

US EPA ARCHIVE DOCUMENT

c 6/3/92 letter AG

**STATEMENT OF LEGAL AUTHORITY FOR  
FINAL AUTHORIZATION REVISION FOR CHANGES TO THE  
FEDERAL RCRA PROGRAM FOR NON-HSWA CLUSTERS V AND VI,  
AND REMAINING HSWA CLUSTER II**

I hereby certify, pursuant to my authority as independent legal counsel for the Arkansas Department of Pollution Control and Ecology, having full authority to represent the Department in court on all matters relating to the Department's environmental programs, and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that, in my opinion, the laws of the State of Arkansas provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Arkansas Department of Pollution Control and Ecology. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now as specified below. These authorities and this certification supplement and are in addition to the previously certified authorities described in the Attorney General's certifications of July 9, 1984, September 24, 1987, February 24, 1989, and December 11, 1990.

This revision statement addresses the State's implementation of revised Federal requirements under the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, known as Non-HSWA Clusters V and VI, and HSWA Cluster II.

References to "Ark. Code Ann." and "A.C.A." refer to the Arkansas Code of 1987, Annotated, as amended and effective on July 1, 1991. References to "AHWMC" refer to the Arkansas Hazardous Waste Management Code, amended on October 24, 1990, to adopt all final rules promulgated by EPA through August 24, 1990, and which was effective on December 17,, 1990. Dates of enactment and adoption for other statutes or regulations are given when cited.

**I. IDENTIFICATION AND LISTING**

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (11) Generic delisting of iron dextran (CAS No. 9004-66-4), 40 CFR 261.33(f) and Part 261 Appendix VIII, as amended October 31, 1988 (53 FR 43878), Revision Checklist 56.
- (12) Generic delisting of strontium sulfide (CAS No.1314-96-1), 40 CFR 261.33(e) and Part 261 Appendix VIII, as

amended October 31, 1988 (53 FR 43881), Revision Checklist 57.

- (13) Listing of two wastes (K131 and K132) generated during the production of methyl bromide, 40 CFR 261.32 and 261 Appendices III and VII, as amended October 6, 1989 (54 FR 41402), Revision Checklist 68.
- (14) Listing of one generic category of waste (F025) generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes and amending F024, 40 CFR 261.31 and 261 Appendix VII; adding one toxicant to Part 261 Appendix VIII, as amended December 11, 1989 (54 FR 50968), Revision Checklist 69.
- (15) Amendments to the F019 hazardous waste listing to exclude wastewater treatment sludges from zirconium phosphating in aluminum can washing, when such phosphating is an exclusive conversion coating process, 40 CFR 261.31 as amended February 14, 1990 (55 FR 5340), Revision Checklist 72.
- (16) Listing of four wastes generated during the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides, 40 CFR 261.31 and Part 261, Appendices III and VII as amended May 2, 1990 (55 FR 18496), Revision Checklist 75.
- (17) Listing of one waste (F039), 40 CFR 261.31 and Part 261 Appendix VII as amended June 1, 1990 (55 FR 22520), Revision Checklist 78.

[Federal Authority: RCRA §3001(b).]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(2)

Remarks of the Legal Counsel

Federal requirements are incorporated by reference; therefore, State requirements are equivalent to the federal program.

B. State statutes and regulations define hazardous waste so as to control the generation, transportation, treatment, storage and disposal of hazardous waste produced by small quantity generators of between 100 and 1000 kilograms/ month as indicated in Revision Checklist 23 (which supercedes prior amendments by Revision Checklist 17 A) and Revision Checklist 47 (providing technical corrections to Checklist 23). State statutes and regulations also require small quantity generators to certify good

faith efforts to minimize waste generation and to select the best available and affordable treatment, storage or disposal alternatives, 40 CFR 262 as amended October 1, 1986 [51 FR 35190], Revision Checklist 32 (see Item IX below).

[Federal Authority: RCRA §3001(d); 40 CFR Parts 260-263 and 270 as amended March 24, 1986 (51 FR 10146), October 1, 1986 (51 FR 35190), and July 19, 1988 (53 FR 27162).]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a  
AHWMC § 12a  
AHWMC § 16b } NOT on checklist

Remarks of the Legal Counsel

Technical corrections addressed by Checklist 47 have been incorporated by reference. State provisions remain broader in scope as previously certified and authorized.

