

US EPA ARCHIVE DOCUMENT

P12  
Non HSWA IV  
HSWA I  
HSWA II (p)

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY  
HAZARDOUS WASTE DIVISION

HAZARDOUS WASTE MANAGEMENT  
REVISION PROGRAM DESCRIPTION

Through this application, the State of Arkansas seeks authorization for revision of its authorized state hazardous waste management program. Arkansas received final authorization for the basic portion of its hazardous waste management program on January 25, 1985. Subsequent federal regulations promulgated in interim or final form for Non-HSWA Clusters I, II, and III and mixed waste through June 30, 1987 have been authorized effective May 29, 1990. Federal regulations promulgated through June 30, 1988, known collectively as HSWA Cluster I, Non-HSWA Cluster IV, and elements of HSWA Cluster II have been adopted through annual revision of the Arkansas Hazardous Waste Management Code. An application for final authorization for these rules was submitted on March 18, 1989, and after comments by EPA was updated in September 1989. After new, additional comments by EPA Region VI, a second update was submitted on January 24, 1991. This second addendum generated additional comments from the Regional staff. This document is the third addendum to the original HSWA I application, addressing these new comments.

This revised program description supplements and updates all previous program descriptions submitted with prior revision authorization applications previously submitted.

The scope of program revisions requested in this application is for final authorization for the Non-HSWA Cluster IV and HSWA Cluster I and II components as referenced in Federal regulations adopted through June 30, 1989.

#### 1. Program Overview.

Arkansas' hazardous waste program, in its broadest statement of purpose, is designed to protect the public health and safety and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes. It accomplishes this to the fullest extent possible by establishing a program of strict regulation over the generation, storage, transportation, treatment, disposal, and other forms of management of these wastes. The program additionally affords the people of the State a voice in the management of hazardous wastes within Arkansas. The lead agency for the hazardous waste management program in Arkansas is the Department of Pollution Control and Ecology (ADPC&E).

It is the intent of the Arkansas Department of Pollution Control and Ecology to maintain and administer a hazardous waste management program that is equivalent in force and effect to the Federal program as established by the Resource Conservation and Recovery Act, as amended, including but not limited to the Hazardous and Solid Waste Amendment. Arkansas has adopted EPA's hazardous waste regulations of May 19, 1980 as amended. Subsequent regulations promulgated in interim and final form for Non-HSWA Cluster III through June 30, 1987 have been adopted by reference by the Commission after public hearing and presented in

state program revisions submitted in final form on March 15, 1989. Final authorization for these changes has been received effective May 29, 1990 (55 FR 11192, March 27, 1990). Federal regulations promulgated through June 30, 1989, known collectively as Non-HSWA Cluster IV, HSWA Cluster I, and elements of HSWA Cluster II have been adopted through annual revision of the Arkansas Hazardous Waste Management Code. A revision authorization application for these changes was submitted on March 15, 1989. Addenda to this application for final authorization for these updates were submitted on September 18, 1989, and January 24, 1991. The application is still under review by EPA Region VI.

Although HSWA Clusters I and II and non-HSWA Clusters IV, V and VI have not been authorized, Arkansas has adopted Federal regulations promulgated through August 24, 1990 during its annual code reviews and revisions. The current, 1990 revision to the Arkansas Hazardous Waste Management Code addresses all Federal regulations in effect as of August 24, 1990. All components of adopted clusters are being implemented and enforced as State regulations.

Program revision changes include corrected revision checklists at TAB C and a supplemental Attorney General's Statement at TAB B.

The state agency organization and structure (TAB A, Figure 1) of the program description has been updated to reflect the reorganization of the Arkansas Department of Pollution Control and Ecology with the addition of several positions to the program.

Additional revisions of the Code and the State program are anticipated in order that the State program will remain equivalent and no less stringent than Federal requirements as federal regulations are amended or modified.

## 2. Organization and Management of Arkansas' Program - RCRA 271.6(b) through (h).

The Arkansas General Assembly has approved the necessary legislation to administer a program of scope and coverage equivalent to and no less stringent than that administered by EPA. Two State Acts, the Arkansas Hazardous Waste Management Act (Act 406 of 1979, as amended, (Arkansas Code Annotated (A.C.A) Section 8-7-201 et. seq.) and the Arkansas Resource Reclamation Act (Act 1098 of 1979, as amended, A.C.A. Section 8-7-301 et. seq.) set the legal framework for the State's hazardous waste management program. The Arkansas Remedial Action Trust Fund Act (Act 479 of 1985, as amended, A.C.A. section 8-7-501 et. seq.) provides additional authority for corrective action and remediation of hazardous waste releases at RCRA sites and facilities. In addition to and based upon this framework, ADPC&E publishes and updates the Arkansas Hazardous Waste Management Code, which serves as the basic regulation for administration of the program. ADPC&E adopts EPA regulations published in 40 CFR by reference whenever possible, incorporating these in the State Code.

The following sections of Title 40 Code of Federal Regulations are incorporated by reference into the Arkansas Hazardous Waste Management Code:

- (1) Subparts A, B, and C, and Appendix I of Part 260; with the exception of the definitions of "Act", "Active Portion", "EPA Identification

- Number", Existing Hazardous Waste Management Facility", "Hazardous Waste", "Operator", and "Person" as set forth in 260.10 (analogous definitions are established in AHWMC Sect. 2(a)).
- (2) Subparts A, B, C, D, and appendices I, II, III, VII, VIII, and X of Part 261.
  - (3) Subparts A, B, C, D, and E of Part 262; with the exception of 262.20e, 262.41, and 262.44. (Analogous sections at AHWMC Sect.16.)
  - (4) Subparts A, B, and C of Part 263.
  - (5) Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, X, AA, BB, and Appendices I, IV, V, and IX of Part 264 with the following exceptions: 264.75, 264.312b, and 264.314(a), (b), (c), and (e). (Analogous sections at AHWMC Sect. 13a(5) and Sect. 16.)
  - (6) Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, AA, BB, and Appendices I, II, IV, and V of Part 265 with the following exceptions: 265.75, 265.312(b), and 265.314 (Analogous sections at AHWMC Sect. 13(a)(5) and Sect. 16).
  - (7) Subparts C, D, and E of Part 266.
  - (8) Subpart A, B, C, D, E, and Appendices I, II, and III of Part 268.
  - (9) Subparts A, B, C, D, E, F, and G of Part 270 with the following exceptions: the definitions of "Hazardous Waste", "Existing Hazardous Waste Management Facility", "Site", "Person", "Permit", and "Operator" set forth in 270.2.
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- (10) The definition of "PCB" and "PCBs", "PCB items", and "PCB-contaminated electrical equipment" set forth in 761.3.
  - (11) Subpart A of Part 124 with the following exceptions: 124.1, 124.2, 124.3b, 124.3d, 124.3e, 124.4, 124.5b, 124.5e, 124.5g, 124.6b, 124.9, 124.10a (1)(i), 124.10a(1)(iv), 124.10a(1)(v), 124.12e, 124.14, 124.15, 124.16, 124.18, 124.19, and 124.19.
  - (12) All as adopted as final rules (including "interim final rules" and "technical amendments") by the U.S. Environmental Protection Agency on or before August 24, 1990.

Under the above listed legislation and regulations, ADPC&E has established a hazardous waste management program that is equivalent and no less stringent than the Federal program as summarized below:

- (1) Requirements for Identification and Listing - 271.9.

Arkansas controls a universe of hazardous waste equivalent to that covered by 40 CFR Part 261, as amended, including the hazardous components of radioactive mixed waste. The State also regulates polychlorinated biphenyls (PCBs) which are

transported to treatment or disposal facilities or commercial storage facilities as hazardous wastes.

Arkansas statutes define hazardous waste as: "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: 1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or 2) 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." (A.C.A. 8-7-203(6)). This definition is narrowed in the Hazardous Waste Management Code as "a hazardous waste as defined in 40 CFR 261.3; in addition to these wastes, polychlorinated biphenyls (PCBs), as defined in 40 CFR 761 (including PCBs, 'PCB items', 'PCB transformers', and 'PCB-contaminated electrical equipment') which are transported to treatment or disposal facilities or to commercial storage facilities, shall be regulated as hazardous waste under the provisions of Section 16 of the Arkansas Hazardous Waste Management Code" (AHWMC 2a(5)).

Specific definitions and listings of hazardous wastes included in 40 CFR Part 261 are incorporated by reference in the Arkansas Hazardous Waste Management Code, and updated annually as the Code is revised.

The state's statutory definition of a hazardous waste does not require that a hazardous waste first be proved to be a "solid waste" as defined in 40 CFR 261.2. Arkansas thus controls a hazardous waste universe which is broader in scope than that controlled under the federal RCRA.

Arkansas has no separate, State provision or mechanism for the delisting of listed hazardous wastes. Wastes delisted by EPA may be delisted under Arkansas hazardous waste regulations following rulemaking procedures, public hearing, and incorporation by reference of the specific Federal rule change in the Arkansas Hazardous Waste Management Code.

ADPC&E adopts, by reference, federal regulations dealing with hazardous waste. Whenever the federal regulations are amended, modified, revoked, expanded, supplemented, or otherwise changed, such change becomes part of the Arkansas Hazardous Waste Management Code after rulemaking, public hearing and adoption by the Commission on Pollution Control and Ecology. This rulemaking and updating of the Code normally occurs annually in July, incorporating all federal rules promulgated on or before the previous June 30th.

(2) Requirement for Generators - 271.10.

Generators are subject to the standards, including record-keeping requirements, set forth in 40 CFR 262. Additional requirements and other requirements equivalent to Subpart B of 262 are imposed by Section 16 of the Arkansas Hazardous Waste Management Code.

The Department has established a comprehensive manifest system which, to the greatest extent possible, allows for a "cradle to grave" tracking of hazardous wastes generated in or disposed of in the State. This system provides for and allows the intrastate, interstate and international transport of hazardous wastes. This system is discussed in detail at Appendix I of the 1985 Final Authorization Document.

The state uses its own version of the uniform hazardous waste manifest; a current copy is enclosed with this program description.

Since small quantity generators comprise a significant percentage of the State's hazardous waste universe, Arkansas does not exempt small quantity generators from requirements to notify the Department and EPA of hazardous waste activity or to manifest and ship any and all hazardous wastes only to permitted treatment, storage, or disposal facilities. In the case of conditionally exempt or PCB generators, the Department issues a unique State "CXG" or "PCB" identification number to facilitate manifesting and shipping of hazardous wastes. The State also requires small quantity and PCB generators to submit an annual hazardous waste activity report equivalent to the requirements of 40 CFR 262.41.

(3) Requirements for Transporters - 271.11.

Transporters are subject to all standards covered by 40 CFR Part 263, and Section 16 of the Code, which is broader in scope compared to 40 CFR 263. Hazardous waste transporters must be permitted by both the Department of Pollution Control and Ecology and the Arkansas Highway and Transportation Department. A high level of cooperation is maintained between these two agencies to insure that their regulatory activities are not duplicated.

Generators may consign hazardous wastes to and TSD facilities may receive hazardous wastes only from transporters jointly permitted by ADPC&E and the state highway department. Persons transporting hazardous or PCB wastes in or through Arkansas must also possess a valid state permit.

(4) Requirements for Facilities - 271.12.

A strict regulatory scheme has been developed for hazardous waste management facilities. Facilities are subject to all standards, including 40 CFR 264, 265, and additional requirements established in Section 13, Arkansas Hazardous Waste Management Code. These additional requirements are referenced at pages I-45, I-118, and I-126 in Arkansas' 1985 Final Authorization Document.

