

US EPA ARCHIVE DOCUMENT

ADPC&E Regulation No. 23

# HAZARDOUS WASTE MANAGEMENT



August 27, 1993

State of Arkansas  
Department of Pollution Control and Ecology

*(Includes regulatory changes through June 30, 1992)*

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## CHAPTER ONE: TITLE AND PURPOSE

The following rules and regulations of the Arkansas Department of Pollution Control and Ecology, adopted pursuant to the provisions of the Arkansas Hazardous Waste Management Act of 1979 (Act 406 of 1979, as amended, Arkansas Code Annotated (A.C.A.) §§ 8-7-201 *et seq.*), and the Arkansas Resource Reclamation Act of 1979 (Act 1098 of 1979, as amended, Arkansas Code Annotated (A.C.A.) §§ 8-7-301 *et seq.*), shall be known as ADPC&E Regulation No. 23, (Hazardous Waste Management).

It is the purpose of this Regulation and it is hereby declared to be the policy of this Department:

- to protect the public health and safety, the health of living organisms, and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes;
- to establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous waste;
- to assure the safe and adequate management of hazardous wastes within this state;
- to qualify to adopt, administer, and enforce a hazardous waste program pursuant to the Federal Resource Conservation and Recovery Act, as amended, (P.L. 94-580);
- to afford the people of the State of Arkansas a voice in the permitting of hazardous waste facilities within their respective counties;
- to establish a statewide program designed to protect society and the environment from the risks and burdens associated with the continued practice of disposing of those forms of hazardous waste which could otherwise be treated;
- to encourage the development and utilization of techniques which result in the recovery, reclamation and conservation of resources of the State, including the reclamation and conservation or safeguarding of abandoned hazardous waste disposal sites;
- to encourage interstate cooperation and interstate agreements which would provide a requisite balance of disposal and treatment facilities among the states and which would reduce the amount of hazardous waste disposed of in the state, irrespective of the origin of such wastes; and
- to promote economic growth with environmental concern by establishing a program to assist industries in finding environmentally sound methods of disposing of hazardous waste.

## CHAPTER TWO: REGULATIONS PROMULGATED UNDER THE ARKANSAS HAZARDOUS WASTE MANAGEMENT ACT FOR ADMINISTRATION OF THE STATE RCRA PROGRAM

### Section 1. Authority.

The regulations under this Chapter are promulgated pursuant to the Arkansas Hazardous Waste Management Act, as amended (Act 406 of 1979, as amended, A.C.A. §§ 8-7-201 *et seq.*)

### Section 2. Definitions.

- a. In lieu of the definitions of the following terms set forth in 40 CFR 260.10, 40 CFR 261.3, and 40 CFR

270.2, when used in this Chapter:

(1) "**Act**" means the Arkansas Hazardous Waste Management Act of 1979, as amended (Act 406 of 1979, as amended).

(2) "**Active Portion**" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of provisions of this Regulation subjecting such facility to regulation, and which is not a closed portion.

(3) "**EPA Identification Number**" means the unique number assigned by the Arkansas Department of Pollution Control and Ecology to each generator, transporter, and to each treatment, storage, or disposal facility.

(4) "**Existing Hazardous Waste Management Facility**" or "**Existing Facility**" means a facility which was in operation or for which construction commenced on or before March 14, 1979. A facility has commenced construction if the owner or operator has obtained the federal, state, and local approvals or permits necessary to begin physical construction; and either begun a continuous on site physical construction program or entered into contractual obligations for such a program to be completed within a reasonable time and which cannot be canceled or modified without substantial loss.

(5) "**Hazardous Waste**" means a hazardous waste as defined in 40 CFR 261.3. In addition thereto 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 § 16 of this Chapter and shall be processed in hazardous waste management facilities which comply with the provisions of this Chapter or the provisions of 40 CFR 761, whichever are the most stringent.

(6) "**Operator**" means an individual or individuals charged with the responsibility of managing or operating a hazardous waste management facility, including the responsibility for assuring that the operation of said facility is in accordance with the provisions of this Hazardous Waste Management Regulation.

(7) "**Permit**" means a written permit issued by the Arkansas Highway and Transportation Department authorizing a person to transport hazardous waste (Hazardous Waste Transportation Permit), or a written permit issued by the Arkansas Department of Pollution Control and Ecology authorizing the establishment, construction, operation, and/or maintenance of hazardous waste treatment, disposal, or storage facility or site, or authorizing the transportation of hazardous waste.

(8) "**Person**" means an individual, corporation, company, firm, partnership, association, trust, joint stock company, joint venture, state or federal agency or instrumentality, county, city, town, or municipal authority, trust venture or any other legal entity, or combination of entities however organized.

(9) "**Site**" means any real property located within the boundary of the State of Arkansas which is, has been subsequent to March 14, 1979, or is contemplated to be used for treatment, storage, disposal, or generation of hazardous wastes.

b. In addition to the definitions found in 40 CFR 260.10, 40 CFR 261.3, and 40 CFR 270.2 (with the exception of the terms defined above in subsection (a)) when used in this Chapter:

(1) "**CFR**" means the Code of Federal Regulations.

(2) "**Commercial Hazardous Waste Management Facility**" means a hazardous waste management

facility which does not meet the definition of a noncommercial hazardous waste facility as defined in this section.

- (3) "**Commission**" means the Arkansas Pollution Control and Ecology Commission .
- (4) "**Department**" or "**ADPC&E**" means the Arkansas Department of Pollution Control and Ecology.
- (5) "**Director**" means the Director of the Arkansas Department of Pollution Control and Ecology.
- (6) "**Exempted Hazardous Waste**" means those small quantity hazardous wastes which are exempted from some of the provisions of the Hazardous Waste Management Regulation by 40 CFR 261.5 and which are subject to the provisions of § 9 of this Regulation.
- (7) "**Facility Personnel**" means the personnel employed by a hazardous waste management facility and who are responsible for, or who supervise, or who engage in the handling, sorting, mixing, treatment, analyzing, or disposal of hazardous waste and the operation of any equipment of machinery necessary to complete these tasks.
- (8) "**Generation**" means the act or process which results in the production of waste materials.
- (9) "**Hazardous Waste Management**" means the systematic control of the generation, collection, distribution, marketing, source separation, storage, transportation, processing, recovery, disposal and treatment of hazardous waste.
- (10) "**Noncommercial Hazardous Waste Facility**" means a hazardous waste management facility which is constructed and operated to store, treat, and/or dispose of hazardous waste which has been generated by the owners or operators of said facility and which storage, treatment or disposal is not undertaken for profit. A noncommercial hazardous waste facility may accept, at cost or profit, hazardous waste which has been generated by persons other than the owners or operators of said facility, provided that the total amount of such wastes does not exceed 5 (five) percent of facility's annual operating capacity and provided that the permit for said facility authorizes the acceptance of such waste for storage, treatment, and/or disposal.
- (11) "**PCB Identification Number**" means a unique number assigned by the Arkansas Department of Pollution Control and Ecology to each generator or transporter, and to disposal or storage facilities which handle PCB wastes and not any other hazardous wastes, to be used in lieu of an EPA Identification Number.
- (12) "**Permitted Site**" means any site used for disposal, treatment or storage of hazardous waste which has a current valid operating permit issued by the Department of Pollution Control and Ecology.
- (13) "**Shipper**" means any person initiating transportation of hazardous waste. A shipper may include a generator or storage, treatment or disposal facility.
- (14) "**Transport**" means the movement of wastes from the point of generation to any intermediate points, or to the point of ultimate storage, treatment or disposal.
- (15) "**Treatment Facility**" means a location at which waste is subject to treatment and may include a facility where waste has been generated.
- (16) "**Ultimate Controlling Person**" means a person who is not controlled by another person.

c. Other words or phrases used in this Regulation shall have the meaning provided in 40 CFR 260.10, 40 CFR 261.3, and 40 CFR 270.2.

### **Section 3. Incorporation of Federal Regulations**

a. The following regulations promulgated by the U.S. Environmental Protection Agency are hereby adopted as provisions of this Chapter as though set forth herein line for line and word for word with the exception that all references therein to "Administrator", "Regional Administrator", "Director", or "State Director" shall be considered references to the "Director of the Arkansas Department of Pollution Control and Ecology"; and all references to the "U.S. Environmental Protection Agency" or "EPA" shall be considered references to the "Arkansas Department of Pollution Control and Ecology". All references elsewhere in this Chapter to any of the following regulations shall constitute a reference to the regulation as herein adopted; and provided that the effective date of provisions adopted herein by reference as provisions of this Regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking and the effective date of the federal regulations adopted herein shall have no bearing on the effective date of any provisions of this Regulation.

#### ***Title 40 Code of Federal Regulations:***

(1) Subparts A, B, C, and Appendix I of Part 260; with the exception of the definition of "Act", "Active Portion", "EPA Identification Number", "Existing Hazardous Waste Management Facility", "Hazardous Waste", "Operator", and "Person" set forth in 260.10 (for analogous provisions see § 2a);

(2) Subparts A, B, C, D, and Appendices I, II, III, VII, VIII, and X of Part 261; with the exception of 261.8;

(3) Subparts A, B, C, D, E, F, and G of Part 262; with the exception of 262.20(e), 262.41 and 262.44 (for analogous provisions see § 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, W, X, AA, BB, and Appendices I, IV, V and IX of Part 264 with the following exceptions: 264.75, 264.312(b) and 264.314 (a), (b), (d), and (e) (for analogous provisions see §§ 13a(5) and § 16), and 264.571b (for analogous provisions see § 13a(6)) ;

(6) Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, W, AA, BB, and Appendices I, III, IV, and V of Part 265 with the following exceptions: 265.75, 265.312(b) and 265.314 (a), (b), (c), and (e) (for analogous provisions see §§ 13a(5) and 16), 265.443(a)(4) (for analogous provisions, see § 13a(9));

(7) Subparts C, E, F, G, and H and Appendices I, II, III, IV, V, VI, VII, VIII, IX, X, XI, and XII of Part 266;

(8) Subparts A, B, C, D, E, and Appendices I, II, III, IV, V, VI, VII, VIII, and IX of Part 268, with the following exceptions: 268.5, 268.6, 268.42(b), and 268.44 (no analogous provisions);

(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 (for analogous provisions see § 2); 270.10(e) (for analogous provisions see § 12a(1)-(6)); 270.12 (for analogous provisions see § 6); 270.51 (no analogous state provisions); 270.70 (for analogous provisions see § 12a(7) and (8)).

(10) The definition of "PCB" and "PCBs", "PCB items", "PCB-contaminated electrical equipment" set forth in 40 CFR 761.3;

(11) Subparts A of Part 124 with the following exceptions: 124.1, 124.2, 124.3(b), 124.3(d), 124.3(e), 124.4, 124.5(b), 124.5(e), 124.5(g), 124.6(b), 124.9, 124.10(a)(1)(i), 124.10(a)(1)(iv), 124.10(a)(1)(v), 124.12(e), 124.14, 124.15, 124.16, 124.18, 124.19, and 124.21 (see ADPC&E Regulation No. 8 (Administrative Procedures) for analogous provisions as referenced in § 12 of this Regulation.)

(12) All as adopted as final rules (including "interim final rules" and "technical amendments") published by the U.S. Environmental Protection Agency on or before June 30, 1992.

(13) The revisions to the text of 40 CFR included in the additional final rules promulgated by the U.S. Environmental Protection Agency:

(a) 57 FR 29220, July 1, 1992.

b. In addition the following temporary or final waste exclusions resulting from petitions filed with EPA under 40 CFR 260.22 (petitions to amend Part 261 to exclude a waste produced at a particular facility) are hereby adopted as provisions of this Chapter:

Facility Name & Address	Waste Excluded	Date of FR Notice	Exclusion Status
Chamberlain-Featherlite, Inc., Hot Springs	F019	07/16/86	Permanent
Monroe Auto Equipment Paragould	F006	11/27/85	Vacuum filtered sludge - Permanent Lagoon sludge - Exclusion denied.
Waterloo Industries, Paragould	F006	07/17/86	Wastewater treatment sludges generated from electroplating operations after dewatering - Permanent.
U.S. EPA Combustion Research Facility Jefferson	F020	06/28/89	Scrubber water generated during the incineration of still bottom waste from the Vertac Superfund Site, Jacksonville. Final exclusion.
Arkansas Department of Pollution Control and Ecology	F020, F023	08/24/90	Kiln ash, cyclone ash, and calcium chloride salts from incineration of F020 and F023 residues from production of 2,4,5-T and 2,4-D at Vertac Superfund Site, Jacksonville, generated after August 24, 1990. Final exclusion.
Kawneer Company, Inc.	F019	11/13/90	Wastewater filter press sludge (F019) generated (at a maximum annual rate of 26 cubic yards) from the chemical conversion coating of aluminum. Kawneer must analyze a representative sample, obtained by a full depth core sample from each 55 gallon drum of filter press sludge generated, prior to disposal of the wastes as nonhazardous. Each lot of filter press sludge wastes shipped for disposal shall be analyzed. Samples from each drum may be composited for each lot of filter press sludge to be disposed of. Analysis shall be conducted for total cyanide and chromium (VI). Provided that total cyanide concentration in the waste is less than 0.7 ppm and chromium (VI) is less than 0.05 ppm, the wastes may be disposed of under the provisions of this delisting decision. Final exclusion.
Reynolds Metals Co. Gum Springs	K088	12/30/91	Kiln residue (K088) (generated at a maximum volume of 300,000 cubic yards per year) from rotary kiln treatment of spent

c. 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 the date of their publication as final rules of the U.S. Environmental Protection Agency shall constitute minimum guidelines to the Director in formulating rule making proposals to this Chapter, and shall not be construed to limit or interfere with the adoption of provisions more stringent than federal regulations.

