

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/16/99

A Bill

Act 1164 of 1999
SENATE BILL 848

5 By: Senator Bradford
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
10 OF 1987 ANNOTATED TO REFER TO THE ARKANSAS DEPARTMENT
11 OF ENVIRONMENTAL QUALITY INSTEAD OF THE ARKANSAS
12 DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY; AND FOR
13 OTHER PURPOSES. "
14

Subtitle

15 "AN ACT TO CODIFY THE NAME CHANGE FROM
16 ARKANSAS DEPARTMENT OF POLLUTION CONTROL
17 AND ECOLOGY TO ARKANSAS DEPARTMENT OF
18 ENVIRONMENTAL QUALITY. "
19
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Section 2-40-406 is amended to read as follows:

25 "§ 2-40-406. Arkansas Department of Environmental Quality ~~Pollution~~
26 ~~Control and Ecology~~ -- Jurisdiction unimpaired.

27 No provision of this subchapter shall be interpreted as denying or
28 preempting the regulatory or enforcement jurisdiction of the Arkansas
29 Department of Environmental Quality ~~Department of Pollution Control and~~
30 ~~Ecology.~~ "
31

32 SECTION 2. Section 2-40-1302(a)(2) is amended to read as follows:

33 "(2) Provided, no large animal carcass shall be buried or otherwise
34 disposed of in any landfill operated under a permit issued by the Arkansas
35 Department of Environmental Quality ~~Pollution Control and Ecology.~~ "
36

1 SECTION 3. Section 8-1-101(a) is amended to read as follows:

2 "(a) It is the purpose of this chapter to authorize the Arkansas
3 Pollution Control and Ecology Commission to establish a system of fees for the
4 issuance of permits required by §§ 8-4-101-8-4-106, 8-4-201 - 8-4-229, 8-4-
5 301-8-4-314, 8-6-201-8-6-212, 8-6-213 [repealed], 8-6-214, 8-6-215 -8-6-217
6 [superseded], and 8-9-403, to defray costs of other services provided, and to
7 authorize the Arkansas Department of Environmental Quality Pollution Control
8 and Ecology to collect and enforce these fees."

9
10 SECTION 4. Section 8-1-102 is amended to read as follows:

11 "8-1-102. Definitions.

12 (1) 'Department' means the Arkansas Department of Environmental Quality
13 Pollution Control and Ecology;

14 (2) 'Commission' means the Arkansas Pollution Control and Ecology
15 Commission;

16 (3) 'Director' means the executive head and active administrator of the
17 Arkansas Department of Environmental Quality Pollution Control and Ecology;

18 (4) 'Initial fee' means that fee required by this chapter to be submitted
19 with all applications for water, air, and solid waste permits required by §§
20 8-4-101--8-4-106, 8-4-201--8-4-229, 8-4-301--8-4-314, 8-6-201--8-6-212, 8-6-
21 213 [repealed], 8-6-214, 8-6-215-8-6-217 [superseded], or § 8-9-403;

22 (5) 'Annual review fee' means that fee required by this chapter to be
23 submitted upon the anniversary date of issuance of permits required by the
24 statutes enumerated in subdivision (4) of this section;

25 (6) 'Modification fee' means the fee required to be submitted by this
26 chapter for modification of any existing or future permit required by the
27 statutes enumerated in subdivision (4) of this section, either at the request
28 of the permittee or as required by the laws of the State of Arkansas or the
29 rules and regulations of the department; and

30 (7) 'Facility' means any activity or operation within a specific
31 geographic location, including property contiguous thereto. A facility may
32 consist of several treatment, storage, or disposal operational units."

33
34 SECTION 5. Section 8-1-103(5) is amended to read as follows:

35 "(5) The Arkansas Department of Environmental Quality Pollution Control
36 and Ecology is hereby authorized to promulgate such rules and regulations

1 necessary to administer the fees, rates, tolls, or charges for services
2 established by this section and is directed to prescribe and collect such
3 fees, rates, tolls, or charges for the services delivered by the
4 Arkansas Department of Environmental Quality Pollution Control and Ecology in
5 such manner as may be necessary to support the programs of the department as
6 directed by the Governor and the General Assembly.”

7
8 SECTION 6. Section 8-1-105 is amended to read as follows:

9 “8-1-105. Fee Fund.

10 (a) An ‘Arkansas Department of Environmental Quality Pollution Control
11 ~~and Ecology~~ Fee Fund’ is established on the books of the Treasurer of State,
12 Auditor of State, and Chief Fiscal Officer of the State.

13 (b) All fees collected under the provisions of all laws administered by
14 the department shall be deposited in this fund unless other provided by law.
15 The department shall use these funds to defray the costs of operating the
16 department.

17 (c) The Arkansas Department of Environmental Quality Pollution Control
18 ~~and Ecology~~ is hereby authorized to promulgate such rules and regulates
19 necessary to administer the fees, rates, tolls, or charges for services
20 established by this section and is directed to prescribe and collect such
21 fees, rates, tolls, or charges for the services delivered by the Arkansas
22 Department of Environmental Quality Pollution Control and Ecology in such
23 manner as may be necessary to support the programs of the department as
24 directed by the Governor and the General Assembly.”

25
26 SECTION 7. Section 8-1-106(b)(1) is amended to read as follows:

27 “(b)(1)Except as provided in subdivision (4) of this subsection, all
28 applicants for the issuance or transfer of any permit, license, certification,
29 or operational authority issued by the Arkansas Department of Environmental
30 Quality Pollution Control and Ecology shall file a disclosure statement with
31 their applications. Deliberate falsification or omission of relevant
32 information from disclosure statements shall be grounds for civil or criminal
33 enforcement action or administrative denial of a permit, license,
34 certification, or operational authorization.”

35
36 SECTION 8. Section 8-1-202 is amended to read as follows:

1 "8-1-202. Powers of the Director of the Arkansas Department of
2 Environmental Quality Pollution Control and Ecology.

3 (a) The executive head of the Arkansas Department of Environmental
4 Quality Pollution Control and Ecology shall be the Director of the Arkansas
5 Department of Environmental Quality Pollution Control and Ecology, who shall
6 be appointed by the Governor with the consent of the Senate. The director
7 shall serve at the pleasure of the Governor."

8 (b) The director shall be the executive officer and active administrator
9 of all pollution control activities in the state. As such, the director's
10 duties shall include:

11 (1)(A) The administration of permitting, licensing, certification, and
12 grant programs deemed necessary to protect the environmental integrity
13 of the state.

14 (B) The director, or his delegatee within his staff, shall serve as the
15 issuing authority for the state;

16 (2)(A) Initiation and settlement of civil or administrative enforcement
17 actions to compel compliance with laws, orders, and regulations charged
18 to the responsibility of the Arkansas Department of Environmental
19 Quality Pollution Control and Ecology.

20 (B) In this regard, the director may propose the assessment of civil
21 penalties as provided by law, and take all actions necessary to collect
22 such penalties;

23 (3) Issuance of orders in such circumstances which reasonably require
24 emergency measures be taken to protect the environment or the public health
25 and safety, except to the extent that the matter involved is reserved to the
26 jurisdiction or orders of the commission for rulemaking procedures in § 8-4-
27 202;

28 (4) Day-to-day administration of all activities which the
29 Arkansas Department of Environmental Quality Pollution Control and Ecology is
30 empowered by law to perform, including, but not limited to, the employment and
31 supervision of such technical, legal, and administrative staff, within
32 approved appropriations, necessary to carry out the responsibilities vested
33 with the department;

34 (5) Providing technical and legal expertise and assistance in the field
35 of environmental protection to other agencies and subdivisions of the state as
36 appropriate;

1 (6) Day-to-day administration of environmental programs delegated to the
2 State of Arkansas by the responsible agencies of the federal government; and

3 (7) Any other power or duty specifically vested with the director or
4 department by the General Assembly.”

5
6 SECTION 9. Section 8-1-204 is amended to read as follows:

7 “8-1-204. Administrative hearing officer.

8 (a) The Arkansas Pollution Control and Ecology Commission shall employ a
9 full-time administrative hearing officer to perform such functions and duties
10 as the commission shall direct and in particular to advise the commission on
11 matters of law and procedure that may arise during the conduct of commission
12 duties and responsibilities as outlined in §§ 8-1-203, 8-4-201, 8-4-202, 8-4-
13 311, 8-5-205, and 8-6-207, or as otherwise provided by law.

14 (b) The administrative hearing officer shall be selected and hired by
15 the commission and shall be independent of and not an employee of the
16 Arkansas Department of Environmental Quality Pollution Control and Ecology.

17 (c) Subject to such rules and regulations as may be implemented by the
18 Chief Fiscal Officer of the State, and after having sought the approval of the
19 Chief Fiscal Officer of the State and prior review by the Arkansas Legislative
20 Council, the Arkansas Pollution Control and Ecology Commission may transfer
21 appropriation, from maintenance and general operations from the appropriation
22 provided to the department for fee administration payable from the Arkansas
23 Department of Environmental Quality Pollution Control and Ecology Fee Fund, to
24 the maintenance and general ~~general~~ operations appropriation provided for the
25 commission’s hearing officer.

26 (d) The office space for the hearing officer shall be at a location
27 other than the offices of the Arkansas Department of Environmental Quality
28 Pollution Control and Ecology.

29 (f) The disbursing officer of the Arkansas Department of Environmental
30 Quality Pollution Control and Ecology shall disburse the funds appropriated
31 for the commission’s hearing officer.”

32
33 SECTION 10. Section 8-1-205 is amended to read as follows:

34 “8-1-205. Mercury Task Force recommendations - Implementation.

35 The Arkansas Department of Environmental Quality Pollution Control and
36 Ecology is hereby authorized to enter into agreements or contracts with the

1 Arkansas State Game and Fish Commission or other entities as necessary to
2 implement the recommendations of the Mercury Task Force."

3
4 SECTION 11. Section 8-1-302(2) is amended to read as follows:

5 "(2) "Director" means the Director of the Arkansas Department of
6 Environmental Quality Pollution Control and Ecology;"

7
8 SECTION 12. Section 8-1-307(b)(2) is amended to read as follows:

9 "(2) In the event additional time is required to prepare a permit
10 application, the person shall, within ninety (90) days, submit a schedule to
11 the Arkansas Department of Environmental Quality Pollution Control and Ecology
12 which identifies the activities required to complete the application, and if
13 the schedule is acceptable to the Arkansas Department of Environmental Quality
14 Pollution Control and Ecology, the filing of the application pursuant to the
15 submitted schedule shall constitute reasonable diligence to achieve compliance
16 for a failure to obtain a required permit."

17
18 SECTION 13. Section 8-1-308(b)(2) is amended to read as follows:

19 "(2) In the event additional time is required to prepare a permit
20 application, the person shall, within ninety (90) days, submit a schedule to
21 the Arkansas Department of Environmental Quality Pollution Control and Ecology
22 which identifies the activities required to complete the application, and if
23 the schedule is acceptable to the Arkansas Department of Environmental Quality
24 Pollution Control and Ecology, the filing of the application pursuant to the
25 submitted schedule shall constitute reasonable diligence to achieve compliance
26 for a failure to obtain a required permit."

27
28 SECTION 14. Section 8-2-202 is amended to read as follows:

29 "8-2-202. Purpose.

30 It is the purpose of this subchapter to authorize the Arkansas
31 Department of Environmental Quality Pollution Control and Ecology to establish
32 and administer an environmental laboratory certification program so that
33 laboratories that submit data and analyses to the department may be certified
34 by the department as having demonstrated acceptable compliance with laboratory
35 standards so that the validity of scientific data submitted to the department
36 may be further assured."

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SECTION 15. Section 8-2-203(5) is amended to read as follows:

"(5) 'Department' means the Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~;"

SECTION 16. Section 8-4-105(a)(1) is hereby amended to read as follows:

"8-4-105. Director of the Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~.

(a)(1) The executive head of the Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~ shall be the Director of the Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~, who shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

(2) The director, with the advice and consent of the Governor, shall appoint the heads of the divisions of the department, including the Division of Water Pollution Control, Division of Air Pollution Control, Division of Solid Waste Management, Division of Environmental Preservation, Division of Administration, and such other divisions as may be established.

(3) All of the personnel of the department shall be employed by and serve at the pleasure of the director. However, nothing in this subdivision shall be construed to reduce any right which an employee shall have under any civil service or merit system.

(b)(1) The director shall be the executive officer and active administrator of all pollution control activities.

(2) All of the powers of the commission under §§ 8-4-201(5), 8-4-203, and 8-4-204 relating to plans and specifications for disposal systems and permits for the discharge of sewage, industrial wastes, or other wastes into the waters of the state are vested in the director."

SECTION 17. Section 8-4-106 is amended to read as follows;

"8-4-106. Technical and other services and public assistance.

(a) Technical, scientific, legal, or other services may be performed, insofar as practicable, by personnel of other state agencies and educational institutions and the Attorney General. However, the personnel of these state agencies shall receive no additional salary or wages for their services to the

1 ~~Arkansas Department of Environmental Quality Pollution Control and Ecology.~~

2 (b) The Director of the Arkansas Department of Environmental Quality
3 ~~Pollution Control and Ecology~~, however, may employ and compensate, within
4 appropriations available, consultants and such assistants and employees as may
5 be necessary to carry out the provisions of this chapter and prescribe their
6 powers and duties."

7
8 SECTION 18. Section 8-4-107 is amended to read as follows:

9 "8-4-107. Prosecution of Public Nuisance Actions.

10 In any legal action arising from, relating to, or including violations
11 of laws or regulations charged to the enforcement authority of the
12 Arkansas Department of Environmental Quality Pollution Control and Ecology
13 which also alleges the existence of a public nuisance at common law, the
14 Attorney General or the Arkansas Department of Environmental Quality Pollution
15 ~~Control and Ecology~~ may serve as the instrumentality of the state authorized
16 to initiate and prosecute such action."

17
18 SECTION 19. Section 8-4-201(a) is amended to read as follows:

19 "(a) The Arkansas Department of Environmental Quality Pollution Control
20 ~~and Ecology~~, or its successor, is given and charged with the following powers
21 and duties:"

22
23 SECTION 20. Section 8-4-203(a) is amended to read as follows:

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

32
33 SECTION 21. Section 8-4-204 is amended to read as follows:

34 "8-4-204. Permits -- Revocation.

