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8-7-101

ENVIRONMENTAL LAW

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History. Acts 1977, No. 380, § 2;
A.S.A. 1947, § 82-2730.

CHAPTER 7 HAZARDOUS SUBSTANCES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. HAZARDOUS WASTE MANAGEMENT ACT.
3. RESOURCE RECLAMATION ACT.
4. EMERGENCY RESPONSE FUND ACT.
5. REMEDIAL ACTION TRUST FUND ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

8-7-101. Civil liability of those assisting at accidents.

8-7-101. Civil liability of those assisting at accidents.

(a) As used in this section, unless the context otherwise requires:

(1) "Discharge" means spillage, leakage, seepage, fire, explosion, or other release;

(2) "Hazardous materials" means all materials and substances which are designated or defined as hazardous by law or regulation of this state or by law or regulation of the federal government.

(b) 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, disposing of, or attempting to prevent, clean up, or dispose of any such discharge.

(c) This section shall not preclude liability for civil damages as the result of gross negligence. Reckless, willful, or wanton misconduct shall constitute gross negligence.

History. Acts 1983, No. 913, §§ 1-3;
A.S.A. 1947, §§ 82-4225 — 82-4227.

SUBCHAPTER 2 — HAZARDOUS WASTE MANAGEMENT ACT

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HAZARDOUS SUBSTANCES

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8-7-201. Title.

This subchapter may be cited as the "Arkansas Hazardous Waste Management Act of 1979."

History. Acts 1979, No. 406, § 1;
A.S.A. 1947, § 82-4201.

8-7-202. Purpose.

It is the purpose of this subchapter and it is declared to be the policy of this state to:

(1) Protect the public health and safety, the health of living organisms, and the environment from the effects of the improper, inadequate, or unsound management of hazardous wastes;

(2) Establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous wastes;

(3) Assure the safe and adequate management of hazardous wastes within this state;

(4) Qualify the Department of Pollution Control and Ecology to adopt, administer, and enforce a hazardous waste program pursuant to the federal Resource Conservation and Recovery Act of 1976; and

(5) Afford the people of the State of Arkansas a voice in the permitting of hazardous waste facilities within their respective counties.

History. Acts 1979, No. 406, § 2;
A.S.A. 1947, § 82-4202.

U.S. Code. The federal Resource Conservation and Recovery Act of 1976 referred to in this section is codified as 42 U.S.C. § 6901 et seq.

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8-7-203. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Department" means the Arkansas Department of Pollution Control and Ecology;

(2) "Director" means the Director of the Department of Pollution Control and Ecology;

(3) "Commission" means the Arkansas Pollution Control and Ecology Commission within the Department of Pollution Control and Ecology;

(4) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water in whatever manner so that such hazardous waste, or any constituent thereof, might or might not enter the environment or be emitted into the air, or discharged into any waters including groundwaters;

(5) "Generation" means the act or process of producing waste materials;

(6) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the department:

(A) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed. Such wastes include, but are not limited to, those which are radioactive, toxic, corrosive, flammable, irritants, or strong sensitizers or those which generate pressure through decomposition, heat, or other means;

(7) "Hazardous waste management" means the systematic control of the generation, collection, source separation, storage, transportation, processing, recovery, disposal, and treatment of hazardous waste;

(8) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transport;

(9) "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;

(10) "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes. Storage by means of burial shall be deemed to constitute disposal within the meaning of this subchapter;

(11) "Transport" means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal;

(12) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or so as to render the waste less hazardous, safer for transport, amenable to recovery, amenable to storage, amenable to disposal, or reduced in volume;

(13) "Facility" means any land and appurtenances, thereon and thereto, used for the treatment, storage, or disposal of hazardous waste;

(14) "Treatment facility" means a location at which waste is subjected to treatment and may include a facility where waste has been generated;

(15) "Site" means any real property located within the boundary of the State of Arkansas contemplated or later acquired for the purpose of, but not limited to, landfills or other facilities to be used for treatment, storage, disposal, or generation of hazardous wastes.

History. Acts 1979, No. 406, § 3;
A.S.A. 1947, § 82-4203.

8-7-204. Penalties.