H. State statutes and regulations exempt (with certain limitations) waste samples used in small scale treatability studies from Subtitle C regulation as indicated in Revision Checklist 49.

[Federal Authority: RCRA §3001; 40 CFR 260.10 and 261.4(e)&(f) as amended July 19, 1988 (53 FR 27290)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(1) and (2)

Remarks of the Legal Counsel

Federal requirements are incorporated by reference; therefore, State requirements are equivalent to the federal program.

I. State statutes and regulations provide for listing of six wastes (K064, K065, K066, K088, K090, and K091) as indicated in Revision Checklist 53.

[Federal Authority: RCRA §3001(b); 40 CFR 261.32 and Part 261 Appendix VII as amended September 13, 1988 (53 FR 35412).]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(2)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

J. State statutes and regulations that:

- (1) provide final criteria to define Bevill-excluded mineral processing wastes, finalize the Bevill status of nine mineral processing waste streams, and list those mineral processing wastes subject to conditional retention as indicated in Revision Checklist 65.

Federal Authority: RCRA §3001(b); 40 CFR 261.3 and 261.4 as amended September 1, 1989 (54 FR 36592).

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(2)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

- (2) remove five conditionally retained mineral processing wastes from the exemption from hazardous waste regulation under the Bevill exclusion, and amend the definitions of "beneficiation" and "designated facility" as indicated in Revision Checklists 71 and 90.

Federal Authority: RCRA §3001(b)(3)(A)(ii); 40 CFR 260.10 and 261.4(b)(7) as amended January 23, 1990 (55 FR 2322) and June 13, 1991 (56 FR 27300).

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(1), (2), and (3)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are equivalent to the Federal program.

K. State statutes and regulations incorporate 47 new testing methods, found in the Third Edition of "Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods", Office of Solid Waste Publication SW-846, as approved methods for use in meeting the regulatory requirements under subtitle C of RCRA as indicated in Revision Checklists 67 and 73.

[Federal Authority: RCRA §§3001, 3004, 3005, and 3006; 40 CFR

260.11 and Part 261 Appendix III, as amended September 29, 1989 (54 FR 40260) and March 9, 1990 (55 FR 8948)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(1) and (2)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

L. State statutes and regulations revise existing toxicity characteristics by replacing the Extraction Procedure (EP) leach test with the Toxicity Characteristic Leaching Procedure (TCLP) for identifying wastes that are defined as hazardous and subject to regulation under Subtitle C of RCRA as indicated in Revision Checklist 74. State statutes and regulations also provide for the addition of 25 organic chemicals and their regulatory levels to the list of toxic constituents of concern as indicated in Revision Checklist 74.

[Federal Authority: RCRA §§1006, 2002(a), 3001, 3002, 3004, 3005, and 3006; 40 CFR 261, 264, 265, and 268 as amended March 29, 1990 (55 FR 11798); and June 29, 1990 (55 FR 26986)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(2), (5), (6), [and (8)] > NOT on checklist  
[AWHMC § 16e >

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are equivalent to the Federal program.

M. State statutes and regulations contain the language to reflect EPA's intent and consistent interpretation of the criteria for listing wastes as hazardous under RCRA as indicated in Revision Checklist 76.

[Federal Authority: RCRA §3001(a); 40 CFR 261.11(a)(3) as amended May 4, 1990 (55 FR 18726)]

Citation of Laws and Regulations; Date of Enactment and Adoption

[Ark. Code Ann. § 8-7-203(6)] >  
[AWHMC § 2a(5)] > NOT ON checklist  
[AWHMC § 3a(2)] >

Remarks of the Legal Counsel

Federal language at 40 CFR 261.11 has been incorporated by reference. State definitions in the Hazardous Waste Management Act and the Hazardous Waste Management Code are consistent. State provisions are equivalent to the Federal program.

N. State statutes and regulations add eight new testing methods to the section of regulations that incorporates these methods by reference as indicated in Revision Checklist 79.