In addition to incorporating federally imposed requirements, the Arkansas Hazardous Waste Management Code is more stringent in its provisions for:

- o Facility Siting - The general siting criteria for facilities is detailed in Section 5 of the Code. It was written with respect to the State's unique physiography.
- o Certification of TSD Operators: Section 10 of the Code requires that personnel procedures and training for hazardous waste facility operators be approved by the Department. The Department evaluates the

background and qualifications of facility operators through a committee of internal staff.

o Baseline Health Surveys: As a condition of facility permitting, The Department may require that prior to operation, new commercial TSD facilities conduct a survey to establish baseline health data. These surveys are discussed in detail at Section 14 of the Code.

(5) Requirements for Permitting - 271.13 and 271.14

Permits will be issued to hazardous waste facilities and transporters. Permit guidelines and procedures, which include an appellate review process, have been developed and implemented. No permit shall be issued by the Department for a term greater than 10 years. Thus far, ADPC&E has adopted, by reference, EPA's regulations which were enacted through August 24, 1990. ADPC&E has established procedures to accept as interim provisions of the Code all amendments and other changes to Federal Regulations prior to hearings held to adopt such changes.

ADPC&E has adopted, by reference, EPA regulations found in Parts 260-266, 268, 270, and 124 of Title 40 of the Code of Federal Regulations as well as adopting several additional, more stringent regulations which meet the specific needs of the State. Federal regulations not adopted by reference are included as equivalent standards in the Arkansas Hazardous Waste Management Code.

Recent legislation has passed (Act 454 of 1991) which authorizes the Department to deny any permit application, transfer of permit, or operating authorization if an applicant has a history of noncompliance with the environmental laws and regulations of Arkansas or any other jurisdiction, or if any person affiliated with the applicant has a history of such noncompliance.

Exemptions:

Generators of conditionally exempt small quantities of hazardous waste must comply with the requirements found at 40 CFR 261.5 and the additional requirements set forth at Section 9 of the Arkansas Hazardous Waste Management Code.

ADPC&E requires that small quantity and conditionally exempt generators of hazardous waste (less than 100 kg/month) treat, store, or dispose of their hazardous wastes in one of four ways:

- 1) In a solid waste disposal facility in the State of Arkansas which has been permitted by the Department to dispose of such waste.
- 2) In a hazardous waste management facility in the State of Arkansas which is permitted to store, treat, or dispose of such waste.
- 3) Shipped to an approved facility outside of the State of Arkansas, or
- 4) Treated or disposed of in an on-site solid waste facility which is permitted in accordance with Act 472 of 1949, as amended, or Act 237 of 1971, as amended.

A hazardous waste treatment, storage, and disposal facility will be considered to have such permission if it is operating under the provision of Interim Status to accept such categories of wastes, or has been issued a permit to accept such wastes. Solid waste disposal facilities may accept such small quantity waste only in accordance with their permit and the provisions of the Arkansas Solid Waste Management Code.

#### Certification of Operators:

In addition to the requirements found in 40 CFR Parts 264 and 265, ADPC&E has adopted more stringent requirements for certification of commercial TSD facility operators and personnel.

ADPC&E requires that at least one person, certified by the Department, shall be on duty or on fifteen-minute call at all times while a commercial TSD facility is being operated. In some cases, more than one person may be required to be on duty at all times.

These operators must have the following qualifications:

- o Physically capable to perform all tasks.
- o Baccalaureate degree in engineering, physical science, health science or related disciplines, or four years of significant demonstrated experience in such fields.
- o At least four additional years of experience in management, engineering or in conducting chemical/physical analysis.
- o Working familiarity with the principles and requirements relative to industrial hygiene, worker safety, emergency procedures, and environmental protection.
- o Basic knowledge of the principles of operation and standard operating procedures for all equipment used in the facility.
- o Citizen of the United States, of good moral character with no prior conviction of a felony or a crime of moral turpitude.

#### Personnel Training.

ADPC&E also imposes requirements for personnel training in addition to those found in 40 CFR 264.16. In addition to maintaining records prescribed in 40 CFR 264.16(d), owners and operators of commercial TSD facilities shall:

- o Maintain complete updated records of all workers assigned to specific jobs, including name, address, date of starting specific job and date of termination of specific job.
- o Maintain a complete previous employment history and a complete job mobility history within the facility for each employee.

o Have their personnel trained in contingency procedures as prescribed in the facility's contingency plan, which plan has been submitted and approved pursuant to the Hazardous Waste Management Code.

o Have their personnel take part in semi-annual reviews and updates of their initial training in contingency plans, which has previously been submitted to the Department and approved.

o Have each of their personnel undergo an annual health physical. Spouses shall be offered an annual physical.

Whenever modification of training is required by direction of the Department or as a modification of permit conditions, owners and operators shall promptly comply.

General Siting Criteria:

In addition to the general location standards found in 40 CFR 264.18, ADPC&E has adopted more restrictive general siting criteria for new treatment, storage, and disposal (TSD) facilities.

No permit will be issued for a new TSD facility located in an active fault zone, a "regulatory floodway", a 100-year floodplain, a recharge zone of sole source aquifer or a "wetland area" which is inundated or saturated by surface or groundwater unless the applicant affirmatively demonstrates and the Department specifically finds that the location of the facility in this area would not constitute a risk to the public health or the environment.

In addition, no permit will be issued for a hazardous waste landfill or surface impoundment that is located in the following areas:

- o Of high earthquake potential.
- o Soil which would be classified as vertisol or as having a subgroup modifier of vertic.
- o Where a stratum of limestone or similar rock of an average thickness of more than three feet lies within 99 feet of the base of the proposed liner system.
- o Where bottom of the liner system or in-place soil barrier is less than 10 feet above the historical high water table.
- o Close to any functioning public or private water supply.

No permit shall be issued for the construction or operation of a new commercial hazardous waste landfill, if the active portions of the facility are located within one-half mile of any occupied dwelling, church, school, hospital or similarly occupied structure at the time the initial permit application is submitted to the Department unless the applicant affirmatively demonstrates and the Department specifically finds that the location of the facility in this area would not constitute a risk to the public health or the environment.

No permit shall be issued for a hazardous waste TSD facility, if the area and configuration of the facility's property is such that the distance between active portions of the facility and the facility's property line is less than 200 feet; or the active portions of the facility are located less than 300 feet from the right-of-way for a public road, pipelines carrying natural gas, fuel oils or chemicals, water and wastewater lines, and power transmission lines. The Department of Pollution Control and Ecology will consider the instances in which the permit applicant can demonstrate that location of such facilities in the above areas would not constitute a risk to the public health or environment.

The above restrictions do not apply to treatment facilities which began operation prior to March 14, 1979, or which had an existing operating permit issued by the Department of Pollution Control and Ecology, or to any subsequent modifications to such facilities, provided that the owner of such facility affirmatively demonstrates and the Department specifically finds that the location of the facility in this area would not materially increase the degree of hazard associated with the facility.

Performance Standards:

The following standards apply, in addition to those of 40 CFR 264 and 265, to hazardous waste management facilities:

The capacity of hazardous waste storage facilities associated with a treatment facility shall not exceed a volume equal to ninety times the permitted daily processing rate of the treatment process; unless the Commission finds that a lesser volume is required to provide adequate protection of public health and safety or applicant affirmatively demonstrates and the Commission finds that such a restriction shall unduly inhibit the use of the most acceptable method or methods available for treatment. These requirements do not apply to wastewater treatment facilities which are designed and operated to meet state and federal water pollution control regulations.

Each hazardous waste management facility must be designed to operate in such a manner that any emissions from the facility will comply with the provisions of the Arkansas Hazardous Waste Management Act of 1979, as amended, the provisions of the Arkansas Hazardous Waste Management Code, and all applicable state and federal standards concerning air and water quality. The transfer, handling and storage of materials must not 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 such a facility.

When it is technically feasible that destruction of the waste can be accomplished by incineration utilizing currently available technology, no acutely hazardous waste shall be disposed of in landfills in the State of Arkansas unless the applicant can demonstrate that the waste is not included in Class I high hazard materials as defined in the Chemical Manufacturer's Association's "A System for Management of Hazardous Wastes by Degree of Hazard Under Subtitle "C" of RCRA" dated July 30, 1979 or as revised or amended thereto after approval by the Commission.

Incineration will be deemed technically feasible by the Director for destruction of all acutely hazardous materials for which disposal in landfills is not allowed unless:

1) The generator or the disposer can demonstrate to satisfaction of the Director that incineration is not technically feasible;

2) It is generally accepted by the scientific community that incineration would not be technically feasible or that incineration would not produce the desired results;

3) Incineration would not appreciably reduce the degree of hazard; or

4) The toxicity of the waste results primarily from inorganic materials which are not destroyed by incineration.

The Director may give a waiver to this subsection (AHWMC 13a(4)) if it can be demonstrated to his satisfaction that a process other than incineration is available and will be used that would destroy or permanently immobilize the hazardous components of the waste prior to landfilling.

No materials in the form of bulk liquids, semi-solids, and sludges may be disposed of in hazardous waste landfills unless such waste is pretreated and/or stabilized into cement-like material. Under no circumstances may municipal refuse be placed in a hazardous waste landfill.

Adequate Enforcement, Notice, and Hearing in the Permit Process:

A compliance monitoring program and an enforcement program have been developed. Inspections are an integral element of the State's compliance monitoring program.

A public comment policy, adopted July 24, 1981, establishes procedures for receiving public comment and protocol at hearings and commission meetings.

The State program provides for public participation at numerous decision-making points. Specific public hearing requirements pertain to the hazardous waste program. The State program requires that the applicant for a hazardous waste management facility publish a notice of permit application in the newspaper having the largest circulation in the county where the facility is planned.

The Department shall give 45 days notice of a hearing on such application; and the hearing shall be held in the county where the facility is proposed.

During the forty-five-day period between publication of the Department's notice and the hearing date, a copy of the draft permit will be available to the public at the Department and at a public facility (library or school, for example) in the area of the state where the facility is planned.

Consultation and submission of material on program topics by the public can be freely exercised by any citizen during the review process. The Department staff will consider all comments and re-evaluate program or permit elements as issues arise.

Another provision of the Arkansas Hazardous Waste Management Code allows the Department director to hold a preliminary hearing on a proposed waste facility in the affected area. This is a discretionary power and should be exercised prior to the full-scale public hearing with the forty-five-day notice.

Ability of the State to Revise Statutes and Regulations:

Section 3(C) of the Arkansas Hazardous Waste Management Code establishes the following procedures to adopt, by reference, amendments and other changes to the Federal Regulations:

" The Director, annually after the date of promulgation of any new or revised federal hazardous waste regulations shall conduct rulemaking procedures with reference to this Chapter necessary to maintain a State Hazardous Waste Management Program equivalent to the federal program. Such new or revised federal regulations upon their effective date shall constitute minimum guidelines to the Director in formulating rulemaking proposals to this Chapter but shall not be construed to limit or interfere with the adoption of provisions more stringent than federal regulations."

State statutes may be proposed or revised during the biennial sessions of the Arkansas General Assembly, held in each odd-numbered year. Proposed legislation or amendments are introduced in either the Senate or House of Representatives. Following approval of the bill by both Houses and signature by the Governor, the bill becomes an Act and is effective 90 days after the date the General Assembly adjourns, or on the following July 1. The legislature may attach and approve an emergency clause to the bill in order to render it effective from the date of its passage and approval, or another date as required.