(a) Any person who violates any provision of this subchapter, who commits any unlawful act under it, or who violates any rule, regulation, or order of the commission shall be guilty of a misdemeanor. Upon conviction, that person shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000), or subject to both such fine and imprisonment. Each day or part of a day during which the violation is continued or repeated shall constitute a separate offense. Any person who violates any provision of this subchapter, who commits any unlawful act under it, or who violates any rule, regulation, or order of the commission, and leaves the state or removes his person from the jurisdiction of this state shall be guilty of a felony. Upon conviction, that person shall be subject to imprisonment for not more than five (5) years and a fine of not more than ten thousand dollars (\$10,000), or subject to both such fine and imprisonment. Each day or part of a day during which such violation was continued or repeated within the state shall constitute a separate offense.

(b) Any person who violates any provision of this subchapter or the regulations issued pursuant to it or who violates any condition of a permit issued under this subchapter may, in accordance with the regulations issued by the commission, be assessed a civil penalty by the commission. Such penalty shall not exceed twenty-five thousand

dollars (\$25,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. However, no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation pursuant to §§ 8-4-218, 8-4-219, and 8-4-221. Appeal of the commission's decision may be taken in accordance with the appellate procedure specified in §§ 8-4-222 — 8-4-229. All civil penalties collected under this subsection shall be deposited into the State Treasury as general revenues.

(c) The department is authorized to institute a civil action in any court of competent jurisdiction to restrain any violation of, and to compel compliance with, provisions of this subchapter and of any rules, regulations, orders, or permits issued pursuant thereto. The department is also authorized to require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter or to recover any expenses reasonably incurred by the department in removing, correcting, or terminating any adverse effects resulting therefrom, including the cost of investigation, inspection, or survey establishing the violation or unlawful act and to recover payment to the state for any other expenses or actual damage resulting therefrom and to recover civil penalties assessed pursuant to subsection (b) of this section. All expenses of the department recovered under this subsection shall be deposited in the operating fund of the department for use in the administration of this subchapter.

(d) Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the director or any authorized employees or agents of the department in the performance of duties pursuant to this subchapter shall be guilty of a misdemeanor and may, upon conviction, be punished by a criminal penalty of not more than one thousand dollars (\$1,000) or by imprisonment of not more than thirty (30) days, or by both.

History. Acts 1979, No. 406, § 13; 1983, No. 456, § 1; A.S.A. 1947, § 82-4213.

8-7-205. Unlawful actions.

It shall be unlawful for any person to:

- (1) Violate any provisions of this subchapter or of any rule, regulation, permit, or order adopted or issued under this subchapter;
- (2) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this subchapter or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this subchapter, or any rules or regulations adopted pursuant thereto;

(3) Dispose of hazardous wastes at any disposal site or facility other than one for which a permit has been issued by the department pursuant to this subchapter;

(4) Store, collect, transport, treat, or dispose of any hazardous waste contrary to the rules, regulations, permits, or orders issued under this subchapter or in such a manner or place as to create or as is likely to be created a public nuisance or a public health hazard or to cause, or is likely to cause, water or air pollution within the meaning of § 8-4-102 et seq.

History. Acts 1979, No. 406, § 12; A.S.A. 1947, § 82-4212.

8-7-206. Private right of action.

Any person adversely affected by a violation of this subchapter or of any rules, regulations, or orders issued pursuant thereto shall have a private right of action for relief against such violation.

History. Acts 1979, No. 406, § 15; A.S.A. 1947, § 82-4215.

8-7-207. Venue for legal proceedings.

All legal proceedings affecting hazardous waste treatment or hazardous waste disposal facilities in this state shall be brought in the county in which the facility is located.

History. Acts 1979, No. 406, § 16; A.S.A. 1947, § 82-4216.

8-7-208. Official agency for program and agreements.

(a) The department is designated as the official agency for the state for all purposes of the federal Resource Conservation and Recovery Act of 1976, as amended, and for the purpose of such other state or federal legislation as may be enacted to assist in the management of hazardous wastes.

(b)(1) The General Assembly of this state encourages cooperative activities by the department with other states for the improved management of hazardous wastes and, so far as is practicable, uniform state laws relating to the management of hazardous wastes and compacts between this and other states for the improved management of hazardous wastes.

(2) The department may enter into agreements with the responsible authorities of the United States or of other states, subject to approval by the Governor, relative to policies, methods, means, and procedures to be employed in the management of hazardous wastes not inconsistent with the provisions of this subchapter and may carry out such agreements.

History. Acts 1979, No. 406, § 10; A.S.A. 1947, § 82-4210. U.S. Code. The federal Resource Conservation and Recovery Act of 1976 referred to in this section is codified as 42 U.S.C. § 6901 et seq.

8-7-209. Powers and duties generally.

