

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1215

By: Representative A. Davis

By: Senator Hester

For An Act To Be Entitled

AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF ENERGY AND ENVIRONMENT; TO TRANSFER STATE ENTITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF ENERGY AND ENVIRONMENT; TO TRANSFER STATE ENTITIES; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Department of Energy and Environment

25-43-601. Department of Energy and Environment.

There is created the Department of Energy and Environment as a cabinet-level department.

25-43-602. State entities transferred to the Department of Energy and Environment.



(a) The administrative functions of the following state entities are transferred to the Department of Energy and Environment pursuant to a cabinet level transfer:

(1) The Advisory Committee on Petroleum Storage Tanks, created under § 8-7-904;

(2) The Division of Environmental Quality, created under § 25-43-604;

(3) The Arkansas Geological Survey, created under § 15-55-201;

(4) The Arkansas Pollution Control and Ecology Commission, created under § 8-4-104;

(5) The Arkansas Public Service Commission, created under § 23-2-101;

(6) The Liquefied Petroleum Gas Board, created under § 15-75-201;

(7) The Nutrient Water Quality Trading Advisory Panel, created under § 8-4-233; and

(8) The Oil and Gas Commission, created under § 15-71-101.

(b) Each entity transferred shall retain its specified statutory duties.

25-43-603. Secretary of the Department of Energy and Environment.

(a) The Secretary of the Department of Energy and Environment is the executive head of the Department of Energy and Environment.

(b) The secretary shall be appointed by the Governor, unless otherwise specified by law.

(c) The secretary shall serve at the pleasure of the Governor.

(d) The secretary may:

(1) Delegate to the employees of the department, or any state entity transferred to the department under § 25-43-602, any of the powers or duties of the department required to administer the department;

(2) Hire department personnel;

(3) Perform or assign duties assigned to the department; and

(4) Serve as the director, or the administrative or executive head, of any state entity under the administrative control of the department, if the secretary meets all statutory requirements for the position.

25-43-604. Division of Environmental Quality.

(a) There is created the Division of Environmental Quality.

(b) The Division of Environmental Quality shall consist of the divisions transferred from the Arkansas Pollution Control and Ecology Commission as of July 1, 1971, and all other divisions, programs, and offices under the Arkansas Department of Environmental Quality as of June 30, 2019.

(c) All other departments, divisions, agencies, and commissions within this state shall cooperate with the Division of Environmental Quality in fulfilling the Division of Environmental Quality's responsibility defined in this chapter.

(d) All personnel of the Division of Environmental Quality shall be employed by Department of Energy and Environment and serve at the pleasure of the Secretary of the Department of Energy and Environment. This subsection does not reduce any right which an employee in the Division of Environmental Quality shall have under any civil service or merit system.

25-43-605. Director of the Division of Environmental Quality.

(a)(1) The executive head of the Division of Environmental Quality shall be the Director of the Division of Environmental Quality.

(2) The director shall be appointed by the Governor with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Energy and Environment.

(b) The director, with the advice and consent of the secretary, may organize the Division of Environmental Quality into divisions, offices, or units which may be necessary to effectively and efficiently administer the statutory responsibilities of the Division of Environmental Quality.

(c) The director, with the advice and consent of the secretary, shall appoint the heads of the respective divisions, offices, or units of the Division of Environmental Quality.

(d) Each division, office, or unit of the Division of Environmental Quality shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions, offices, or units of the Division of Environmental Quality as he or she shall deem desirable and necessary for the effective and

efficient operation of the Division of Environmental Quality.

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

(2) All of the powers of the Arkansas Pollution Control and Ecology Commission under §§ 8-4-201(b)(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 2. Arkansas Code § 2-15-404(b)(6)(A), concerning the State Plant Board research program, is amended to read as follows:

(A) Coordinate with the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality to study the use of industrial hemp in new energy technologies, including without limitation:

(i) Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;

(ii) Growth of industrial hemp on reclaimed mine sites;

(iii) Use of hemp seed oil in the production of fuels; and

(iv) Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and

SECTION 3. Arkansas Code § 2-15-404(b)(8), concerning the State Plant Board research program, is amended to read as follows:

(8) The board shall notify the ~~Department~~ Division of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.

SECTION 4. Arkansas Code § 2-15-404(b)(10), concerning the State Plant Board research program, is amended to read as follows:

(10) By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research program to the Governor and to the ~~Arkansas Agriculture Department~~ of

Agriculture.

SECTION 5. Arkansas Code § 2-40-406 is amended to read as follows:

2-40-406. ~~Arkansas Department~~ Division of Environmental Quality – Jurisdiction unimpaired.

This subchapter shall not be interpreted as denying or preempting the regulatory or enforcement jurisdiction of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 6. Arkansas Code § 2-40-1302(a)(2), concerning disposal of large animal carcasses, is amended to read as follows:

(2) However, no large animal carcass shall be buried or otherwise disposed of in any landfill operated under a permit issued by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 7. Arkansas Code § 8-1-101(a), concerning purpose of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

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

SECTION 8. Arkansas Code § 8-1-102(3) and (4), concerning the definitions of "department" and "director" regarding the Arkansas Pollution Control and Ecology Commission, are repealed.

~~(3) "Department" means the Arkansas Department of Environmental Quality;~~

~~(4) "Director" means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 9. The introductory language of Arkansas Code § 8-1-103, concerning the powers and duties of the Arkansas Department of Environmental

Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

The ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission shall have the following powers and duties, respectively:

SECTION 10. Arkansas Code § 8-1-103(1)(B)(ii), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(ii) Should the amount of permit fees levied on and received from permits existing prior to June 30, 1995, exceed the amounts specified in subdivision (1)(B)(i) of this section in a fiscal year, the overcollections may be retained by the ~~department~~ division to be used to reduce permit fees in subsequent years by relative amounts.

SECTION 11. Arkansas Code § 8-1-103(2)(D), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(D) Notwithstanding other provisions of this subchapter and other applicable laws, the commission is authorized to promulgate and the ~~department~~ division is authorized to collect annual fees from facilities electing to operate under the terms and conditions of a pollution prevention plan in lieu of an air permit. The annual pollution prevention plan fee shall be equal to the fee otherwise applicable to facilities operating under an air permit;

SECTION 12. Arkansas Code § 8-1-103(3)-(5), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

(3) The ~~department~~ division shall collect the permit fees as established by the commission and shall deny the issuance of an initial permit, a renewal permit, or a modification permit if and when any facility subject to control by the ~~department~~ division fails or refuses to pay the fees after reasonable notice as established by the regulations promulgated under this chapter;

(4) The ~~department~~ division shall require that any fee defined in this chapter shall be paid prior to the issuance of any permit; and

(5) The ~~department~~ division is hereby authorized to promulgate such rules and regulations necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe and collect such fees, rates, tolls, or charges for the services delivered by the ~~department~~ division in such manner as may be necessary to support the programs of the ~~department~~ division as directed by the Governor and the General Assembly.

SECTION 13. Arkansas Code § 8-1-104 is amended to read as follows:

8-1-104. Existing rules and regulations.

All existing rules and regulations of the ~~Arkansas Department~~ Division of Environmental Quality not inconsistent with the provisions of this chapter relating to subjects embraced within this chapter shall remain in full force and effect until expressly repealed, amended, or superseded if the rules and regulations do not conflict with the provisions of this chapter.

SECTION 14. Arkansas Code § 8-1-105 is amended to read as follows:

8-1-105. ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

(a) ~~An Arkansas Department~~ A Division of Environmental Quality Fee Trust Fund is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

(b) All interest earnings and fees collected under the provisions of all laws administered by the ~~Arkansas Department~~ Division of Environmental Quality shall be deposited into this fund unless otherwise provided by law. The ~~department~~ division shall use these funds to defray the costs of operating the ~~department~~ division.

(c) The ~~department~~ division is hereby authorized to promulgate such rules and regulations as are necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe and collect such fees, rates, tolls, or charges for the services delivered by the ~~department~~ division in such manner as may be necessary to support the programs of the ~~department~~ division as directed by the Governor and the General Assembly.

SECTION 15. Arkansas Code § 8-1-106(a)(2)(F), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

(F) Any other information the Director of the ~~Arkansas Department~~ Division of Environmental Quality may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons; and

SECTION 16. Arkansas Code § 8-1-106(b)(1), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

(b)(1) Except as provided in subdivisions (b)(2) and (4) of this section, all applicants for the issuance or transfer of any permit, license, certification, or operational authority issued by the ~~Arkansas Department~~ Division of Environmental Quality shall file a disclosure statement with their applications. Deliberate falsification or omission of relevant information from disclosure statements shall be grounds for civil or criminal enforcement action or administrative denial of a permit, license, certification, or operational authorization.

SECTION 17. Arkansas Code § 8-1-106(b)(2)(B), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

(B) Applicants for a general permit to be issued by the ~~department~~ division pursuant to its authority to implement the National Pollutant Discharge Elimination System for storm water discharge or any other person or entity the Arkansas Pollution Control and Ecology Commission may by rule exempt from the submissions of a disclosure statement.

SECTION 18. Arkansas Code § 8-1-106(b)(5)(B), concerning disclosure statements, denial of application, appeal, and regulations, is amended to read as follows:

(B) Submits the information on forms developed by the ~~department~~ division.

SECTION 19. Arkansas Code § 8-1-107 is amended to read as follows:

8-1-107. Inspections – Definitions – Investigations – Inspection warrant – Exceptions – Penalties.

(a) General. Whenever it shall be necessary for the purpose of implementing or monitoring the enforcement of any law charged to the authority of the ~~Arkansas Department~~ Division of Environmental Quality, any authorized employee or agent of the ~~department~~ division may enter upon any public or private property for the purpose of obtaining information or conducting investigations or inspections, subject to the following provisions.

(b) Definitions. As used in this section, the following terms shall have these ascribed meanings:

(1) “Administrative inspections” means investigation by ~~department~~ division personnel at facilities operating within the ~~department’s~~ division’s apparent regulatory jurisdiction;

(2) “Facility” means the public or private area, premises, curtilage, building, or conveyance described as the subject of administrative inspection;

(3) “Pervasively regulated facility or activity” means the activity or facility that is the location of activity authorized by the ~~department~~ division through a permit, license, certification, or operational status approval; and

(4)(A) “Probable cause” means showing that an administrative search limited in scope is necessary to ensure compliance with or enforcement of laws, regulations, or orders charged to the ~~department~~ division for implementation.

(B) For the purpose of conducting administrative inspections or applying for administrative warrants, probable cause may be provided to the ~~department~~ division through complaints or other means that reasonably justify a limited and controlled administrative inspection.

(c) Administrative Inspections.

(1)(A) Whenever the ~~department~~ division obtains information that supports reasonable cause to believe that a violation of any law within its regulatory authority is being or has been violated, or that unauthorized regulated conduct is occurring or has occurred, ~~department~~ division personnel or its agents may demand entry onto any property, public or private, to

inspect any facility.

(B) The ~~department's~~ division's investigation or inspection shall be limited to that necessary to confirm or deny the cause which prompted the investigation or inspection, and shall be conducted during daylight, during regular business hours, or, under emergency or extraordinary circumstances, at a time necessary to observe the suspected violation or unauthorized conduct.

(C) Except under emergency circumstances, the ~~department~~ division shall inform such facility's owner or agent of all information which forms the basis of its probable cause at the time of the inspection.

(2) Nothing in this subsection shall be construed as requiring the ~~department~~ division to forfeit the element of surprise in its inspection efforts.

(3) Also, nothing in this section shall be construed as limiting the frequency of the periodic or random inspections of pervasively regulated facilities or activities.

(4) For the purpose of this section, a rebuttable presumption concerning the jurisdiction of the ~~department's~~ division's regulatory authority is established as it regards the ~~department's~~ division's authority to inspect any facility.

(d) Administrative Inspection Warrants. If consent to inspect is denied, the ~~department~~ division may obtain an administrative inspection warrant from a judicial officer. Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judicial officer otherwise authorized to issue search warrants within his or her jurisdiction may, upon proper oath or affirmation showing probable cause as defined by this section, issue warrants for the purpose of conducting administrative inspections authorized by any law or regulation administered by the ~~department~~ division;

(2) A warrant shall issue only upon an affidavit of a department official, employee, or agent having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the facility to be inspected, and the purpose of the inspection. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to a ~~department~~ division officer or employee;

(C) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified;

(D) Specifically identify any documents or samples to be gathered during the inspection;

(E) Direct that it be served during normal business hours unless emergency or extraordinary circumstances compel otherwise; and

(F) Designate the judge or magistrate to whom it shall be returned;

(3) If appropriate, the warrant may authorize the review and copying of documents which may be relevant to the purpose of the inspection. If documents must be seized for the purpose of copying, the person serving the warrant shall prepare an inventory of documents taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or facility the documents were taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose facility the documents were taken. The seized documents shall be copied as soon as feasible under circumstances preserving their authenticity, then returned to the person from whom the documents were taken;

(4) The warrant may authorize the taking of samples of materials generated, stored, or treated at the facility, or of the water, air, or soils within the facility's control or that may have been affected by the facility's operations. The person executing the warrant shall prepare an inventory of all samples taken. In any inspection conducted pursuant to an administrative warrant in which such samples are taken, the ~~department~~ division shall make split samples available to the person whose facility is being inspected;

(5) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. The return of the

warrant shall be made promptly, accompanied by a written inventory of any documents or samples taken;

(6) The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the circuit court for the judicial district in which the inspection was made;

(7) This subsection does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with duly adopted administrative procedures; and

(8) A copy of the warrant and all supporting affidavits shall be provided to the person served, or left at the entry of the facility inspected.

(e) Administrative Inspection Warrants – Exceptions. Notwithstanding the previous subsection, an administrative warrant shall not be required for any inspection, including the review and copying of documents and taking of samples, under the following circumstances:

(1) For pervasively regulated facilities or activities as defined by this section whose permit, license, certification, or operational approval from the ~~department~~ division provides notice that the ~~department~~ division may inspect regulated activities to assure compliance. If the ~~department~~ division has reason to believe that a violation of any law has or is occurring, the basis for such belief shall be communicated at the time of the inspection;

(2) If the owner, operator, or agent in charge of the facility consents;

(3) In situations presenting imminent danger to public health and safety or the environment;

(4) In situations involving inspection of conveyances, if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(5) In any other exception or emergency circumstance when time or opportunity to apply for a warrant is lacking;

(6) In situations involving conditions that may be observed in an open field, from an area practically open to public access, or in plain view; or

(7) In all other situations in which a warrant is not

constitutionally required.

(f) Penalties. Any willful and unjustified refusal of right of entry and inspection to ~~department~~ division personnel as set out in this section shall constitute a misdemeanor subject to a fine of up to twenty-five thousand dollars (\$25,000) or civil penalties up to twenty-five thousand dollars (\$25,000).

SECTION 20. Arkansas Code § 8-1-201 is amended to read as follows:

8-1-201. Legislative intent.

(a) The General Assembly recognizes that since 1949, when the precursor of the Arkansas Pollution Control and Ecology Commission was first created, significant changes have occurred in the responsibilities charged to the state's environmental agency. This subchapter intends to clarify and supersede prior law that does not comport with this delineation of responsibility between the ~~Arkansas Department~~ Division of Environmental Quality and the commission.

(b) Further, in delineating the responsibility between the ~~department~~ division and the commission, it is the intent of the General Assembly neither to expand nor to diminish any rights of property owners of this state under Arkansas Constitution, Article 2, § 22.

SECTION 21. Arkansas Code § 8-1-202 is amended to read as follows:

8-1-202. Powers of the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

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

~~(b)(1)(a)~~ (a) The ~~director~~ Director of the Division of Environmental Quality shall be the executive officer and active administrator of all pollution control activities in the state.

~~(2)(b)~~ (b) As such, the director's duties shall include:

~~(A)(i)(1)(A)~~ (A) The administration of permitting, licensing, certification, and grants programs deemed necessary to protect the environmental integrity of the state.

~~(ii)(B)~~ (B) The director, or his or her delegatee within

his or her staff, shall serve as the issuing authority for the state;

~~(B)-(i)-(2)(A)~~ Initiation and settlement of civil or administrative enforcement actions to compel compliance with laws, orders, and regulations charged to the responsibility of the ~~department~~ Division of Environmental Quality.

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

~~(C)-(3)~~ Issuance of orders in such circumstances that reasonably require emergency measures to be taken to protect the environment or the public health and safety, except to the extent that the matter involved is reserved to the jurisdiction or orders of the Arkansas Pollution Control and Ecology Commission for rulemaking procedures in § 8-4-202;

~~(D)-(4)~~ Day-to-day administration of all activities that the ~~department~~ division is empowered by law to perform, including, but not limited to, the employment and supervision of such technical, legal, and administrative staff, within approved appropriations and with the approval of the Secretary of the Department of Energy and Environment, as is necessary to carry out the responsibilities vested with the ~~department~~ division;

~~(E)-(5)~~ Providing technical and legal expertise and assistance in the field of environmental protection to other agencies and subdivisions of the state as appropriate;

~~(F)-(6)~~ Day-to-day administration of environmental programs delegated to the State of Arkansas by the responsible agencies of the United States Government;

~~(G)-(7)~~ The supervision of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality under the Arkansas Energy Reorganization and Policy Act of 1981, § 15-10-201 et seq.; and

~~(H)-(8)~~ Any other power or duty specifically vested with the director or ~~department~~ division by the General Assembly or the secretary.

(9) The supervision of the Division of Environmental Preservation, or the successor division, office, or unit responsible for reviewing and making specific ecologically oriented recommendations on all plans, programs, and projects of all other state departments, divisions, agencies, and commissions and upon all federal plans, programs, and projects affecting this state.

SECTION 22. Arkansas Code § 8-1-203(b)(1)(A), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(1)(A) Promulgation of rules and regulations implementing the substantive statutes charged to the ~~Arkansas Department~~ Division of Environmental Quality for administration.

SECTION 23. Arkansas Code § 8-1-203(b)(4), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(4) In the case of permitting or grants decisions, providing the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her delegatee;

SECTION 24. Arkansas Code § 8-1-203(b)(7), concerning the powers and responsibilities of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ division. However, the director shall always remain within the plenary authority of the Governor; and

SECTION 25. Arkansas Code § 8-1-204 is amended to read as follows:

8-1-204. Administrative law judge.

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

(b) The administrative law judge shall be selected and hired by the commission and shall be independent of and not an employee of the ~~Arkansas Department~~ Division of Environmental Quality.

(c) The expenses of the administrative law judge shall be paid from the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund or

from other sources as provided by law.

(d) The office space for the administrative law judge shall be at a location other than the offices of the ~~department~~ division.

(e) An administrative assistant II shall be supervised by and provide assistance to the administrative law judge authorized in this section.

(f) The disbursing officer of the ~~department~~ division shall disburse the funds appropriated for the commission's administrative law judge.

SECTION 26. Arkansas Code § 8-1-302(2), concerning the definition of "director" under the laws regarding the Arkansas Pollution Control and Ecology Commission and the Director of the Arkansas Department of Environmental Quality, is repealed.

~~(2) "Director" means the Director of the Arkansas Department Division of Environmental Quality;~~

SECTION 27. Arkansas Code § 8-1-305(1)(C), concerning exceptions to the environmental audit privilege, is amended to read as follows:

(C) A determination, a permit, or an order made or issued by the commission or the Director of the ~~Arkansas Department~~ Division of Environmental Quality; or

SECTION 28. Arkansas Code § 8-1-307(a)(3)(C), concerning disclosure in civil or administrative proceedings, is amended to read as follows:

(C) A determination, permit, or order issued by the commission or the Director of the ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 29. Arkansas Code § 8-1-307(b)(2)(A), concerning disclosure in civil or administrative proceedings, is amended to read as follows:

(2)(A) In the event additional time is required to prepare a permit application, the person shall, within ninety (90) days, submit a schedule to the ~~Arkansas Department~~ Division of Environmental Quality that identifies the activities required to complete the application, and, if the schedule is acceptable to the ~~department~~ division, the filing of the application pursuant to the submitted schedule shall constitute reasonable diligence to achieve compliance for a failure to obtain a required permit.

SECTION 30. Arkansas Code § 8-2-202 is amended to read as follows:

8-2-202. Purpose.

This subchapter authorizes the ~~Arkansas Department~~ Division of Environmental Quality to establish and administer an environmental laboratory accreditation program so that laboratories that submit data and analyses to the ~~department~~ division may be accredited by the ~~department~~ division as having demonstrated acceptable compliance with laboratory standards so that the validity of scientific data submitted to the ~~department~~ division may be further assured.

SECTION 31. Arkansas Code § 8-2-203(1) and (2), concerning the definition of "acceptable results" and "accreditation" under the Environmental Laboratory Accreditation Program Act, are amended to read as follows:

(1) "Acceptable results" means results within limits determined on the basis of statistical procedures as prescribed by the ~~Arkansas Department~~ Division of Environmental Quality;

(2) "Accreditation" means the process by which the ~~department~~ division recognizes a laboratory as meeting certain predetermined qualifications or standards, thereby accrediting the laboratory;

SECTION 32. Arkansas Code § 8-2-203(4), concerning the definition of "certificate" under the Environmental Laboratory Accreditation Program Act, is amended to read as follows:

(4) "Certificate" means a document issued by the ~~department~~ division showing the analytes for which a laboratory has received accreditation;

SECTION 33. Arkansas Code § 8-2-203(7)(A), concerning the definition of "laboratory" under the Environmental Laboratory Accreditation Program Act, is amended to read as follows:

(7)(A) "Laboratory" means any facility that performs analyses to determine the chemical, physical, or biological properties of air, water, solid waste, hazardous waste, wastewater, or soil or subsoil materials or that performs any other analyses related to environmental quality evaluations

required by the ~~department~~ division or which will be submitted to the ~~department~~ division.

SECTION 34. Arkansas Code § 8-2-204(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall have the following powers and duties under this subchapter:

(1) To establish and administer the Environmental Laboratory Accreditation Program for laboratories applying for accreditation by the ~~department~~ division;

(2) To enforce the provisions of this subchapter and all laws, rules, and regulations relating to the program and to environmental testing;

(3) To issue, deny, revoke, or suspend the accreditation of a laboratory for cause; and

(4) To refuse to accept analytical results from a laboratory when the ~~department~~ division reasonably determines that the results do not meet reasonable criteria for validation, regardless of whether the laboratory is accredited.

SECTION 35. Arkansas Code § 8-2-206 is amended to read as follows:

8-2-206. Accreditation – Criteria and procedure.

(a)(1)(A)(i) All consulting laboratories performing analyses for which results are to be submitted to the ~~Arkansas Department~~ Division of Environmental Quality shall obtain a laboratory accreditation under this subchapter.

(ii) An analyte, method, or matrix for which the Environmental Laboratory Accreditation Program does not provide accreditation shall be evaluated by the ~~department~~ division for acceptance.

(B) The ~~department~~ division, in its sole discretion, may refuse to accept results of analyses performed by a consulting laboratory that does not hold a laboratory accreditation under the program for the reason that the laboratory is not accredited.

(2) Accreditation for laboratories other than consulting laboratories shall not be mandatory.

(b) Applications for accreditation shall be made in the form and

manner established by the ~~department~~ division.

(c) Upon receipt of an application for accreditation, the ~~department~~ division shall evaluate and act upon the application in accordance with the following procedures and criteria:

(1)(A) The laboratory must successfully complete an evaluation.

(B) The ~~department~~ division shall establish evaluation criteria on proper analytical techniques, quality assurance, recordkeeping, and reporting methods and procedures and facilities, equipment, and personnel requirements; and

(2) The laboratory must submit to the ~~department~~ division acceptable results from its analysis of proficiency test samples for the specific analytes, methods, and matrices selected for accreditation.

(d) Upon completion of the laboratory evaluation and the review of the proficiency test sample results, the ~~department~~ division shall notify the laboratory of its determination to award or deny accreditation.

(e)(1) If the adequacy of the laboratory's capability and its recordkeeping have been sufficiently established to the satisfaction of the ~~department~~ division, a certificate will be issued to the laboratory for the evaluated categories of analytes, methods, and matrices.

(2) If accreditation is denied, the ~~department~~ division shall set forth, in writing, the reasons for denial.

SECTION 36. Arkansas Code § 8-2-207(b), concerning the accreditation, duration, and renewal of a certificate of accreditation, is amended to read as follows:

(b) Accreditation may be renewed for additional periods of one (1) year's duration upon application for renewal made to the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 37. The introductory language of Arkansas Code § 8-2-208(a), concerning laboratory accreditation and revocation by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) After a laboratory is accredited, the laboratory's accreditation may be revoked or suspended by the ~~Arkansas Department~~ Division of Environmental Quality for:

SECTION 38. Arkansas Code § 8-2-208(b)(1) and (2), concerning laboratory accreditation and revocation by the Arkansas Department of Environmental Quality, are amended to read as follows:

- (1) To knowingly falsify any data submitted to the ~~department~~ division or any data related to laboratory analysis;
- (2) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document issued by or sent to the ~~department~~ division or related to laboratory analysis;

SECTION 39. Arkansas Code § 8-2-209(a)(1), concerning fees collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

- (a)(1) The ~~Arkansas Department~~ Division of Environmental Quality may assess and collect reasonable fees from participating laboratories for the administrative costs of the Environmental Laboratory Accreditation Program.

SECTION 40. Arkansas Code § 8-3-102(b)(1), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

- (b)(1) Before the commission proposes an ambient standard or regulatory mechanism concerning hydrogen sulfide that will result in more stringent or restrictive control provisions than are currently provided by ~~Arkansas Department~~ Division of Environmental Quality permitting practices, the commission shall direct the ~~department~~ division to prepare, with the assistance and cooperation of state agencies with appropriate expertise, an economic impact and environmental benefit analysis justifying more stringent or restrictive operating conditions.

SECTION 41. Arkansas Code § 8-3-102(b)(2)(C), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

- (C) Cost to the regulated community and the ~~department~~ division.

SECTION 42. Arkansas Code § 8-3-103(b), concerning hydrogen sulfide emissions, is amended to read as follows:

- (b) Method of Prediction. All estimates of ambient concentrations

required under this section shall be performed by the ~~Arkansas Department~~ Division of Environmental Quality or performed by the facility and approved by the ~~department~~ division based on the facility's potential to emit hydrogen sulfide, the applicable air quality models, databases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1986), supplement A (1987) and supplement B (1993).

SECTION 43. Arkansas Code § 8-3-103(d)(2)(C), concerning hydrogen sulfide emissions, is amended to read as follows:

(C) A facility that is not subject to one (1) of the technology limits listed in subdivision (d)(2)(B) of this section and that wishes to apply appropriate hydrogen sulfide control technology may apply to the ~~department~~ division for a determination of appropriateness at any time, but no later than ninety (90) days after a determination that the ambient standard has been exceeded. The application shall be made on such forms and contain such information as the ~~department~~ division may require and shall include a reasonable time schedule for implementation. When making a determination of appropriateness, the ~~department~~ division shall follow the procedures used for making permitting decisions, including public participation requirements.

SECTION 44. Arkansas Code § 8-3-202(3), concerning the definition of "state plan" under the laws regarding state emission plans, is amended to read as follows:

(3) "State plan" means a plan to establish and enforce carbon dioxide emission control measures that the ~~Arkansas Department~~ Division of Environmental Quality may adopt to implement the obligations of the state under the federal emission guidelines.

SECTION 45. Arkansas Code § 8-3-203(a)(1), concerning the state emission plan's being dependent on federal emission guidelines, is amended to read as follows:

(a)(1) This subchapter does not require the ~~Arkansas Department~~ Division of Environmental Quality to develop a state plan to regulate carbon dioxide emissions from existing fossil-fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d).

SECTION 46. Arkansas Code § 8-3-204 is amended to read as follows:

8-3-204. Appeal of state plan – Adjudicatory process.

(a) If the ~~Arkansas Department~~ Division of Environmental Quality proposes to finalize a state plan submittal for review and approval by the United States Environmental Protection Agency, the ~~department~~ division shall comply with the procedural requirements for notice and public comment specified in § 8-4-317.

(b)(1) Only a person or an organization that submits comments on the record during the public comment period has standing to appeal the final decision of the ~~department~~ division to the Arkansas Pollution Control and Ecology Commission upon written application made within thirty (30) days after the service of notice made under § 8-4-317(b)(2)(A).

(2) An appeal under subdivision (b)(1) of this section shall be processed as a permit appeal under § 8-4-205.

SECTION 47. Arkansas Code § 8-3-205(a), concerning assessing the effects of the state emission plan, is amended to read as follows:

(a) Before preparing a petition to initiate rulemaking for the development of regulations implementing a state plan for regulating carbon dioxide emissions from covered electric generating units, the ~~Arkansas Department~~ Division of Environmental Quality shall prepare a report that takes into account the factors specified in § 8-4-312 and the Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.

SECTION 48. The introductory language of Arkansas Code § 8-3-205(b)(1), concerning assessing the effects of the state emission plan, is amended to read as follows:

(b)(1) In addition to the report specified in subsection (a) of this section, the ~~department~~ division shall coordinate with the Arkansas Public Service Commission in the preparation of a report that assesses the effects of the state plan on the electric power sector, including without limitation:

SECTION 49. The introductory language of Arkansas Code § 8-3-205(b)(2), concerning assessing the effects of the state emission plan, is amended to read as follows:

(2) The ~~department~~ division shall further coordinate with the Arkansas Economic Development Commission in the preparation of a report that assesses the effects of the state plan on the electricity consumers within the state, including without limitation:

SECTION 50. Arkansas Code § 8-3-205(c), concerning assessing the effects of the state emission plan, is amended to read as follows:

(c) The reports required by this section shall be included with any petition filed by the ~~department~~ division to initiate rulemaking for regulations that implement a state plan for regulating carbon dioxide emissions from covered electric generating units.

SECTION 51. The introductory language of Arkansas Code § 8-3-206(a), concerning submission of the state emission plan, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall not submit a state plan to the United States Environmental Protection Agency under § 8-3-207 if the state plan:

SECTION 52. The introductory language of Arkansas Code § 8-3-206(b), concerning submission of the state emission plan, is amended to read as follows:

(b) The ~~department~~ division shall not submit a state plan to the United States Environmental Protection Agency until:

SECTION 53. Arkansas Code § 8-3-207(a), concerning procedures for approval of the state emission plan, is amended to read as follows:

(a) Not later than fifteen (15) days after adopting a state plan, the ~~Arkansas Department~~ Division of Environmental Quality shall transmit to the cochairs of the Legislative Council a copy of the state plan and the accompanying report developed under § 8-3-205.

SECTION 54. Arkansas Code § 8-3-207(c), concerning procedures for approval of the state emission plan, is amended to read as follows:

(c) If the Legislative Council fails to approve a state plan under subsection (b) of this section, the ~~department~~ division may submit a revised

version of the state plan, with an accompanying revised report, to the cochair of the Legislative Council for approval under this section.

SECTION 55. Arkansas Code § 8-3-207(d)(1), concerning procedures for approval of the state emission plan, is amended to read as follows:

(1) Sufficient time has passed for the Legislative Council to consider a state plan submitted by the ~~department~~ division for legislative approval;

SECTION 56. Arkansas Code § 8-3-208 is amended to read as follows:

8-3-208. Rate and reliability safety valve.

(a) If a state plan approved under this subchapter would result in a significant increase in the total electric or natural gas bill annually for any customer class, the ~~Arkansas Department~~ Division of Environmental Quality shall reopen the proceeding under § 8-3-204 and, after the opportunity for a hearing, revise the state plan to satisfy § 8-3-206(a)(1) and transmit the revised state plan to the cochair of the Legislative Council for approval under § 8-3-207.

(b)(1) Each year the ~~department~~ division shall evaluate the impact of electricity rate increases on the energy-intensive-trade-exposed manufacturers and the resulting greenhouse gas leakage.

(2) If increased electric rates are found to be contributing to increased manufacturing greenhouse gas leakage, the ~~department~~ division shall reopen the proceeding under § 8-3-204 and, after the opportunity for a hearing, revise the state plan to avoid manufacturing greenhouse gas leakage and transmit the revised state plan to the cochair of the Legislative Council for approval under § 8-3-207.

SECTION 57. Arkansas Code § 8-4-103(a)(1)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(1)(A) Any person that violates any provision of this chapter, that commits any unlawful act under it, or that violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty

of a misdemeanor.

SECTION 58. Arkansas Code § 8-4-103(a)(2)(A)(i), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(i) Violate any provision of this chapter, commit any unlawful act under it, or violate any rule, regulation, or order of the commission or ~~department~~ Division of Environmental Quality and leave the state or remove his or her person from the jurisdiction of this state;

SECTION 59. The introductory language of Arkansas Code § 8-4-103(b), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(b) Civil Penalties. The ~~department~~ Division of Environmental Quality may institute a civil action in any court of competent jurisdiction to accomplish any of the following:

SECTION 60. The introductory language of Arkansas Code § 8-4-103(b)(3), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(3) Recover all costs, expenses, and damages to the ~~department~~ Division of Environmental Quality and any other agency or division of the state in enforcing or effectuating the provisions of this chapter, including, but not limited to, natural resource damages;

SECTION 61. Arkansas Code § 8-4-103(c)(2)(C), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(C) These administrative procedures may also be used to recover all costs, expenses, and damages to the ~~department~~ Division of Environmental Quality and any other agency or subdivision of the state in enforcing or effectuating the provisions of this chapter, including, but not

limited to, natural resource damages.

SECTION 62. Arkansas Code § 8-4-103(d)(1)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(d)(1)(A) Before assessing a civil penalty under subsection (c) of this section, the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall provide public notice of and a reasonable opportunity to comment on the proposed issuance of the order.

SECTION 63. Arkansas Code § 8-4-103(f)(1), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(f)(1) All moneys collected as reimbursement for expenses, costs, and damages to the ~~department~~ Division of Environmental Quality shall be deposited into the operating fund of the ~~department~~ Division of Environmental Quality.

SECTION 64. Arkansas Code § 8-4-103(f)(3)(B) and (C), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, are amended to read as follows:

(B) The violator may provide in-kind services or cash contributions as directed by the ~~department~~ Division of Environmental Quality by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the services, by arranging and providing financing for the services, or by other financial arrangements initiated by the ~~department~~ Division of Environmental Quality in which the violator and the ~~department~~ Division of Environmental Quality retain no monetary benefit, however remote.