35 The Arkansas Department of Environmental Quality Pollution Control and
36 ~~Ecology~~, or its successor, is given and charged with the power and duty to

1 revoke, modify, or suspend, in whole or in part, for cause any permit issued
2 under this chapter, including without limitation:

3 (1) Violation of any condition of the permit;

4 (2) Obtaining a permit by misrepresentation or failure to disclose fully
5 all relevant facts; or

6 (3) Change in any applicable regulation or change in any preexisting
7 condition affecting the nature of the discharge that requires either a
8 temporary or permanent reduction or elimination of the permitted discharge."
9

10 SECTION 22. Section 8-4-205(a) is amended to read as follows:

11 "(a) Any person who is denied a permit by the Director of the
12 Arkansas Department of Environmental Quality Pollution Control and Ecology, or
13 who has a permit revoked or modified or a request for permit transfer or
14 modification denied, shall be afforded an opportunity for a hearing by the
15 commission in connection therewith, upon written application made within
16 thirty (30) days after service of notice of the denial, revocation, or
17 modification."
18

19 SECTION 23. Section 8-4-206(a) is amended to read as follows:

20 "(a) In addition to any other powers which it may have under this
21 chapter or any other legislative act, the Arkansas Department of Environmental
22 Quality Pollution Control and Ecology is authorized and empowered to act as
23 the "state water pollution control agency" for the State of Arkansas for the
24 purposes of the Federal Water Pollution Control Act Amendments of 1972."
25

26 SECTION 24. Section 8-4-207 is amended to read as follows:

27 "8-4-207. State water pollution control agency -- Powers and duties
28 generally.

29 Without limiting the generality of the provisions of this chapter or of
30 the power which the Director of the Arkansas Department of Environmental
31 Quality Pollution Control and Ecology and Arkansas Pollution Control and
32 Ecology Commission may have under this or any other legislative act:

33 (1)(A) The director is authorized to require conditions in permits
34 issued under this chapter the achievement of effluent limitations based upon
35 the application of such levels of treatment technology and processes as are
36 required under the federal act or any more stringent effluent limitations

1 necessary to meet water quality criteria or toxic standards established
2 pursuant to any state or federal law or regulation. Such effluent limitations
3 shall be achieved in the shortest reasonable period of time consistent with
4 state law and the federal act and any regulations or guidelines promulgated
5 thereunder.

6 (B) The director is further authorized to set and revise schedules of
7 compliance and include such schedules within the terms and conditions of
8 permits and prescribe other terms and conditions for permits issued under this
9 chapter to assure compliance with applicable state and federal effluent
10 limitations and water quality criteria including requirements concerning
11 recording, reporting, monitoring, entry, inspection, and sampling as provided
12 in this chapter and such other requirements as are consistent with the
13 purposes of this chapter;

14 (2) The director shall not issue a permit under this chapter if the
15 discharge of any term of the permit would violate the provisions of any
16 federal law, or rule or regulation promulgated thereunder, including the
17 duration of such permit;

18 (3) Permits for publicly owned treatment works shall include as a
19 condition for permit that the permittee provide information to the director
20 concerning new introductions of pollutants or substantial changes in the
21 volume or character of pollutants, whether sewage, industrial waste, or other
22 wastes, being introduced into such treatment works and appropriate measures to
23 establish and ensure compliance by industrial users with any system of user
24 charges required under state or federal law or any regulations or guidelines
25 promulgated thereunder;

26 (4) The director is authorized to apply and enforce toxic effluent
27 standards and pretreatment standards against industrial users of publicly
28 owned treatment works for the introduction into such treatment works of
29 sewage, industrial wastes, or other wastes which interfere with, pass through,
30 or otherwise are incompatible with such treatment works;

31 (5) The director and commission shall ensure public notice, public
32 participation, and an opportunity for public hearing in respect to National
33 Pollutant Discharge Elimination System permit applications and actions related
34 to them in accordance with applicable state and federal law and rules and
35 regulations;

36 (6)(A) Any records, reports or information obtained under this chapter

1 and any permits, permit applications, and related documentation shall be
2 available to the public for inspection and copying.

3 (B)(i) However, information submitted to the department may be claimed
4 as confidential if its disclosure would divulge trade secrets.

5 (ii) The department shall deny any claim for confidentiality for the
6 name and address of any permit applicant or permittee or for any National
7 Pollution Discharge Elimination System permit applications, National Pollution
8 Discharge Elimination System permits, and effluent data.

9 (iii) Information required by National Pollution Discharge Elimination
10 System application forms, including any information submitted on the forms
11 themselves and any attachments used to supply information required by the
12 forms, shall not be claimed confidential nor afforded this protection.

13 (iv) Any person adversely affected by a determination by the department
14 on a claim of confidentiality may appeal the determination as provided in §§
15 8-4-222 and 8-4-223."

16

17 SECTION 25. Section 8-4-208 is amended to read as follows:

18 "8-4-208. State Water pollution control agency -- Administration
19 of permit program generally.

20 (a) The Arkansas Department of Environmental Quality Pollution Control
21 ~~and Ecology~~ is authorized, subject to the approval of the Governor, to
22 administer in behalf of the state its own permit program for discharges into
23 navigable waters within its jurisdiction in lieu of that of the Environmental
24 Protection Agency. The department is also authorized to submit to the
25 Administrator of the Environmental Protection Agency for approval a full and
26 complete description of the program which the department proposes to establish
27 and administer under state law, as provided by § 402 (b) of the Water
28 Pollution Control Act Amendments of 1972. To that end, the department and
29 Arkansas Pollution Control and Ecology Commission are vested with all
30 necessary authority and power to meet the requirements of 402 (b) of the Water
31 Pollution Control Act Amendments of 1972 and the guidelines promulgated by the
32 Environmental Protection Agency pursuant to § 304 (h)(2) of the Water
33 Pollution Control Act Amendments of 1972, to engage in an approved continuing
34 planning process under § 303(e) of the Water Pollution Control Act Amendments
35 of 1972, and to perform any and all acts necessary to carry out the purposes
36 and requirements of the Water Pollution Control Act Amendments of 1972

1 relating to this state's participation in the National Pollutant Discharge
2 Elimination System established under the Water Pollution Control Act
3 Amendments of 1972, subject to all restrictions contained in the federal act
4 and guidelines.

5 (b) The department shall further have the authority to accept a
6 delegation of authority from the Administrator of the Environmental Protection
7 Agency under the Federal Water Pollution Control Act Amendments of 1972 and to
8 exercise and enforce the authority delegated.

9 (c) Any public hearing which may be held by the Director of the Arkansas
10 Department of Environmental Quality Pollution Control and Ecology preliminary
11 to acting on a permit application as required by the Federal Water Pollution
12 Control Act Amendments of 1974 and guidelines shall, unless otherwise
13 designated in the notice of hearing, be for informational purposes only and
14 shall not be deemed a hearing before the commission within the meaning of §
15 8-4-205. No appeal may be taken therefrom."

16

17 SECTION 26. Section 8-4-215(c) is amended to read as follows:

18 "(c) The Arkansas Department of Environmental Quality Pollution Control
19 and Ecology, or its successor, may enter into agreements with the responsible
20 authorities of the United States or other states, subject to approval by the
21 Governor, relative to policies, methods, means, and procedures to be employed
22 to control pollution of any interstate waters and may carry out these
23 agreements by appropriate general and special orders. This power shall not be
24 deemed to extend to the modification of any agreement with any other state
25 concluded by direct legislative act. However, unless otherwise provided, the
26 department shall be the agency for the administration and enforcement of any
27 such legislative agreement."

28

29 SECTION 27. Section 8-4-216(a) is amended to read as follows:

30 "(a) The owner or operator of, or any contributor of sewage, industrial
31 wastes, or other wastes to, any disposal system, or an industrial user of a
32 publicly-owned treatment system, when requested by the Director of the
33 Arkansas Department of Environmental Quality Pollution Control and Ecology,
34 shall furnish to the department any information which is relevant to the
35 subject of this chapter. He shall establish and maintain such records, make
36 such reports, install, use, and maintain such monitoring equipment or methods,

1 including where appropriate, biological monitoring methods, sample such
2 effluents and provide such other information as the director may reasonably
3 require."

4
5 SECTION 28. Section 8-4-218(a) is amended to read as follows:

6 "(a) Whenever the Arkansas Department of Environmental Quality Pollution
7 ~~Control and Ecology~~, or its successor, determines that there are reasonable
8 grounds to believe that there has been a violation of any of the provisions of
9 this chapter or any order, rule, or regulation of the commission, it may give
10 written notice to the alleged violator specifying the causes of complaint."

11
12 SECTION 29. Section 8-4-220(a) is amended to read as follows:

13 "(a) When the Arkansas Department of Environmental Quality Pollution
14 ~~Control and Ecology~~, or its successor, finds that an emergency exists
15 requiring immediate action to protect the public health or welfare, it may,
16 without notice or hearing, issue an order reciting the existence of such
17 emergency and requiring that such action be taken as it deems necessary to
18 meet the emergency."

19
20 SECTION 30. Section 8-4-303(8), (9), and (10) are amended to read as
21 follows:

22 "(8) 'Person' means any individual, partnership, firm, company, public
23 or private corporation, association, joint-stock company, trust, estate,
24 political subdivision, or any agency, board, department, or bureau of the
25 state, or any other legal entity whatever which is recognized by law as the
26 subject of rights and duties;

27 (9) 'Department' means the Arkansas Department of Environmental Quality
28 ~~Pollution Control and Ecology~~, or its successor; and

29 (10) 'Director' means the Director of the Arkansas Department of
30 Environmental Quality Pollution Control and Ecology, or its successor."

31
32 SECTION 31. Section 8-4-311(a) is amended to read as follows:

33 "(a) The Arkansas Department of Environmental Quality Pollution Control
34 ~~and Ecology~~, or its successor, shall have the power to:

35 (1) Develop and effectuate a comprehensive program for the prevention
36 and control of all sources of pollution of the air of this state;

1 (2) Advise, consult, and cooperate with other agencies of the state,
2 political subdivisions, industries, other states, the federal government, and
3 with affected groups in furtherance of the purposes of this chapter;

4 (3) Encourage and conduct studies, investigations, and research relating
5 to air pollution and its causes, prevention, control, and abatement, as it may
6 deem advisable and necessary;

7 (4) Collect and disseminate information relative to air pollution, and
8 its prevention and control;

9 (5) Consider complaints and make investigations;

10 (6) Encourage voluntary cooperation by the people, municipalities,
11 counties, industries, and others in preserving and restoring the purity of the
12 air within the state;

13 (7) Administer and enforce all laws and regulations relating to
14 pollution of the air;

15 (8) Represent the state in any and all matters pertaining to plans,
16 procedures, or negotiations for interstate compacts in relation to air
17 pollution control;

18 (9) Cooperate with and receive moneys from the federal government or any
19 other source for the study and control of air pollution. The department is
20 designated as the official state air pollution control agency for such
21 purposes;

22 (10) Make, issue, modify, revoke, and enforce orders prohibiting,
23 controlling, or abating air pollution and requiring the adoption of remedial
24 measures to prevent, control, or abate air pollution;

25 (11) Institute court proceedings to compel compliance with the
26 provisions of this chapter and rules, regulations, and orders issued pursuant
27 thereto; and

28 (12) Exercise all of the powers in the control of air pollution as are
29 granted to the department for the control of water pollution under §§ 8-4-101-
30 -8-4-106 and 8-4-201--8-4-229; "

31
32 SECTION 32. Section 8-4-314(b)(4) is amended to read as follows:

33 "(4) One (1) member selected by the Director of the Arkansas Department
34 of Environmental Quality Pollution Control and Ecology."

35
36 SECTION 33. Section 8-4-314 (c)(3) is amended to read as follows:

1 “(3) In the event of a vacancy in the membership of the panel concerning
2 the member appointed by the Director of the Arkansas Department of
3 Environmental Quality Pollution Control and Ecology, the director shall
4 appoint a person to fill the vacancy for the remainder of the unexpired term.”

5
6 SECTION 34. Section 8-4-315 is amended to read as follows:

7 “8-4-315. Permits.

8 The Arkansas Department of Environmental Quality Pollution Control and
9 Ecology is authorized to require, issue, and enforce operating permits for
10 major sources in satisfaction of Title V of the Clean Air Act Amendments of
11 1990.”

12
13 SECTION 35. Section 8-4-402 is amended to read as follows:

14 “8-4-402. Legislative Intent.

15 In the interest of public health and safety and the environment and to
16 qualify the Arkansas Department of Environmental Quality Pollution Control and
17 Ecology to adopt, administer, and enforce a program for licensing lead-based
18 paint activities, training programs, procedures, and requirements for the
19 licensing and certification of individuals and firms engaged in lead-based
20 paint activities, and work practice standards for performing such activities,
21 the General Assembly finds that it is necessary to enact the Lead-Based
22 Paint-Hazard Act.”

23
24 SECTION 36. Section 8-4-403(b) is amended to read as follows:

25 “(b) ‘Certificate’ means a document issued by ADEQ ADPC&E to any
26 individual who satisfactorily completes such training and examination and
27 meets any other applicable requirements established by the department.”

28
29 SECTION 37. Section 8-4-403(g) and (h) are amended to read as follows:

30 “(g) ‘Department’ means the Arkansas Department of Environmental Quality
31 Pollution Control and Ecology.

32 “(h) ‘Director’ means the Director of the Arkansas Department of
33 Environmental Quality Pollution Control and Ecology.”

34
35 SECTION 38. Section 8-4-409(c) is amended to read as follows:

36 “(c) The Arkansas Department of Environmental Quality Pollution Control

1 ~~and Ecology~~ is hereby authorized to promulgate such rules and regulations
2 necessary to administer the fees, rates, tolls, or charges for services
3 established by this section and is directed to prescribe and collect such
4 fees, rates, tolls, or charges for the services delivered by the Arkansas
5 Department of Environmental Quality Pollution Control and Ecology in such
6 manner as may be necessary to support this program as directed by the Governor
7 and the General Assembly."