(a) The department shall have the following powers and duties:

(1) To administer and enforce all laws, rules, and regulations relating to the generation, storage, treatment, transportation, recovery, and disposal of hazardous wastes;

(2) To conduct and publish such studies of hazardous waste management in this state as shall be deemed appropriate including, but not limited to:

(A) A description of the sources of hazardous waste generated within the state;

(B) Information regarding the types and quantities of such waste; and

(C) A description of current hazardous waste management practices and costs including treatment, recovery, and disposal;

(3) To develop, publish, and implement plans in accordance with the provisions of this subchapter for the safe and effective management of hazardous wastes within this state including, but not limited to:

(A) The establishment of criteria for the identification of those locations within the state which are suitable for establishment of hazardous waste treatment or disposal facilities or sites; and

(B) Those locations which are not suitable for such purposes;

(4) To establish criteria for determination of whether any waste or combination of wastes is hazardous for purposes of this subchapter and to identify and specify wastes or combination of wastes as being hazardous;

(5) To adopt, after notice and public hearing, and to promulgate, modify, repeal, and enforce rules and regulations for the collection, generation, storage, transportation, disposal, recovery, and treatment of hazardous wastes as may be necessary or appropriate to implement or effectuate the purposes and intent of this subchapter and the powers and duties of the department under it including, but not limited to, rules and regulations for:

(A) The containerization and labeling of hazardous wastes, which rules, to the extent practicable, shall be consistent with those issued by the United States Department of Transportation, the United States Environmental Protection Agency, and the Arkansas Transportation Commission;

(B) Establishing standards and procedures for the safe operation and maintenance of facilities;

(C) Identifying those wastes or combination of wastes which are incompatible and which may not be stored or disposed of together and procedures for preventing the storage, disposal, recovery, or treatment of incompatible wastes together;

(D) The reporting of the generation, storage, transportation, recovery, treatment, or disposal of hazardous wastes;

(E) Establishing standards and procedures for the certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites as required under § 8-7-219(3); and

(F) Establishing a manifest system for the transport of hazardous wastes and prohibiting the receipt of hazardous wastes at storage, processing, recovery, disposal, or transport facilities or sites without a properly completed manifest;

(6) To issue, continue in effect, revoke, modify, or deny, under such conditions as it may prescribe, permits for the establishment, construction, operation, or maintenance of hazardous waste treatment or disposal facilities or sites, as more particularly prescribed by §§ 8-7-215 — 8-7-222;

(7) To make such investigations and inspections and to hold such hearings, after notice, as it may deem necessary or advisable for the discharge of its duties under this subchapter and to insure compliance with this subchapter and any orders, rules, and regulations issued pursuant thereto;

(8) To make, issue, modify, revoke, and enforce orders, after notice and hearing, prohibiting violation of any of the provisions of this subchapter, or of any rules and regulations issued pursuant thereto or any permit issued thereunder, and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter;

(9) To institute proceedings in the name of the department in any court of competent jurisdiction to compel compliance with, and to restrain any violation of the provisions of this subchapter, or any rules, regulations, and orders issued pursuant thereto, or any permit issued thereunder, and to require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter. In any civil action in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the requested relief not be granted, nor that the remedy at law is inadequate;

(10) To initiate, conduct, and support research, demonstration projects, and investigations and coordinate all state agency research programs pertaining to hazardous waste management, and to establish technical advisory committees to assist in the development of procedures, standards, criteria, and rules and regulations, the members of which may be reimbursed for travel expenses;

(11) To establish policies and standards for effective hazardous waste management; and

(12) To establish standards and procedures for the certification of personnel to operate hazardous waste treatment or disposal facilities.

(b) In addition to the powers enumerated in subsection (a) of this section, the department shall have and may use in the administration and enforcement of this subchapter all of the powers which it has under other laws administered by it, including the Arkansas Water and Air Pollution Control Act, §§ 8-4-101 — 8-4-106, 8-4-201 — 8-4-229, and 8-4-301 — 8-4-313, § 8-6-201 and the Arkansas Solid Waste Management Act, et seq.

History. Acts 1979, No. 406, § 4;
A.S.A. 1947, § 82-4204.

8-7-210. Existing rules, regulations, etc.

(a) All existing rules and regulations of the department not inconsistent with the provisions of this subchapter relating to subjects embraced within this subchapter shall remain in full force and effect until expressly repealed, amended, or superseded by the commission, insofar as the rules and regulations do not conflict with the provisions of this subchapter.

(b) All orders entered, permits granted, and pending legal proceedings instituted by the department relating to subjects embraced within this subchapter shall remain unimpaired and in full force and effect until superseded by actions taken by the department or commission under this subchapter.

