

US EPA ARCHIVE DOCUMENT

MEMORANDUM OF AGREEMENT BETWEEN

THE STATE OF ARKANSAS

AND

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Arkansas' Hazardous Waste Management program (hereinafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA" or "the Act") of 1976 (42 USC 6901 *et seq.*), as amended (Public laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (hereinafter "EPA") Regional Office for Region 6. This Agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration and enforcement of the State program and, pending State authorization, EPA's administration of the provisions of the Hazardous and Solid Waste Amendments of 1984 ("HSWA"). For purposes of this Agreement, references to "RCRA" include HSWA.

This Agreement is entered into by the Director of the Arkansas Department of Environmental Quality (hereinafter "Director", "ADEQ", or "the State") and the Regional Administrator, EPA Region 6 (hereinafter "Regional Administrator" or "EPA").

For administrative purposes, the Arkansas Department of Environmental Quality will serve as lead agency to simplify coordination and communication between the State and EPA.

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year (and other times as appropriate) during preparation of the annual State grant work program, in connection with grant funding under section 3011 of RCRA.

This Agreement supersedes the Agreement which was effective on February 21, 2007. This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the Director and the Regional Administrator. This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

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This Agreement shall be signed by the Director and the Regional Administrator and shall become effective at the time the State's authorization takes effect, which shall be the date set out in the *Federal Register* notice of the Regional Administrator's decision to grant authorization to the State.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its boundaries. While EPA is responsible for the implementation of those provisions of HSWA for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible.

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, and to allow EPA to report to the President and Congress on the achievements of the hazardous waste program. EPA will conduct oversight through review of the RCRAInfo database, permit overview, compliance and enforcement overview, and annual review of the State's programs.

III. INTERSTATE AGREEMENTS

The State agrees that the Final Authorization of the RCRA program in Arkansas by EPA constitutes an "interstate agreement" within the meaning of the Arkansas Resource Reclamation Act (Act 1098 of 1979, Ark. Code Ann. §§ 8-7-301 *et. seq.*) that effectuates the purposes of said Act 1098. The State further agrees not to enforce any transportation or disposal ban on hazardous waste in the State of Arkansas, or to take enforcement action against a transporter of hazardous waste solely because such waste may have originated in a state or states, which has (have) not entered into an interstate agreement or compact with the State of Arkansas.

IV. STATE PROGRAM REVIEW

A. General

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. EPA will conduct this assessment by reviewing the RCRAInfo database and other information submitted by the State in accordance with this Agreement and the State grant work program, permit overview, compliance and enforcement overview, and annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such

comments received by the Regional Administrator will be provided to the State.

To ensure effective program review, the State agrees to allow EPA access to all files and other information requested by the Regional Administrator or his or her designee and deemed necessary by EPA for reviewing State program administration and enforcement.

Review of ADEQ files may be scheduled at quarterly intervals. Program review meetings between the State and the Regional Administrator or their assignees will be scheduled at reasonable intervals not less than annually to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns.

These meetings will be scheduled at least fifteen (15) days in advance unless agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

B. Identification of Priority Activities

The State and EPA agree to develop, on an annual basis as a part of the State grant work plan, criteria for priority activities, including activities regarding handlers of hazardous waste. The grant work plan will identify those activities which should receive the highest priority during the grant period.

V. INFORMATION SHARING

A. General

This Section covers information sharing on miscellaneous elements of the RCRA program, including notification, RCRAInfo data, etc. Specific information sharing requirements for the other major program elements are covered in their respective Sections: VI, Permit Issuance, VI, Permit Administration, and IX, Compliance Monitoring and Enforcement.

As the respective information needs of the State and EPA evolve, changes to this section of the Agreement may be appropriate. During the annual review of this Agreement the State and the Regional Administrator will carefully examine the information sharing requirements for needed revision.

Information related to Sections VI and VII, Permitting, shall be sent by the State to: U.S. EPA Region 6, ATTN: Arkansas Project Officer, 6PD-O, 1445 Ross Avenue, Dallas, TX 75202. EPA shall send Permit related information to: Arkansas Department of Environmental Quality, ATTN: Technical Branch Manager, Hazardous Waste Division, 5301 Northshore Drive, North Little Rock, AR 72118-5317. Information related to Section IX, Compliance Monitoring and Enforcement, shall be sent to: U.S. EPA Region 6, ATTN: Arkansas Project Officer, 6EN-HE, 1445 Ross Avenue, Dallas, TX 75202. EPA shall send compliance monitoring and enforcement related information to: Arkansas Department of Environmental Quality, ATTN: Enforcement & Inspection Branch Manager, Hazardous Waste Division, 5301 Northshore Drive, North Little Rock, AR 72118-5317.