Availability of Information:

Any information made available to the State will be made available to the public to the extent and in the manner authorized by the Arkansas Freedom of Information Act codified at Ark. Code Ann. 25-19-101 to 25-19-107 (Repl. 1979 and Supp. 1985) and by the Freedom of Information Act, 5 U.S.C. Section 552, Section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act.

The following Freedom of Information policy was adopted for use by the Department on August 6, 1986:

o All documents not subject to protection or exclusion under the provisions of the FOIA will be available for public review during normal working hours. All provisions of the FOIA will be adhered to.

o Space will be made available for public review of documents.

o Copying services will be available to the public on a time available basis. Copies will be made of specifically requested documents only. A person assessing file materials must make a specific listing of each document they wish copied and give this list to the person assigned to assist them. Forms will be provided to assist in this compilation. In some instances, actual copying may not be

available the same day the material is reviewed, however, copying requests will be processed with daily work loads as quickly as possible.

- o Copying and item charges are as follows: each separate page at 20 cents each, if copying is done by Department staff, plus staff time charges for compilation or copying if in excess of one (1) hour at employees hourly rate. If Department staff is not immediately available to provide copying, or if the requesting individual so desires, individuals may make their own copies using Department copiers at a cost of 10 cents per page.

- o Any questions concerning public documents must be in written form and given to the assistant. These questions will be responded to in writing or by phone as soon as normal work commitments allow.

- o Files in active use, which would otherwise be available for immediate public review, will be made available for review as quickly as possible but not later than the three day period provided for under the FOIA.

- o Items or requests not covered by this policy will be handled on a case by case basis.

A 1991 amendment (Act 435 of 1991) to the Arkansas Hazardous Waste Management Act allows for the recoupment of attorney's fees and other reasonable expenses from the Department when a plaintiff substantially prevails in a lawsuit against the Department for a violation of the Arkansas Freedom of Information Act.

Specific policies on the availability of information to the public are contained in the State/EPA RCRA Memorandum of Agreement and Section 6 of the Arkansas Hazardous Waste Management Code.

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#### Multiple State Agency Responsibilities

The Arkansas Department of Pollution and Ecology has a memorandum of agreement with the Arkansas Highway and Transportation Department. This agreement is included at page 1-16 of the 1985 Final Authorization Document.

In addition, the Department of Pollution Control and Ecology and the Federal Highway Administration have signed a cooperative agreement to enforce the safety and hazardous materials laws and regulations concerning highway transportation. This memorandum of agreement is also included at page 1-14 of the 1985 Final Authorization Document.

The Arkansas Department of Pollution Control and Ecology (ADPC&E) and the Arkansas Department of Health (ADH) have entered into a Memorandum of Understanding (MOU) regarding the respective duties and coordination of ADPC&E and ADH regarding the regulation of radioactive mixed waste. It is noted that ADPC&E retains sole authority to regulate the hazardous waste component of radioactive mixed waste, the above referenced MOU does not confer any of ADPC&E's authorities to ADH. This memorandum is found in the March 15, 1989 revision application.

State Compliance, Monitoring, and Enforcement Program:

An effective and efficient compliance monitoring and enforcement program is critical to the success of the State's Hazardous Waste Program. The compliance and monitoring system as outlined in this section is designed to assess and monitor compliance with facility standard and generator and transporter requirements equivalent to:

- o 40 CFR 262, "Standards Applicable to Generators of Hazardous Waste".
- o 40 CFR 263, "Standards Applicable to Transporters".
- o 40 CFR 264 and 265, "Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities", "Standards Applicable to Existing Facilities with Interim Status", and any additional standards imposed by Acts 406, 1098, and the State Hazardous Waste Code.
- o 40 CFR 266, "Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities".
- o 40 CFR 268, "Land Disposal Restrictions".
- o 40 CFR 270, "Administered Permit Programs: The Hazardous Waste Permit Program."

The Hazardous Waste, Technical Services and Legal Divisions of the Department are responsible for the numerous activities associated with compliance monitoring and enforcement.

ADPC&E has the primary responsibility under the State program to inspect and bring enforcement action against any hazardous waste generator, transporter, or facility in Arkansas. Without limiting in any manner EPA's ability to inspect or enforce, the two agencies have agreed that EPA will inspect or enforce in three situations: 1) when for policy reasons unrelated to the ability or willingness of ADPC&E to inspect or enforce in a timely manner, EPA desires to inspect or enforce; 2) when in EPA's judgement ADPC&E fails to take timely and appropriate enforcement action, or fails to timely and properly inspect; and 3) upon request by ADPC&E.

In reference to the first category above, the frequency of EPA oversight and training inspections will be specified in the annual State work program. Normally, EPA will accompany ADPC&E on no more than 10% of ADPC&E's compliance inspections. Inspections and enforcement actions under this category shall not reflect or constitute evidence of any inability or unwillingness on the part of ADPC&E.

In reference to the second category above, when in EPA's judgement ADPC&E fails to take timely and appropriate enforcement action, or fails to timely and properly inspect: before conducting an inspection of a generator, transporter, or facility, the Regional Administrator will give the Director not less than fifteen days' notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). If ADPC&E performs a compliance inspection and submits a report

and data relevant thereto within that time to EPA, no EPA inspection will be made, unless the Regional Administrator deems the ADPC&E report and data to be inadequate. In the event the Regional Administrator deems the report and data inadequate, the Regional Administrator will provide to the Director a written statement of the deficiencies upon which such a determination is based. The statement of deficiencies will be provided within fifteen days following a determination of inadequacy. In case of an imminent hazard to human health or the environment, the Regional Administrator may shorten or waive the notice period. EPA enforcement in regard to this category shall then be initiated in accordance with the criteria set forth in the Enforcement MOU.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). EPA will take enforcement action upon determining that ADPC&E has not taken timely and appropriate enforcement action or upon request by ADPC&E. Prior to issuing a compliance order under section 3008(a) EPA will give notice to ADPC&E. EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

EPA may not take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition necessary to implement approved State program requirements, unless the Regional Administrator stated, in commenting on the permit application or draft permit, that the condition was necessary following the procedures set forth at 40 CFR 271.19(b) and Section V.B of this Agreement. EPA may, however, take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

ADPC&E agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities as defined in the State/EPA Enforcement Memorandum of Understanding and annual State grant work program against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. As part of this program, ADPC&E will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the annual State grant work program and shall be consistent with all applicable Federal requirements and with ADPC&E's Program Description. ADPC&E will maintain procedures for receiving and ensuring proper consideration or information about violations submitted by the public.

In assessing civil penalties under Section 9 of ADPC&E Regulation No. 7, the Department will apply the factors therein set forth in the manner provided by 40 CFR 271.16(c).

ADPC&E retains all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved. EPA also agrees to retain all records for at least three years.

### Frequency of Inspections

Frequencies of compliance evaluation inspections (CEI's) and comprehensive groundwater monitoring evaluations (CME's) are in accordance with EPA's annual Operating Year Guidance and RCRA Implementation Plan, and is coordinated via the annual state grant workplan.

The inspectable universe is defined as all facilities active in HWDMS or RCRIS, and is coordinated between ADPC&E and EPA Region VI annually.

Currently, all permitted, operating, and closed land disposal facilities with outstanding Class I violations, closed LDFs not inspected during the previous year, incinerators, federally-owned TSDFs, and industrial boilers and furnaces are inspected annually. Commercial land disposal and treatment, storage, or disposal facilities are inspected twice annually. All commercial land disposal facilities subject to groundwater monitoring receive a comprehensive monitoring evaluation each year, noncommercial facilities every three years. Seven percent (increasing to 8% in FY 92) of all generators, including small quantity generators, are inspected each year. An active program is established and maintained to respond to citizen complaints, identify violators and nonnotifiers, and bring them into compliance.

### Conduct of Inspections

Inspections conducted pursuant to a citizen complaint are conducted on a no-notice basis. Scheduled inspections are conducted on a no-notice or short notice basis so as to more closely ascertain the day-to-day operations of a facility. All inspections and investigations are conducted in a courteous and professional manner. Prior to conducting an inspection and/or an investigation the inspector familiarizes himself with the facility to be visited. This is done by reviewing all pertinent file regarding the facility. These include the Department Central files, working files maintained by the Legal Division and the Technical and Enforcement branches, and the Division's manifest and annual report files. Pertinent information is recorded on a Pre-Inspection Worksheet, which the inspector maintains in his possession for reference during the site visit.

During the site visit, the inspector makes a visual inspection of the hazardous waste generation and waste management locations. He also visually inspects the process area and grounds surrounding the manufacturing building(s) and waste management area(s). The purpose of this "walk-through" is to verify:

- o Physical compliance with waste management requirements.
- o Proper and accurate identification, labeling, and handling of all hazardous wastes generated or handled.
- o Approximate volume of wastes generated and/or handled.

The inspector also reviews all permanent records and plans required to be kept at the facility. If the inspector feels that a more detailed review is warranted than can be conducted at the site, he may make copies of selected items for later review.

The inspector follows proper safety and personal protection procedures throughout the site visit, including any site-specific precautions which may be required by the facility.

Upon request by the facility, the inspector will conduct an exit briefing to inform the facility staff of the preliminary findings of the inspection. It is stressed that the results at this time are preliminary and that a thorough review of the information gathered will be conducted, and the results documented and transmitted to the facility in writing at a later date.

All notes taken during the course of an inspection or investigation are recorded in a bound field notebook with sequentially numbered pages. These field notes are the basis for writing the resulting report, therefore entries must be dated, legible, and accurate, and contain only facts or observations. Notes must be of sufficient detail to recreate the events at the facility during the writing of the report or subsequent legal testimony, if necessary. The notebook is also used to document photographs and samples taken during the inspection. The notebook is kept in the physical possession of the inspector or in a secure location at all times.

Photographs taken during inspections, as well as the analytical results of samples taken, are included in the inspection report. Negatives of photographs are filed separately in Division files, and are retained for at least three years (unless there is ongoing enforcement action against the facility, in which case negatives are retained for 3 years following final resolution of the enforcement case).

Procedures for sampling during inspections and investigations are documented in the Quality Assurance Plan For Hazardous Waste, which is updated annually in accordance with the State's RCRA grant workplan. Additional sampling procedures as well as analytical techniques are detailed in EPA publication SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.

Post-inspection activities include review of all field notes, photographs, sample results, and any other evidence gathered during the site visit. The inspector compares facts gathered during the site visit with the information gathered during the pre-inspection review. If necessary, the inspector re-reviews specific documents in order to identify and classify any violations. If more information is required from the facility, the inspector requests that information pursuant to the Arkansas Hazardous Waste Management Act. After all pertinent information has been considered and documented, the inspector prepares a final report.

#### Initiation of Enforcement

Once the inspection or investigation report has been prepared, the inspector, with consultation with the Inspector Supervisor, determines the existence,

nature, extent, and classification of any violations. The RCRA Enforcement Response Policy and the RCRA Enforcement Priority Classification Scheme are used as guidelines for assigning the violation class. This classification is formalized in the annual State/EPA Enforcement Memorandum of Understanding (MOU).

Once a violation has been identified, all communications and actions taken by the inspector or case development worker are documented. These include:

- o Inspections and investigations
- o Telephone calls
- o Meeting notes
- o Complaints
- o Correspondence.