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

(d) The provisions of this subchapter, and the rules and regulations promulgated pursuant to it, shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, §§ 8-4-101 — 8-4-106, 8-4-201 — 8-4-229, and 8-4-301 — 8-4-313 or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or any action taken by the department or commission under these laws.

History. Acts 1979, No. 406, § 15;
A.S.A. 1947, § 82-4216.

8-7-211. Variances to rules.

Where the application of, or compliance with, any rule or regulation issued under this subchapter, in the judgment of the commission, would cause undue or unreasonable hardship to any person and not cause substantially adverse environmental effects, the commission may issue a variance from the rule or regulation. In no case shall the duration of any such variance exceed one (1) year. Renewals or extensions may be given only after opportunity for public comment on each such renewal or extension.

History. Acts 1979, No. 406, § 14;
A.S.A. 1947, § 82-4214.

8-7-212. Considerations in administration.

(a) In administering the provisions of this subchapter, the department may adopt and give appropriate effect to variations within this state in climate, geology, population density, and such other factors as may be relevant to the management of hazardous wastes, the establishment of standards and permit conditions, and to the siting of permitted facilities.

(b) To the extent practicable, the rules, regulations, and procedures adopted by the department pursuant to this subchapter shall be consistent with other environmentally related rules, regulations, and procedures of the department. In administering the provisions of this subchapter and of all other laws under the administration of the department, the department and commission shall coordinate and expedite the issuance of permits required by an applicant under one (1) or more laws, to the end of eliminating, insofar as practicable, any duplication of unnecessary time and expense to the applicant and the department.

(c) The department shall integrate all provisions of this subchapter with the appropriate provisions of all other laws which grant regulatory authority to the department for purposes of administration and enforcement and shall avoid duplication to the maximum extent practicable.

History. Acts 1979, No. 406, § 6;
A.S.A. 1947, § 82-4206.

8-7-213. Procedure generally.

The procedure of the department and commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on permits, right of appeal, presumptions, finality of actions, and related matters shall be as provided in §§ 8-4-101 — 8-4-106, 8-4-201 — 8-4-229, including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 — 8-4-214, 8-4-218 — 8-4-229 if they are not in conflict with the provisions set forth in this subchapter.

History. Acts 1979, No. 406, § 9;
A.S.A. 1947, § 82-4209.

8-7-214. Emergency order for imminent hazard.

(a)(1) Notwithstanding any other provisions of this subchapter, the director, upon finding that the storage, transportation, treatment, or disposal of any waste may present an imminent and substantial hazard

to the health of persons or to the environment and that an emergency exists requiring immediate action to protect the public health and welfare, he may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and emergency and requiring that such action be taken as he determines to be necessary to protect the health of such persons or the environment and to meet the emergency.

(2) The order of the director may include, but is not limited to, directing the operator of the treatment or disposal facility or site, or the custodian of the waste, which constitutes the hazard, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes the hazard and, with respect to a facility or site, may order cessation of operation.

(b)(1) Any person to whom the order is directed shall comply with it immediately, but, on written application to the director within ten (10) days of the issuance of the order, that person shall be afforded a hearing before the commission within ten (10) days after receipt of the written request.

(2) On the basis of the hearing, the commission shall continue the order in effect, or revoke or modify it.

History. Acts 1979, No. 406, § 8;
A.S.A. 1947, § 82-4208.

8-7-215. Permits — Requirement.

(a) No person shall construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site, nor shall any person store, transport, treat, or dispose of any hazardous waste without first obtaining a permit from the department for the facility, site, or activity.

(b) Persons who construct, substantially alter, or operate a facility which generates hazardous wastes shall be subject to the reporting requirements of this subchapter but shall not be required to obtain a permit under this subchapter unless such person also stores, transports, treats, or disposes of hazardous wastes.

History. Acts 1979, No. 406, § 5;
A.S.A. 1947, § 82-4205.

8-7-216. Permits — Issuance generally.

Permits shall be issued under such terms and conditions as the department may prescribe under the provisions of this subchapter and under such terms and conditions as the Arkansas Transportation Commission may prescribe for the transportation of hazardous wastes.

History. Acts 1979, No. 406, § 5; Waste Management Act, § 82-2701 et seq., as of March 14, 1979, may continue in operation until such time as a permit is issued under the provisions of this subchapter by the department, provided that the owner or operator of the facility has made application on forms provided by the department for the permit within six (6) months of March 14, 1979.