B. EPA

1. EPA will keep ADEQ informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to ADEQ. EPA will share with ADEQ any national reports developed by EPA from the data submitted through State reporting requirements.
2. EPA agrees to make available to the ADEQ copies of any reports and data resulting from RCRA-related compliance inspections conducted by EPA within a reasonable time, subject to the terms of 40 CFR part 2 (Public Information) and 271.17 (Sharing of information).
4. EPA will make available to ADEQ other relevant information as requested which ADEQ needs to implement its approved program. Information provided to ADEQ will be subject to the terms of 40 CFR Part 2.

C. ADEQ

1. ADEQ agrees to inform the Regional Administrator of any proposed program changes which would affect ADEQ's ability to implement the authorized program with as much advanced notice as possible. Program changes of concern include modification of ADEQ's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). ADEQ recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. EPA agrees to support the State with timely review of proposed State legislation that might have a significant potential to affect the authorized hazardous waste program.
2. Annually, through development of the State grant work program, EPA and ADEQ will agree on the type and frequency of reports ADEQ will make in order for EPA to maintain oversight of the implementation of the State's authorized program.
3. ADEQ agrees to provide any pertinent information requested by the Regional Administrator or his or her designee within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities including any compliance inspection and subsequent enforcement actions, and approved variances and waivers. Unless otherwise agreed upon, the above information shall be sent to: U.S. EPA Region 6, ATTN: Arkansas Project Officer, 6H-HE, 1445 Ross Avenue, Dallas, TX 75202.

D. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the State. ADEQ agrees to supply the Regional Administrator with this information if readily available and as resources allow. If ADEQ is unable to provide the information or if it is necessary to supplement ADEQ information, EPA may conduct a special survey or perform information collection site visits after notifying ADEQ. EPA will share with ADEQ any national reports developed by EPA as a result of such information collection.

E. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party to this Agreement of the existence of such situation.

The ADEQ contact shall be: Emergency Response Coordinator, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72118-5317. Phone: (800) 327-8411 (non-emergency, routine, and non-time sensitive) or the Arkansas Department of Emergency Management, (800) 322-4012 (emergencies, or after working hours).

The EPA contact shall be: Emergency Response Branch, U.S. EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202. Phone: (214) 665-2222.

F. Confidentiality

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction. If the information has been submitted to ADEQ under a claim of confidentiality, ADEQ must submit that claim to EPA when providing information. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2, Public Information.
2. EPA agrees to furnish to ADEQ information in its files which is not submitted under a claim of confidentiality and which ADEQ needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish ADEQ information submitted to EPA under a claim of confidentiality which ADEQ needs to implement its program. All information EPA agrees to transfer to ADEQ will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to ADEQ.

G. Notification

EPA and ADEQ have jointly decided that the State will assign all EPA ID numbers and enter all notification data into RCRAInfo. If the applicant sends a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to ADEQ for the assignment of an ID

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number within 30 days of receipt. If ADEQ receives a notification form from EPA or from the applicant, ADEQ will assign an EPA ID number to the applicant and inform the applicant of its EPA ID number.

H. Variances and Waivers

ADEQ will send the Regional Administrator notice of the States intent to issue a variance or waiver. EPA will review all variances and waivers and will provide comments during the public comment period to assure that the State program is as stringent as the Federal program. Any comments received from EPA during the public comment period will be addressed as prescribed in Section VI. B below.

