

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 2129

4  
5 By: Representative Hunton

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 8-4-203 TO  
10 ESTABLISH A SCHEDULE AND PROCEDURE FOR THE ISSUANCE OF  
11 PERMITTING DECISIONS BY THE DEPARTMENT OF POLLUTION  
12 CONTROL AND ECOLOGY; AND FOR OTHER PURPOSES."

## Subtitle

14 "TO ESTABLISH A SCHEDULE AND PROCEDURE  
15 FOR THE ISSUANCE OF PERMITTING DECISIONS  
16 BY THE DEPARTMENT OF POLLUTION CONTROL  
17 AND ECOLOGY"  
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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Annotated § 8-4-203 is amended to read as  
23 follows:

24 "8-4-203. Permits generally.

25 (a) The Arkansas Pollution Control and Ecology Commission is given and  
26 charged with the power and duty to issue, continue in effect, revoke, modify,  
27 or deny permits, under such conditions as it may prescribe, to prevent,  
28 control, or abate pollution, for the discharge of sewage, industrial waste, or  
29 other wastes into the waters of the state, including the disposal of  
30 pollutants into wells, and for the installation, modification, or operation of  
31 disposal systems or any part of them.

32 (b)(1) When any application for the issuance of a new permit or a major  
33 modification of an existing permit is filed with the department, the  
34 department shall cause notice of the application to be published in a  
35 newspaper of general circulation in the county in which the proposed facility  
36 is to be located.

1           (2) The notice required by this subsection shall advise that any  
 2 interested person may request a public hearing on the permit application by  
 3 giving the department a written request within ten (10) days of the  
 4 publication of the notice.

5           (3) Should a hearing be deemed necessary by the department, or in  
 6 the event the department desires such a hearing, the department shall schedule  
 7 a public hearing and shall, by first class mail, notify the applicant and all  
 8 persons who have submitted comments of the date, time, and place thereof.

9           (4) [Repealed.]

10          (c)(1)(A) Whenever the department proposes to grant or deny any permit  
 11 application, it shall cause notice of its proposed action to be published in  
 12 either a newspaper of general circulation in the county in which the facility  
 13 that is the subject of the application is located, or, in the case of a  
 14 statewide permit, in a newspaper of general circulation in the state.

15                       (B) The notice shall afford any interested party thirty  
 16 (30) calendar days in which to submit comments on the proposed permit action.

17                       (C) At the conclusion of the public comment period, the  
 18 department shall announce in writing its final decision regarding the permit  
 19 application.

20          (2) The department's final decision shall include a response to  
 21 each issue raised in any public comments received during the public comment  
 22 period. In the case of any discharge limit, emission limit, environmental  
 23 standard, analytical method, or monitoring requirements the record of the  
 24 proposed action and the response shall include a written explanation of the  
 25 rationale for the proposal, demonstrating that any technical requirements or  
 26 standards are based upon generally accepted scientific knowledge and  
 27 engineering practices. For any standard or requirement that is identical to a  
 28 duly promulgated and applicable regulation, this demonstration may be  
 29 satisfied by reference to the regulation. In all other cases, the department  
 30 must provide its own justification with appropriate reference to the  
 31 scientific and engineering literature or written studies conducted by the  
 32 department.

33          (d)(1) All costs of publication of notice under this section shall be  
 34 paid by the department with reimbursement by the applicant to be made to the  
 35 department prior to the issuance of the final permit.

36          (2) All moneys received pursuant to this subsection shall be

1 classified as refunds to expenditures.

2 (e) Only those persons who submit comments on the record during the  
3 public comment period and the applicant shall have standing to appeal the  
4 decision of the department to the commission.

5 (f)(1) Permits for the discharge of pollutants to the waters of the  
6 state or for prevention of pollution of the waters of the state shall remain  
7 freely transferable, provided the applicant for the transfer notifies the  
8 director at least thirty (30) days in advance of the proposed transfer date  
9 and submits a disclosure statement as required by § 8-1-106.

10 (2) Only those reasons set out in § 8-1-106(b)(1) and (c) shall  
11 constitute grounds for denial of a transfer.

12 (3) The permit is automatically transferred to the new permittee  
13 unless the director denies the request within thirty (30) days of the receipt  
14 of the disclosure statement.

15 (g) In the event of voluminous comments, including, but not limited to,  
16 a petition, the department may require the designation of a representative to  
17 accept any notices required by this section.

18 (h) The notice provisions of subsections (b) and (c) of this section  
19 shall not apply to permit transfers or minor modifications of existing  
20 permits.

21 (i)(1) The department shall grant or deny a permit application and  
22 cause notice of its proposed action to be published within sixty (60) days of  
23 submission of the application for a permit.

24 (2) The department is entitled to an extension for up to an  
25 additional thirty (30) days, upon notifying the applicant in writing.

26 (3) The department is entitled to an extension when the applicant  
27 for permit has not provided all information required to evaluate the  
28 application, provided that the commission has approved a permit application  
29 that specifically identifies all information required for a complete  
30 application, and the department has provided the applicant written  
31 notification of the specific information that is deficient. An extension for  
32 a deficient application shall be limited to the time required for the  
33 applicant to submit the additional information requested by the department.

34 (4) Should the department fail to grant or deny the permit  
35 application and cause notice of its proposed action to be published within  
36 sixty (60) days of submission of the application for permit, the applicant may

1 submit a draft permit to the department and cause notice of the draft permit  
 2 to be published in accordance with subsection (c).

3           (5) Should the department fail to issue its final decision within  
 4 thirty (30) days of the close of the public comment period, the applicant may  
 5 notify the department that it elects to treat the proposed permit as the final  
 6 decision of the department. Such election by the applicant shall not affect  
 7 the applicants rights under § 8-4-205 to request a hearing.

8           (6) The commission shall, within sixty (60) days, adopt  
 9 regulations to implement the permit decision schedule and procedure identified  
 10 in this subsection for permits issued pursuant to the Solid Waste Management  
 11 Act, §§ 8-6-201, et seq."

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13           SECTION 2. All provisions of this act of a general and permanent nature  
 14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 15 Revision Commission shall incorporate the same in the Code.

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17           SECTION 3. If any provision of this act or the application thereof to  
 18 any person or circumstance is held invalid, such invalidity shall not affect  
 19 other provisions or applications of the act which can be given effect without  
 20 the invalid provision or application, and to this end the provisions of this  
 21 act are declared to be severable.

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23           SECTION 4. All laws and parts of laws in conflict with this act are  
 24 hereby repealed.

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