8
9 SECTION 39. Section 8-5-201(6) is amended to read as follows:

10 "(6) 'Department' means the Arkansas Department of Environmental Quality
11 ~~Pollution Control & Ecology~~, or its successor."

12
13 SECTION 40. Section 8-5-204(a)(4) is amended to read as follows:

14 "(4) One (1) member shall be the Director of the Arkansas Department of
15 Environmental Quality Pollution Control and Ecology, or a qualified member of
16 his staff, who shall act as executive secretary of the licensing committee."

17
18 SECTION 41. Section 8-5-205(a) is amended to read as follows:

19 "(a) The Arkansas Department of Environmental Quality Pollution Control
20 ~~and Ecology~~, or its successor, shall be charged with the responsibility of
21 administering and enforcing this subchapter, with the advice and assistance of
22 the licensing committee, and is given and charged with the following powers
23 and duties:

24 (1) To conduct examinations for licensing, which shall be conducted at
25 least annually and more frequently as the commission shall deem necessary;

26 (2) To issue licenses to qualified wastewater treatment plant operators,
27 to renew those licenses, and to suspend or revoke the licenses for cause,
28 after due notice and hearing;

29 (3) To institute court proceedings to compel compliance with the
30 provisions of this chapter and rules and regulations issued pursuant thereto;
31 and

32 (4) To participate financially in programs sponsored by the Arkansas
33 Water Environment Association, or its successor, provided that the
34 participation shall not exceed the sum of one thousand dollars (\$1,000) per
35 fiscal year."

36

1 SECTION 42. Section 8-5-319(a) is amended to read as follows:

2 "(a) In the event any municipality shall fail, neglect, or refuse to pay
3 any installment of principal or interest found to be ninety (90) or more days
4 past legally due in accordance with the written instrument for the repayment
5 of its bonds, notes, or other evidences of indebtedness purchased with moneys
6 in the Construction Assistance Revolving Loan Fund established by § 15-5-901
7 (the fund), or its successor fund, the Arkansas Department of Environmental
8 Quality Pollution Control and Ecology, after first notifying the municipality
9 of such facts, is hereby authorized to certify such facts to the Treasurer of
10 State, the Auditor of State, and the Chief Fiscal Officer of the State."

11
12 SECTION 43. Section 8-5-403 is amended to read as follows:

13 "8-5-403. Administration.

14 The Arkansas Department of Environmental Quality Pollution Control and
15 Ecology is authorized to administer the state grant program authorized by this
16 subchapter and, to that end, is authorized to take all action, provide for,
17 negotiate, execute, and perform all agreements and instruments with the United
18 States of America, or any agency thereof, and with political subdivision of
19 this state necessary to implement the authority conferred by this subchapter."

20
21 SECTION 44. Section 8-5-404(a) is amended to read as follows:

22 "(a) When moneys are made available to it pursuant to the provisions of
23 this subchapter or from any other source provided by law for such purpose, the
24 Arkansas Department of Environmental Quality Pollution Control and Ecology is
25 authorized to make a state grant to any public agency; county; municipality
26 that is a city of the first class, city of the second class, or incorporated
27 town; school district; improvement district; or other political subdivision
28 which is authorized under the laws of the State of Arkansas to construct,
29 acquire, own, or operate waste treatment facilities, referred to as "political
30 subdivisions," for the purpose of furnishing a portion of the total cost of
31 constructing or acquiring and equipping waste treatment facilities in all
32 instances in which a state grant is a condition or prerequisite to the
33 obtaining of federal financial assistance or to obtaining a greater amount of
34 federal financial assistance. However, each state grant shall not exceed
35 fifteen percent (15%) of the total cost of the waste treatment facilities
36 involved and shall be made only where federal legislation specifically

1 requires state grants as a condition of obtaining federal financial assistance
2 not otherwise available."

3
4 SECTION 45. Section 8-5-701(1) is amended to read as follows:

5 "(1) 'Chronic noncompliance' means conditions described in this
6 subchapter that persist at a common sewage system after reasonable efforts by
7 the Arkansas Department of Environmental Quality Pollution Control and Ecology
8 to obtain compliance with applicable laws or regulations in one (1) of the
9 following:

10 (A) Failure to obtain a permit as required by law;

11 (B) Four (4) or more permit violations within a six-month period as set
12 out in the permit issued by the Arkansas Department of Environmental Quality
13 Pollution Control and Ecology;

14 (C) Failure to maintain the services of a certified wastewater treatment
15 operator, where applicable; or

16 (D) Demonstrable failure to operate the sewage system so as to prevent
17 the discharge of waterborne pollutants in unacceptable concentrations, as
18 defined in the individual permit or the state's water quality standards, to
19 the surface waters or groundwater of the state; and"

20
21 SECTION 46. Section 8-5-702(a) is amended to read as follows:

22 "(a) The Arkansas Department of Environmental Quality Pollution Control
23 and Ecology may petition a chancery court with competent jurisdiction and
24 proper venue to remedy chronic violations by any common sewage system."

25
26 SECTION 47. Section 8-5-702(c)(1) is amended to read as follows:

27 "(c)(1) If the court finds that circumstances prevent the owner or
28 operator of a common sewage system from operating and maintaining the system
29 in compliance with the law, the Arkansas Department of Environmental Quality
30 Pollution Control and Ecology shall nominate two (2) possible receivers, of
31 which the court may appoint one (1) to operate the system subject to the
32 continuing jurisdiction of the court."

33
34 SECTION 48. Section 8-5-702(d)(1) is amended to read as follows:

35 "(d)(1) If the court determines that the permitted or registered entity
36 cannot equitably satisfy the provisions of this subchapter or that no feasible

1 alternatives exist, the court shall so certify that determination to the
2 Arkansas Department of Environmental Quality Pollution Control and Ecology,
3 which shall terminate the entity's permit, and the court shall request a
4 review by the Director of the Arkansas Department of Health of the public
5 health impact of an order compelling the entity supplying potable water to the
6 common sewage system to cut off the flow of potable water."

7
8 SECTION 49. Section 8-5-702(f)(1) is amended to read as follows:

9 "(f)(1) In addition to the remedies provided in subsections (a)--(e) of
10 this section, the Arkansas Department of Environmental Quality Pollution
11 Control and Ecology shall have the authority to prohibit new or additional
12 sewer line connections onto a common sewage system meeting the criteria
13 established by § 8-5-701."

14
15 SECTION 50. Section 8-5-703(a)(1) is amended to read as follows:

16 "(a)(1) The Arkansas Department of Environmental Quality Pollution
17 Control and Ecology shall not permit or register any common sewage system
18 serving two (2) or more occupied lots, residences, businesses, or other
19 discernible occupied units without the applicant first demonstrating to the
20 department its financial ability to cover the costs of operating and
21 maintaining the system for a period of five (5) years."

22
23 SECTION 51. Section 8-5-703(c) and (d) are amended to read as follows:

24 "(c) Any financial instrument required by this subchapter shall be
25 posted to the benefit of the Arkansas Department of Environmental Quality
26 Pollution Control and Ecology.

27 (d) It is explicitly understood that the Arkansas Department of
28 Environmental Quality Pollution Control and Ecology shall not directly operate
29 and shall not be responsible for the operation of any common sewage system."

30
31 SECTION 52. Section 8-5-802 is amended to read as follows:

32 "8-5-802. Purpose.

33 It is the purpose of this subchapter to authorize the Arkansas
34 Department of Environmental Quality Pollution Control and Ecology to
35 establish and administer a revolving loan fund to encourage the investment in
36 pollution control and prevention technologies in Arkansas. The fund will

1 promote sustainable economic development in Arkansas by establishing a
2 publicly capitalized revolving loan fund to make loans to small businesses for
3 projects to meet regulatory mandates in pollution control or to adopt
4 pollution prevention technologies."

5
6 SECTION 53. Section 8-5-803(1) is amended to read as follows:

7 "(1) "Department" means the Arkansas Department of Environmental Quality
8 ~~Pollution Control and Ecology;~~"

9
10 SECTION 54. Section 8-5-803(3) is amended to read as follows:

11 "(3) 'Director' means the executive head and active administrator of the
12 Arkansas Department of Environmental Quality ~~Pollution Control and Ecology;~~"

13
14 SECTION 55. Section 8-5-804 is amended to read as follows:

15 "8-5-804. Eligible activities.

16 (a) Moneys deposited in the Small Business Revolving Loan Fund within
17 the Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~
18 may be:

19 (1) Loaned to eligible participants to pay direct costs of projects
20 which are designed to correct or avoid violations of federal or state
21 environmental regulations and have received a certificate of need from the
22 department; or

23 (2) Expended to pay costs incurred by the department to provide
24 management of lending activities.

25 (b) It is the purpose of this subchapter to authorize the Arkansas
26 Department of Environmental Quality ~~Pollution Control and Ecology~~ to establish
27 and administer a revolving loan fund to encourage the investment in pollution
28 control and prevention technologies in Arkansas. Such a fund will promote
29 sustainable economic development in Arkansas by establishing a publicly
30 capitalized revolving loan fund to make loans to small businesses for projects
31 to meet regulatory mandates in pollution control or to adopt pollution
32 prevention technologies. Operating expenses associated with proofing a process
33 change or equipment modification would be an eligible loan activity."

34
35 SECTION 56. Section 8-5-806(c) is amended to read as follows:

36 "(c) The interest rate will be established by the Arkansas Department of

1 ~~Environmental Quality Pollution Control and Ecology~~ at or below market rate.
2 The interest rate will be fixed for the term of each loan at the rate that is
3 in effect when the loan application is received or when the loan is closed,
4 whichever is lower."

5
6 SECTION 57. Section 8-5-807(a) is amended to read as follows:

7 "(a) There is created within the Arkansas Department of Environmental
8 Quality Pollution Control and Ecology a revolving fund which shall be
9 designated the Small Business Revolving Loan Fund into which shall be
10 transferred or deposited the moneys to be provided by law for the fund, to be
11 used as a revolving fund by the Arkansas Department of Environmental Quality
12 Pollution and Control and Ecology for making loans to eligible participants to
13 pay direct costs of projects which are designed to correct or avoid violations
14 of federal or state environmental regulations and have received a certificate
15 of need from the department or to pay costs incurred by the department to
16 provide management of lending activities."

17
18 SECTION 58. Section 8-5-807(c)(2) is amended to read as follows:

19 "(2) All moneys received by the Arkansas Department of Environmental
20 Quality Pollution Control and Ecology upon repayment of loans made from the
21 furnishing of funds for loans under the program created by this subchapter;"

22
23 SECTION 59. Section 8-5-808 is amended to read as follows:

24 "8-5-808. Administration of the program.

25 The Arkansas Department of Environmental Quality Pollution Control and
26 Ecology will manage the program through its Small Business Assistance Program.
27 The Small Business Assistance Program is authorized to delegate the management
28 of this fund. The department shall retain the power to issue certificates of
29 need for eligible projects and shall not delegate such authority."

30
31 SECTION 60. Section 8-5-902(4) is amended to read as follows:

32 "(4) 'Department' means the Arkansas Department of Environmental Quality
33 Pollution Control and Ecology."

34
35 SECTION 61. Section 8-6-203(2) is amended to read as follows:

36 "(2) 'Department' means the Arkansas Department of Environmental Quality

1 ~~Pollution Control and Ecology;~~ "

2

3 SECTION 62. Section 8-6-207(a) is amended to read as follows:

4 " (a) The Arkansas Department of Environmental Quality ~~Pollution Control~~
5 ~~and Ecology~~ or its successor, shall have the following powers and duties:

6 (1) To administer and enforce all laws, rules, and regulations relating
7 to solid waste disposal;

8 (2) To advise, consult, and cooperate with appropriate federal, state,
9 interstate, and local units of government and with affected groups and
10 industries in the formation of plans and implementation of a solid waste
11 management program pursuant to this subchapter;

12 (3) To accept and administer loans and grants from the federal
13 government and from such other sources as may be available to the commission
14 for the planning, construction, and operation of solid waste management
15 systems and disposal facilities;

16 (4) To develop a statewide solid waste management plan in cooperation
17 with municipal and county governments and solid waste boards, giving emphasis
18 to regional planning where feasible;

19 (5) To require to be submitted and to approve plans and specifications
20 for the construction and operation of solid waste disposal facilities and
21 sites and to inspect the construction and operation thereof;

22 (6) To issue, continue in effect, revoke, modify, or deny, under such
23 conditions as it may prescribe, permits for the establishment, construction,
24 operation, or maintenance of solid waste management systems, disposal sites,
25 and facilities;

26 (7) To make investigations, inspections, and to hold such hearings,
27 after notice, as it may deem necessary or advisable for the discharge of
28 duties under this subchapter and to ensure compliance with this subchapter and
29 any orders, rules, and regulations issued pursuant thereto;

30 (8) To make, issue, modify, revoke, and enforce orders, after notice and
31 opportunity for adjudicatory review by the commission, prohibiting violation
32 of any of the provisions of this subchapter or of any rules and regulations
33 issued pursuant to it, and to require the taking of such remedial measures for
34 solid waste disposal as may be necessary or appropriate to implement or
35 effectuate the provisions and purposes of this subchapter;

36 (9) To institute proceedings in the name of the department in any court

1 of competent jurisdiction to compel compliance with, and to restrain violation
2 of, the provisions of this subchapter or any rules, regulations, and orders
3 issued pursuant thereto, and to require the taking of such remedial measures
4 for solid waste disposal as may be necessary or appropriate to implement or
5 effectuate the provisions and purposes of this subchapter;

6 (10) To initiate, conduct, and support research, demonstration projects,
7 and investigations and to coordinate with all state agency research programs
8 pertaining to solid waste disposal and management systems;

9 (11) To make periodic inspections not less than quarterly in accordance
10 with regulations promulgated by the commission of all solid waste disposal
11 facilities or sites permitted under this subchapter to ensure compliance with
12 all requirements of this subchapter and the regulations promulgated under this
13 subchapter and to make final inspection of closed or abandoned solid waste
14 disposal sites to determine compliance with rules and regulations for proper
15 closure and proper filling and drainage of the site;

16 (12) To issue, continue in effect, revoke, modify, or deny, under such
17 conditions as it may prescribe, permits for the establishment, construction,
18 operation, or maintenance of transfer stations;

19 (13) To regulate and license persons engaged in the business of
20 transporting used and waste tires;

21 (14) To establish minimum standards for the operation of a solid waste
22 collection system; and

23 (15) Upon the petition of a solid waste board or upon its own
24 initiative, to revoke, modify, or deny a permit for a solid waste disposal
25 facility or a permit for any other element of a solid waste management system
26 based upon noncompliance with an approved regional solid waste management plan
27 of a solid waste board."