[Federal Authority: RCRA §§3001, 3004, 3005, and 3006; 40 CFR 260.11(a) as amended June 21, 1990 (55 FR 25454)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(1), (2), (5), (6), and (9)

Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

**VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING**

D. State statutes and regulations include a burden disclosure statement with each uniform manifest form and renew the use of this form as indicated in Revision Checklist 58.

[Federal Authority: RCRA §§2002, 3002, and 3003; 40 CFR 262.20 and 262 Appendix as amended November 8, 1988. (55 FR 45089)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(3)

Remarks of the Legal Counsel

Revisions at 40 CFR 262.20 and Appendix have been incorporated by reference. The burden disclosure statement is printed on the back of each Arkansas manifest. State provisions are equivalent to the Federal program.

E. State statutes and regulations require that generators who ship hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the

designated facility, as indicated in Revision Checklist 71.

[Federal Authority: RCRA §§ 2002, 3002, and 3003; 40 CFR 262.23(e) as amended on January 23, 1990 (55 FR 2322)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWC § 3a (1), (2), and (3)

Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

**XI. GROUNDWATER MONITORING**

D. State statutes and regulations specify statistical methods, sampling procedures, and performance standards that can be used in groundwater monitoring procedures to detect groundwater contamination at permitted hazardous waste facilities as indicated in Revision Checklist 55.

[Federal Authority: RCRA §§1006, 2002(a), 3004 and 3005; 40 CFR 264.91, 264.92, 264.97, 264.98 and 264.99 as amended October 11, 1988 (53 FR 39720).]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWC § 3a(5)

Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

**XIV. HAZARDOUS WASTE EXPORTS**

A. State statutes and regulations require generators and transporters of hazardous waste destined for exporters outside the United States to comply with standards equivalent to those as indicated in Revision Checklists 17R, 31, and 48 (with the latter providing technical corrections to Checklist 31).

[Federal Authority: RCRA §3017; 40 CFR 262.50 as amended July 15, 1985 (50 FR 28702), August 8, 1986 (51 FR 28664), and July 19, 1988 (53 FR 27164)].

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWC §§ 3a(3), (5), (6), (8), and (9)

Remarks of the Legal Counsel

Revisions at 40 CFR 262.50 have been incorporated by reference. State provisions are equivalent to the Federal program.

XV. STANDARDS FOR FACILITIES

I. State statutes and regulations require companies that generate, treat or store hazardous waste in tanks to comply with tank standards equivalent to those indicated in Revision Checklists 28 and 52.

[Federal Authority: RCRA §§1006, 2002, 3001-3007, 3010, 3014, 3017 - 3019 and 7004; 40 CFR 260, 261, 262, 264, 265, and 270 as amended July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430) and September 2, 1988 (53 FR 34079).]

Citation of Laws and Regulations: Date of Enactment and Adoption

[Ark. Code Ann. §§ 8-7-209(1), (5), (9), (11), and (b) > *Not Listed on Checklist*  
AHWMC §§ 3a(1), [(2), (3)] (5), (6), and (9) *Not in Checklist*

Remarks of the Legal Counsel

Federal revisions have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

K. State statutes and regulations allow owners and operators of landfills, surface impoundments, or land treatment units, under limited circumstances, to remain open after the final receipt of hazardous wastes in order to receive nonhazardous wastes in that unit as indicated in Revision Checklist 64.

[Federal Authority: RCRA §§1006, 2002, 3004, 3005, and 3006; 40 CFR 264.13, 264.112, 264.113, 264.114, 265.13, 265.112, 265.113, 265.142, and Appendix I to 270 as amended August 14, 1989 (54 FR 33376)]

Citation of Laws and Regulations: Date of Enactment and Adoption

AHWMC §§ 3a(5), (6), and (9)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference. State provisions are equivalent to the Federal program.

L. State statutes and regulations require new and existing hazardous waste treatment, storage, or disposal facilities to

control organic air emissions from process vents and equipment leaks as indicated in Revision Checklist 79.

[Federal Authority: RCRA §§1006, 2002, 3001-3007, 3010, 3014 and 7004; 40 CFR Parts 260, 261, 264, 265, and 270 as amended June 21, 1990 (55 FR 25454.)]