(C) The services shall not duplicate or augment services already provided by the ~~department~~ Division of Environmental Quality through appropriations of the General Assembly.

SECTION 65. Arkansas Code § 8-4-103(1)(3)(A), concerning criminal, civil, and administrative penalties of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(3)(A) The ~~department~~ division may seize any cleaning agent held for sale or distribution in violation of this chapter.

SECTION 66. Arkansas Code § 8-4-104(b)-(g), concerning the members of the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

(b) The Arkansas Pollution Control and Ecology Commission shall be composed of ~~thirteen (13)~~ fifteen (15) members:

(1)(A) The Governor, by and with the advice and consent of the Senate, shall appoint seven (7) members.

(B) Each congressional district shall be represented on the Arkansas Pollution Control and Ecology Commission by at least one (1) member, and no district shall have more than two (2) members of the seven (7) appointees.

(C)(i) The Governor shall not appoint a member to represent any specific or special interest group, organization, or philosophy.

(ii) However, in making appointments to the Arkansas Pollution Control and Ecology Commission, the Governor shall appoint individuals who have knowledge or expertise in matters within the jurisdiction of the Arkansas Pollution Control and Ecology Commission, including government, business or industry, agriculture and livestock, forestry, health, ecology, recreation and tourism, and geology.

(D) Each member appointed by the Governor shall be appointed for a term of four (4) years; and

(2) The other ~~six (6)~~ eight (8) members of the Arkansas Pollution Control and Ecology Commission shall be:

(A) The ~~Director~~ Secretary of the Department of Health or his or her designee; and

~~(B)(i) The directors of the Arkansas State Game and Fish Commission, the Arkansas Forestry Commission, the Arkansas Natural Resources Commission, the Oil and Gas Commission, and the Arkansas Geological Survey.~~

The Secretary of the Department of Agriculture, or his or her designee;

~~(ii) Any director specified in subdivision (b)(2)(B)(i) of this section may designate the agency's deputy director or assistant director to serve in lieu of the director.~~

(C) The Secretary of the Department of Energy and Environment, or his or her designee;

(D) The Director of the Arkansas State Game and Fish Commission, or his or her designee;

(E) The State Forester, or his or her designee on behalf of the State Forestry Commission;

(F) The Director of the Oil and Gas Commission, or his or her designee;

(G) The Director of the Arkansas Natural Resources Commission, or his or her designee; and

(H) The State Geologist, or his or her designee, on behalf of the State Geological Survey.

(c) Elected city, county, and state officials shall not serve on the Arkansas Pollution Control and Ecology Commission after the expiration of any current member's term.

(d) In the event of a vacancy in the membership of the Arkansas Pollution Control and Ecology Commission, the Governor shall appoint a person to fill the vacancy temporarily who shall serve until the next meeting of the Senate, when some person shall be appointed by the Governor, by and with the consent and approval of the Senate, to serve the remainder of the unexpired term.

(e)(1) The chair and vice chair shall be elected annually.

(2) The members of the Arkansas Pollution Control and Ecology Commission representing the state agencies shall not serve as chair or vice chair.

(f)(1)(A) The Arkansas Pollution Control and Ecology Commission shall hold at least four (4) regular meetings in each calendar year at times and places to be fixed by the Arkansas Pollution Control and Ecology Commission and such other meetings as may be necessary.

(B) Special meetings may be called at the discretion of the chair, and they shall be called by him or her upon written request of two (2) members of the Arkansas Pollution Control and Ecology Commission by

delivery of written notice to each member of the Arkansas Pollution Control and Ecology Commission.

(2) Nine (9) members of the Arkansas Pollution Control and Ecology Commission shall constitute a quorum to transact business in both regular and special meetings.

(g)(1) Each member of the Arkansas Pollution Control and Ecology Commission representing state agencies shall receive no additional salary or per diem for services as a member of the Arkansas Pollution Control and Ecology Commission but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(2) The other seven (7) members appointed by the Governor may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

SECTION 67. Arkansas Code § 8-4-105 is repealed.

~~8-4-105. Director of the Arkansas Department of Environmental Quality.~~

~~(a)(1) The executive head of the Arkansas Department of Environmental Quality shall be the Director of the Arkansas Department of Environmental Quality, 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, the Division of Air Pollution Control, the Division of Solid Waste Management, the Division of Environmental Preservation, the 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 (a)(3) 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 Arkansas Pollution Control and Ecology Commission under §§ 8-4-201(b)(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 68. Arkansas Code § 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 ~~Arkansas Department~~ Division of Environmental Quality.

(b) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, however, may employ and compensate, within appropriations available, consultants and such assistants and employees as may be necessary to carry out the provisions of this chapter and prescribe their powers and duties.

SECTION 69. Arkansas Code § 8-4-107 is amended to read as follows:

8-4-107. Prosecution of public nuisance actions.

In any legal action arising from, relating to, or including violations of laws or regulations charged to the enforcement authority of the ~~Arkansas Department~~ Division of Environmental Quality that also alleges the existence of a public nuisance at common law, the Attorney General or the ~~department~~ division may serve as the instrumentality of the state authorized to initiate and prosecute such action.

SECTION 70. The introductory language of Arkansas Code § 8-4-201(a), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor is given and charged with the following powers and duties:

SECTION 71. Arkansas Code § 8-4-201(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(1)(A) Promulgation of rules and regulations, including water quality standards and the classification of the waters of the state and

moratoriums or suspensions of the processing of types or categories of permits, implementing the substantive statutes charged to the ~~department~~ division for administration.

SECTION 72. Arkansas Code § 8-4-201(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

(3) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~department~~ division actions;

(4) In the case of permitting or grants decisions, provide the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her delegatee;

SECTION 73. Arkansas Code § 8-4-201(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ division, provided, however, that the director shall always remain within the plenary authority of the ~~Governor~~ Secretary of the Department of Energy and Environment; and

SECTION 74. Arkansas Code § 8-4-202(a), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a) The Arkansas Pollution Control and Ecology Commission is given and charged with the power and duty to adopt, modify, or repeal, after notice and public hearings, rules and regulations implementing or effectuating the powers and duties of the ~~Arkansas Department~~ Division of Environmental Quality and the commission under this chapter.

SECTION 75. Arkansas Code § 8-4-202(d)(4)(A)(iii), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(iii) In all other cases, the ~~department~~ division must provide its own justification with appropriate references to the scientific and engineering literature or written studies conducted by the ~~department~~ division;

SECTION 76. Arkansas Code § 8-4-202(e)(3), concerning the rules and regulations of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(3) The imminent loss of federal funding, certification, or authorization for any program administered by the ~~department~~ division shall establish a prima facie case of imminent peril to the public health, safety, or welfare.

SECTION 77. Arkansas Code § 8-4-203 is amended to read as follows:

8-4-203. Permits generally – Definitions.

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor is given and charged with the power and duty to issue, continue in effect, revoke, modify, or deny permits, under such conditions as it may prescribe:

- (1) To prevent, control, or abate pollution;
- (2) For the discharge of sewage, industrial waste, or other wastes into the waters of the state, including the disposal of pollutants into wells; and
- (3) For the installation, modification, or operation of disposal systems or any part of them.

(b)(1)(A) The ~~department~~ division shall not issue, modify, renew, or transfer a National Pollutant Discharge Elimination System permit or state permit for a nonmunicipal domestic sewage treatment works without the permit applicant first:

- (i) Paying the trust fund contribution fee required under subdivision (b)(4) of this section;
- (ii) Submitting the assessment required by subdivision (b)(1)(D) of this section; and
- (iii) Certifying that the permit applicant has complied with applicable local ordinances and regulations, including without limitation:

- (a) Local zoning ordinances;
- (b) Local planning authority regulations; and
- (c) Local permitting requirements.

(B) As used in this section, “nonmunicipal domestic sewage treatment works” means a device or system operated by an entity other than a city, town, or county that treats, in whole or in part, waste or wastewater from humans or household operations and must continuously operate to protect human health and the environment despite a permittee’s failure to maintain or operate the device or system.

(C) The following are specifically exempted from the requirements of this subsection:

- (i) State or federal facilities;
- (ii) Schools;
- (iii) Universities and colleges;
- (iv) Entities that continuously operate due to a connection with a city, town, or county; and
- (v) A commercial or industrial entity that treats domestic sewage from its operations and does not accept domestic sewage from other entities or residences.

(D) Each application for the initial permit and any subsequent permit renewal, modification, or transfer for a nonmunicipal domestic sewage treatment works submitted under this section shall be accompanied by an assessment developed by a professional engineer licensed by the state that includes:

- (i) A cost estimate for a third party to operate and maintain the nonmunicipal domestic sewage treatment works for five (5) years;
- (ii) A list of all necessary capital expenditures, system upgrades, or significant repairs and a milestone schedule for completion within five (5) years; and
- (iii) A financial plan that demonstrates to the ~~department’s~~ division’s satisfaction the permittee’s financial ability to operate and maintain the nonmunicipal domestic sewage treatment works each year for five (5) years.

(E)(i) Except as provided under subdivision (b)(1)(E)(ii) of this section, the ~~department~~ division shall not issue, renew, or transfer permit coverage for nonmunicipal domestic sewage treatment works to property

owners' associations or homeowners' associations after January 1, 2018.

(ii) A property owners' association or homeowners' association with permit coverage before December 31, 2017, may retain permit coverage if the property owners' association or homeowners' association complies with this section.

(2) Until January 1, 2016, the ~~department~~ division may reduce or waive the amount of the required financial assurance if the permit applicant can demonstrate to the ~~department's~~ division's satisfaction that:

(A) For a renewal permit, during the five (5) years preceding the application for a renewal permit, the nonmunicipal domestic sewage treatment works has:

(i) Maintained the nonmunicipal domestic sewage treatment works in continuous operation;

(ii) Maintained the nonmunicipal domestic sewage treatment works in substantial compliance with the existing discharge permit issued by the ~~department~~ division, which shall be demonstrated by submitting the following:

(a) All discharge monitoring reports;

(b) Evidence that the nonmunicipal domestic sewage treatment works has not exceeded the same permit effluent criteria in any two (2) consecutive monitoring periods during the previous three (3) years;

(c) Evidence that no more than ten percent (10%) of the nonmunicipal domestic sewage treatment works' submitted discharge monitoring reports show effluent violations; and

(d) Evidence that there have not been any administrative or judicial orders entered against the owner or operator for violations of state or federal environmental laws, rules, or regulations or permits issued by the ~~department~~ division;

(iii) Maintained the services of a certified wastewater treatment operator, where applicable;

(iv)(a) Remained financially solvent, which shall be demonstrated by either:

(1) The nonmunicipal domestic sewage treatment works' federal tax returns for the five (5) years preceding the application for a renewal permit and a sworn affidavit from a corporate

official or other responsible official representing the nonmunicipal domestic sewage treatment works that lists all assets and liabilities for the nonmunicipal domestic sewage treatment works; or

(2) An independent certified public accountant's report on the owner's or operator's independently reviewed financial statements.

(b) The review of financial statements under subdivision (b)(2)(A)(iv)(a)(2) of this section shall be conducted in accordance with the American Institute of Certified Public Accountants' Professional Standards, as they existed on January 1, 2013; and

(v) Operated the nonmunicipal domestic sewage treatment works to prevent the discharge of waterborne pollutants in unacceptable concentrations to the surface waters or groundwater of the state as defined in the permit or as defined in the state's water quality standards; or

(B) For a new permit:

(i) The reduction or waiver is necessary to accommodate important economic or social development in the area of the proposed nonmunicipal domestic sewage treatment works; and

(ii) The applicant has shown a history of financial responsibility and compliance with regulatory requirements.

(3) The ~~department~~ division may withdraw a reduction or waiver granted under this subsection at any time if the permittee has a permit violation in three (3) or more consecutive discharge monitoring periods.

(4)(A) A permittee shall pay the trust fund contribution fee determined by the ~~department~~ division under this subdivision (b)(4) to the ~~department~~ division.

(B)(i) The ~~department~~ division shall determine the required initial and annual trust fund contribution fees for each nonmunicipal domestic sewage treatment works based on each nonmunicipal domestic sewage treatment works' design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit and existing and projected number of residential end users.

(ii)(a) The ~~department~~ division shall require an initial trust fund contribution fee for each construction permit for a new nonmunicipal domestic sewage treatment works or any modification to an

existing nonmunicipal domestic sewage treatment works resulting in an increase in design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit.

(b) The initial trust fund contribution fee required by the ~~department~~ division for a new nonmunicipal domestic sewage treatment works is ten percent (10%) of the estimated cost of construction of the new nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(c) The initial trust fund contribution fee required by the ~~department~~ division for modifications to existing nonmunicipal domestic sewage treatment works is ten percent (10%) of the estimated cost of construction for the modification of the nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(d) The ~~department~~ division shall reduce the initial trust fund contribution fee if:

(1) The nonmunicipal domestic sewage treatment works is subject to an enforcement action; and

(2) The corrective actions approved by the ~~department~~ division would require the nonmunicipal domestic sewage treatment works to make an initial trust fund contribution.

(e) The ~~department~~ division shall not require an initial trust fund contribution fee if the design treatment capacity according to the National Pollutant Discharge Elimination System permit or the state permit is not increased.

(iii) The annual trust fund contribution fee required by the ~~department~~ division shall not exceed one thousand dollars (\$1,000) per year for no-discharge permits or five thousand dollars (\$5,000) per year for discharge permits.

(iv)(a) Except as otherwise provided in this subsection, a nonmunicipal domestic sewage treatment works may apply for reimbursement for a maximum of fifty percent (50%) of the costs for capital expenditures necessary to maintain permit compliance made to the nonmunicipal domestic sewage treatment facility in the previous five (5) years if:

(1) Funding is available and appropriated; and

(2) The ~~department~~ division has issued

that nonmunicipal domestic sewage treatment facility's third permit renewal following its initial trust fund contribution.

(b) Applications for reimbursement under this subdivision (b)(4)(B) shall include a statement certified by a professional engineer licensed by the State of Arkansas identifying the necessary capital costs expended.

(v) Reimbursements from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund are subject to the following restrictions:

(a) Over the lifetime of a nonmunicipal domestic sewage treatment facility, the reimbursement to a nonmunicipal domestic sewage treatment works shall not exceed seventy-five percent (75%) of that nonmunicipal domestic sewage treatment facility's initial trust fund contribution fee;

(b) If the Director of the ~~Arkansas Department~~ Division of Environmental Quality determines that a nonmunicipal domestic sewage treatment works is in a state of chronic noncompliance, that nonmunicipal domestic sewage treatment works shall not receive reimbursement from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund; and

(c) The ~~department~~ division shall reimburse a nonmunicipal domestic sewage treatment works based on a pro rata share of each submitted request compared to the total remaining funding available if there are insufficient moneys available in a fiscal year to make reimbursements for all submitted requests under this subsection after:

(1) Deducting the moneys required to make payments to third-party contractors hired by the ~~department~~ division from the fund;

(2) Calculating the total remaining funding available; and

(3) Allocating the moneys available for reimbursement to each applicant for reimbursement.

(vi) The Arkansas Pollution Control and Ecology Commission may promulgate regulations to implement this subsection.

(C) The trust fund contribution fee required under this subdivision (b)(4):

(i) May be collected in conjunction with any other permit fees;

(ii) Shall be paid before a permit is issued or renewed; and

(iii) Shall be deposited into the fund.

(D) If the total amount in the fund equals or exceeds two million one hundred thousand dollars (\$2,100,000), additional trust fund contribution fees shall not be collected by the ~~department~~ division until the total amount of the fund equals or is less than one million five hundred thousand dollars (\$1,500,000), at which time the collection of required trust fund contribution fees shall resume.

(5)(A) A permittee is responsible for ensuring that the required trust fund contribution fee is received by the ~~department~~ division by the due date determined by the ~~department~~ division.

(B) If the ~~department~~ division does not timely receive the required trust fund contribution fees for a nonmunicipal domestic sewage treatment works, the ~~department~~ division may initiate procedures to suspend or revoke the permit under which the nonmunicipal domestic sewage treatment works is operated.

(C) A permit applicant's or permit transfer applicant's failure to pay the required trust fund contribution fee assessed by the ~~department~~ division under this section is:

(i) Grounds for denying the permit or the permit transfer; and

(ii) A violation of this chapter and subjects the applicant to the penalties described in § 8-4-103.

(6) Sanctions for violating this subsection may include without limitation civil penalties and suspension or revocation of a permit.

(7) The ~~department~~ division may seek cost recovery from an owner or operator and reimbursement to the fund of any moneys expended under this section, including without limitation the institution of a civil action against the owner or operator.

(8) The ~~department~~ division shall not directly operate or be responsible for the operation of a nonmunicipal domestic sewage treatment works.

(9)(A) The director or the director's designee may send a signed statement to each water service provider that serves all or a portion of the service area of a nonmunicipal domestic sewage treatment works certifying

that the director finds that the nonmunicipal domestic sewage treatment works:

(i) Is the subject of an enforcement action by the ~~department~~ division;

(ii) Has not complied with the requirements of this section, including payment of the nonmunicipal domestic sewage treatment works trust fund contribution; or

(iii) Otherwise failed to comply with its permit.

(B) The ~~department~~ division shall include a legal description of the service area for the nonmunicipal domestic sewage treatment works with the signed statement under subdivision (b)(9)(A) of this section.

(C) Upon receipt of a signed statement that includes a legal description of the service area for the nonmunicipal domestic sewage treatment works, the water service provider shall not establish new connections or initiate service to existing connections for water service in the service area of the nonmunicipal domestic sewage treatment works as defined by the legal description.

(D) If the director or the director's designated representative finds that the nonmunicipal domestic sewage treatment works is no longer subject to an enforcement action or has remedied the noncompliance that formed the basis for the signed statement under subdivision (b)(9)(A) of this section, the director or the director's designated representative shall send a signed statement of the finding to each water service provider that received the prior statement.

(E) Upon receipt of the signed statement required under subdivision (b)(9)(D) of this section, the water service provider may resume installation of new connections or resume initiation of service to existing connections for water service.

(c)(1)(A)(i) All facilities that engage in land application or storage of fluids generated or utilized during exploration or production phases of oil or gas operations shall be closed in a manner that ensures protection of human health and the environment.

(ii) As used in this subsection, "land application or storage of fluids generated or utilized during exploration or production phases of oil or gas operations" means land farming through the controlled

and repeated application of drilling fluids to a soil surface or the practice of receiving and storing said fluids from offsite for waste management.

(iii) Surface facilities associated with Class II injection wells are specifically excluded from the requirements of this subsection.

(iv) Land applications at the drilling or exploration site that are authorized under any general permit issued by the ~~department~~ division are excluded from the requirements of this subsection.

(B) By October 1, 2009, each existing permitted facility regulated under this subsection shall submit to the ~~department~~ division the following:

(i) A plan to close the permitted facility and make any site restoration deemed necessary by the ~~department~~ division;

(ii) A detailed cost estimate to close and restore the permitted facility that meets the requirements of this subsection and is approved by the ~~department~~ division; and

(iii) A financial mechanism that demonstrates to the ~~department's~~ division's satisfaction the permittee's financial ability to ensure adequate closure and any necessary restoration of the permitted facility in accordance with the requirements of this subsection.

(C) The ~~department~~ division shall not issue, modify, or renew a permit for facilities regulated under this subsection without the permit applicant first demonstrating to the ~~department's~~ division's satisfaction the applicant's financial ability to ensure adequate closure and any necessary restoration of the permitted facility in accordance with the requirements of this subsection.

(D)(i) The amount of any financial assurance required under this subsection shall be equal to or greater than the detailed cost estimate for a third party to close the permitted facility in accordance with closure plans approved by the ~~department~~ division.

(ii) The detailed cost estimate shall be prepared by an independent professional consultant.

(iii) On or before August 15 of each year, a permittee shall submit to the ~~department~~ division for approval a detailed cost estimate to close and restore the permitted facility in accordance with closure plans that have been approved by the ~~department~~ division.

(E)(i) For new permits, the applicant shall submit to the ~~department~~ division for approval a detailed cost estimate to close and restore the facility based on the proposed operation and capacity of the facility from the date the permit is issued through the following October 1.

(ii) For renewal or modification applications, the permittee shall submit to the ~~department~~ division for approval a detailed cost estimate to close and restore the permitted facility based on closure plans that have been approved by the ~~department~~ division.

(F)(i) For each permit, the financial assurance mechanism shall be renewed on October 1 of each year.

(ii) For each permit, documentation that the required financial assurance mechanism has been renewed beginning October 1 of that year shall be received by the ~~department~~ division by September 15 of each year or the ~~department~~ division shall initiate procedures to:

(a) Take possession of the funds guaranteed by the financial assurance mechanism; and

(b)(1) Suspend or revoke the permit under which the facility is operated.

(2) A permit shall remain suspended until a financial assurance mechanism is provided to the ~~department~~ division in accordance with this subsection.

(iii) The permittee is responsible for ensuring that documentation of annual renewal is received by the ~~department~~ division by its due date.

(2) The permittee or applicant shall demonstrate financial ability to adequately close or restore the land application or storage facility by:

(A) Obtaining insurance that specifically covers closure and restoration costs;

(B) Obtaining a letter of credit;

(C) Obtaining a bond or other surety instrument;

(D) Creating a trust fund or an escrow account;

(E) Combining any of the instruments in subdivisions

(c)(2)(A)-(D) of this section; or

(F) Any other financial instrument approved by the director.

(3) A financial instrument required by this subsection shall:

(A) Be posted to the benefit of the ~~department~~ division;

(B) Provide that the financial instrument cannot be canceled without sixty (60) days' prior written notice addressed to the ~~department's~~ division's legal division chief as evidenced by a signed, certified mail with a return receipt request; and

(C) Be reviewed by the ~~department~~ division upon receipt of the cancellation notice to determine whether to initiate procedures to revoke or suspend the facility's permit and whether to initiate procedures to take possession of the funds guaranteed by the financial assurance mechanism.

(4) Before the ~~department~~ division may release a financial assurance mechanism, the ~~department~~ division shall receive a certification by a professional engineer that the permitted facility has been closed and restored in accordance with closure plans that have been approved by the ~~department~~ division.

(5) The ~~department~~ division is not responsible for the operation, closure, or restoration of a facility regulated under this subsection.

(d)(1) When an application for the issuance of a new permit or a major modification of an existing permit is filed with the ~~department~~ division, the ~~department~~ division shall cause notice of the application to be published in a newspaper of general circulation in the county in which the proposed facility is to be located.

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

(3)(A) If the ~~department~~ division determines that a hearing is necessary or desires such a hearing, the ~~department~~ division shall schedule a public hearing.

(B)(i) If the ~~department~~ division schedules a public hearing, the ~~department~~ division shall notify the applicant and all persons who have submitted comments of the date, time, and place of the public hearing.

(ii) The notice shall be provided using one (1) of the following methods based on the contact information available for the

applicant or the person and the director's discretion:

- (a) First class mail; or
- (b) Email.

(e)(1)(A) Whenever the ~~department~~ division proposes to grant or deny any permit application, it shall cause notice of its proposed action to be published in either:

(i) A newspaper of general circulation in the county in which the facility that is the subject of the application is located; or

(ii) In the case of a statewide permit, in a newspaper of general circulation in the state.

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

(C)(i) At the conclusion of the public comment period, the ~~department~~ division shall provide a final written permitting decision regarding the permit application.

(ii) The final written permitting decision shall be published on the ~~department's~~ division's website.

(iii) The ~~department~~ division shall provide the applicant the final permitting decision using one (1) of the following methods based on the contact information available and the director's discretion:

- (a) First class mail; or
- (b) Email.

(iv) The ~~department~~ division shall provide notice of the final permitting decision to all persons who have submitted comments using one (1) of the following methods based on the contact information available and the director's discretion:

- (a) First class mail; or
- (b) Email.

(2)(A)(i) The ~~department's~~ division's final decision shall include a response to each issue raised in any public comments received during the public comment period. The response shall manifest reasoned consideration of the issues raised by the public comments and shall be supported by appropriate legal, scientific, or practical reasons for accepting or rejecting the substance of the comment in the ~~department's~~ division's permitting decision.

(ii) For the purposes of this section, response to comments by the ~~department~~ division should serve the roles of both developing the record for possible judicial review of an individual permitting action and as a record for the public's review of the ~~department's~~ division's technical and legal interpretations on long-range regulatory issues.

(iii) Nothing in this section, however, shall be construed as limiting the ~~department's~~ division's authority to raise all relevant issues of regulatory concern upon adjudicatory review of the commission of a particular permitting action.

(B)(i) In the case of any discharge limit, emission limit, environmental standard, analytical method, or monitoring requirements, the record of the proposed action and the response shall include a written explanation of the rationale for the proposal, demonstrating that any technical requirements or standards are based upon generally accepted scientific knowledge and engineering practices.

(ii) For any standard or requirement that is identical to an applicable regulation, this demonstration may be satisfied by reference to the regulation. In all other cases, the ~~department~~ division must provide its own justification with appropriate reference to the scientific and engineering literature or written studies conducted by the ~~department~~ division.

(f)(1) All costs of publication of notices of applications and notices of proposals to grant permits under this section shall be the responsibility of the applicant.

(2) All costs of publication of notices of proposals to deny a permit under this section shall be the responsibility of the ~~department~~ division.

(3) Any moneys received under this subsection shall be classified as refunds to expenditures.

(g) Only those persons that submit comments on the record during the public comment period and the applicant shall have standing to appeal the decision of the ~~department~~ division to the commission.

(h)(1) Permits for the discharge of pollutants into the waters of the state or for the prevention of pollution of the waters of the state shall remain freely transferable if the applicant for the transfer:

(A) Notifies the director at least thirty (30) days in

advance of the proposed transfer date;

(B) Submits a disclosure statement as required under § 8-1-106;

(C) Provides any replacement financial assurance required under this section; and

(D) Ensures that all past and currently due annual permit fees and the trust fund contribution fees for the nonmunicipal domestic sewage treatment works have been paid.

(2) Only the reasons stated in §§ 8-1-103(4), 8-1-106(b)(1), 8-1-106(c), and this section constitute grounds for denial of a transfer.

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

(i) In the event of voluminous comments, including without limitation a petition, the ~~department~~ division may require the designation of a representative to accept any notices required by this section.

(j) The notice provisions of subsections (d) and (e) of this section do not apply to permit transfers or minor modifications of existing permits.

(k) This section in no way restricts local and county government entities from enacting more stringent ordinances regulating nonmunicipal domestic treatment sewage systems in Arkansas.

(l) The commission may promulgate rules to establish a permit-by-rule. A permit-by-rule is subject to the public notice requirements and procedural provisions under § 8-4-202 et seq. but is not subject to the public notice requirements and procedural provisions under this section and §§ 8-4-204 and 8-4-205.

(m)(1)(A)(i) The ~~department~~ division may issue general permits under subsection (a) of this section.

(ii) A general permit is a statewide permit for a category of facilities or sources that:

(a) Involve the same or substantially similar types of operations or activities;

(b) Discharge or release the same type of wastes or engage in the same type of disposal practices;

(c) Require the same limitations, operating

conditions, or standards;

(d) Require the same or similar monitoring requirements; and

(e) In the opinion of the director, may be regulated under a general permit.

(B)(i) Facilities or sources eligible to construct or operate under a general permit may obtain coverage by submitting a notice of intent to the ~~department~~ division.

(ii) The director may require a person who has been granted coverage under a general permit to apply for and obtain an individual permit.

(2)(A) A general permit is subject to the public notice requirements for statewide permits and the procedures under subsection (e) of this section.

(B) The ~~department~~ division shall pay the costs of publication of notice of a draft permitting decision to issue a general permit.

(C) General permit coverage is not transferable unless the general permit provides for transfer.

(3)(A)(i) Before the submittal to public comment of a general permit that has not been previously issued, the ~~department~~ division shall consider the economic impact and environmental benefit of the general permit and its terms and conditions upon the people of the State of Arkansas, including those entities that may apply for coverage under the general permit.

(ii) This requirement does not apply to general permits or terms or conditions that adopt the language of state or federal statutes or regulations without substantive change.

(B) If the terms and conditions of a previously issued general permit are revised upon renewal, the economic impact and environmental benefit of only the proposed changes shall be considered.

(C) A general permit for which costs are specifically prohibited from being considered by state or federal law or regulation is exempt from the requirements of this subsection.

(D) The ~~department~~ division may rely upon readily available information for its consideration of the economic impact and

environmental benefit of the general permit and its terms and conditions.

(4)(A) Only those persons that submit comments on the record during the public comment period shall have standing to appeal the decision of the ~~department~~ division to the commission.

(B) The final permitting decision of the ~~department~~ division on the general permit is subject to a hearing before the commission under §§ 8-4-205, 8-4-212, 8-4-213, 8-4-214, and the administrative procedures promulgated by the commission.

(5)(A)(i) When a general permit includes an expiration date later than July 1, 2012, the ~~department~~ division shall publish the notice of intent to renew or not renew the general permit at least three hundred sixty-five (365) days before the expiration of the general permit.

(ii) When a general permit includes an expiration date earlier than July 1, 2012, the ~~department~~ division shall publish the notice of intent to renew or not renew the general permit as soon as reasonably possible.

(B) The ~~department~~ division shall publish its final permitting decision to renew or not renew the general permit at least one hundred eighty (180) days before the expiration date of the general permit.

(C) If the general permit expires before the final decision to renew or not renew the general permit, the terms and conditions of the general permit shall remain in effect, and all persons who obtained coverage under the general permit before its expiration shall retain coverage under the general permit until there has been a final permit decision on the general permit.

(D) In the event the ~~department~~ division makes a decision to not renew the general permit, existing coverage under the general permit shall continue under the terms of the expired permit until a final decision is reached for an individual permit.

(6)(A) If a general permit is appealed and the general permit expires before the final decision by the director or by the commission to renew or not renew the general permit, the terms and conditions of the general permit shall remain in effect.

(B) All persons who obtained coverage under the general permit before its expiration shall retain coverage under the general permit until there has been a final administrative decision on the general permit.

(C) The director shall not approve new coverage under an expired general permit for any facility for which a notice of intent was not filed before expiration of the general permit.

(n)(1) When an application for the issuance of a new permit for a liquid animal waste system or a modification of an existing permit for a liquid animal waste system is filed, the ~~department~~ division shall give notice of its proposed action in accordance with subdivision (e)(1)(A) of this section within one hundred twenty (120) days of receipt of the application.

(2)(A) At the conclusion of the public comment period, the ~~department~~ division shall announce in writing within sixty (60) days its final decision regarding the permit application in accordance with subdivision (e)(2)(A) of this section.

(B) For a modification that the ~~department~~ division considers to be minor in nature, the ~~department~~ division shall make its final decision regarding the permit application within thirty (30) days after receipt of the application.

(3) An applicant may waive in writing to the ~~department~~ division the timeliness requirement under subdivisions (n)(1) and (2) of this section.

(o)(1) If an application for modification of an existing state permit for a liquid animal waste management system is filed with the ~~department~~ division, only those permit conditions subject to the modification are open for review.

(2)(A) Except as provided in subdivision (o)(2)(B) of this section, an existing state permit for a liquid animal waste management system that is in good standing is not subject to review or third-party appeal for siting or location issues that were not raised during the applicable review or appeal period at the time of permit issuance.

(B) Subdivision (o)(2)(A) of this section does not limit the authority of the ~~department~~ division to address or enforce a violation of permit conditions or applicable law.

SECTION 78. The introductory language of Arkansas Code § 8-4-204, concerning permits and revocation by the Arkansas Department of Environmental Quality, is amended to read as follows:

8-4-204. Permits – Revocation.

The ~~Arkansas Department~~ Division of Environmental Quality or its successor is given and charged with the power and duty to revoke, modify, or suspend, in whole or in part, for cause any permit issued under this chapter, including without limitation:

SECTION 79. Arkansas Code § 8-4-205(a), concerning permits, hearings upon denial, revocation, or modification of permit by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) Any person that is denied a permit by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or that has a permit revoked or modified or a request for permit transfer or modification denied shall be afforded an opportunity for a hearing by the Arkansas Pollution Control and Ecology Commission in connection therewith, upon written application made within thirty (30) days after service of notice of the denial, revocation, or modification.

SECTION 80. Arkansas Code § 8-4-205(b)(1), concerning permits, hearings upon denial, revocation, or modification of permit by the Arkansas Department of Environmental Quality, is amended to read as follows:

(b)(1) Only those interested persons, other than the applicant, that have submitted comments on the record regarding a proposed permit action during the public comment period shall have standing to request a hearing by the commission in connection therewith, upon written application made within thirty (30) days after the date of the ~~Arkansas Department~~ Division of Environmental Quality's final decision regarding the permit action.

SECTION 81. Arkansas Code § 8-4-206 is amended to read as follows:

8-4-206. State water pollution control agency – General authority.

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

(b) As the state water pollution control agency, the ~~department~~ division may, among other things, approve projects for the construction of disposal systems for the purposes of loans and grants from the United States

Environmental Protection Agency or any other federal agency and may take any other action necessary or appropriate to secure for the state the benefits of the Federal Water Pollution Control Act, as amended.

SECTION 82. The introductory language of Arkansas Code § 8-4-207, concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

Without limiting the generality of the provisions of this chapter or of the powers which the Director of the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission may have under this or any other legislative act:

SECTION 83. Arkansas Code § 8-4-207(6)(A)(ii), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

(ii) However, information submitted to the ~~Arkansas Department~~ Division of Environmental Quality may be claimed as confidential if its disclosure would divulge trade secrets.

SECTION 84. Arkansas Code § 8-4-207(6)(B), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

(B) The ~~department~~ division shall deny any claim for confidentiality for the name and address of any permit applicant or permittee or for any National Pollutant Discharge Elimination System permit applications, National Pollutant Discharge Elimination System permits, and effluent data.

SECTION 85. Arkansas Code § 8-4-207(6)(D), concerning the powers and duties of the state water pollution control agency, is amended to read as follows:

(D) Any person adversely affected by a determination by the ~~department~~ division on a claim of confidentiality may appeal the determination as provided in §§ 8-4-222 and 8-4-223.

SECTION 86. Arkansas Code § 8-4-208 is amended to read as follows:

8-4-208. State water pollution control agency – Administration of permit program generally.