28
29 SECTION 63. Section 8-6-214(a) is amended to read as follows:

30 "(a) The owner or operator of any permitted facility or site shall
31 establish and maintain such records, make such reports, install, use and
32 maintain such monitoring equipment or methods, take such samples, perform such
33 tests, and provide such other information to the Arkansas Department of
34 Environmental Quality Pollution Control and Ecology as the Director of the
35 Arkansas Department of Environmental Quality Pollution Control and Ecology may
36 reasonably require."

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SECTION 64. Section 8-6-405 is amended to read as follows:

"8-6-405. Injunction.

In addition to all other remedies provided by this subchapter, the Arkansas Department of Environmental Quality Pollution Control and Ecology, the Attorney General of this state, the prosecuting attorney of a county where any violation of any provision of this subchapter occurs, or any citizen, resident, or taxpayer of the county where a violation of any provision of this subchapter occurs may apply to the chancery court or the judge in vacation of the county where the alleged violation occurred for an injunction to restrain, prevent, or abate the maintenance and storage of litter, junk motor vehicles, old vehicle tires, or inoperative or discarded household appliances in violation of any provision of this subchapter."

SECTION 65. Section 8-6-406(1) is amended to read as follows:

"(1) The property has been designated by the Arkansas Department of Environmental Quality Pollution Control and Ecology as a permitted disposal site;"

SECTION 66. Section 8-6-503(2) and (3) are amended to read as follows:

"(2) 'Department' means the Arkansas Department of Environmental Quality Pollution Control and Ecology;

(3) 'Director' means the Director of the Arkansas Department of Environmental Quality Pollution Control and Ecology;"

SECTION 67. Section 8-6-503(6) is amended to read as follows:

"(6) 'Illegal dumps control officer' means an individual employed by a duly authorized regional solid waste management district within this state, a county government within this state, or a pollution control inspector or other authorized representative of the Arkansas Department of Environmental Quality Pollution Control and Ecology, who is empowered to ensure compliance with the provisions of this subchapter."

SECTION 68. Section 8-6-510 is amended to read as follows:

"8-6-510. Effectiveness of regulations and orders.

None of the provisions of this subchapter are intended to supersede any

1 of the reuse, recycling or fill provisions of state law of Regulation 22 of
2 the Solid Waste Management Division of the Arkansas Department of
3 Environmental Quality Pollution Control and Ecology. "

4
5 SECTION 69. Section 8-6-603(2) is amended to read as follows:

6 "(2) 'Department' means the Arkansas Department of Environmental Quality
7 Pollution Control and Ecology; "

8
9 SECTION 70. Section 8-6-701 is amended to read as follows:

10 "8-6-701. Purpose -- Legislative Findings -- Construction.

11 The purpose of this subchapter is to protect the public health and the
12 state's environmental quality by establishing regional solid waste management
13 and planning. The current system relying upon solid waste management by
14 individual counties and municipalities has fostered present conditions in
15 which certain areas of the state are facing capacity shortages of crisis
16 proportions, while others experience a surfeit of capacity with individual
17 disposal facilities which cannot muster the resources for environmentally
18 responsible operators. Given these disparate environmental and economic
19 concerns, the Arkansas General Assembly concludes that regional solid waste
20 management and planning, under the oversight of the Arkansas Department of
21 Environmental Quality Pollution Control and Ecology and the Arkansas Pollution
22 Control and Ecology Commission ~~or Pollution Control and Ecology~~, is essential
23 to address the imminent and future needs of the state. The terms and
24 obligations of this subchapter shall be liberally construed so as to achieve
25 remedial intent."

26
27 SECTION 71. Section 8-6-702(3) and (4) are amended to read as follows:

28 "(3) 'Department' means the Arkansas Department of Environmental Quality
29 Pollution Control and Ecology;

30 (4) 'Director' means the Director of the Arkansas Department of
31 Environmental Quality Pollution Control and Ecology; "

32
33 SECTION 72. Section 8-6-705(a) is amended to read as follows:

34 "(a) All needs assessments required by this subchapter are subject to
35 review and approval for completeness by the Arkansas Department of
36 Environmental Quality Pollution Control and Ecology. "

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SECTION 73. Section 8-6-706(a) is amended to read as follows:

"(a) Any applicant for a solid waste landfill permit, with the exception of permits for landfills when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character, under the Arkansas Solid Waste Management Act, 8-6-201 et seq., must obtain a certificate of need from the board with jurisdiction over the proposed site prior to submitting the application to the Arkansas Department of Environmental Quality Pollution Control and Ecology. The department may deny any permit based upon the denial of a certificate of need by any regional board."

SECTION 74. Section 8-6-712(c)(2) is amended to read as follows:

"(2) Nothing in this section shall prohibit the collection or disposal of solid waste by a municipality with an existing permitted landfill with a twenty-five year capacity as of January 1, 1991, where the city bears the expense of operating and maintaining the landfill and the landfill complies with Environmental Protection Agency and Arkansas Department of Environmental Quality Pollution Control and Ecology regulations."

SECTION 75. Section 8-6-901(2), (3), and (4) are amended to read as follows:

"(2) 'Department' means the Arkansas Department of Environmental Quality Pollution Control and Ecology;

(3) 'Director' means the Director of the Arkansas Department of Environmental Quality Pollution Control and Ecology or the director's delegate representative;

(4) 'Illegal dumps control officer' means an individual employed by a duly authorized solid waste management district within this state, a county government within this state, or a pollution control inspector or other representative of the Arkansas Department of Environmental Quality Pollution Control and Ecology, who is empowered to ensure compliance with any state law prohibiting the illegal dumping of solid wastes."

SECTION 76. Section 8-6-909(b) is amended to read as follows:

1 “(b) All of the fees shall be deposited in the Arkansas Department of
2 Environmental Quality Pollution Control and Ecology Fee Fund, as established
3 in § 8-1-105.”

4
5 SECTION 77. Section 8-6-1001 (2) and (3) are amended to read as follows:

6 “(2) ‘Department’ means the Arkansas Department of Environmental Quality
7 Pollution Control and Ecology;

8 “(3) ‘Director’ means the Director of the Arkansas Department of
9 Environmental Quality Pollution Control and Ecology.”

10
11 SECTION 78. Section 8-6-1103(2) is amended to read as follows:

12 “(2) ‘Director’ means the Director of the Arkansas Department of
13 Environmental Quality Pollution Control and Ecology.”

14
15 SECTION 79. Section 8-6-1104 is amended to read as follows:

16 “8-6-1104. Transportation of solid waste outside district.

17 In any instance where a landfill has a useful life of less than one and
18 one-half (1 1/2) years, the Director of the Arkansas Department of
19 Environmental Quality Pollution Control and Ecology may authorize any city
20 utilizing that land fill to transport solid waste outside the boundaries of
21 the district. Provided, however, in no instance shall that authority be
22 extended after a land fill with a useful life in excess of one and one-half (1
23 1/2) years becomes available within the district for accepting the solid waste
24 of the city.”

25
26 SECTION 80. Section 8-6-1105 is amended to read as follows:

27 “8-6-1105. Expansion outside district--Exemption.

28 (a) This section shall apply until the later of:

29 (1) July 1, 1992; or

30 (2) Until the capacity of landfills in both the district and the state
31 reaches a ten-year capacity.

32 (b) Landfill capacity shall be determined by the Director of the
33 Arkansas Department of Environmental Quality Pollution Control and Ecology.

34 (c)(1)No existing landfill shall expand its service area outside the
35 district in which it is located, except that existing landfills that on March
36 1, 1989, do not serve areas outside their respective districts shall not

1 accept more than fifty (50) tons per day of solid waste originating from
2 outside their districts.

3 (2) Existing landfills that on March 1, 1989, serve areas outside of
4 their respective districts shall not increase the total amount of solid waste
5 originating from outside their districts by more than twenty percent (20%)
6 annually of the total volume of solid waste received at the facility from
7 outside their districts. The amount of solid waste shall be determined by
8 weight.

9 (3) No new landfill shall be allowed to receive solid waste outside the
10 boundaries of the district in which it is located, unless it is a landfill
11 where a private industry bears the expense of operating and maintaining the
12 landfill solely for the disposal of wastes generated by the industry or of
13 wastes of a similar kind or character, and such industry has commenced, prior
14 to March 1, 1991, the process for obtaining a permit by issuing notice to the
15 local government having jurisdiction, as required under the rules and
16 regulations of the Arkansas Department of Environmental Quality Pollution
17 Control and Ecology.

18 (4)(A) No new applications for landfill permits seeking to dispose of
19 solid waste originating outside of a district or that propose to dispose of
20 solid waste originating from outside such district shall be accepted or
21 processed by the commission or a board, unless such applications were pending
22 before the Arkansas Department of Environmental Quality Pollution Control and
23 Ecology on March 1, 1989.

24 (B) Provided, the prohibition contained in this subsection shall not
25 apply to new applications for land fill permits if the landfill is one where a
26 private industry bears the expense of operating and maintaining the landfill
27 solely for the disposal of wastes generated by the industry, or of wastes of a
28 similar kind or character, and such industry has commenced, prior to March 1,
29 1991, the process for obtaining a permit by issuing notice to the local
30 government having jurisdiction, as required under the rules and regulations
31 of the Arkansas Department of Environmental Quality Pollution Control and
32 Ecology.

33 (d) The Director of the Arkansas Department of Environmental Quality
34 Pollution Control and Ecology may grant an exemption from this section for
35 solid waste brought into a district for the purpose of recycling or because
36 the district where solid waste is generated does not have a landfill that

1 meets applicable state or federal regulations. Exemption shall be subject to
2 such terms and conditions as the director may deem appropriate.

3 (e) A successor district may transport solid waste to any one of the
4 original districts of which the members of the successor district were a
5 part."

6
7 SECTION 81. Section 8-6-1301(a) is amended to read as follows:

8 "(a) The Arkansas General Assembly has found that there is an increased
9 interest in obtaining permits from the Arkansas Department of Environmental
10 Quality Pollution Control and Ecology for the purpose of constructing and
11 operating commercial medical waste incineration facilities. The federal Clean
12 Air Act, 42 U.S.C. § 7429 (a)(1)(C), has directed the Environmental Protection
13 Agency to promulgate regulations concerning these facilities. The Arkansas
14 General Assembly has determined that it is necessary to delay the issuance of
15 permits to these facilities until those regulations are promulgated in order
16 to ensure that any permits issued will be based on the latest available
17 information concerning technology and safety as set forth in the federal
18 regulations."

19
20 SECTION 82. Section 8-6-1302(2) and (3) are amended to read as follows:

21 "(2) 'Department' means the Arkansas Department of Environmental Quality
22 Pollution Control and Ecology;

23 (3) 'Director' means the Director of the Arkansas Department of
24 Environmental Quality Pollution Control and Ecology."

25
26 SECTION 83. Section 8-6-1504(a)(2) is amended to read as follows:

27 "(2) This presumption shall be honored by the Arkansas Department of
28 Environmental Quality Pollution Control and Ecology, the regional solid waste
29 management board with jurisdiction over the site, and any other governmental
30 entity with permitting or zoning authority concerning any facility."

31
32 SECTION 84. Section 8-6-1601 is amended to read as follows:

33 "8-6-1601. Purpose.

34 The purpose of this subchapter is to establish the procedure for posting
35 financial assurance for permitted municipal solid waste landfills, solid waste
36 management systems, or solid waste disposal facilities. The procedure for

1 issuance of permits for solid waste management systems and for solid waste
2 management disposal sites and facilities shall be as provided in the rules and
3 regulations adopted by the commission under this subchapter or as otherwise
4 provided by law. After an application to operate a disposal site or facility
5 has been reviewed and approved, but before a permit is issued, the applicant
6 shall post with the Arkansas Department of Environmental Quality Pollution
7 ~~Control and Ecology~~, on forms prescribed by the department in accordance with
8 the regulations issued under this subchapter, a corporate surety bond for
9 performance or an acceptable alternative, such as a certificate of deposit or
10 letter of credit, payable to the department and conditional upon faithful
11 performance of all requirements of this subchapter, the regulations issued
12 pursuant to this subchapter, and the permit, including, but not limited to,
13 proper closure of the site or facility. Liability under the bond shall be for
14 the duration of the disposal operation and for that period required to
15 properly close and revegetate the site, and for post-closure care, in
16 accordance with the regulations issued by the commission."

17
18 SECTION 85. Section 8-6-1602(5) is amended to read as follows:

19 "(5) 'Department' means the Arkansas Department of Environmental Quality
20 ~~Pollution Control and Ecology~~;"

21
22 SECTION 86. Section 8-6-1603(d)(4)(A) is amended to read as follows:

23 "(4)(A) A municipality or county may, in lieu of a performance bond,
24 execute a contract of obligation with the Director of the Arkansas Department
25 ~~of Environmental Quality Pollution Control and Ecology~~;"

26
27 SECTION 87. Section 8-6-1703(e) is amended to read as follows:

28 "(e) Nothing in this subchapter shall be construed as impairing the
29 authority of the Arkansas Department of Environmental Quality Pollution
30 ~~Control and Ecology~~ to abate reasonably likely exceedances of National Ambient
31 Air Quality Standards."

32
33 SECTION 88. Section 8-6-1801 is amended to read as follows:

34 "8-6-1801. Management plan - Substitution.

35 If the Arkansas Department of Environmental Quality Pollution Control
36 ~~and Ecology~~ requires a person to obtain an animal waste management plan,

1 including any permit applications, prepared by a registered professional
2 engineer, the person may substitute a plan prepared under the supervision of a
3 registered professional engineer employed by one (1) of the following
4 agencies: a conservation district; Arkansas Soil and Water Conservation
5 Commission; Natural Resources Conservation Service; or the University of
6 Arkansas Cooperative Extension Service."