Advice and actions by case development workers is limited to the scope of that individual's position. Legal and technical information requests are forwarded to the proper branch or division.

Violators are classified into three groups:

1) High Priority Violators (HPVs), those who have caused actual exposure or a substantial likelihood of exposure to hazardous wastes and substances, are chronic and/or recalcitrant violators, deviate from the terms of a permit, or substantially deviate from statutory or regulatory requirements;

2) Medium Priority Violators (MPV's), those who have one or more Class I violations and do not meet the criteria for an HPV, or those with only Class II violations for whom the compliance officer believes an administrative order is the appropriate response; and

3) Low Priority Violators, those who have only Class II violations and are not and HPV or MPV.

Specific criteria for Class I and II violations, and for HPVs, MPVs, and LPVs is documented contained in the annual Enforcement Memorandum of Understanding.

The Inspector Supervisor, in coordination with the Enforcement Branch Manager, determines the appropriate enforcement response in accordance with established procedures and policy. There are three levels of enforcement, listed in ascending order of escalation:

- 1) Compliance letter, issued by the inspector;
- 2) Issuance of a formal action, pursuant to a Notice of Violation or Consent Administrative Order, initiated by the Enforcement Branch Manager in accordance with established procedures;
- 3) Civil or criminal prosecution in court, initiated by the Legal Division or local prosecuting attorney.

Recent legislation has been passed (Act 1057 of 1991) authorizing the Department to seek criminal enforcement and provides for fines of up to \$250,000 and

imprisonment for up to 20 years for certain violations (A.C.A. 8-7-204(a), as amended).

#### Permitting Procedures:

Permitting procedures for the Hazardous Waste Division have been patterned after the procedures contained in 40 CFR Part 270. The complete permit application for a hazardous waste management (RCRA) facility includes both Parts A and B as defined in 40 CFR 270.13, 270.14-270.29, and the Arkansas Hazardous Waste Management (HWM) Code.

Part A consists of EPA Forms 1 and 3 of the consolidated Permit Application Forms and accompanying information as described in 40 CFR 270.13. There is no prepared application form for Part B; however, information required to be submitted in Part B is described in detail in 40 CFR 270.14 through 270.29. The respective facility standards can be found in 40 CFR Part 264. Additional requirements and standards for both commercial and non-commercial facilities, as defined in the HWM Code, can be found in Sections 5, 10, and 12, through 15 of the HWM Code. Due to the nature of their operation, commercial hazardous waste management facilities must meet several more stringent permitting standards than corresponding non-commercial summarize the permitting requirements and standards. Prior to final technical review of a permit application, the application must be deemed to be complete. In order to facilitate this review, it is required that all applications for permits include both Part A and B, as described above, and any supplemental information required by the Hazardous Waste Management Code, unless Part A has been previously submitted or updated for Interim Status and is unchanged. If changes have been made or are proposed to be made in the operation of the facility, then a revised Part A must be submitted as part of the permit application. In addition, the permit application fee required by Section 11 of the Hazardous Waste Management Code should accompany the permit application.

The Department's hazardous waste permits staff review each application for the completeness of information submitted, including the permit fee. Upon completion of this review, the applicant will be notified if any additional information is required.

When all information is present, and the required application fee is paid, the reviewing engineer conducts a detailed technical review of the application. During this portion of the application review, the reviewing engineer will evaluate the basic application components (e.g. waste analysis plan, contingency plan, detailed engineering plans and specifications, etc) as well as the HSWA corrective action components (RFA, SWMU identification, exposure assessment, etc). Additional information will be requested from the facility as necessary to fully determine the technical standards of the facility operations.

Upon completion, the engineer prepares a draft permit (or notice of intent to deny) which is then forwarded to the Technical Branch Manager for comment. This draft permit will contain general permit conditions, general facility conditions, specific waste management conditions, special conditions, and corrective action conditions. The draft permit will include corrective action language requiring investigation of any known or potential releases of hazardous substances and, if necessary, an evaluation of corrective action alternatives and implementation of

remedial (or interim) measures.

Following approval by the Technical Branch Manager, a public notice will be issued announcing the draft permit and setting a forty-five (45) day public comment period. For initial permits, major modifications, or if significant public interest is forthcoming, the Director schedules a public hearing to receive comments from the public as provided in the Hazardous Waste Management Code, Section 12(c). The draft permit and any supporting documentation will be available for public scrutiny at one or more of the many depositories throughout the state offices in Little Rock, Arkansas, as well as convenient points (city hall, county courthouse, and public libraries) in the neighborhood of the proposed facility.

Upon completion of the 45-day period for public comment, including a hearing, if one is held, the permit will be finalized and submitted to the Hazardous Waste Division Chief for final permit action, i.e., issuance or denial. Any appeal to the permit decision will be to the Commission on Pollution Control and Ecology in accordance with the provisions of Regulation No. 8 and Arkansas Code, Annotated, Sections 8-1-101, et seq., 8-3-101, et seq., the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended), Ark. Code Ann. 8-4-101 et seq., and 8-5-101, et seq..

In order to minimize confusion among permittees and applicants for permits due to overlapping and/or duplicative regulatory requirements, and to promote a smooth transition from federal to state control of hazardous waste management in the state, Arkansas elected to adopt, by reference, in Section 3 of the HWM Code, applicable federal regulations as promulgated in 40 CFR 270, 124, 260 - 266, and 268. In those few instances where the State has more stringent requirements, the specific federal regulation was excluded from adoption and so indicated in Section 3 of the HWM Code. Consequently, specific permitting procedures and requirements contained in 40 CFR Part 270, including any "unique" permitting procedures, are currently in effect in Arkansas, and are described in detail in the following federal regulations:

SUBJECT	REGULATORY CITATION
Transfer of Permit	270.40
Major Modifications or Revocation and Re-issuance of Permits	270.41
Minor Modifications of Permits	270.42
Termination by Rule	270.32
Permits by Rule	270.60
Emergency Permits	270.61
Hazardous Waste Incinerator Permits	270.62
Permits for Land Treatment Demonstrations using Field Tests or Laboratory Analyses	270.63
Qualifying for Interim Status	270.70
Operation During Interim Status	270.71
Changes During Interim Status	270.72
Termination of Interim status	270.73

The flow chart following depicts the major procedural steps followed from the time of permit application to final permit action, accompanied by a brief description of each step in the process.

The State uses Part B application completeness checklists provided by EPA, as well as the Part A and Part B Supplemental Checklists which incorporate more stringent requirements of the Arkansas Hazardous Waste Management Code. These checklists are provided to the applicant for use in preparing a complete permit application.

Checklists used in the Department's permitting program are included in the 1985 Final Authorization Document.

Appeals to State permitting decisions are made pursuant to Parts III, VIII, and IX of ADPC&E Regulation No. 8, dated July 6, 1984, which is enclosed in its entirety at TAB H of Addendum 2 to this revision application, submitted on January 24, 1991.

#### Corrective Action

Arkansas has adopted 40 CFR Parts 264.100 and 264.101 by reference in the Hazardous Waste Management Code. State provisions and requirements for corrective action are broader in scope than Federal requirements.

In addition to the federal authority incorporated from 40 CFR Parts 264.100 and 264.101, ADPC&E may require corrective action under State authority pursuant to the Remedial Action Trust Fund Act (RATFA)(Act 479 of 1985, as amended, A.C.A. 8-7-501 et. seq.).

Corrective action under state authority pursuant to RATFA is not limited to listed RCRA hazardous wastes, but applies to all "hazardous substances" as defined by RATFA, e.g.:

"as of March 21, 1985, any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act (Public Law 92-500); any element, compound, mixture, solution, or substance designated pursuant to Section 102 of Title I of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510); any hazardous waste, including polychlorinated biphenyls (PCB's), as defined by the Arkansas Hazardous Waste Management Act, as amended, Section 8-7-201 et seq., and the regulations promulgated thereunder; any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act; any hazardous air pollutant listed under Section 112 of the federal Clean Air Act; and any hazardous chemical substance or mixture regulated under Section 7 of the federal Toxic Substances Control Act, and any other substance or pollutant designated by regulations of the Commission promulgated under this subchapter."

(Remedial Action Trust Fund Act, A.C.A. 8-7-503(8))

RATFA additionally authorizes the implementation of any corrective or remedial action measures necessary to investigate, control, prevent, abate, treat, or

contain any releases or threatened releases of hazardous substances from a site or facility, without regard to the actual facility boundary. Implementation of these corrective and remedial actions may be directed by means of an administrative or judicial order, or as a condition of permitting.

#### Joint Permitting Procedures

ADPC&E and EPA have agreed to a joint permitting process for the joint processing and enforcement of permits for those provisions of HSWA for which ADPC&E does not have authorization. As ADPC&E receives authorization for additional provisions of the HSWA, EPA will suspend issuance of Federal permits in Arkansas for these provisions, and will transfer that portion of permit responsibility to ADPC&E.

Whenever EPA adds permitting standards for processes not currently covered by federal regulations, EPA Region VI processes and enforces the portions of RCRA permits in Arkansas pertaining to these new areas until ADPC&E receives final authorization to enforce these changes. At the time the State program is approved in the new areas, EPA suspends issuance of federal permits in the state. EPA will then transfer any pending permit applications, completed permits, or pertinent file information to ADPC&E within thirty days of the approval of the State program in conformance with the conditions of the RCRA MOA.

#### EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function focuses primarily on specific facilities identified by ADPC&E and EPA in ADPC&E's Multi-Year Permitting Strategy and the annual state grant work program.

EPA may comment in writing on any draft permit or proposed permit modification, whether or not EPA commented on the permit application, within forty-five days of its receipt. Where EPA indicates in a comment that issuance, modification, reissuance, termination, or denial of the permit would be inconsistent with the approved state program, EPA must include in its comments:

- o A statement of the reasons for the comment (including the section of the State law or regulation that supports the comment), and
- o The recommended actions that should be taken by ADPC&E in order to address the comment (including the conditions which the permit would include if it were issued by EPA).

EPA is required to send a copy of its written comments to the permit applicant.

EPA shall withdraw these comments when satisfied that ADPC&E has met or refuted its concerns, and must also provide the permit applicant with a copy of such withdrawal.

Where the EPA and ADPC&E staffs cannot reach resolution or agreement on draft permits, the Director of ADPC&E confers with the Regional Administrator and both then direct their respective staff to coordinate as necessary and to efficiently discuss and consider all comments and concerns and to resolve all misunder-

standings. Any remaining conflicts are then settled by the mutual decision of the Director and the Regional Administrator.

Under Section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA must observe the conditions established at 40 CFR 271.19(e).

### **ADPC&E's Role in Joint Permitting**

ADPC&E is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing, and terminating RCRA permits for those hazardous waste treatment, storage, and disposal facility permit provisions contained in the federally authorized portions of ADPC&E's program. ADPC&E does so in a manner consistent with RCRA as amended by HSWA, the State/EPA Region VI Memorandum of Agreement, all applicable federal requirements, and this Program Description.

ADPC&E issues, modifies, and reissues all permits contained in the authorized portions of ADPC&E's program in accordance with the Arkansas Hazardous Waste Management Act and Code and includes as permit conditions all applicable provisions of such statutes and regulations. In the exercise of its statutory variance authority (A.C.A. 8-7-211) ADPC&E shall not grant any variances that will result in any requirements less stringent than comparable federal statutory or regulatory requirements. Any compliance schedules contained in permits issued by ADPC&E will require compliance with applicable standards as soon as possible. ADPC&E considers all comments EPA makes on permit applications and draft permits. ADPC&E will satisfy or refute in writing EPA's concerns on a particular permit application, proposed permit modification, or draft permit before issuing the permit or making the modification.