Publisher's Notes. Acts 1979, No. 406, § 5 provided, in part, that facilities required to have a permit under this subsection or, which are operating under terms of permits issued under the Arkansas Water and Air Pollution Control Act, § 82-1901 et seq., or the Arkansas Solid

8-7-217. Permits — Notice of hearing.

No permit shall be issued by the department or commission for any commercial hazardous waste treatment, storage, or disposal facility unless thirty (30) days' advance notice of a hearing has been placed in the largest newspaper published in the county in which a facility or facilities is located or proposed to be located, as well as published in the largest newspaper published in the adjoining counties. If there is no newspaper published in any of the counties so affected, the notice shall be published in the newspaper having the largest circulation in the county.

History. Acts 1979, No. 406, § 5;
A.S.A. 1947, § 82-4205.

8-7-218. Permits — Compliance with subchapter, state and federal standards, regulations, etc.

(a) No permits shall be issued by the Department of Pollution Control and Ecology for any facility unless the department, after opportunity for public comment, has determined that the facility has been designed and will be operated in such manner that any emissions from the facility will comply with the provisions of this subchapter, the standards and regulations issued pursuant to this subchapter, and all applicable state and federal standards and regulations concerning air and water quality, and that the transfer, handling, and storage of materials within the facility will not cause conditions which would violate state and federal standards concerning worker safety or create unreasonable hazards to the environment or to the health and welfare of the people living and working in or near the facility.

(b)(1) No permit shall be issued by the department for any commercial disposal or storage facility off the site where the hazardous waste is generated until the department has adopted rules, regulations, standards, and procedures pursuant to § 8-7-209.

(2) The rules, regulations, standards, procedures, or other requirements adopted and imposed by the department shall not be less stringent than the regulations promulgated or revised by the Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act of 1976.

(c) No permit shall be issued for noncommercial hazardous waste treatment, storage, or disposal facilities except under the terms of regulations of the department which conform to the provisions of § 3005 of the federal Resource Conservation and Recovery Act.

History. Acts 1979, No. 406, § 5; Section 3005 of the federal Resource A.S.A. 1947, § 82-4205. Conservation and Recovery Act referred to in this section is codified as 42 U.S.C. § 6925.

U.S. Code. The federal Resource Conservation and Recovery Act of 1976 appears as 42 U.S.C. § 6901 et seq.

8-7-219. Permits — Commercial facilities — Terms and conditions.

No permit shall be issued for any commercial hazardous waste treatment, storage, or disposal facility unless that facility meets such terms and conditions as the department may direct including, but not limited to:

(1) Evidence of liability insurance in such amount as the department may determine to be necessary for the protection of the public health and safety and the protection of the environment;

(2) Evidence of financial responsibility in such form and amount as the department may determine to be necessary to insure that, upon abandonment, cessation, or interruption of the operation of the facility, all appropriate measures are taken to prevent present and future damage to the public health and safety and to the environments;

(3) Evidence that the personnel employed at the hazardous waste treatment or disposal facility meet such qualifications as to education and training as the department may determine to be necessary to assure the safe and adequate operation of the facility.

(A) Persons charged with the direct supervision of the operation of any facility must be certified by the department as having such qualifications after a review of the types, properties, and volume of hazardous waste to be treated or disposed of at the facility.

(B) The department may require the recertification of supervisory personnel where there is any significant change in the types or properties of hazardous waste being treated or disposed of in any facility;

(4) Evidence of an appropriate preventive maintenance program, spill prevention plan, safety procedures, and contingency plans which have been developed in consultation with the fire department having jurisdiction and by the mayor or city manager of the municipality or by the county judge of the county in which the facility is to be located;

(5) Evidence that the location of the facility is consistent with the siting criteria established by the department as provided in § 8-5-209(a)(3)(A). The provisions of this subsection shall not apply to treatment facilities which began operation prior to the date of enactment of this act and which have an existing operating permit from the department, or to any subsequent modifications to such

facilities, provided that the owner of the facility can demonstrate that the modifications do not materially increase the degree of hazards associated with the facility;

(6) Evidence of such forms of assurance, including full fee ownership of lands, and all mineral rights thereto, to ensure that the owner of any hazardous waste landfill has the legal authority to commit the landfill to perpetual security.

History. Acts 1979, No. 406, § 5; Acts 1979, No. 406, was signed by the A.S.A. 1947, § 82-4205. Governor and became effective on March 14, 1979.