(a) The ~~Arkansas Department~~ Division of Environmental Quality is authorized, subject to the approval of the Governor, to administer on behalf of the state its own permit program for discharges into navigable waters within its jurisdiction in lieu of that of the United States Environmental Protection Agency. The ~~department~~ division is also authorized to submit to the Administrator of the United States Environmental Protection Agency for approval a full and complete description of the program which the ~~department~~ division proposes to establish and administer under state law, as provided by § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b). To that end, the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission are vested with all necessary authority and power to meet the requirements of § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b), and the guidelines promulgated by the United States Environmental Protection Agency pursuant to § 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1314(h), to engage in an approved continuing planning process under § 303(e) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1313(e), and to perform any and all acts necessary to carry out the purposes and requirements of the Federal Water Pollution Control Act Amendments of 1972 relating to this state's participation in the National Pollutant Discharge Elimination System established under the Federal Water Pollution Control Act Amendments of 1972, subject to all restrictions contained in the Federal Water Pollution Control Act Amendments of 1972 and guidelines.

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

(c) Any public hearing that may be held by the Director of the ~~Arkansas Department~~ Division of Environmental Quality preliminary to acting on a permit application as required by the Federal Water Pollution Control Act Amendments of 1972 and guidelines, unless otherwise designated in the notice of hearing, shall be for informational purposes only and shall not be deemed a hearing before the commission within the meaning of § 8-4-205. No

appeal may be taken therefrom.

SECTION 87. Arkansas Code § 8-4-209 is amended to read as follows:

8-4-209. State water pollution control agency – Participation of certain persons prohibited in approval of permit applications.

Any provision of state law to the contrary notwithstanding, no member of the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission or other state agency who receives or has during the previous two (2) years received a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit shall participate in the approval of the National Pollutant Discharge Elimination System permit applications or portions thereof.

SECTION 88. Arkansas Code § 8-4-210(e), concerning investigations and hearings by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(e) In accordance with the powers set forth in subsections (a)-(d) of this section, the commission is authorized to conduct adjudicatory hearings providing an aggrieved person with standing a forum for contesting any decision of the ~~Arkansas Department~~ Division of Environmental Quality. For the purposes of such hearings, the commission's jurisdiction shall be construed as including all regulatory programs vested with the ~~department~~ division.

SECTION 89. Arkansas Code § 8-4-211(a), concerning delcaratory orders by the Arkansas Pollution Control and Ecology Commission is amended to read as follows:

(a) Any permittee or person subject to regulation may petition the Arkansas Pollution Control and Ecology Commission for a declaratory order as to the application of any rule, statute, permit, or order enforced by the ~~Arkansas Department~~ Division of Environmental Quality or the commission.

SECTION 90. Arkansas Code § 8-4-212(a), concerning orders and adjudicatory hearings by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a) No final order resolving a contested decision of the ~~Arkansas Department~~ Division of Environmental Quality shall be issued until the Arkansas Pollution Control and Ecology Commission has provided aggrieved persons that have standing the opportunity for an adjudicatory hearing upon the matter.

SECTION 91. Arkansas Code § 8-4-215 is amended to read as follows:
8-4-215. Intergovernmental cooperation.

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor and the Arkansas Pollution Control and Ecology Commission, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state or the United States in any matter relating to water pollution control.

(b)(1) The commission or the ~~department~~ division may receive and accept money, property, or services from any person or from any agency described in subsection (a) of this section or from any other source for any water pollution control purpose within the scope of its functions under this chapter.

(2) All moneys so received shall be used for the operation and activities of the commission or ~~department~~ division and for no other purposes.

(c)(1) The ~~department~~ division or its successor may enter into agreements with the responsible authorities of the United States or other states, subject to approval by the Governor, relative to policies, methods, means, and procedures to be employed to control pollution of any interstate waters and may carry out these agreements by appropriate general and special orders.

(2)(A) This power shall not be deemed to extend to the modification of any agreement with any other state concluded by direct legislative act.

(B) However, unless otherwise provided, the ~~department~~ division shall be the agency for the administration and enforcement of any such legislative agreement.

SECTION 92. Arkansas Code § 8-4-216 is amended to read as follows
8-4-216. Information and inspections.

(a) The owner or operator of or any contributor of sewage, industrial wastes, or other wastes to any disposal system or an industrial user of a publicly owned treatment system, when requested by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, shall furnish to the ~~Arkansas Department~~ Division of Environmental Quality any information that is relevant to the subject of this chapter. The owner or operator shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including, when appropriate, biological monitoring methods, sample such effluents, and provide such other information as the director may reasonably require.

(b) The ~~department~~ division or any authorized employee or agent of the ~~department~~ division may examine and copy any book, papers, records, or memoranda pertaining to the operation of a disposal system.

(c) Whenever it shall be necessary for the purpose of this chapter, the ~~department~~ division or any authorized member, employee, or agent of the ~~department~~ division may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations.

SECTION 93. Arkansas Code § 8-4-217(a)(3), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 94. The introductory language of Arkansas Code § 8-4-217(a)(6)(A)(iii), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(iii) A substance the ~~department~~ division excludes from the phosphorus limitations of this section based on a finding that compliance with this section would:

SECTION 95. The introductory language of Arkansas Code § 8-4-

217(b)(1), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(b)(1) It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from the ~~department~~ division:

SECTION 96. Arkansas Code § 8-4-217(b)(2), concerning unlawful actions under the laws of the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) The ~~department~~ division may require the submission of such plans, specifications, and other information as it deems relevant in connection with the issuance of disposal permits.

SECTION 97. Arkansas Code § 8-4-218(a), concerning the notice of violations, orders, rules, and hearings by the Arkansas Department of Environmental Quality, is amended to read as follows:

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

SECTION 98. Arkansas Code § 8-4-220(a), concerning an order of the Arkansas Department of Environmental Quality without a hearing in an emergency, is amended to read as follows:

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

SECTION 99. Arkansas Code § 8-4-230(a), concerning temporary variances and interim authority granted by the Director of the Department of

Environmental Quality, is amended to read as follows:

(a)(1) Unless otherwise expressly prohibited by federal law, the Director of the ~~Arkansas Department~~ Division of Environmental Quality may, for compelling reasons and good cause shown, grant:

(A) A temporary variance from the requirements of a permit issued by the ~~Arkansas Department~~ Division of Environmental Quality; or

(B) Interim authority to construct or operate during the application review and permit issuance process.

(2) Such temporary variances or interim authority shall not exceed a period of ninety (90) days, except when a longer period is justified by circumstances beyond the applicant's control. The ~~department~~ division may grant a request for an extension of a temporary variance or interim authority at any time prior to the expiration date.

(3) The ~~department~~ division may require an initial processing fee of two hundred dollars (\$200) for a request for a temporary variance or an interim authority request. This fee shall not be required for requests for an extension of any temporary variance or interim authority.

SECTION 100. Arkansas Code § 8-4-230(e)(1), concerning temporary variances and interim authority granted by the Director of the Department of Environmental Quality, is amended to read as follows:

(e)(1) The director's decision to grant or deny a temporary variance or interim authority to construct or operate shall be issued within ten (10) days of receipt of the request for the temporary variance or interim authority and shall be publicly noticed in a newspaper of general circulation in the state within five (5) business days of the director's decision. The applicant shall be responsible for the expense of the publication of a decision to grant a temporary variance or interim authority. The ~~department~~ division shall be responsible for the expense of the publication of a decision to deny a temporary variance or interim authority.

SECTION 101. Arkansas Code § 8-4-232(b)(2)(E), concerning nutrient water quality trading programs, is amended to read as follows:

(E)(i) The establishment of a schedule of user fees to be collected by the ~~Arkansas Department~~ Division of Environmental Quality from persons or entities utilizing nutrient water quality trades or offsets to

comply with permit limits.

(ii) The user fees shall be based on a record calculating the reasonable costs to the ~~department~~ division of implementing and enforcing each nutrient water quality trading, credit, or offset program.

SECTION 102. The introductory language of Arkansas Code § 8-4-232(c), concerning nutrient water quality trading programs, is amended to read as follows:

(c) Under regulations adopted by the commission under subsection (b) of this section, the ~~department~~ division may:

SECTION 103. Arkansas Code § 8-4-233(f), concerning the creation, members, and duties of the Nutrient Water Quality Trading Advisory Panel, is amended to read as follows:

(f) The ~~Arkansas Department~~ Division of Environmental Quality shall provide meeting space and administrative services for the panel.

SECTION 104. Arkansas Code § 8-4-233(g)(1), concerning the creation, members, and duties of the Nutrient Water Quality Trading Advisory Panel, is amended to read as follows:

(1) Advise the ~~department~~ division and the Arkansas Natural Resources Commission regarding the desirability, design, and operation of nutrient water quality trading programs; and

SECTION 105. The introductory language of Arkansas Code § 8-4-234(a)(1), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) The Director of the ~~Arkansas Department~~ Division of Environmental Quality may authorize short-term activities that have potential to affect compliance with Arkansas water quality standards if:

SECTION 106. Arkansas Code § 8-4-234(b)(1), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(b)(1) The ~~Arkansas Department~~ Division of Environmental Quality may

collect a processing fee for a short-term activity authorization.

SECTION 107. Arkansas Code § 8-4-234(b)(4)(A), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(4)(A) The ~~department~~ division shall enter into an agreement with a state agency, board, or commission or municipality, city, or county that creates an alternative payment structure in lieu of fees authorized under subdivision (b)(2) of this section.

SECTION 108. Arkansas Code § 8-4-234(b)(4)(B)(ii), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(ii) A process under which the ~~department~~ division provides notice to the state agency, board, or commission or municipality, city, or county of planned actions under this section that affect the state agency, board, or commission or municipality, city, or county.

SECTION 109. Arkansas Code § 8-4-234(b)(5), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(5) The ~~department~~ division shall waive twenty-five percent (25%) of a fee assessed under this section to a state agency, board, or commission or municipality, city, or county in a fiscal year.

SECTION 110. The introductory language of Arkansas Code § 8-4-234(c)(2), concerning short-term activity authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) A state agency, board, or commission or municipality, city, or county that submits a request for a waiver of the short-term activity authorization fee under subdivision (c)(1) of this section shall provide the ~~department~~ division:

SECTION 111. Arkansas Code § 8-4-303(8) and (9), concerning the definitions of "department" and "director" under the laws regarding air

pollution, are repealed.

~~(8) "Department" means the Arkansas Department of Environmental Quality or its successor;~~

~~(9) "Director" means the Director of the Arkansas Department of Environmental Quality or its successor;~~

SECTION 112. Arkansas Code § 8-4-303(14), concerning the definition of "state implementation plan" under the laws regarding air pollution, is amended to read as follows:

(14) "State implementation plan" means a plan that specifies measures to be used in the implementation of the state's duties under the Clean Air Act, 42 U.S.C. § 7401 et seq., and that is developed by the ~~department~~ division and submitted to the United States Environmental Protection Agency for review and approval.

SECTION 113. Arkansas Code § 8-4-307 is amended to read as follows:

8-4-307. Private rights unchanged.

(a) Persons other than the state or the ~~Arkansas Department~~ Division of Environmental Quality shall not acquire actionable right by virtue of this subchapter. The basis for proceedings that result from violation of any standard, rule, or regulation promulgated by the Arkansas Pollution Control and Ecology Commission shall inure solely to and shall be for the benefit of the people of the state generally, and it is not intended to create in any way new rights or to enlarge existing rights or to abrogate existing private rights.

(b) A determination by the ~~department~~ division that air pollution or air contamination exists or that any standard, rule, or regulation has been violated, whether or not a proceeding or action is brought by the state, shall not create, by reason thereof, any presumption of law or finding of fact that shall inure to or be for the benefit of any person other than the state.

SECTION 114. Arkansas Code § 8-4-308(a)(1)(A), concerning confidential industrial secrets obtained by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a)(1)(A) Any information that constitutes a trade secret under § 4-75-601 et seq. that is obtained by the employees of the Department of Energy and Environment, Arkansas Department the Division of Environmental Quality, or the Arkansas Pollution Control and Ecology Commission ~~or its employees~~ in the administration of this chapter shall be kept confidential, except for emission data that is submitted to the state, local agency, or the United States Environmental Protection Agency, which is otherwise obtained by any of those agencies pursuant to the Clean Air Act.

SECTION 115. Arkansas Code § 8-4-309 is amended to read as follows:

8-4-309. Construction limited – Exception.

(a) Nothing contained in this subchapter shall be construed as amending or repealing § 20-21-201 et seq. concerning the control of radiation or as granting to the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission any jurisdiction or authority with respect to air conditions existing solely within the property boundaries of any plant, works, or shop or with respect to employer-employee relationships as to health and safety hazards.

(b) Notwithstanding the preceding limitation, the ~~department~~ division and the commission shall have jurisdiction and authority over air conditions associated with the removal, encapsulation, enclosure, transportation, or disposal of asbestos-containing material regardless of whether such removal, encapsulation, enclosure, transportation, or disposal is conducted within the property boundaries of any plant, works, or shop.

SECTION 116. Arkansas Code § 8-4-310(a)(2), concerning unlawful actions regarding air pollution, is amended to read as follows:

(2) To construct, install, use, or operate any source capable of emitting air contaminants without having first obtained a permit to do so, if required by the regulations of the Arkansas Pollution Control and Ecology Commission, or to do so contrary to the provisions of any permit issued by the ~~Arkansas Department~~ Division of Environmental Quality or after any such permit has been suspended or revoked; or

SECTION 117. The introductory language of Arkansas Code § 8-4-311(a), concerning the powers and duties of the Arkansas Department of Environmental

Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor shall have the power to:

SECTION 118. Arkansas Code § 8-4-311(a)(9)(B), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(B) The ~~department~~ division is designated as the official state air pollution control agency for such purposes;

SECTION 119. Arkansas Code § 8-4-311(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(12) Exercise all of the powers in the control of air pollution granted to the ~~department~~ division for the control of water pollution under §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-4-229; and

SECTION 120. Arkansas Code § 8-4-311(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(1)(A) Promulgate rules and regulations for implementing the substantive statutes charged to the ~~department~~ division for administration.

SECTION 121. Arkansas Code § 8-4-311(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

(3) Promulgate rules and regulations governing administrative procedures for challenging or contesting ~~department~~ division actions;

(4) In the case of permitting or grants decisions, provide the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her delegatee;

SECTION 122. Arkansas Code § 8-4-311(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ division, provided, however, that the director shall always remain within the plenary authority of the Governor;

SECTION 123. Arkansas Code § 8-4-311(b)(10)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(10)(A) Adopt, after notice and public hearing, reasonable and nondiscriminatory rules and regulations, including requiring a permit or other regulatory authorization from the ~~department~~ division, before any equipment causing the issuance of air contaminants may be built, erected, altered, replaced, used, or operated, except in the case of repairs or maintenance of equipment for which a permit has been previously used, and revoke or modify any permit issued under this chapter or deny any permit when it is necessary, in the opinion of the ~~department~~ division, to prevent, control, or abate air pollution.

SECTION 124. Arkansas Code § 8-4-311(b)(10)(D), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(D) Any person that is denied a permit by the ~~department~~ division or that has such permit revoked or modified shall be afforded an opportunity for a hearing in connection therewith upon written application made within thirty (30) days after service of notice of such denial, revocation, or modification.

SECTION 125. Arkansas Code § 8-4-311(b)(10)(F)(i), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(F)(i) An applicant or permit holder that has had a complete application for a permit or for a modification of a permit pending longer than the time specified in the state regulations promulgated pursuant to Title V of the Clean Air Act Amendments of 1990, 42 U.S.C. § 7661 et seq., or any person that participated in the public participation process, and any other person that could obtain judicial review of such actions under state

laws, may petition the commission for relief from ~~department~~ division inaction.

SECTION 126. Arkansas Code § 8-4-311(b)(10)(F)(iii), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(iii) For the purposes of judicial review, either a commission denial or the failure of the ~~department~~ division to render a final decision within thirty (30) days after the commission has granted a petition shall constitute final agency action;

SECTION 127. The introductory language of Arkansas Code § 8-4-312, concerning factors in exercise of powers by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

In exercising their powers and responsibilities under this chapter, the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission shall take into account and give consideration to the following factors:

SECTION 128. Arkansas Code § 8-4-312(16), concerning factors in exercise of powers by the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(16) Other factors that the ~~department~~ division or the commission may find applicable.

SECTION 129. Arkansas Code § 8-4-313(b)(1), concerning variance from regulations by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(b)(1) Any person seeking a variance shall do so by filing a petition for a variance with the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 130. Arkansas Code § 8-4-314(b)(4), concerning the creation of the Compliance Advisory Panel, is amended to read as follows:

(4) One (1) member selected by the Director of the ~~Arkansas Department~~ Division of Environmental Quality who shall serve as a nonvoting member except when his or her vote is needed to break a tie vote.

SECTION 131. Arkansas Code § 8-4-316(b)(1) and (2), concerning open burning of storm debris, are amended to read as follows:

(B)(1) Open burning shall be:

(A) Limited to no more than four (4) sites per county as designated by the county judge and pre-authorized by the ~~Arkansas Department~~ Division of Environmental Quality; and

(B) Reported in writing to the ~~department~~ division at least three (3) days before the commencement of any open burning, unless the reporting is waived by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

(2)(A) For an initial or subsequent request for open burning, the ~~department~~ division shall consider a maximum of four (4) sites pre-authorized for open burning if the ~~department~~ division receives a signed letter from the county judge certifying that the open burning sites pre-authorized under subdivision (b)(1) of this section have not been materially altered since the initial request.

(B) If the director determines that the scope of the disaster warrants additional open burning sites, then the director may authorize additional open burning sites.

SECTION 132. Arkansas Code § 8-4-316(f), concerning open burning of storm debris, is amended to read as follows:

(f) The ~~department~~ division may recommend alternative methods of vegetative storm debris disposal, including the use of air curtain incinerators or composting to the extent allowed under federal law.

SECTION 133. Arkansas Code § 8-4-317(a), concerning state implementation plans, is amended to read as follows:

(a) In developing and implementing a state implementation plan, the ~~Arkansas Department~~ Division of Environmental Quality shall consider and take into account the factors specified in § 8-4-312 and the Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.

SECTION 134. Arkansas Code § 8-4-317(b)(1)(A), concerning state implementation plans, is amended to read as follows:

(b)(1)(A) Whenever the ~~department~~ division proposes to finalize a state implementation plan submittal for review and approval by the United States Environmental Protection Agency, it shall cause notice of its proposed action to be published in a newspaper of general circulation in the state.

SECTION 135. Arkansas Code § 8-4-317(b)(1)(C)(ii), concerning state implementation plans, is amended to read as follows:

(ii) For any standard or requirement that is identical to the applicable Arkansas Pollution Control and Ecology Commission regulation or federal regulation, the demonstration required under subdivision (b)(1)(C)(i) of this section may be satisfied by reference to the regulation. In all other cases, the ~~department~~ division shall provide its own justification with appropriate reference to the scientific and engineering literature considered or the written studies conducted by the ~~department~~ division.

SECTION 136. Arkansas Code § 8-4-317(b)(2), concerning state implementation plans, is amended to read as follows:

(2)(A) At the conclusion of the public comment period and before transmittal to the Governor for submittal to the United States Environmental Protection Agency, the ~~department~~ division shall provide written notice of its final decision regarding the state implementation plan submittal to all persons who submitted public comments.

(B)(i) The ~~department's~~ division's final decision shall include a response to each issue raised in any public comments received during the public comment period. The response shall manifest reasoned consideration of the issues raised by the public comments and shall be supported by appropriate legal, scientific, or practical reasons for accepting or rejecting the substance of the comment in the ~~department's~~ division's final decision.

(ii) For the purposes of this section, response to comments by the ~~department~~ division should serve the roles of both developing the record for possible judicial review of a state implementation plan

decision and serving as a record for the public's review of the ~~department's~~ division's technical and legal interpretations on long-range regulatory issues.

(iii) This section does not limit the ~~department's~~ division's authority to raise all relevant issues of regulatory concern upon adjudicatory review by the commission of a particular state implementation plan decision.

SECTION 137. Arkansas Code § 8-4-317(c), concerning state implementation plans, is amended to read as follows:

(c)(1) Only those persons that submit comments on the record during the public comment period have standing to appeal the final decision of the ~~department~~ division to the commission upon written application made within thirty (30) days after service of the notice under subdivision (b)(2)(A) of this section.

(2) An appeal under subdivision (c)(1) of this section shall be processed as a permit appeal under § 8-4-205. However, the decision of the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall remain in effect during the appeal.

SECTION 138. Arkansas Code § 8-4-318(a)(1), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(a)(1) The ~~Arkansas Department~~ Division of Environmental Quality shall develop NAAQS state implementation plans.

SECTION 139. Arkansas Code § 8-4-318(b)(2), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(2) Except as required for the permitting of major source construction under Part C or D of Title I of the Clean Air Act, 42 U.S.C. § 7470 et seq. or 42 U.S.C. § 7501 et seq., or otherwise voluntarily proposed and agreed to by the owner or operator of a stationary source, the ~~department~~ division shall not mandate for any stationary source measures for the attainment and maintenance of a National Ambient Air Quality Standard until such measures are included in the applicable NAAQS state implementation plan and the NAAQS state implementation plan has been submitted to the United States Environmental Protection Agency. However, this subdivision (b)(2) does

not limit or delay the effectiveness of any applicable emission limit or standard promulgated by the United States Environmental Protection Agency under §§ 111, 112, or 129 of the Clean Air Act, 42 U.S.C. § 7411, 42 U.S.C. § 7412, or 42 U.S.C. § 7429.

SECTION 140. The introductory language of Arkansas Code § 8-4-318(b)(3), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(3) Unless otherwise voluntarily proposed and agreed to by the owner or operator of a stationary source, the ~~department~~ division shall not require or consider air dispersion modeling of an air contaminant for which a National Ambient Air Quality Standard has been established in air permitting decisions for stationary sources except:

SECTION 141. Arkansas Code § 8-4-318(b)(3)(B), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(B) If necessary in the judgment of the ~~department~~ division, with respect to permitting of a temporary source under 42 U.S.C. § 7661c(e); or

SECTION 142. The introductory language of Arkansas Code § 8-4-318(c), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(c) This section does not prohibit the ~~department~~ division from conducting and considering air dispersion modeling as necessary for the:

SECTION 143. Arkansas Code § 8-5-201(2), concerning the definition of "department" under the laws governing wastewater treatment plants, is repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality or its successor;~~

SECTION 144. Arkansas Code § 8-5-201(3) and (4), concerning the definitions of "license" and "licensing committee" under the laws governing wastewater treatment plants, are amended to read as follows:

(3) "License" means a certificate of competency issued by the ~~department~~ Division of Environmental Quality to operators who have met the requirements of the licensing program;

(4) "Licensing committee" means the committee of operators and technicians established in this subchapter to assist and advise the ~~department~~ division in the examining and licensing of operators;

SECTION 145. Arkansas Code § 8-5-202(b) and (c), concerning penalties and injunctions under the laws governing wastewater treatment plants, are amended to read as follows:

(b) Any violation of this subchapter shall be subject to injunction proceedings brought by the ~~Arkansas Department~~ Division of Environmental Quality in a court of competent jurisdiction.

(c) A violation of any provision of this subchapter or of any rule or regulation promulgated under this subchapter is grounds for an administrative revocation or suspension of the operator's license by the ~~department~~ division.

SECTION 146. Arkansas Code § 8-5-203 is amended to read as follows:
8-5-203. Unlawful actions.

It shall be unlawful for any municipality, governmental subdivision, public or private corporation, or other person to operate a public or private wastewater treatment plant unless the competency of the operator is duly licensed by the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of this subchapter. It shall further be unlawful for any person to perform the duties of an operator of any such wastewater treatment plant without being duly licensed under this subchapter.

SECTION 147. Arkansas Code § 8-5-204(a)(1), concerning the creation of a wastewater treatment facility licensing committee, is amended to read as follows:

(a)(1) There is created and established a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the ~~Arkansas Department~~ Division of Environmental Quality in the administration of the licensing program.

SECTION 148. Arkansas Code § 8-5-204(a)(2)(D), concerning the creation of a wastewater treatment facility licensing committee, is amended to read as follows:

(D) One (1) member shall be the Director of the ~~Arkansas Department~~ Division of Environmental Quality or a qualified member of his or her staff who shall act as executive secretary of the committee.

SECTION 149. The introductory language of Arkansas Code § 8-5-205(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor shall be charged with the responsibility of administering and enforcing this subchapter, with the advice and assistance of the licensing committee, and is given and charged with the following powers and duties:

SECTION 150. Arkansas Code § 8-5-206(b), concerning classification of wastewater treatment plants, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality shall license persons as to their qualifications to supervise successfully the proper operation of wastewater treatment plants within classifications based on the recommendations of the licensing committee.

SECTION 151. Arkansas Code § 8-5-207 is amended to read as follows:
8-5-207. Operators to be licensed.

In order to safeguard the public health and protect the waters of this state from pollution, all operators in responsible charge of public or private wastewater treatment plants shall be duly licensed and certified as competent by the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of this subchapter and under such rules and regulations as the Arkansas Pollution Control and Ecology Commission may adopt, with the advice and assistance of the licensing committee, pursuant to the authority of this subchapter. All rules and regulations promulgated pursuant to this subchapter shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor.

SECTION 152. Arkansas Code § 8-5-208 is amended to read as follows:
8-5-208. License requirements.

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall license and certify all applicants for licenses under this subchapter who satisfy the requirements of this subchapter and the rules and regulations issued pursuant to this subchapter. Licenses shall be granted according to the classification of wastewater treatment plants established under this subchapter. Licenses shall be valid for a period of two (2) years and shall be renewable upon application without examination.

(b) All operators of wastewater treatment plants within the state shall apply to the ~~department~~ division for a license.

(c) In its discretion, the ~~department~~ division may waive the requirements or any part of the requirements for formal examination of an applicant for license if the applicant holds a valid license or certificate from another state in which the requirements for license in the appropriate classification are at least equal to the requirements set forth in this subchapter and the rules and regulations issued pursuant to this subchapter.

SECTION 153. Arkansas Code § 8-5-701(1), concerning the definition of "chronic noncompliance" under the laws addressing chronic noncompliance, is amended to read as follows:

(1) "Chronic noncompliance" means conditions described in this subchapter that persist at a common sewage system after reasonable efforts by the ~~Arkansas Department~~ Division of Environmental Quality to obtain compliance with applicable laws or regulations in one (1) of the following:

(A) Failure to obtain a permit as required by law;
(B) Four (4) or more permit violations within a six-month period as set out in the permit issued by the ~~department~~ division;

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

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

SECTION 154. Arkansas Code § 8-5-702(a), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality may petition a circuit court with competent jurisdiction and proper venue to remedy chronic violations by any common sewage system.

SECTION 155. Arkansas Code § 8-5-702(c)(1), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(c)(1) If the circuit court finds that circumstances prevent the owner or operator of a common sewage system from operating and maintaining the system in compliance with the law, the ~~Arkansas Department~~ Division of Environmental Quality shall nominate two (2) possible receivers, of which the court may appoint one (1) to operate the common sewage system, subject to the continuing jurisdiction of the circuit court.

SECTION 156. Arkansas Code § 8-5-702(d), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(d)(1) If the circuit court determines that the permitted or registered entity cannot equitably satisfy the provisions of this subchapter or that no feasible alternatives exist, the circuit court shall so certify that determination to the ~~Arkansas Department~~ Division of Environmental Quality, which shall terminate the entity's permit, and the circuit court shall request a review by the ~~Director~~ Secretary of the Department of Health of the public health impact of an order compelling the entity supplying potable water to the common sewage system to cut off the flow of potable water.

(2)(A) If the ~~Director of the Department of Health~~ secretary determines that a greater health hazard exists from the malfunctioning common sewage system than from the discontinuance of potable water service, then the ~~Director of the Department of Health~~ secretary shall so certify this determination to the circuit court.

(B) The circuit court shall then issue an order compelling the receiver to notify all users of such common sewage system, including landowners and tenants, of the ~~Director of the Department of Health's~~ secretary's determination.

(C) Upon evidence of reasonable notice, the circuit court shall then issue the order to cut off the flow of potable water.

SECTION 157. The introductory language of Arkansas Code § 8-5-702(e), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(e) The ~~Arkansas Department~~ Division of Environmental Quality is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 158. Arkansas Code § 8-5-702(e)(3), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(3) Recover all costs, expenses, and damages to the ~~Arkansas Department~~ Division of Environmental Quality and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 159. Arkansas Code § 8-5-702(f), concerning remedies for chronic violations by common sewage systems, is amended to read as follows:

(f)(1) In addition to the remedies provided in subsections (a)-(e) of this section, the ~~Arkansas Department~~ Division of Environmental Quality shall have the authority to prohibit new or additional sewer line connections onto a common sewage system meeting the criteria established by § 8-5-701.

(2) Once the ~~Arkansas Department~~ Division of Environmental Quality is satisfied that the common sewage system is in compliance with state and federal law, the ~~Arkansas Department~~ Division of Environmental Quality may authorize new or additional sewer line connections onto the common sewage system.

SECTION 160. Arkansas Code § 8-5-703 is amended to read as follows:

8-5-703. Financial assurance requirements for subsequently permitted common sewage systems.

(a)(1)(A) The ~~Arkansas Department~~ Division of Environmental Quality may require a permitted common sewage system that is in chronic noncompliance to demonstrate to the ~~department~~ division its financial ability to cover the estimated costs of operating and maintaining the common sewage system for a

minimum period of five (5) years.

(B) The ~~department~~ division may require the permitted common sewage system that is in chronic noncompliance to submit a cost estimate for a third party to operate and maintain the common sewage system each year for a period of five (5) years.

(2) The ~~department~~ division shall not modify or renew a National Pollutant Discharge Elimination System permit or state permit for a common sewage system if the common sewage system facility is in chronic noncompliance and the common sewage system facility proposes to use new technology that in the discretion of the ~~department~~ division cannot be verified to meet permit requirements.

(b) The applicant's financial ability to operate and maintain the common sewage system for a period of five (5) years shall be demonstrated to the ~~department~~ division by:

- (1) Obtaining insurance that specifically covers operation and maintenance costs;
- (2) Obtaining a letter of credit;
- (3) Obtaining a surety bond;
- (4) Obtaining a trust fund or an escrow account; or
- (5) Using a combination of insurance, letter of credit, surety bond, trust fund, or escrow account.

(c) The ~~department~~ division may require an amount of financial assurance that exceeds the cost estimate submitted by the applicant.

(d) A financial instrument required by this section shall be posted to the benefit of the ~~department~~ division and shall remain in effect for the life of the permit.

(e) It is explicitly understood that the ~~department~~ division shall not directly operate and shall not be responsible for the operation of any sewage system.

(f) This section does not restrict local and county government entities from enacting more stringent ordinances regulating nonmunicipal domestic treatment sewage systems in Arkansas.

SECTION 161. Arkansas Code § 8-5-802 is amended to read as follows:

8-5-802. Purpose.

It is the purpose of this subchapter to authorize the ~~Arkansas~~

~~Department~~ Division of Environmental Quality to establish and administer a revolving loan fund to encourage the investment in pollution control and prevention technologies in Arkansas. The fund will promote sustainable economic development in Arkansas by establishing a publicly capitalized fund to make loans to small businesses for projects to meet regulatory mandates in pollution control, to adopt pollution prevention technologies, or to implement waste reduction practices.

SECTION 162. Arkansas Code § 8-5-803(3) and (4), concerning the definitions of "department" and "director" under the laws establishing the Small Business Revolving Loan Fund for Pollution Control and Prevention Technologies Act, are repealed

~~(3) "Department" means the Arkansas Department of Environmental Quality;~~

~~(4) "Director" means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 163. Arkansas Code § 8-5-804 is amended to read as follows:
8-5-804. Eligible activities.

(a) Moneys deposited into the Small Business Revolving Loan Fund within the ~~Arkansas Department~~ Division of Environmental Quality may be:

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

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

(b)(1) It is the purpose of this subchapter to authorize the ~~department~~ division to establish and administer a revolving loan fund to encourage the investment in pollution control, pollution prevention, and waste reduction practices in Arkansas.

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

(3) Operating expenses associated with proofing a process change

or equipment modification would be an eligible loan activity.

SECTION 164. Arkansas Code § 8-5-805(a)(1), concerning eligible applications, is amended to read as follows:

(1) Employ one hundred (100) or fewer individuals, including both full-time and part-time employees, through direct hiring or contract, including affiliates and subsidiaries, at the time an application for a loan is received by the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 165. Arkansas Code § 8-5-805(a)(3), concerning eligible applications, is amended to read as follows:

(3) Submit an application supplied by the ~~department~~ division including any supporting documents, instruments, or other documents requested by the ~~department~~ division for the purposes of recommending approval or disapproval of a loan described in this section.

SECTION 166. Arkansas Code § 8-5-805(b)(1), concerning eligible applications, is amended to read as follows:

(b)(1) Until all delinquent fees stated in this subsection or otherwise owed to the ~~department~~ division are paid in full and no balance is due, the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall not approve any loan application.

SECTION 167. Arkansas Code § 8-5-806(c)(1), concerning terms of the revolving loan, is amended to read as follows:

(1) Established by the ~~Arkansas Department~~ Division of Environmental Quality at or below market rate; and

SECTION 168. The introductory language of Arkansas Code § 8-5-806(e)(1), concerning terms of the revolving loan, is amended to read as follows:

(e)(1) The ~~department~~ division may:

SECTION 169. Arkansas Code § 8-5-806(f), concerning terms of the revolving loan, is amended to read as follows:

(f) The ~~department~~ division may bring any lawful action to recover any

loan that is in default.

SECTION 170. The introductory language of Arkansas Code § 8-5-807(a), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

(a) There is created within the ~~Arkansas Department~~ Division of Environmental Quality a revolving loan fund:

SECTION 171. Arkansas Code § 8-5-807(a)(3), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

(3) To be used as a revolving fund by the ~~department~~ division for making loans to eligible participants to pay the direct costs of projects that are designed to correct or avoid violations of federal or state environmental regulations and have received a certificate of need from the ~~department~~ division or to pay costs incurred by the ~~department~~ division to provide management of lending activities.