7
8 SECTION 89. Section 8-7-202(4) is amended to read as follows:

9 "(4) Qualify the Arkansas Department of Environmental Quality Pollution
10 Control and Ecology to adopt, administer, and enforce a hazardous waste
11 program pursuant to the federal Resource Conservation and Recovery Act of
12 1976, as amended; and"

13
14 SECTION 90. Section 8-7-203(1) and (2) are amended to read as follows:

15 "(1) 'Department' means the Arkansas Department of Environmental Quality
16 Pollution Control and Ecology, or its successor;

17 (2) 'Director' means the Director of the Arkansas Department of
18 Environmental Quality Pollution Control and Ecology, or its successor;"

19
20 SECTION 91. Section 8-7-218(a) is amended to read as follows:

21 "(a) No permits shall be issued by the Arkansas Department of
22 Environmental Quality Pollution Control and Ecology for any facility unless
23 the department, after opportunity for public comment, has determined that the
24 facility has been designed and will be operated in such manner that any
25 emission from the facility will comply with the provisions of this subchapter,
26 and all applicable state and federal standards and regulations concerning air
27 and water quality, and that the transfer, handling, and storage of materials
28 within the facility will not cause conditions which would violate state and
29 federal standards concerning worker safety or create unreasonable hazards to
30 the environment or to the health and welfare of the people living and working
31 in or near the facility."

32
33 SECTION 92. Section 8-7-220(b) is amended to read as follows:

34 "(b) Permits shall be subject to renewal by the Arkansas Department of
35 Environmental Quality Pollution Control and Ecology upon a showing that the
36 facility has been operated in accordance with the terms of the permit, the

1 rules and regulations applicable to such facility, and compliance with all
2 other provisions of this subchapter."

3
4 SECTION 93. Section 8-7-226(d) is amended to read as follows:

5 "(d) The commission is hereby authorized to promulgate such rules and
6 regulations necessary to administer the fees, rates, tolls, or charges for
7 services established by this section and is directed to prescribe such fees,
8 rates, tolls, or charges for the services delivered by the Arkansas Department
9 of Environmental Quality Pollution Control and Ecology, or its successor, in
10 such manner as may be necessary to support the programs of the department as
11 directed by the Governor and the General Assembly."

12
13 SECTION 94. Section 8-7-304(2) and (3) are amended to read as follows:

14 "(2) 'Department' means the Arkansas Department of Environmental Quality
15 Pollution Control and Ecology;

16 (3) 'Director' means the Director of the Arkansas Department of
17 Environmental Quality Pollution Control and Ecology;"

18
19 SECTION 95. Section 8-7-403(a)(1) is amended to read as follows:

20 "(1) 'Department' means the Arkansas Department of Environmental Quality
21 Pollution Control and Ecology;"

22
23 SECTION 96. Section 8-7-403(a)(3) is amended to read as follows:

24 "(3) 'Director' means the Director of the Arkansas Department of
25 Environmental Quality Pollution Control and Ecology;"

26
27 SECTION 97. Section 8-7-415(a) is amended to read as follows:

28 "(a) Making use of any and all appropriate existing state legal
29 remedies, the Arkansas Department of Environmental Quality Pollution Control
30 and Ecology or the Attorney General shall act to recover the amount expended
31 by the state for any and all response actions from any and all identified
32 responsible parties for each facility or site."

33
34 SECTION 98. Section 8-7-503(1) is amended to read as follows:

35 "(1) 'Department' means the Arkansas Department of Environmental Quality
36 Pollution Control and Ecology;"

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SECTION 99. Section 8-7-503(3) is amended to read as follows:

"(3) 'Director' means the Director of the Arkansas Department of Environmental Quality Pollution Control and Ecology;"

SECTION 100. Section 8-7-514(b) is amended to read as follows:

"(b) Making use of any and all appropriate existing state legal remedies, the Arkansas Department of Environmental Quality Pollution Control and Ecology or the Attorney General shall act to recover the amount expended by the state for any and all response actions from any and all parties identified as responsible parties for each hazardous substance."

SECTION 101. Section 8-7-603 is amended to read as follows:

"8-7-603. Approval and issuance of permits.

Neither the Arkansas Department of Environmental Quality Pollution Control and Ecology nor any other agency or authority having the responsibility for approving and issuing permits for facilities for the disposal or storage of low-level radioactive waste in this state shall have the authority to a prove or issue a permit for any facility unless the facility will fully comply with the requirements of this subchapter in all respects."

SECTION 102. Section 8-7-702(1) is amended to read as follows:

"(1) 'Hazardous site' shall mean any geographic area located, in whole or in part, in the State of Arkansas, access to or use of which is determined by the Arkansas Department of Environmental Quality Pollution Control and Ecology to be necessary or appropriate to implement a response ordered by the President of the United States."

SECTION 103. Section 8-7-705 is amended to read as follows:

"8-7-705. Restrictions on use of hazardous substances.

Construction on or at a hazardous site, and the use of such site for any residential, commercial, manufacturing, industrial, or recreational purposes, shall be prohibited unless and until the Arkansas Department of Environmental Quality Pollution Control and Ecology issues an order terminating, wholly or partially, such prohibitions. Such order shall be subject to the procedural

1 guidelines set forth in 8-4-212 - 214 and 8-4-222 - 229 of the Arkansas Water
2 and Air Pollution Control Act, 8-4-101 et seq., 8-4-201 et seq., 8-4-301 et
3 seq."

4
5 SECTION 104. Section 8-7-706 is amended to read as follows:

6 "8-7-706. Ad valorem tax exemption.

7 Upon initiation of a response action at a hazardous site, such site
8 shall be appraised at no value for purposes of any ad valorem taxes levied by
9 any state, county, or local governmental authority unless and until the
10 Arkansas Department of Environmental Quality Pollution Control and Ecology
11 issues an order wholly terminating the construction and use prohibitions
12 established by § 8-7-705. This section shall not apply to the interest in such
13 hazardous site owned by any passive site owner or its successors and assigns
14 that has violated § 8-7-703(a)."

15
16 SECTION 105. Section 8-7-801(4) is amended to read as follows:

17 "(4) 'Department' means the Arkansas Department of Environmental Quality
18 Pollution Control and Ecology;"

19
20 SECTION 106. Section 8-7-805(b)(1)(B) is amended to read as follows:

21 "(B) Which states that the Arkansas Department of Environmental Quality
22 Pollution Control and Ecology is the obligee of the bond."

23
24 SECTION 107. Section 8-7-902(6) and (7) are amended to read as follows:

25 "(6) 'Department' means the Arkansas Department of Environmental Quality
26 Pollution Control and Ecology;

27 (7) 'Director' means the Director of the Arkansas Department of
28 Environmental Quality Pollution Control and Ecology;"

29
30 SECTION 108. Section 8-7-1101(4) and (5) are amended to read as
31 follows:

32 "(4) Incentives should be put in place to encourage prospective
33 purchasers to voluntarily develop and implement clean-up plans of abandoned
34 sites without the need for adversarial enforcement actions by the Arkansas
35 Department of Environmental Quality Pollution Control and Ecology.

36 (5) The Arkansas Department of Environmental Quality Pollution Control

1 ~~and Ecology~~ now routinely, through its permitting policies, determines when
2 contamination will and will not pose unacceptable risks to public health or
3 the environment and similar concepts are used in establishing clean-up
4 policies for abandoned sites."

5
6 SECTION 109. Section 8-8-204(b)(2) is amended to read as follows:

7 "(2) The composition of the advisory group shall include the following:
8 One (1) member representing the Arkansas Department of Environmental Quality
9 ~~Pollution Control and Ecology~~; one (1) member representing the Department of
10 Health; one (1) member representing the Arkansas Energy Office; one (1) member
11 representing a major generator of low-level radioactive waste; and one (1)
12 member of the public at large."

13
14 SECTION 110. Section 8-9-104(2) is amended to read as follows:

15 "(2) 'Department' means the Arkansas Department of Environmental Quality
16 ~~Pollution Control and Ecology~~;"

17
18 SECTION 111. Section 8-9-201(a)(4) is amended to read as follows:

19 "(4) The Director of the Arkansas Department of Environmental Quality
20 ~~Pollution Control and Ecology~~ or the director's designee shall serve as an ex
21 officio member."

22
23 SECTION 112. Section 8-9-402(2) is amended to read as follows:

24 "(2) 'Compacted and baled tires' means tires that have been mechanically
25 compressed and tied with interlocking wrappings which have been approved by
26 the Arkansas Department of Environmental Quality ~~Pollution Control and~~
27 ~~Ecology~~;"

28
29 SECTION 113. Section 8-9-404(a)(2)(B) is amended to read as follows:

30 "(B) Solid waste management districts are authorized to enact an
31 additional fee on truck tires provided that their costs of properly removing
32 and disposing of truck tires exceeds one dollar and seventy-five cents (\$1.75)
33 per truck tire. Solid waste management districts imposing an additional fee
34 on truck tires may not impose a fee in excess of the costs of properly
35 removing and disposing of such tires less one dollar and seventy-five cents
36 (\$1.75) per tire. Fees imposed pursuant this subdivision shall be reviewed

1 and approved by the Arkansas Department of Environmental Quality Pollution
2 Control and Ecology. Provided however, in no instance shall the fee prescribed
3 in this subsection (a)(2)(B) of this section exceed four dollars (\$4.00) per
4 tire."

5
6 SECTION 114. Section 8-9-404(b)(2) is amended to read as follows:

7 "(2) A total of eight percent (8%) of the proceeds to be deposited into
8 the Arkansas Department of Environmental Quality Pollution Control and Ecology
9 Fee Fund as created in § 8-1-105."

10
11 SECTION 115. Section 8-9-404(g) is amended to read as follows:

12 "(g) The Arkansas Department of Environmental Quality Pollution Control
13 and Ecology is hereby authorized to promulgate such rules and regulations
14 necessary to administer the fees, rates, tolls, or charges for services
15 established by this section and is directed to prescribe and collect such
16 fees, rates, tolls, or charges for the services delivered by the Arkansas
17 Department of Environmental Quality Pollution Control and Ecology in such
18 manner as may be necessary to support the programs of the department as
19 directed by the Governor and the General Assembly."

20
21 SECTION 116. Section 8-9-502 is amended to read as follows:

22 "8-9-502. Members.

23 The Director of the Arkansas Department of Environmental Quality
24 Pollution Control and Ecology shall appoint an Arkansas Newspaper Recycling
25 Advisory Committee consisting of:

26 (1) The Chief of the Marketing Division of the Arkansas Department of
27 Environmental Quality Pollution Control and Ecology, or his designee;

28 (2) The Executive Director of the Arkansas Press Association, or his
29 designee; and

30 (3) At least six (6) members representing the Arkansas newspaper
31 industry and newsprint manufacturers doing business in Arkansas; provided,
32 however, that these members shall be selected from a list of names of
33 potential members to be provided by the President of the Board of Directors of
34 the Arkansas Press Association."

35
36 SECTION 117. Section 8-10-303(a)(1) is amended to read as follows:

1 “(a)(1) Due to the noise pollution and air pollution from the racing
2 vehicles and traffic congestion caused by motor vehicle racing facilities, no
3 motor vehicle racing facility shall be constructed in this state after passage
4 of this section without the consent of at least seventy-five percent (75%) of
5 the property owners and seventy-five percent (75%) of the adult residents
6 within three (3) miles of the outside boundary of the proposed facility and
7 without an annual permit issued by the Arkansas Department of Environmental
8 Quality Pollution Control and Ecology.”

9
10 SECTION 118. Section 8-10-303(a)(3)(A) is amended to read as follows:

11 “(3)(A) Once the sufficiency of the petitions is determined, the persons
12 or entity proposing and constructing a motor vehicle racing facility after
13 August 1, 1997, shall seek the approval of and issuance of an annual permit
14 from of the Arkansas Department of Environmental Quality Pollution Control and
15 Ecology Department. The department's approval shall be sought by filing a
16 permit application with the department. Initial permit applications for new
17 facilities to be constructed shall have attached a written proposal for the
18 motor vehicle facility containing the substance of the proposed facility,
19 including a description of the types of motor vehicles proposed for racing at
20 the facility, the maximum projected noise level of the racing vehicles, a
21 description of the kinds of races, the types of buildings, stands, or other
22 physical plant proposed for the facility, estimates of traffic counts and
23 numbers of spectators, and any other relevant permit information as may be
24 determined necessary for the permit application by the department.”

25
26 SECTION 119. Section 11-13-102(10) is amended to read as follows:

27 “(10) ‘State agencies’ means the Arkansas Economic Development
28 Commission, the Department of Arkansas Heritage, the Department of Correction,
29 the Department of Education, the Department of Higher Education, the
30 Department of Human Services, the Department of Labor, the Department of Parks
31 and Tourism, the Arkansas Department of Environmental Quality Pollution
32 Control and Ecology, the Arkansas Employment Security Department, the Arkansas
33 State Game and Fish Commission, the Military Department, and the State Office
34 of Emergency Services; and;”

35
36 SECTION 120. Section 12-63-402(c) is amended to read as follows:

1 “(c)(1) The Adjutant General shall not enter into or accept any
2 contract, deed, license, lease, permit, memorandum of understanding,
3 memorandum of agreement, obligation, gift or donation of any real property,
4 whereby the State of Arkansas shall incur or undertake to incur financial
5 liability for or assume financial liability with, or for, or on behalf of an
6 agency or instrumentality of the United States, for such agency’s or
7 instrumentality’s past or continuing violation or violations of the
8 environmental protection laws of the State of Arkansas or of the United
9 States, or for past or continuing violation or violations of the laws,
10 regulations, rules or orders of the Arkansas Department of Environmental
11 Quality ~~Pollution Control and Ecology~~, or of the United States Environmental
12 Protection Agency, or for the past or continuing violation or violations of
13 any other law, regulation, rule, or order of any agency and instrumentality of
14 the State of Arkansas or of the United States which is charged with the
15 responsibility of enforcing the environmental law.