Citation of Laws and Regulations; Date of Enactment and Adoption

*Not listed on Checklist*

- Ark. Code Ann. §§ 8-4-303(1) and (2)
- Ark. Code Ann. §§ 8-4-310(a)(1) and (2)
- Ark. Code Ann. § 8-7-209(b)
- Ark. Code Ann. § 8-7-210(d)
- Ark. Code Ann. § 8-7-218(c)
- Ark. Code Ann. § 8-7-503(7)
- AHWMC §§ 3a(2), (5), (6), and (9)
- AHWMC § 12
- AHWMC § 13a(3) *not on Checklist*



Remarks of the Legal Counsel

Arkansas regulates air pollutants and emissions under §§ 8-3-101 et. seq. of the Arkansas Water and Air Pollution Control Act (WAPCA). § 8-4-303 defines an "air contaminant" as any solid, liquid, gas, or vapor or any combination thereof; and defines "air pollution" as the presence in the outdoor atmosphere of one or more air contaminants in quantities, of characteristics, and/or of a duration which are or may be expected to be materially injurious to human, animal, or plant life, or to property, or which reasonably interfere with enjoyment of life or use of property throughout the state or affected area. This definition is equivalent to "air emissions" as addressed at RCRA §3004(n). A.C.A. § 8-4-310 makes it unlawful to knowingly cause air pollution or to operate an air contaminant source without proper permits as may be required by ADPC&E regulations.

Authority to regulate such air emissions under provisions of the Hazardous Waste Management Act stems from A.C.A. § 8-7-209(b) (which incorporates the state Water and Air Pollution Control and Solid Waste Management Acts into the Hazardous Waste Management Act - a violation of these Acts with a hazardous waste or substance is therefore a violation of the Hazardous Waste Management Act, subject to stiffer penalties imposed under the Hazardous Waste Management Act) and § 8-7-218 (requiring that facilities comply with the provisions of RCRA §3005 as a condition of a permit). § 8-4-310(b) of the WAPCA provides that liability for air pollution does not apply to "any unintended [emission] violation caused by an act of God, war, strike, riot, or other catastrophe, or accidental breakdown of equipment if properly prepared". This exemption is clearly less stringent than the provisions of 40 CFR 264 and 265 Subparts AA and BB, which provide no exclusions for accidental or catastrophic emissions. However, A.C.A. § 8-7-210(d) provides that

"the provisions of [the Hazardous Waste Management Act], and the rules and regulations promulgated pursuant to it, shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, §§ 8-4-101 to 8-4-106, 8-4-201 to 8-4-229, and 8-4-301 to 8-4-313 [emphasis added], ..., or any action taken by the Department or Commission under these laws". ADPC&E has incorporated 40 CFR 264 and 265 Subparts AA and BB in their entirety in the Hazardous Waste Management Code; therefore these provisions would apply in lieu of the exemption provided for non-RCRA emissions under WAPCA.

This authority is broadened by the Remedial Action Trust Fund Act, which defines at A.C.A. § 8-7-503(7) a "release" as "any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, of disposing of hazardous substances into the environment"; and provides a mechanism for the state to require and enforce remedial or corrective action by the responsible party.

Federal requirements have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

#### XVI. REQUIREMENTS FOR PERMITS

O. State statutes and regulations require that all owners and operators of units that treat, store, or dispose of hazardous waste in miscellaneous units must comply with the general application requirements (including Part A permit requirements), the Part B general application requirements of 40 CFR 270.14, and specific Part B information requirements for miscellaneous units as indicated in Revision Checklists 45 and 59.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.600, 270.14 and 270.23 as amended December 10, 1987 (52 FR 46946) and January 9, 1989 (54 FR 615).]

#### Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(5) and (9)  
 AHWMC § 12 *Not listed on checklist*

#### Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

P. State statutes and regulations provide owners and operators more flexibility to change specified permit conditions, to expand public notification and participation opportunities, and allow for expedited approval if no public concern exists for a

proposed permit modification. Owner/operator permit modifications are categorized into three classes with administrative procedures for approving modifications established in each class. These changes are as indicated in Revision Checklist 54.

[Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 124, 264, 265, and 270 as amended September 28, 1988 (53 FR 37912) and October 24, 1988 (53 FR 41649)]

Citation of Laws and Regulations; Date of Enactment and Adoption

[Ark. Code Ann. § 8-7-211 > Not on Checklist  
 Ark. Code Ann. § 8-7-218 >  
 AHWMC §§ 3a(5), (6), (9), and (11)  
 [AHWMC § 12 > not listed on Checklist]

Remarks of the Legal Counsel

A.C.A. §§ 8-7-211 and 8-7-218 and Section 12 of the Code specify state conditions for modifying permit conditions and for public participation in the permitting process. Specific federal provisions at 40 CFR Parts 124, 264, 265, and 270 are incorporated by reference. State provisions are equivalent to the Federal program.

Q. State statutes and regulations make it clear that existing incinerator facilities must either conduct a trial burn or submit other information as specified in 40 CFR 270.19(a) or (c) before a permit can be issued for that facility as indicated in Revision Checklist 60.

[Federal Authority: RCRA §3005(b); 40 CFR 270 as amended January 30, 1989 (54 FR 4286)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(9)

Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

R. State statutes and regulations allow greater flexibility to interim status facilities to make changes during interim status following director approval as indicated in Revision Checklist 61.

[Federal Authority: RCRA §§2002(a), 3004, 3005, 3006; 40 CFR 270.72 as amended March 7, 1989 (54 FR 9596)]

Citation of Laws and Regulations; Date of Enactment and Adoption

[Ark. Code Ann. § 8-7-211 > *not on checklist*  
 AHWMC § 3a(9)

Remarks of the Legal Counsel

Federal provisions at 40 CFR 270.72 have been incorporated by reference; State provisions are equivalent to the Federal program.

S. State statutes and regulations lift the reconstruction limit for changes: 1) to certain interim status units necessary to comply with Federal, State, or local requirements, 2) necessary to allow continued handling of newly listed or identified hazardous waste, 3) made in accordance with an approved closure plan, and 4) made pursuant to a corrective action order as indicated in Revision Checklist 61.

[Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 270.72 as amended March 7, 1989 (54 FR 9596)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(9)

Remarks of the Legal Counsel

Arkansas has adopted by reference Federal provisions lifting the reconstruction limit for changes to certain interim status units to allow compliance with Federal, state, or local requirements and as necessary to allow continued handling of newly listed or identified hazardous wastes, or required in accordance with an approved closure plan or pursuant to a corrective action order. Provisions at 40 CFR 124.1 and 124.15 are not incorporated; equivalent State provisions are found in ADPC&E Regulation No. 8. Provisions at 270.42 classifying permit modifications necessary to comply with the Land Disposal Restrictions are incorporated by reference. State provisions are equivalent to the Federal program.

T. State statutes and regulations clarify that a permit can be denied for the active life of a facility while a decision on post closure permitting is pending as indicated in Revision Checklist 61.

[Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR 124.1, 124.15, 124.19, 270.1, 270.10 and 270.29 as amended March 7, 1989 (54 FR 9596).]

Citation of Laws and Regulations; Date of Enactment and Adoption

ADPC&E Regulation No. 8, dated and effective July 6, 1984.  
AHWMC § 3a(9)

Remarks of the Legal Counsel

Analogous provisions for Part 124 citations (Administrative processing and hearings for permits) are found in Regulation 8. Applicable citations to Part 270 have been incorporated by reference. State provisions are equivalent to the Federal program.

U. State statutes and regulations classify as Class 1 certain permit modifications requested by owners/operators necessary to enable permitted facilities to comply with the land disposal restrictions as indicated in Revision Checklist 61. Specifically these modifications include 1) adding restricted wastes treated to meet applicable 40 CFR Part 268 treatment standards or adding residues from treating "soft hammer" wastes, 2) adding certain wastewater treatment residues and incinerator ash, 3) adding new wastes for treatment in tanks or containers under certain limited conditions, and 4) adding new treatment processes, necessary to treat restricted wastes to meet treatment standards, that take place in tanks or containers.