SECTION 172. The introductory language of Arkansas Code § 8-5-807(b)(2)(B), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

(B) All moneys received by the ~~department~~ division upon repayment of loans made from the furnishing of funds for loans under the program created by this subchapter;

SECTION 173. The introductory language of Arkansas Code § 8-5-807(c), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

(c)(1) Subject to the provisions of this subchapter, the ~~department~~ division is vested with full power, authority, and jurisdiction over the Small Business Revolving Loan Fund, including all moneys and property or securities belonging to the Small Business Revolving Loan Fund.

(2) The ~~department~~ division may invest the Small Business Revolving Loan Fund in direct general obligations of the United States, in certificates of deposit or savings accounts in an amount not to exceed the capital funds, represented by capital, surplus, and undivided profits in financial institutions located in Arkansas that are insured by an agency of

the United States Government, and in repurchase agreements that are collateralized by direct general obligations of the United States or by bonds, notes, debentures, participation certificates, or other obligations issued by an agency of the United States, the principal and interest of which are guaranteed by the agency or the United States.

SECTION 174. Arkansas Code § 8-5-808 is amended to read as follows:
8-5-808. Administration of the program.

The ~~Arkansas Department~~ Division of Environmental Quality will manage the program through its Small Business Assistance Program. The program is authorized to delegate the management of the Small Business Revolving Loan Fund. The ~~department~~ division shall retain the power to issue certificates of need for eligible projects and shall not delegate such authority.

SECTION 175. Arkansas Code § 8-5-902(2), concerning the definition of "department" under the laws regarding long-term environmental projects, is repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 176. The introductory language of Arkansas Code § 8-5-903(a), concerning the procedures for approval of environmental projects, contents of applications, and public notice, is amended to read as follows:

(a) A petitioner seeking approval of a change in water quality standards to accommodate a long-term improvement project shall file with the ~~Arkansas Department~~ Division of Environmental Quality a notice of intent, which includes as a minimum:

SECTION 177. Arkansas Code § 8-5-903(b) and (c), concerning the procedures for approval of environmental projects, contents of applications, and public notice, are amended to read as follows:

(b) The ~~department~~ division shall cause notice of the proposed project and associated water quality standard changes described in subsection (a) of this section to be published for public notice and comment in the same manner as provided for permit applications in § 8-4-203(c), and shall notify the public that the details of the proposed project are available for public

review.

(c)(1) After considering comments from the public, the ~~department~~ division shall notify the petitioner as to whether the proposed project is approved or denied.

(2) The ~~department~~ division may deny approval of a project if it reasonably concludes that:

(A) The plan is not complete;

(B) The plan is not technically sound;

(C) The schedule is unrealistic;

(D) The plan will not have an overall beneficial effect for the environment; or

(E) For other appropriate reasons.

(3) Any ~~department~~ division determination on the approval or denial of a project is subject to the appeal procedures applicable to permitting decisions set out in § 8-4-205.

SECTION 178. Arkansas Code § 8-5-904(b) and (c), concerning the modification of water quality standards, are amended to read as follows:

(b)(1) Once the commission approves a water quality standard modification, the ~~Arkansas Department~~ Division of Environmental Quality shall ensure that conditions and limitations designed to achieve compliance with the plan are established in applicable discharge permits, consent administrative orders, or such other enforcement measures deemed appropriate by the ~~department~~ division.

(2) The ~~department~~ division may allow modifications by the petitioner to the remediation plan and schedule as is deemed appropriate, provided that any such modifications to the original remedial action plan shall not render the project significantly less protective of the applicable use subcategory.

(3) Should the ~~department~~ division find that the petitioner is not acting in good faith to complete the project in accordance with the approved plan, applicable and appropriate enforcement authority may be exercised subject to appeal to the commission.

(c) The ~~department~~ division or the petitioner shall report annually to the commission on the progress of the project.

SECTION 179. The introductory language of Arkansas Code § 8-6-203(2)(A), concerning the definition of "hazardous waste" under the Arkansas Solid Waste Management Act, is amended to read as follows:

(2)(A) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the ~~Arkansas Department~~ Division of Environmental Quality:

SECTION 180. Arkansas Code § 8-6-203(5)(B)(i), concerning the definition of "household hazardous waste storage or processing center" under the Arkansas Solid Waste Management Act, is amended to read as follows:

(i) Hazardous waste treatment, storage, and disposal facilities permitted by the ~~department~~ division under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

SECTION 181. Arkansas Code § 8-6-204(a)(1)(A), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(1)(A) Any person who violates any provision of this subchapter, who commits any unlawful act under this subchapter, or who violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty of a misdemeanor.

SECTION 182. Arkansas Code § 8-6-204(a)(2)(A)(i), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(i) Violate any provision of this subchapter, commit any unlawful act under this subchapter, or violate any rule, regulation, or order of the commission or ~~department~~ division, and leave the state or remove his or her person from the jurisdiction of this state;

SECTION 183. The introductory language of Arkansas Code § 8-6-204(b), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(b) Civil Penalties. The ~~department~~ division is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 184. Arkansas Code § 8-6-204(b)(3), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(3) Recover all costs, expenses, and damages to the ~~department~~ division and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including natural resource damages;

SECTION 185. Arkansas Code § 8-6-204(c), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(c) Any person who violates any provision of this subchapter and regulations, rules, permits, or plans issued pursuant to this subchapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation. Each day of a continuing violation may be deemed a separate violation for purposes of civil penalty assessment. No civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing in accordance with regulations adopted by the commission. All hearings and appeals arising under this subchapter shall be conducted in accordance with the procedures prescribed by §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. These administrative procedures may also be used to recover all costs, expenses, and damages to the ~~department~~ division and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including natural resource damages.

SECTION 186. Arkansas Code § 8-6-204(e)(1), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(e)(1) All moneys collected as reimbursement for expenses, costs, and damages to the ~~department~~ division shall be deposited into the operating fund of the ~~department~~ division.

SECTION 187. Arkansas Code § 8-6-204(e)(3), concerning criminal, civil, and administrative penalties under the Arkansas Solid Waste Management Act, is amended to read as follows:

(3)(A) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, in his or her discretion, may authorize in-kind services or cash contributions as partial mitigation of cash penalties for use in projects or programs designed to advance environmental interests.

(B) The violator may provide in-kind services or cash contributions as directed by the ~~department~~ division by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the in-kind services, by arranging and providing financing for the in-kind services, or by other financial arrangements initiated by the ~~department~~ division in which the violator and the ~~department~~ division retain no monetary benefit, however remote.

(C) The in-kind services shall not duplicate or augment services already provided by the ~~department~~ division through appropriations of the General Assembly.

SECTION 188. Arkansas Code § 8-6-205(a)(1)-(3), concerning illegal actions, rebuttal presumption, and acts or omissions by a third party under the Arkansas Solid Waste Management Act, are amended to read as follows:

(1) To violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the ~~Arkansas Department~~ Division of Environmental Quality;

(2) To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the ~~department~~ division;

(3) To dispose of solid wastes at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the ~~department~~ division. However, no provision of this subchapter shall be construed so as to prevent an individual from disposing of solid wastes resulting from his or her own household activities on his or her own land if the disposal does not create a public or private nuisance or a hazard to health and does not violate a city ordinance or other law and does not

involve the open dumping of garbage;

SECTION 189. Arkansas Code § 8-6-205(a)(5), concerning illegal actions, rebuttal presumption, and acts or omissions by a third party under the Arkansas Solid Waste Management Act, is amended to read as follows:

(5) To sort, collect, transport, process, or dispose of solid waste contrary to the rules, regulations, or orders of the ~~department~~ division or in such a manner or place as to create or be likely to create a public nuisance or a public health hazard or to cause or be likely to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

SECTION 190. The introductory language of Arkansas Code § 8-6-207(a), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality or its successor shall have the following powers and duties:

SECTION 191. Arkansas Code § 8-6-207(a)(6) and (7), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

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

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

SECTION 192. Arkansas Code § 8-6-207(a)(9), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(9) To institute proceedings in the name of the ~~department~~ division in any court of competent jurisdiction to compel compliance with and

to restrain violation of the provisions of this subchapter or any rules, regulations, and orders issued pursuant thereto and to require the taking of such remedial measures for solid waste disposal as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter;

SECTION 193. Arkansas Code § 8-6-207(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

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

SECTION 194. Arkansas Code § 8-6-207(a)(15), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(15) Upon the petition of a solid waste board or upon the ~~department's~~ division's own initiative to revoke, modify, or deny a permit for a solid waste disposal facility or a permit for any other element of a solid waste management system based upon noncompliance with an approved regional solid waste management plan of a solid waste board.

SECTION 195. Arkansas Code § 8-6-207(b)(1)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(1)(A) Promulgation of rules and regulations implementing the substantive statutes charged to the ~~department~~ division for administration.

SECTION 196. Arkansas Code § 8-6-207(b)(3) and (4), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

(3) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~department~~ division actions;

(4) In the case of permitting or grants decisions, providing the

right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her delegatee;

SECTION 197. Arkansas Code § 8-6-207(b)(7), concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

(7) Make recommendations to the director regarding overall policy and administration of the ~~department~~ division, provided, however, that the director shall always remain within the plenary authority of the Governor;

SECTION 198. Arkansas Code § 8-6-214 is amended to read as follows:

8-6-214. Records and examinations.

(a) The owner or operator of any permitted facility or site shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, take such samples, perform such tests, and provide such other information to the ~~Arkansas Department~~ Division of Environmental Quality as the Director of the ~~Arkansas Department~~ Division of Environmental Quality may reasonably require.

(b) The ~~department~~ division or any authorized employee or agent may examine and copy any books, papers, records, or memoranda pertaining to the operation of the facility or site.

(c) The ~~department~~ division or any authorized employee or agent may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations necessary or appropriate for the purpose of this subchapter.

(d)(1)(A) Any records, reports, or information obtained under this subchapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.

(B) Upon a satisfactory showing to the director that the records, reports, permits, documentation, or information, or any part thereof, if made public, would divulge methods or processes entitled to protection as trade secrets, then the director shall consider, treat, and protect such records, reports, or information as confidential.

(2)(A) As necessary to carry out the provisions of this

subchapter, information afforded confidential treatment may be transmitted under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of this state or of the United States if the owner or operator of the facility to which the information pertains is informed at least two (2) weeks prior to the transmittal and if the information has been acquired by the ~~department~~ division under the provisions of this subchapter.

(B) The provisions of this subdivision (d)(2) shall not be construed to limit the ~~department's~~ division's authority to release confidential information during emergency situations.

(3) Any violation of this subsection shall be unlawful and constitute a misdemeanor.

SECTION 199. Arkansas Code § 8-6-220(a)(2)(A), concerning yard waste, is amended to read as follows:

(2)(A) If authorized by the ~~Arkansas Department~~ Division of Environmental Quality through a permit modification process including a public notice and comment period, yard waste may be accepted by a permitted solid waste landfill that operates a landfill gas-to-energy system for the recovery and use of landfill gas as a renewable energy fuel source.

SECTION 200. The introductory language of Arkansas Code § 8-6-220(a)(2)(B), concerning yard waste, is amended to read as follows:

(B) The ~~department~~ division shall consider, at a minimum, the following before authorizing yard waste to be accepted by a solid waste landfill for disposal:

SECTION 201. Arkansas Code § 8-6-220(a)(2)(B)(xiii), concerning yard waste, is amended to read as follows:

(xiii) Other information as may be required by the ~~department~~ division.

SECTION 202. Arkansas Code § 8-6-220(b)(2), concerning yard waste, is amended to read as follows:

(2) Such choices of yard waste reduction or usage shall be submitted to the ~~department~~ division for approval and shall become an

integral part of the district's solid waste management plan.

SECTION 203. Arkansas Code § 8-6-223(a), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

(a) It is unlawful for a person to own or operate a household hazardous waste storage or processing center, as defined in § 8-6-203, without first obtaining from the ~~Arkansas Department~~ Division of Environmental Quality a transfer station permit or another permit that the ~~department~~ division deems appropriate and that meets the requirements of this section.

SECTION 204. Arkansas Code § 8-6-223(b)(1), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

(b)(1) The ~~department~~ division shall not issue, modify, or renew a permit for a household hazardous waste storage or processing center regulated under this section without the permit applicant's first demonstrating to the ~~department's~~ division's satisfaction the applicant's financial ability to ensure proper removal and disposal of household hazardous waste located at the household hazardous waste storage or processing center under this section.

SECTION 205. Arkansas Code § 8-6-223(c)(6), concerning a required permit for household hazardous waste storage or processing centers, is amended to read as follows:

(6) Any other financial instrument approved by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 206. Arkansas Code § 8-6-223(d)-(j), concerning a required permit for household hazardous waste storage or processing centers, are amended to read as follows:

(d) A financial instrument required by this section shall:

- (1) Be posted to the benefit of the ~~department~~ division;
- (2) Provide that the financial instrument cannot be cancelled without sixty (60) days' prior written notice addressed to the ~~department's~~

division's legal division chief as evidenced by a signed, certified mail with a return receipt request; and

(3) Be reviewed by the ~~department~~ division upon receipt of the cancellation notice to determine whether the ~~department~~ division should initiate procedures to revoke or suspend the household hazardous waste storage or processing center's permit and whether the ~~department~~ division should take possession of the funds guaranteed by the financial assurance mechanism.

(e) Before the ~~department~~ division may release a financial assurance mechanism, the ~~department~~ division shall inspect the household hazardous waste storage or processing center to determine to the ~~department's~~ division's satisfaction that no household hazardous waste is located at the household hazardous waste storage or processing center.

(f) The ~~department~~ division is not responsible for the removal or disposal of household hazardous waste regulated under this section.

(g) Before an application for a permit is submitted to the ~~department~~ division, a household hazardous waste storage or processing center shall apply for a certificate of need from the regional solid waste management board that has jurisdiction over the proposed site and shall follow the procedures and rules established under § 8-6-708.

(h) A household hazardous waste storage or processing center shall submit a permit application to the ~~department~~ division within ninety (90) days of the approval of the certificate of need.

(i) If a certificate of need is not approved under subsection (g) of this section or a final determination is made by the ~~department~~ division denying the permit application, the household hazardous waste storage or processing center shall cease all collection, storage, or processing activity and properly dispose of or recycle all materials within ninety (90) days.

~~(j) By October 1, 2011, each household hazardous waste storage or processing center operating before July 27, 2011, shall:~~

~~(1) Submit to the department a plan to remove and dispose of all household hazardous waste located at the household hazardous waste storage or processing center in accordance with this section;~~

~~(2) Submit to the department a detailed cost estimate to remove and dispose of the household hazardous waste located at the household hazardous waste storage or processing center that meets the requirements of~~

~~this section and is approved by the department ; and~~

~~(3) Obtain financial assurance in accordance with subdivision (b)(2) of this section.~~

SECTION 207. Arkansas Code § 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~~ Division of Environmental Quality, the Attorney General, 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 circuit 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 208. Arkansas Code § 8-6-406(a)(1), concerning littering and commercial littering, is amended to read as follows:

(1) The property has been designated by the ~~Arkansas Department~~ Division of Environmental Quality as a permitted disposal site;

SECTION 209. Arkansas Code § 8-6-503(2) and (3), concerning the definitions of "department" and "director" under the Illegal Dump Eradication and Corrective Action Program Act, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 210. Arkansas Code § 8-6-503(5), concerning the definition of "illegal dumping of solid waste" under the Illegal Dump Eradication and Corrective Action Program Act, is amended to read as follows:

(D) Upon any property for which a permit has not been issued by the ~~department~~ Division of Environmental Quality;

SECTION 211. Arkansas Code § 8-6-504 is amended to read as follows:

8-6-504. Illegal Dump Eradication and Corrective Action Program.

The Illegal Dump Eradication and Corrective Action Program shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 212. Arkansas Code § 8-6-510 is amended to read as follows:

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

None of the provisions of this act are intended to supersede any of the reuse, recycling, or fill provisions of state law of Regulation 22 of the Solid Waste Management Division of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 213. Arkansas Code § 8-6-602(c)(2)(D), concerning the duties of the Arkansas Department of Environmental Quality under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

(D) Other activities as approved by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 214. Arkansas Code § 8-6-602(d), concerning the duties of the Arkansas Department of Environmental Quality under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

(d) The ~~department~~ division and the Arkansas Pollution Control and Ecology Commission shall promulgate and implement policies, rules, regulations, and procedures for administering the terms of this subchapter.

SECTION 215. Arkansas Code § 8-6-603(2), concerning the definition of "department" under the Solid Waste Management and Recycling Fund Act, is repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 216. Arkansas Code § 8-6-603(9), concerning the definition of "solid waste management plan" under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

(9) "Solid waste management plan" means a plan which is developed according to the provisions of the Arkansas Solid Waste Management

Act, § 8-6-201 et seq., and guidelines of the ~~department~~ Division of Environmental Quality, and which is subject to approval by the ~~department division~~;

SECTION 217. Arkansas Code § 8-6-603(10)(D), concerning the definition of "department" under the Solid Waste Management and Recycling Fund Act, is amended to read as follows:

(D) Other activities as approved by the ~~department~~ division; and

SECTION 218. Arkansas Code § 8-6-604 is amended to read as follows:
8-6-604. Recycling plans and implementation.

(a) Unless otherwise excused by the Arkansas Pollution Control and Ecology Commission pursuant to the Arkansas Solid Waste Management Act, § 8-6-201 et seq., each governmental entity which is required to submit or has submitted a solid waste management plan pursuant to § 8-6-211 shall produce, by July 1, 1991, a solid waste management plan which proposes the establishment of recycling programs and facilities. The plan shall be subject to review and approval by the ~~Arkansas Department~~ Division of Environmental Quality.

(b) Pursuant to established procedures, the ~~department~~ division may initiate enforcement actions against governmental entities for failure to abide by the requirements of subsection (a) of this section. Enforcement sanctions may include, but are not limited to, denial, discontinuation, or reimbursement of grant funds awarded pursuant to any programs administered by the ~~department~~ division.

SECTION 219. Arkansas Code § 8-6-605(b), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

(b) The fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality, which shall authorize distributions and administrative expenditures from the fund under this subchapter for solid waste management and recycling programs.

SECTION 220. The introductory language of Arkansas Code § 8-6-605(d), concerning the Solid Waste Management and Recycling Fund, is amended to read

as follows:

(d) No more than twenty percent (20%) of the moneys received annually into the fund shall be used by the ~~department~~ division for:

SECTION 221. Arkansas Code § 8-6-606(d)(1)(B), concerning landfill disposal fees, is amended to read as follows:

(B) This requirement may be satisfied by utilizing an alternative weighing system approved by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 222. Arkansas Code § 8-6-606(d)(2), concerning landfill disposal fees, is amended to read as follows:

(2) Class 1 and Class 3C landfills shall be required to weigh all loads in excess of one (1) ton (2,000 lbs.), unless otherwise authorized in writing by the ~~Arkansas Department~~ Division of Environmental Quality. This provision authorizes Class 1 and Class 3C landfills to estimate weights for residential and other similar loads weighing less than one (1) ton (2,000 lbs.).

SECTION 223. Arkansas Code § 8-6-606(d)(4)(A) and (B), concerning landfill disposal fees, are amended to read as follows:

(A) All quarterly reports required by this subchapter to be submitted by Class 1 and Class 3C landfill permittees to the ~~Arkansas Department~~ Division of Environmental Quality shall accurately state the total weight of solid waste received at the landfill, and the total weight of solid waste received at the landfill shall be based upon the recorded weight scale measurements; and

(B) The recorded weight scale measurements of solid waste received at Class 1 and Class 3C landfills shall be used to calculate the solid waste disposal fees payable to the ~~Arkansas Department~~ Division of Environmental Quality by Class 1 and Class 3C landfill permittees.

SECTION 224. Arkansas Code § 8-6-607(1) and (2), concerning the collection of fees by the Arkansas Department of Environmental Quality, are amended to read as follows:

(1) Each landfill permittee and each solid waste transporter

shall submit to the ~~Arkansas Department~~ Division of Environmental Quality on or before January 15, April 15, July 15, and October 15 of each year a quarterly report that accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the quarter just completed;

(2) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and solid waste transporter shall pay to the ~~department~~ division the full amount of disposal fees due for the quarter just completed;

SECTION 225. Arkansas Code § 8-6-607(4)(B), concerning the collection of fees by the Arkansas Department of Environmental Quality, is amended to read as follows:

(B) The Marketing Recyclables Program Fund shall be administered by the ~~department~~ division and used by the panel for the administration and performance of the panel's duties; and

SECTION 226. Arkansas Code § 8-6-608 is amended to read as follows:
8-6-608. Penalties.

Failure of the permittee or solid waste transporter to pay the fees assessed by the ~~Arkansas Department~~ Division of Environmental Quality provides grounds for administrative or civil enforcement action. Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the revocation of the solid waste disposal or solid waste transporter permit.

SECTION 227. Arkansas Code § 8-6-615(a)(1)(A), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

(a)(1)(A) Funds collected under this subchapter and deposited into the State Treasury to the credit of the Solid Waste Management and Recycling Fund, less up to twenty percent (20%) for administrative support for the ~~Arkansas Department~~ Division of Environmental Quality, shall be allocated annually to each of the approved regional solid waste management districts utilizing a combination of the two (2) methods stated in subsections (b) and (c) of this section.

SECTION 228. Arkansas Code § 8-6-615(b)(1)(A) and (B), concerning reporting requirements and distribution of funds to regional solid waste management programs, are amended to read as follows:

(b)(1)(A) The ~~department~~ division shall determine the amount of funds within each planning and development district organized under § 14-166-201 et seq., and recognized by the Governor, based on the same distribution as general revenue support is distributed to the planning and development districts in the current fiscal year.

(B) The ~~department~~ division shall adjust the distribution described in subdivision (b)(1)(A) of this section within the planning and development districts to coincide with the boundaries of the regional solid waste management districts by determining each county's share of the funds available within each planning and development district.

SECTION 229. Arkansas Code § 8-6-615(d)(1), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

(d)(1) After August 1, 2017, and for each subsequent fiscal year, each regional solid waste management board that receives funds under this section shall provide a report by November 1 to the ~~department~~ division that explains how the board spent the funding received under this section in the previous fiscal year.

SECTION 230. Arkansas Code § 8-6-615(d)(3), concerning reporting requirements and distribution of funds to regional solid waste management programs, is amended to read as follows:

(3) The report shall be in a spreadsheet form as prescribed by the ~~department~~ division.

SECTION 231. Arkansas Code § 8-6-701 is amended to read as follows:

8-6-701. Purpose – Legislative findings – Construction.

The purpose of this subchapter is to protect the public health and the state's environmental quality by establishing regional solid waste management and planning. The current system, relying upon solid waste management by individual counties and municipalities, has fostered present conditions in

which certain areas of the state are facing capacity shortages of crisis proportions, while others experience a surfeit of capacity with individual disposal facilities which cannot muster the resources for environmentally responsible operators. Given these disparate environmental and economic concerns, the General Assembly concludes that regional solid waste management and planning, under the oversight of the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is essential to address the imminent and future needs of the state. The terms and obligations of this subchapter shall be liberally construed so as to achieve remedial intent.

SECTION 232. Arkansas Code § 8-6-702(3) and (4), concerning the definitions of "department" and "director" under the laws governing regional solid waste management districts and boards, are repealed.

~~(3) "Department" means the Arkansas Department of Environmental Quality;~~

~~(4) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 233. Arkansas Code § 8-6-702(9), concerning the definition of "materials in the recycling process" under the laws governing regional solid waste management districts and boards, is amended as follows:

(9) "Materials in the recycling process" means ferrous and nonferrous metals diverted or removed from the solid waste stream so that they may be reused, as long as such materials are processed or handled using reasonably available processing equipment and control technology as determined by the ~~director~~ Director of the Division of Environmental Quality, taking cost into account, and a substantial amount of the materials are consistently utilized to manufacture a product which otherwise would have been produced using virgin material;

SECTION 234. Arkansas Code § 8-6-704(a)(5), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

(5) To petition the Director of the ~~Arkansas Department~~ Division of Environmental Quality to issue, continue in effect, revoke, modify, or

deny any permit for any element of a solid waste management system located within a district based on compliance or noncompliance with the solid waste management plan of the district;

SECTION 235. Arkansas Code § 8-6-704(a)(13)(B), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

(B) However, notice of all such authorizations shall be submitted to the ~~Arkansas Department~~ Division of Environmental Quality within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update; and

SECTION 236. Arkansas Code § 8-6-704(a)(14)(B), concerning the powers and duties of regional solid waste management boards, is amended to read as follows:

(B) However, notice of all such authorizations shall be submitted to the ~~department~~ division within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update.

SECTION 237. Arkansas Code § 8-6-704(d)(4) and (5), concerning the powers and duties of regional solid waste management boards, are amended to read as follows:

(4) Copies of each audit report of a district shall be filed with the ~~department~~ division and with Arkansas Legislative Audit. In addition, one (1) copy of the audit report shall be kept for public inspection with the books and records of the district.

(5) Failure to provide a full and complete audit report, as required by this subchapter, shall prohibit future distribution of revenue from funding programs that are administered by the ~~department~~ division unless otherwise authorized by the director.

SECTION 238. Arkansas Code § 8-6-705 is amended to read as follows:

8-6-705. Needs assessments.

(a) All needs assessments required by this subchapter are subject to review and approval for completeness by the ~~Arkansas Department~~ Division of Environmental Quality.

(b) Failure to provide complete assessments as required by this subchapter may provide the ~~department~~ division with grounds to initiate enforcement actions against the regional solid waste management boards or their component governmental entities. Pursuant to established administrative procedures, sanctions may be imposed, including, but not limited to, denial, discontinuation, or reimbursement of any grant funding administered by the ~~department~~ division to a regional solid waste management district or any of its component governmental entities.

(c) The ~~department~~ division may award grants to the districts for the development of the initial regional needs assessments, for the biennial updates, and for any other update required by the law.

SECTION 239. Arkansas Code § 8-6-706(a), concerning solid waste landfill and transfer station permits, is amended to read as follows:

(a)(1) Before an application for a permit is submitted to the ~~Arkansas Department~~ Division of Environmental Quality, an applicant for a solid waste landfill permit or a transfer station permit shall obtain a certificate of need from the regional solid waste management board that has jurisdiction over the proposed site, 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.

(2) The ~~department~~ division may deny any permit based upon the denial of a certificate of need by any regional solid waste management board.

SECTION 240. Arkansas Code § 8-6-706(c), concerning solid waste landfill and transfer station permits, is amended to read as follows:

(c) Any interested party to a certificate of need determination by a board may appeal the decision to the Director of the ~~Arkansas Department~~ Division of Environmental Quality pursuant to procedures adopted by the Arkansas Pollution Control and Ecology Commission. The director may issue a permit despite the denial of a certificate of need if the director finds upon appeal that the decision of the board was not supported by substantial evidence.

SECTION 241. Arkansas Code § 8-6-712(a)(3)(B), concerning regulation of solid waste disposal, is amended to read as follows:

(B) Provided, however, that notice of all such authorizations shall be submitted to the ~~Arkansas Department~~ Division of Environmental Quality within thirty (30) days and shall be incorporated into the district needs assessment in its next regular update;

SECTION 242. Arkansas Code § 8-6-712(c)(2), concerning regulation of solid waste disposal, 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, when the city bears the expense of operating and maintaining the landfill and the landfill complies with United States Environmental Protection Agency and ~~department~~ division regulations.

SECTION 243. Arkansas Code § 8-6-716(a)(1)(A)(ii), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

(ii) Such regional needs assessment shall be submitted for ~~Arkansas Department~~ Division of Environmental Quality review, and the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall approve or disapprove it within ninety (90) days after submission.

SECTION 244. Arkansas Code § 8-6-716(a)(1)(B)(ii), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

(ii) The ~~department~~ division may, at its discretion, stagger the due dates by random selection so that approximately one fourth ($\frac{1}{4}$) of the districts will submit a regional needs assessment each year.

SECTION 245. Arkansas Code § 8-6-716(a)(1)(C)(i), concerning the submission of a regional needs assessment to the Arkansas Department of Environmental Quality, is amended to read as follows:

(C)(i) The ~~department~~ division will notify in writing the districts of the date on which their regional needs assessments are due.

SECTION 246. Arkansas Code § 8-6-720(b), concerning the opportunity to recycle and recyclable materials collection centers, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality shall determine by regulation the adequacy of the facilities and the number and type of recyclable materials for which the services in this section must be provided.

SECTION 247. Arkansas Code § 8-6-723(a)(2), concerning the alternative formation of original districts, is amended to read as follows:

(2) The creation of the district shall be effective upon the Director of the ~~Arkansas Department~~ Division of Environmental Quality's receipt of written notice in the form of a joint resolution by the local governments.

SECTION 248. Arkansas Code § 8-6-723(b)(1), concerning the alternative formation of original districts, is repealed.

~~(b)(1) In lieu of forming a district under any other provision of this subchapter, a district may be created by a resolution of the governing body of any authority created under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., which includes a county having a population of at least sixty thousand (60,000) persons and which has made application to the Arkansas Department Division of Environmental Quality for a solid waste disposal permit on or before January 1, 1991.~~

SECTION 249. Arkansas Code § 8-6-901(2) and (3), concerning the definitions of "department" and "director" under the laws governing licensing of operators of solid waste management facilities, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality or the director's delegate or representative;~~

SECTION 250. Arkansas Code § 8-6-901(4), concerning the definition of "illegal dumps control officer" under the laws governing licensing of

operators of solid waste management facilities, is amended to read as follows:

(4) "Illegal dumps control officer" means an individual employed by an authorized solid waste management district within this state, a county government within this state, or a pollution control inspector or other representative of the ~~department~~ Division of Environmental Quality who is empowered to ensure compliance with any state law prohibiting the illegal dumping of solid wastes;

SECTION 251. Arkansas Code § 8-6-901(5), concerning the definitions of "license" under the laws governing licensing of operators of solid waste management facilities, is amended to read as follows:

(5) "License" means a certificate of competency issued by the ~~director~~ Director of the Division of Environmental Quality to solid waste management facility operators and illegal dumps control officers who have met the requirements of the licensing program;

SECTION 252. Arkansas Code § 8-6-901(6), concerning the definition of "licensing committee" under the laws governing licensing of operators of solid waste management facilities, is amended to read as follows:

(6) "Licensing committee" means the committee of solid waste management facility managers, operators, or technicians established in this subchapter to assist and advise the commission and the ~~department~~ division in the examining and licensing of operators of solid waste management facilities;

SECTION 253. Arkansas Code § 8-6-903(a), concerning licenses required to operate a solid waste management facility, is amended to read as follows:

(a) It shall be illegal for any county, municipality, governmental subdivision, public or private corporation, or other person to operate a solid waste management facility unless the competency of the operator is duly licensed by the Director of the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of this subchapter.

SECTION 254. Arkansas Code § 8-6-904(a)(1), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and

Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) There is created a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the ~~Arkansas Department~~ Division of Environmental Quality in the administration of the licensing program.

SECTION 255. Arkansas Code § 8-6-904(a)(2)(A), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(A) Three (3) members, to be appointed by the commission, shall be solid waste management facility operators licensed by the ~~department~~ division;

SECTION 256. Arkansas Code § 8-6-904(a)(2)(H), concerning the creation of a licensing committee to advise and assist the Arkansas Pollution Control and Ecology Commission and the Arkansas Department of Environmental Quality, is amended to read as follows:

(H) One (1) member, to be appointed by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, shall be a qualified member of his or her staff who shall serve ex officio with no vote as executive secretary of the committee.

SECTION 257. Arkansas Code § 8-6-905(a), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a) The Arkansas Pollution Control and Ecology Commission, with the advice and assistance of the licensing committee, 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~~ Division of Environmental Quality and the committee under this subchapter as may be necessary for the administration and enforcement of this subchapter.

SECTION 258. The introductory language of Arkansas Code § 8-6-905(b), concerning the powers and duties of the Arkansas Pollution Control and

Ecology Commission, is amended to read as follows:

(b) The ~~department~~ division is charged with the responsibility of administering and enforcing this subchapter, with the advice and assistance of the committee, and is given and charged with the following powers and duties:

SECTION 259. Arkansas Code § 8-6-905(b)(1)(B), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(B) This duty may be delegated by the ~~department~~ division to the administrator of any approved course;

SECTION 260. Arkansas Code § 8-6-905(c)(1) and (2), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, are amended to read as follows:

(1) Conduct inquiries and establish findings necessary to advise the commission and the ~~department~~ division on irregularities encountered in the management of the licensing program;

(2) Conduct inquiries and establish facts necessary to advise the commission and the ~~department~~ division on the actions of licensees; and

SECTION 261. Arkansas Code § 8-6-906(b), concerning the classification of a license, is amended to read as follows:

(b) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, with the advice and assistance of the licensing committee, shall license persons according to their qualifications to successfully operate solid waste management facilities within the classifications established and effectuated by rules and regulations promulgated by the commission.

SECTION 262. Arkansas Code § 8-6-907 is amended to read as follows:
8-6-907. Licensing.

All operators in responsible charge of public and private solid waste management facilities shall be duly licensed and certified as competent by the Director of the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of this subchapter and under such rules and regulations as the Arkansas Pollution Control and Ecology Commission may adopt, with the

advice and assistance of the licensing committee, pursuant to the authority of this subchapter.

SECTION 263. Arkansas Code § 8-6-908(a)(1), concerning eligibility, reciprocity, and licensing by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) The Director of the ~~Arkansas Department~~ Division of Environmental Quality shall license and certify all applicants for licenses under this subchapter who satisfy the requirements of this subchapter and the rules and regulations issued pursuant thereto.

SECTION 264. Arkansas Code § 8-6-908(b), concerning eligibility, reciprocity, and licensing by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(b) All operators of solid waste management facilities within the state shall apply to the ~~Arkansas Department~~ Division of Environmental Quality for a license.

SECTION 265. Arkansas Code § 8-6-909(b), concerning fees for licenses, examinations, and certifications, is amended to read as follows:

(b) All of the fees shall be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund, as established in § 8-1-105.