16 (2) This prohibition shall not be applicable if:

17 (A) The Adjutant General shall be authorized by federal law or
18 regulation to accept such responsibility for remediation of past or continuing
19 violations and the Adjutant General is provided, appropriate, allocated, or
20 apportioned adequate funds from the United States required to remediate such
21 violations, or

22 (B) The Attorney General of the State of Arkansas, after conferring with
23 the Director of the Arkansas Department of Environmental Quality ~~Pollution~~
24 ~~Control and Ecology~~, shall advise the Governor in writing that the potential
25 financial liability of the state for environmental remediation is de minimus,
26 and if the Governor shall so approve and concur in the Attorney General’s
27 advice, or

28 (C) The laws of the United States prescribe and fix sole financial
29 liability for such violation or violations upon an agency or instrumentality
30 of the United States to the exclusion of the state.”

31
32 SECTION 121. Section 12-82-104(a)(1)(A) is amended to read as follows:

33 “(A) The directors of the Department of Health, the Arkansas Department
34 of Environmental Quality ~~Pollution Control and Ecology~~, the Department of
35 Arkansas State Police, the State Office of Emergency Services, the Department
36 of Labor, the Arkansas Fire Training Academy, the Arkansas State Highway and

1 Transportation Department, the Adjutant General of the Arkansas National
2 Guard, or their designated representatives;"

3
4 SECTION 122. Section 14-72-101(a) is amended to read as follows:

5 "(a) Any city of the first class, city of the second class, or
6 incorporated town, hereinafter referred to as "municipality", which has
7 received from the Arkansas Department of Environmental Quality Pollution
8 ~~Control and Ecology~~ a water pollution control project grant funded from the
9 proceeds of bonds of the department issued pursuant to §§ 8-5-301 - 8-5-318
10 may issue water revenue bonds under the provisions of §§ 14-234-201 -
11 14-234-218, sewer revenue bonds under the provisions of §§ 14-235-201 -
12 14-235-224, or combined water and sewer revenue bonds for the purpose of
13 refunding the bonds of the department issued to fund the grant."

14
15 SECTION 123. Section 14-86-302(a) is amended to read as follows:

16 "(a) The provisions of this subchapter shall not be applicable to any
17 city, county, or area which is under an order from the Arkansas Department of
18 Environmental Quality Pollution Control and Ecology and the Environmental
19 Protection Agency to meet the minimum requirements of the Environmental
20 Protection Agency for sanitary sewer discharge."

21
22 SECTION 124. Section 14-116-501(d) is amended to read as follows:

23 "(d) Upon completion of the final improvement plan for an improvement
24 project area, a copy of the final survey and report shall be submitted to the
25 commission for its approval and to other appropriate federal and state
26 agencies for comment. The commission shall solicit written comment from
27 appropriate federal and state agencies on the items described in the final
28 survey and report, including, but not limited to, the United States Army Corps
29 of Engineers, the United States Fish and Wildlife Service, the Arkansas State
30 Game and Fish Commission, the Department of Arkansas Heritage, and the
31 Arkansas Department of Environmental Quality Pollution Control and Ecology.
32 Upon receipt of comments from such agencies, the commission shall make such
33 comments available to the public and shall solicit comments from the public,
34 giving notice by publication in a newspaper published and having a general
35 circulation in the water district, once a week for two (2) weeks, of the
36 commission's intent to hold a hearing, to be held not less than twenty (20)

1 days after first publication of such notice, at which hearing comments from
2 the public will be heard. The commission shall duly consider all comments
3 received from such agencies and the general public, if any, and shall
4 thereafter approve, modify, or disapprove such final report and survey and
5 notify the district's board of directors of its action in the matter."

6
7 SECTION 125. Section 14-206-105(a)(1)(A) is amended to read as follows:

8 "(A) Department of Environmental Quality Pollution Control and Ecology;"

9
10 SECTION 126. Section 14-229-101(b)(9) is amended to read as follows:

11 "(9) The Director of the Arkansas Department of Environmental Quality
12 Pollution Control and Ecology or his designee;"

13
14 SECTION 127. Section 14-236-104(a)(3) is amended to read as follows:

15 "(3) In a subdivision for which a master plan has been approved by the
16 Department of Health or the Department of Environmental Quality Pollution
17 Control and Ecology prior to July 1, 1977, or for which the Department of
18 Health or the Department of Environmental Quality Pollution Control and
19 Ecology has otherwise previously issued its written approval for the
20 installation of individual sewage disposal systems and where individual lots
21 have been developed or sold in reliance upon the prior written approval,
22 individual sewage disposal systems shall not be required to conform to more
23 stringent specifications as to design, construction, and installation than
24 those standards in effect at the time of, or referred to in, the prior written
25 approval."

26
27 SECTION 128. Section 14-236-109 is amended to read as follows:

28 "14-236-109. Property owners' associations - Powers and duties.

29 Property owners associations that construct and maintain or have
30 constructed and maintained sewage disposal facilities in accordance with
31 standards and regulations established by the Division of Sanitarian Services
32 of the Department of Health or the Arkansas Department of Environmental
33 Quality Pollution Control and Ecology shall have jurisdiction over the
34 disposal of sewage within and for the subdivided area over which their
35 authority extends, and shall have general supervision and authority over the
36 location, design, construction, installation, and operation of individual and

1 community sewage disposal systems to the extent that the general supervision
2 and authority is consistent with this chapter and the rules and regulations
3 promulgated thereunder."

4
5 SECTION 129. Section 14-250-102(6) is amended to read as follows:

6 "(6) 'Department' means the Arkansas Pollution Control and Ecology
7 Department of Environmental Quality of the State of Arkansas."

8
9 SECTION 130. Section 15-5-901(a) is amended to read as follows:

10 "(a) There is hereby established on the books of the Development Finance
11 Authority a special restricted fund to be known as the Construction Assistance
12 Revolving Loan Fund which shall be maintained in perpetuity by the authority
13 and administered by the Arkansas Department of Environmental Quality Pollution
14 Control and Ecology for the purposes stated herein. Grants from the federal
15 government or its agencies allotted to the state for capitalization of the
16 fund, state matching grants where required, proceeds of bonds issued by the
17 authority for such purpose, and loan principal, interest, and premiums shall
18 be deposited directly in the fund."

19
20 SECTION 131. Section 15-5-1204(a)(1) is amended to read as follows:

21 "(a)(1) Upon the request of the Director of the Arkansas Department of
22 Environmental Quality Pollution Control and Ecology and based upon an estimate
23 by the Department of Finance and Administration of the pledged fees to be
24 collected, the authority may issue bonds for the purpose of:

25 (A) Providing money for the trust fund; and

26 (B) Paying the cost of issuing the bonds and establishing the
27 reserve fund, if necessary."

28
29 SECTION 132. Section 15-22-906(c) is amended to read as follows:

30 "(c) This program shall not be inconsistent with, nor shall it preempt
31 or supersede, any regulatory authority currently or in the future vested with
32 the Arkansas Department of Environmental Quality Pollution Control and Ecology
33 or the State Plant Board or the Arkansas Department of Health, provided
34 however, that no permit or prior authorization from these agencies shall be
35 required to implement the provisions of this subchapter."

36

1 SECTION 133. Section 15-22-1003(6)(E) is amended to read as follows:

2 "(E) The Arkansas Department of Environmental Quality Pollution Control
3 and Ecology; and"

4
5 SECTION 134. Section 15-23-303(2) is amended to read as follows:

6 "(2) 'Natural rivers' means those rivers or sections thereof that are
7 generally free from man-made impoundments and may have primitive, undeveloped
8 roads, whose lands are essentially primitive, i.e., with a minimal amount of
9 disturbance by man. The water shall have the use classification AA according
10 to the 1976 Arkansas water quality inventory report by the Arkansas Department
11 of Environmental Quality Pollution Control and Ecology;"

12
13 SECTION 135. Section 15-23-303(4) is amended to read as follows:

14 "(4) 'Pastoral rivers' means rivers or sections thereof which are
15 readily accessible, have some housing or other development near their
16 shorelines, have preexisting impoundments that do not substantially alter the
17 character and quality of the stream, partially or predominantly flow through
18 agricultural areas, and have the use classification B according to the 1976
19 Arkansas water quality inventory report by the Arkansas Department of
20 Environmental Quality Pollution Control and Ecology; and"

21
22 SECTION 136. Section 15-23-307(b) is amended to read as follows:

23 "(b) The council shall consist of eight (8) members serving two-year
24 terms. Each member shall be appointed by the agency in which he is employed.
25 One (1) member shall be chosen by the Arkansas Department of Environmental
26 Quality Pollution Control and Ecology; one (1) member shall be chosen by the
27 Arkansas State Game and Fish Commission; one (1) member shall be chosen by the
28 Arkansas Soil and Water Conservation Commission; one (1) member shall be
29 chosen by the Department of Parks and Tourism; one (1) member shall be chosen
30 by the Arkansas Natural Heritage Commission; one (1) member shall be chosen by
31 the United States Forest Service; one (1) member shall be chosen by the
32 Arkansas Geological Commission; and one (1) member shall be chosen by the
33 State Forestry Commission."

34
35 SECTION 137. Section 15-57-202(a) is amended to read as follows:

36 "(a) The owners of lands on which are situated open-cut mining pits that

1 are not subject to the requirements of the Arkansas Open-Cut Land Reclamation
2 Act of 1977, subchapter 3 of this chapter, or any other land reclamation laws
3 of this state are authorized to make voluntary environmental or aesthetic
4 improvements to reclaim or improve the lands and the open-cut mining pits
5 thereon after first giving written notice of the proposed improvements to the
6 Arkansas Department of Environmental Quality Pollution Control and Ecology.”
7

8 SECTION 138. Section 15-57-203 is amended to read as follows:

9 “15-57-203. Notice of proposed reclamation - Investigation.

10 (a) Any owner of such lands who wishes to make environmental or
11 aesthetic improvements to reclaim or improve the lands, as authorized in this
12 subchapter, shall file written notice thereof with the Arkansas Department of
13 Environmental Quality Pollution Control and Ecology before entering upon the
14 improvements.

15 (b) The purpose of the notice shall be to advise the Arkansas Department
16 of Environmental Quality Pollution Control and Ecology of the proposed
17 reclamation or improvements to be made, to enable the Department of
18 Environmental Quality Pollution Control and Ecology to make investigations
19 necessary to assure that the owner of the lands does not engage in activities
20 in connection with any reclamation or improvement project that would be in
21 violation of subchapter 3 of this chapter.”
22

23 SECTION 139. Section 15-57-303(16) is amended to read as follows:

24 “(16) ‘Department’ means the Arkansas Department of Environmental
25 Quality Pollution Control and Ecology or such department or other entity which
26 may lawfully succeed to the powers and duties of the department;”
27

28 SECTION 140. Section 15-57-320(c) and (d) are amended to read as
29 follows:

30 “(c) Upon prior notice to the Arkansas Department of Environmental
31 Quality Pollution Control and Ecology, an agent or employee of a county or
32 municipal government may remove gravel or other materials from any stream in
33 order to protect the integrity of bridges or low water crossing of any public
34 roadway without obtaining a permit.

35 (d) Upon prior notice to the Arkansas Department of Environmental
36 Quality Pollution Control and Ecology, a governmental unit may remove gravel

1 or other material from any stream in order to protect the integrity of a
2 government-owned or government-controlled structure without obtaining a
3 permit."

4
5 SECTION 141. Section 15-57-402(f) is amended to read as follows:

6 "(f) 'Department' means the Arkansas Department of Environmental Quality
7 ~~Pollution Control and Ecology~~, or such department or other entity which may
8 lawfully succeed to the powers and duties of the department."

9
10 SECTION 142. Section 15-58-102(3) is amended to read as follows:

11 "(3) Because surface coal mining in this state takes place in areas
12 where the terrain, climate, biological, chemical, and other physical
13 conditions are peculiar to this state, and because the Arkansas Department of
14 Environmental Quality ~~Pollution Control and Ecology~~ is familiar with these
15 conditions, the Arkansas Department of Environmental Quality ~~Pollution Control~~
16 ~~and Ecology~~ has the primary responsibility to develop, issue, and enforce
17 regulations for surface mining and reclamation operations in this state
18 pursuant to this chapter and in compliance with applicable federal laws and
19 regulations;"

20
21 SECTION 143. Section 15-58-104(4) and (5) are amended to read as
22 follows:

23 "(4) 'Department' means the Arkansas Department of Environmental Quality
24 ~~Pollution Control and Ecology~~ or any department, bureau, commission, or agency
25 as shall lawfully succeed to the powers and duties of that department;

26 (5) 'Director' means the executive head and active administrator of the
27 Arkansas Department of Environmental Quality ~~Pollution Control and Ecology~~;"

28
29 SECTION 144. Section 15-58-201 is amended to read as follows:

30 "15-58-201. Department - Jurisdiction, powers, and duties.

31 (a) The Arkansas Department of Environmental Quality ~~Pollution Control~~
32 ~~and Ecology~~ is designated as the official agency whose duty it is to establish
33 policies and guidelines, to administer the guidelines contained in this
34 chapter, and to institute other reasonable regulations and guidelines, as they
35 become necessary pursuant to this chapter. The rules and regulations may
36 provide differing terms and provisions for particular conditions, particular

1 mining techniques, types of coal, particular areas of the state, surface
2 mines, and the surface impacts of underground mines, or any other differences
3 which appear relevant and necessary so long as the action taken is consistent
4 with attainment of general intent and purposes of this chapter.