#### **Section 4. Violations.**

Any of the following acts shall be considered a violation of this Regulation and shall be subject to the penalties provided in the Arkansas Hazardous Waste Management Act of 1979 (Act 406 of 1979, as amended):

- a. Failure to comply with the provisions of this Regulation or with the terms of permits or orders issued hereunder.
- b. To purposely or knowingly make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this Regulation, or to falsify, tamper with, or knowingly render inaccurate any monitoring device, testing device, or method required to be maintained under this Regulation.
- c. To dispose of hazardous waste at any disposal site or facility within the state of Arkansas other than one for which a permit has been issued by the Department pursuant to this Regulation.
- d. To engage in hazardous waste management contrary to the provisions of this Regulation or in such a manner or place as to create or as is likely to be created a public health hazard or to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, as amended (A.C.A. §§ 8-4-201 et seq.)

#### **Section 5. Siting Criteria.**

In addition to the location standards of 40 CFR 264.18 the following provisions shall be complied with:

a. No permit shall be issued for a new hazardous waste management facility in which the factor or combination of factors, set forth in subparts (1), (2), (3), (4), and (5) below exist except where the applicant can affirmatively demonstrate and the Department specifically finds that the location of such facilities in those areas would not constitute a risk to the public health or environment:

(1) An active fault zone;

(2) A "regulatory floodway" as adopted by communities participating in the National Flood Program managed by the Federal Emergency Management Administration and the Arkansas Soil and Water Conservation Commission;

(3) A 100-year floodplain;

(4) A recharge zone of a sole source aquifer designated pursuant to § 1424 (e) of the Safe

Drinking Water Act (PL93-532);

(5) "Wetland areas" which are inundated or saturated by surface water or groundwater at a frequency and duration to support, and under normal circumstances to support or would support vegetation typically adapted for life in saturated soil conditions;

b. No permit shall be issued for a hazardous waste landfill facility or surface impoundment if such facility is located in any area in which the Department shall find that a geologic or pedologic factor, or combination of factors, including but not confined to those enumerated in subparts (1), (2), (3), (4), and (5) below, would create any unacceptable risk to the public health or safety due to the nature, design, and/or operation of the facility described in the permit application:

(1) Areas of high earthquake potential; or

(2) Areas having a soil which would be classified as vertisol or as having a subgroup modifier of vertic by the criteria of the Soil Conservation Service of the U.S. Department of Agriculture; or

(3) Areas in which a stratum of limestone or similar rock of an average thickness of more than 1 meter (3 feet) shall lie within 30 meters (99 feet) of the base of the proposed liner system as described in the application for permit; or

(4) Areas in which the bottom of the landfill's or impoundment's liner system or in-place soil barrier is less than 10 feet above the historically high water table; or

(5) Where the proximity of a functioning private or public water supply in relationship to any active portion of the facility would constitute an unacceptable risk to the public health or safety.

c. No permit shall be issued for the construction or operation of a new commercial hazardous waste landfill if the active portions of such facility are located within one half (1/2) mile of any occupied dwelling, church, school, hospital, or similarly occupied structure at the time the initial permit application is submitted to the Department by the applicant unless the nature and amounts of hazardous wastes are limited by conditions of permit in such a manner that the applicant can affirmatively demonstrate and the Department finds that a lesser distance will provide adequate margins of safety even under abnormal operating conditions.

d. No permit shall be issued for a hazardous waste management facility in which the Department shall find that factors or combination of factors, including but not confined to subparts (1) and (2) below, would create an unacceptable risk to the public health or safety due to the nature, design and/or operation of the facility described in the permit application.

(1) 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;

(2) The active portions of such facility are located less than 300 feet from the right-of-way for:

(a) a public road;

(b) pipelines carrying natural gas, fuel oils, or chemicals, excluding service lines to the facility;

(c) water and wastewater line, other than the service lines to the facility; and

(d) power transmission lines, other than service lines to the facility.

e. No permit shall be issued for the construction or operation of a new hazardous waste management facility unless the location of said facility is such that all performance standards set forth in this Regulation can be met.

f. The provisions of this § 5 shall not apply to treatment facilities which began operation prior to the date of enactment of the Act which have an existing operating permit from the Department, or to any subsequent modifications to such facilities, provided that the owner of such facility demonstrates that such modifications do not materially increase that degree of hazards associated with such facility.

#### **Section 6. Availability of Information and Protection of Trade and Business Secrets.**

In lieu of the provisions of 40 CFR 270.12 the following provisions shall apply:

a. Any records, reports, or information contained under this Regulation and any permits, permit applications, and related documentation shall be available to the public for inspection and copying. However, upon a satisfactory showing to the Director that such records, reports, permits, documentation, or information, or any part thereof would, if made public, divulge methods or processes entitled to protection as trade secrets, the Director shall consider, treat and protect such records as confidential.

b. It shall be the responsibility of the person claiming any information as confidential under the provisions of subsection a above to clearly mark each page containing such information with the words "CONFIDENTIAL" and to submit an affidavit setting forth the reasons that said person believes that such information is entitled to protection.

c. Any document submitted to the Department which contains information for which the claim of confidential information is made shall be submitted in a sealed envelope marked "CONFIDENTIAL" and addressed to the Director. The document shall be submitted in two separate parts. The first part shall contain all information which is not deemed by the person preparing the report as confidential and shall include appropriate cross references to the second part which contains data, words, phrases, paragraphs, or pages and appropriate affidavits containing or relating to information which is claimed to be confidential.

d. No information shall be protected as confidential information by the Director unless it is submitted to him in accordance with the provisions of subsection (c) above. No information which is submitted in accordance with the provisions of subsection (c) above shall be afforded protection as confidential information unless the Director finds that such protection is necessary to protect trade secrets and that such protection will not hide from public view the characteristics of waste material and probable effects of the introduction of such waste or byproducts into the environment as a result of the operation of a hazardous waste management facility. The person who submits information claimed as confidential shall receive written notice from the Director as to whether the information has been accepted as confidential or not.

e. All information which meets the tests of subsection (d) above shall be marked with the term "ACCEPTED" and shall be protected as confidential information. Whenever the Director finds that information which has been submitted as confidential information in accordance with subsection (c) above does not meet the criteria of subsection (d) above, he shall promptly notify the person submitting such information of his findings and shall give that person reasonable opportunity to further justify his contention that the information deserves protection as a trade secret or to further limit the scope of information for which the request for protection is made. If said person fails to satisfactorily demonstrate to the Director that such information in the form presented to him meets the criteria of subsection (d) above, the Director shall mark the information "REJECTED" and promptly return such information to the person submitting such information. Such person shall have 30 days to resubmit the information in acceptable form or appeal the decision of the Director.

- f. All information which is accepted by the Director as confidential shall be stored in locked filing cabinets and only those personnel of the Department specifically designated by the Director shall have access to the information contained therein. The Director shall not designate any persons to have access to confidential information unless the person requires such access in order to carry out his responsibilities and duties. No person shall disclose any confidential information except in accordance with the provisions of this Section. No copies shall be made other than for internal Department use or for use or transmittal to officers and employees of the United States except with the written permission of the Director and the person submitting the information.
- g. The person(s) designated by the Director to maintain confidential files as herein provided shall maintain a log showing the persons who have had access to the confidential files and the dates of such access.
- h. As necessary to carry out the provisions of the Arkansas Hazardous Waste Management Act, any confidential information acquired by the Department under the provisions of said act may be transmitted to other offices, employees, or authorized representatives of the state or United States provided that the owner or operator of the facility to which such information pertains is informed of such transmittal and provided that such transmittal is made under a continuing restriction of confidentiality.
- i. Nothing contained herein shall be construed so as to restrict the release of relevant confidential information during situations declared to be emergencies by the Director or his designee.
- j. Claims of confidentiality for the name and address of any permit applicant or permittee will be denied.
- k. If a request for any records, documents or information acquired or maintained by ADPC&E pursuant to the Arkansas Hazardous Waste Management Act and/or this Regulation is denied by the Director a notice shall be sent to the requestor stating the basis of the denial and informing the requestor that:
- 1) He may appeal immediately from such denial to an appropriate Circuit Court pursuant to the Arkansas Freedom of Information Act; or,
  - 2) He may request judicial review within thirty (30) days of receipt of the notice by filing a notice of appeal with the Secretary of the Arkansas Commission on Pollution Control and Ecology and proceeding further pursuant to A.C.A. § 8-4-222.
- l. If a request for records, documents or information is denied, the Director will send the notice required by subsection (k) within twenty (20) days of receipt of the request.
- m. If the Director fails to produce requested records, documents or information and fails to send the notice required by subsection (k), such failure shall constitute final agency action giving the requestor the right to judicial review under A.C.A. § 8-4-222 in addition to any rights of review under the Arkansas Freedom of Information Act.

#### **Section 7. Conflict of Interest.**

- a. No employee of the Department shall have a financial interest in any hazardous waste management facility or in any commercial enterprise engaged in the transportation, treatment or disposal of hazardous waste or in any business which furnished real property, plans, labor, material or equipment to hazardous waste management facilities. For purposes of this Section, financial interest of an employee of the Department shall extend to that employee's husband or wife if said husband or wife is a stockholder, an officer or a management official of a commercial entity engaged in any of the activities listed above.

b. Payment by the owner or operator of a hazardous waste management facility to the Department pursuant to the provisions of § 11g shall not be construed to mean that the Department personnel serving as on-site inspectors have financial interest in such facility.

c. Those persons serving on the Hazardous Waste Technical Advisory Committee are not deemed to be employees of the Department by virtue of that service.

#### **Section 8. Hazardous Waste Technical Advisory Committee.**

a. A technical advisory committee, to be known as the "Arkansas Hazardous Waste Technical Advisory Committee" is hereby established, which committee shall be comprised of not less than ten (10) and not more than twenty (20) members nominated by the Director and approved by the Commission. Members shall be nominated upon the basis of their education, training and/or responsibilities in the fields of biology, geology, chemistry, education, engineering, public health, industrial hygiene, transportation, industry agriculture, hazardous waste management, solid waste management, or other related areas.

b. The members of said Committee shall serve without compensation, but may be reimbursed for travel expenses for meetings authorized by the Director.

c. The duties of the Hazardous Waste Technical Advisory Committee shall be to assist and advise the Department in the development of procedures, standards, criteria, and rules and regulations.

d. The Hazardous Waste Technical Advisory Committee shall establish its own rules and bylaws for the accomplishment of the duties and functions set out herein and for other such duties as are approved by the Commission, provided that such rules and bylaws shall not be in conflict with the provisions of this Regulation and the laws of Arkansas.

e. The Director shall be furnished copies of minutes of all meetings.

f. The Technical Advisory Committee may review any proposed changes in the Regulation and make recommendations. Additionally, the Committee shall review that Regulation at least once each three years and shall make recommendations for changes deemed appropriate.

#### **Section 9. Handling and Disposal Requirements for Conditionally Exempt Small Quantity Generators.**

a. Generators of conditionally exempt small quantities of hazardous waste shall comply with the requirements of 40 CFR 261.5 as adopted in § 3 and the requirements of § 16 c(6) and (8).

b. The disposal of small quantity hazardous waste which is allowed pursuant to 40 CFR 261.5 to be stored, treated and disposed in a facility that is permitted, licensed, or registered by a state to manage municipal or industrial solid waste must comply with the following additional requirements to be disposed of in Arkansas:

(1) It is disposed of in a solid waste disposal facility in the State of Arkansas which has been permitted by the Department to dispose of such waste in accordance with the provisions of the ADPC&E Regulation No. 22 (Solid Waste Management); or

(2) It is shipped to a hazardous waste management facility in the State of Arkansas which is permitted by the Department to store, treat or dispose of such waste; or

(3) It is shipped to an approved facility outside the State of Arkansas; or

(4) It is treated or disposed of in onsite solid waste facilities which are permitted in accordance with the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended), or the Arkansas Solid Waste Management Act (Act 237 of 1971, as amended).

c. Solid waste disposal facilities may accept wastes subject to the provisions of 9b of this Section only in accordance with their permit and the provisions of Regulation No. 22 (Solid Waste Management).