SECTION 266. Arkansas Code § 8-6-1001(2) and (3), concerning the definitions of "department" and "director" under the laws regarding the Landfill Post-Closure Trust Fund, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 267. Arkansas Code § 8-6-1001(6), concerning the definition of "post-closure corrective action" under the laws regarding the Landfill Post-Closure Trust Fund, is amended to read as follows:

(6) "Post-closure corrective action" means any measures deemed

necessary by the ~~director~~ Director of the Division of Environmental Quality to prevent or abate contamination of the environment from any landfill which has been certified as properly closed by the ~~department~~ Division of Environmental Quality;

SECTION 268. Arkansas Code § 8-6-1002(a)(3), concerning the creation of the Landfill Post-Closure Trust Fund, is amended to read as follows:

(3) Moneys received into the fund may also be used by the ~~Arkansas Department~~ Division of Environmental Quality for administrative purposes at a level not to exceed three hundred thousand dollars (\$300,000) annually with an annual escalator not to exceed three percent (3%).

SECTION 269. Arkansas Code § 8-6-1002(b), concerning the creation of the Landfill Post-Closure Trust Fund, is amended to read as follows:

(b)(1) The fund shall be administered by the ~~department~~ division, which shall authorize funding and administrative expenditures from the fund according to the provisions of this subchapter.

(2)(A) The fund shall be administered by the ~~department~~ division and shall be used by the ~~department~~ division for landfill post-closure corrective action.

(B) The fund shall be used only if the Director of the ~~Arkansas Department~~ Division of Environmental Quality determines that:

(i) A landfill which is no longer receiving waste, regardless of when it ceased operating, is causing groundwater contamination or is causing other contamination that is a hazard to public health or endangers the environment; and

(ii) The owner or operator of the landfill site has expended at least ten thousand dollars (\$10,000) toward corrective action, unless the owner or operator cannot be located or the director determines an emergency exists necessitating immediate corrective action.

(3) The fund shall be administered by the ~~department~~ division and may be used by the ~~department~~ division to complete all activities necessary for the closure of a permitted waste tire processing or disposal site that is owned or operated by a regional solid waste management district if the ~~department~~ division determines that the district lacks sufficient funds to complete closure of the permitted waste tire processing or disposal

site.

SECTION 270. Arkansas Code § 8-6-1002(e), concerning the creation of the Landfill Post-Closure Trust Fund, is amended to read as follows:

(e)(1) An owner or operator of a permitted landfill shall establish and at all times maintain financial assurance for the post-closure maintenance of the landfill. At a minimum, each owner or operator shall provide no less than twenty percent (20%) of estimated post-closure maintenance costs through a financial mechanism readily negotiable by the ~~department~~ division to cash funds, for example, a letter of credit, surety bond, irrevocable trust, insurance, or other mechanism approved by the ~~department~~ division, upon default by the owner and operator of post-closure obligations.

(2) If, after proper closure of a landfill, the ~~department~~ division reasonably determines that the owner or operator cannot be located or cannot otherwise satisfy, in whole or part, post-closure maintenance obligations, the ~~department~~ division is authorized to expend the necessary funds from the fund to satisfy the requirements of state and federal law and to prevent or abate releases to the environment.

(3) If the ~~department~~ division is required to expend funds from the fund due to the failure of an owner or operator to meet the requirements of this subsection, the ~~department~~ division shall pursue collection and recovery of the funds by issuing an administrative order notifying the owner or operator by certified mail at the last known address of the owner or operator of the action taken by the ~~department~~ division and the amount of funds expended from the fund and that the administrative order may be appealed in accordance with the ~~department's~~ division's regulations.

SECTION 271. Arkansas Code § 8-6-1004(1) and (2), concerning the collection of fees regarding the Landfill Post-Closure Trust Fund, are amended to read as follows:

(1) Each landfill permittee and each solid waste transporter shall submit to the ~~Arkansas Department~~ Division of Environmental Quality on or before January 15, April 15, July 15, and October 15 of each year a quarterly report which accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the

previous quarter;

(2) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and solid waste transporter shall pay to the ~~department~~ division the full amount of such disposal fees due for the previous quarter; and

SECTION 272. Arkansas Code § 8-6-1005 is amended to read as follows:
8-6-1005. Penalties.

Failure of the permittee or solid waste transporter to pay the fees assessed by the ~~Arkansas Department~~ Division of Environmental Quality shall provide grounds for administrative or civil enforcement action. Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the revocation of the solid waste disposal or solid waste transporter permit.

SECTION 273. Arkansas Code § 8-6-1103(3), concerning the definition of "director" under the laws regarding landfill service areas, is repealed.

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 274. Arkansas Code § 8-6-1104 is amended to read as follows:
8-6-1104. Transportation of solid waste outside district.

In any instance in which a landfill has a useful life of less than one and one-half ($1\frac{1}{2}$) years, the Director of the ~~Arkansas Department~~ Division of Environmental Quality may authorize any city utilizing that landfill to transport solid waste outside the boundaries of the regional solid waste management district. Provided, however, in no instance shall that authority be extended after a landfill with a useful life in excess of one and one-half ($1\frac{1}{2}$) years becomes available within the district for accepting the solid waste of the city.

SECTION 275. Arkansas Code § 8-6-1105(b), concerning an exemption of expansion outside district, is amended to read as follows:

(b) Landfill capacity shall be determined by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 276. Arkansas Code § 8-6-1105(c)(3), concerning an exemption of expansion outside district, is amended to read as follows:

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

SECTION 277. Arkansas Code § 8-6-1105(c)(4), concerning an exemption of expansion outside district, is amended to read as follows:

(4)(A) No new applications for landfill permits seeking to dispose of solid waste originating outside of a district or that propose to dispose of solid waste originating from outside such district shall be accepted or processed by the ~~Arkansas Pollution Control and Ecology Commission~~ Division of Environmental Quality or a regional solid waste management board, unless such applications were pending before the ~~department~~ Arkansas Department of Environmental Quality, now the Division of Environmental Quality on March 1, 1989.

(B) Provided, the prohibition contained in this subsection shall not apply to new applications for landfill permits if the landfill is one where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, or of wastes of a similar kind or character, and such industry has commenced, prior to March 1, 1991, the process for obtaining a permit by issuing notice to the local government having jurisdiction, as required under the rules and regulations of the ~~department~~ Arkansas Department of Environmental Quality, now the Division of Environmental Quality.

SECTION 278. Arkansas Code § 8-6-1206(c)(1), concerning the adoption of disposal criteria for incinerator ash, is amended to read as follows:

(c)(1) The monofill requirement created under this subchapter does not apply if the owner or operator demonstrates to the ~~Arkansas Department~~

Division of Environmental Quality that the incinerator ash to be disposed of in the Class 1 landfill is received from incinerators that only combust yard waste or other natural vegetative debris, including vegetative storm debris, tree trimmings, and land-clearing debris.

SECTION 279. Arkansas Code § 8-6-1301(a), concerning legislative findings and purpose regarding obtaining permits from the Arkansas Department of Environmental Quality for medical waste incineration facilities, is amended to read as follows:

(a) The General Assembly has found that there is an increased interest in obtaining permits from the ~~Arkansas Department~~ Division of Environmental Quality for the purpose of constructing and operating commercial medical waste incineration facilities. The Clean Air Act in 42 U.S.C. § 7429(a)(1)(C) has directed the United States Environmental Protection Agency to promulgate regulations concerning these commercial medical waste incineration facilities. The General Assembly has determined that it is necessary to delay the issuance of permits to these commercial medical waste incineration facilities until those regulations are promulgated in order to ensure that any permits issued will be based on the latest available information concerning technology and safety as set forth in the federal regulations.

SECTION 280. Arkansas Code § 8-6-1302(2) and (3), concerning the definitions of "department" and "director" under the laws regarding commercial medical waste incineration facilities, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 281. Arkansas Code § 8-6-1304(c)(2), concerning the applicability of laws to medical waste incineration facilities, is amended to read as follows:

(2) For the purposes of construing this subsection and the application of this subchapter, initiation of operations has not occurred until the ~~Arkansas Department~~ Division of Environmental Quality has approved the installation of all permitted pollution control equipment and the

commercial medical waste incineration facility is receiving medical waste for incineration.

SECTION 282. Arkansas Code § 8-6-1305 is amended to read as follows:

8-6-1305. Permits – Procedure generally – Definition.

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall not accept any applications or issue any permits for the construction or operation of any commercial medical waste incineration facilities until the federal regulations promulgated pursuant to 42 U.S.C. § 7429(a)(1)(C) become effective or the United States Environmental Protection Agency's dioxin reassessment is finalized, whichever is later.

(b) Any person applying for a permit or a permit modification to construct and operate a commercial medical waste incineration facility shall complete the following criteria at least thirty (30) days prior to submitting a permit application to the ~~department~~ division:

(1) Written notification by certified mail to each property owner and resident of any property adjacent to the proposed site of the intent to apply for a permit or permit modification; and

(2) Publication of a public notice in the largest newspaper published in each county where the property which is the subject matter of the proposed commercial medical waste incineration facility permit or permit modification is located, and in at least one (1) newspaper of statewide circulation, of the intent to apply for a permit or a permit modification to construct and operate a commercial medical waste incineration facility.

(c) The ~~department~~ division shall provide written notice by certified mail of the proposed permit or permit modification to the mayor of the city and the county judge of the county where the property which is the subject matter of the permit application is located.

(d) The ~~department~~ division shall conduct a public hearing in the county in which the commercial medical waste incineration facility is to be located prior to the issuance of a final permit.

(e)(1)(A) Notwithstanding the general provisions of other laws, permits for the construction or operation of commercial medical waste incineration facilities shall not be transferable upon a change in ownership or control of a commercial medical waste incineration facility.

(B) Prior to any change in ownership or control of a

commercial medical waste incineration facility, the proposed new owner must apply for a new permit and abide by the requirements of § 8-1-106.

(C) The ~~department~~ division shall process the application as one for a new permit and apply the most current statutes, regulations, technological standards, and operational controls as conditions precedent for granting a permit or operational authority.

(2)(A) Any agreement or contract, written or oral, for a future transfer of operational control or ownership of a permitted commercial medical waste incineration facility or such an agreement or contract contingent upon the ~~department's~~ division's approval shall be subject to immediate disclosure to the ~~department~~ division pursuant to § 8-1-106.

(B) Upon such disclosure, the ~~department~~ division shall cause the intent to transfer ownership or control to be publicly noticed and produce the disclosure documentation required by § 8-1-106 for public inspection.

(C) After a reasonable period for public review, the ~~department~~ division shall issue a written determination as to whether the intended transfer of ownership or control should be approved, subject to the right of appeal provided by § 8-1-106(e).

(D) During the pendency of the ~~department's~~ division's and the public's review of the disclosure materials required by this section, any actions taken by the permittee or proposed transferee are at their own risk, and shall not be construed by the ~~department~~ division or the Arkansas Pollution Control and Ecology Commission as accruing equities in their favor.

(3) As used in this subsection:

(A) "Control" shall be presumed to reside with the owner, as defined herein, unless circumstances indicate that a person or entity other than an employee or agent of the owner is exercising ultimate decision-making authority regarding the construction or operation of a commercial medical waste incineration facility; and

(B) "Corporate ownership" shall be defined as a controlling or majority interest in a commercial medical waste incineration facility, either through outright ownership of stock or other indicia of title, or any equitable right to such title as construed from the totality of the circumstances.

(4) Any violation of this subsection shall constitute grounds

for permit revocation and imposition of the civil and criminal penalties authorized by § 8-4-103.

(f)(1) If the original permit was issued more than one (1) year prior to the initiation of incineration activities at a commercial medical waste incineration facility, the ~~department~~ division may review the conditions of the permit to determine whether good cause exists for modifying operating parameters to assure the maximum feasible control efficiency of emissions.

(2) Any modifications proposed by the ~~department~~ division must be supported by appropriate references to the scientific and engineering literature or documented studies conducted by the ~~department~~ division.

SECTION 283. The introductory language of Arkansas Code § 8-6-1306(a), concerning the limitations of permits to construct or operate a commercial medical waste incineration facility granted by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) No permits may be issued by the ~~Arkansas Department~~ Division of Environmental Quality for the construction or operation of a commercial medical waste incineration facility in which any of the following factors are present:

SECTION 284. Arkansas Code § 8-6-1307 is amended to read as follows:
8-6-1307. Financial assurance guarantees.

(a)(1) Prior to initiating operations at a commercial medical waste incineration facility, the owner or operator must demonstrate:

(A) Evidence of liability insurance in such amount as the ~~Arkansas Department~~ Division of Environmental Quality may determine to be necessary for the protection of public health and safety and protection of the environment; and

(B) Evidence of financial responsibility in such form and amount as the ~~department~~ division may determine to be necessary to ensure that, upon abandonment, cessation, or interruption of the operation of the commercial medical waste incineration facility, all appropriate measures can be taken to prevent present and future damage to the public health and safety and to the environment.

(2) In determining the adequacy of the evidence submitted, the ~~department~~ division may consider credible evidence indicating that the

permittee is undercapitalized, insolvent, or otherwise financially incapable of assuring environmentally sound operations at the permitted commercial medical waste incineration facility.

(b) In determining the nature of financial assurance guarantees required by subsection (a) of this section, the ~~department~~ division and the permittee shall follow, to the extent applicable, the federal regulations governing financial assurance of facilities governed by Subtitle D of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6941 et seq.

SECTION 285. Arkansas Code § 8-6-1503 is amended to read as follows:

8-6-1503. ~~Department's~~ Division's permitting authority.

The ~~Arkansas Department~~ Division of Environmental Quality shall not process any application for a permit subject to § 8-6-1504 until the affected local and regional authorities have issued definitive findings regarding the criteria set out in § 8-6-1504.

SECTION 286. Arkansas Code § 8-6-1504(a)(2), concerning a rebuttable presumption against certain sites for construction of a high impact solid waste management facility, is amended to read as follows:

(2) This presumption shall be honored by the ~~Arkansas Department~~ Division of Environmental Quality, the regional solid waste management board with jurisdiction over the site, and any other governmental entity with permitting or zoning authority concerning any facility.

SECTION 287. Arkansas Code § 8-6-1601(c)(1), concerning the purpose of solid waste management facilities, is amended to read as follows:

(c)(1) After an application to operate a solid waste management facility has been reviewed and approved but before a permit is issued, the applicant shall post with the ~~Arkansas Department~~ Division of Environmental Quality, on forms prescribed by the ~~department~~ division in accordance with the regulations issued under this subchapter, a corporate surety bond for performance or an acceptable alternative, such as a certificate of deposit or letter of credit payable to the ~~department~~ division and conditioned upon faithful performance of all requirements of this subchapter, the regulations issued pursuant to this subchapter, and the permit, including, but not limited to, proper closure of the solid waste management facility.

SECTION 288. Arkansas Code § 8-6-1601(5), concerning the definition of "department" under the laws regarding solid waste management facilities, is repealed.

~~(5) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 289. Arkansas Code § 8-6-1603(d)(4)(A), concerning procedures of solid waste management facilities, is amended to read as follows:

(4)(A) A municipality or county that owns or operates a solid waste management facility receiving any non-RCRA, Subtitle D waste may, in lieu of a performance bond, execute a contract of obligation with the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 290. Arkansas Code § 8-6-1604(c) and (d), concerning the Solid Waste Performance Bond Fund, are amended to read as follows:

(c) The fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality and will be used to accomplish remedial action, including closure of lands covered by performance bonds forfeited under this subchapter.

(d) Moneys received annually into the fund shall be used by the ~~department~~ division for the administration of remedial actions performed as a result of this subchapter.

SECTION 291. Arkansas Code § 8-6-1703(e), concerning restrictions on the open burning of yard waste, is amended to read as follows:

(e) Nothing in this subchapter shall be construed as impairing the authority of the ~~Arkansas Department~~ Division of Environmental Quality to abate reasonably likely exceedances of National Ambient Air Quality Standards.

SECTION 292. Arkansas Code § 8-6-1801 is amended to read as follows:

8-6-1801. Management plan – Substitution.

If the ~~Arkansas Department~~ Division of Environmental Quality requires a person to obtain an animal waste management plan, including a permit application, prepared by a professional engineer as defined in § 17-30-101,

the person may substitute a plan prepared under the supervision of a professional engineer employed by one (1) of the following agencies:

- (1) A conservation district;
- (2) The Arkansas Natural Resources Commission;
- (3) The United States Natural Resources Conservation Service; or
- (4) The University of Arkansas Cooperative Extension Service.

SECTION 293. Arkansas Code § 8-6-1902(1), concerning the responsibility for the development of the Statewide Solid Waste Management Plan, is amended to read as follows:

(1) The ~~Arkansas Department~~ Division of Environmental Quality has been charged by the General Assembly with the responsibility of developing the Statewide Solid Waste Management Plan which, when feasible, gives emphasis to regional planning;

SECTION 294. Arkansas Code § 8-6-1903(3), concerning the definition of "department" under the laws regarding the Statewide Solid Waste Management Plan, is repealed.

~~(3) "Department" means the Arkansas Department of Environmental Quality.~~

SECTION 295. The introductory language of Arkansas Code § 8-6-1904(a), concerning the development and implementation of the Statewide Solid Waste Management Plan by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall develop the Statewide Solid Waste Management Plan to establish minimum requirements for all regional solid waste management plans, including requirements for:

SECTION 296. Arkansas Code § 8-6-1904(c)(2), concerning the development and implementation of the Statewide Solid Waste Management Plan by the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) Denial, discontinuation, or reimbursement of any funding administered by the ~~department~~ division to the board.

SECTION 297. Arkansas Code § 8-7-202(4), concerning the purpose of the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(4) Qualify the ~~Arkansas Department~~ Division of Environmental Quality to adopt, administer, and enforce a hazardous waste program pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.; and

SECTION 298. Arkansas Code § 8-7-203(2) and (3), concerning the definitions of "department" and "director" under the Arkansas Hazardous Waste Management Act of 1979, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality or its successor;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality or his or her successor;~~

SECTION 299. The introductory language of Arkansas Code § 8-7-203(7)(A), concerning the definition of "hazardous waste" under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(7)(A) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the ~~department~~ Division of Environmental Quality:

SECTION 300. Arkansas Code § 8-7-204(a)(1)(A), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(1)(A) Any person who violates any provision of this subchapter, who commits any unlawful act under this subchapter, or who violates any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty of a misdemeanor.

SECTION 301. Arkansas Code § 8-7-204(a)(2)(A)(i), concerning criminal,

civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(i) Violate any provision of this subchapter, commit any unlawful act under this subchapter, or violate any rule, regulation, or order of the commission or the ~~department~~ division, and leave the state or remove his or her person from the jurisdiction of this state; or

SECTION 302. The introductory language of Arkansas Code § 8-7-204(b), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(b) Civil Penalties. The ~~department~~ division may institute a civil action in any court of competent jurisdiction to accomplish any of the following:

SECTION 303. Arkansas Code § 8-7-204(b)(3), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(3) Recover all costs, expenses, and damages to the ~~department~~ division and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 304. Arkansas Code § 8-7-204(c), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(c) Any person who violates any provision of this subchapter and regulations, rules, permits, or plans issued pursuant to this subchapter may be assessed an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation. Each day of a continuing violation may be deemed a separate violation for purposes of civil penalty assessment. No civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing in accordance with regulations adopted by the commission. All hearings and appeals arising under this subchapter shall be conducted in accordance with the procedures prescribed by §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. The procedures of this subsection may also be used to recover all costs, expenses, and damages to the

~~department~~ division and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages.

SECTION 305. Arkansas Code § 8-7-204(e)(1), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(e)(1) All moneys collected as reimbursement for expenses, costs, and damages to the ~~department~~ division shall be deposited into the operating fund of the ~~department~~ division.

SECTION 306. Arkansas Code § 8-7-204(e)(3), concerning criminal, civil, and administrative penalties under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(3)(A) In his or her discretion, the Director of the ~~Arkansas Department~~ Division of Environmental Quality may authorize in-kind services as partial mitigation of cash penalties for use in projects or programs designed to advance environmental interests.

(B) The violator may provide in-kind services or cash contributions as directed by the ~~department~~ division by utilizing the violator's own expertise, by hiring and compensating subcontractors to perform the in-kind services, by arranging and providing financing for the in-kind services, or by other financial arrangements initiated by the ~~department~~ division in which the violator and the ~~department~~ division retain no monetary benefit, however remote.

(C) The in-kind services shall not duplicate or augment services already provided by the ~~department~~ division through appropriations of the General Assembly.

SECTION 307. Arkansas Code § 8-7-205(3), concerning unlawful actions under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(3) Dispose of hazardous waste at any disposal site or facility other than one for which a permit has been issued by the ~~Arkansas Department~~ Division of Environmental Quality pursuant to this subchapter; or

SECTION 308. Arkansas Code § 8-7-208 is amended to read as follows:

8-7-208. Official agency for program and agreements.

(a) The ~~Arkansas Department~~ Division of Environmental Quality is designated as the official agency for the state for all purposes of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., and for the purpose of such other state or federal legislation as may be enacted to assist in the management of hazardous wastes.

(b)(1) The General Assembly encourages cooperative activities by the ~~department~~ division with other states for the improved management of hazardous wastes and, so far as is practicable, uniform state laws relating to the management of hazardous wastes and compacts between this and other states for the improved management of hazardous wastes.

(2) The ~~department~~ division may enter into agreements with the responsible authorities of the United States or of other states, subject to approval by the Governor, relative to policies, methods, means, and procedures to be employed in the management of hazardous wastes not inconsistent with the provisions of this subchapter and may carry out such agreements.

SECTION 309. The introductory language of Arkansas Code § 8-7-209(a), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall have the following powers and duties:

SECTION 310. Arkansas Code § 8-7-209(a)(6), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(6) To make such investigations and inspections and to hold such hearings, after notice, as the ~~Arkansas Department~~ Division of Environmental Quality may deem necessary or advisable for the discharge of the ~~Arkansas Department~~ Division of Environmental Quality's duties under this subchapter and to ensure compliance with this subchapter and any orders, rules, and regulations issued pursuant thereto;

SECTION 311. Arkansas Code § 8-7-209(a)(8)(A), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(8)(A) To institute proceedings in the name of the ~~Arkansas Department~~ Division of Environmental Quality in any court of competent jurisdiction to compel compliance with and to restrain any violation of the provisions of this subchapter or any rules, regulations, and orders issued pursuant thereto or any permit issued thereunder, and require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this subchapter.

SECTION 312. Arkansas Code § 8-7-209(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(12) In addition to the powers enumerated above, the ~~Arkansas Department~~ Division of Environmental Quality shall have and may use in the administration and enforcement of this subchapter all of the powers which the ~~Arkansas Department~~ Division of Environmental Quality has under other laws administered by the ~~Arkansas Department~~ Division of Environmental Quality, including the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et seq.

SECTION 313. The introductory language of Arkansas Code § 8-7-209(b)(1), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(1) To adopt, after notice and public hearing, and to promulgate, modify, repeal, and enforce rules and regulations regarding hazardous waste management as may be necessary or appropriate to implement or effectuate the purposes and intent of this subchapter and the powers and duties of the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter, including, but not limited to, rules and regulations for:

SECTION 314. Arkansas Code § 8-7-209(b)(4) and (5), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, are amended to read as follows:

(4) Promulgation of rules and regulations governing administrative procedures for challenging or contesting ~~Arkansas Department~~ Division of Environmental Quality actions;

(5) In the case of permitting or grants decisions, providing the right to appeal a permitting or grants decision rendered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her delegatee;

SECTION 315. Arkansas Code § 8-7-209(b)(8), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for hazardous waste management, is amended to read as follows:

(8) Make recommendations to the director regarding overall policy and administration of the ~~Arkansas Department~~ Division of Environmental Quality, provided, however, that the director shall always remain within the plenary authority of the Governor; and

SECTION 316. Arkansas Code § 8-7-210 is amended to read as follows:

8-7-210. Existing rules, regulations, etc.

(a) All existing rules and regulations of the ~~Arkansas Department~~ Division of Environmental Quality not inconsistent with the provisions of this subchapter relating to subjects embraced within this subchapter shall remain in full force and effect until expressly repealed, amended, or superseded by the Arkansas Pollution Control and Ecology Commission, insofar as the rules and regulations do not conflict with the provisions of this subchapter.

(b) All orders entered, permits granted, and pending legal proceedings instituted by the ~~department~~ division relating to subjects embraced within this subchapter shall remain unimpaired and in full force and effect until superseded by actions taken by the ~~department~~ division or commission under this subchapter.

(c) No existing civil or criminal remedies, public or private, for any

wrongful action shall be excluded or impaired by this subchapter.

(d) The provisions of this subchapter and the rules and regulations promulgated pursuant to this subchapter shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or any action taken by the ~~department~~ division or commission under those laws.

SECTION 317. Arkansas Code § 8-7-212 is amended to read as follows:

8-7-212. Considerations in administration.

(a) In administering the provisions of this subchapter, the ~~Arkansas Department~~ Division of Environmental Quality may adopt and give appropriate effect to variations within this state in climate, geology, population density, and such other factors as may be relevant to the management of hazardous waste, the establishment of standards and permit conditions, and to the siting of permitted facilities.

(b) To the extent practicable, the rules, regulations, and procedures adopted by the ~~department~~ division pursuant to this subchapter shall be consistent with other environmentally related rules, regulations, and procedures of the ~~department~~ division. In administering the provisions of this subchapter and of all other laws under the administration of the ~~department~~ division, the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission shall coordinate and expedite the issuance of permits required by an applicant under one (1) or more laws, to the end of eliminating, insofar as practicable, any duplication of unnecessary time and expense to the applicant and the ~~department~~ division.

(c) The ~~department~~ division shall integrate all provisions of this subchapter with the appropriate provisions of all other laws which grant regulatory authority to the ~~department~~ division for purposes of administration and enforcement and shall avoid duplication to the maximum extent practicable.

SECTION 318. Arkansas Code § 8-7-213 is amended to read as follows:

8-7-213. Procedure generally.

The procedure of the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of

subpoena, review of action on permits, right of appeal, presumptions, finality of actions, and related matters shall be as provided in § 8-4-101 et seq. and § 8-4-201 et seq., including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229 if they are not in conflict with the provisions set forth in this subchapter.

SECTION 319. Arkansas Code § 8-7-214(a)(1), concerning an emergency order for an imminent hazard by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) Notwithstanding any other provisions of this subchapter, the Director of the ~~Arkansas Department~~ Division of Environmental Quality, upon finding that the storage, transportation, treatment, or disposal of any waste may present an imminent and substantial hazard to the health of persons or to the environment and that an emergency exists requiring immediate action to protect the public health and welfare, he or she may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and emergency and requiring that such action be taken as he or she determines to be necessary to protect the health of such persons or the environment and to meet the emergency.

SECTION 320. Arkansas Code § 8-7-215(a), concerning requirements for a permit regarding a hazardous waste treatment or disposal facility or site, is amended to read as follows:

(a) No person shall construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site, nor shall any person store, treat, or dispose of any hazardous waste without first obtaining a permit from the ~~Arkansas Department~~ Division of Environmental Quality for the facility, site, or activity.

SECTION 321. Arkansas Code § 8-7-216(a) and (b), concerning permits, issuance, and interim operations regarding the Arkansas Department of Environmental Quality, are amended to read as follows:

(a) A permit shall be issued under such terms and conditions as the ~~Arkansas Department~~ Division of Environmental Quality may prescribe under this subchapter and under the terms and conditions the Arkansas Department of Transportation may prescribe for the transportation of hazardous waste.

~~(b) A facility required to have a permit under this subchapter or which is operating under the terms of a permit issued under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., as of March 14, 1979, may continue in operation until such time as a permit is issued under this subchapter by the Arkansas Department of Environmental Quality, provided the owner or operator of such facility has made application on forms provided by the Arkansas Department of Environmental Quality for such permit by September 14, 1979.~~

SECTION 322. Arkansas Code § 8-7-216(c)(1), concerning permits, issuance, and interim operations regarding the Arkansas Department of Environmental Quality, is amended to read as follows:

(c)(1) A facility required to have a permit under this subchapter due to statutory or regulatory changes which occur after March 14, 1979, may continue in operation until such time as a permit is issued under this subchapter, provided that the owner or operator notifies the ~~Arkansas Department~~ Division of Environmental Quality of newly regulated activities at the facility within ninety (90) days of the effective date of each statutory or regulatory change and makes initial permit application within one hundred eighty (180) days of the effective date of such changes on forms provided by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 323. Arkansas Code § 8-7-217 is amended to read as follows:

8-7-217. Permits – Notice of hearing.

No permit shall be issued by the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission for any commercial hazardous waste treatment, storage, or disposal facility unless thirty (30) days' advance notice of a hearing has been placed in the largest newspaper published in the county in which a commercial hazardous waste treatment, storage, or disposal facility or facilities are located or proposed to be located, as well as published in the largest newspaper published in the adjoining counties. If there is no newspaper published in any of the counties so affected, the notice shall be published in the newspaper having the largest circulation in the county.

SECTION 324. Arkansas Code § 8-7-218 is amended to read as follows:

8-7-218. Permits – Compliance with subchapter, state and federal standards, regulations, etc.

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

(b)(1) No permit shall be issued by the ~~department~~ division for any commercial disposal or storage facility off the site where the hazardous waste is generated until the ~~department~~ division has adopted rules, regulations, standards, and procedures pursuant to § 8-7-209.

(2) The rules, regulations, standards, procedures, or other requirements adopted and imposed by the ~~department~~ division shall not be less stringent than the regulations promulgated or revised by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.

(c) No permit shall be issued for hazardous waste treatment, storage, or disposal facilities except under the terms of regulations of the ~~department~~ division which conform to the provisions of § 3005 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6925.

SECTION 325. Arkansas Code § 8-7-219 is amended to read as follows:

8-7-219. Permits – Commercial facilities – Terms and conditions.

No permit shall be issued for any commercial hazardous waste treatment, storage, or disposal facility unless that facility meets such terms and conditions as the ~~Arkansas Department~~ Division of Environmental Quality may direct, including, but not limited to:

(1) Evidence of liability insurance in such amount as the ~~department~~ division may determine to be necessary for the protection of the

public health and safety and the protection of the environment;

(2) Evidence of financial responsibility in such form and amount as the ~~department~~ division may determine to be necessary to ensure that, upon abandonment, cessation, or interruption of the operation of the facility, all appropriate measures are taken to prevent present and future damage to the public health and safety and to the environment;

(3)(A) Evidence that the personnel employed at the hazardous waste treatment or disposal facility meet such qualifications as to education and training as the ~~department~~ division may determine to be necessary to assure the safe and adequate operation of the facility.

(B) Persons charged with the direct supervision of the operation of any facility must be certified by the ~~department~~ division as having such qualifications after a review of the types, properties, and volume of hazardous waste to be treated or disposed of at the facility.

(C) The ~~department~~ division may require the recertification of supervisory personnel when there is any significant change in the types or properties of hazardous waste being treated or disposed of in any facility;

(4) Evidence of an appropriate preventive maintenance program, spill prevention plan, safety procedures, and contingency plans which have been developed in consultation with the fire department having jurisdiction and by the mayor or city manager of the municipality or by the county judge of the county in which the facility is to be located;

(5) Evidence that the location of the facility is consistent with the siting criteria established by the ~~department~~ division as provided in § 8-7-209(a)(3). The provisions of this subdivision (5) shall not apply to a treatment facility which began operation prior to the date of enactment of this act and which has an existing operating permit from the ~~department~~ Arkansas Department of Environmental Quality, now the Division of Environmental Quality, or to any subsequent modifications to such treatment facility, provided that the owner of the treatment facility can demonstrate that the modifications do not materially increase the degree of hazards associated with the treatment facility; and

(6) Evidence of such forms of assurance, including full fee ownership of lands, and all mineral rights thereto, to ensure that the owner of any hazardous waste landfill has the legal authority to commit the

hazardous waste landfill to perpetual security.

SECTION 326. Arkansas Code § 8-7-220(b), concerning the Arkansas Department of Environmental Quality's ability to grant permits, the permit's duration, and the renewal of permits, is amended to read as follows:

(b) Permits shall be subject to renewal by the ~~Arkansas Department~~ Division of Environmental Quality upon a showing that the facility has been operated in accordance with the terms of the permit, the rules and regulations applicable to such facility, and in compliance with all other provisions of this subchapter.

SECTION 327. Arkansas Code § 8-7-221 is amended to read as follows:

8-7-221. Permits – Revocation.

Any permit issued under §§ 8-7-215 – 8-7-220 shall be subject to revocation for failure of the permittee to comply with the terms and conditions of the permit, the rules and regulations of the ~~Arkansas Department~~ Division of Environmental Quality applicable thereto, or the provisions of this subchapter.

SECTION 328. Arkansas Code § 8-7-222 is amended to read as follows:

8-7-222. Permits – Hearing upon denial, revocation, or modification.

Any person who is denied a permit by the Director of the ~~Arkansas Department~~ Division of Environmental Quality or who has such permit revoked or modified shall be afforded an opportunity for a hearing by the Arkansas Pollution Control and Ecology Commission in connection therewith upon written application made within thirty (30) days after service of notice of the denial, revocation, or modification.

SECTION 329. Arkansas Code § 8-7-223 is amended to read as follows:

8-7-223. Location of landfill.

No hazardous waste landfill disposal facility off the site of generation shall be located within one-half ($\frac{1}{2}$) mile of any occupied dwelling unless the applicant shall affirmatively demonstrate and the ~~Arkansas Department~~ Division of Environmental Quality shall specifically find that, because of the nature and amounts of the materials to be placed in such hazardous waste landfill disposal facility, a lesser distance will provide

adequate margins of safety even under abnormal operating conditions.

SECTION 330. Arkansas Code § 8-7-224(a), concerning the rules for transporting hazardous waste, is amended to read as follows:

(a)(1) Following notice and public hearing, the Arkansas Department of Transportation, in consultation with the ~~Arkansas Department~~ Division of Environmental Quality, shall issue rules and regulations for the transportation of hazardous waste.

(2) The rules and regulations shall be consistent with applicable rules and regulations issued by the United States Department of Transportation and with any rules, regulations, and standards issued by the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter.

SECTION 331. Arkansas Code § 8-7-225 is amended to read as follows:

8-7-225. Records and examinations.

(a) The owner or operator of any hazardous waste management facility or site shall notify the ~~Arkansas Department~~ Division of Environmental Quality as to hazardous waste management activities in accordance with the requirements of this subchapter and regulations, permits, and orders issued under this subchapter, and shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, take such samples, perform such tests, and provide such other information to the ~~department~~ division as the Director of the ~~Arkansas Department~~ Division of Environmental Quality may reasonably require.