### **The Joint Permitting Process**

Pursuant to section 3006(g)(1), and in accordance with the Hazardous and Solid Waste Amendments of 1984, EPA has the authority to issue or deny permits or those portions of permits to facilities in Arkansas for the requirements and prohibitions in or stemming from HSWA until ADPC&E's program is amended to reflect those requirements and prohibitions and authorization is received for the portion or portions of the program.

EPA and ADPC&E have established a joint permitting process for the issuance of RCRA permits in Arkansas. This joint permitting process is established in accordance with section 3006(c)(3) of RCRA. Details of the joint permitting process are provided in the annual State grant work plan. The duties and responsibilities of EPA and ADPC&E for joint permitting are also specified in the Joint Permitting Agreement established and updated as a part of the annual State grant work program.

The details of the joint permitting process as contained in ADPC&E's grant work program are reviewed and revised as often as necessary, but not less often than annually so as to assure its continued appropriateness.

Upon authorization of ADPC&E for any of the provisions of HSWA, the specifics of the Joint Permitting Agreement as set forth in the annual state grant work program are amended so as to reflect the necessary changes due to authorization. An amendment to the RCRA MOA or the execution of a separate memorandum of agreement may be required for authorization of any of the provisions of HSWA.

#### Administration of Joint Permits

**EPA's Role:** EPA administers the RCRA permits or portions of permits it has issued to facilities in the State until they expire or are terminated. EPA is responsible for enforcing the terms and conditions of the Federal permits while they remain in force. When ADPC&E either incorporates the terms and conditions of the Federal permits in State RCRA permits or issues State RCRA permits to these facilities, EPA will terminate those permits subject to the terms of the Enforcement Memorandum of Understanding.

**ADPC&E's Role:** ADPC&E has agreed to and has reviewed all hazardous waste permits which were issued under State law prior to the effective date of the RCRA MOA and will modify, or revoke and reissue such permits as are necessary to require compliance with the amended state program, the Arkansas Hazardous Waste Management Act, Code, and Regulation No. 8. ADPC&E agrees to modify or revoke and reissue these State permits as RCRA permits, as necessary, in accordance with the annual State grant workplan, the Joint Permitting Agreement, and the RCRA Memorandum of Agreement.

### 3. Narrative Description of the Scope, Structure, Coverage, and Processes of the State Program Revisions (RCRA 271.6(a):

#### HSWA Cluster I (November 8, 1984 through June 30, 1987)

a. Direct Action Against Insurers (RCRA 3004(t), no checklist). Though not incorporated into the Hazardous Waste Management Code, State law allows the Attorney General to take action as necessary against responsible and potentially responsible parties to recover costs of site remediation and cleanup conducted under the Emergency Response and Remedial Action Trust Fund Acts (Ark. Code Ann. 8-7-415, 8-7-514, 8-7-522). This includes direct action against the insurer or guarantor of a facility owner/operator's financial responsibilities if the owner/operator is in bankruptcy reorganization.

b. Dioxin Listing and Management Standards (Checklist 14). Arkansas identifies and lists dioxin wastes as hazardous wastes controlled under 40 CFR Part 261. Management and permitting standards for facilities managing dioxin wastes and applicable prohibitions are equivalent to Federal standards in 40 CFR Parts 264, 265, and 270.

c. Paint Filter Test (Checklists 16 and 25). Arkansas has adopted the use of the paint filter test to determine the absence or presence of free liquids in containerized and bulk wastes. State provisions are equivalent to the Federal standards.

d. Small Quantity Generators (Checklists 17A, and 23). Arkansas' definition of and prescribed responsibilities of small quantity generators are equivalent to Federal provisions. Since small quantity generators comprise a significant percentage of the State's hazardous waste universe, Arkansas does not exempt small quantity generators from requirements to notify the Department and EPA of hazardous waste activity or to manifest and ship hazardous wastes only to permitted treatment, storage, or disposal facilities. The State requires all small quantity generators to submit an annual hazardous waste activity report equivalent to the requirements of 40 CFR 262.41. State provisions for small quantity and conditionally exempt generators are broader in scope than the Federal requirements.

e. Delisting (Checklist 17B). Arkansas has not adopted a separate, State mechanism for the delisting of hazardous wastes, and the State does not request authorization for the provisions of Checklist 17B.

f. Household Hazardous Waste (Checklist 17C). Arkansas has adopted and incorporated by reference the Federal rule defining waste so as not to exclude household wastes other than those excluded in 40 CFR 261.4(b)(1). State provisions are equivalent to the Federal standards.

g. Waste Minimization (Checklists 17D and 32). Arkansas requires that 1) Generators submit report and manifest certifications regarding their efforts to minimize the amounts and toxicity of their wastes; and 2) RCRA permits for the treatment, storage, and disposal of hazardous wastes contain a certification by the permittee regarding efforts taken to minimize the amounts and toxicity of the generated wastes. State provisions are equivalent to the Federal standards.

h. Location Standards for Salt Domes, Salt Beds, Underground Mines, and Caves (Checklist 17E). Arkansas prohibits the land disposal of hazardous wastes as described in 40 CFR 264.18 and 265.18, including salt domes, salt beds, underground mines, and caves, except as authorized by an approved land disposal facility permit. This same authority enables the Department to ban storage of these prohibited hazardous wastes and to regulate air emissions from hazardous waste treatment, storage, and disposal facilities as under RCRA Sections 3004(j) and 3004(n). State provisions are equivalent to the Federal standards.

i. Liquids in Landfills (Checklists 17F and 25). Arkansas prohibits the disposal in hazardous waste landfills of:

(1) Bulk liquids, semisolids and sludges unless, before disposal, such waste is treated or stabilized into cement-like material.

(2) Containers holding free liquids unless all freestanding liquid has been removed or treated or stabilized into cement-like material; or the container is very small, such as an ampule, or is a lab pack as defined in 264.316 or 265.316, as applicable and is disposed of in accordance with 264.316 or 265.316 as applicable.

(3) Municipal refuse which is not hazardous waste.

(4) Ignitable wastes in containers, unless all free liquids therein have been removed or treated and stabilized into cement-like material.

State provisions are more restrictive than the Federal standards, in that no free liquids of any kind may be placed in a Subtitle C landfill.

j. Dust Suppression (Checklist 17G). Arkansas has adopted by reference the Federal rule prohibiting the use of used or waste oil containing a hazardous waste for dust suppression. State provisions are equivalent to the Federal standards.

k. Double Liners (Checklist 17H). Arkansas has adopted by reference the Federal rule requiring a double liner, leachate collection system, and groundwater monitoring for all hazardous waste surface impoundments, waste piles, and landfills. State provisions are equivalent to the Federal standards.

l. Groundwater Monitoring (Checklist 17I). Arkansas has incorporated by reference Federal requirements at 40 CFR 264 for groundwater monitoring installation and surveillance at all hazardous waste surface impoundments, waste piles, land treatment units, and landfills. State provisions are equivalent to the Federal standards.

m. Cement Kilns (Checklist 17J). Arkansas prohibits the burning of fuels containing hazardous wastes in cement kilns as specified at 40 CFR 266.31, 266.34, and 261.6, and 261.33. State provisions are equivalent to the Federal standards.

n. Fuel Labeling (Checklist 17K). Arkansas has incorporated by reference the Federal rule at 40 CFR 266.34 and 261.31 regulating the production, marketing, and distribution of fuels containing hazardous waste(s). State provisions are equivalent to the Federal standards.

o. Corrective Action (Checklist 17L). In addition to its own authority under the Remedial Action Trust Fund Act, Arkansas has adopted and incorporated by reference Federal rules at 40 CFR 264 and 270 requiring corrective action for releases of hazardous wastes or constituents from any SWMU at a permitted facility or a facility seeking a permit; extending the requirement for corrective action beyond a facility's boundaries, and proof of financial responsibility prior to issuance of a permit. State provisions are broader in scope than the Federal standards.

Implementation of the corrective action of the HSWA without additional resources will significantly affect the effectiveness of Arkansas' Hazardous Waste Program. These additional resources have been appropriated, based on budget projections, by the Arkansas General Assembly in order to implement the HSWA program components. The corrective action have been integrated into and will be implemented through a priority action process addressed in program-specific documents such as the Multi-Year Permitting Strategy, the RCRA Enforcement Memorandum of Understanding, and the annual cooperative agreement workplan.

p. Pre-construction Ban (Checklist 17M). Arkansas has incorporated by reference the Federal rule at 40 CFR 270.10 allowing an approved TSCA facility to

incinerate PCBs without first obtaining a RCRA permit, provided that the facility subsequently applies for a RCRA permit. State provisions are equivalent to the Federal standards.

q. Permit Life (Checklist 17N). Arkansas' regulations require review of land disposal permits every five years in accordance with 40 CFR 270.41 and 270.50. State provisions are equivalent to the Federal standards.

r. Omnibus Provision (Checklist 17O). Arkansas requires that permits contain any provision necessary to protect human health and the environment in addition to any other regulatory requirement. In addition, Arkansas may require that, prior to operation, new commercial TSD facilities conduct a survey to establish baseline health data. These surveys are discussed in detail at Section 14 of the AHWMC. State provisions are thus more stringent than the Federal requirements.

s. Interim Status (Checklist 17P). Arkansas has adopted Federal rules terminating interim status 12 months after the date a facility first becomes subject to a particular permitting requirement unless a Part B application, certification of compliance with groundwater monitoring, and documentation of financial assurance are submitted by that date. State provisions are equivalent to the Federal standards.

t. Research and Development Permits (Checklist 17Q). Arkansas has adopted the Federal Rule at 40 CFR 270.65 allowing the issuance of a one-year research development, and demonstration permit (renewable 3 times) for any hazardous waste treatment facility which proposes an innovative and experimental hazardous waste treatment technology or process not yet regulated as indicated in Revision Checklist 17 Q. The proposed facility must meet RCRA's financial responsibility and public participation requirements. ADPC&E retains authority to terminate experimental activity if necessary to protect health or the environment. State provisions are equivalent to the Federal standards.

u. Hazardous Waste Exports (Checklists 17R and 31). Arkansas requires generators and transporters to notify ADPC&E and EPA of hazardous waste shipments destined for export outside the United States. State provisions are equivalent to the Federal standards.

v. Exposure Information (Checklist 17S). Arkansas has adopted the Federal rule requiring permit applicants for hazardous waste landfills and/or surface impoundments to submit exposure information as required by 40 CFR 270.10(j). State provisions are equivalent to the Federal standards.

w. Listing of TDI, TDA, and DNT. (Checklist 18). Arkansas has incorporated by reference the Federal rule adding these substances to the list of regulated hazardous wastes. State provisions are equivalent to the Federal requirements.

x. Burning of Waste Fuel and Used Oil in Boilers and Industrial Furnaces (Checklist 19). Arkansas identifies these fuels as solid wastes, and has adopted the Federal rules establishing special management standards for these fuels. State provisions are equivalent to the Federal standards.

y. Spent Solvents Listing (Checklist 20). Arkansas has incorporated by reference the Federal rule adding these substances to the list of regulated hazardous wastes. State provisions are equivalent to the Federal standards.