Publisher's Notes. In reference to the term "the date of enactment of this act,"

8-7-220. Permits — Duration — Renewal.

(a) Permits shall be issued for a period not to exceed ten (10) years. However, land disposal permits shall be reviewed five (5) years from date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable laws and regulations.

(b) Permits shall be subject to renewal by the Department of Pollution Control and Ecology upon a showing that the facility has been operated in accordance with the terms of the permit, the rules and regulations applicable to such facility, and compliance with all other provisions of this subchapter.

(c) Nothing in this section shall preclude a permit from being reviewed and modified at any time during its term.

History. Acts 1979, No. 406, § 5; 1985, No. 920, § 1; A.S.A. 1947, § 82-4205.

8-7-221. Permits — Revocation.

Any permit issued under §§ 8-7-215 — 8-7-220 shall be subject to revocation for failure of the permittee to comply with the terms and conditions of the permit, the rules and regulations of the department applicable thereto, or the provisions of this subchapter.

History. Acts 1979, No. 406, § 5; A.S.A. 1947, § 82-4205.

8-7-222. Permits — Hearing upon denial, revocation, or modification.

Any person who is denied a permit by the director or who has such permit revoked or modified shall be afforded an opportunity for a hearing by the commission in connection therewith upon written application made within thirty (30) days after service of notice of the denial, revocation, or modification.

History. Acts 1979, No. 406, § 5;
A.S.A. 1947, § 82-4205.

8 7-223. Location of landfill.

No hazardous waste landfill disposal facility off the site of generation shall be located within one-half (1/2) mile of any occupied dwelling unless the applicant shall affirmatively demonstrate and the department shall specifically find that, because of the nature and amounts of the materials to be placed in such facility, a lesser distance will provide adequate margins of safety even under abnormal operating conditions.

History. Acts 1979, No. 406, § 5;
A.S.A. 1947, § 82-4205.

8-7-224. Rules for transporting hazardous waste.

(a) Following notice and public hearing, the Arkansas Transportation Commission, in consultation with the department, shall issue rules and regulations for the transportation of hazardous wastes. The rules and regulations shall be consistent with applicable rules and regulations issued by the United States Department of Transportation and with any rules, regulations, and standards issued by the department pursuant to this subchapter.

(b) The provisions of this section shall apply equally to those persons transporting hazardous wastes generated by others and to those transporting hazardous wastes they have generated themselves, or combinations thereof.

History. Acts 1979, No. 406, § 7;
A.S.A. 1947, § 82-4207.

8-7-225. Records and examinations.

(a) The owner or operator of any permitted facility or site shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, take such samples, perform such tests, and provide such other information to the department as the director may reasonably require.

(b) The department, or any authorized employee or agent thereof, may examine and copy any books, papers, records, or memoranda pertaining to the operation of the facility or site.

(c) The department, or any authorized employee or agent thereof, may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations necessary or appropriate for the purposes of this subchapter.

(d)(1)(A) Any records, reports, or information obtained under this subchapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.

(B) Upon a showing satisfactory to the director that the records, reports, permits, documentation, information, or any part thereof would, if made public, divulge methods or processes entitled to protection as trade secrets, the director shall consider, treat, and protect the records, reports, or information as confidential.

(2)(A) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers, or employees of the state or of the United States, if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the department under the provisions of this subchapter.

(B) The provisions of this subdivision shall not be construed to limit the department's authority to release confidential information during emergency situations.

(3) Any violation of this subsection shall be unlawful and constitute a misdemeanor.

History. Acts 1979, No. 406, § 11;
1983, No. 809, § 1; A.S.A. 1947,
§ 82-4211.

8-7-226. Fees.

The department shall have authority to establish a schedule of fees to recover the costs of processing permit applications and permit renewal proceedings, on-site monitoring, the certification of personnel to operate hazardous waste treatment and disposal facilities, and other activities of department personnel which are reasonably necessary to assure that permitted facilities are being operated in accordance with the provisions of this subchapter and which reasonably should be borne by the permittee.

History. Acts 1979, No. 406, § 5;
A.S.A. 1947, § 82-4205.

SUBCHAPTER 3 — RESOURCE RECLAMATION ACT

SECTION.

- 8-7-301. Title.
- 8-7-302. Legislative findings.
- 8-7-303. Policy and purpose.
- 8-7-304. Definitions.
- 8-7-305. Exception to provisions.

SECTION.

- 8-7-306. Penalties.
- 8-7-307. Unlawful actions.
- 8-7-308. Powers and duties generally.
- 8-7-309. Appeals.