(b) The ~~department~~ division or any authorized employee or agent thereof may examine and copy any books, papers, records, or memoranda pertaining to the operation of the facility or site.

(c) The ~~department~~ division or any authorized employee or agent thereof may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations necessary or appropriate for the purposes of this subchapter.

(d)(1)(A) Any records, reports, or information obtained under this subchapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.

(B) Upon a showing satisfactory to the director that the records, reports, permits, documentation, information, or any part thereof

would, if made public, divulge methods or processes entitled to protection as trade secrets, the director shall consider, treat, and protect the records, reports, or information as confidential.

(2)(A) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department~~ division under the provisions of this subchapter.

(B) The provisions of subdivision (d)(2)(A) of this section shall not be construed to limit the ~~department's~~ division's authority to release confidential information during emergency situations.

(3) Any violation of this subsection shall be unlawful and constitute a misdemeanor.

SECTION 332. Arkansas Code § 8-7-226 is amended to read as follows:

8-7-226. Fees – Fund established.

(a) The Arkansas Pollution Control and Ecology Commission shall have authority to establish by regulation a schedule of fees to recover the costs of processing permit applications and permit renewal proceedings, on-site inspections and monitoring, the certification of personnel to operate hazardous waste treatment, storage, or disposal facilities, and other activities of ~~Arkansas Department~~ Division of Environmental Quality personnel which are reasonably necessary to assure that generators and transporters of hazardous waste and hazardous waste management facilities are complying with the provisions of this subchapter and which reasonably should be borne by the transporter, generator, or owner or operator of the hazardous waste management facility.

(b) All fees collected pursuant to this section shall be dedicated to enabling the ~~department~~ division to receive authorization to administer a hazardous waste management program in Arkansas pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984.

(c) The Hazardous Waste Permit Fund is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the

State. All fees collected under the provisions of this section shall be deposited into this fund.

(d) The commission is hereby authorized to promulgate such rules and regulations as are necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe such fees, rates, tolls, or charges for the services delivered by the ~~department~~ division or its successor in such manner as may be necessary to support the programs of the ~~department~~ division as directed by the Governor and the General Assembly.

SECTION 333. Arkansas Code § 8-7-227(a)(3), concerning corrective action at permitted facilities and interim status facilities, is amended to read as follows:

(3) The corrective action component of the permit shall also require that corrective action be taken beyond the hazardous waste treatment, storage, or disposal facility boundary when necessary to protect human health and the environment unless the owner or operator of the hazardous waste treatment, storage, or disposal facility concerned demonstrates to the satisfaction of the Director of the ~~Arkansas Department~~ Division of Environmental Quality that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake the action.

SECTION 334. Arkansas Code § 8-7-302(5), concerning legislative findings concerning the disposal of hazardous waste, is amended to read as follows:

(5) The Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., authorizes the ~~Arkansas Department~~ Division of Environmental Quality to encourage the development of interstate agreements for the management of hazardous waste and to enter into such interstate agreements, with the concurrence of the Governor.

SECTION 335. Arkansas Code § 8-7-304(2) and (3), concerning the definitions of "department" and "director" under the Arkansas Resource Reclamation Act of 1979, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental~~

Quality;

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 336. The introductory language of Arkansas Code § 8-7-304(7)(A), concerning the definition of "hazardous waste" under the Arkansas Resource Reclamation Act of 1979, is amended to read as follows:

(7)(A) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may, in the judgment of the ~~department~~ Division of Environmental Quality:

SECTION 337. Arkansas Code § 8-7-307(a)(2) and (3), concerning unlawful actions, acts, and omissions of third parties under the Arkansas Resource Reclamation Act of 1979, are amended to read as follows:

(2) Transport hazardous waste into or out of the state, except as provided by regulations established by the ~~Arkansas Department~~ Division of Environmental Quality pursuant to the provisions of this subchapter; or

(3) Dispose of hazardous waste in the state except as provided by regulations established by the ~~department~~ division pursuant to this subchapter.

SECTION 338. The introductory language of Arkansas Code § 8-7-308, concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

The ~~Arkansas Department~~ Division of Environmental Quality shall have the following powers and duties:

SECTION 339. Arkansas Code § 8-7-308(4) and (5), concerning the powers and duties of the Arkansas Department of Environmental Quality, are amended to read as follows:

(4) To prohibit, by regulation or by condition of permit, the disposal of any hazardous waste within the state unless the owner or custodian of the hazardous waste can demonstrate to the reasonable satisfaction of the Director of the ~~Arkansas Department~~ Division of

Environmental Quality that it is technically or economically infeasible for the hazardous waste to be treated;

(5) To issue, continue in effect, revoke, modify, or deny, under such terms as the ~~department~~ division or the General Assembly may prescribe, permits for the establishment, construction, operation, or maintenance of hazardous waste treatment or disposal facilities;

SECTION 340. Arkansas Code § 8-7-502(b) and (c), concerning the legislative intent under the Remedial Action Trust Fund Act, are amended to read as follows:

(b) The purpose of this subchapter is to encourage privately funded remedial action and to clarify that persons who have undertaken remedial action at a hazardous substance site in response to an action initiated by the ~~Arkansas Department~~ Division of Environmental Quality pursuant to § 8-7-508 may obtain contribution from any other person who is liable for remediation of the hazardous substance site.

(c) A further purpose of this subchapter is to clarify the General Assembly's intent to provide the ~~department~~ division with the necessary funds for remedial action at a hazardous substance site, recognizing that both public and private funds must be expended to implement remedial action at the hazardous substance sites which exist in this state. Costs and expenses for remedial action, whether expended by the ~~department~~ division or by any person liable for the hazardous substance site, are legal damages to persons liable to the state and to persons liable to any other person for contribution, whether the liability arises by voluntary compliance with this subchapter pursuant to an order from or settlement with the ~~department~~ division, or by suit for injunctive relief, declaratory judgment, contribution, damages, or restitution, and whether the suit is brought by the state or by any party authorized to bring a suit for relief under this subchapter.

SECTION 341. Arkansas Code § 8-7-503(2) and (3), concerning the definitions of "department" and "director" under the Remedial Action Trust Fund Act, are repealed

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of~~

~~Environmental Quality;~~

SECTION 342. Arkansas Code § 8-7-504(b)(1), concerning the penalties for unlawful acts under the Remedial Action Trust Fund Act, is amended to read as follows:

(1) A civil penalty in such amount as the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall find appropriate, not to exceed twenty-five thousand dollars (\$25,000) per day of the violation;

SECTION 343. Arkansas Code § 8-7-505(3), concerning unlawful acts under the Remedial Action Trust Fund Act, is amended to read as follows:

(3) To violate any order issued by the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter or any provision of such an order.

SECTION 344. Arkansas Code § 8-7-508(a), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) Upon finding that a hazardous substance site exists or may exist, the ~~Arkansas Department~~ Division of Environmental Quality, upon reasonable notice and after opportunity for hearing, may issue an order to any person liable for the site under § 8-7-512 if that person has caused or contributed to the release or threatened release of hazardous substances at the hazardous substance site. This order shall require that such remedial actions be taken as are necessary to investigate, control, prevent, abate, treat, or contain any releases or threatened releases of hazardous substances from the hazardous substance site.

(2) The fact that such a hazardous substance site is or is not listed by the Arkansas Pollution Control and Ecology Commission pursuant to § 8-7-509(f) shall in no manner limit the authority of the ~~department~~ division under this subchapter.

SECTION 345. Arkansas Code § 8-7-508(b), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(b) The Director of the ~~Arkansas Department~~ Division of Environmental Quality or any employee or authorized agent of the ~~department~~ division may enter upon any private or public property for the purpose of collecting information under this subchapter and for initiating and implementing remedial actions.

SECTION 346. Arkansas Code § 8-7-508(d), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(d) In taking removal action or remedial actions pursuant to this subchapter, the ~~department~~ division or any contractor of the ~~department~~ division under this section shall not be required to obtain any state or local permit for the portion of any removal action or remedial action conducted pursuant to this subchapter entirely on site when the removal action or remedial action is otherwise carried out in compliance with the regulations of the ~~department~~ division.

SECTION 347. Arkansas Code § 8-7-508(f), concerning remedial and removal authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(f) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the ~~department~~ division shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate removal or remedial actions.

SECTION 348. Arkansas Code § 8-7-509(b), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

(b) The Hazardous Substance Remedial Action Trust Fund will be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, who shall authorize expenditures from the Hazardous Substance Remedial Action Trust Fund.

SECTION 349. Arkansas Code § 8-7-509(d)(3)(A), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

(A) For the costs and expenses reasonably necessary for the administration of this subchapter by the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 350. Arkansas Code § 8-7-509(e)(2), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

(2) Reimbursement of all costs incurred by the ~~department~~ division in taking removal actions in connection with a release or threatened release.

SECTION 351. Arkansas Code § 8-7-509(f)(1), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

(f)(1) No expenditures from the Hazardous Substance Remedial Action Trust Fund, as authorized by subdivisions (d)(3)(B) and (C) of this section, shall be made prior to the approval by the Arkansas Pollution Control and Ecology Commission of a prioritized listing of hazardous substance sites at which remedial actions are authorized through the use of Hazardous Substance Remedial Action Trust Fund moneys. This listing shall be revised annually by the ~~department~~ division and submitted to the commission for approval after public notice and opportunity for hearing.

SECTION 352. Arkansas Code § 8-7-510 is amended to read as follows:

8-7-510. Federal actions or compensation not to be duplicated.

No actions taken pursuant to this subchapter by the ~~Arkansas Department~~ Division of Environmental Quality shall duplicate federal actions, and no claims for the costs of response or other claims compensable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, shall be compensable under this subchapter.

SECTION 353. Arkansas Code § 8-7-511(a) and (b), concerning the furnishing of information to the Arkansas Department of Environmental Quality, are amended to read as follows:

(a) For purposes of assisting in determining the need for remedial

action in connection with a release or threat of release of hazardous substances under this subchapter or for enforcing the provisions of this subchapter, any person who stores, treats, or disposes of hazardous substances, or, if necessary to ascertain facts not available at the site or facility where the hazardous substances are stored, treated, or disposed of, any person who generates, transports, otherwise handles, or has handled hazardous substances shall, upon request of any officer or employee of the ~~Arkansas Department~~ Division of Environmental Quality, furnish information relating to the hazardous substance and permit the person at all reasonable times to have access to and copy all records relating to the hazardous substances and to inspect and obtain samples of any such hazardous substances or other materials.

(b) However, any information which would constitute a trade secret under § 4-75-601 et seq., obtained by the ~~department~~ Department of Energy and Environment, the Secretary of the Department of Energy and Environment, the division, or its employees in the administration of this subchapter, except emission data, shall be kept confidential.

SECTION 354. Arkansas Code § 8-7-512(b)(1), concerning the liability for cost and immunity from liability, is amended to read as follows:

(b)(1) No person shall be liable under this subchapter for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice at the direction of the Department of Energy and Environment, the Secretary of the Department of Energy and Environment, or the ~~Arkansas Department~~ Division of Environmental Quality, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat of a release of a hazardous substance.

SECTION 355. Arkansas Code § 8-7-512(c)(1), concerning the liability for cost and immunity from liability, is amended to read as follows:

(c)(1) A person taking remedial action or removal action under this subchapter as a contractor for the department or division shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third

parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.

SECTION 356. Arkansas Code § 8-7-514(a) and (b), concerning recovery of expenditures from the Hazardous Substance Remedial Action Trust Fund, are amended to read as follows:

(a) After an expenditure from the Hazardous Substance Remedial Action Trust Fund for a removal action or remedial action, the ~~Arkansas Department~~ Division of Environmental Quality shall institute action to recover the expenditure from the person or persons liable for causing the release of the hazardous substance, including taking any appropriate legal action.

(b) Making use of any and all appropriate existing state legal remedies, the ~~department~~ division or the Attorney General shall act to recover the amount expended by the state for any and all remedial action or removal actions from any and all parties identified as responsible parties for each hazardous substance.

SECTION 357. Arkansas Code § 8-7-516(b), concerning liens for expenditures and the value of improvements, is amended to read as follows:

(b) The lien shall be effective upon the filing by the Director of the ~~Arkansas Department~~ Division of Environmental Quality of a notice of lien with the circuit clerk in the county in which the real property is located.

SECTION 358. Arkansas Code § 8-7-516(d), concerning liens for expenditures and the value of improvements, is amended to read as follows:

(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on the real property by the ~~Arkansas Department~~ Division of Environmental Quality or its agent under this subchapter.

SECTION 359. Arkansas Code § 8-7-517 is amended to read as follows:
8-7-517. Punitive damages.

If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide remedial action or removal action upon order of the ~~Arkansas Department~~

Division of Environmental Quality, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.

SECTION 360. The introductory language of Arkansas Code § 8-7-518(a), concerning fees on the generation of hazardous waste, is amended to read as follows:

(a) On or before April 1 of each year, the following persons shall report the total amount of such hazardous waste generated or accepted to the Director of the ~~Arkansas Department~~ Division of Environmental Quality, except as provided in this section, on forms prescribed by the ~~Arkansas Department~~ Division of Environmental Quality:

SECTION 361. The introductory language of Arkansas Code § 8-7-518(b)(1)(A), concerning fees on the generation of hazardous waste, is amended to read as follows:

(b)(1)(A) Except as provided in this section, there is assessed a fee to be collected by the ~~department~~ division upon every person who generated hazardous waste in Arkansas or who accepted hazardous waste generated outside of the state which were subsequently received for treatment, storage, or disposal in Arkansas based upon the combined total of such hazardous waste as is required to be reported pursuant to subsection (a) of this section.

SECTION 362. Arkansas Code § 8-7-518(b)(2)(C) and (D), concerning fees on the generation of hazardous waste, are amended to read as follows:

(C) The ~~department~~ division shall calculate the amount of fee refund due and provide the applicant with a copy of the calculation.

(D) The ~~department~~ division shall promptly pay any refund due from the Hazardous Substance Remedial Action Trust Fund.

SECTION 363. Arkansas Code § 8-7-518(c)-(e), concerning fees on the generation of hazardous waste, are amended to read as follows:

(c) On or before July 1 of each year, each person subject to subsection (a) of this section shall pay to the ~~department~~ division the fee required by subsection (b) of this section.

(d) To the extent practicable, the ~~department~~ division shall

coordinate the reporting requirements of this section with the reporting requirements of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations adopted under the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq. The content of the reporting shall be consistent with federal reporting requirements pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., in all respects with the exception of frequency.

(e) The ~~department~~ division shall prepare annually a statement of all revenues collected by the fees under this section, as well as all other revenues to the fund, and all expenditures from the fund and obligations of the fund and the current balance in the fund.

SECTION 364. Arkansas Code § 8-7-519, is amended to read as follows:
8-7-519. Appeals.

An appeal may be taken from any final order of the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter as provided in §§ 8-4-202, 8-4-210, 8-4-212 – 8-4-214, 8-4-218, 8-4-219, and 8-4-221 – 8-4-229 and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.

SECTION 365. Arkansas Code § 8-7-521(a) and (b), concerning site access for remedial or removal actions, are amended to read as follows:

(a) For purposes of responding to an administrative or judicial order or settlement entered pursuant to § 8-7-508, the owner or the operator of a facility that is a hazardous substance site, or any person who otherwise controls access to such a facility, shall provide access to the ~~Arkansas Department~~ Division of Environmental Quality, any employee of the ~~department~~ division, or any other person, duly designated by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, who undertakes such activities as are required to carry out the terms of the order or settlement.

(b) Any person who impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial action or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial order or settlement may be assessed a civil penalty by the ~~department~~ division in an administrative proceeding or by the court in a judicial proceeding for a site access injunction of up to ten

thousand dollars (\$10,000) per day that site access is impeded.

SECTION 366. Arkansas Code § 8-7-603 is amended to read as follows:

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

Neither the ~~Arkansas Department~~ Division of Environmental Quality 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 approve or issue a permit for any facility unless the facility will fully comply with the requirements of this subchapter in all respects.

SECTION 367. Arkansas Code § 8-7-702(1), concerning the definition of a "hazardous site" regarding federally listed hazardous sites, is amended to read as follows:

(1) "Hazardous site" means 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~~ Division of Environmental Quality to be necessary or appropriate to implement a response ordered by the President of the United States;

SECTION 368. Arkansas Code § 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 hazardous site for any residential, commercial, manufacturing, industrial, or recreational purposes shall be prohibited unless and until the ~~Arkansas Department~~ Division of Environmental Quality issues an order terminating, wholly or partially, such prohibitions. Such order shall be subject to the procedural guidelines set forth in §§ 8-4-212 – 8-4-214 and 8-4-222 – 8-4-229 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

SECTION 369. Arkansas Code § 8-7-706 is amended to read as follows:

8-7-706. Ad valorem tax exemption.

Upon initiation of a response action at a hazardous site, such hazardous site shall be appraised at no value for purposes of any ad valorem taxes levied by any state, county, or local governmental authority unless and until the ~~Arkansas Department~~ Division of Environmental Quality issues an

order wholly terminating the construction and use prohibitions established by § 8-7-705. This section shall not apply to the interest in such hazardous site owned by any passive-site owner or its successors and assigns that have violated § 8-7-703(a).

SECTION 370. Arkansas Code § 8-7-801(4), concerning the definition of "department" under the laws for regulated substance storage tanks, is repealed.

~~(4) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 371. Arkansas Code § 8-7-801(10)(B), concerning the definition of "release" under the laws for regulated substance storage tanks, is amended to read as follows:

(B) "Release" does not include releases that are permitted or authorized by the ~~department~~ division or by federal law;

SECTION 372. Arkansas Code § 8-7-802(a)(2)(B)(ii), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(ii) The fee shall be used by the ~~Arkansas Department~~ Division of Environmental Quality for administrative and program costs.

SECTION 373. Arkansas Code § 8-7-802(a)(2)(C)(ii), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(ii) The fee shall be used by the ~~Arkansas Department~~ Division of Environmental Quality for administrative and program costs, and ten dollars (\$10.00) of the fee collected by the ~~Arkansas Department~~ Division of Environmental Quality shall be remitted to the State Treasury, there to be deposited as special revenues to the credit of the ~~Department~~ Division of Arkansas State Police Fund to be used for the purposes of above-ground storage tank monitoring and regulation by the Department of Arkansas State Police.

SECTION 374. The introductory language of Arkansas Code § 8-7-802(b), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality shall have the following powers and duties:

SECTION 375. Arkansas Code § 8-7-802(b)(3), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(3) To accept and administer loans and grants from the United States Government and from such other sources as may be available to the ~~Arkansas Department~~ Division of Environmental Quality for the planning, implementation, and enforcement of an underground storage tank program for release detection, prevention, corrective action, and financial responsibility;

SECTION 376. Arkansas Code § 8-7-802(b)(5), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(5) To enter upon any public or private property for the purpose of obtaining information, conducting surveys or investigations, or taking corrective action, and the ~~Arkansas Department~~ Division of Environmental Quality may copy or require submission of books, papers, records, memoranda, or data pertaining to the management of underground storage tanks;

SECTION 377. Arkansas Code § 8-7-804 is amended to read as follows:

8-7-804. Procedures generally.

The procedure of the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on permits, right of appeal, presumptions, finality of actions, and related matters shall be as provided in §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-4-229, including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229 to the extent they are not in conflict with the provisions of this subchapter.

SECTION 378. Arkansas Code § 8-7-805(a), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

(a) It shall be unlawful for an individual to certify the installation or testing of an underground storage tank unless the individual has been duly licensed by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 379. Arkansas Code § 8-7-805(b)(1)(B), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

(B) Which provides that the ~~department~~ division is the obligee or payee of the instrument and otherwise complies with the regulations promulgated under this subchapter.

SECTION 380. Arkansas Code § 8-7-805(d), concerning the license requirement to certify the installation or testing of an underground storage tank, is amended to read as follows:

(d) In the event the licensee or contracting company fails to properly install, remove, repair, close, upgrade, or test any underground storage tank pursuant to state law or regulation, the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall commence proceedings to collect on the surety bond, letter of credit, or cash bond on which the ~~department~~ division is the obligee or payee.

SECTION 381. Arkansas Code § 8-7-806(a)(3), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

(3) To violate any order issued by the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter or any provision of any such order.

SECTION 382. Arkansas Code § 8-7-806(d)(5), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

(5) The administrative procedures set forth in § 8-7-804 may be used to recover all costs, expenses, and damages to the ~~department~~ division

and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages.

SECTION 383. The introductory language of Arkansas Code § 8-7-806(e), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

(e) The ~~department~~ division is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 384. Arkansas Code § 8-7-806(e)(3), concerning penalties and enforcement for regulated substance storage tanks, is amended to read as follows:

(3) Recover all costs, expenses, and damages to the ~~department~~ division and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter, including, but not limited to, natural resource damages;

SECTION 385. Arkansas Code § 8-7-807(a)-(c), concerning the responsibility and liability of an owner of a underground storage tank, are amended to read as follows:

(a)(1) Upon a determination that a release of a regulated substance from a storage tank has occurred, the owner or operator shall notify the ~~Arkansas Department~~ Division of Environmental Quality. The owner or operator shall immediately undertake to collect and remove the release and to restore the area affected in accordance with the requirements of this subchapter.

(2) However, the obligation of an owner or operator of an aboveground storage tank to notify the ~~department~~ division or undertake the other activities required in this subsection shall not exceed and will be limited to the existing requirements of any other applicable federal or state statutes or regulations.

(b) If the owner or operator fails to proceed as required in subsection (a) of this section, the owner and operator shall be liable to the ~~department~~ division for any costs incurred by the ~~department~~ division for undertaking corrective action or enforcement action with respect to the

release of a regulated substance from a storage tank.

(c)(1)(A) A release site property owner or adjacent property owner shall not unduly impede or interfere with the efforts of the ~~department~~ division or the owner or operator to undertake investigation, site assessment, or corrective action in accordance with the requirements of this subchapter.

(B) The ~~department~~ division or the owner, as defined in § 8-7-801, or operator shall undertake investigation, site assessment, or corrective action, as approved by the ~~department~~ division after notice to the affected parties, that minimizes to the most reasonable extent practicable any interference with the release site property owner's or adjacent property owner's use and enjoyment of the property, taking into consideration the relevant private and commercial interests and the release site property owner's or adjacent property owner's need for access.

(2)(A) A release site property owner or adjacent property owner that violates subdivision (c)(1) of this section is liable for any investigation, site assessment, or corrective action costs resulting from the violation.

(B) If the release site property owner or adjacent property owner denies access to property when the access is reasonably necessary for investigation, site assessment, or corrective action undertaken by the ~~department~~ division or by the owner or operator under a ~~department~~ division directive, order, or approved corrective action plan, the ~~department~~ division may order the release site property owner or adjacent property owner to undertake the portion of investigation, site assessment, or corrective action that was prohibited by the denial of access.

(3) This section does not impair any right of the release site property owner or adjacent property owner to seek equitable or legal remedies, including without limitation claims for trespass, compensation as the result of eminent domain, damages for temporary or permanent takings of rights in land, contribution, and any other right or remedy allowed by state or federal law or regulation.

SECTION 385. Arkansas Code § 8-7-807(e), concerning the responsibility and liability of an owner of a underground storage tank, is amended to read as follows:

(e) Any costs recovered by the ~~department~~ division under this section shall be used to reimburse the Petroleum Storage Tank Trust Fund in the amount utilized by the ~~department~~ division and the balance, if any, deposited into the Regulated Substance Storage Tank Program Fund.

SECTION 386. Arkansas Code § 8-7-808 is amended to read as follows:

8-7-808. Regulated Substance Storage Tank Program Fund.

There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Regulated Substance Storage Tank Program Fund". Such Regulated Substance Storage Tank Program Fund shall consist of federal funds, any necessary state matching funds as may be provided by the General Assembly, licensure fees, annual registration fees, and any moneys recovered by the ~~Arkansas Department~~ Division of Environmental Quality which are attributable to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807 not owed the Petroleum Storage Tank Trust Fund. All said moneys shall be deposited as special revenues to be used in the administration of this subchapter.

SECTION 387. Arkansas Code § 8-7-809(b)(1), concerning corrective actions and orders of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(b)(1) Notwithstanding any other provisions of this subchapter, the Director of the ~~Arkansas Department~~ Division of Environmental Quality, upon finding that the release may present an imminent and substantial hazard to the health of persons or to the environment and that an emergency exists requiring immediate action to protect the public health and welfare or the environment may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and emergency and requiring that such action be taken as he or she determines to be necessary to protect the health of such persons or the environment and to meet the emergency.

SECTION 388. Arkansas Code § 8-7-810(a), concerning insurance pools for owners and operators of storage tanks, is amended to read as follows:

(a) Owners or operators of storage tanks who are unable to demonstrate financial responsibility in the minimum amounts specified by the ~~Arkansas~~

~~Department~~ Division of Environmental Quality may establish an insurance pool in order to demonstrate such financial responsibility.

SECTION 389. Arkansas Code § 8-7-811 is amended to read as follows:

8-7-811. Trade secrets.

(a) Any records, reports, or information obtained by the Department of Energy and Environment, the Secretary of the Department of Energy and Environment, and the ~~Arkansas Department~~ Division of Environmental Quality or the department's or division's employees in the administration of this subchapter, except release data, shall be kept confidential upon a showing satisfactory to the Director of the ~~Arkansas Department~~ Division of Environmental Quality that the records, reports, or information would constitute a trade secret under § 4-75-601 et seq.

(b) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department's~~ division's under the provisions of this subchapter.

(c) The provisions of this section shall not be construed to limit the ~~department~~ division's authority to release confidential information during emergency situations.

(d) Any violation of this section shall be unlawful and shall constitute a misdemeanor.

SECTION 390. Arkansas Code § 8-7-812(b), concerning the conflicts between regulated substance storage tanks and the Arkansas Water and Air Pollution Control Act, is amended to read as follows:

(b) The provisions of this subchapter and the rules and regulations promulgated pursuant to this subchapter shall govern if they conflict with the provisions of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., or any action taken by the ~~Arkansas Department~~ Division of Environmental Quality under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.,

the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.

SECTION 391. Arkansas Code § 8-7-902(7) and (8), concerning the definition of "department" and "director" under the Petroleum Storage Tank Trust Fund Act, are repealed.

~~(7) "Department" means the Arkansas Department of Environmental Quality;~~

~~(8) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 392. Arkansas Code § 8-7-902(15)(B), concerning the definition of "release" under the Petroleum Storage Tank Trust Fund Act, is amended to read as follows:

(B) "Release" does not include a release that is permitted or authorized by the ~~department~~ division or by federal law;

SECTION 393. Arkansas Code § 8-7-903(c), concerning the rules and regulations and the powers and duties of the Director of the Department of Finance and Administration, is amended to read as follows:

(c) The ~~Arkansas Department~~ Division of Environmental Quality shall have the authority to enter upon the property of any owner or operator of an aboveground storage tank to obtain information, conduct surveys, or review records for the purpose of determining substantial compliance, as defined by this subchapter and regulations promulgated thereunder, with all state and federal laws and regulations relating to aboveground storage tanks prior to the director's approval of a claim for reimbursement or disbursement.

SECTION 394. Arkansas Code § 8-7-904(e), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

(e) The ~~Arkansas Department~~ Division of Environmental Quality shall provide adequate staff to support the activities of the committee.

SECTION 395. Arkansas Code § 8-7-904(g), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as

follows:

(g) The committee shall advise and make recommendations to the Director of the ~~Arkansas Department~~ Division of Environmental Quality regarding claims for payment under this subchapter.

SECTION 396. Arkansas Code § 8-7-904(h), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

(h) The committee shall advise the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission regarding promulgation of rules and regulations concerning storage tanks.

SECTION 397. Arkansas Code § 8-7-905(b) and (c), concerning the establishment of the Petroleum Storage Tank Trust Fund, are amended to read as follows:

(b) The fund will be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, who shall make disbursements from the fund as authorized by this subchapter.

(c) The fund shall consist of gifts, grants, donations, and such other funds as may be made available by the General Assembly, including all interest earned upon money deposited into the fund, fees assessed under this subchapter, any moneys recovered by the ~~Arkansas Department~~ Division of Environmental Quality, the proceeds of bonds issued by the Arkansas Development Finance Authority for the benefit of the fund, and any other moneys legally designated for the fund.

SECTION 398. Arkansas Code § 8-7-905(d)(4) and (5), concerning the establishment of the Petroleum Storage Tank Trust Fund, are amended to read as follows:

(4) To pay reasonable and necessary costs and expenses of the ~~department~~ division for taking corrective action caused by accidental releases from a storage tank of unknown ownership or when corrective action is not commenced by the owner or operator in a timely manner;

(5)(A) To reimburse owners and operators in the vicinity of the release for performing short-term testing or monitoring which is in addition to that required by the ~~department's~~ division's rules and regulations if the

~~department~~ division has a reasonable basis for believing that the petroleum underground storage tank or tanks may be the source of the release.

(B) The owners and operators of petroleum underground storage tanks, including out-of-service and nonoperational petroleum underground storage tanks, not found to be the source of the release and who cooperate with the ~~department~~ division may apply to the fund for reimbursement for such testing and monitoring costs, not including lost managerial time or loss of revenues because of temporary business closure; and

SECTION 399. Arkansas Code § 8-7-905(i)(2), concerning the establishment of the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(2) The procedures of the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, right of appeal, presumptions, finality of actions, and related matters shall be as provided in §§ 8-4-202, 8-4-210 – 8-4-214, and 8-4-218 – 8-4-229, and in rules and regulations applicable to administrative procedures of the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission to the extent they are not in conflict with the provisions of this subchapter.

SECTION 400. Arkansas Code § 8-7-907(a)(1), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(a)(1) No payment for corrective action shall be paid from the Petroleum Storage Tank Trust Fund until the owner or operator has expended seven thousand five hundred dollars (\$7,500) on corrective action for the occurrence, except in cases in which the Director of the ~~Arkansas Department~~ Division of Environmental Quality is using emergency authority under § 8-7-905(e). It is the intent of the General Assembly that this initial level of expenditure be considered the equivalent of an insurance policy deductible.

SECTION 401. Arkansas Code § 8-7-907(c)(2) and (3), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, are amended to read as follows:

(2) The corrective action expenses submitted for reimbursement consist of items and amounts that are in accord and compliant with ~~Arkansas Department~~ Division of Environmental Quality regulations; and

(3) The owner or operator cooperated fully with the ~~department~~ division in corrective action to address the release.

SECTION 402. Arkansas Code § 8-7-907(e)(2)(B), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(B) Specific assurances must be provided that an approved corrective action plan, ~~department~~ division directive, or order is being implemented and followed to date; and

SECTION 403. Arkansas Code § 8-7-907(f), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(f)(1) In the event moneys are expended from the fund for corrective action and the owner or operator was not at the time of the occurrence eligible to receive reimbursement for corrective action, as defined by this subchapter and regulations promulgated under this subchapter, the ~~department~~ division may recover from the owner or operator the amount of moneys expended from the fund for corrective action by filing an action in the appropriate circuit court or by using the administrative procedures set forth in § 8-7-804.

(2)(A) The ~~department~~ division also has a right of subrogation:

(i) To any insurance policies in existence at the time of the occurrence to the extent of any rights the owner or operator of a site may have had under that policy; and

(ii) Against any third party who caused or contributed to the occurrence.

(B) The right of subrogation shall apply to sites where corrective action is taken by:

(i) Owners or operators; or

(ii) The ~~department~~ division.

(C) As used in this subsection, "third party" does not include a former owner or operator of the site where corrective action is

taken.

SECTION 404. Arkansas Code § 8-7-907(g)(2), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(2) Eligibility for reimbursement of unknown petroleum storage tanks will be conditioned on the payment of three hundred seventy-five dollars (\$375) to the ~~department~~ division.

SECTION 405. Arkansas Code § 8-7-907(h), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(h) If the owner or operator is found to have been in noncompliance with any state and federal laws and regulations relating to storage tanks at the time of the occurrence, the ~~department~~ division may assess a penalty in accordance with its applicable policies and procedures.

SECTION 406. Arkansas Code § 8-7-907(i)(1), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(i)(1) An owner or operator determined to be eligible for payment for corrective action for a release from a qualified storage tank or the ~~department~~ division may transfer the eligibility to a subsequent owner or operator of the qualified storage tank if the ~~department~~ division determines that the subsequent owner or operator has the financial and legal capacity to complete the corrective action and the subsequent owner or operator agrees in writing to assume responsibility for corrective action.

SECTION 407. Arkansas Code § 8-7-907(j)(2), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(2) If an owner or operator is performing corrective action to the ~~department's~~ division's satisfaction, a lender or secured creditor is not eligible to assume responsibility for corrective action or to receive payment for corrective action.

SECTION 408. Arkansas Code § 8-7-907(k)(2)(D), concerning payments for corrective action from the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(D) Providing for reversion of equipment to the ~~department~~ division if the responsibility for the maintenance or payment for the equipment is not met.

SECTION 409. Arkansas Code § 8-7-908(a)(1)(A), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(A) The Director of the ~~Arkansas Department~~ Division of Environmental Quality is using his or her emergency authority under § 8-7-905(e); or

SECTION 410. Arkansas Code § 8-7-908(d), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(d)(1)(A) Any owner or operator against whom a third-party claim is filed in court or in the Arkansas State Claims Commission shall give written notice of the claim to the ~~Arkansas Department~~ Division of Environmental Quality no later than twenty (20) days after service of summons or receipt of notification of the claim from the Arkansas State Claims Commission.

(B) As a condition of eligibility, an owner or operator shall cooperate with and assist the ~~department~~ division and, if applicable, the Attorney General's office in connection with the third-party claim.

(C) At a minimum, the cooperation shall include active participation by the owner or operator throughout the litigation and providing assistance as required by the ~~department~~ division or the Attorney General's office during resolution of a third-party claim.

(D) In determining compliance with subdivisions (d)(1)(B) and (C) of this section, the director shall consider the owner's or operator's financial condition.

(2) Upon receipt of the notice, the ~~department~~ division shall immediately notify the Attorney General, who shall have the right to intervene in any such lawsuit or proceeding in order to protect the interests of the state in the fund.