z. EDB Waste Listing. (Checklist 21). Arkansas has incorporated by reference the Federal rule adding these substances to the list of regulated hazardous wastes. State provisions are equivalent to the Federal standards.

aa. Four Spent Solvents Listing (Checklist 22). Arkansas has incorporated by reference the Federal rule adding these substances to the list of regulated hazardous wastes. State provisions are equivalent to the Federal standards.

ab. Small Quantity Generators (Checklist 23). Corrections to Federal requirements for small quantity generators have been incorporated by reference. State provisions are broader in scope than Federal requirements as Arkansas has no quantity exemption for small quantity generators. (See also the remarks pertaining to Checklist 17A.)

ac. Correction to Paint Filter Test (Checklist 25). Corrections to Federal requirements for the paint filter test have been incorporated by reference; State provisions are equivalent to Federal requirements.

ad. Correction to Biennial Reports (Checklist 30). Corrections to Federal biennial reporting requirements have been incorporated by reference; State provisions are more stringent than Federal requirements in that the state requires an annual hazardous waste activity report, and requires reporting from small quantity generators.

ae. Standards for Generators: Waste Minimization Certification (Checklist 32). State regulations require generators to complete a certification of efforts to minimize the quantity and toxicity of wastes generated for each manifested shipment of hazardous wastes. State provisions are equivalent to the Federal standards.

af. Listing of EBDC (Checklist 33). Arkansas has incorporated by reference the Federal rule adding these substances to the list of regulated hazardous wastes. State provisions are equivalent to the Federal standards.

ag. Land Disposal Restrictions (Checklist 34). Arkansas has adopted disposal restrictions and treatment standards for the list of wastes described at Checklist 34. Arkansas has not adopted the Federal exemption at 264.314(e), allowing certain liquids in containers to be landfilled; but requires that all containers be crushed, all liquids drained, and treated and converted to a non-leaching, cement-like material. State provisions are thus more stringent than the equivalent Federal standards.

#### HSWA Cluster II (July 1, 1987 through June 30, 1990)

a. California List Waste Restrictions (Checklist 39). Arkansas has adopted federal regulations restricting the disposal of specified "California list" wastes, including liquid hazardous waste containing polychlorinated biphenyls

above specified concentrations, and hazardous wastes containing halogenated organic compounds above specified concentrations as specified in Revision Checklist 39. State provisions are equivalent to and no less stringent than Federal requirements.

b. Exception Reporting for Small Quantity Generators (Checklist 42). Arkansas requires that generators of between 100-1000 kg per month file an exception report in cases where the generator has not received confirmation of delivery of his hazardous wastes to a permitted TSD as specified in Revision Checklist 42. State provisions are broader in scope in comparison to and no less stringent than Federal requirements.

c. Permit Application Requirements Regarding Corrective Action (Checklist 44A). Arkansas requires that owners and operators of facilities seeking RCRA permits provide descriptive information concerning all affected solid waste management units and all available information pertaining to any releases from these units. State provisions are equivalent to and no less stringent than Federal requirements.

d. Corrective Action Beyond the Facility Boundary (Checklist 44B). Arkansas requires that owners and operators of hazardous waste TSDs institute corrective action beyond the facility boundary to protect human health and the environment, unless the owner/ operators are denied access to these adjacent lands despite their best efforts. State provisions are equivalent to and no less stringent than Federal requirements.

e. Corrective Action for Injection Wells (Checklist 44C). Arkansas has adopted corrective action requirements for underground deep injection wells as specified in Revision Checklist 44C. State provisions are equivalent to and no less stringent than Federal requirements.

f. Permit Modification (Checklist 44D). Arkansas has adopted federal regulations allowing the Department or EPA to initiate modifications to a permit, without first receiving a request from the permit holder, in cases where statutory changes or amended regulatory standards affect the basis of the permit. State provisions are equivalent to and no less stringent than Federal requirements.

g. Permit as a Shield Provision (Checklist 44E) Arkansas requires that permittees comply with new requirements imposed by the land disposal restrictions under Part 268 even if there are contrary permit conditions. State provisions are equivalent to and no less stringent than Federal requirements.

h. Permit Conditions to Protect Human Health and the Environment (Checklist 44F). Arkansas requires information from RCRA permit applicants concerning permit conditions necessary to protect human health and the environment. Additionally, the state may require that a permit applicant conduct a background health study pursuant to AHWMC Section 14 prior to siting a TSD facility. State provisions are more stringent than Federal requirements.

i. Post-Closure Permits (Checklist 44G). Arkansas requires a post-closure permit for any landfill, surface impoundment, waste pile, and/or land treatment

unit receiving hazardous waste after July 26, 1982. State provisions are equivalent to and no less stringent than Federal requirements.

#### **Non-HSWA Cluster IV (July 1, 1987 through June 30, 1988)**

a. List of Hazardous Constituents for Groundwater Monitoring (Checklist 40). Arkansas has adopted by reference the Federal rules at 40 CFR 264.98 and 264.99 requiring groundwater monitoring and analysis for contaminants specified at Appendix IX, Part 264 and defined site specific contaminants at all land based hazardous waste treatment, storage, and disposal facilities. State provisions are equivalent to the Federal standards.

b. Identification and Listing of Hazardous Waste (Checklist 41). Arkansas has incorporated by reference the Federal rule listing additional hazardous wastes as listed in Revision Checklist 41. State provisions are equivalent to the Federal standards.

c. Liability Requirements for Hazardous Waste Facilities, Corporate Guarantee (Checklist 43). Arkansas has adopted the Federal rules at 40 CFR 264.147, 264.151, and 265.147 allowing qualified companies which treat, store, or dispose of hazardous wastes to use a corporate guarantee to satisfy liability insurance requirements. State provisions are equivalent to the Federal standards.

d. Hazardous Waste Miscellaneous Units (Checklist 45). Arkansas has incorporated by reference miscellaneous Federal rule changes concerning 1) recording and maintenance of monitoring, testing, and analytical data and corrective action in facility operating records; 2) compliance with 264 Subpart F for releases from SWMUs; 3) compliance with closure and post-closure financial responsibility requirements, 4) operating records for miscellaneous hazardous waste units; and 5) general application requirements for miscellaneous hazardous waste units as listed in Revision Checklist 45. State provisions are equivalent to the Federal standards.

e. Technical Corrections, Identification and Listing of Hazardous Waste (Checklists 29 and 46). Arkansas has incorporated by reference the Federal rule listing additional hazardous wastes as listed in Revision Checklists 29 and 46. State provisions are equivalent to the Federal standards.

#### **4. Staffing and Funding Resources (271.6(b))**

The Arkansas Department of Pollution Control and Ecology is organized by functional area and environmental media. The organization chart at TAB A, Figure 1 represents the Department's overall structure and functional areas.

The Hazardous Waste Management program is administered by the Department's Hazardous Waste Division, and incorporates not only the state's equivalent of the RCRA program, but a hazardous substance site remedial action program similar to the federal Superfund program. Administration of the RCRA portion of the Arkansas Hazardous Waste Management Program involves approximately \$3.2 million annually, and 30 man-years of effort. No separate estimate is made of the cost of implementing the revisions in this application alone.

The Hazardous Waste Division of ADPC&E administers the State's hazardous waste program under authority of the Arkansas Hazardous Waste Management Act, the Resource Recovery Act, the Emergency Response Fund Act, the Remedial Action Trust Fund Act, and the Arkansas Hazardous Waste Management Code. The Hazardous Waste Division has primary responsibility within ADPC&E for administering the hazardous waste permitting and enforcement authority delegated by EPA under RCRA. The Division additionally is responsible for the Department's hazardous waste cleanup activities under the Federal "Superfund" act and the corresponding State statutes.

**Staffing Resources:**

The Hazardous Waste Division consists currently of 29 employees and administers a budget of \$3.2 million. With the pending delegation of HSWA authority and expanding Superfund responsibilities, the Division is scheduled to expand to 36 employees by the end of FY 91, and to 42 employees by the end of FY 95. Of these, 25 are associated with the RCRA program. The Hazardous Waste Division is divided into four branches: the Enforcement Branch, the Technical Branch, the Programs Branch, and the Superfund Branch.

o The Enforcement Branch is responsible for the conduct of inspections, oversight of corrective actions and enforcement proceedings, and groundwater monitoring compliance. It consists of a branch manager, one inspector supervisor, five hazardous waste inspectors, and three geologists. A separate team of one engineer and four inspectors provide 24-hour coverage of the ENSCO commercial disposal facility in El Dorado. One geology supervisor and one geologist will be added to the Little Rock staff in FY 92 to compensate for the increasing workload due to additional authority for corrective action. The geologists of the Enforcement Branch also provide geological and groundwater technical consultation to the rest of the division.

o The Programs Branch is responsible for developing the State hazardous waste regulations and programs, ensuring its equivalency to the Federal program, developing grant applications and new programs, and for operating educational and outreach programs. The Programs Branch is also responsible for data management for the Division, including input, administration, and upkeep of data from HWDMS and RCRIS, hazardous waste activity notifications, annual and biennial reports, and manifest monitoring and tracking; and administrative and secretarial support for the Division. The Programs Branch consists of a branch manager, a planning specialist, a data management coordinator, an administrative assistant for manifests, a data entry operator, and two secretaries. One administrative assistant for RCRIS (position currently authorized, but unfilled) and an additional data entry operator will be added by the end of FY 92.

o The Technical Branch is responsible for technical review of permit applications and enforcement actions, drafting and coordination of permits, and corrective actions. The Technical Branch also provides engineering consultation to the rest of the Division. The Branch consists of an Engineer Supervisor and three environmental engineers. An additional engineer will be added in FY 91 for corrective action duties.

o The Superfund Branch is responsible for all State actions under the Federal and State Superfund programs. These activities are outside the RCRA program and are not further discussed here.

Organizational charts of the Hazardous Waste Division are at TAB A, Figure 2.