#### **Section 10. Certification of Operators: Personnel Training and Procedures.**

In addition to the requirements of 40 CFR 264.15, 264.16, and 265.55 the following provisions shall be complied with:

a. No commercial hazardous waste management facility shall be caused or permitted to operate unless at least one person certified by the Department in accordance with the provisions of subsection (b) below, is on duty, or on 15 minutes call, at all times the facility is being operated. Depending upon the size and complexity of the facility, the Department may require, as a condition of permit, one or more certified operators to be on duty at all times the facility is in operation.

b. No person shall be certified by the Department at being qualified to serve as an operator of a commercial hazardous waste management facility unless the person is found to have the following qualifications:

(1) Is physically capable of performing all tasks reasonably expected of supervisory personnel;

(2) Has a baccalaureate degree in engineering, physical science, health sciences, or related disciplines or four years of significant demonstrated experience in such fields;

(3) Has at least four additional years experience in management, engineering, or in conducting chemical/physical analysis;

(4) Has a working familiarity with the principles and requirements relative to industrial hygiene, worker safety, emergency procedures and environmental protection as such principles and requirements relate to the nature of the hazardous waste managed at the facility in which said person is to have, or does have, supervisory responsibility and as such principles and requirements relate to the type storage, treatment and/or disposal in such facility;

(5) Has a basic knowledge of the principles of operation and standard operating procedures for all equipment used in the facility in which said person is to have, or has, supervisory responsibility; and

(6) Is a citizen of the United States, of good moral character with no prior conviction of a felony or a crime of moral turpitude.

c. No employee of a hazardous waste management facility shall be assigned the duties of transferring, handling, sorting, mixing, treating or disposing of hazardous waste unless that employee meets the requirements set out in 40 CFR 264.16 (a), (b) and (c).

d. No employee of a commercial hazardous waste management facility shall be assigned the duties of transferring, handling, sorting, mixing, treating or disposing of hazardous waste unless that employee has demonstrated his/her capabilities of:

(1) Reading and comprehending label instructions, operational procedures, contingency plans and regulatory directives;

(2) Understanding the basic nature of the materials which he/she is assigned to transfer, handle, sort, mix, treat or dispose relative to the material's reactivity, toxicity, explosiveness and flammability; and

(3) Operating all equipment which he is assigned to operate, including personal safety and emergency equipment.

e. The owner or operator of a hazardous waste management facility must maintain the records required in 40 CFR 264.16(d).

f. Owners and/or operators of commercial hazardous waste management facilities shall:

(1) Maintain complete updated records of all workers assigned to a specific job including name, address, date of starting specific job and date of termination of specific job;

(2) Maintain a complete previous employment history and a complete job mobility history within the facility kept for each employee;

(3) Have their personnel trained in contingency procedures as prescribed in the facility's contingency plan, which plan has been submitted and approved pursuant to this Regulation;

(4) Have their personnel take part in a semiannual review and update of their initial training in contingency procedures and other hazardous waste management procedures relevant to those operations at which they are employed; and

(5) Have each of their personnel undergo an annual health physical and said personnel's spouses shall be offered an annual health physical, the specifics of which are deemed appropriate by the Department, including health histories, reproductive history and health histories of all offspring, with records of each of these physicals available to the Department upon request with the written consent of the individual. Consent will be given on a waiver form approved by the Department written in such a fashion as to allow dissemination of information to the Department or to authorized representatives designated in writing by the Department.

g. The owner or operator of a hazardous waste management facility shall promptly modify the training required of its employees whenever required to do so upon the direction of the Department or whenever modification in training is required as a condition of permit; provided, however, that preliminary training, approved by the Department, will have been completed prior to commencement of operation of a new hazardous waste management facility or prior to commencement of an operation in an existing facility for which a permit has been issued or modified.

## **Section 11. Fees and Costs.**

### **Permit Fees**

a. Any person who applies for a permit for the construction, operation, and/or post closure care of a hazardous waste management facility or unit shall submit as part of said application a money order or cashier's check payable to the Department to cover permit fees in accordance with the following schedule(s):

(1) Permits for Construction/Operation - Commercial Facility:

- (a) Initial permit application fee - \$20,000 plus waste management activity fee (subsection b).
- (b) Unsolicited application amendment fee (during application review process) - \$500.
- (c) Permit renewal fee - Initial application fee plus waste management activity fee (subsection b).
- (d) Annual permit evaluation fee - \$10,000 plus waste management activity fee (subsection b).

(2) Permits for Construction/Operation - Noncommercial Facility:

- (a) Initial permit application fee - \$5,000 plus waste management activity fee (subsection b).
- (b) Unsolicited application amendment fee (during application review process) - \$500.
- (c) Permit renewal fee - Initial application fee plus waste management activity fee (subsection b).
- (d) Annual permit evaluation fee - \$2,500 plus waste management activity fee (subsection b).

(3) Permits for Post Closure Care Only - Commercial Facility:

- (a) Initial permit fee - \$2,500.
- (b) Unsolicited application amendment fee (during application review process) - \$250.
- (c) Permit renewal fee - \$2,500.
- (d) Annual permit evaluation fee - \$1,250.

(4) Permits for Post Closure Care Only - Noncommercial Facility:

- (a) Initial permit fee - \$1,000.
- (b) Unsolicited application amendment fee (during application review process) - \$100.
- (c) Permit renewal fee - \$1,000.
- (d) Annual permit evaluation fee - \$500.

(5) Annual permit evaluation fees will not be assessed during the years in which permit renewal fees are assessed for commercial and noncommercial facilities.

b. Each hazardous waste management facility or unit in which hazardous wastes are treated, stored or disposed will be assessed an additional fee (unless said fees are specifically excluded in subsections (c) and (d) below) for the type of waste management activity(ies) being conducted, in accordance with the schedule listed below. Fees addressed by this section shall be assessed and collected with the initial permit application fee, the permit renewal fee, and annual permit evaluation fee and are based on the permitted maximum design capacities (including accumulated solids, where applicable), unless specified otherwise:

(1) Container Storage.

- (a) Commercial - \$2.00/100 gallons (or equivalent volume)
- (b) Noncommercial - \$1.00/100 gallons (or equivalent volume).

(2) Tank Treatment and/or Storage.

- (a) Commercial - \$2.00/1000 gallons (or equivalent volume)
  - (b) Noncommercial - \$1.00/1000 gallons (or equivalent volume).
- (3) Waste Pile Storage and/or Disposal.
- (a) Commercial - \$0.25/cubic yard (or equivalent volume)
  - (b) Noncommercial - \$0.13/cubic yard (or equivalent volume).
- (4) Surface Impoundment Treatment, Storage, and/or Disposal.
- (a) Commercial - \$5.00/1000 gallons (or equivalent volume).
  - (b) Noncommercial - \$2.00/1000 gallons (or equivalent volume).
- (5) Land Treatment/Land Farm Treatment or Disposal.
- (a) Commercial - \$5000/acre.
  - (b) Noncommercial - \$2500/acre. (Fee based on active portion only.)
- (6) Landfill Disposal.
- (a) Commercial - \$500/acre feet.
  - (b) Noncommercial - \$250/acre feet. (Fee based on active portion only.)
- (7) Incineration, Boilers, Industrial Furnaces, and other Thermal Treatment (excluding Open Burning/Detonation of Waste Explosives).
- (a) Commercial - \$500/ton/hr.
  - (b) Noncommercial - \$250/ton/hr. (Fee based on waste feed rate.)
- (8) Open Burning/Detonation of Waste Explosives.
- (a) Commercial - \$0.20/lb./hr.
  - (b) Noncommercial - \$0.10/lb./hr.
- (9) Other Physical, Chemical, or Biological Treatment (not otherwise addressed in (1) - (8) above).
- (a) Commercial - \$5.00/100 gallons/day (or equivalent volume).
  - (b) Noncommercial - \$2.50/100 gallons/day (or equivalent volume).

c. The provisions of subsection (b) do not apply to impoundments, tanks or other storage devices which are an integral part of wastewater treatment systems required to have a NPDES discharge permit.

d. Underground Injection Control (UIC) facilities which are subject to permitting for corrective action under 40 CFR 264.101 and 40 CFR 270.60, but not otherwise subject to permitting as a hazardous waste management facility, shall submit a money order or cashier's check payable to the Department as set forth below:

- (1) Commercial facility.
  - (a) Initial application fee - \$25,000.
  - (b) Permit renewal fee - \$10,000.
  - (c) Annual permit evaluation fee - \$2,500.

- (2) Noncommercial facility.
  - (a) Initial application fee - \$10,000.
  - (b) Permit renewal fee - \$5,000.
  - (c) Annual permit evaluation fee - \$1,500.

e. Permit modification applications, other than minor modifications as defined in 40 CFR 270.42, must be accompanied by a money order or cashiers check payable to the Department. The fee shall be 50% of the initial permit application fee as set forth in subsection (a). If additional waste management activities are applied for or operating capacities increased, an additional waste management fee shall be calculated from subsection (b) and added to the modification fee total.

f. The maximum annual amount of fees collected for any hazardous waste management facility permit pursuant to provisions of subsections (a), (b), (d), and (e) shall not exceed \$30,000 for noncommercial facilities or \$60,000 for commercial facilities, provided, however, that the Department may require such additional fees to be collected from the owner or operator of a commercial hazardous waste management facility as it deems necessary to compensate it for costs of providing on-site inspectors under subsection (g).

g. In addition to fees required by subsections (a)-(e) any facility which as a condition of its permit is required to have on-site inspectors shall, prior to the Department's issuance of permit, submit a money order or cashiers check payable to the Department in the amount of one fourth the estimated annual cost to the Department of maintaining such inspectors and shall submit quarterly thereafter a money order or cashiers check payable to the Department in the amount of one fourth the aforesaid estimated annual costs. The Department may enter into contractual agreement with qualified engineering and testing firms to conduct inspections as described above.

h. Any person who applies for an annual permit to transport hazardous waste within the State of Arkansas shall submit along with the application required in § 12 of this Regulation, a money order or cashiers check in the amount of \$200 payable to the Department to cover annual permit fees and costs.

#### **Hazardous Waste Facility Operator Fees**

i. Any person who applies to the Department for certification as an operator of a commercial hazardous waste management facility shall submit as part of that application a money order or cashiers check of \$100 payable to the Department for initial application and \$25 annually thereafter for renewal of the certification. Nonpayment of the renewal fee within thirty (30) days of the anniversary date of issuance will cause automatic termination of the certification.

#### **Closure Plan Fees**

j. Any person who submits a closure plan (partial or final) shall submit as part of said plan a money order or cashiers check payable to the Department to cover closure plan fees as set forth below. The fees associated with this subsection are not applicable to closure plans submitted as part of an application (Part B permit application) for an operational permit.

##### (1) Container Storage Areas and Tank Units:

###### (a) Initial Fee

- (1) Commercial Facility - \$1500/unit.
- (2) Noncommercial Facility - \$1250/unit.

(b) Modification Fee

- (1) Commercial Facility - \$750/unit.
- (2) Noncommercial Facility - \$625/unit.

(2) Incinerators, Boilers, Industrial Furnaces, and other Thermal Treatment Units.

(a) Initial Fee

- (1) Commercial Facility - \$3000/unit.
- (2) Noncommercial Facility - \$1500/unit.

(b) Modification Fee

- (1) Commercial Facility - \$1500/unit.
- (2) Noncommercial Facility - \$750/unit.

(3) Waste Pile, Land Treatment, Surface Impoundment, and Landfill Units:

(a) Initial Fee

- (1) Commercial Facility - \$7000/unit.
- (2) Noncommercial Facility - \$3500/unit.

(b) Modification Fee

- (1) Commercial Facility - \$3500/unit.
- (2) Noncommercial Facility - \$1750/unit.

(4) Open Burning/Open Detonation Units:

(a) Initial Fee

- (1) Commercial Facility - \$7000/unit.
- (2) Noncommercial Facility - \$3500/unit.

(b) Modification Fee

- (1) Commercial Facility - \$3500/unit.
- (2) Noncommercial Facility - \$1750/unit.

(5) Other Treatment Units:

(a) Initial Fee

- (1) Commercial Facility - \$7000/unit.
- (2) Noncommercial Facility - \$3500/unit.

(b) Modification Fee

- (1) Commercial Facility - \$3500/unit.
- (2) Noncommercial Facility - \$1750/unit.

k. The maximum initial closure plan fee collected pursuant to subsection (j) shall not exceed \$5,000 for noncommercial facilities or \$10,000 for commercial facilities. A modification fee is not applicable if an amendment to the closure plan is made necessary due to changes in regulations which become effective subsequent to submissions of the closure plan for approval.

**Monitoring/Inspection Fees**

l. All treatment, storage, and disposal facilities (TSDF) shall be charged an annual monitoring/inspection fee as set forth below:

- (1) Commercial treatment, storage or disposal facilities - \$1,500.
- (2) Noncommercial treatment or disposal facilities - \$1,000.
- (3) Noncommercial storage facilities - \$750.

Each TSDF shall submit a money order or cashiers check payable to the Department by January 1 of each calendar year beginning January 1, 1990, and annually thereafter.

m. All generators of 250,000 pounds or more of hazardous waste per year shall be charged an annual monitoring/inspection fee of \$500. Each generator shall submit a money order or cashiers check payable to the Department by January 1 of each calendar year beginning January 1, 1990, and annually thereafter.

n. All generators of 26,401 to 249,999 pound of hazardous waste per year shall be charged an annual monitoring/inspection fee of \$250. Each generator shall submit a money order or cashiers check payable to the Department by January 1 of each calendar year beginning January 1, 1990, and annually thereafter.

o. All small quantity generators (persons generating 220 pounds to 2200 pounds per month of hazardous waste) shall be charged an annual monitoring/inspection fee of \$100. Each small quantity generator shall submit a money order or cashiers check payable to the Department by January 1 of each calendar year beginning January 1, 1990, and annually thereafter.

p. The fees associated with subsections (l), (m), (n) and (o) shall be in addition to any fees specified elsewhere in this § 11. Monitoring and inspection fees are billed according to the reported waste generation or activity in the last annual reporting cycle (e.g., fees for 1992 would be based upon 1990 waste generation or activity, the most current annual report on file at the time invoices are prepared).

**Miscellaneous Fees and Costs**

q. Whenever the Department incurs an expense as a result of investigating any violation of this Regulation or as a result of responding to and monitoring the effects of, spills of hazardous waste, including upset conditions within a hazardous waste management facility or other location which generates or handles hazardous waste, the Director may require the person responsible for such violation, spill or upset condition to submit a money order or cashiers check to the Department associated with the Department's response, investigations and monitoring activities. The charges associated with this subsection (q) shall be in addition to any fees specified elsewhere in this § 11.

r. Arkansas Hazardous Waste Manifest forms to be used by § 16 of this Regulation shall be purchased from the Department for a fee of \$2.00 per manifest, for the purpose of offsetting the cost of reproducing, distributing and processing such manifests.

s. Fees collected under this Section shall not be refunded should a permit application or certification be disapproved pursuant to the provisions of this Regulation or voluntarily withdrawn by the applicant. Nothing in this subsection shall prohibit the Department from crediting unused portions of fees from permitted facilities toward future fees.

t. All fees pursuant to this § 11 are due and payable in accordance with each subsection. A late fee of ten (10) percent of the total fee shall be charged for any fees unpaid after forty five (45) days from the billing date. No permit will be issued when indebtedness exists as a result of nonpayment of any of the above fees. Continued refusal to pay the required fees after a reasonable notice shall constitute a violation of this Regulation and shall be grounds for legal action by the Department, which may include permit revocation.

u. A financial assessment of the fee system shall be presented to the Commission annually by the Director.

v. Fees and costs associated with the public participation proceedings regarding permit applications or permit decisions shall be borne by the permit applicant. Such costs shall include, but are not limited to, charges for third parties such as publication fees, rental charges for hearing halls, professional charges for recording and transcription, and similar expenses associated with the public participation proceedings.