[Federal Authority: RCRA §§2002(a), 3004, 3005 and 3006; 40 CFR 270.42 as amended March 7, 1989 (54 FR 9596)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(9)

Remarks of the Legal Counsel

Federal requirements have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

V. State statutes and regulations incorporate updates to 40 CFR Part 124 as indicated in Revision Checklist 70.

[Federal Authority: RCRA §§6901 and 6902; 40 CFR 124.3, 124.5, 124.6, 124.10, and 124.12 as amended April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), July 26, 1988 (53 FR 28118), September 26, 1988 (53 FR 37396), and January 4, 1989 (54 FR 246).]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(11)

ADPCE Regulation No. 8, dated and effective July 6, 1984  
Ark. Code Ann. §§ 8-4-218 through 8-4-229, et seq.

Remarks of the Legal Counsel

Applicable portions of Part 124 have been incorporated by reference in the Arkansas Hazardous Waste Management Code. For those sections not incorporated by reference, State-specific requirements for public and administrative hearings and procedures are identified in ADPC&E Regulation 8 and the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended). State provisions are equivalent to the federal program.

**XVII. MINIMUM TECHNOLOGICAL REQUIREMENTS****B. State statutes and regulations require:**

(1) New units, expansions, and replacement units at interim status landfills and surface impoundments and landfills and surface impoundments for which Part B of the permit application is received by the proper authority after November 8, 1984, meet the requirements for double liners and leachate collection systems applicable to new permitted landfills and surface impoundments in 40 CFR 264.221 and 264.301 and 265.221 and 265.301 as indicated in Revision Checklists 17H and 77.

[Federal Authority: RCRA §§1006, 2002(a), 3004, 3005, and 3015(b); 40 CFR 264.221, 265.221, 264.301, and 265.301 as amended July 15, 1985 (50 FR 28702) and May 9, 1990 (55 FR 19262)]

Citation of Laws and Regulations; Date of Enactment and Adoption

[Ark. Code Ann. § 8-7-218 > *not listed on checklist*  
AHWMC §§ 3a(5) and (6)]

Remarks of the Legal Counsel

Federal Revisions have been incorporated by reference. State provisions are equivalent to the Federal program.

**XXI. LAND DISPOSAL RESTRICTIONS**

A. State statutes and regulations provide for restrictions of the land disposal of certain spent solvents and dioxin-containing hazardous wastes as indicated in Revision Checklists 34, 39, and 50.

[Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 260, 261, 262, 263, 264, 265, 268 and 270 as amended on November 7, 1986 (51 FR 40572), June 4, 1987 (52 FR 21010), July 8, 1987 (52 FR 25760), and August 17, 1988 (53 FR 31138).]

Citation of Laws and Regulations; Date of Enactment and Adoption

*Not listed on checklist*

- Ark. Code Ann. § 8-7-205(3)
- Ark. Code Ann. §§ 8-7-209(a)(1), (3), (5), (6), (11), and b.
- Ark. Code Ann. § 8-7-218
- Ark. Code Ann. § 8-7-308(4)
- AHWMC §§ 3a(5), (6), (7), and (8)
- AHWMC § 4c
- AHWMC § 13a(5) *> Not listed on checklist*

Remarks of the Legal Counsel

Authority to regulate hazardous wastes under A.C.A. §§ 8-7-209 and 8-7-308 includes the authority to ban the disposal of certain wastes by certain means within the State. A.C.A. § 8-7-218(c) prohibits the issuance of a permit to or the operation of a TSDF unless that facility is in compliance with RCRA Section 3005. Compliance with Section 3005 implies compliance with Section 4004, embodying the Land Disposal Restrictions.

Federal requirements are incorporated by reference. In addition, AHWMC § 13a(5) prohibits the landfilling of free liquids, including liquid hazardous wastes. State requirements are therefore more stringent than the Federal program.

B. State statutes and regulations for restricting the disposal of certain California list wastes, including liquid hazardous waste containing polychlorinated biphenyls (PCBs) above specified concentrations, and hazardous waste containing halogenated organic compounds (HOCs) above specified concentrations as indicated in Revision Checklists 39 and 50.

[Federal Authority: RCRA §§ 3004(d)-(k) and (m); 40 CFR 262, 264, 265, 268 and 270 as amended on July 8, 1987 (52 FR 25760), October 27, 1987 (52 FR 41295) and August 17, 1988 (53 FR 31138).]