5 (b) Exclusive jurisdiction over those aspects of surface coal mining and
6 reclamation operations in this state regulated by Public Law 95-87 shall be
7 vested in the Arkansas Department of Environmental Quality Pollution Control
8 ~~and Ecology.~~ "

9
10 SECTION 145. Section 15-58-203(a)(13) is amended to read as follows:

11 "(13) To contract upon such terms as the director may agree upon, for
12 legal, financial, engineering, and other professional services necessary to
13 expedite the conduct of the affairs of the Arkansas Department of
14 Environmental Quality Pollution Control and Ecology under the provisions of
15 this chapter; "

16
17 SECTION 146. Section 15-58-205(c)(2) is amended to read as follows:

18 "(2) Any person who is, or may be, adversely affected by a surface coal
19 mining operation may notify the director or the commission of any failure on
20 behalf of the Arkansas Department of Environmental Quality Pollution Control
21 ~~and Ecology~~ to make proper inspections, after which the director or the
22 commission, or their authorized representatives, shall determine whether
23 adequate and complete inspections have been made. "

24
25 SECTION 147. Section 15-58-301(a) is amended to read as follows:

26 "(a) If the Director of the Arkansas Department of Environmental Quality
27 ~~Pollution Control and Ecology~~ or his authorized representative determines, on
28 the basis of an inspection or other available information, that a permittee is
29 in violation of a requirement of this chapter or of the regulations issued
30 pursuant to this chapter, or a permit condition required by this chapter or
31 the regulations issued pursuant to this chapter, but the violation does not
32 create an imminent danger to the health or safety of the public or is not
33 causing or reasonably expected to cause significant imminent environmental
34 harm to land, air, or water resources, the director or his authorized
35 representative shall issue a notice of violation to the permittee, or his
36 agent fixing a reasonable time but not more than ninety (90) days for the

1 abatement of the violation in accordance with the procedures set out in
2 regulations issued by the commission pursuant to this chapter."

3
4 SECTION 148. Section 15-58-309(c), (d), and (e) are amended to read as
5 follows:

6 "(c)(1) Any action respecting a violation of this chapter or the
7 regulations thereunder may be brought only in the Circuit Court of Pulaski
8 County, if such action is filed against the State of Arkansas, the commission,
9 the director, or any other state instrumentality or agency, and in Pulaski
10 County or in the county in which the greater part of the surface coal mining
11 operation complained of is located if such action is filed against any other
12 person.

13 (2) In any action under this section, the director, the commission, or
14 the Arkansas Department of Environmental Quality~~Pollution Control and~~
15 ~~Ecology~~, if not a party, may intervene as a matter of right."

16 (d) The court, in issuing any final order in any action brought pursuant
17 to subsection (a) of this section, may award costs of litigation including
18 attorney and expert witness fees to any party, whenever the court determines
19 the award is appropriate. The court may, if a temporary restraining order or
20 preliminary injunction is sought, require the filing of a bond or equivalent
21 security, provided that no bond shall be required if the temporary restraining
22 order or preliminary injunction is sought by the director, the commission, or
23 the Arkansas Department of Environmental Quality~~Pollution Control and~~
24 ~~Ecology~~.

25 (e) Nothing in this section shall restrict any right which any person or
26 class of persons may have under any statute or common law to seek enforcement
27 of any of the provisions of this chapter and the regulations thereunder, or
28 seek any other relief including relief against the director, the commission,
29 or the Arkansas Department of Environmental Quality~~Pollution Control and~~
30 ~~Ecology~~."

31
32 SECTION 149. Section 15-58-503(c) is amended to read as follows:

33 "(c) The commission shall issue regulations to protect confidential
34 information which is submitted to the Arkansas Department of Environmental
35 Quality~~Pollution Control and Ecology~~ as part of a permit application or
36 pursuant to the coal exploration requirements."

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SECTION 150. Section 15-58-504(b) is amended to read as follows:

"(b) Coal exploration regulations shall provide, at a minimum, that prior to conducting any exploration under this subchapter, any person must file with the Arkansas Department of Environmental Quality Pollution Control and Ecology notice of intention to explore, and that no operator shall remove more than two hundred fifty (250) tons of coal pursuant to an exploration permit without the specific written approval of the Arkansas Department of Environmental Quality Pollution Control and Ecology."

SECTION 151. Section 15-58-508(d) is amended to read as follows:

"(d) The Arkansas Department of Environmental Quality Pollution Control and Ecology shall maintain a separate Surface Coal Mining Operation Fund for the fees which may only be used for the administration and enforcement of this chapter, and as the state's matching percentage share for any grants available to the state for the administration and enforcement of the state program."

SECTION 152. Section 15-58-509(a) and (b) are amended to read as follows:

"(a) After a surface coal mining and reclamation permit application has been approved but before the permit is issued, the applicant shall file a bond with the Arkansas Department of Environmental Quality Pollution Control and Ecology. This bond shall be on a form furnished by the Arkansas Department of Environmental Quality Pollution Control and Ecology in accordance with the regulations issued by the commission. It shall be for performance or acceptable alternative payable, as appropriate, to the Arkansas Department of Environmental Quality Pollution Control and Ecology for the State of Arkansas, and conditioned upon faithful performance of all the requirements of this chapter, the regulations issued pursuant to this chapter and the permit.

(b) All forfeitures collected under this chapter shall be deposited into a separate Mining Reclamation Fund which shall be maintained by the Arkansas Department of Environmental Quality Pollution Control and Ecology. The Mining Reclamation Fund may only be used to accomplish reclamation of land covered by forfeitures of performance bonds."

SECTION 153. Section 15-58-509(e) is amended to read as follows:

1 “(e) The amount of the bond shall be sufficient to assure the completion
2 of the reclamation plan if the work had to be performed by the
3 Arkansas Department of Environmental Quality Pollution Control and Ecology in
4 the event of forfeiture. In no case shall the bond for the entire area under
5 one (1) permit be less than ten thousand dollars (\$10,000).”

6
7 SECTION 154. Section 15-71-110(c)(16) is amended to read as follows:

8 “(16) To acquire primary enforcement responsibility either singularly or
9 jointly with the Arkansas Department of Environmental Quality Pollution
10 Control and Ecology for the control of underground injection under the
11 applicable provisions of the Safe Drinking Water Act, Public Law 93-523, as
12 amended; and”

13
14 SECTION 155. Section 15-76-324 is amended to read as follows:

15 “15-76-324. Department of Environmental Quality Pollution control and
16 ecology.

17 (a) Nothing contained in this subchapter shall affect the jurisdiction
18 of the Arkansas Department of Environmental Quality Pollution Control and
19 Ecology over owners or producers of brine or the processing and disposal of
20 brine with respect to water or air pollution control or other matters within
21 its jurisdiction or the requirement that owners, producers, and processors
22 apply for and obtain a permit from the department as provided by the Arkansas
23 Water and Air Pollution Control Act, as amended, § 8-4-101 et seq.

24 (b) Nothing contained in this subchapter confers upon the commission any
25 authority or jurisdiction conferred by law upon the Arkansas Department of
26 Environmental Quality Pollution Control and Ecology or shall be deemed to
27 amend the Water and Air Pollution Control Act, § 8-4-101 et seq.”

28
29 SECTION 156. Section 19-4-906(a), item (055) is amended to read as
30 follows:

31 “(055) Dept. of Environmental Quality Pollution Control & Ecology 57”

32
33 SECTION 157. Section 19-5-302(5) is amended to read as follows:

34 “(A) ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY POLLUTION CONTROL AND
35 ECOLOGY FUND ACCOUNT. The Arkansas Department of Environmental Quality
36 Pollution Control and Ecology Fund Account shall be used for the maintenance,

1 operation, and improvement required by the Arkansas Department of
2 Environmental Quality Pollution Control and Ecology in carrying out the
3 powers, functions, and duties as set out in § 8-4-101 et seq., or other duties
4 imposed by law upon the Pollution Control Commission, which was transferred to
5 the department under the provisions of § 25-14-101.

6 (B) The fund account shall consist of:

7 (i) Those general revenues as may be provided by law;

8 (ii) Such funds received from the Arkansas Game and Fish Commission and
9 from the Department of Commerce Oil and Gas Program as may be provided by law;

10 (iii) Nonrevenue income derived from services provided by the Arkansas
11 Department of Environmental Quality Pollution Control and Ecology; and

12 (iv) Any other funds provided by law."
13

14 SECTION 158. Section 19-5-929(b) is amended to read as follows:

15 "(b) This fund shall consist of all moneys received as penalties
16 pursuant to §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-313,
17 8-6-201 - 8-6-214, 8-7-201 - 8-7-226, as may be provided by law, there to be
18 administered by the Director of the Arkansas Department of Environmental
19 Quality Pollution Control and Ecology for those purposes as may be provided by
20 law."
21

22 SECTION 159. Section 19-5-930(b) is amended to read as follows:

23 "(b) This fund shall consist of all moneys appropriated by the General
24 Assembly to the Hazardous Substance Remedial Action Trust Fund, gifts,
25 donations, interest earnings, fees on the generation of hazardous waste,
26 punitive damages, penalties, and any other moneys legally designated, with the
27 exception of those moneys deposited in the Environmental Education Fund as set
28 out in 8-7-509(d), there to be administered by the Director of the
29 Arkansas Department of Environmental Quality Pollution Control and Ecology as
30 provided in 8-7-509."
31

32 SECTION 160. Section 19-5-959(b) is amended to read as follows:

33 "(b) Such fund shall consist of the petroleum environmental assurance
34 fees as provided for in § 8-7-906, all other fees assessed under § 8-7-901 et
35 seq., gifts, grants, donations, such other funds made available by the General
36 Assembly, the excess of a reserve to two (2) months requirements of debt

1 service from fees in the Petroleum Storage Tank Trust Fund Revenue Bond Debt
2 Service Fund, § 15-5-1206 and any moneys recovered by the Arkansas Department
3 of Environmental Quality Pollution Control and Ecology which are attributable
4 to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807
5 not owed the Regulated Substance Storage Tank Program Fund, there to be
6 administered by the Director of the Arkansas Department of Environmental
7 Quality Pollution Control and Ecology, who shall make disbursements from the
8 fund as authorized by § 8-7-901 et seq.”

9
10 SECTION 161. Section 19-5-961(b) is amended to read as follows:

11 “(b) Such fund shall consist of those special revenues as specified in
12 subdivision (154) of § 19-6-301, reimbursement of funds pursuant to 8-6-610,
13 federal funds which may become available, interest earnings, gifts, donations,
14 and any other funds made available by the General Assembly, there to be
15 administered by the Arkansas Department of Environmental Quality Pollution
16 Control and Ecology as set out in § 8-6-601 et seq.”

17
18 SECTION 162. Section 19-5-979(b) is amended to read as follows:

19 “(b) This fund shall consist of those special revenues as specified in
20 subdivision (167) of § 19-6-301, federal funds, interest earned and any gifts
21 or donations, there to be used for the administration of and for landfill
22 post-closure corrective action as administered by the Arkansas Department of
23 Environmental Quality Pollution Control and Ecology as set out in § 8-6-1001
24 et seq.”

25
26 SECTION 163. Section 19-5-980(b) is amended to read as follows:

27 “(b) This fund shall consist of those special revenues as specified in
28 subdivision (164) of § 19-6-301, any designated federal funds, gifts,
29 donations, and earned interest, there to be used for grants and administrative
30 expenses of the waste tire program as administered by the Arkansas Department
31 of Environmental Quality Pollution Control and Ecology as set out in § 8-9-401
32 et seq.”

33
34 SECTION 164. Section 19-5-983(b) is amended to read as follows:

35 “(b) This fund shall consist of open-cut mining civil penalties and bond
36 forfeiture amounts, gifts, grants, donations, and such other funds as may be

1 made available by the General Assembly, including all interest earned on
2 moneys in the fund, there to be used for the reclamation of affected lands as
3 administered by the Arkansas Department of Environmental Quality Pollution
4 ~~Control and Ecology~~ as set out in § 15-57-301 et seq."

5
6 SECTION 165. Section 19-5-1027(b) is amended to read as follows:

7 "(b) This fund shall consist of that portion of moneys transferred, not
8 to exceed two hundred seventy-five thousand dollars (\$275,000) per fiscal
9 year, from the Hazardous Substance Remedial Action Trust Fund as set out in
10 § 8-7-509, there to be used by the Arkansas Department of Environmental
11 Quality Pollution Control and Ecology to provide environmental educational
12 materials and training."

13
14 SECTION 166. Section 19-5-1028(b) is amended to read as follows:

15 "(b) This fund shall consist of moneys received through a grant from the
16 Secretary of the Interior pursuant to the State Abandoned Mine Reclamation
17 Program, there to be used by the Arkansas Department of Environmental Quality
18 Pollution Control and Ecology for that program."

19
20 SECTION 167. Section 19-5-1029(b) is amended to read as follows:

21 "(b) This fund shall consist of application and permit fees for surface
22 coal mining, there to be used by the Arkansas Department of Environmental
23 Quality Pollution Control and Ecology only for the administration and
24 enforcement of § 15-58-101 et seq. and as the state's matching percentage
25 share for any grants available to the state for the administration and
26 enforcement of the state program."

27
28 SECTION 168. Section 19-6-301(104) is amended to read as follows:

29 "(104) All Arkansas Department of Environmental Quality Pollution
30 Control and Ecology fees, unless otherwise provided by law, § 8-1-105;
31 landfill operator license fees, § 8-6-909; and that portion of new tire waste
32 tire fees, § 8-9-404;"

33
34 SECTION 169. Section 19-6-434 is amended to read as follows:

35 "19-6-434. Hazardous Waste Permit Fund.

36 The Hazardous Waste Permit Fund shall consist of those special revenues

1 as specified in subdivision (59) of § 19-6-301, there to be used by the
2 Arkansas Department of Environmental Quality Pollution Control and Ecology to
3 insure the proper administration and enforcement of §§ 8-7-201 - 8-7-226.”
4

5 SECTION 170. Section 19-6-444 is amended to read as follows:

6 “19-6-444. Arkansas Department of Environmental Quality Pollution
7 Control and Ecology Fee Fund.

8 The Arkansas Department of Environmental Quality Pollution Control and
9 Ecology Fee Fund shall consist of those special revenues as specified in
10 subdivision (104) of § 19-6-301, there to be used to defray the costs of
11 operating the department as set out in §§ 8-1-101 - 8-1-105.”
12

13 SECTION 171. Section 19-6-452 is amended to read as follows:

14 “19-6-452. Asbestos Control Fund.

15 The Asbestos Control Fund shall consist of those special revenues as
16 specified in subdivision (130) of § 19-6-301, there to be used to administer
17 and enforce a program for licensing contractors engaged in the removal of
18 friable asbestos materials from facilities by the Arkansas Department of
19 Environmental Quality Pollution Control and Ecology, as set out in
20 § 20-27-1001 et seq.”
21

22 SECTION 172. Section 19-6-471 is amended to read as follows:

23 “19-6-471. Marketing Board Fund.