#### **Section 12. Permits Procedure - Permits by Rule.**

In addition to the provisions of 40 CFR 124 and 40 CFR 270 which are incorporated by reference in § 3 of this Chapter and in addition to the other provisions of this Chapter, the Act, and the other requirements imposed by law and regulations applicable thereto, the following provisions apply:

##### **a. Existing Facilities:**

(1) Facilities in existence on March 14, 1979, which are required to have a permit under the Act may continue in operation until such time as a permit is issued or denied under this Chapter and Regulation, provided that the owner or operator of such facility made application to the Department on the initial state application form on or before September 4, 1979; and provided that such facilities also comply with the other provisions of this Section and the provisions of 40 CFR 270.10 and 270.71-73 which are adopted by reference in § 3.

(2) Owners and operators of hazardous waste management facilities, in existence as of the effective date of provisions adopted in this Regulation which first subject them to compliance with the standards of this Regulation and 40 CFR 265, must submit Part A of their permit application to the Department no later than (i) six months after the date of publication of regulations in this Regulation which first require them to comply with the standards set forth in this Regulation and 40 CFR Part 265, or (ii) thirty days after the date they first become subject to the standards set forth in this Regulation and 40 CFR Part 265, whichever first occurs.

(3) The Director may extend the date by which owners and operators of specific classes of existing hazardous waste management facilities must submit their initial state application and/or Part A of their permit application if he finds that 1) there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application; and 2) such confusion is attributed to ambiguities in 40 CFR Parts 260, 261 or 265.

(4) The Director may by Administrative Order issued under the Act, this Regulation, and Regulation No. 8, extend the date by which the owner or operator of an existing hazardous waste management facility must submit the initial state application and/or Part A of their permit application.

(5) The Director may require submission of Part B from any facility at any time. Any owner or operator shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit Part B of the application at any time.

(6) Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status.

(7) Any person who owns or operates an existing hazardous waste management facility shall have interim status and shall be treated as having been issued a permit to the extent he or she has complied with the requirements of Arkansas Code, Annotated, § 8-7-218, as amended, § 5(c) and paragraph (1) through (5) above, and § 3010(a) of RCRA.

(8) If the Department determines that a Part A application is deficient it may notify the owner or operator that he or she is not entitled to interim status. The owner or operator will then be subject to enforcement for operating without a permit.

(9) Nothing in this Section shall be construed to allow commercial hazardous waste landfill facilities to store, treat, bury, dispose or otherwise process hazardous waste without first obtaining a permit from the Department under this Chapter and Regulation.

b. Permit Applications - General.

(1) For each hazardous waste described in response to the requirements of 40 CFR 270.13(i), the application shall include the name and location of the generator of the wastes.

(2) The contingency plan required under 40 CFR 270.14 shall include evidence that such plan has been developed in consultation with the fire department having jurisdiction and by the Mayor or City Manager of the municipality or by the County Judge of the county in which the facility is to be located.

(3) The procedures required under the provisions of 40 CFR 270.14(b) shall include a full description of all laboratory equipment, sampling procedures and analytical procedures which would be employed to identify, segregate or locate hazardous waste within the facility.

(4) The owner of a hazardous waste disposal facility shall provide long term financial responsibility as the Department may deem appropriate, taking into account the nature of the facility and the nature of waste stored, treated or disposed of in such facility. The financial responsibility required under this paragraph shall provide funds for claims arising out of injury to persons and property from the release or escape of hazardous waste to the environment during sudden or accidental occurrences and shall provide for reimbursement of expenses incurred by the Department or the State of Arkansas for cleanup or maintenance, monitoring or such other activities as may be necessary. The financial responsibilities required hereunder shall be for such period as determined by the Department.

(5) The owner or operator of a hazardous waste disposal facility shall provide contracts, agreements and such other documentation as may be required to demonstrate to the Director's reasonable satisfaction that the waste which is proposed to be disposed of is waste which results from the treatment of waste to the full extent of known technology and economics or is waste for which there is no technically and economically feasible means of treatment available.

(6) Part A of the application for hazardous waste landfills shall contain evidence of such forms of assurance including full fee ownership of lands and all mineral rights thereto, to ensure that the owner of the landfill for which application is made has the legal authority to commit lands used for the landfill to

perpetual security and that said owner has made such legally binding arrangements as necessary to protect the integrity of the surface and subsurface area of the landfill in perpetuity.

(7) Any person who submits an application for a new or existing hazardous waste management facility permit to the Department (including requests to modify or transfer an existing permit) shall give notice to the public by publishing a notice in the newspaper having the largest circulation published in the county in which the facility is, or is proposed to be located, as well as publishing a notice in the newspaper having the largest circulation published in each adjoining county. If there is no newspaper published in any of the counties so affected the notice shall be published in the newspaper(s) having the largest circulation in such county or counties. The notice shall contain:

- (a) The name, title and address of the applicant;
- (b) The location of the unit and/or facility, including a description of the boundaries of such unit and/or facility;
- (c) The nature of the facility (storage, treatment or disposal) and brief description of how waste is to be stored, treated or disposed of at the unit and/or facility which is the subject of the application; and
- (d) The type of hazardous wastes to be managed at the unit and/or facility.

Proof of publication of the above notice shall be submitted to the Department within thirty (30) days of submission of the application.

(8) Any person who submits a permit application for a new or existing hazardous waste management facility permit to the Department (including requests to modify or transfer an existing permit) shall provide written notice to all landholders and tenants of property contiguous to the proposed or existing facility. This notice shall be sent by certified mail, return receipt requested, and shall contain:

- (a) The name, title, and address of the applicant;
- (b) The location of the unit and/or facility, including a description of the boundaries of such unit and/or facility;
- (c) The nature of the unit or facility (storage, treatment, or disposal) and a brief description of how wastes are to be stored, treated, or disposed of at the unit or facility which is the subject of the application; and
- (d) The type(s) of hazardous wastes to be managed at the unit or facility.

The applicant shall submit to the Department documentation of its good faith effort to identify all such contiguous landholders and tenants and proof of notification within thirty (30) days of the application.

#### c. Permit Issuance.

(1) A permit may not be transferred, issued or modified except with the approval of the Department, provided, however, emergency authorization may be issued by the Director in accordance with the provisions of 40 CFR 270.61 - 270.63.

(2) No permit shall be issued for the construction, modification or operation of a hazardous waste management facility unless the Department finds, after public hearings as provided herein, that said

construction, modification or operation is, or will be, in compliance with the provisions of this Chapter and Regulation including those provisions of 40 CFR 124, 40 CFR 264, 40 CFR 265, and 40 CFR 267 and 40 CFR 270, incorporated herein. The Department may establish additional requirements as conditions of permit where it deems such conditions necessary to protect the public health and the environment.

(3) The Department may grant variances in accordance with the provisions of A.C.A. § 8-7-211, provided that said variances shall not provide terms less stringent than those set by the federal regulations incorporated in § 3 of this Regulation or, as to such federal regulations as are not incorporated therein, terms less stringent than provisions of this Chapter and Regulation analogous to such federal regulations.

(4) Upon receipt of an application for permit for a hazardous waste management facility, the Director shall cause the permit to be processed in accordance with the applicable procedures of 40 CFR 124, Subpart A incorporated herein and in accordance with the provisions of this Regulation.

(5) The Director may authorize qualified persons interested in a pending application to enter upon the proposed site and make such relevant surveys and tests as the Director authorizes, under such conditions as required by the Director and upon sufficient notice to the applicant. All results of surveys or tests will be provided to both the Department and the permit applicant and all costs of surveys or tests will be borne by the party or parties requesting them. The Director will further insure that the permit applicant will have an opportunity to make a satisfactory showing (as provided in § 6 of this Regulation) that certain information which could meet criteria for being treated as confidential will not be collected by or disclosed to any individual other than authorized personnel of the Department.

(6) No permit shall be issued for a commercial hazardous waste management facility unless a public hearing is held in accordance with the provisions of subparagraph (9) below. No permit for noncommercial hazardous waste management facilities shall be issued unless the Department first gives a 45 day opportunity for public comment as provided in 40 CFR 124.10. Where written objection to the issuance of a permit for a noncommercial hazardous waste management facility is filed within the 45 day comment period, no permit shall be issued unless a public hearing is held in accordance with the provisions of subparagraph (9) below.

(7) Prior to drafting the permit for any hazardous waste management facility, the Department may hold a preliminary hearing, for information purposes, in the area in which the facility is, or is to be located. The hearing may be held by giving no less than ten (10) days notice in the newspaper having the largest circulation in the county in which the facility is, or is proposed to be located and the newspaper having the largest circulation in each adjoining county. The notice shall provide: 1) the time, date and location of the hearing; 2) the purpose of the hearing; and 3) the location(s) where the application and all supporting information is available for public review.

(8) A 45 day notice of public hearing on the draft permit shall be given in the manner described in subparagraph (7) above. The notice shall provide:

- (a) The time, date and location of the hearing;
- (b) The purpose of the hearing;
- (c) The name and address of the applicant and the location where the facility is, or is proposed to be located;
- (d) The tentative recommendation of the Department;
- (e) The location(s) where copies of the application, the Department's recommendations

and all supporting documentation can be reviewed by the public;

(f) Procedures for submitting public comments into the hearing record.

(9) The public hearing required under subparagraph (8) above shall be in the area where the facility is or is proposed to be located. A record of hearing shall be made and retained as part of the administrative record of each application for review by the Commission.

(10) Any person who applies for a permit for transportation of hazardous waste within the State of Arkansas shall submit an application on forms as prescribed by the Department. This permit is renewable annually.

(a) Persons transporting hazardous wastes by highway shall also comply with the permitting, and other requirements, of the Arkansas Highway and Transportation Department. No permit shall be issued by ADPC&E unless the applicant for said permit shall have first received a permit from the Arkansas Highway and Transportation Department and provided a copy of said permit to ADPC&E.

(b) Persons transporting hazardous waste by water, rail, or air shall comply with applicable state and federal rules and regulations governing such transportation in addition to the requirements of this Regulation.

(11) In addition to the requirement of 40 CFR 265.119, a permittee shall submit to the Department, as part of the annual permit review process, a plat of any landfill disposal area in which waste has been deposited. Such plat shall clearly delineate the location of all wastes and its type, referenced to established benchmarks.

d. Upon receipt of federal Hazardous and Solid Waste Act ("HSWA") authorization for the Arkansas Department of Pollution Control and Ecology's Hazardous Waste Management Program, the Department shall be authorized to and shall enforce the HSWA provisions imposed by the Environmental Protection Agency in hazardous waste permits that were issued before the HSWA authorization was granted. ADPC&E, jointly with EPA, will notify permitted facilities in writing of the specific provisions which will become the state agency's responsibility as a result of the additional authorization and of the effective date of the changeover. This notification will serve as an addendum to the permit. Permits pending at the time of authorization will be modified to properly identify specific provisions for which the Department has primary responsibility.

e. Disclosure Statements. Pursuant to the provisions of Act 454 of 1991 (A.C.A. 8-1-106), all applicants for a RCRA treatment, storage, or disposal permit for a hazardous waste management facility or a hazardous waste transporter permit shall submit a disclosure statement with their permit application. The submission of a disclosure statement is mandatory; no application can be considered complete without it. The disclosure statement shall be an original, written statement by the applicant which contains:

(1) The full name, business address, and social security number of the applicant and all affiliated persons;

(2) The full name and business address of any legal entity in which the applicant holds a debt or equity interest of five percent (5%) or more, or which is a parent company or subsidiary of the applicant, and a description of the ongoing organizational relationships as they may impact the applicant's operations in Arkansas;

(3) A description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental regulation;

(4) A listing and explanation of any civil or criminal enforcement actions by governmental agencies involving environmental protection laws against the applicant or any affiliated person within the ten years immediately preceding the filing of the application, to include administrative enforcement actions or consent orders resulting in the imposition of sanctions, permit or license revocations or denials issued by any state or federal authority, any actions that have resulted in a finding or a settlement of a violation, and any similar action pending;

(5) A listing of any federal environmental agency and any other environmental enforcement agency that has or has had regulatory responsibility over the applicant; and

(6) Any other additional information the Director may require which relates to the competency, reliability, or responsibility of the applicant and any affiliated person.

(7) If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly-owned subsidiary of a publicly-held company, he may submit, in lieu of a disclosure statement, a copy of the most recent annual and quarterly reports required by the Securities and Exchange Commission. The applicant shall also submit any other information required by the Director which relates to the competency, reliability, or responsibility of the applicant and any affiliated person.

### **Section 13. Performance Standards**

a. In addition to the provisions of 40 CFR 264, 265, and 270 incorporated herein and the other provisions of this Chapter and Regulation, the following standards apply to hazardous waste management facilities:

(1) 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 1) the Department shall find that a lesser volume is required to provide adequate protection of public health and safety; or 2) the applicant shall affirmatively demonstrate and the Department finds that such a restriction shall unduly inhibit the use of the most acceptable method or methods available for treatment.

