

EXHIBIT H

DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTE MANAGEMENT

SUBJECT: Regulation No. 27; Licensing of Operators of Solid Waste Management Facilities

DESCRIPTION: The Arkansas Department of Environmental Quality (hereinafter ADEQ or the Department) proposes this rulemaking before the Arkansas Pollution Control & Ecology Commission (hereinafter APC&EC) to Regulation No. 27 (Licensing of Operators of Solid Waste Management Facilities and Illegal Dumps Control Officers) to create consistency between the language of Regulation 27 and Arkansas Code Annotated § 8-6-903 *et seq.* and to make stylistic and formatting corrections throughout the Regulation. Regulation 27 establishes the training, classification, qualifications, and licensing of operators of solid waste management facilities and illegal dumps control officers. The Commission's authority for amending Regulation 27 is found in Arkansas Code Annotated § 8-6-905(a).

Proposed changes to Regulation 27 include:

- **Director's Authority to Grant Waiver.** To amend Reg.27.201 to add, "(L) To allow the Director to grant a written waiver from the solid waste management facility licensing requirements of this regulation; and";
- **Director's Authority to Withdraw Waiver.** To amend Reg.27.201 to add, "(M) To allow the Director to withdraw a written waiver from the solid waste management facility licensing requirements for just cause by written notice to the county, municipality, governmental subdivision, public or private corporation, or other persons to whom the written waiver is being granted.";
- **Correction of Spelling Error in the Definition of "Recovered Materials."** To correct a spelling error by amending Reg.27.103 in the definition of "Recovered Materials" by replacing "feasible" with "feasibly";
- **Stylistic and Formatting Corrections.** To make minor stylistic and formatting corrections throughout the Regulation.

PUBLIC COMMENT: A public hearing was held on June 8, 2016. The public comment period expired on June 22, 2016. No comments were received at the public hearing, and no written comments were received during the public comment period.

The proposed effective date is pending legislative review and approval.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial statement.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 8-6-905(a), the Arkansas Pollution Control and Ecology Commission, with the advice and assistance of a

licensing committee created by Ark. Code Ann. § 8-6-904, is given and charged with the power and duty to adopt rules and regulations implementing and effectuating such powers and duties of the Arkansas Department of Environmental Quality (“Department”) and the licensing committee under Title 8, Chapter 6, Subchapter 9 of the Arkansas Code, entitled “Licensing of Operators of Solid Waste Management Facilities,” as may be necessary for the administration and enforcement of the subchapter. The proposed rule changes implement Act 937 of 2015, which amended Ark. Code Ann. § 8-6-903. *See* Ark. Code Ann. § 8-6-903(c). The Act authorized the director of the Department: (1) with the advice and assistance of the licensing committee, to grant a written waiver of the licensing requirements for operators of solid waste management facilities, and (2) to withdraw such a written waiver for just cause by written notice to the recipient of the waiver.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
DIVISION Waste Management
DIVISION DIRECTOR Tammera Harrelson
CONTACT PERSON Tammera Harrelson
ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118
PHONE NO. 501-682-0962 FAX NO. 501-682-0565 MAIL harrelson@adeq.state.ar.us
NAME OF PRESENTER AT COMMITTEE MEETING Tammera Harrelson
PRESENTER E-MAIL harrelson@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? APC&EC Regulation No. 27

- 2. What is the subject of the proposed rule? Licensing of Operators of Solid Waste Mgmt Facilities

- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? N/A

- When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. N/A

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 8-6-905 and 8-6-903.

7. What is the purpose of this proposed rule? Why is it necessary? This Rule allows the Director to grant a written waiver from the requirements of Ark Code Ann. § 8-6-903 et seq. with advice from the licensing committee or to withdraw a written waiver for just cause by written notice to the county, municipality, governmental subdivision, public or private corporation, or other persons to whom the written waiver is being granted.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). http://www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: TBD
Time: 2:00 P.M.
Commission Room, ADEQ
Headquarters, 5301 Northshore Drive,
Place: North Little Rock, AR 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
Ten business days from the date of the public hearing, which will be on or about (Date)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
On or about (Date)

12. Do you expect this rule to be controversial? Yes No
If yes, please N/A

explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?
Please provide their position (for or against) if known.

1. Arkansas Environmental Federation

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Environmental Quality
DIVISION Division
PERSON COMPLETING THIS STATEMENT Terry Sligh
TELEPHONE NO. 501-682-0867 **FAX NO.** 501-682-0565 **EMAIL:** terry@adeq.state.ar.us

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE APC&EC Regulation No. 27

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
N/A
- (b) The reason for adoption of the more costly rule;
N/A
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>\$ 0.00</u>
Federal Funds	<u>\$ 0.00</u>
Cash Funds	<u>\$ 0.00</u>
Special Revenue	<u>\$ 0.00</u>
Other (Identify)	<u>\$ 0.00</u>

Next Fiscal Year

General Revenue	<u>\$ 0.00</u>
Federal Funds	<u>\$ 0.00</u>
Cash Funds	<u>\$ 0.00</u>
Special Revenue	<u>\$ 0.00</u>
Other (Identify)	<u>\$ 0.00</u>

Total \$ 0.00

Total \$ 0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue	\$ 0.00
Federal Funds	\$ 0.00
Cash Funds	\$ 0.00
Special Revenue	\$ 0.00
Other (Identify)	\$ 0.00
Total	\$ 0.00

General Revenue	\$ 0.00
Federal Funds	\$ 0.00
Cash Funds	\$ 0.00
Special Revenue	\$ 0.00
Other (Identify)	\$ 0.00
Total	\$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
 - (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
 - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.
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**ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS**

Rule Number & Title: Regulation No. 27

Petitioner: Arkansas Department of Environmental Quality,
Division

Contact/Phone/Electronic mail: Tammie Hynum, Assistant Director, Waste
Mgmt
(501) 682-0831
hynum@adeq.state.ar.us

2A. ECONOMIC IMPACT

1. Who will be affected economically by this proposed rule? State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.

No public or private entities will be affected by this rulemaking.

Sources and Assumptions: N/A

2. What are the economic effects of the proposed rule? State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

There is no estimated increase or decrease in cost associated with this rule.

Sources and Assumptions: N/A

3. List any fee changes imposed by this proposal and justification for each.

None.

4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?

None.

Sources and Assumptions: N/A

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.

None.

Sources and Assumptions: N/A

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

No.

Sources and Assumptions: N/A

2B. ENVIRONMENTAL BENEFIT

1. What issues affecting the environment are addressed by this proposal?

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

Sources and Assumptions: N/A

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

None.

Sources and Assumptions: N/A

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

None

Sources and assumptions: N/A

APC&EC REGULATION NO. 27
LICENSING OF OPERATORS OF SOLID WASTE MANAGEMENT FACILITIES
AND ILLEGAL DUMPS CONTROL OFFICERS
Proposed Amendments – Executive Summary
April 15, 2016

The Arkansas Department of Environmental Quality (hereinafter ADEQ or the Department) proposes this rulemaking before the Arkansas Pollution Control & Ecology Commission (hereinafter APC&EC) to Regulation No. 27 (Licensing of Operators of Solid Waste Management Facilities and Illegal Dumps Control Officers) to create consistency between the language of Regulation 27 and Arkansas Code Annotated § 8-6-903 *et seq.* and to make stylistic and formatting corrections throughout the Regulation. Regulation 27 establishes the training, classification, qualifications, and licensing of operators of solid waste management facilities and illegal dumps control officers. The Commission’s authority for amending Regulation 27 is found in Arkansas Code Annotated § 8-6-905(a).

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