Citation of Laws and Regulations; Date of Enactment and Adoption

*Not listed on checklist*

- Ark. Code Ann. § 8-7-205(3)
- Ark. Code Ann. §§ 8-7-209(a)(1), (3), (5), (6), (11), and (b).
- Ark. Code Ann. § 8-7-215
- Ark. Code Ann. § 8-7-216
- Ark. Code Ann. § 8-7-218
- Ark. Code Ann. § 8-7-303
- Ark. Code Ann. § 8-7-308(4)
- [AHWMC § 13a(5) *> Not listed on checklist*
- AHWMC §§ 3a(5), (6), (7), and (8)
- [AHWMC § 4c *> Not listed on checklist*

Remarks of the Legal Counsel

See the remarks immediately above. Federal provisions have been incorporated by reference; State provisions are therefore

equivalent to the Federal program.

C. State statutes and regulations for specific treatment standards and effective dates for certain wastes from the "First Third" of the schedule of restricted wastes listed in 40 CFR 268.10 as well as land disposal restrictions for those First Third wastes for which a treatment standard is not established as indicated in Revision Checklists 50, 62, and 66.

[Federal Authority: RCRA §§3004 (d)-(k) and (m); 40 CFR 264, 265, 266, and 268 as amended on August 17, 1988 (53 FR 31138), January 27, 1989 (54 FR 4021), February 27, 1989 (54 FR 8264), May 2, 1989 (54 FR 18836), September 6, 1989 (54 FR 36967), and June 13, 1990 (55 FR 23935).]

Citation of Laws and Regulation: Date of Enactment and Adoption

AHWMC §§ 3a(5), (6), (7), and (8)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

D. State statutes and regulations provide for certain treatment standards and prohibition effective dates for certain Second Third wastes and for imposing the "soft hammer" provisions of 40 CFR 268.8 on Second Third wastes for which the Agency is not establishing treatment standards as indicated in Revision Checklist 63.

[Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268 as amended June 23, 1989 (54 FR 26594)]

Citation of Laws and Regulations: Date of Enactment and Adoption

AHWMC § 3a(8)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

E. State statutes and regulations provide for treatment standards and effective dates for certain First Third "soft hammer" wastes as well as for certain wastes originally contained in the Third Third of the Schedule as indicated in Revision Checklist 63.

[Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 264, 265 and 268 as amended June 23, 1989 (54 FR 26594)]

Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC § 3a(8)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; State provisions are therefore equivalent to the Federal program.

F. State statutes and regulations provide specific treatment standards and effective dates for the Third Third wastes, "soft hammer" First and Second Third wastes, five newly listed wastes, four wastes that fall into the F002 and F005 (spent solvent) waste codes, F025, mixed radioactive/hazardous wastes, characteristic wastes and multi-source leachate, as well as establish revised treatment standards for petroleum refining hazardous wastes (K048-K052) as indicated in Revision Checklist 78.

[Federal Authority: RCRA §§3001 and 3004 (d)-(k) and (m); 40 CFR 261, 262, 264, 265, 268, and 270, as amended June 1, 1990 (55 FR 22520)]

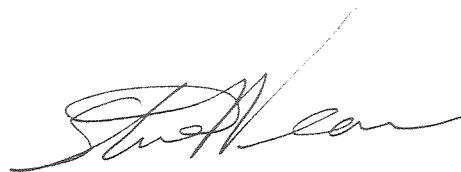
Citation of Laws and Regulations; Date of Enactment and Adoption

AHWMC §§ 3a(2), (3), (5), (6), (8), and (9), as amended December 6, 1991; and effective January 27, 1992.  
AHWMC § 13a(5)

Remarks of the Legal Counsel

Federal provisions have been incorporated by reference; therefore, State provisions are equivalent to the Federal program.

Seal of Office



STEVE WEAVER  
Independent Legal Counsel

State of Arkansas  
Department of Pollution Control  
and Ecology

5/7/92  
(Date)

STATE OF ARKANSAS)  
 )  
COUNTY OF PULASKI)

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SUBSCRIBED AND SWORN to before me, a Notary Public, this  
7th day of May, 1992.

  
Notary Public

My Commission Expires:

12/17/2000

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