(2) The requirements of subsection (a) (1) of this section shall not apply to wastewater treatment facilities which are designed and operated to meet state and federal water pollution control regulations.

(3) Each facility shall be designed to operate and shall be operated in such a manner that emissions from the facility will comply with the provisions of the Arkansas Hazardous Waste Management Act of 1979, as amended, the provisions of this Regulation and all applicable state and federal standards concerning air and water quality and that the transfer, handling and storage of materials will 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 facility; and

(4) 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 Manufacturers Association's "A System for Management of Hazardous Waste 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 the 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 the toxicity of the waste results primarily from inorganic materials which are not destroyed by incineration.

The Director may give a waiver to this paragraph (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.

(5) The following materials shall not be disposed of in landfills permitted under this Chapter and Regulation:

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

(b) 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 40 CFR 264.316 or 265.316, as applicable and is disposed of in accordance with 264.316 or 265.316 as applicable.

(c) Municipal refuse which is not hazardous waste.

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

(6) In lieu of the standards at 40 CFR 264.571(b), the following standards apply:

For immediate protection of the environment, all existing drip pads, regardless of age, must have an impermeable coating or cover in place not later than September 30, 1995. In addition, the owner or operator must develop a written plan for the eventual upgrading, repairing, and modifying of the drip pad to meet the requirements of 40 CFR 264.573(b) within 15 years from the effective date of this rule, and submit the plan to the Director no later than 2 years before the date that all ultimate drip pad repairs, upgrades, and modifications will begin. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 264.573 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent qualified Arkansas-registered professional engineer. Detailed construction plans and specifications and construction quality assurance plans to accomplish the provisions of the written plan required above must be submitted to the Director six (6) months prior to any construction or upgrades (including the impermeable coating). Compatibility information for the impermeable coating or cover and procedures for drip pad surface preparation must also be provided to ADPC&E. These submittal requirements apply to the impermeable coating and upgrades to existing pads, as well as to new pads. All other upgrades, repairs, and modifications must be completed in accordance with the following:

(a) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must be completed within two years of the effective date of this rule, or when the drip pad has reached 15 years of age, whichever comes later.

(b) For existing drip pads for which the age cannot be documented, within 8 years of the effective date of this rule, but if the age of the facility is greater than 7 years, all upgrades, repairs and

modifications must be completed by the time the facility reaches 15 years of age or by two years after the effective date of this rule, whichever comes later.

(c) If the owner or operator believes that the drip pad will continue to meet all of the requirements of 40 CFR 264.573 after the date upon which all upgrades, repairs and modifications must be completed as established under paragraphs (6)(a) and (b) of this section, the owner or operator may petition the Director for an extension of the deadline specified in paragraph (6)(a) or (b) of this section. The Director will grant the petition for extension based on a finding that the drip pad meets all of the requirements of 40 CFR 261.573 and this Regulation, except for those for liners and leak detection systems specified in this paragraph, and that it will continue to be protective of human health and the environment.

(7) In lieu of the standards at 40 CFR 264.573(a)(4), the following standards apply:

[Drip pads must] Be impermeable, e.g., concrete pads must be coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. Penetrating sealants are not adequate to meet this coating or cover requirement.

*Note: The requirement that existing drip pads be impermeable, e.g., that drip pads be sealed, coated, or covered with an impermeable material was in the past administratively stayed. This stay remained in effect until October 30, 1992. All existing drip pads, regardless of age, must have an impermeable coating or cover in place by September 30, 1995. A new drip pad or an existing drip pad, after this deadline established for modifying existing drip pads, must meet the above requirements for impermeability.*

(8) In addition to the standards at 40 CFR 264.601, the following standards apply:

The open burning or the open detonation of hazardous wastes on unprotected ground surfaces is prohibited. Open burning or open detonation of wastes must be conducted in or on a containment device elevated above ground level. The containment device must be sufficiently impermeable so as to prevent the leaching or migration of waste residues into the soil beneath or around the containment device. The design shall be such that protection against stormwater or other run-on or run-off is provided.

Open burning of hazardous wastes shall not be allowed when alternate technologies are available and feasible. Applicants for a permit for open burning or open detonation of hazardous wastes shall be required to demonstrate that no reasonable alternative to open burning or detonation exists prior to the approval of such a permit.

(9) In lieu of the standards at 40 CFR 265.441(b), the following standards apply:

For immediate protection of the environment, all existing drip pads, regardless of age, must have an impermeable coating or cover in place not later than September 30, 1995. In addition the owner or operator must develop a written plan for the eventual upgrading, repairing, and modifying of the drip pad to meet the ultimate requirements of 40 CFR 265.443(b) within 15 years from the effective date of this rule, and submit the plan to the Director no later than 2 years before the date that all ultimate drip pad repairs, upgrades, and modifications will begin. Compatibility information for the impermeable coating or cover and procedures for drip pad surface preparation must also be provided to ADPC&E. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 263.443 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent qualified Arkansas - registered professional engineer. Detailed construction plans and specifications and construction quality assurance plans to accomplish the provisions of the written plan described above must be submitted to the Director six (6) months prior to any construction or upgrades, including the impermeable coating or cover. All other upgrades, repairs, and

modifications must be completed in accordance with the following:

(a) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must be completed within two years of the effective date of this rule, or when the drip pad has reached 15 years of age, whichever comes later.

(b) For existing drip pads for which the age cannot be documented, within 8 years of the effective date of this rule, but if the age of the facility is greater than 7 years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by two years after the effective date of this rule, whichever comes later.

(c) If the owner or operator believes that the drip pad will continue to meet all of the requirements of 40 CFR 264.573 after the date upon which all upgrades, repairs and modifications must be completed as established under paragraphs (6)(a) and (b) of this section, the owner or operator may petition the Director for an extension of the deadline specified in paragraph (6)(a) or (b) of this section. The Director will grant the petition for extension based on a finding that the drip pad meets all of the requirements of 40 CFR 261.573, except for those for liners and lead detection systems specified in this paragraph, and that it will continue to be protective of human health and the environment.

(10) In addition to the standards at 40 CFR 264.175, the following standards apply:

The containment structure must have an impermeable coating on all surfaces, including side walls and curbs, sufficiently high so as to extend above any contained spill. Penetrating sealants are not adequate to meet this coating requirement.

(11) In lieu of the standards at 265.443(a)(4), the following standards apply:

[Drip pads must] Be impermeable, e.g., concrete pads must be coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. Penetrating sealants are not adequate to meet this coating or cover requirement.

*Note: The requirement that existing drip pads be impermeable, e.g., that drip pads be sealed, coated, or covered with an impermeable material was in the past administratively stayed. This stay remained in effect until October 30, 1992. All existing drip pads, regardless of age, must have an impermeable coating or cover in place by September 30, 1995. A new drip pad or an existing drip pad, after this deadline established for modifying existing drip pads, must meet the above requirements for impermeability.*

#### **Section 14. Health Monitoring and Hazard Identification**

In addition to the requirements to 40 CFR Part 264, 265 and 270 incorporated herein the following provisions shall be complied with:

a. Prior to the operation of a new commercial hazardous waste management facility, the Department may request that the appropriate health agency have a survey conducted, at reasonable cost, to establish baseline health data. Such survey shall:

(1) Be conducted by a person approved by both the Department and the health agency;

(2) Investigate the prevalence of those health conditions deemed appropriate by the Department in consultation with the Arkansas Department of Health and other health agencies;

(3) Be completed among a statistically representative portion of the population located within an area defined as likely to be impacted on the basis of information describing the type of facility, nature of the operation, type of waste managed and proximity to major water sources or other likely vehicles for dissemination in the environment.

b. Whenever the Department finds that there exists a reasonable probability that emissions from any hazardous waste management facility are related to disease etiology, it shall have conducted pertinent epidemiologic investigations in order to ascertain early identification of unknown health hazards and to effect the appropriate corrective intervention. Such investigation shall be subject to the provisions of § 11k of this Regulation and limited to reasonable cost.

### **Section 15. Ownership Disclosure for Commercial Waste Facilities**

In addition to the requirement of 40 CFR Part 264, 265 and 270 incorporated herein the following provisions shall be complied with:

a. The following information shall be submitted along with Part A of any permit application for a commercial hazardous waste management facility.

(1) If the permit applicant is not an individual, the nature of its business operations shall be stated for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence.

(2) A chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant shall be furnished. No affiliate need to be identified if its total assets are equal to or less than 1/2 of 1% total assets of the ultimate controlling person affiliated with the applicant. Such a chart should indicate or list the percentage voting securities of each such person which is owned or controlled by the applicant or by any other person. If control of any person is maintained other than basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction or domicile.

(3) State the following with respect to 1) the permit application if he or she is an individual or 2) all individuals who are directors, executive officers or owners of 10% or more of the voting securities of the permit applicant if the applicant is not an individual:

(a) Name and business address;

(b) Present principal business activity, occupation or employment position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business, corporation, position, office or employment carried on; and

(d) Whether or not such individual has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, giving the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

(4) The following additional information shall be furnished concerning the ultimate controlling person if different from the applicant:

- (a) The principal executive office address;
- (b) The principal business of the person;
- (c) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to the owner and the percentage of class so held or owned; and
- (d) With respect to directors and executive officers of the ultimate controlling person, the individual's name and address, his principal occupation and all offices and positions held during the previous five years and any conviction of crimes other than minor traffic violations during the past ten years.

(5) The permit applicant shall provide a brief description of any litigation or administrative proceeding of the following types, either pending or concluded within the preceding year, to which the applicant (and the ultimate controlling person, if different from the applicant) or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; the names of the parties and the court or agency in which such litigation or proceeding is or was pending shall be given:

- (a) Administrative or judicial proceedings of any state or federal agency or authority concerning environmental violations;

- (b) Proceedings which may have a material effect upon the solvency of the ultimate holding company, including, but not necessarily limited to, bankruptcy and receivership; and

- (c) Criminal proceedings.

(6) The permit applicant shall disclose on an annual basis any changes in the information requested under subsections a(2), (3), (4) and (5) of this Section.

b. Every person who becomes the owner of 10% or more of any voting security of a permittee or the ultimate controlling person subsequent to the issuance of a permit shall report within ten (10) days of becoming such owner or controlling person the information required under a(3).

c. In addition to the requirements of 40 CFR 270.14, a change of the ultimate controlling authority from one ultimate controlling person to another is deemed a transfer of permit subject to the prior approval of the Department. An application requesting such approval must contain at least the following information:

- (1) A description of the nature, source and amount of funds or other considerations to be used in affecting the merger or other acquisitions of control;

- (2) The number and percentage or shares of the voting securities which the acquiring person plans to acquire and the terms of the offer, request, invitation, agreement or acquisition; and

- (3) All information required under subsection (a) of this Section concerning the acquiring person.

#### **Section 16. Hazardous Waste Transportation and Reporting**

In addition to the provisions of 40 CFR 262, 263, 264 Subpart E, and 265 Subpart E which are adopted by reference in § 3, the following provisions apply to the transportation of hazardous wastes in Arkansas:

a. Requirements for the Transportation of PCBs:

In addition to the hazardous waste determination set forth in 262.11 a person who generates a solid waste must also determine if the waste constitutes "PCBs", "PCB items", "PCB transformers", or "PCB contaminated electrical equipment" as those terms are defined in 40 CFR 761.2. Such wastes are hazardous wastes as per § 2a(5) of this Regulation, and generators of such wastes must comply with the following:

(1) Each generator or transporter of PCB wastes as determined in subsection (a) who has not otherwise obtained an EPA identification number pursuant to 262.12 may not transport or offer for transportation PCB wastes without having received a "PCB identification number" from ADPC&E;

(2) 40 CFR Part 262 Subparts A, B, C, D, and E (except 262.12, and 262.41) as adopted by reference in § 3 (except that PCB generators are exempted from the waste minimization statement);

(3) 40 CFR Part 263 Subpart A, B, and C as adopted by reference in § 3;

(4) 40 CFR Part 264 Subpart E only, except 264.75 as adopted by reference in § 3;

(5) 40 CFR Part 265 Subpart E only, except 265.75 as adopted by reference in § 3;

(6) All the provisions of subsections (b), (c), and (d) of this § 16.

b. Transportation of Waste from Generators of over 100 kgs per month:

In addition to the hazardous waste determination set forth in 40 CFR 262.11 a person who generates any hazardous waste which is part of a total quantity of hazardous waste greater than 100 kilograms during a calendar month shall comply with all state and federal manifesting and transportation requirements and the provisions of subsection 'c' except that a small quantity generator must notify this Department of hazardous waste activity in order to obtain an EPA identification number.

c. Additional Requirements for the Transportation of Hazardous Wastes in Arkansas (Including PCBs and Wastes from Generators of over 100 kgs per month):

(1) The following items shall be completed as State manifest reporting requirements: (the following instructions refer to items A-K on the hazardous waste manifest report form (Arkansas/EPA Form No. 8700-22) and are to be completed for all inter- and intrastate shipments of hazardous waste):

(a) ITEM B: If an EPA identification number is not required, enter the PCB identification number or Arkansas provisional EPA identification number assigned by ADPC&E.

(b) ITEMS C and E: The Transportation Permit numbers issued by the Arkansas Highway and Transportation Department and the ADPC&E.

(c) ITEMS D and F: The phone number of the transporter.

(d) ITEM H: The phone number of the designated facility.

(e) ITEM I: The EPA Waste Code, or the letters "PCB" for PCB shipments.

(f) ITEM J: The name, address and I.D. number of an alternate treatment, storage or disposal facility (if any).

(g) ITEM K: Emergency response contact (individual's name and telephone number).