24 The Marketing Board Fund shall consist of those special revenues as
25 specified in subdivision (162) of § 19-6-301, there to be used by the State
26 Marketing Board for Recyclables for the administration and performance of its
27 duties, as administered by the Arkansas Department of Environmental Quality
28 Pollution Control and Ecology as set out in § 8-9-201 et seq.”
29

30 SECTION 173. Section 20-16-203(c)(5) is amended to read as follows:

31 “(5) Director of the Arkansas Department of Environmental Quality
32 Pollution Control and Ecology.”
33

34 SECTION 174. Section 20-27-1001 is amended to read as follows:

35 “20-27-1001. Purpose.

36 The purpose of this subchapter is to protect the public health and

1 safety and the environment and to qualify the Arkansas Department of
2 Environmental Quality Pollution Control and Ecology to adopt, administer, and
3 enforce a program for licensing training providers involved with the training
4 of regulated asbestos professionals; licensing asbestos abatement consultants
5 and asbestos abatement contractors; and certifying air monitors,
6 contractor/supervisors, inspectors, management planners, project designers,
7 and workers involved with demolitions, renovations, and asbestos response
8 actions in which regulated asbestos-containing materials are disturbed in
9 accordance with the provisions of this subchapter, the Arkansas Water and Air
10 Pollution Control Act, as amended, § 8-4-101 et seq., and regulations issued
11 pursuant thereto.”

12
13 SECTION 175. Section 20-27-1003(i) and (j) are amended to read as
14 follows:

15 “(i) ‘Department’ means the Arkansas Department of Environmental Quality
16 Pollution Control and Ecology;

17 (j) ‘Director’ means the Director of the Arkansas Department of
18 Environmental Quality Pollution Control and Ecology.”

19
20 SECTION 176. Section 20-27-1103(1) is amended to read as follows:

21 “(1) Blasting conducted at a surface coal mine regulated by the Arkansas
22 Department of Environmental Quality Pollution Control and Ecology pursuant to
23 the Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15-58-101 et
24 seq.; and”

25
26 SECTION 177. Section 22-5-804(a) is amended to read as follows:

27 “(a) The Natural Resources Committee created by this section shall be
28 composed of the Director of the Department of Finance and Administration or
29 his designee, the Director of the Oil and Gas Commission, the State Geologist,
30 the State Forester, the Director of the Arkansas Soil and Water Conservation
31 Commission, the Commissioner of State Lands, the Director of the Arkansas
32 State Game and Fish Commission, the Director of the Department of Parks and
33 Tourism or his designee, the Director of the Arkansas Department of
34 Environmental Quality Pollution Control and Ecology, and the Director of the
35 Arkansas Natural Heritage Commission.”

36

1 SECTION 178. Section 22-5-807(a) is amended to read as follows:

2 "(a) When an application for a lease or permit is filed with the
3 Commissioner of State Lands for the taking or production of any sand, gravel,
4 oil, natural gas, casinghead gas, coal or other minerals, or the severance of
5 any timber, from state-owned lands, the Commissioner of State Lands shall so
6 notify the Arkansas Geological Commission, the Arkansas Soil and Water
7 Conservation Commission, the Oil and Gas Commission, the Arkansas State Game
8 and Fish Commission, the Department of Parks and Tourism, the Arkansas
9 Department of Environmental Quality Pollution Control and Ecology, the
10 Arkansas Forestry Commission, and any other appropriate state agency which has
11 or may have a particular interest in the area proposed to be covered by the
12 lease or permit."

13
14 SECTION 179. Section 23-18-506 is amended to read as follows:

15 "23-18-506. Department of Environmental Quality's ~~Pollution Control and~~
16 ~~Ecology's~~ jurisdiction unaffected by subchapter.

17 Nothing herein contained shall affect the jurisdiction of the Arkansas
18 Department of Environmental Quality Pollution Control and Ecology with respect
19 to water and air pollution control or other matters within its jurisdiction,
20 nor shall it affect the requirement that a person apply for and obtain a
21 permit from the department as provided by the Arkansas Water and Air Pollution
22 Control Act, as amended, §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, and 8-4-301
23 - 8-4-313. Nor shall anything contained in this subchapter confer upon the
24 Arkansas Public Service Commission any authority or jurisdiction conferred by
25 law upon the Arkansas Department of Environmental Quality Pollution Control
26 and Ecology."

27
28 SECTION 180. Section 23-18-513(a)(7)(A) is amended to read as follows:

29 "(A) Department of Environmental Quality Pollution Control and Ecology;"

30
31 SECTION 181. Section 23-18-526 is amended to read as follows:

32 "23-18-526. Powers of local governments and state agencies.

33 Notwithstanding any other provision of law, no municipality, local
34 government unit, or state department or agency, except the Arkansas Department
35 of Environmental Quality Pollution Control and Ecology as set out in
36 § 23-18-506, may require any approval, consent, permit, certificate, or other

1 condition for the construction, operation, or maintenance of a major utility
2 facility authorized by a certificate issued pursuant to the provisions of this
3 subchapter. Nothing in this subchapter shall prevent the application of state
4 laws for the protection of employees engaged in the construction, operation,
5 or maintenance of the facility.”

6
7 SECTION 182. Section 25-1-105(h)(23) is amended to read as follows:

8 “(23) Technical Advisory Committees Appointed by the Department of
9 Environmental Quality Pollution Control and Ecology [§ 8-7-209]”

10
11 SECTION 183. Section 25-14-101 is amended to read as follows:

12 “25-14-101. Creation - Director - Organization - Personnel.

13 (a) There is created an Arkansas Department of Environmental Quality
14 Pollution Control and Ecology.

15 (b) The executive head of the department shall be the Director of the
16 Arkansas Department of Environmental Quality Pollution Control and Ecology.
17 The director shall be nominated by the Commission on Pollution Control and
18 Ecology, and confirmed by the Governor, with the consent of the Senate, and
19 shall serve at the pleasure of the Governor.

20 (c)(1) The Arkansas Department of Environmental Quality Pollution
21 Control and Ecology shall consist of the divisions found in the Pollution
22 Control Commission as of July 1, 1971, and any other divisions which may be
23 created by law and placed under the Arkansas Department of Environmental
24 Quality Pollution Control and Ecology.

25 (2) There shall be created a new Division of Environmental Preservation
26 which shall be responsible for reviewing and making specific ecologically
27 oriented recommendations on all plans, programs, and projects of all other
28 state departments, divisions, agencies, and commissions and upon all federal
29 plans, programs, and projects affecting this state. To this end, all other
30 departments, divisions, agencies, and commissions within this state are
31 directed to cooperate with the Arkansas Department of Environmental Quality
32 Pollution Control and Ecology in fulfilling the department's responsibility
33 defined in this chapter.

34 (3) Nothing in this subsection shall be construed to prevent the
35 director, with the advice and consent of the Governor and the Commission on
36 Pollution Control and Ecology, from organizing the department into the

1 divisions and units which may be necessary to effectively and efficiently
2 administer the statutory responsibilities of the Arkansas Department of
3 Environmental Quality Pollution Control and Ecology.

4 (d) The Director of the Arkansas Department of Environmental Quality
5 Pollution Control and Ecology, with the advice and consent of the Governor,
6 shall appoint the heads of the respective divisions. All of the personnel of
7 the Arkansas Department of Environmental Quality Pollution Control and Ecology
8 shall be employed by and serve at the pleasure of the Director of the
9 Arkansas Department of Environmental Quality Pollution Control and Ecology.

10 Nothing in this section shall be so construed as to reduce any right which an
11 employee in the Arkansas Department of Environmental Quality Pollution Control
12 and Ecology shall have under any civil service or merit system.

13 (e) Each division of the Arkansas Department of Environmental Quality
14 Pollution Control and Ecology shall be under the direction, control, and
15 supervision of the director of the department. The director may delegate his
16 functions, powers, and duties to various divisions of the Arkansas Department
17 of Environmental Quality Pollution Control and Ecology as he shall deem
18 desirable and necessary for the effective and efficient operation of the
19 department."

20
21 SECTION 184. Section 25-14-102(b)(1) is amended to read as follows:

22 "(b)(1) The Arkansas Department of Environmental Quality Pollution
23 Control and Ecology is hereby authorized to provide special compensation to
24 certain employees for each full pay period of eighty (80) hours worked in a
25 job which requires contact with inspection sites, emergency sites, or other
26 sites where exposure to potentially hazardous substances is possible."

27
28 SECTION 185. Section 26-51-506(d) is amended to read as follows:

29 "(d) To claim the benefits of this section, a taxpayer must obtain a
30 certification from the Director of the Arkansas Department of Environmental
31 Quality Pollution Control and Ecology certifying to the Revenue Division of
32 the Department of Finance and Administration that:

33 (1) The taxpayer is engaged in the business of reducing, reusing, or
34 recycling solid waste material for commercial purposes, whether or not for
35 profit;

36 (2) The machinery or equipment purchased is waste reduction, reuse, or

1 recycling equipment;

2 (3) The machinery or equipment is being used in the collection,
3 separation, processing, modification, conversion, treatment, or manufacturing
4 of products containing at least fifty percent (50%) recovered materials,
5 provided that at least ten percent (10%) of the recovered materials shall be
6 postconsumer waste; and

7 (4) The taxpayer has filed a statement with the Director of the Arkansas
8 Department of Environmental Quality ~~Pollution Control and Ecology~~
9 acknowledging that the taxpayer shall make a good faith effort to utilize
10 postconsumer waste generated in Arkansas as at least ten percent (10%) of the
11 postconsumer waste being used in the equipment, to the extent available at a
12 competitive price."

13

14 SECTION 186. Section 26-51-506(f) is amended to read as follows:

15 "(f)(1) The taxpayer shall refund the amount of the tax credit determined
16 by subdivision (f)(2) of this section if, within three (3) years of the
17 taxable year for which a credit is allowed:

18 (A) The waste reduction, reuse, or recycling equipment is removed from
19 Arkansas, is disposed of, is transferred to another person, or the taxpayer
20 otherwise ceases to use the required materials or operate in the manner
21 required by this section;

22 (B) The Director of the Arkansas Department of Environmental Quality
23 ~~Pollution Control and Ecology~~ finds that the taxpayer has demonstrated a
24 pattern of intentional failure to comply with final administrative or judicial
25 orders which clearly indicates a disregard for environmental regulation or a
26 pattern of prohibited conduct which could reasonably be expected to result in
27 adverse environmental impact.

28 (2) If the provisions of subdivision (f)(1) of this section apply, the
29 taxpayer shall refund the amount of the tax credit which was deducted from
30 income tax liability which exceeds the following amounts:

31 (A) Within the first year, zero dollars (\$0);

32 (B) Within the second year, an amount equal to thirty-three percent
33 (33%) of the amount of credit allowed; and

34 (C) Within the third year, an amount equal to sixty-seven percent (67%)
35 of the credit allowed.

36 (3) Any refund required by subdivision (f)(1)(A) of this section shall

1 apply only to the credit given for the particular waste reduction, reuse, or
2 recycling equipment to which that subdivision applies.

3 (4) Any taxpayer who is required to refund part of a credit pursuant to
4 this subsection shall no longer be eligible to carry forward any amount of
5 that credit which had not been used as of the date such refund is required.

6 (5)(A) This subsection shall apply to all credits which are certified as
7 a result of applications for certification filed with the Arkansas Department
8 of Environmental Quality Pollution Control and Ecology on or after July 1,
9 1993.

10 (B) This subsection shall not apply to credits which are certified as a
11 result of applications for certification filed with the Arkansas Department of
12 Environmental Quality Pollution Control and Ecology prior to July 1, 1993.

13 (C) Taxpayers who file written notice and a project plan with the
14 Arkansas Department of Environmental Quality Pollution Control and Ecology
15 prior to July 1, 1993, shall be deemed to have filed an application for
16 certification for purposes of this subdivision, provided that all the
17 information necessary to complete the application for certification is
18 provided to the department on or before December 31, 1993.”

19
20 SECTION 187. Section 26-51-506(k) is amended to read as follows:

21 “(k)(1) The Arkansas Department of Environmental Quality Pollution
22 Control and Ecology and the Revenue Division of the Department of Finance and
23 Administration shall promulgate rules or regulations as necessary to
24 administer this section. These rules or regulations may include, but are not
25 limited to, the establishment of technical specifications and of requirements
26 for information and documentation for taxpayers seeking a credit under this
27 section and shall encourage, but not require, the use of Arkansas contractors
28 and postconsumer waste generated in Arkansas in recycling projects which
29 qualify for credits provided by this section.

30 (2) In order to determine eligibility for the credit or to insure that
31 the machinery or equipment is being utilized in the required manner, each
32 agency shall have the right to inspect facilities and records of a taxpayer
33 requesting or receiving a credit under this section.”

34
35 SECTION 188. Section 26-51-506(l) is amended to read as follows:

36 “(l) Any person or legal entity aggrieved by a decision of the Director

1 of the Arkansas Department of Environmental Quality Pollution Control and
2 Ecology under subsections (d) or (f)(1)(B) of this section may appeal to the
3 Arkansas Pollution Control and Ecology Commission, through administrative
4 procedures adopted by the commission, and to the courts in the manner provided
5 in §§ 8-4-222 - 8-4-229."

6
7 SECTION 189. Section 26-51-1503(4)(v) is amended to read as follows:

8 "(v) The Arkansas Department of Environmental Quality Pollution Control
9 and Ecology; and"

10
11 SECTION 190. The enactment and adoption of this act shall not repeal,
12 expressly or impliedly, the acts passed at the regular session of the 82nd
13 General Assembly. All such acts shall have full force and effect and, so far
14 as those acts intentionally vary from or conflict with any provision contained
15 in this act, those acts shall have the effect of subsequent acts and as
16 amending or repealing the appropriate parts of the Arkansas Code of 1987
17 Annotated.

18
19 SECTION 191. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared severable.

24
25 SECTION 192. All provisions of this act of a general and permanent
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
27 Code Revision Commission, or its successor, shall incorporate same in the
28 Code.

29 /s/ Bradford

30
31
32 APPROVED: 4/6/1999