(3) Payment of third-party claims from the fund may be denied for any owner or operator who fails to give the ~~department~~ division notice as required in this subsection.

SECTION 411. Arkansas Code § 8-7-908(f), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(f)(1) In the event moneys are expended from the fund for third-party claims and the owner or operator was not at the time of the occurrence in substantial compliance, as defined by this subchapter and regulations promulgated under this subchapter, the ~~department~~ division may recover from the owner or operator the amount of moneys expended from the fund for the third-party claim by filing an action in the appropriate circuit court or by using the administrative procedures set forth in § 8-7-804.

(2)(A) The ~~department~~ division also has a right of subrogation:

(i) To any insurance policies in existence at the time of the occurrence to the extent of any rights the owner or operator of a site may have had under that insurance policy; and

(ii) Against any third party who caused or contributed to the occurrence.

(B) The right of subrogation shall apply to sites where corrective action is taken by:

(i) Owners or operators; or

(ii) The ~~department~~ division.

(C) As used in this subsection, "third party" does not include a former owner or operator of the site where corrective action is taken.

SECTION 412. Arkansas Code § 8-7-908(g)(2), concerning third-party claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(2) Eligibility for reimbursement of unknown petroleum storage tanks will be conditioned on the payment of three hundred seventy-five dollars (\$375) to the ~~department~~ division.

SECTION 413. Arkansas Code § 8-7-908(h)(1), concerning third-party

claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(h)(1) An owner or operator determined to be eligible for payment for third-party claims for a release may transfer the eligibility to an owner or operator that acquires the storage tank if the ~~department~~ division determines that the subsequent owner or operator has the financial and legal capacity and has assumed in writing the responsibility for third-party liability.

SECTION 414. Arkansas Code § 8-7-909 is amended to read as follows:

8-7-909. Confidential treatment of information.

(a) Any records, reports, or information obtained by the ~~Arkansas Department~~ Division of Environmental Quality or the ~~department's~~ division's employees in the administration of this subchapter, except release data, shall be kept confidential upon a showing satisfactory to the Director of the ~~Arkansas Department~~ Division of Environmental Quality that the records, reports, or information would constitute a trade secret under § 4-75-601 et seq.

(b) As necessary to carry out the provisions of this subchapter, information afforded confidential treatment may be transmitted under a continuing claim of confidentiality to other officers or employees of the state or of the United States if the owner or operator of the facility to which the information pertains is informed of the transmittal and if the information has been acquired by the ~~department~~ division under the provisions of this subchapter.

(c) The provisions of this section shall not be construed to limit the ~~department's~~ division's authority to release confidential information during emergency situations.

(d) Any violation of this section shall be unlawful and shall constitute a misdemeanor.

SECTION 415. Arkansas Code § 8-7-1101(4) and (5), concerning the declaration of policy by the General Assembly for the redevelopment of abandoned industrial, commercial, or agricultural sites or abandoned residential property, are amended to read as follows:

(4) Incentives should be put in place to encourage prospective purchasers to voluntarily develop and implement cleanup plans of abandoned

sites without the need for adversarial enforcement actions by the ~~Arkansas Department~~ Division of Environmental Quality;

(5) The ~~department~~ division now routinely determines, through its permitting policies, when contamination will and will not pose unacceptable risks to public health or the environment, and similar concepts are used in establishing cleanup policies for abandoned sites;

SECTION 416. Arkansas Code § 8-7-1102(a)(1), concerning the definition of "abandoned site" under the laws about the voluntary cleanup of hazardous waste, is amended to read as follows:

(1) "Abandoned site" means a site on which industrial, commercial, or agricultural activity occurred and for which no responsible person can reasonably be pursued for a remedial response to clean up the site or residential property or when the ~~Arkansas Department~~ Division of Environmental Quality determines it is in the best interest of the citizens of Arkansas to promote redevelopment under this subchapter while continuing to pursue the responsible party or parties;

SECTION 417. Arkansas Code § 8-7-1102(a)(2), concerning the definition of "implementing agreement" under the laws about the voluntary cleanup of hazardous waste, is amended to read as follows:

(2) "Implementing agreement" means a plan, order, memorandum of agreement, or other enforceable document issued by the ~~department~~ division under provisions of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., the Remedial Action Trust Fund Act, § 8-7-501 et seq., or this subchapter, to implement the voluntary cleanup process described in § 8-7-1104;

SECTION 418. The introductory language of Arkansas Code § 8-7-1103(a), concerning the authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall have authority regarding a voluntary response program to provide the following:

SECTION 419. Arkansas Code § 8-7-1103(a)(6), concerning the authority

of the Arkansas Department of Environmental Quality, is amended to read as follows:

(6)(A) A requirement for certification or similar documentation from the ~~department~~ division to the person conducting the voluntary response action indicating that the response is complete.

(B) This certification shall document any conditions, restrictions, or limitations on the release from liability for contamination existing at the site before the ~~department~~ division and the prospective purchaser enter into an implementing agreement.

SECTION 420. Arkansas Code § 8-7-1103(b), concerning the authority of the Arkansas Department of Environmental Quality, is amended to read as follows:

(b) The ~~department~~ division may establish and administer a revolving loan fund to make secured and unsecured loans or grants to eligible participants for the purpose of financing the assessment, investigation, or remedial actions at abandoned industrial, commercial, or agricultural sites, or at abandoned residential property.

SECTION 421. Arkansas Code § 8-7-1104(c), concerning the voluntary cleanup process, is amended to read as follows:

(c) Following completion of a comprehensive site assessment, the ~~Arkansas Department~~ Division of Environmental Quality shall determine whether the site assessment adequately identifies the environmental risks posed by the abandoned site.

SECTION 422. Arkansas Code § 8-7-1104(d)(4), concerning the voluntary cleanup process, is amended to read as follows:

(4) The notice shall be subject to the approval of the ~~department~~ division.

SECTION 423. Arkansas Code § 8-7-1104(f)(1)(B), concerning the voluntary cleanup process, is amended to read as follows:

(B) A purchaser may not actually use the property in a manner which differs from the intended use identified in the implementing agreement contemplated by subsection (d) of this section, unless the

~~department~~ division and purchaser agree to a modification of the implementing agreement; or

SECTION 424. Arkansas Code § 8-7-1104(h)(1), concerning the voluntary cleanup process, is amended to read as follows:

(h)(1) The selection of remedial action shall be approved by the ~~department~~ division after reasonable notice and after opportunity for hearing and shall become an amendment to the implementing agreement entered into pursuant to subsection (d) of this section.

SECTION 425. Arkansas Code § 8-7-1104(j), concerning the voluntary cleanup process, is amended to read as follows:

(j) A prospective purchaser of an abandoned site under this subchapter shall not be responsible for paying any fines or penalties levied against any person responsible for contamination on the abandoned site prior to the implementing agreement with the ~~department~~ division.

SECTION 426. Arkansas Code § 8-7-1104(m), concerning the voluntary cleanup process, is amended to read as follows:

(m) Upon written notice to the ~~department~~ division, the implementing agreement, including all rights and cleanup liabilities entered into by the ~~department~~ division and the prospective purchaser under subsection (d) of this section, is transferable in its entirety to all subsequent owners of the property who did not, by act or omission, cause or contribute to any release or threatened release of hazardous substances on the abandoned site.

SECTION 427. Arkansas Code § 8-7-1204(b)(4), concerning the creation of the Abandoned Pesticide Advisory Board, is amended to read as follows:

(4) One (1) member shall be a representative from the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 428. Arkansas Code § 8-7-1302 is amended to read as follows:
8-7-1302. Purpose.

It is the purpose of this subchapter to authorize the ~~Arkansas Department~~ Division of Environmental Quality to establish and administer a certification program to maintain a list of Phase I consultants who meet the

minimum qualifications for an environmental professional who undertakes a Phase I environmental site assessment, referred to as “all appropriate inquiry” under the Small Business Liability Relief and Brownfields Revitalization Act, Pub. L. No. 107-118, as it exists on January 1, 2007, or a Phase I environmental site assessment under the American Society for Testing and Materials standard E1527-05 as in effect on January 1, 2007.

SECTION 429. Arkansas Code § 8-7-1311(a)(1), concerning fees paid to the Hazardous Waste Permit Fund of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a)(1) Under regulations promulgated by the Arkansas Pollution Control and Ecology Commission, the ~~Arkansas Department~~ Division of Environmental Quality may assess fees to Phase I consultants who apply to be placed on the list maintained under § 8-7-1304.

SECTION 430. The introductory language of Arkansas Code § 8-7-1402(a), concerning professional cleanup of properties contaminated through the manufacture of controlled substances, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall:

SECTION 431. Arkansas Code § 8-7-1402(a)(4)(A) and (B), concerning professional cleanup of properties contaminated through the manufacture of controlled substances, are amended to read as follows:

(A) On the ~~department's~~ division's website; and

(B) In hard copy upon request to the ~~department~~ division;

and

SECTION 432. Arkansas Code § 8-7-1403(b), concerning the reporting of properties contaminated through the manufacture of controlled substances, is amended to read as follows:

(b)(1) If a property owner finds or becomes aware of evidence of a laboratory for the manufacture of controlled substances on his or her property, the property owner shall have the property inspected in accordance with the guidelines established by the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter by a contractor certified by the ~~department~~ division under § 8-7-1402.

(2) If the contractor selected by the property owner under subdivision (b)(1) of this section verifies that a laboratory for the manufacture of controlled substances has been on the property, the contractor shall notify the ~~department~~ division, and the ~~department~~ division shall place the property on the contaminated properties list required under § 8-7-1404.

SECTION 433. Arkansas Code § 8-7-1404(a), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) ~~By May 1, 2008, the Arkansas Department~~ The Division of Environmental Quality shall maintain records concerning properties contaminated through the manufacture of controlled substances.

SECTION 434. The introductory language of the Arkansas Code § 8-7-1404(b), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

(b) The ~~department~~ division shall:

SECTION 435. Arkansas Code § 8-7-1404(b)(3)(B), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, is amended to read as follows:

(B) The property has met the remediation standards developed by the ~~department~~ division;

SECTION 436. Arkansas Code § 8-7-1404(b)(4) and (5), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, are amended to read as follows:

(4)(A) Post the results of a cleanup on the ~~department's~~ division's website for ten (10) working days after the ~~department~~ division determines that the property has been adequately remediated.

(B) After the ten (10) working days of posting required under subdivision (b)(4)(A) of this section, the ~~department~~ division shall remove from the ~~department's~~ division's website the formerly contaminated property and the results of the cleanup; and

(5) Remove a property from the list when the ~~department~~ division finds that the property has been adequately remediated.

SECTION 437. Arkansas Code § 8-7-1404(c), concerning the required recordkeeping by the Arkansas Department of Environmental Quality, are amended to read as follows:

(c)(1) The ~~department~~ division shall make the list of properties contaminated through the manufacture of controlled substances available to law enforcement officials and to the public:

(A) On the ~~department's~~ division's website; and

(B) In hard copy upon request to the ~~department~~ division.

(2) The ~~department~~ division shall keep hard copies of the information required under this section until the ~~department~~ division has removed the property from the list of properties contaminated through the manufacture of controlled substances.

SECTION 438. Arkansas Code § 8-7-1405(b)(3), concerning the notice of cleanup and residual contamination, is amended to read as follows:

(3) The ~~Arkansas Department~~ Division of Environmental Quality shall cooperate with the Arkansas Crime Information Center to create a computer link that will allow the center to transfer to the ~~department~~ division information from the National Clandestine Laboratory Seizure Report required under 28 C.F.R. Part 23 that is relevant to the notice of removal required under subsection (d) of this section.

SECTION 439. Arkansas Code § 8-7-1405(d)(7)(D)(i), concerning the notice of cleanup and residual contamination, is amended to read as follows:

(D)(i) It is unlawful for any unauthorized person to enter a residually contaminated property or, in the case of a space-rental mobile home or recreational vehicle park, the unit located on the property until the ~~department~~ division establishes that the portion of the property identified as residually contaminated has been properly remediated.

SECTION 440. Arkansas Code § 8-7-1405(d)(7)(D)(ii)(a), concerning the notice of cleanup and residual contamination, is amended to read as follows:

(a) An employee of the ~~department~~ division;

SECTION 441. Arkansas Code § 8-7-1405(d)(7)(E)-(G), concerning the

notice of cleanup and residual contamination, are amended to read as follows:

(E) Failure to comply with this section is a violation of the ~~department's~~ division's rules pertaining to the cleanup of laboratories for the manufacture of controlled substances;

(F) Disturbing the notice of removal posted on the property is a violation of the ~~department's~~ division's rules concerning the cleanup of laboratories for the manufacture of controlled substances; and

(G) The owner of the property is responsible for remediating the residually contaminated portion of the property in compliance with the ~~department's~~ division's rules concerning the cleanup of laboratories for the manufacture of controlled substances.

SECTION 442. Arkansas Code § 8-7-1406 is amended to read as follows:

8-7-1406. Remediated property.

(a) After property contaminated through the manufacture of controlled substances is remediated and the property owner receives official notification from the ~~Arkansas Department~~ Division of Environmental Quality, no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination.

(b) Unless retention is mandated by federal law, the ~~department~~ division shall destroy all copies of information required to be kept under this subchapter that refer to a specific property location once the property is officially removed from the contaminated properties list.

SECTION 443. Arkansas Code § 8-9-101 is amended to read as follows:

8-9-101. Policy.

It is the policy of the State of Arkansas to encourage and promote recycling in order to conserve natural resources, conserve energy, and preserve landfill space. In furtherance of this policy, the State of Arkansas adopts as a goal in the new century the recycling of forty percent (40%) of its municipal solid waste by 2005 and forty-five percent (45%) of its municipal solid waste by 2010, as shall be determined by the ~~Arkansas Department~~ Division of Environmental Quality by regulation.

SECTION 444. Arkansas Code § 8-9-104(2), concerning the definition of "department" under the laws governing recycling, is repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 445. Arkansas Code § 8-9-104(3)(A), concerning the definition of "materials in the recycling process" under the laws governing recycling, is amended to read as follows:

(A) Those materials are processed or handled using reasonably available processing equipment and control technology, as determined by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, taking cost into account; and

SECTION 446. Arkansas Code § 8-9-202 is amended to read as follows:

8-9-202. Powers and duties of the ~~department~~ division.

The ~~Arkansas Department~~ Division of Environmental Quality shall have the power and duty to:

(1) Adopt reasonable rules and regulations to effectuate the purposes of this subchapter;

(2) Promote public education and public awareness of the necessity of supporting waste reduction and recyclable material recovery as an integral part of all solid waste and recyclable materials programs in the state; and

(3) Provide, to the extent practicable, upon request, to state agencies, planning and technical assistance in carrying out their responsibilities under this subchapter.

SECTION 447. The introductory language of Arkansas Code § 8-9-203(a), concerning recycling by governmental entities, is amended to read as follows:

(a) Each state agency, state college or university, county, city, and public school, in cooperation with the ~~Arkansas Department~~ Division of Environmental Quality and the Compliance Advisory Panel shall:

SECTION 448. Arkansas Code § 8-9-302(b), concerning plastic container labeling, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality shall maintain a list of the label codes provided pursuant to this section and shall provide a copy of that list to any person upon request.

SECTION 449. Arkansas Code § 8-9-303(c) and (d), concerning lead-acid batteries, are amended to read as follows:

(c) The ~~Arkansas Department~~ Division of Environmental Quality shall produce, print, and distribute the notices required by this section to all places where lead-acid batteries are offered for sale at retail.

(d) In performing its duties under this section, the ~~department~~ division may inspect any place, building, or premises governed by this section.

SECTION 450. Arkansas Code § 8-9-401(b)(2), concerning title, legislative intent, and findings under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(2) Provide accountability and sustainability for used tire programs by requiring use of the electronic uniform used tire manifest system developed by the ~~Arkansas Department~~ Division of Environmental Quality and business plans for used tire programs;

SECTION 451. The introductory language of Arkansas Code § 8-9-402(3), concerning the definition of "electronic uniform used tire manifest system" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(3) "Electronic uniform used tire manifest system" means an administrative method developed by the ~~Arkansas Department~~ Division of Environmental Quality that:

SECTION 452. Arkansas Code § 8-9-402(9), concerning the definition of "qualified entity" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(9) "Qualified entity" means an entity that demonstrates to the ~~department~~ division that the entity has the capability, experience, and resources to operate and administer a used tire program in compliance with this subchapter;

SECTION 453. Arkansas Code § 8-9-402(25)(B)(ii), concerning the definition of "qualified entity" under the Used Tire Recycling and

Accountability Act, is amended to read as follows:

(ii) A location that is authorized to store tires by the ~~department~~ division or regulations promulgated by the Arkansas Pollution Control and Ecology Commission;

SECTION 454. The introductory language of Arkansas Code § 8-9-403(a)(1), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

(a)(1) The owner or operator of any waste tire site shall provide the ~~Arkansas Department~~ Division of Environmental Quality and the applicable regional solid waste management district with:

SECTION 455. Arkansas Code § 8-9-403(a)(1)(B), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

(B) A written plan specifying a method and time schedule, subject to approval by the ~~department~~ division, for the removal, disposal, or recycling of the tires.

SECTION 456. Arkansas Code § 8-9-403(a)(2), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

(2) The owner or operator shall implement a written plan approved by the ~~department~~ division according to the written plan's schedule.

SECTION 457. Arkansas Code § 8-9-403(c)(3)(C)(i), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

(i) Authorized by the ~~department~~ division;

SECTION 458. Arkansas Code § 8-9-403(e)(2), concerning requirements, prohibited activities, and operation of waste tire sites, is amended to read as follows:

(2) Records of the disposition of the waste tires originating from a tire manufacturer shall be maintained by that tire manufacturer for a period of at least three (3) years and shall be available for review by the

~~department~~ division.

SECTION 459. Arkansas Code § 8-9-404(b)(1)(B), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

(B) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

SECTION 460. Arkansas Code § 8-9-404(c)(3)(A)(ii), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

(ii) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

SECTION 461. Arkansas Code § 8-9-404(d)(7)(B), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

(B) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

SECTION 462. The introductory language of Arkansas Code § 8-9-405(a), concerning used tire program reimbursements, is amended to read as follows:

(a) ~~By January 1, 2018, the Arkansas Department~~ The Division of Environmental Quality shall establish the Used Tire Recycling and Accountability Program to:

SECTION 463. Arkansas Code § 8-9-405(b)(7) and (8), concerning used tire program reimbursements, are amended to read as follows:

(7) Provide the ~~department~~ division with business plan information required under § 8-9-408;

(8) Provide the ~~department~~ division with all quarterly financial information and progress reports related to § 8-9-409;

SECTION 464. Arkansas Code § 8-9-405(c)(1), concerning used tire program reimbursements, is amended to read as follows:

(1) Contract with a tire processing facility that is approved by

the Director of the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 465. The introductory language of Arkansas Code § 8-9-405(d), concerning used tire program reimbursements, is amended to read as follows:

(d) Moneys disbursed from the Used Tire Recycling Fund by the ~~department~~ division for reimbursements under this section shall be:

SECTION 466. Arkansas Code § 8-9-405(e)(2), concerning used tire program reimbursements, is amended to read as follows:

(2) If there are insufficient moneys available in a quarter to make reimbursements for all submitted requests under any funding level under subsection (f) of this section, the ~~department~~ division shall calculate the total remaining funding available for the funding level and allocate the moneys available for reimbursement to each used tire program based on a pro rata share of each used tire program's reimbursement request compared to the total moneys available for that funding level.

SECTION 467. Arkansas Code § 8-9-405(g), concerning used tire program reimbursements, is amended to read as follows:

(g) At the request of a used tire program that needs operational assistance or guidance on compliance with this subchapter, the ~~department~~ division shall provide to the used tire program operational assistance or guidance on compliance with this subchapter.

SECTION 468. The introductory language of Arkansas Code § 8-9-405(h), concerning used tire program reimbursements, is amended to read as follows:

(h) The ~~department~~ division shall:

SECTION 469. Arkansas Code § 8-9-408(a), concerning accountability requirements for used tire programs, is amended to read as follows:

(a) On or before December 31, 2017, a used tire program that receives funding under this subchapter shall provide the Arkansas Department of Environmental Quality, now the Division of Environmental Quality, with a business plan that establishes its current operating plan and a proposed operating plan for calendar year 2018 and approved by its board.

SECTION 470. Arkansas Code § 8-9-408(c)-(e), concerning accountability requirements for used tire programs, are amended to read as follows:

(c) A used tire program shall submit a revised business plan if there is a substantial change in the used tire program operations or if the ~~department~~ division requests a revised business plan.

(d) A business plan or revised business plan submitted under this subchapter is effective after approval by the ~~department~~ division or its designee.

(e)(1) The approved business plan or approved revised business plan shall include the approved business plan rates for each used tire program.

(2)(A) The ~~department~~ division shall cooperate with the used tire programs and other entities to develop each used tire program's approved business plan rates for recyclable tires and waste tires.

(B) The approved business plan rates shall also use the size of a tire, including without limitation small tires, large tires, and extra-large tires, as a factor for determining the approved business plan rates.

SECTION 471. Arkansas Code § 8-9-409(a), concerning the performance and efficiency evaluations for the used tire programs and the Used Tire Recycling and Accountability Program, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall develop a system to evaluate and report the performance and efficiency of used tire programs and the Used Tire Recycling and Accountability Program.

SECTION 472. Arkansas Code § 8-9-411(a)(2), concerning tire transporter's licenses, is amended to read as follows:

(2) Obtain for each vehicle a tire transporter number provided by the ~~Arkansas Department~~ Division of Environmental Quality used for the electronic uniform used tire manifest system;

SECTION 473. Arkansas Code § 8-9-411(b), concerning tire transporter's licenses, is amended to read as follows:

(b) For each tire transporter licensed under this section, the ~~department~~ division shall assign a tire transporter number and include the tire transporter information in the electronic uniform used tire manifest

system.

SECTION 474. Arkansas Code § 8-9-415(b)(6), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

(6) Failure to provide documentation or reports required to be filed with the ~~Arkansas Department~~ Division of Environmental Quality under this subchapter.

SECTION 475. The introductory language of Arkansas Code § 8-9-415(c)(1), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

(c)(1) If a used tire program fails to submit a business plan that is approved by the ~~department~~ division on or before July 1, 2018, the used tire program and all regional solid waste management boards included in the used tire program on July 1, 2018, are:

SECTION 476. Arkansas Code § 8-9-415(c)(2), concerning permitting, licensing, inspections, procedures, enforcement, and penalties for a person who receives funding regarding tire collection and disposal, is amended to read as follows:

(2)(A) The ~~department~~ division may designate a qualified entity to perform the duties related to the operation and administration of a used tire program deemed ineligible under subdivision (c)(1) of this section.

SECTION 477. Arkansas Code § 8-9-502, concerning members of the Arkansas Newspaper Recycling Advisory Committee, is amended to read as follows:

8-9-502. Members.

The Director of the ~~Arkansas Department~~ Division of Environmental Quality shall appoint the Arkansas Newspaper Recycling Advisory Committee consisting of:

(1) The Chief of the Marketing Division of the ~~Arkansas Department~~ Division of Environmental Quality or his or her designee;

(2) The Executive Director of the Arkansas Press Association, Inc. or his or her designee; and

(3)(A) At least six (6) members representing the Arkansas newspaper industry and newsprint manufacturers doing business in Arkansas.

(B) Provided, however, these members shall be selected from a list of names of potential members to be provided by the President of the Board of Directors of the Arkansas Press Association, Inc.

SECTION 478. Arkansas Code § 8-9-603, concerning the definition of "department" and "director" under the Mercury Switch Removal Act, are repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 479. Arkansas Code § 8-9-604(a), concerning the mercury minimization plan, is amended to read as follows:

(a) Within ninety (90) days after August 12, 2005, every manufacturer of vehicles sold within this state, individually or as part of a group, shall develop in consultation with the Arkansas Department of Environmental Quality, now the Division of Environmental Quality a mercury minimization plan prepared pursuant to this section and shall submit the mercury minimization plan to the Director of the Arkansas Department of Environmental Quality, now the Division of Environmental Quality for review and approval pursuant to § 8-9-605.

SECTION 480. Arkansas Code § 8-9-605(a)(1), concerning approval and implementation of the mercury minimization plan, is amended to read as follows:

(a)(1) Within one hundred twenty (120) days after receipt of a mercury minimization plan, the Director of the Arkansas Department of Environmental Quality, now the Division of Environmental Quality shall approve, disapprove, or conditionally approve the entire mercury minimization plan. The director may solicit input from representatives of vehicle recyclers, scrap recycling facilities, and other stakeholders as the director deems appropriate.

SECTION 481. Arkansas Code § 8-9-606(c)(2), concerning the removal and proper management of mercury-added vehicle components, is amended to read as follows:

(2) These records shall be made available for review by the ~~Arkansas Department~~ Division of Environmental Quality upon the request of the ~~department~~ division.

SECTION 482. Arkansas Code § 8-9-606(e)(2), concerning the removal and proper management of mercury-added vehicle components, is amended to read as follows:

(2) Provisions of the rules and regulations concerning universal waste adopted by the ~~department~~ division pursuant to the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.

SECTION 483. The introductory language of Arkansas Code § 8-9-607(a), concerning annual reporting on a mercury minimization plan, is amended to read as follows:

(a) One (1) year after the implementation of a mercury minimization plan approved pursuant to § 8-9-605, and annually thereafter, a manufacturer subject to § 8-9-604 shall report individually or as part of a group to the Director of the ~~Arkansas Department~~ Division of Environmental Quality concerning the implementation of the mercury minimization plan. The report shall include, but need not be limited to, the following:

SECTION 484. The introductory language of Arkansas Code § 8-9-608(a), concerning design for recycling regarding the mercury minimization plan, is amended to read as follows:

(a) One (1) year after the implementation of a mercury minimization plan approved pursuant to § 8-9-605, and annually thereafter, a manufacturer subject to § 8-9-604 shall report individually or as part of a group to the Director of the ~~Arkansas Department~~ Division of Environmental Quality concerning the steps being taken by manufacturers to design vehicles and their components for recycling. The report shall include, but need not be limited to, the following:

SECTION 485. Arkansas Code § 8-9-608(b), concerning design for recycling regarding the mercury minimization plan, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality may conduct hearings from time to time as the director deems appropriate to evaluate the steps manufacturers are taking to design for recycling and to recommend additional legislative action as may be appropriate in order to promote vehicle recycling for the purposes of the preservation of scarce resources and the safe and efficient reduction of solid waste.

SECTION 486. Arkansas Code § 8-9-609 is amended to read as follows:

8-9-609. Rules and regulations – Authority of Arkansas Pollution Control and Ecology Commission.

The Arkansas Pollution Control and Ecology Commission may adopt rules and regulations to effectuate and implement the purposes and intent of this subchapter and the powers and duties of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 487. Arkansas Code § 8-10-302(a)(2)(C)(iii), concerning the construction of a motor vehicle racing facility and the requirement of a petition, is amended to read as follows:

(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 488. Arkansas Code § 8-10-303(a)(1)(A), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

(a)(1)(A) Due to the noise pollution and air pollution from the racing vehicles and traffic congestion caused by motor vehicle racing facilities, no motor vehicle racing facility shall be constructed in this state after passage of this section without the consent of at least seventy-five percent (75%) of the property owners and seventy-five percent (75%) of the registered voters within three (3) miles of the outside boundary of the proposed motor vehicle racing facility and without an annual permit issued by the ~~Arkansas~~

~~Department~~ Division of Environmental Quality.

SECTION 489. Arkansas Code § 8-10-303(a)(2)(C)(iii), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the ~~department~~ division.

SECTION 490. Arkansas Code § 8-10-303(a)(3)(A)(i), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

(3)(A)(i) Once the sufficiency of the petitions is determined, the persons or entity proposing and constructing a motor vehicle racing facility after August 1, 1997, shall seek the approval of and issuance of an annual permit from the ~~department~~ division. The ~~department's~~ division's approval shall be sought by filing a permit application with the ~~department~~ division.

SECTION 491. Arkansas Code § 8-10-303(a)(3)(A)(ii)(e), concerning a permit requirement to construct a motor vehicle racing facility, is amended to read as follows:

(e) Any other relevant permit information as may be determined necessary for the permit application by the ~~department~~ division.

SECTION 492. Arkansas Code § 8-10-303(a)(3)(B)-(D), concerning a permit requirement to construct a motor vehicle racing facility, are amended to read as follows:

(B) For the initial permit application for new motor vehicle racing facilities to be constructed, the ~~department~~ division shall conduct a public hearing on the proposed motor vehicle racing facility. The ~~department~~ division shall set a date for the public hearing to be held on the proposed motor vehicle racing facility permit which shall not be less than thirty (30) days after the filing of the initial permit application. The

hearing under this subdivision (a)(3)(B) for the initial permit may be adjourned and continued if necessary. In its discretion, the ~~department~~ division may hold public hearings for the renewal of any permits as is necessary. Any interested persons may appear and contest the granting of the approval or renewal of the motor vehicle racing facility permit. Affidavits in support of or against the proposed motor vehicle racing facility or a permit renewal, which may be prepared and submitted, shall be examined by the ~~department~~ division.

(C) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the ~~department~~ division shall be satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the ~~department~~ division shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility. Renewal of an annual permit may also be denied if:

(i) The motor vehicle racing ~~racing~~ facility is determined to be in violation of any standards under which the permit was issued;

(ii) The motor vehicle racing ~~racing~~ facility is constructed or is being operated in a manner that is materially different than was represented during the petition process; or

(iii) Fraud, misrepresentation, or false statement of facts was used to obtain signatures for the petition process.

(D) If any material changes, additions, or improvements are made to the motor vehicle racing facility, the permit shall be amended accordingly, and the ~~department~~ division may reconsider the approval of the permit.

SECTION 493. Arkansas Code § 8-10-304(b)(1)(A), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(b)(1)(A) A person or entity proposing and constructing a motor vehicle racing facility under subsection (a) of this section shall seek the approval of and issuance of an annual permit from the ~~Arkansas Department~~

Division of Environmental Quality.

SECTION 494. The introductory language of Arkansas Code § 8-10-304(b)(1)(B), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(B) The ~~department's~~ division's approval shall be sought by filing a permit application with the ~~department~~ division, which shall contain a written proposal for the motor vehicle racing facility containing the substance of the proposed facility, including:

SECTION 495. Arkansas Code § 8-10-304(b)(1)(B)(v), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(v) Any other relevant permit information as may be determined necessary for the permit application by the ~~department~~ division.

SECTION 496. Arkansas Code § 8-10-304(b)(2)(A)(i) and (ii), concerning motor vehicle racing facilities in certain municipalities, are amended to read as follows:

(2)(A)(i) For the initial permit application for new motor vehicle racing facilities to be constructed, the ~~department~~ division shall conduct a public hearing on the proposed motor vehicle racing facility.

(ii) The ~~department~~ division shall set a date for the public hearing to be held on the proposed motor vehicle racing facility permit which shall not be fewer than thirty (30) days after the filing of the initial permit application.

SECTION 497. Arkansas Code § 8-10-304(b)(2)(B), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(B)(i) The ~~department~~ division, in its discretion, may hold public hearings for the renewal of any permits as is necessary.

(ii) Any interested persons may appear and contest the granting of the approval or renewal of the motor vehicle racing facility permit.

(iii) Affidavits in support of or against the

proposed motor vehicle racing facility or a permit renewal, which may be prepared and submitted, shall be examined by the ~~department~~ division.

SECTION 498. Arkansas Code § 8-10-304(b)(3), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(3) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the ~~department~~ division is satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the ~~department~~ division shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility.

SECTION 499. Arkansas Code § 8-10-304(b)(5), concerning motor vehicle racing facilities in certain municipalities, is amended to read as follows:

(5) If any material changes, additions, or improvements are made to the motor vehicle racing facility, the permit shall be amended accordingly, and the ~~department~~ division may reconsider the approval of the permit.

SECTION 500. Arkansas Code § 8-11-103(a)(1), concerning the regulatory flexibility of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) The ~~Arkansas Department~~ Division of Environmental Quality, by order of the Director of the ~~Arkansas Department~~ Division of Environmental Quality consistent with the purposes of this chapter, may approve requests which allow an applicant to use alternative methods to comply with an Arkansas Pollution Control and Ecology Commission rule regarding the control or abatement of pollution.

SECTION 501. Arkansas Code § 8-11-103(d), concerning the regulatory flexibility of the Arkansas Department of Environmental Quality, is amended to read as follows:

(d) The ~~department~~ division may establish a reasonable fee for applications under this section.

SECTION 502. Arkansas Code § 8-12-104(b)(4), concerning the creation of the Natural Resources Damages Advisory Board, is amended to read as follows:

(4) One (1) member shall be a representative from the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 503. Arkansas Code § 8-13-101(2), concerning the purpose of a management organization for the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) Environmental protection and improvement could be enhanced by authorizing the Director of the ~~Arkansas Department~~ Division of Environmental Quality to design and establish a management organization which incorporates specific goals for environmental protection and uses environmental indicators to measure agency performance; and

SECTION 504. Arkansas Code § 8-13-101(3)(B), concerning the purpose of a management organization for the Arkansas Department of Environmental Quality, is amended to read as follows:

(B) Organizes the ~~Arkansas Department~~ Division of Environmental Quality according to business function;

SECTION 505. Arkansas Code § 8-13-102(a), concerning the authority of the Director of the Arkansas Department of Environmental Quality to adopt alternative organizational structure, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, with the advice and consent of the ~~Governor~~ Secretary of the Department of Energy and Environment, may establish any number of divisions, offices, or units, for the conduct of environmental affairs of the state and may prescribe the functions and duties of each division.

SECTION 506. Arkansas Code § 8-13-102(b)(2) and (3), concerning the authority of the Director of the Arkansas Department of Environmental Quality to adopt alternative organizational structure, are amended to read as follows:

(2)(A) This section does not limit any provision of state law

directing or requiring the ~~Arkansas Department~~ Division of Environmental Quality to carry out any function or provide any service.