(2) For rail transportation, the first and last rail transporter delivering the shipment must sign and date the manifest or continuation sheet in the appropriate space on the manifest.

(3) Each generator in Arkansas must:

(a) Provide the Department a final copy of each manifest within 10 days of the end of the month in which the generator received its final copy from the treatment, storage or disposal facility (TSDF).

(b) For each manifest that shows a weight difference of more than 10% between the initial and final weights attach documentation which shows that the weight variance has been resolved between the generator and the TSDF. Documentation should be submitted to the Department with the manifest required in paragraph c(3)(a) of this subsection.

(c) Provide a discrepancy report to the Department containing the information required by 40 CFR 265.72 for those shipments to an out-of-state TSDF involving significant discrepancies as defined by 40 CFR 265.72.

(4) Each person in Arkansas who accepts wastes for the purpose of treating, storage or disposing must:

(a) Provide the Department a final copy of each manifest within 10 days of the end of the month in which the shipment was received.

(b) For each manifest identified in paragraph c(3)(a) of this subsection that shows a weight difference of more than 10% between the initial and final weights attach documentation which shows that the weight variance has been resolved between the TSDF and the generator. Documentation should be submitted to the Department with the manifest copy required in (c)(3)(i) of this subsection.

(5) In addition to the requirements for immediate action in the event of a discharge during transportation required by 40 CFR 263.30 as adopted by reference in § 3, an air, rail, highway or water transporter who has discharged hazardous waste in the State of Arkansas shall also take the following actions:

(a) Give immediate notice to the Arkansas State Police and to the principal office or designated contact for the transporter.

(b) Submit a copy of the written report required by 49 CFR 171.16 and 263.30(c)(2) to ADPC&E simultaneously with its submission to the federal Department of Transportation.

(6) All persons who transport hazardous waste in or through any part of the State of Arkansas shall first obtain permits for such activity. Such permits shall be applied for annually in the form and manner required by § 12c(10).

(7) Any generator who ships any hazardous waste to any location in Arkansas for storage, treatment, or disposal must obtain a Manifest form from ADPC&E and use only such Manifests as are issued by ADPC&E for such shipments. The Department supplies and requires the use of an Arkansas manifest (Arkansas/EPA Form 8700-22), for the shipment of hazardous wastes as defined in this chapter, from Arkansas generators to Arkansas treatment, storage, and disposal facilities. In the case where an Arkansas generator ships waste to a state other than Arkansas, where the consignment state does not

supply a manifest and require its use, the generator must use an Arkansas manifest for the shipment.

(8) In addition to all of the requirements hereof, all transportation of hazardous wastes in Arkansas shall comply with all applicable state and federal rules and regulations governing such transportation.

(9) Generators may not assign hazardous wastes to unpermitted transporters; and TSDFs may not accept hazardous wastes from unpermitted transporters without specific authorization from this Department.

(10) A generator may not ship a hazardous waste to a TSDF unless the TSDF has a valid permit, or has interim status, or is specifically approved to receive such a waste. A generator may not list a nonapproved TSDF as the alternate TSDF when manifesting. If a RCRA facility, the alternate TSDF must have a valid RCRA permit or interim status to receive such waste.

(11) A TSDF may not accept hazardous waste without a generator EPA or PCB number on the manifest, unless specific prior authorization has been obtained from this Department.

(12) Exports of Hazardous Wastes.

(a) Generators, transporters, or TSD facilities intending to ship hazardous wastes outside the United States must comply with Federal requirements detailed at 40 CFR 262.53, 262.54(g) and (i), 262.56, 262.57, 263.20(g)(4), 264.12(a), 265.55, incorporated by reference in this Regulation. At these citations, references to "EPA", "EPA Administrator", "Regional Administrator", and "U.S. Customs Official" remain unchanged, and are *not* replaced by the title of the State counterpart.

(b) A copy of all export notifications and manifests must be submitted to the Department.

#### d. Annual Reports.

(1) Any person who generates hazardous waste (including PCBs and PCB-contaminated waste) in the State of Arkansas must prepare and submit a single copy of an Annual Report to the Director by March 1 of each year. The Annual Report must be submitted on forms furnished by the Department and, must cover generator activities during the previous calendar year, and must include, at a minimum, the following information: (except for small quantity generators of between 100-1000 kg. a month who must comply with subsection d(1)(a)-(e) and (h).

(a) The EPA identification number, name, and address of the generator;

(b) The calendar year covered by the report;

(c) The EPA identification number, name, and address for each offsite treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

(d) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;

(e) A description, EPA hazardous waste number (From 40 CFR Part 261, Subpart C or D, or "PCBS"), DOT hazard class, and quantity of each hazardous waste generated on-site and either accumulated, treated, stored, or disposed of on-site or shipped offsite to a treatment, storage or disposal facility. This information must also list the EPA identification number of each such offsite facility to which waste was shipped;

(f) A description of the efforts undertaken during the year to reduce the volume and toxicity

of waste generated;

(g) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(h) A statement signed by the generator or authorized representative certifying that the report is true, accurate, and correct.

(2) The owner or operator of a treatment, storage or disposal facility must prepare and submit a single copy of an Annual Report to the Director by March 1, of each year. The Annual report must be submitted on forms furnished by the Department. The report must cover facility activities during the previous calendar year and must include, at a minimum, the following information:

(a) The EPA identification number, name and address of the facility;

(b) The calendar year covered by the report;

(c) For offsite facilities, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year;

(d) For imported shipments, the report must give the name and address of the foreign generator;

(e) A description and the quantity of each hazardous waste the facility received during the year. For offsite facilities, this information must be listed by EPA identification number of each generator.

(f) The method of treatment, storage, or disposal for each hazardous waste;

(g) The most recent closure cost estimate under 40 CFR 264.14 or 265.14, and, for disposal facilities, the most recent post closure cost estimate under 40 CFR 264.144 or 265.144;

(h) A statement signed by the owner or operator of the facility or his authorized representative certifying that the report is true, accurate, and correct.

(3) The owner or operator of a land disposal facility must, in addition to the requirement of (2) above, submit monitoring data under 40 CFR 265.94(a)(2) (ii) and (iii), and (b)(2), where required.

(4) Generators and Treatment, Storage or Disposal facilities required to submit Annual Reports pursuant to this subsection d shall retain a copy of said reports for a period of at least three (3) years from the due date of the report. The retention period for Annual Reports is automatically extended during the course of unresolved enforcement actions.

e. Generators of hazardous wastes newly characterized as TC Toxic using the Toxicity Characteristic Leaching Procedure (TCLP) (40 CFR 261.24) must notify this Department using EPA Form 8700-12 and obtain an EPA identification number. Generators who have previously notified this Department of hazardous waste activity and currently have an EPA identification number, but now determine that they produce a TC toxic waste must submit an amendment EPA Form 8700-12 to this Department notifying that they generate TC toxic wastes in addition to other hazardous wastes previously reported.

## **Section 17. Effect of Federal Regulations**

- a. Any regulations adopted by the Department shall not be less stringent than the regulations promulgated or revised by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act of 1976, as amended.
- b. Where the Department issues variances pursuant to A.C.A. 8-7-211, such variances shall not provide terms less stringent than those set by federal regulations incorporated by reference in this Regulation or less stringent than those for which analogous provisions have been adopted herein.
- c. Nothing in this Section shall prohibit the Department from imposing any rule, regulation, standard, procedure or permit condition which is more stringent than federal regulations, when such rule, standard, procedure or permit condition is required as a part of this Regulation or the Act or when the Department finds such stringency is necessary to protect the public health or the environment.

## **CHAPTER THREE: REGULATIONS PROMULGATED UNDER ACT 1098 OF 1979**

### **Section 18. Authority**

The regulations under this Chapter are promulgated pursuant to the Arkansas Resource Reclamation Act of 1979 (Act 1098 of 1979; A.C.A. 8-7-301 et seq.)

### **Section 19. Definitions.**

In addition to the definition set forth in § 2, all of which apply to this Chapter, the following terms when used in this Chapter shall mean:

- a. **"Interstate Agreement or Compacts"** means any agreement or agreements between the State of Arkansas and another state or states or the federal government, which is entered into with the approval of the Governor in order to carry out the purposes of the Arkansas Resource Reclamation Act (Act 1098 of 1979, as amended).
- b. **"Memorandum of Agreement"** means the agreement between the U.S. Environmental Protection Agency, as the authorized agent of the federal government, and the Arkansas Department of Pollution Control and Ecology, as the authorized agent of the Governor, for ADPC&E to operate a state hazardous waste program pursuant to the federal Resource Conservation and Recovery Act in Arkansas in lieu of the federal government and in accordance with state laws and regulations which are equivalent to the federal program.

### **Section 20. State/EPA Memorandum of Agreement**

- a. The Memorandum of Agreement (MOA) effectuates the purposes set forth in Act 1098 of 1979, as amended for interstate agreements or compacts.
- b. Upon execution of the MOA all purposes of Act 1098 of 1979, as amended will be fulfilled with respect to the transportation and disposal of hazardous waste and no other agreements or compacts with respect thereto shall be entered into during the life of the MOA.

## CHAPTER FOUR: REGULATIONS PROMULGATED UNDER ACT 479 OF 1985

### Section 21. Authority

The regulations under this Chapter are promulgated pursuant to the Remedial Action Trust Fund Act of 1985 (Act 479 of 1985, as amended, A.C.A. 8-7-501 (et seq.)).

### Section 22. (Reserved)

### Section 23. Fees on the Generation of Hazardous Waste

a. On or before April 1 of each year:

(1) Every person who generated hazardous wastes in Arkansas during the preceding calendar year; and every person who accepted for treatment, storage, or disposal in Arkansas during the preceding calendar year hazardous wastes generated outside the State shall report the total amount of such hazardous wastes generated or accepted to the Director on forms prescribed by the Department.

(2) Every person required to report wastes pursuant to subsection (a) above shall be assessed a fee, based upon the combined total of such wastes, to be paid to the Department on or before July 1 of each year. These fees shall be calculated and paid according to the following schedule:

Category	Pounds Generated	Annual Fee
1	0 to 29,999	0
2	30,000 to 99,999	\$750.00
3	100,000 to 199,999	\$1,500.00
4	200,000 to 299,999	\$3,000.00
5	300,000 to 399,999	\$5,000.00
6	400,000 to 499,999	\$7,500.00
7	500,000 and above	\$10,000.00

### Section 24. Criteria for Listing Hazardous Substance Sites

a. Monies deposited into the Hazardous Substance Remedial Action Trust Fund shall be segregated into two portions.

(1) Eighty percent (80%) of the annual receipts shall be designated for expenditures related to National Priority List (NPL) sites as listed at Section 25a below.

(2) Twenty percent (20%) of the annual receipts shall be designated for expenditures related to State Priority List (NPL) sites as listed at Section 25b below.

(3) In the event monies from either Section 25a or 25b sites are not expended in any given year, the remaining monies shall be carried over to the next year and shall remain as originally apportioned, unaffected by apportionment of additional funds in subsequent years.

b. Monies from the Hazardous Substance Remedial Action Trust Fund may not be expended by the

Director at any hazardous substance site until such hazardous substance site is listed at Section 25 of this Chapter.

c. A hazardous substance site may be listed at Section 25a (National Priority List (NPL) site) provided that:

(1) The hazardous substance site has been investigated and ranked by use of the revised Hazard Ranking System (rHRS), and

(2) The hazardous substance site scored a minimum of 28.50 based on the rHRS, or has been designated as the State's priority site in accordance with 40 CFR 300.425(c)(2) and placed on the federal National Priorities List as published in the *Federal Register*, and

(3) A final Remedial Investigation/Feasibility Study (and Health Risk Assessment, where applicable) has been conducted, and

(4) The Department has concurred with the remedy selection, and

(5) A Record of Decision (ROD) regarding the remedial action has been issued, and

(6) Federal monies for the remedial action at the hazardous substance site have been committed, and

(7) The Remedial Design has progressed to the 90% complete stage, and

(8) The Department has provided a 30 day public comment period and opportunity for hearing.

d. In the event EPA implements a Superfund Accelerated Clean-up, a hazardous substance site may be listed at Section 25a (NPL sites) provided that:

(1) EPA has published the hazardous substance site on an Early Action List in the *Federal Register*, or

(2) EPA has identified the hazardous substance site as a Fast Track Remediation site, and

(3) The Remedial Design has progressed to the 90% complete stage, and

(4) The Department has concurred that delay in listing would cause unwarranted delay in clean-up of the site and restoration of the environment, and

(5) The Department has provided a 30 day public comment period and opportunity for hearing.

e. Should the Commission disapprove the inclusion of a hazardous substance site to Section 25a, the Chairperson of the Commission shall cause the record to reflect the specific rationale for this disapproval.

f. In the event two (2) or more hazardous substance sites identified at Section 25a are eligible for funding in any given year under the above criteria, priority for available funding shall be as follows:

(1) Those sites at which remedial actions (including operations and maintenance) have been initiated previously.

