year, for the purpose of effectuating and implementing interstate agreements;

(d) To prohibit, by regulation or by condition of permit, the disposal of any hazardous wastes within the State unless the owner

or custodian of such wastes can demonstrate to the reasonable satisfaction of the Director that it is technically or economically infeasible for such wastes to be treated;

(e) To issue, continue in effect, revoke, modify, or deny, under such terms as it or the legislature may prescribe, permits for the establishment, construction, operation, and/or maintenance of hazardous waste treatment or disposal facilities;

(f) To adopt and enforce regulations which would require the owners of abandoned disposal sites to undertake such actions as are reasonable to prevent environmental contamination;

(g) To receive federal and private funds for the purpose of securing or reclaiming abandoned hazardous waste disposal sites in an environmentally safe manner;

(h) To encourage and to participate in studies, projects, and agreements for the purpose of identifying and evaluating improvements in hazardous waste treatment and disposal techniques; and

(i) In addition to the foregoing, the Department shall have and may use in the administration of this Act all of the powers which it has under other acts administered by it. [Acts 1979, No. 1098, § 5, p. 2266.]

#### 82-4222. Unlawful acts.

It shall be unlawful for any person:

(a) To violate any provisions of this Act [ §§ 82-4217 — 82-4224 ] or of any rule, regulation, permit or order issued under this Act;

(b) To transport hazardous wastes into the State for the purpose of disposal within the State, except as provided by interstate agreements established pursuant to the provisions of this Act;

(c) To dispose of hazardous wastes which originated in or which was transported from another state, except as provided by interstate agreements established pursuant to the provisions of this Act;

(d) To cause or permit the transportation of hazardous wastes into or out of the State of Arkansas without first reporting to the Department, in a manner established by regulations of the Department, the nature and amount of the wastes, the origin and destination of the wastes, and the means by which such wastes are proposed to be transported; and

(e) To cause or permit the transportation of hazardous wastes into or out of the State of Arkansas for disposal without first having received written authority from the Department. [Acts 1979, No. 1098, § 6, p. 2266.]

#### 82-4223. Penalties.

(a) Any person who commits any unlawful act shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to criminal penalties consisting of imprisonment for not more than one (1) year, or a fine of not more than ten thousand dollars (\$10,000.00), or by both such fine and imprisonment. Each day or part of a day during

which such violation is continued or repeated shall constitute a separate offense.

(b) Any person who violates any provision of this Act [ §§ 82-4217 — 82-4224 ] or commits any unlawful act thereunder shall be subject to a civil penalty in such amount as the court shall find appropriate, not to exceed twenty-five thousand dollars (\$25,000.00) per day for such violation, to the payment of any expenses reasonably incurred by the State in removing, correcting, or terminating any adverse effects resulting therefrom, including the cost of the investigation, inspection, or survey establishing such violation or unlawful act, and the payment to the State of reasonable compensation of any actual damage resulting therefrom. [ Acts 1979, No. 1098, § 7, p. 2266. ]

**82-4224. Industrial waste treatment facilities.**

This Act [ §§ 82-4217 — 82-4224 ] does not apply to an industrial waste treatment facility that discharges into a publicly owned treatment works provided that the industrial waste treatment facility and publicly owned treatment works complies with Arkansas Statutes 82-1901 et seq. [ , ] the Arkansas Water and Air Pollution Control Act [ §§ 82-1901 — 82-1909, 82-1931 — 82-1943 ]. [ Acts 1979, No. 1098, § 8, p. 2266. ]

**82-4225. Civil liability of those assisting at accidents — Definitions.**

As used in this Act [ §§ 82-4225 — 82-4227 ]:

(a) "Discharge" means spillage, leakage, seepage, fire, explosion, or other release.

(b) "Hazardous materials" means all materials and substances which are now or hereafter designated or defined as hazardous by law or regulation of this State or by law or regulation of the United States Government. [ Acts 1983, No. 913, § 1, p. —. ]

**Compiler's Notes.** As enacted the section heading of this section read "Definitions."

**82-4226. No civil liability for damages from discharge of hazardous materials resulting from voluntary actions in accidents.**

Notwithstanding any law to the contrary, no individual, partnership, corporation, association, or other entity shall be liable in civil damages as a result of acts taken (voluntarily and without compensation) in the course of rendering care, assistance, or advice with respect to an incident creating a danger to person, property, or the environment as a result of an actual or threatened discharge of hazardous materials, or in preventing, cleaning up, or disposing of or attempting to prevent, clean up or dispose of any such discharge. [ Acts 1983, No. 913, § 2, p. —. ]