Personnel resources and functional responsibilities provided by the Hazardous Waste Division in support of the RCRA program are listed below:

o Chief, Hazardous Waste Division - provides overall management and supervision of the Division, conducts planning and policy development, coordinates activities, supervises employees, interprets policy and legislation and allocates resources to meet these priorities. This position contributes 0.8 workyear to the RCRA program.

o Manager, Programs Branch - Provides program management support and coordination between the Division and branches undertaking technical activities; develops and coordinates state regulations so as to maintain equivalence and compliance with federal requirements; drafts, refines, coordinates, submits, and monitors authorization applications and updates, grant applications and program workplans; tracks grant commitments; drafts and coordinates periodic reports; and supervises data management, planning, and administrative sections. This position contributes 0.95 workyear to the RCRA program.

o Planning Specialist II - responsible for mid- and long-range program planning in support of the state RCRA program; drafts and coordinates hazardous waste minimization, pollution prevention, and technology transfer, assists in budgeting and program logistic planning. This position contributes 1.0 workyears to the RCRA program.

o Data Management Coordinator - Data management section supervisor. Responsible for preparation, review, and management of the state annual and EPA biennial report; operation and update of state HWDMS data base; and development and coordination of the state Capacity Assurance Plan. This position contributes 1.0 workyear to the RCRA program.

o Administrative Assistant II, RCRIS Coordinator - Operates, updates, and maintains state RCRIS data base; coordinates hazardous waste generator and facility notifications and updates; reviews applications for and issues transport permits; and conducts financial assurance reviews. This position contributes 1.0 workyear to the RCRA program.

o Administrative Assistant I, Manifest Coordinator - Reviews all hazardous waste manifests and resolves discrepancies, maintains manifest data base and tracking system, provides manifest information as requested, and issues provisional, CXG, and PCB identification numbers. This position contributes 1.0 workyear to the RCRA program.

o Data Entry Operator II - (Two positions) Perform data entry and filing for manifests and annual hazardous waste reports. These positions contribute 2.0 workyears to the RCRA program.

o Secretary II - (Two positions) Provide clerical and administrative support to the Division. These positions contribute 1.4 workyears to the RCRA program.

o Enforcement Branch Manager - Provides overall enforcement branch management and supervision, provides oversight and coordination for pursuit of enforcement actions. This position contributes 1.0 workyear to the RCRA program.

o Inspector Supervisor - Section supervisor for inspection section. Assures completion of commitments, reviews inspections reports, investigates and evaluates problems, advises branch manager on enforcement actions needed. This position contributes 1.0 workyear to the RCRA program.

o Hazardous Waste Inspector - (5 positions) Perform compliance evaluation inspections, investigate violations and citizen complaints, collect environmental samples, prepare inspection reports, provide technical assistance to industry, and assure facility and generator compliance with RCRA, HWMA, and permit standards. These positions contribute 5.0 workyears to the RCRA program.

o Geologist III - Supervises three person groundwater section. Assists in groundwater monitoring evaluations, reviews evaluation report, advises branch manager on enforcement and remedial actions needed. This position contributes 1.0 workyear to the RCRA program.

o Geologist II - (3 positions) conduct comprehensive groundwater monitoring evaluations and groundwater contamination investigations, provide geological and hydrological technical support for permitting, corrective action, enforcement, remedial action, and emergency response activities. These positions contribute 3.0 workyears to the RCRA program.

o Administrative Assistant II - Monitors and coordinates enforcement case load, prepares initial drafts of enforcement documents, notices of violation, and administrative orders for the Enforcement Branch Manager, and provides general administrative support to the Division Chief. This position contributes 1.0 workyear to the RCRA program.

o Engineer, P.E. - On-site engineer and inspector supervisor for the ENSCO commercial incinerator facility, El Dorado. This position contributes 1.0 workyear to the RCRA program.

o Hazardous Waste Inspector - (4 positions) On-site inspectors for the ENSCO commercial incinerator facility, El Dorado. These positions contribute 4.0 workyears to the RCRA program.

o Engineer Supervisor - Manager of Technical Branch. provides supervision of section, assures compliance with policies, RCRA, and state laws and regulations; reviews engineering reports, reviews and approves draft permits, recommends permits for issuance or denial, prepares schedules and work plans, provides for and monitors checks and controls to assure quality and quality of permitting activities, assists in identifying permit violations, maintains liaison with the regulated community, establishes permitting priorities, and allocates resources. This position contributes 1.0 workyear to the RCRA program.

- o Engineer, P.E. - (4 positions) Permit writer. Reviews permit applications, determine permit conditions and corrective action measures required, prepare and coordinate draft permits, monitor day to day implementation of currently issued permits. These positions contribute 4.0 workyears to the RCRA program.

Full-time personnel resources provided by Technical Services Division include: two Chemist II positions (1 currently unfilled). This position analyzes samples and reports findings, performs verification and analysis of chemical substances, and provides testimony in enforcement litigation as required. This position contributes 2.0 workyears to the RCRA program, and is funded through indirect cost provisions in federal grants.

Legal support is provided by the Department's Legal Services Division. Responsibilities include legal counsel on RCRA matters, conducting hearings, initiating and prosecuting administrative and civil enforcement actions in accordance with Departmental policies, and final coordination of the legal portion of authorization applications. Legal counsel also coordinates with and supports local prosecuting attorneys in pursuing criminal prosecution of environmental crimes. Resources dedicated to meeting these responsibilities average 1.5 workyears by staff attorneys.

Other support positions for the RCRA program consist of a number of positions within the Department. These resources are funded through Departmental funds and the indirect cost rate applied to direct RCRA program personnel costs. These positions include the Director, Deputy Director, Fiscal Officer, computer support, public information, Central Records, and Management Services staffs. The support positions listed above contribute a total of approximately three workyears annually to the RCRA program.

#### Resources Necessary to Administer More Stringent State Requirements

Broadened state RCRA program requirements impact resources in three areas: the manifest system requirements for small quantity and conditionally exempt generators and PCB wastes; operator certification for commercial hazardous waste management facilities, and annual versus biennial reporting requirements.

Additional state manifesting and annual report requirements generate 1.3 additional workyears annually, divided among the manifest coordinator, RCRIS coordinator, data entry personnel, and the data management coordinator. Funding for these additional activities is provided from Departmental resources.

The operator certification process uses existing Division staff resources, and requires approximately 0.1 manyears or less annually. This activity is accomplished using state funds.

#### Funding Resources:

The ADPC&E budget for the RCRA program is funded by four sources:

- o Federal grants;
- o Permit and closure plan fees;

- o an annual hazardous waste monitoring and inspection fee
- o State general revenues.

The Hazardous Waste Division and its programs are primarily self-funded; the Division receives little funding from State general revenues. In FY 90, the funding ratio is approximately 60% from Federal grants and 40% from ADPC&E matching monies, derived from State fees. A study is ongoing to seek ways to reduce the Division's dependence on Federal funding.

Under Arkansas law, no legislative appropriation may be for a period of more than two years. ADPC&E, therefore, prepares a biennial budget for submission to the General Assembly prior to each legislative session. This budget addresses funding necessary for operations during the next two years, with a forecast of funding needs anticipated for the following biennium.

The Division's long range budget for 1991-1995 is enclosed at Table I, and reflects combined costs for the RCRA and site remedial action programs.

### Funding Resources

In Fiscal Year 1991, the actual RCRA program income was:

STATE FUNDS:		(43.7%)
Hazardous Waste Management Fees:	\$ 224,240	
Hazardous Waste Permit/Activity Fees:	\$ 311,873	
Other Fees/Penalties:	\$ 55,937	
Total State Funds:	\$ 592,050	
FEDERAL FUNDS:		(56.3%)
RCRA Cooperative Agreement:	\$ 761,992	
TOTAL AVAILABLE FUNDS:	\$ 1,354,042	(100.0%)

Program revenues are expected to remain stable for the next 2 years.

### Program Costs

The major recurring costs of the RCRA program are for personnel salaries and benefits. Salary costs, in turn, generate significant indirect charges to proposed grants. Travel, training, and operating supply costs are relatively stable, while equipment costs vary widely from year to year.

RCRA program costs are divided into direct and indirect charges to the federal grants. Direct costs consist of salaries and benefits for those individuals directly implementing the State program, travel and training expenses, equipment cost, and operating supplies. Indirect charges account for support to the program provided by the department outside the Hazardous Waste Division, e.g. Department administration, laboratory support and analyses, legal support and

services, central records and files maintenance, vehicle operations and maintenance, and building rent, maintenance, and utilities. Indirect charges have been negotiated with EPA at a flat rate of 58.94% of program personnel wages.

RCRA program personnel annual costs are itemized by salary, fringe benefit, and indirect cost for each position at Table II. This table includes positions addressed above which have been authorized, but are not yet filled due to funding or hiring freeze constraints. Costs are based on the FY 91 base year, and increase annually based on a 5.0% increase in base salaries. For the 1992 and 1993 planning years, projected personnel costs are:

	FY 92	FY 93
Man-Years:	31.15	31.15
Salaries:	\$727,403	\$740,875
Fringe Benefits:	\$163,375	\$166,400
Indirect Costs:	\$483,577	\$492,533
 Total Costs:	 \$1,374,355	 \$1,399,809

Equipment and supply costs fluctuate from budget year to budget year. Supplies remain stable, at approximately 4,000 annually. In the 1991 RCRA core grant, the Hazardous Waste Division significantly upgraded its personnel safety, site inspection and survey, and information handling and processing capabilities with the acquisition of organic vapor analyzers, additional sampling equipment, and several personal computers. The only major equipment needs foreseen for the next 2-3 years include a gas chromatograph/mass spectrometer (\$135,000) and an inductively coupled argon plasma (ICP) spectrometer (\$120,000) to improve the department's ability to process a large increase in sampling and environmental analyses brought on by introduction of the toxicity characteristic rule, an optical scanner (\$80,000) planned for use in review and data entry of manifests and annual reports, and one or more additional vehicles to support additional inspectors and compliance monitoring workloads. Use of the optical scanner alone is predicted to eliminate approximately two manyears (\$40,250) annually in personnel costs to the RCRA program.

### Restrictions on Funding

The Arkansas Constitution of 1874 prohibits the state government from deficit spending. The Arkansas General Assembly normally meets only for sixty days every other year (in the odd year) to consider appropriations and other legislation. A legislative appropriation is required prior to the Department committing or obligating any funds, to include funds derived from fee collection or Federal grants. Even if funds are on hand, they may sometimes not be able to be committed due to lack of sufficient appropriation. The Department must then defer these expenditures until the next budget period, provided funds remain available, or seek a supplemental appropriation from the General Assembly or the Legislative Council. While achieving its aim of preventing state budget deficits, this provision sometimes results in the Department's having to defer hiring new or replacing personnel or purchasing equipment even though funds are

on hand for a particular project or activity.

Significant impacts to the State Program due to authorization for the Land Disposal Restriction rules, small quantity generator rules, burning and blending rules, and the waste fuel and oil rules are not anticipated due to the nature of the hazardous waste universe in Arkansas. These rules have been implemented by incorporation into the existing framework of the program and application of established procedures.