(2) Additional hazardous substance sites based on the order of greatest impact to public health and/or the environment, as determined by the Director after reviewing available information developed in

accordance with CERCLA as amended, and any other information considered applicable and scientifically reliable.

g. Hazardous substance sites may be listed at Section 25b (State Priority List (SPL) sites) which pose a potential substantial endangerment to human health and/or the environment but do not meet the criteria listed at Section 24c or d. Hazardous substance sites listed at Section 25 b will be eligible for investigation and necessary remedial action on a case-by-case basis as determined by the Director.

h. Hazardous substance sites listed at Section 25b(1) are those where investigatory activities are required to determine the extent and degree (if any) of the release or threat of release of a hazardous substance at the site and any scientific or engineering studies deemed necessary by the Director to determine available and necessary alternatives for remediation.

i. Hazardous substance sites listed at Section 25b(2) are those requiring remediation activities to adequately secure, contain, abate, treat, dispose, or control hazardous substances to the extent financially and technically feasible, as determined by the director. Remediation activities shall include but are not limited to any engineering design work necessary to adequately plan and implement remedial measures.

j. Hazardous substance sites may be listed at Section 25b based on:

- (1) Proximity to population centers;
- (2) Potential impacts to surface waters;
- (3) Potential impact to groundwater;
- (4) Hydrologic and geologic characteristics,
- (5) The toxicity and characterization of hazardous substances present;
- (6) The mobility of the hazardous substances present;
- (7) The attenuation of the hazardous substances present; and
- (8) Releases or threat of releases of the hazardous substances.

k. In the event two or more hazardous substance sites identified at Section 25b are eligible for funding in any given year under the above criteria, priority for available funding shall be as follows:

(1) Those sites at which remedial actions (including operations and maintenance) have been initiated previously.

(2) Additional hazardous substance sites based on the order of greatest impact to public health and/or the environment, as determined by the Director after reviewing available information developed or discovered in the investigatory process.

l. The above shall not be construed to preclude or limit the authority of the Director in:

(1) Mandating actions, pursuant to Ark. Code, Ann. §§ 8-7-401 et seq. (the Emergency Response Trust Fund Act), deemed necessary to abate an imminent and substantial endangerment to the public health, safety, and welfare, or to the environment, or

(2) Ordering responsible parties to address and abate any release of a hazardous substance, pursuant to Ark. Code, Ann. §§ 8-7-401 et seq. or 8-7-501 et seq.

#### **Section 25. Hazardous Substance Remedial Action Trust Fund Priority List**

##### **a. National Priority List (NPL) Sites:**

- (1) Cecil Lindsey Landfill, Newport
- (2) Old Midland Products, Ola
- (3) Rogers Road Landfill, Jacksonville
- (4) Jacksonville/Graham Road Landfill, Jacksonville
- (5) Gurley Oil Pits, Edmonson

##### **b. State Priority List (SPL) Sites:**

###### **(1) Investigation category**

- (a) Benton Salvage, Benton
- (b) Crittenden County Landfill, Marion
- (c) Slough Creek Dump, Johnson County
- (d) Northwest Arkansas Waste Management, Inc., Springdale
- (e) Utilities Services, Inc., Pine Bluff

###### **(2) Remediation Category**

- (a) Vertac Chemical Corporation, Jacksonville
- (b) Benton Salvage, Benton
- (c) Garland County Industrial Landfill, Hot Springs
- (d) Utilities Services, Inc., Pine Bluff

### **CHAPTER FIVE: OTHER PROVISIONS**

#### **Section 26. Penalty Policy and Administrative Procedures.**

The provisions of Department of Pollution Control and Ecology Regulation No. 7, "Civil Penalties", and Regulation No. 8, "Administrative Procedures" apply to this Regulation.

**Section 28. Effective Date.**

**These regulations and any amendments or revision thereof are effective 20 days after filing the regulations or any amendment or revision thereof with the Secretary of State<sup>1</sup>, except as specifically provided below:**

- (1) The effective date for the listing of spent potliner from Primary Aluminum Reduction (EPA Waste Code K088) shall be July 1, 1990.

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<sup>1</sup>The effective date of revisions contained in this Regulation is September 21, 1993.

## Appendix I – Uniform Hazardous Waste Manifest and Instructions (Arkansas/EPA Forms 8700-22 and 8700-22A and Their Instructions)

### Arkansas/EPA Form 8700-22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used – press down hard.

State and Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (Arkansas/EPA 8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter and intrastate transportation.

State and Federal regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:

\*\*\*\*\*

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

*"Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503."*

#### GENERATORS

##### Item 1. Generator's U.S. EPA ID Number – Manifest Document Number:

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

##### Item 2. Page 1 of —

Enter the total number of pages used to complete this Manifest, i.e., the first page (Arkansas/EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

##### Item 3. Generator's Name and Mailing Address

Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

##### Item 4. Generator's Phone Number

Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

##### Item 5. Transporter 1 Company Name

Enter the company name of the first transporter who will transport the waste.

##### Item 6. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the first transporter identified in Item 5.

##### Item 7. Transporter 2 Company Name

If a second transporter is used during this shipment, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) (EPA Form 8700-22A) and list the transporters in the order they will be transporting the waste.

**Item 8. U.S. EPA ID Number**

If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in item 7.

*Note: If more than two transporters are used, enter each additional transporter's company name and U.S. EPA twelve digit identification number in items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.*

**Item 9. Designated Facility Name and Site Address**

Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.

**Item 10. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the designated facility identified in item 9.

**Item 11. U.S. DOT Description [Including Proper Shipping Name, Hazard Class, and ID Number (UN/NA)]**

Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR 171 through 177.

*Note: If additional space is needed for waste descriptions, enter these additional descriptions in item 28 on the Continuation Sheet (EPA Form 8700-22A).*

**Item 12. Containers (No. and Type)**

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

*Table I – Types of Containers*

DM = Metal drums, barrels, kegs	DW = Wooden drums, barrels, kegs
DF = Fiberboard or plastic drums, barrels, kegs	TP = Tanks portable
TT = Cargo tanks (tank trucks)	TC = Tank cars
DT = Dump truck	CY = Cylinders
CM = Metal boxes, cartons, cases (including roll-offs)	CW = Wooden boxes, cartons, cases
CF = Fiber or plastic boxes, cartons, cases	BA = Burlap, cloth, paper or plastic bags

**Item 13. Total Quantity**

Enter the total quantity of waste described on each line.

**Item 14. Unit (Wt./Vol.)**

Enter the appropriate abbreviation from Table II (below) for the unit of measure.

*Table II – Units of Measure*

G = Gallons (liquids only)	P = Pounds
T = Tons (2000 lbs)	Y = Cubic yards
L = Liters (liquids only)	K = Kilograms
M = Metric tons (1000 kg)	N = Cubic meters

**Item 15. Special Handling Instructions and Additional Information**

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States may not require additional, new, or different information in this space. For international shipments, generators must enter in this space the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

**Item 16. Generator's Certification**

The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.

Primary exporters shipping hazardous wastes to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA Acknowledgment of Consent to the shipment."

In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

*Note: All of the above information except the handwritten signature required in item 16 may be preprinted.*

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### **TRANSPORTERS**

#### **Item 17. Transporter 1 Acknowledgement of Receipt of Materials**

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

#### **Item 18. Transporter 2 Acknowledgement of Receipt of Materials**

Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

*Note: International Shipments – Transporter Responsibilities.*

*Exports – Transporters must sign and enter the date the waste left the United States in item 15 of Form 8700-22.*

*Imports – Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (40 CFR 263.10(c)(1)).*

### **OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES**

#### **Item 19. Discrepancy Indication Space**

The authorized representative of the designated (or alternate facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility.

Owners and operators of Arkansas facilities should contact the Department for information on State Discrepancy Report requirements.

#### **Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19**

Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

(1) The following items shall be completed as State manifest reporting requirements: (the following instructions refer to items A-K on the hazardous waste manifest report form (Arkansas/EPA Form No. 8700-22) and are to be completed for all inter- and intrastate shipments of hazardous waste):

(a) ITEM B: If an EPA identification number is not required, enter the PCB identification number or Arkansas provisional EPA identification number assigned by ADPC&E.

(b) ITEMS C and E: The Transportation Permit numbers issued by the Arkansas Highway and Transportation Department

and the ADPC&E.

- (c) ITEMS D and F: The phone number of the transporter.
  - (d) ITEM H: The phone number of the designated facility.
  - (e) ITEM I: The EPA Waste Code, or the letters "PCB" for PCB shipments.
  - (f) ITEM J: The name, address and I.D. number of an alternate treatment, storage or disposal facility (if any).
  - (g) ITEM K: Emergency response contact (individual's name and telephone number).
- (2) For rail transportation, the first and last rail transporter delivering the shipment must sign and date the manifest or continuation sheet in the appropriate space on the manifest.

#### INSTRUCTIONS – CONTINUATION SHEET, U.S. EPA FORM 8700-22A

ADPC&E does not supply manifest continuation forms. Should a continuation form be required, generators may use a uniform manifest continuation form as shown in 40 CFR 262 Appendix I, and completed in accordance with these directions. *The Continuation form is only valid when accompanied by a Manifest (AR/EPA Form 8700-22) and when the corresponding manifest serial number is clearly indicated on each page of the continuation form.*

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used – press down hard.

This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of Arkansas/EPA Form 8700-22. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (Arkansas/EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both inter- and intrastate transportation.

#### GENERATORS

##### Item 21. Generator's U.S. EPA ID Number – Manifest Document Number

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in item 1 on the first page of the Manifest.

##### Item 22. Page —

Enter the page number of this Continuation Sheet.

##### Item 23. Generator's Name

Enter the generator's name as it appears in item 3 on the first page of the Manifest.

##### Item 24. Transporter — Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

##### Item 25. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the transporter described in item 24.

##### Item 26. Transporter — Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

**Item 27. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the transporter described in item 26.

**Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)**

Refer to item 11.

**Item 29. Containers (No. and Type)**

Refer to item 12.

**Item 30. Total Quantity**

Refer to item 13.

**Item 31. Unit (Wt/Vol)**

Refer to item 14.

**Item 32. Special Handling Instructions**

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are not authorized to require additional, new, or different information in this space.

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**TRANSPORTERS**

**Item 33. Transporter — Acknowledgement of Receipt of Materials**

Enter the same number of the Transporter as identified in item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

**Item 34. Transporter — Acknowledgement of Receipt of Materials**

Enter the same number as identified in item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

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**OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES**

**Item 35. Discrepancy Indication Space**

Refer to item 19.

## Appendix II

### Instructions for Completing EPA Form 8700-12(AR-11-91R), Notification of Hazardous Waste Activity

Type or print in black ink all items except Item X, "Signature," leaving a blank box between words. Place each character in a box. Abbreviate if necessary to stay within the number of boxes allowed for each item. If you must use additional sheets, indicate clearly the number of the item on the form to which the information on the separate sheet applies.

(NOTE: When submitting a subsequent notification form, notifiers must complete in their entirety Items I, II, III, VI, VII, VIII and X. Other sections that are being added to (i.e., newly regulated activities) or altered (i.e., installation contact) also must be completed. All other sections may be left blank.)

#### Item I - Installation's EPA ID Number:

Place an "X" in the appropriate box to indicate whether this is your first or a subsequent notification for this site. If you have filed a previous notification, enter the EPA Identification Number assigned to this site in the boxes provided. Leave EPA ID Number blank if this is your first notification for this site.

NOTE: When the owner of a facility changes, the new owner must notify the Arkansas Department of Pollution Control and Ecology of the change, even if the previous owner already received a U.S. EPA Identification Number. Because the U.S. EPA ID Number is "site-specific," the new owner will keep the existing ID number. If the facility moves to another location, the owner/operator must notify EPA of this change. In this instance a new U.S. EPA Identification Number will be assigned, since the facility has changed locations.

#### Items II - Name of Installation:

Complete Item II with the name of the installation.

#### Item III - Location of Installation:

Complete Item III in its entirety. Please note that the address you give for Item III, "Location of Installation," must be a physical address, not a post office box or route number, and must be specific. A highway number is not enough (e.g.; Hwy. 64 South).

**County Name and Code:** Enter the county name. The Arkansas Department of Pollution Control and Ecology will generate the county code. If the county name is unknown, contact the local Post Office. To obtain a list of county codes, contact the National Technical Information Services, U.S. Department of Commerce, Springfield, Virginia, 22161 at (703) 487-2650. The list of codes is contained in the Federal Information Processing Standards Publication (FIPS PUB) number 6-3.

**Latitude and Longitude:** Please enter the latitude and longitude of the facility in degrees, minutes, and seconds. For larger facilities, enter the latitude and longitude at the approximate mid-point of the facility. Latitude and longitude information is also available from Regional Offices of the U.S. Department of Interior, Geological Survey, and from State Natural Resource or Environmental Agencies.

**SIC Code:** Please indicate the Standard Industrial Classification Code that best describes your company's activities. A listing can be found in Section VIII of this publication.

#### Item IV - Installation Mailing Address:

Please enter the Installation Mailing Address. If the Mailing Address and the Location of Installation (Item III) are the same, you can print "Same" in box for Item IV.

#### Item V - Installation Contact:

Enter the name, title, and business telephone number of the person who should be contacted regarding information submitted on this form.

#### Item VI - Installation Contact Address:

**A. Code:** If the contact address is the same as the location of installation address listed in Item III, or the installation mailing address listed in Item IV, place an "X" in the appropriate box to indicate where the contact may be reached. If the location of installation address, the installation mailing address, and the installation contact address are all the same, mark the "Location" box. If an "X" is entered in either the location or mailing box, Item VI.B should be left blank.

B. Address: Enter the contact address only if the contact address is different from either the location of installation address (Item III) or the installation mailing address (Item IV), and Item VI.A. was left blank.

Item VII - Ownership:

A. Names, Addresses, and Phone Numbers of Legal Owners: Enter the name of the legal owner(s) of the installation. Also enter the address and phone number where individual(s) can be reached. Use additional sheets if necessary to list more than one owner.

B. Land Type: Using the codes listed below, indicate in VII.B. the code which best describes the current legal status of the land on which the facility is located:

F = Federal  
S = State  
I = Indian  
P = Private

C = County  
M = Municipal  
D = District  
O = Other

\*NOTE: If the Land Type is best described as Indian, County or District, please use those codes. Otherwise, use Municipal.