I. RCRA Data Management

1. ADEQ agrees to use, maintain, and enter data into, the national RCRA data management systems (currently RCRAInfo).
2. ADEQ is responsible for the correctness of the data it enters. ADEQ will timely correct any State data errors in the RCRAInfo edit reports generated by the merge procedure. ADEQ will provide all core data to RCRAInfo, as defined by EPA Headquarters, plus non-core data as agreed to with Region 6 program offices. EPA is responsible for the correctness of the data it enters, and will timely correct any data errors that EPA has created.
3. ADEQ will enter by the 7th working day of every month quality-assured RCRAInfo data representing the previous month's activities. ADEQ will review and improve the current RCRA universes to assure a nationally consistent information base.
4. ADEQ will collect Biennial Reporting data and provide the data to EPA for loading into the national Biennial Report module (BR) of RCRAInfo according to the schedule promulgated by EPA Headquarters, and the schedule in the Grant Workplan.
5. EPA will inform ADEQ promptly when changes are made to RCRAInfo that might affect the State's implementation of RCRAInfo. EPA will assist the State in RCRAInfo consulting and training as resources allow.
6. EPA will help the ADEQ maximize usefulness of RCRAInfo and BR data by enhancing existing reports or writing new report programs to fit specifications of the State. These reports will be available in RCRAInfo. EPA will also assist ADEQ in resolving BR data quality problems according to the schedule promulgated by EPA Headquarters.
7. Neither the State nor the Region will unilaterally change its RCRAInfo implementer system in any way without advance consultation with, and agreement of, the other party.
8. Both the Region and the State have the right, as implementers of RCRAInfo, to choose and to change their RCRAInfo hardware platforms to optimize system efficiency, but will not do so in such a way as to affect the merged data base, access to the merged data base

reports, or the potential for updating their implementer databases with the other party's data.

VI. PERMIT ISSUANCE

A. EPA Permitting

ADEQ and EPA have agreed to a joint permitting process (see section VI.D of this Agreement) for the joint processing and enforcement of Permits for those provisions of HSWA for which ADEQ does not have authorization. As ADEQ receives authorization for additional provisions of the HSWA, EPA will suspend issuance of Federal Permits in the State for those provisions.

Upon authorization of the State program, EPA will suspend issuance of Federal Permits for hazardous waste treatment, storage, and disposal facilities for the rules for which ADEQ is receiving authorization. EPA will continue to issue new RCRA Permits imposing requirements mandated by HSWA that are not covered by the State's authorized program, until the State receives final authorization for equivalent and consistent State standards. If EPA promulgates new standards requiring a Permit modification, then EPA may, pursuant to 40 CFR 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for the new standards. At the time the State receives authorization for the new standards, EPA will suspend issuance of new Federal Permits imposing those standards in the State.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft Permit, EPA's overview function will focus primarily on those facilities identified by ADEQ and EPA in ADEQ's Multi-Year Permit Strategy, and annual State grant work plan.

EPA may comment in writing on any draft Permit or proposed Permit modification. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the Permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. A statement of the reasons for the comment (including the section of the State law or regulations that supports the comment), and
- b. The actions that should be taken by ADEQ in order to address the comment (including the conditions which the Permit would include if it were issued by EPA).

Upon receipt of written comments from EPA, ADEQ and EPA will seek to reach concurrence on Permit conditions prior to issuance of the final Permits or approval of proposed Permit modifications. EPA shall withdraw such comments if satisfied that the State has met or refuted its concerns and shall also provide the Permit applicant(s) with a copy of such withdrawal.

When the EPA and ADEQ staffs cannot reach resolution on draft Permits, the Director of ADEQ shall confer with the Regional Administrator and both shall direct all their staff to coordinate and negotiate, as necessary, and to efficiently discuss and consider all comments and concerns and to resolve all misunderstandings. A time frame, not to exceed sixty (60) days, shall be established by the Director and the Regional Administrator for staff resolution. Any conflicts thereupon remaining shall be resolved within thirty (30) days by the mutual decision of the Director and the Regional Administrator.

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

C. State Permitting

ADEQ is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA Permits for those hazardous waste treatment, storage and disposal facilities contained in the authorized provisions of ADEQ's program and shall do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all applicable State and Federal requirements, and ADEQ's Program Description.

ADEQ agrees to issue, modify and reissue all Permits contained in the authorized portions of ADEQ's program in accordance with the Arkansas Hazardous Waste Management Act and the Arkansas Pollution Control and Ecology Commission's Regulation No. 23 (Hazardous Waste Management) and to include as Permit conditions all applicable provisions of such statutes and regulations. This agreement also applies to Permits issued after final authorization but for which the processing may have begun before final authorization.

ADEQ agrees that in exercise of its statutory variance authority (Ark. Code Ann. § 8-7-211) it shall not grant any variances that will result in any requirements less stringent than comparable federal statutory or regulatory requirements.

ADEQ agrees that any compliance schedules contained in Permits it issues will require compliance with applicable standards as soon as possible.