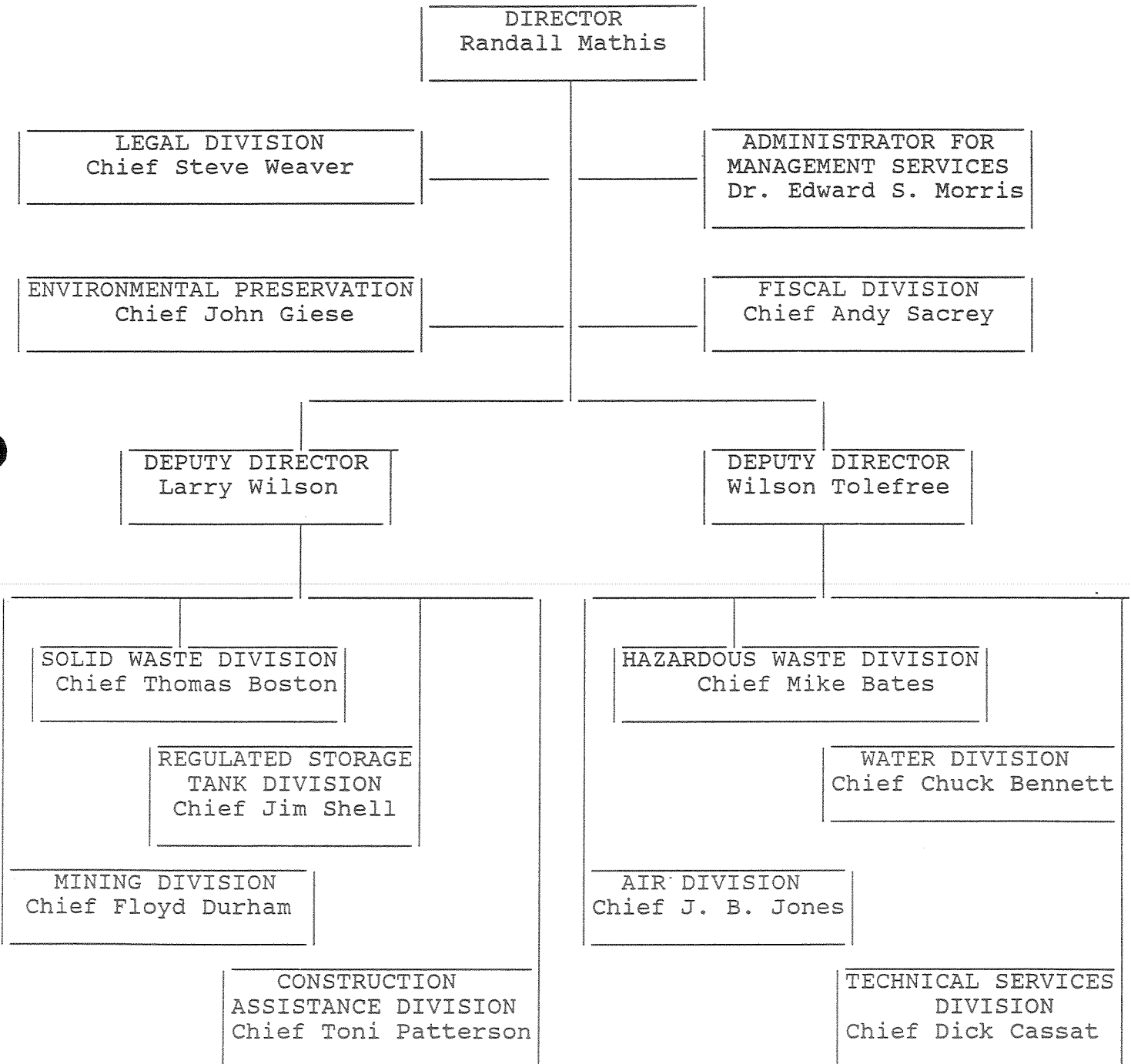
Implementation of the corrective action portion of the HSWA without additional staffing and financial resources will significantly affect the effectiveness of Arkansas' Hazardous Waste Program. These additional resources have been appropriated, based on budget projections, by the Arkansas General Assembly in order to implement the HSWA program components. The corrective action have been integrated into and will be implemented through a priority action process addressed in program-specific documents such as the Multi-Year Permitting Strategy, the RCRA Enforcement Memorandum of Understanding, and the annual cooperative agreement workplan.

#### Estimate of Activities Subject to Regulation

The number of generators and TSD facilities and quantities of RCRA hazardous wastes produced or disposed of in Arkansas is tabulated at Table III. Arkansas has experienced a slight decline in the amount of wastes produced during the past two years, due primarily to waste minimization efforts.

Preliminary review of 1990 notifiers indicate an increase in 203 notified generators for the reporting year. 59% of these are small-quantity generators and 22% are large quantity generators reporting under the TC rule, and the remaining 19% are conditionally-exempt and PCB generators.

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY  
 (As of December 1990)



HAZARDOUS WASTE DIVISION

Mike Bates, Chief

Terry Rice  
Adm. Asst. II

TECHNICAL BRANCH

Jerry Williams, Manager  
Ali Dorobati, Engr II  
Phillip Murphy, Engr II  
Derrick Warrick, Engr II  
(Vacant), Engr II (FY91)

ENFORCEMENT BRANCH

(Vacant), Manager

GROUNDWATER BRANCH

(Vacant), Manager

Jim Rigg, Senior Geologist  
(Vacant), Senior Geologist  
David Hartley, Geologist  
Brian Wakelyn, Geologist

PROGRAMS BRANCH

Tom Ezell, Manager

SUPERFUND BRANCH

Gary Martin, Manager  
Doice Hughes, Engr Sup.  
Clark McWilliams, Engr I

ADMINISTRATIVE SECTION

Robert Finn, Planning  
Specialist II  
Cindy Harmon, Sec II  
Carolyn Wynn, Sec II

DATA MANAGEMENT SECTION

Vicky Renfrow, Prog Coor  
(Vacant), Adm. Asst II (FY91)  
(Vacant), Adm. Asst I (FY91)  
Willie Richmond, Data Entry Specialist  
(Vacant) Data Entry Specialist

Dennis Green, Insp. Sup.

CENTRAL

David Brown, Insp.  
Jay Freibolt, Insp.  
Joe Hoover, Insp.  
Tammie Hynum, Insp.  
Penny Wilson, Insp.

ON-SITE

Roy Smith, Engineer II  
Mary Ann Adams, Insp.  
Larry Davis, Insp.  
Mitchel Kennedy, Insp.  
Don Kidwell, Insp.

FIGURE 2



TABLE IIa

## ADPC&amp;E RCRA PROGRAM PERSONNEL COSTS PER FISCAL YEAR

FY 92 PROJECTION

COSTS LISTED IN \$

POSN	WAGE	FRINGE	DIRECT	INDIRECT
DIVISION CHIEF	31058	6975.627	38038.63	20647.36
PROGRAMS BR MGR	21873	4912.676	26785.68	14541.17
PLANNER II	24967	5607.589	30574.59	16598.06
DATA MGT COORDINATOR	21258	4774.547	26032.55	14132.32
ADMIN ASST II	16871	3789.227	20660.23	11215.84
ADMIN ASST I	14951	3357.995	18308.99	9939.425
DATA ENTRY OP	10877	2442.974	13319.98	7231.03
SECRETARY	17675	3969.805	21644.81	11750.34
SECRETARY	13029	2926.314	15955.31	8661.679
ENFORCEMENT BR MGR	25439	5713.6	31152.6	16911.85
INSPECTOR SUPV	21834	4903.917	26737.92	14515.24
HW INSPECTOR	20818	4675.723	25493.72	13839.81
<del>HW INSPECTOR</del>	<del>20271</del>	<del>4552.867</del>	<del>24823.87</del>	<del>13476.16</del>
HW INSPECTOR	20320	4563.872	24883.87	13508.74
HW INSPECTOR	19585	4398.791	23983.79	13020.11
HW INSPECTOR	19585	4398.791	23983.79	13020.11
GEOLOGY SUPV	24700	5547.62	30247.62	16420.56
GEOLOGIST III	23998	5389.951	29387.95	15953.87
GEOLOGIST III	23998	5389.951	29387.95	15953.87
GEOLOGIST II	20393	4580.268	24973.27	13557.27
GEOLOGIST II	20393	4580.268	24973.27	13557.27
ADMIN ASST II	16871	3789.227	20660.23	11215.84
ENGINEER PE	32685	7341.051	40026.05	21728.99
INSPECTOR	19585	4398.791	23983.79	13020.11
INSPECTOR	19585	4398.791	23983.79	13020.11

INSPECTOR	19585	4398.791	23983.79	13020.11
INSPECTOR	19585	4398.791	23983.79	13020.11
ENGINEER SUPV	34625	7776.775	42401.78	23018.7
ENGINEER PE	32762	7358.345	40120.35	21780.18
ENGINEER PE	32857	7379.682	40236.68	21843.33
ENGINEER PE	32685	7341.051	40026.05	21728.99
ENGINEER PE	32685	7341.051	40026.05	21728.99

TOTAL IS

0 SALARY

727403

FRINGE

163374.7

DIRECT COST

890777.8

INDIRECT

483577.5

GRAND TOTAL IS 1374355

TABLE IIb

ADPC&E RCRA PROGRAM PERSONNEL COSTS PER FISCAL YEAR  
FY 93 PROJECTION

COSTS LISTED IN \$

POSN	WAGE	FRINGE	DIRECT	INDIRECT
DIVISION CHIEF	32610.9	7324.408	39935.31	21679.73
PROGRAMS BR MGR	22966.65	5158.31	28124.96	15268.23
PLANNING SPEC	26215.35	5887.968	32103.32	17427.97
DATA MGT COORDINATOR	22320.9	5013.275	27334.18	14838.94
ADMIN ASST II	17714.55	3978.688	21693.24	11776.63
ADMIN ASST I	15698.55	3525.894	19224.44	10436.4
DATA ENTRY OP	11420.85	2565.123	13985.97	7592.581
DATA ENTRY OP	11420.85	2565.123	13985.97	7592.581
SECRETARY	18558.75	4168.296	22727.05	12337.86
SECRETARY	13680.45	3072.629	16753.08	9094.762
ENFORCEMENT BR MGR	26710.95	5999.28	32710.23	17757.44
INSPECTOR SUPV	22925.7	5149.113	28074.81	15241.01
HW INSPECTOR	21858.9	4909.509	26768.41	14531.8
HW INSPECTOR	21284.55	4780.511	26065.06	14149.97
HW INSPECTOR	21336	4792.066	26128.07	14184.17
HW INSPECTOR	20564.25	4618.731	25182.98	13671.11
HW INSPECTOR	20564.25	4618.731	25182.98	13671.11
GEOLOGY SUPV	25935	5825.001	31760	17241.59
GEOLOGIST III	25197.9	5659.448	30857.35	16751.57
GEOLOGIST III	25197.9	5659.448	30857.35	16751.57
GEOLOGIST II	21412.65	4809.282	26221.93	14235.13
GEOLOGIST II	21412.65	4809.282	26221.93	14235.13
ADMIN ASST II	17714.55	3978.688	21693.24	11776.63
ENGINEER PE	34319.25	7708.104	42027.35	22815.44
INSPECTOR	20564.25	4618.731	25182.98	13671.11

INSPECTOR	20564.25	4618.731	25182.0	13671.11
INSPECTOR	20564.25	4618.731	25182.98	13671.11
INSPECTOR	20564.25	4618.731	25182.98	13671.11
ENGINEER SUPV	36355.25	8165.614	44521.87	24169.64
ENGINEER PE	34400.1	7726.253	42126.37	22859.19
ENGINEER PE	34499.85	7748.667	42248.52	22935.5
ENGINEER PE	34319.25	7708.104	42027.35	22815.44

TOTAL IS				
0 SALARY	FRINGE	DIRECT COST	INDIRECT	
740874.9	166400.5	907275.3	492533.6	

GRAND TOTAL IS 1399809

Table III

Estimated Activities Subject to Program Revision Requirements (1)

Type of Activity	Number of Handlers		Waste Quantity (tons)	
	FY 88	FY 89	FY 88	FY 89
Generators	1,675	1,654	124,793	104,950.8
Transporters	375	398	205,544	195,341.1
Storage				
- On-Site	8	4	113.7	12.0
- Off-Site	3	3	1,053.6	787.0
Treatment				
- On-Site	6	6	1,218.0	895.0
- Off-Site	9	9	107,923.1	142,243.0
Disposal				
- On-Site	13	13	821,586.3	687,120.0
- Off-Site	0	0	None	None
Total No. of TSD Facilities:	39	34		

Total waste imported into the State (5):	80,750	90,390.3
Total waste exported from the State:	116,328	90,394.2
Shipped from AR generator to AR TSDF:	8,465	14,556.6
Total:	205,544	195,341.1

NOTES:

- 1) Data abstracted from 1988 and 1989 annual reports, manifests, and HWDMS data.
- 2) Weights listed in tons.
- 3) Incineration included in off-site treatment.
- 4) On-site disposal includes deep well injection.
- 5) Data reflects only RCRA hazardous wastes. PCBs, NHAZ, NREG, and Vertac on-site storage wastes are not included.