C. Owner Type: Using the codes listed below, indicate in VII.C. the code which best describes the legal status of the current owner of the facility:

F = Federal  
S = State  
I = Indian  
P = Private

C = County  
M = Municipal  
D = District  
O = Other

\*NOTE: If the Land Type is best described as Indian, County or District, please use those codes. Otherwise, use Municipal.

D. Change of Owner Indicator: (If this is your installation's first notification, leave Item VII.D. blank and skip to Item VIII. If this is a subsequent notification, complete Item VII.D. as directed below.)

If the owner of this facility has changed since the facility's original notification, place an "X" in the box marked "Yes" and enter the date the owner changed.

If the owner of this facility has not changed since the facility's original notification, place an "X" in the box marked "No" and skip to Item VIII.

If an additional owner(s) has been added or replaced since the facility's original notification, place an "X" in the box marked "Yes." Use an additional sheet to list any additional owners, the dates they became owners, and which owner(s) (if any) they replaced.

E. Names, Addresses, and Phone Numbers: Enter the name of the property owner. Also enter the address and phone number where individual(s) can be reached. Use additional sheets if necessary to list more than one property owner.

Item VIII - Type of Regulated Waste Activity:

A. Hazardous Waste Activity: Mark an "X" in the appropriate box(es) to show that hazardous waste activities are going on at this installation.

1. Generator: If you generate a hazardous waste that is identified by characteristic or listed in § 8, mark an "X" in the appropriate box for the quantity of non-acutely hazardous waste that is generated per calendar month. If you generate acutely hazardous waste, please refer to 40 CFR Part 262 for further information.
  - a. LQG: A facility which generates greater than 1,000 kg/mo. or has more than 6,000 kg. on-site.
  - b. SQG: A facility which generates less than 1,000 kg/mo. but greater than 100 kg/mo., not to exceed 6,000 kg. on-site in 180 days.
  - c. CXG: A facility who generates less than 100 kg/mo. and has no more than 1,000 kg. on-site. Accumulation of more than 1,000 kg. on-site, subjects generators of less than 100 kg. per month to SQG requirements.
2. Transporter: If you transport hazardous waste, indicate if it is your own waste, for commercial purposes, or mark both boxes if both classifications apply. Mark an "X" in each appropriate box to indicate the method(s) of

transportation you use. Transporters do not have to complete Item IX of this form, but must sign the certification in Item X. The Federal regulations for hazardous waste transporters are found in 40 CFR Part 263.

The State of Arkansas requires that you also have an Arkansas Transportation Permit. Please refer to Sections 16 of ADPC&E Regulation No. 23 (Hazardous Waste Management) for information on transportation of hazardous waste in Arkansas.

3. **Treater/Store/Disposer:** If you treat, store or dispose of regulated hazardous waste, then mark an "X" in this box. The State of Arkansas requires that you must have a permit. You must contact the Arkansas Department of Pollution Control and Ecology to request Part A of the RCRA Permit Application. The Federal regulations for hazardous waste facility owners/operators are found in 40 CFR Parts 264 and 265.
4. **Underground Injection Control:** If you generate and/or treat, store or dispose of hazardous waste, place an "X" in the box if an injection well is located at your installation. "Underground Injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. The State of Arkansas requires that you must have a permit. You must contact the Arkansas Department of Pollution Control and Ecology to request Part A of the RCRA Permit Application.
5. **Transfer Facility:** Place an "X" in this box if you meet the definition of a transfer facility.
6. **PCB Generator Number:** Place an "X" in this box if you are requesting a PCB Generator Number only.
7. **Provisional Number:** Provisional EPA identification numbers are issued by the Arkansas Department of Pollution Control and Ecology for emergency situations such as spills, cleanups, or remedial actions. The numbers are site specific and cannot be transferred between locations. The provisional numbers can be used one time only unless written authorization for additional use is received from this Department.

A notification of hazardous waste activity form must be thoroughly and accurately completed, and submitted to this Department. You may receive only one provisional number.

Facilities that generate hazardous waste on a routine basis cannot receive a provisional number to avoid exceeding their accumulation limits or their storage limits. Facilities that use contract services with routine pickups must obtain a permanent EPA identification number prior to the first shipment. Facilities that generate hazardous waste once a year must obtain a permanent EPA identification number since the Department will not issue a provisional number for routine generation.

#### **B. Used Fuel Activities**

Mark an "X" in the appropriate box(es) to indicate which used oil fuel activities are taking place at this installation.

1. **Off-Specification used Oil Fuel:** If you market off-specification used oil, place an "X" in the appropriate box(es). If you burn used oil fuel place an "X" in the box(es) below to indicate type(s) of combustion devices in which off-specification used oil fuel is burned. (Refer to definition section for complete description of each device).

**NOTE:** Used oil generators must notify only if marketing directly to the burner.

"Other Marketer" is defined as any person, other than a generator marketing his or her used oil, who markets used oil fuel.

2. **Specification used Oil Fuel:** If you are the first to claim that the used oil meets the specification established in 40 CFR 266.40(e) and is exempt from further regulation, you must mark an "X" in this box.
3. **Hazardous Waste Fuel:** If you market hazardous waste fuel, place an "X" in the appropriate box(es). If you burn hazardous waste fuel on-site, place an "X" in the appropriate box and indicate the type(s) of combustion devices in which hazardous waste fuel is burned.

**NOTE:** Generators must notify for waste-as-fuel activities only if they market directly to the burner.

#### **Item IX - Description of Regulated Wastes:**

Only persons involved in hazardous waste activity (Item VIII A.) need to complete this item. Transporters requesting a U.S. EPA Identification Number do not need to complete this item, but must sign the "Certification" in Item X.

You will need to refer to 40 CFR Part 261 to complete this section. Part 261 identifies those wastes that Arkansas defines as hazardous. If you need help completing this section, please contact the Arkansas Department of Pollution Control and Ecology at (501) 570-2872.

**A. Characteristics of Nonlisted Hazardous Wastes:** If you handle hazardous wastes that are not listed in 40 CFR 261, Subsection D but do exhibit a characteristic of hazardous waste as defined in 40 CFR 261, Subpart C, you should describe these wastes by the EPA hazardous waste number for the characteristic. Place an "X" in the box next to the characteristic of the wastes that you handle. If you mark "4. TCLP Toxic," please list the specific EPA hazardous waste number for the specific contaminant(s) in the box(es) provided.

**B. Listed Hazardous Wastes:** If you handle hazardous wastes that are listed in 40 CFR 261, Subpart D, enter the appropriate 4-digit numbers in the boxes provided.

**NOTE:** If you handle more than 18 listed hazardous wastes, please continue listing the waste codes on the extra sheet provided in this booklet. If it is used, attach the additional page to the rest of the form before mailing it to the Arkansas Department of Pollution Control and Ecology.

**ITEM X – Certification:**

This certification must be signed by the owner, operator, or an authorized representative of your installation. An "authorized representative" is a person responsible for the overall operation of the facility (i.e., a plant manager or superintendent, or a person of equal responsibility). All notifications must include this certification to be complete. This must be an original signature.

STATE OF ARKANSAS  
NOTIFICATION OF REGULATED WASTE ACTIVITY

STATE USE ONLY

Return to:

Arkansas Department of Pollution Control & Ecology  
Hazardous Waste Division  
P. O. Box 8913, 8001 National Drive  
Little Rock, AR 72219-8913

Phone: (501) 570-2872

Date Form Approved

Date Number Issued

- I. Installation's EPA ID Number (Mark 'X' in the appropriate box)
- A. First Notification  C. Installation's EPA ID Number
- B. Subsequent Notification (complete item C)

II. Name of Installation (Include company and specific site name)

III. Location of Installation

Street

City or Town

State ZIP Code

County

Code County Name

Latitude

Longitude

SIC Code

IV. Installation Mailing Address (See Instructions)

Street or P.O. Box

City or Town

State ZIP Code

V. Installation Contact (Person to be contacted regarding waste activities at site)

Name (last)

(first)

Job Title

Phone Number (area code and number)

VI. Installation Contact Address (See instructions)

A. Contact Add.

Location Mailing B. Street or P.O. Box

City or Town

State ZIP Code

VII. Ownership (See instructions)

A. Name of Installation's Legal Owner

Street, P.O. Box, or Route Number

City or Town

State ZIP Code

Phone Number (area code and number)

B. Land Type

C. Owner Type

D. Change of Owner Indicator

Date Changed

E. Property Owner (if different)

Street, P.O. Box, or Route Number

City or Town

State ZIP Code

Phone Number (area code and number)

VIII. Type of Regulated Waste Activity (Mark 'X' in the appropriate boxes. Refer to instructions.)

<p><b>A. Hazardous Waste Activity</b></p> <p>1. Generator (See Instructions)  <input type="checkbox"/> A. Greater than 1000 kg/mo (2,200 lbs.) LQG  <input type="checkbox"/> B. 100 to 1000 kg/mo (220 - 2,200 lbs.) SQG  <input type="checkbox"/> C. Less than 100 kg/mo CXG</p> <p>2. Transporter (Indicate Mode in boxes 1-5 below)  <input type="checkbox"/> A. For own waste only  <input type="checkbox"/> B. For commercial purposes  <input type="checkbox"/> C. Transfer Facility  <input type="checkbox"/> 1. Air    <input type="checkbox"/> 2. Rail    <input type="checkbox"/> 3. Highway  <input type="checkbox"/> 4. Water   <input type="checkbox"/> 5. Other - specify _____</p> <p>3. <input type="checkbox"/> Treater, Storer, Disposer (at installation)          NOTE: Permit required (see instructions)</p> <p>4. <input type="checkbox"/> Underground Injection Control</p> <p>5. <input type="checkbox"/> PCB Generator Number</p> <p>6. <input type="checkbox"/> Provisional Number (one time event such as spills, cleanups, or emergencies)</p>	<p><b>B. Used Fuel Activities</b></p> <p>1. Off Specification Used Oil Fuel  <input type="checkbox"/> A. Generator Marketing to Burner  <input type="checkbox"/> B. Other Marketer  <input type="checkbox"/> C. Burner - indicate device(s)</p> <p>Type of Combustion Device  <input type="checkbox"/> 1. Utility Boiler  <input type="checkbox"/> 2. Industrial Boiler  <input type="checkbox"/> 3. Industrial Furnace</p> <p>2. <input type="checkbox"/> Specification Used Oil Fuel Marketer (or On-Site Burner) Who First Claims the Oil Meets the Specification</p> <p>3. Hazardous Waste Fuel  <input type="checkbox"/> A. Generator Marketing to Burner  <input type="checkbox"/> B. Other Marketers  <input type="checkbox"/> C. Burner - indicate device(s) -  <input type="checkbox"/> D. Used Oil Marketer</p> <p>Type of Combustion Device  <input type="checkbox"/> 1. Utility Boiler  <input type="checkbox"/> 2. Industrial Boiler  <input type="checkbox"/> 3. Industrial Furnace</p> <p>4. <input type="checkbox"/> Used Oil Burner</p>
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**C. Used Oil Activities**

1.  Transporter Used Oil Only (Indicate Mode in boxes 1-5 below)  
 A. Transporter only  
 B. Transporter and Transfer Facility  
 C. Transfer Facility only  
 1. Air     2. Rail     3. Highway  
 4. Water    5. Other - specify \_\_\_\_\_

2.  Used Oil Processor/Re-Refiner

3.  Used Oil Burner

IX. Description of Regulated Wastes (Use additional sheets if necessary)

A. Characteristics of Nonlisted Hazardous Wastes. Mark 'X' in the boxes corresponding to the characteristics of nonlisted hazardous wastes your installation handles. (See 40 CFR Parts 261.20 - 261.24)

1.	<input type="checkbox"/> Ignitable (D001)	(List specific EPA hazardous waste number(s) for the TCLP Toxic				
2.	<input type="checkbox"/> Corrosive (D002)	contaminant(s))				
3.	<input type="checkbox"/> Reactive (D003)		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
4.	<input type="checkbox"/> TCLP Toxic (D000)		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
5.	<input type="checkbox"/> PCB Waste Only		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

B. Listed Hazardous Wastes. (See 40 CFR 261.31 - 33.) (See instructions if you need more than 18 waste codes.)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

X. Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Signature	Name and Official Title (type or print)	Date Signed
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ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

SUBJECT: ADPC&E Regulation No. 23 (Hazardous Waste Management)

FILED REGISTER DIV. 93 SEP -1 PM 2:36

MINUTE ORDER NO. 93-97

Page 1 of 1 "BILL" MCCUEN SECRETARY OF STATE LITTLE ROCK, ARKANSAS

Pursuant to Public Notice and Hearing, and after consideration of all comments received, the Arkansas Pollution Control and Ecology Commission hereby adopts changes to Regulation No. 23 (Hazardous Waste Management). These changes reflect amendments made to the proposed rule in response to public comments received.

PROMULGATED THIS 27th DAY OF AUGUST, 1993, BY ORDER OF THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

By: [Signature]  
Chairman

ATTEST: [Signature]  
Director

APPROVED: [Signature]  
Governor

COMMISSIONERS:

- ~~absent~~ H. Watkins, III
- ~~[Signature]~~ J. Hill
- ~~[Signature]~~ B. Mobley
- ~~[Signature]~~ J. Mobley
- ~~absent~~ S. Nichols
- ~~[Signature]~~ J. Pascale

- ~~[Signature]~~ E. Waddell
- ~~[Signature]~~ R. Wilbourn
- ~~[Signature]~~ N. Williams
- ~~[Signature]~~ S. Wilson
- ~~[Signature]~~ W. Wright
- ~~[Signature]~~ R. Young

SUBMITTED BY: Mike Bates

DATE PASSED: 08/27/93