ADEQ agrees to consider all comments EPA makes on Permit applications and draft Permits. ADEQ will satisfy or refute EPA's concerns on a particular Permit application, proposed Permit modification, or draft Permit in writing before issuing the final Permit or making the modification.

D. Joint Permitting Process

Pursuant to RCRA §3006(g)(1), and in accordance with the Hazardous and Solid Waste Amendments of 1984, EPA has the authority to issue or deny Permits or those portions of Permits to facilities in Arkansas for the requirements and prohibitions in or stemming from

HSWA until ADEQ's program is amended to reflect those requirements and prohibitions, and authorization is received for those portions of the program.

EPA and ADEQ hereby establish this joint permitting process for the issuance of RCRA Permits in Arkansas. This joint permitting process is established in accordance with Section 3006(c)(3) of RCRA. The details of the joint permitting process shall be incorporated as needed into the annual State grant work program.

The details of the joint permitting process as implemented through ADEQ's annual grant work plan shall be reviewed and revised as often as necessary, but no less often than annually to assure its continued appropriateness.

Upon authorization of ADEQ for any of the provisions of HSWA, the specifics of the Joint Permitting Agreement as set in the annual State grant work plan shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of a separate Memorandum of Agreement may be required for authorization of any of the provisions of HSWA.

VII. PERMIT ADMINISTRATION

A. EPA

EPA no longer issues Hazardous Waste Management Permits in Arkansas with the exception of joint Permits addressing new or newly-revised HSWA provisions for which ADEQ is not currently authorized.

B. ADEQ

ADEQ agreed to review all Hazardous Waste Management Permits which were issued under State law prior to the effective date of this Agreement and to assume responsibility for delegated HSWA provisions as of the effective date of authorization, or to modify or revoke and reissue such Permits as necessary to require compliance with the amended State Program, the Arkansas Hazardous Waste Management Act, APC&EC Regulation No. 23, and APC&EC Regulation No. 8. ADEQ has modified or revoked and reissued these State Permits as RCRA Permits, as necessary, in accordance with the annual State grant work plan.

ADEQ agrees to resolve all State Permit appeals in a manner consistent with its authorized RCRA program.

VIII. CORRECTIVE ACTION.

ADEQ will conduct the RCRA Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, ADEQ will, to the extent practicable:

1. Embrace flexible, practical, results-based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal;
2. Provide ready public access to information and meaningful opportunities for public involvement in the cleanup process;
3. Foster a culture of innovation, creativity, communication, and technical expertise, focused on accelerating cleanups and meeting program goals; and
4. Carefully consider key program guidance (and any updates) in conducting the RCRA Corrective Action Program.

EPA will assist the ADEQ with all aspects of the cleanup program and support its efforts to conduct faster, focused, and more flexible RCRA cleanups, upon request by ADEQ.

IX. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting an inspection of a generator, transporter, or facility, the Regional Administrator will normally give ADEQ at least seven days notice (with a goal of at least a 30 day notice) of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i) and allow ADEQ the opportunity to accompany EPA during the inspection. Additionally, EPA will normally give ADEQ a reasonable opportunity to conduct the compliance evaluation inspection in accordance with 40 CFR 271.8(b)(5).

If ADEQ performs a compliance inspection and submits to EPA a report and data relevant thereto prior to an inspection by EPA, the EPA, at its discretion, will determine whether to conduct its own inspection. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections within a reasonable time from completion of the inspections.

ADEQ has the primary responsibility under the State program to inspect and/or bring enforcement action against any hazardous waste generator, transporter, or facility in Arkansas. Without limiting, in any manner, EPA's ability to inspect and/or enforce, it is agreed that generally, EPA may conduct inspections or take enforcement actions in the following situations:

- 1) when for policy reasons EPA, unrelated to the ability or willingness of ADEQ to inspect or enforce in a timely manner, desires to inspect and/or enforce;
- 2) when in EPA's judgment ADEQ fails to take timely and appropriate enforcement action, or fails to timely and properly inspect; and
- 3) upon request by ADEQ.

In reference to category 1 above, EPA and ADEQ will strive to identify and agree prior to the beginning of each federal fiscal year on the universe of facilities to be inspected. In planning work for the next fiscal year, ADEQ and EPA will jointly discuss and agree upon an inspection schedule for both ADEQ and EPA. Inspections and enforcement actions under this category shall not reflect or constitute evidence of any inability or unwillingness on the part of ADEQ.

