

US EPA ARCHIVE DOCUMENT

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.

8-7-301. Title.

This subchapter may be cited as the "Arkansas Resource Reclamation Act of 1979."

History. Acts 1979, No. 1098, § 1; A.S.A. 1947, § 82-4217.

8-7-302. Legislative findings.

The General Assembly of this state finds and it is declared that:

(1) 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;

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

(3) 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;

(4) 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

(5) The Hazardous Waste Management Act of 1979, § 82-4201 et seq., authorizes the department 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.

History. Acts 1979, No. 1098, § 2; A.S.A. 1947, § 82-4218.

8-7-303. Policy and purpose.

The General Assembly declares that it is the policy of this state and the purpose of this subchapter to:

(1) 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;

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

(3) 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 these wastes; and

(4) Coordinate the administration of this subchapter with the administration of §§ 8-7-201 — 8-7-226, so as to further the purposes of both this subchapter and that act.

History. Acts 1979, No. 1098, § 3; 1985, No. 992, § 1; A.S.A. 1947, § 82-4219.

8-7-304. Definitions.

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

(1) "Commission" means the Arkansas Pollution Control and Ecology Commission within the department;

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

(3) "Director" means the Director of 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 the hazardous waste or any constituent thereof might or might not enter the environment or be emitted into the air or discharged into any water including groundwaters;

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

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

(7) "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, strong sensitizers, or which generate pressure through decomposition, heat, or other means.

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

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

(10) "Owners, operators, or other responsible parties" means and includes:

(A) Any person owning or operating a site or facility; or

(B) In the case of any inactive or abandoned facility or site, any person who owned, operated, or otherwise controlled the activities at the site or facility during the time that the site or facility was used to manage hazardous wastes;

(11) "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;

(12) "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 such hazardous wastes. However, storage by means of burial shall be deemed to constitute disposal within the meaning of this subchapter;

(13) "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;

(14) "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 such waste or so as to render such waste less hazardous, safer for transport, amenable to recovery, amenable to storage, amenable to disposal, or reduced in volume;

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

(16) "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. 1098, § 4; 1985, No. 922, § 2; A.S.A. 1947, § 82-4220.

8-7-305. Exception to provisions.

This subchapter does not apply to an industrial waste treatment facility that discharges into a publicly owned treatment works, if the industrial waste treatment facility and publicly owned treatment

works comply with 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.

History. Acts 1979, No. 1098, § 8; A.S.A. 1947, § 82-4224.

8-7-306. Penalties.

(a) Any person who commits any unlawful act shall be guilty of a misdemeanor and upon conviction 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), or by 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.

(b) Any person who violates any provision of this subchapter or the regulations issued pursuant to this subchapter or who violates any condition of a permit issued under this subchapter may, pursuant to administrative procedures and civil penalty regulations of the commission, be assessed a civil penalty by the commission. The penalty shall not exceed twenty five thousand dollars (\$25,000) for each violation. Each day of a continuing violation may be deemed as 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 such violation pursuant to §§ 8-4-218, 8-4-219, and 8-4-221.

History. Acts 1979, No. 1098, § 7; 1985, No. 922, § 5; A.S.A. 1947, § 82-4223.

8-7-307. Unlawful actions.

It shall be unlawful for any person:

(1) To violate any provision of this subchapter or of any rule, regulation, permit, or order issued under this subchapter;

(2) To transport hazardous wastes into or out of the state except as provided by regulations established by the department pursuant to the provisions of this subchapter;

(3) To dispose of hazardous wastes in the state except as provided by regulations established by the department pursuant to this subchapter.

History. Acts 1979, No. 1098, § 6; 1985, No. 922, § 4; A.S.A. 1947, § 82-4222.

8-7-308. Powers and duties generally.

The department shall have the following powers and duties:

(1) 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 subchapter, if these agreements or compacts first receive the approval of the Governor;

(2) 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 subchapter;

(3) To promote the purposes of this subchapter and to effectuate and implement interstate agreements by imposing reasonable conditions on permits issued under this subchapter and §§ 8-7-201 — 8-7-226, and the regulations promulgated under this subchapter and those sections;

(4) To prohibit, by regulation or by condition of permit, the disposal of any hazardous wastes within the state unless the owner or custodian of the wastes can demonstrate to the reasonable satisfaction of the director that it is technically or economically infeasible for the wastes to be treated;

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

(6) To adopt and enforce regulations which would require the owners, operators, or other responsible parties of inactive or abandoned disposal sites to undertake such actions as are reasonable to prevent environmental contamination;

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

(8) 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.

History. Acts 1979, No. 1098, § 5; 1985, No. 992, § 3; A.S.A. 1947, § 82-4221.

8-7-309. Appeals.

Appeal of the commission's decision may be taken in accordance with the appellate procedure specified in §§ 8-4-222 — 8-4-229.

History. Acts 1979, No. 1098, § 7; 1985, No. 922, § 5; A.S.A. 1947, § 82-4223.

SUBCHAPTER 4 — EMERGENCY RESPONSE FUND ACT

SECTION.	SECTION.
8-7-401. Title.	8-7-411. Limitations upon expenditures.
8-7-402. Legislative intent.	8-7-412. Furnishing of information.
8-7-403. Definitions.	8-7-413. Liability of responsible parties.
8-7-404. Penalties.	8-7-414. Apportionment of costs and expenditures.
8-7-405. Unlawful acts.	8-7-415. Recovery of expenditures generally.
8-7-406. Regulations — Administrative procedure.	8-7-416. Recovery of expenditures — Limitations.
8-7-407. Compliance of federal and state entities.	8-7-417. Liens for expenditures and value of improvements.
8-7-408. Response authority of director generally.	8-7-418. Punitive damages.
8-7-409. Orders of director.	8-7-419. Appeals.
8-7-410. Emergency Response Fund.	

8-7-401. Title.

This subchapter may be known and may be cited as the "Emergency Response Fund Act."

History. Acts 1985, No. 452, § 1; A.S.A. 1947, § 82-4701.

8-7-402. Legislative intent.

It is the intent of the General Assembly:

(1) To provide the state with the authority necessary to protect the public's health and safety and the environment from releases or threatened releases of hazardous substances;

(2) To provide emergency response capabilities necessary to promptly contain, control, or remove hazardous substances resulting from spills or accidental releases.

History. Acts 1985, No. 452, § 2; A.S.A. 1947, § 82-4702.

8-7-403. Definitions.

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

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

(2) "Commission" means the Arkansas Pollution Control and Ecology Commission;

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