In reference to category 2 above, when in EPA's judgment ADEQ fails to take timely and appropriate enforcement action, or fails to timely and properly inspect: before conducting an inspection of a generator, transporter, or facility, the Regional Administrator will give notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). If ADEQ performs a compliance inspection and submits a report and data relevant thereto prior to an inspection by EPA, the EPA, at its discretion, will determine whether to conduct its own inspection. In case of an imminent hazard to human health or the environment, the Regional Administrator may shorten or waive the notice period.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). In such case, the Regional Administrator shall give notice to the ADEQ Director prior to issuing an order or commencing a civil action under section 3008(a). EPA also maintains authority to issue orders and bring actions under sections 3008, 3013 and 7003 of RCRA and any other applicable federal statute.

Also EPA maintains authority to bring an action under section 3008(a)(3) of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008(a)(3) of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. State

ADEQ agrees to carry out a timely and effective program for monitoring compliance. Compliance monitoring activities and priorities will be specified in the annual State grant work program and shall be consistent with all applicable Federal requirements and with ADEQ's Program Description. ADEQ will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

ADEQ agrees to take timely and appropriate enforcement action as defined in the 2003 Hazardous Waste Enforcement Response Policy against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, Permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. ADEQ will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

ADEQ agrees to provide EPA with copies of reports on data resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies. The State agrees to retain all records in paper or electronic form for at least three years unless there is an

enforcement action pending. In that case all records will be retained at least three years from the point such action is resolved. EPA also agrees to retain all compliance and enforcement records for at least three years unless there is an enforcement action pending. In that case all records will be retained at least three years from the point such action is resolved.

X. AVAILABILITY OF INFORMATION (section 3006(f))

A. General

Section 3006(f) of RCRA provides that States may be authorized by the Administrator under this section if the State program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste; and that such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator were carrying out the provisions of this subtitle in the State.

B. Requests for Information

1. Pursuant to the Federal Freedom of Information Act (FOIA), 5 U.S.C. 552(a)(2), ADEQ agrees to make certain materials routinely available without a formal FOIA request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.
2. ADEQ agrees to make reasonable efforts to assist a requester in identifying records being sought, and to help the requester formulate his or her request.
3. If a request for information is denied, ADEQ agrees to provide the requester the basis for the denial and to notify the requester of State judicial (or, if they exist, administrative) procedures, including statutes of limitation.
4. ADEQ agrees to make the fullest possible disclosure of records to the public, subject to any of the exemptions under the Federal FOIA recognized by the State.
5. A reduction or waiver of fees will be considered (but not necessarily granted) in connection with each request from a representative of the press or other communication medium, or from a public interest group. ADEQ agrees to reduce or waive fees for copying information if ADEQ determines that a waiver or reduction of fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public. All requests for fee reductions or waivers shall be determined by the Director or his designated representative.

C. Confidentiality of Business Information

If a claim of confidentiality is asserted and cannot be resolved in the time period provided for an agency response to a request, ADEQ agrees to notify the requester of the confidentiality claim within the maximum 20-day time limit provided for an agency response. In addition, the requester will be told that the request was denied in order to resolve the business confidentiality claim.

D. Oversight

ADEQ agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

XI. DISPUTE RESOLUTION

When the EPA and ADEQ staffs cannot reach resolution on an issue, the Director of ADEQ shall confer with the Regional Administrator and both shall direct all their staff to coordinate and negotiate, as necessary, and to efficiently discuss and consider all comments and concerns, and to resolve all misunderstandings. A time frame, not to exceed sixty (60) days, shall be established by the Director and the Regional Administrator for staff resolution. Any conflicts thereupon remaining shall be resolved within thirty (30) days by the mutual decision of the Director and the Regional Administrator.

**STATE OF ARKANSAS
DEPARTMENT OF ENVIRONMENTAL
QUALITY**

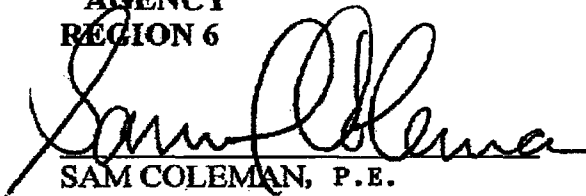


TERESA MARKS
Director

6/27/12

(Date)

**US ENVIRONMENTAL PROTECTION
AGENCY
REGION 6**



SAM COLEMAN, P.E.
Acting Region 6 Administrator

7/10/2012

(Date)

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