(B) However, nothing in this section shall be construed to prevent the reassignment of functions or services assigned by state law where reassignment does not alter the obligation of the ~~department~~ division to continue providing such function or service;

(3) Such reorganization shall be based on a comprehensive analysis of all of the functions and duties administered by the ~~department~~ division and the development of a ten-year strategic plan of ~~department~~ division operations; and

SECTION 507. Arkansas Code § 8-13-103(a), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) Any reorganization of the functions and duties for the conduct of environmental affairs through the provisions of this chapter shall be based on a comprehensive analysis of the existing operations of the ~~Arkansas Department~~ Division of Environmental Quality and the development of a ten-year strategic plan for ~~department~~ division operations. Such strategic plan shall be reviewed and updated on an annual basis and shall be made available for public review through formal notice.

SECTION 508. Arkansas Code § 8-13-103(b)(1), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

(1) A comprehensive analysis of each existing division, function, and duty performed by the ~~department~~ division in providing environmental services; and

SECTION 509. Arkansas Code § 8-13-103(c)(1), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

(c)(1) The strategic plan shall outline a management organization for the ~~department~~ division that promotes environmental protection and enhancement.

SECTION 510. Arkansas Code § 8-13-103(c)(2)(B)(iii), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

(iii) Such indicators shall be developed by a work group appointed by the Director of the ~~Arkansas Department~~ Division of Environmental Quality consisting of representatives of the ~~department~~ division working in collaboration with representatives from state and federal agencies, city and county officials, nonprofit organizations, minority groups, industry, colleges and universities, civic groups, and other stakeholders in environmental affairs;

SECTION 511. Arkansas Code § 8-13-103(c)(2)(C), concerning requirements for comprehensive analysis and strategic planning by the Arkansas Department of Environmental Quality, is amended to read as follows:

(C) To organize the ~~department~~ division according to business functions and duties;

SECTION 512. Arkansas Code § 11-10-314(j)(6), concerning disclosure of information obtained by the Director of the Department of Workforce Services, is amended to read as follows:

(6) The ~~Arkansas Department~~ Division of Environmental Quality may be provided the employer's name, mailing address, business location in Arkansas, the current number of employees, and the code for each employer classified by the agency in the Standard Industrial Classification Code or an equivalent classification code under the North American Industry Classification System.

SECTION 513. Arkansas Code § 12-63-402(c)(1)(B), concerning the Adjutant General of the State of Arkansas as the custodian of all military property and military reservations, is amended to read as follows:

(B) The laws, regulations, rules, or orders of the ~~Arkansas Department~~ Division of Environmental Quality or the United States Environmental Protection Agency; or

SECTION 514. Arkansas Code § 12-63-402(c)(2)(B), concerning the Adjutant General of the State of Arkansas as the custodian of all military

property and military reservations, is amended to read as follows:

(B) The Attorney General, after conferring with the Director of the ~~Arkansas Department~~ Division of Environmental Quality, shall advise the Governor in writing that the potential financial liability of the state for environmental remediation is de minimus, and if the Governor shall so approve and concur in the Attorney General's advice; or

SECTION 515. Arkansas Code § 12-75-132(b)(6), concerning the creation of the Arkansas Homeland Security Advisory Group, is amended to read as follows:

(6) ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 516. Arkansas Code § 12-84-104(a)(1)(A), concerning the State Emergency Response Commission, is amended to read as follows:

(A) The directors of the Department of Health, the ~~Arkansas Department~~ Division of Environmental Quality, the ~~Department~~ Division of Arkansas State Police, the Arkansas Department of Emergency Management, the ~~Department~~ Division of Labor, the Arkansas Fire Training Academy, ~~and~~ the Arkansas Department of Transportation, and the Adjutant General, or their designated representatives;

SECTION 517. Arkansas Code § 14-25-201(d)(1), concerning responsible management entities and wastewater treatment systems, is amended to read as follows:

(d)(1) Any installation, operation, or maintenance performed on a wastewater treatment system on behalf of a responsible management entity shall be done in compliance with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission as administered by the ~~Arkansas Department~~ Division of Environmental Quality or its successor and the Department of Health or its successor.

SECTION 518. Arkansas Code § 14-25-201(e)(1)(A), concerning responsible management entities and wastewater treatment systems, is amended to read as follows:

(A) Before the construction of a wastewater treatment

system begins, the developer secures written approval of the proposed wastewater treatment system from the Department of Health and complies with all applicable permitting requirements, including stormwater, through the ~~Arkansas Department~~ Division of Environmental Quality pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission;

SECTION 519. Arkansas Code § 14-72-101(a), concerning municipal water and sewer revenue bonds for repayment of water pollution control grants, is amended to read as follows:

(a) Any city of the first class, city of the second class, or incorporated town, hereinafter referred to as a “municipality”, which has received from the ~~Arkansas Department~~ Division of Environmental Quality a water pollution control project grant funded from the proceeds of bonds of the ~~department~~ division issued pursuant to §§ 8-5-301 – 8-5-318 [repealed] may issue water revenue bonds under the provisions of § 14-234-201 et seq., sewer revenue bonds under the provisions of §§ 14-235-201 – 14-235-224, or combined water and sewer revenue bonds for the purpose of refunding the bonds of the ~~department~~ division issued to fund the grant.

SECTION 520. Arkansas Code § 14-86-302(a), concerning the applicability of laws to entities under a federal order for a sanitary sewer discharges, is amended to read as follows:

(a) The provisions of this subchapter shall not be applicable to any city, county, or area which is under an order from the ~~Arkansas Department~~ Division of Environmental Quality and the United States Environmental Protection Agency to meet the minimum requirements of the United States Environmental Protection Agency for sanitary sewer discharge.

SECTION 521. Arkansas Code § 14-116-501(d)(2)(A), concerning proposed improvement plan for assessment-based water district projects, is amended to read as follows:

(2)(A) The Arkansas Natural Resources Commission shall solicit written comment from appropriate federal and state agencies on the items described in the final survey and report, including, but not limited to, the United States Army Corps of Engineers, the United States Fish and Wildlife

Service, the Arkansas State Game and Fish Commission, the ~~Department~~ Division of Arkansas Heritage, and the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 522. Arkansas Code § 14-206-105(a)(1)(A), concerning proof of service, notice, and filing fee for an application for a gas or electric utility, is amended to read as follows:

(A) The ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 523. Arkansas Code § 14-206-105(a)(1)(D), concerning proof of service, notice, and filing fee for an application for a gas or electric utility, is amended to read as follows:

(D) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 524. Arkansas Code § 14-229-101(b)(9), concerning the creation and members of the Individual Sewage Systems Advisory Committee, is amended to read as follows:

(9) The Director of the ~~Arkansas Department~~ Division of Environmental Quality or a designee;

SECTION 525. Arkansas Code § 14-234-122 is amended to read as follows:
14-234-122. Penalty provision.

Any entity not complying with §§ 14-234-119 – 14-234-121 may be subject to fines up to one thousand dollars (\$1,000) by the Department of Health, the ~~Arkansas Department~~ Division of Environmental Quality, or the Arkansas Natural Resources Commission and any permits or licenses obtained from these agencies are subject to cancellation or nonrenewal.

SECTION 526. Arkansas Code § 14-235-304(2)(B), concerning restrictions on connections to a municipal sewer, is amended to read as follows:

(B) A municipal board of health may order or compel the building of a sewer by a property owner under subdivision (2)(A) of this section only if the existing sewer on the property owner's property is the subject of an enforcement action by the ~~Arkansas Department~~ Division of

Environmental Quality or a prosecuting attorney.

SECTION 527. Arkansas Code § 14-236-104(a)(3), concerning certain individual systems excepted from the Arkansas Sewage Disposal Systems Act, is amended to read as follows:

(3) In a subdivision for which a master plan has been approved by the Department of Health or the ~~Arkansas Department~~ Division of Environmental Quality prior to July 1, 1977, or for which the Department of Health or the ~~Arkansas Department~~ Division of Environmental Quality has otherwise previously issued its written approval for the installation of individual sewage disposal systems and where individual lots have been developed or sold in reliance upon the prior written approval, individual sewage disposal systems shall not be required to conform to more stringent specifications as to design, construction, and installation than those standards in effect at the time of or referred to in the prior written approval.

SECTION 528. Arkansas Code § 14-236-109 is amended to read as follows:
14-236-109. Property owners' associations – Powers and duties.

Property owners' associations that construct and maintain or have constructed and maintained sewage disposal facilities in accordance with the standards and regulations established by the Division of Environmental Health Protection of the Department of Health or the ~~Arkansas Department~~ Division of Environmental Quality shall have jurisdiction over the disposal of sewage within and for the subdivided area over which their authority extends and shall have general supervision and authority over the location, design, construction, installation, and operation of individual and community sewage disposal systems to the extent that the general supervision and authority is consistent with this chapter and the rules and regulations promulgated thereunder.

SECTION 529. Arkansas Code § 14-250-102(3), concerning the definition of "department" under the Wastewater Treatment Districts Act, is repealed.

~~(3) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 530. Arkansas Code § 15-4-2406(a)(2)(B), concerning refund of the recycling tax credit, is amended to read as follows:

(B) The Director of the ~~Arkansas Department~~ Division of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

SECTION 531. Arkansas Code § 15-5-901(d)(1), concerning the establishment of the Construction Assistance Revolving Loan Fund, is amended to read as follows:

(d)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "Remedial Action Account", into which moneys identified in § 8-7-504(c) and any other moneys as designated by the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall be deposited.

SECTION 532. Arkansas Code § 15-5-902(b), concerning the administration of the Construction Assistance Revolving Loan Fund, is amended to read as follows:

(b) The commission may enter into contracts and other agreements in connection with the operation of the fund, including without limitation contracts and agreements with federal agencies, local governmental entities, the Arkansas Development Finance Authority, the ~~Arkansas Department~~ Division of Environmental Quality, and other persons to the extent necessary or convenient for the implementation of the fund and programs financed, in whole or in part, with moneys in the fund.

SECTION 533. Arkansas Code § 15-5-909, concerning the definition of "department" under the law regarding Construction Assistance Revolving Loans, is repealed.

~~(5) "Department" means the Arkansas Department of Environmental Quality or a successor agency of the state;~~

SECTION 534. The introductory language of Arkansas Code § 15-5-

1204(a)(1), concerning issuance of revenue bonds by the Arkansas Development Finance Authority of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) Upon the request of the Director of the ~~Arkansas Department~~ Division of Environmental Quality and based upon an estimate by the Department of Finance and Administration of the pledged fees to be collected, the Arkansas Development Finance Authority may issue bonds for the purpose of:

SECTION 535. Arkansas Code § 15-5-1502(2), concerning the definition of "department" under the Arkansas Sewage Disposal Systems Act, is repealed.

~~(2) "Department" means the Arkansas Department of Environmental Quality or its successor; and~~

SECTION 536. Arkansas Code § 15-5-1503(a)(1), concerning the establishment and use of the Brownfield Revolving Loan Fund, is amended to read as follows:

(a)(1) There is established on the books of the Arkansas Development Finance Authority a special restricted fund to be known as the "Brownfield Revolving Loan Fund", which shall be maintained by the authority and administered by the ~~Arkansas Department~~ Division of Environmental Quality for the purposes stated under this subchapter.

SECTION 537. Arkansas Code § 15-5-1505 is amended to read as follows:

15-5-1505. Brownfield Revolving Loan Fund – Administration.

(a)(1) The Brownfield Revolving Loan Fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality, with the Arkansas Development Finance Authority serving as agent for the ~~department~~ division.

(2) The ~~department~~ division may establish procedures to administer the fund and the programs financed, in whole or in part, with moneys from the fund that are used for the purposes stated under this subchapter.

(3) The ~~department~~ division may enter into contracts and other agreements in connection with the operation of the fund, including contracts and agreements with federal agencies, local governmental entities, the authority, and other persons, to implement this subchapter.

(b) The ~~department~~ division shall have full authority to operate the fund and may make withdrawals as necessary to achieve the intended purposes of this subchapter.

SECTION 538. The introductory language of Arkansas Code § 15-5-1506(a), concerning the loans and grants from the Brownfield Revolving Loan Fund, is amended to read as follows:

(a) With approval of the ~~Arkansas Department~~ Division of Environmental Quality, the Arkansas Development Finance Authority may:

SECTION 539. Arkansas Code § 15-5-1509 is amended to read as follows:
15-5-1509. Administrative fees.

(a) The ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Development Finance Authority may establish fees for their respective administrative services under this subchapter, including the costs of financing loans and awarding grants under this subchapter.

(b) The authority to establish fees under this section is supplemental to the authority granted to the ~~department~~ division or the authority under other laws.

SECTION 540. Arkansas Code § 15-5-1510 is amended to read as follows:
15-5-1510. Collection of fees.

(a)(1) With approval of the ~~Arkansas Department~~ Division of Environmental Quality, the Arkansas Development Finance Authority may collect administrative fees and remit the fees directly to the authority within fifteen (15) days after each payment is collected.

(2) The authority shall remit any administrative fee owed to the ~~department~~ division, and the fees shall be deposited into the Brownfield Revolving Loan Fund on a quarterly basis.

~~(3)~~(b) Any administrative fees owed to the authority shall not be deposited into the fund.

SECTION 541. Arkansas Code § 15-5-1511 is amended to read as follows:
15-5-1511. Regulations.

The ~~Arkansas Department~~ Division of Environmental Quality may adopt regulations as necessary to implement this subchapter.

SECTION 542. Arkansas Code § 15-10-202(5), concerning a declaration of policy by the General Assembly under the Arkansas Energy Reorganization and Policy Act of 1981, is amended to read as follows:

(5) It is in the best interest of the citizens of this state to establish the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality to coordinate the planning and execution of comprehensive energy conservation programs; and

SECTION 543. Arkansas Code § 15-10-203 is amended to read as follows:

15-10-203. Arkansas Energy Office – Creation.

(a)(1) There is created the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality.

(2)(A) The executive head of this office shall be the Director of the Arkansas Energy Office.

(B) The Director of the Arkansas Energy Office shall be appointed by the ~~Director of the Arkansas Department of Environmental Quality~~ Secretary of the Department of Energy and Environment with the advice and consent of the Governor.

(b) The office shall consist of such sections as may be established by the Director of the Arkansas Energy Office, with the approval of the Director of the ~~Arkansas Department of~~ Division of Environmental Quality and the secretary.

SECTION 544. Arkansas Code § 15-10-204(c), concerning the Director of the Arkansas Energy Office, is amended to read as follows:

(c) In addition to other duties and functions prescribed for the Director of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality elsewhere in this subchapter, the Director of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall supervise the daily operation of the office and advise the Director of the ~~Arkansas Department~~ Division of Environmental Quality, the Governor, and the General Assembly on energy matters.

SECTION 545. The introductory language of Arkansas Code § 15-10-205(a), concerning the powers and duties of the Arkansas Energy Office of the

Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall coordinate authority and planning by the state in energy-related matters and shall have the following duties and responsibilities:

SECTION 546. The introductory language of Arkansas Code § 15-10-903(a)(1), concerning a rebate for refueling stations provided by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality may offer a rebate for each approved private electric vehicle charging station, public electric vehicle charging station, compressed natural gas refueling station, liquefied natural gas refueling station, and liquefied petroleum gas refueling station that is:

SECTION 547. Arkansas Code § 15-10-903(a)(2), concerning a rebate for refueling stations provided by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) The Director of the ~~Arkansas Department~~ Division of Environmental Quality may increase the rebate percentages listed under subdivision (a)(1) of this section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

SECTION 548. The introductory language of Arkansas Code § 15-10-904(a), concerning rebates for qualified alternative motor vehicle property, is amended to read as follows:

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality may offer a rebate for qualified alternative motor vehicle property that is:

SECTION 549. Arkansas Code § 15-10-904(b), concerning rebates for qualified alternative motor vehicle property, is amended to read as follows:

(b) The Director of the ~~Arkansas Department~~ Division of Environmental Quality may increase the rebate percentages listed under subsection (a) of

this section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

SECTION 550. Arkansas Code § 15-22-222(b), concerning minimum stream flows established by the Arkansas Natural Resources Commission, is amended to read as follows:

(b)(1) Prior to the establishment of minimum stream flows, the Arkansas Natural Resources Commission shall notify by certified mail, return receipt requested, the Arkansas State Game and Fish Commission, the ~~Arkansas Department~~ Division of Environmental Quality, and any other interested state boards and commissions.

(2) Within thirty (30) days of receipt of notice, the Arkansas State Game and Fish Commission and the ~~Arkansas Department~~ Division of Environmental Quality shall file written comments with the Arkansas Natural Resources Commission.

SECTION 551. Arkansas Code § 15-22-224(b)(1)(B)(ii), concerning appointment of receiver, is amended to read as follows:

(ii) The Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules promulgated in support of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., by the Arkansas Pollution Control and Ecology Commission or any successor or successors and enforced by the ~~Arkansas Department~~ Division of Environmental Quality or any successor or successors.

SECTION 552. Arkansas Code § 15-22-224(g), concerning appointment of receiver, is amended to read as follows:

(g) Upon certification by the Department of Health that the public water system's or public sewer system's operation represents an immediate public health threat or certification by the ~~Arkansas Department~~ Division of Environmental Quality that the public sewer system is being operated in a manner to allow the discharge of pollutants in quantities unacceptable under applicable permits or state water quality standards and posing an imminent threat to public health, a court having jurisdiction in any proper action may, upon application of the Arkansas Natural Resources Commission, immediately appoint a receiver to take charge of the public water system or

public sewer system.

SECTION 553. Arkansas Code § 15-22-906(c), concerning the groundwater protection program, is amended to read as follows:

(c)(1) This program shall not be inconsistent with nor shall it preempt or supersede any regulatory authority currently or in the future vested with the ~~Arkansas Department~~ Division of Environmental Quality, the State Plant Board, or the Department of Health.

(2) However, no permit or prior authorization from the ~~Arkansas Department~~ Division of Environmental Quality, the State Plant Board, or the Department of Health shall be required to implement the provisions of this subchapter.

SECTION 554. Arkansas Code § 15-22-1003(7)(E), concerning the definitions under the Arkansas Wetlands Mitigation Bank Act, is amended to read as follows:

(E) The ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 555. Arkansas Code § 15-23-303(2), concerning the definition of "natural rivers" under the Arkansas Natural and Scenic Rivers Systems Act, is amended to read as follows:

(2) "Natural rivers" means those rivers or sections thereof that are generally free from man-made impoundments and may have primitive, undeveloped roads whose lands are essentially primitive, i.e., with a minimal amount of disturbance by people. The water shall have the use classification AA according to the 1976 Arkansas water quality inventory report by the Arkansas Department of Environmental Quality, now known as the Division of Environmental Quality;

SECTION 556. Arkansas Code § 15-23-303(3), concerning the definition of "natural rivers" under the Arkansas Natural and Scenic Rivers Systems Act, is amended to read as follows:

(3) "Pastoral rivers" means rivers or sections thereof which are readily accessible, have some housing or other development near their shorelines, have preexisting impoundments that do not substantially alter the

character and quality of the stream, partially or predominantly flow through agricultural areas, and have the use classification B according to the 1976 Arkansas water quality inventory report by the ~~department~~ Arkansas Department of Environmental Quality, now known as the Division of Environmental Quality;

SECTION 557. Arkansas Code § 15-55-204 is amended to read as follows:
15-55-204. State Geologist.

(a) The State Geologist shall be appointed by and serve at the pleasure of the Governor.

(b) He or she shall:

(1) Be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders established thereunder;

(2) Be custodian of all property held in the name of the Arkansas Geological Survey, and shall be, ex officio, with approval of the Secretary of the Department of Energy and Environment, the disbursing agent of all funds available for its use; ~~and~~

(3) Furnish bond to the state, with corporate surety thereon, in the penal sum of ten thousand dollars (\$10,000), conditioned that he or she will faithfully perform his or her duties of employment and properly account for all funds received and disbursed by him or her. An additional disbursing agent's bond shall not be required of the State Geologist. The bond so furnished shall be filed with the Secretary of State, and an executed counterpart thereof shall be filed with the Auditor of State; and

(4) Report to the Secretary of the Department of Energy and Environment.

(c) The ~~commission~~ Arkansas Geological Survey, by resolution duly adopted, may delegate to the State Geologist any of the powers or duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the State Geologist in the name of the ~~commission~~ Arkansas Geological Survey.

SECTION 558. Arkansas Code § 15-55-205 is amended to read as follows:
15-55-205. Geological assistants and engineers.

(a) It shall be the duty of the State Geologist, by and with the approval of the Arkansas Geological Survey and the Secretary of the

Department of Energy and Environment, to appoint trained geological assistants, engineers, and others efficient in the arts and sciences as may be necessary to completely carry on the investigations undertaken.

(b) The State Geologist, assistants, and engineers, are directed to go into any mine or other place, where it is thought necessary by the State Geologist to go, in executing the directions of the commission or the Department of Energy and Environment.

SECTION 559. Arkansas Code § 15-57-202(a), concerning exemptions from land reclamation laws, is amended to read as follows:

(a) The owners of lands on which are situated open-cut mining pits that are not subject to the requirements of the Arkansas Open-Cut Land Reclamation Act of 1977 [repealed] or any other land reclamation laws of this state are authorized to make voluntary environmental or aesthetic improvements to reclaim or improve the lands and the open-cut mining pits thereon after first giving written notice of the proposed improvements to the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 560. Arkansas Code § 15-57-203 is amended to read as follows:
15-57-203. Notice of proposed reclamation – Investigation.

(a) Any owner of such lands who wishes to make environmental or aesthetic improvements to reclaim or improve the lands, as authorized in this subchapter, shall file written notice thereof with the ~~Arkansas Department~~ Division of Environmental Quality before entering upon the improvements.

(b) The purpose of the notice shall be to advise the ~~department~~ division of the proposed reclamation or improvements to be made and to enable the ~~department~~ division to make investigations necessary to assure that the owner of the lands does not engage in activities in connection with any reclamation or improvement project that would be in violation of the Arkansas Open-Cut Land Reclamation Act, § 15-57-301 et seq.

SECTION 561. Arkansas Code § 15-57-303(4) and (5) concerning the definition of "department" and "director" under the Arkansas Open-Cut Land Reclamation Act, are repealed.

~~(4) "Department" means the Arkansas Department of Environmental Quality or such department or other entity which may lawfully succeed to the~~

~~powers and duties of the department;~~

~~(5) "Director" means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 562. Arkansas Code § 15-57-303(11), concerning the definition of "permit term" under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(11) "Permit term" means the period of time beginning with the date upon which a permit is granted for open-cut mining of lands under the provisions of this subchapter and ending on the date requested by the operator and specified by the ~~department~~ division, though not to exceed five (5) years;

SECTION 563. Arkansas Code § 15-57-304(a)(1), concerning violations of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(1) Violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas Department~~ Division of Environmental Quality issued pursuant to this subchapter;

SECTION 564. Arkansas Code § 15-57-304(a)(5), concerning violations of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(5) Willfully resist, prevent, impede, or interfere with the Director of the ~~Arkansas Department~~ Division of Environmental Quality or any of his or her authorized representatives in the performance of duties pursuant to this subchapter.

SECTION 565. The introductory language of Arkansas Code § 15-57-305(a), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(a) Civil Penalties. The ~~Arkansas Department~~ Division of Environmental Quality is authorized to institute a civil action in any court of competent jurisdiction to accomplish any or all of the following:

SECTION 566. Arkansas Code § 15-57-305(a)(3), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation

Act, is amended to read as follows:

(3) To recover all costs, expenses, and damages to the ~~department~~ division or any other agency of the state in enforcing the provisions of this subchapter and reclaiming affected land;

SECTION 567. The introductory language of Arkansas Code § 15-57-305(b)(1), concerning civil and administrative penalties regarding the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(1) Any person who engages in open-cut mining without first securing a permit as required by this subchapter or who fails to reclaim affected lands in accordance with this subchapter or who violates any provision of this or any order, regulation, rule, permit, or reclamation plan issued pursuant thereto, may be assessed an administrative civil penalty by the ~~department~~ division not to exceed:

SECTION 568. Arkansas Code § 15-57-306 is amended to read as follows:
15-57-306. Administration.

The ~~Arkansas Department~~ Division of Environmental Quality through the Director of the ~~Arkansas Department~~ Division of Environmental Quality, and any representatives designated by the director, shall administer and enforce the provisions of this subchapter, except for those provisions specifically designated to the Arkansas Pollution Control and Ecology Commission.

SECTION 569. Arkansas Code § 15-57-308 is amended to read as follows:
15-57-308. Technical and financial assistance.

The ~~Arkansas Department~~ Division of Environmental Quality shall have the authority to cooperate with and receive technical and financial assistance from the United States, or any department, agency, or officer thereof, for any purposes relating to the reclamation of affected lands.

SECTION 570. Arkansas Code § 15-57-309 is amended to read as follows:
15-57-309. Entry on lands for inspection.

The ~~Arkansas Department~~ Division of Environmental Quality or its designated representatives may enter upon the lands affected by open-cut mining at all reasonable times for the purpose of determining compliance with the provisions of this subchapter.

SECTION 571. Arkansas Code § 15-57-310(a), concerning the necessity of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(a) It shall be unlawful for any operator to engage in open-cut mining without first obtaining from the ~~Arkansas Department~~ Division of Environmental Quality a permit to do so in the form required by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 572. Arkansas Code § 15-57-310(g), concerning the necessity of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(g)(1) The ~~Arkansas Department~~ Division of Environmental Quality shall develop regulations to implement the provisions of this chapter.

(2) The ~~Arkansas Department~~ Division of Environmental Quality shall develop documentation that will guide an operator through the permitting process.

SECTION 573. Arkansas Code § 15-57-311(a), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(a) Any person desiring to engage in open-cut mining shall make written application to the ~~Arkansas Department~~ Division of Environmental Quality for a permit. The application shall be made upon a form furnished by the ~~department~~ division.

SECTION 574. Arkansas Code § 15-57-311(c), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(c) The perimeter of the area to be permitted must be clearly marked on the ground at all times until such time as the permitted area is released from reclamation liability by the ~~department~~ division.

SECTION 575. Arkansas Code § 15-57-311(e), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(e) The application for a mining permit shall be accompanied by a bond or substituted security for the affected or the proposed affected area in favor of the State of Arkansas through the ~~department~~ division, to be effective from and after the time that the operator has affected land in the process of open-cut mining or after the time that a permit is granted and which shall meet the requirements of § 15-57-316.

SECTION 576. Arkansas Code § 15-57-311(g), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(g) The ~~department~~ division may approve a permit for mining and reclaiming the permitted area in increments, provided that the permit application contains an acceptable incremental mining plan and is accompanied by a bond or substituted security to cover reclamation of each successive increment prior to affecting it.

SECTION 577. The introductory language of Arkansas Code § 15-57-311(j)(1)(A), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(j)(1)(A) After notice and opportunity for a public hearing, the ~~department~~ division may develop and issue general permits for any category of activities involving open-cut mining operations if the ~~department~~ division determines that the activities in a category:

SECTION 578. Arkansas Code § 15-57-311(j)(1)(B), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(B) To qualify for inclusion under the general permit, applicants shall submit a notice of intent and supporting documentation on forms developed by the ~~department~~ division.

SECTION 579. Arkansas Code § 15-57-311(j)(2), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(2) The Director of the ~~Arkansas Department~~ Division of Environmental Quality at his or her discretion may require an applicant to

seek coverage under an individual permit.

SECTION 580. The introductory language of Arkansas Code § 15-57-311(j)(3)(B), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(B) The general permit may be revoked or modified by the ~~department~~ division if after opportunity for a public hearing the ~~department~~ division determines that the activities authorized by the general permit:

SECTION 581. Arkansas Code § 15-57-313 is amended to read as follows:

15-57-313. Withdrawal of land covered by permit.

An operator may withdraw any land covered by a permit, except affected land, by notifying the ~~Arkansas Department~~ Division of Environmental Quality, in which case the penalty of the bond or substituted security filed by the operator pursuant to the provisions of this subchapter shall be reduced proportionately.

SECTION 582. Arkansas Code § 15-57-314 is amended to read as follows:

15-57-314. Extension of permit.

Where the area for which a permit is in effect is not mined or where open-cut mining operations have not been completed during the permit term, the permit as to such area may be extended by the ~~Arkansas Department~~ Division of Environmental Quality on the terms and conditions required by the ~~department~~ division.

SECTION 583. Arkansas Code § 15-57-315(1)(A)(ii)(b), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(b) The ~~Arkansas Department~~ Division of Environmental Quality may approve a steeper final slope where the original contour of the affected land was steeper than the one (1) to three (3) ratio if the operator can assure, to the satisfaction of the ~~department~~ division, the integrity of the final contour.

SECTION 584. Arkansas Code § 15-57-315(1)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(B) The Director of the ~~Arkansas Department~~ Division of

Environmental Quality shall develop regulations which will allow the ~~department~~ division the discretion to permit deviations from certain reclamation standards, including final slope steepness requirements within this subdivision (1), because of unique mining situations, provided the deviations are consistent with the declaration of policy in this subchapter;

SECTION 585. Arkansas Code § 15-57-315(2)(B)(ii), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(ii) However, where water runoff from outside the affected area into the lake has a pH factor of less than six (6) or greater than nine (9) or in order to allow the lake to more closely match the natural environment, the ~~department~~ division, in its discretion, may allow a deviation in pH levels;

SECTION 586. Arkansas Code § 15-57-315(3), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(3) On all affected land which is to be reforested, the operator shall construct reasonable fire lanes or access roads of at least ten feet (10') in width through the land unless this requirement is waived by the ~~department~~ division;

SECTION 587. Arkansas Code § 15-57-315(4)(A), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(4)(A) Requirements for both establishment and maintenance of the vegetative cover shall be established by the ~~department~~ division, and the operator shall comply with the requirements or use other equally effective means.

SECTION 588. Arkansas Code § 15-57-315(4)(C), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(C)(i) Laboratory soil tests and recommendations shall be obtained from the University of Arkansas Cooperative Extension Service or any other public or private organization or person approved by the ~~department~~ division.

(ii) The operator shall furnish copies of the soil sample report and recommendations to the ~~department~~ division.

SECTION 589. Arkansas Code § 15-57-315(5)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(B)(i) For the ~~department~~ division to approve a variance on the fifty-foot buffer zone, there must be an agreement between the affected property owner or right-of-way holder and the operator.

(ii) Proof of such an agreement must be provided to the ~~department~~ division.

SECTION 590. Arkansas Code § 15-57-315(6) and (7), concerning the duties of an operator in an open-cut mine, are amended to read as follows:

(6)(A) Whenever the exposed face of mined seams that contain acid-forming materials is not covered by water or by permanent water impoundment, the operator who mined the seams shall cover the exposed face of the seams with earth or spoil materials to a depth of not less than three feet (3') upon receiving approval from the ~~department~~ division.

(B) Alternatively, the ~~department~~ division may approve any other course or conduct proposed by the operator which will assure protection of the seams from atmospheric exposure, minimize leaching action, or otherwise conform with water pollution control criteria to prevent formation of acid mine water or discharge mine water;

(7)(A) The operator shall submit to the ~~department~~ division no later than June 1 of each year of the permit term:

(i) A map in a form acceptable to the ~~department~~ division showing the location of the affected areas by section, township, range, and county with other legal description as will identify the affected land during the permit term upon which the operator has completed mining operations;

(ii) The extent of completed reclamation as required under § 15-57-311(d); and

(iii) A legend upon the map showing the number of acres of affected land.

(B) The annual report shall include the amount of material mined during each twelve-month period;

SECTION 591. Arkansas Code § 15-57-315(8)(A), concerning the duties of

an operator in an open-cut mine, is amended to read as follows:

(8)(A) The ~~department's~~ division's approval of the operator's reclamation plan may be based upon the advice and technical assistance of the Arkansas Natural Resources Commission, the Arkansas State Game and Fish Commission, the State Forester, the Arkansas Geological Survey, and other agencies or persons having experience in foresting and reclaiming open-cut mined lands with forest or agronomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on open-cut mined lands.

SECTION 592. Arkansas Code § 15-57-315(9)(A)(ii), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(ii) Where natural weathering and leaching of affected land fails to support plant growth at the end of the reclamation period as required under § 15-57-311(d), the ~~department~~ division, at the request of the operator, may approve a permit extension from year-to-year from the termination of the permit on the permitted area.

SECTION 593. Arkansas Code § 15-57-315(9)(B), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(B) In the event that the operator does not comply with its schedule of reclamation or extensions granted within a reasonable period of time, to be determined by the ~~department~~ division, the bond or substituted security of affected land not satisfactorily reclaimed shall be forfeited;

SECTION 594. Arkansas Code § 15-57-315(10) and (11), concerning the duties of an operator in an open-cut mine, are amended to read as follows:

(10) In the event that the operator's reclamation plan is found impracticable by the operator, upon the application of the operator, the ~~department~~ division, in its discretion, may allow the modification of the reclamation plan, provided that the modified plan will carry out the purposes of this subchapter;

(11) All mine spoil generated by the operator shall be disposed of in a manner approved by the ~~department~~ division and designed to control siltation, erosion, or other damage to streams and natural watercourses, as best allowed by the soil conditions of the permitted area;

SECTION 595. Arkansas Code § 15-57-315(14), concerning the duties of an operator in an open-cut mine, is amended to read as follows:

(14) Upon approval from the ~~department~~ division, stockpiles of processed materials may be left without being reclaimed if there is a likelihood that there will be a market for the material in the future and that there will be no form of pollution from the stockpiles remaining on or leaving the property.

SECTION 596. Arkansas Code § 15-57-316 is amended to read as follows:
15-57-316. Bond of operator.

(a)(1)(A) Any bond provided in this subchapter to be filed with the ~~Arkansas Department~~ Division of Environmental Quality by the operator shall be in such form as the ~~department~~ division shall prescribe, payable to the State of Arkansas through the ~~department~~ division, conditioned that the operator shall faithfully perform all requirements of this subchapter and comply with all rules, regulations, and orders made in accordance with the provisions of this subchapter.

(B) The bond shall be signed by the operator and a good and sufficient corporate surety authorized to do business in the United States.

(2) The penalty of the bond shall be in an amount equal to the estimated cost of reclamation, as required in § 15-57-311(d).

(3)(A) In the event that the ~~department~~ division finds the cost of reclamation to be an underestimate, the ~~department~~ division shall make use of available expertise to establish the estimated cost of reclamation, which shall be the amount of the bond.

(B) In the event of a disagreement concerning the estimate of the proper amount of the bond, the ~~department~~ division may retain independent expertise as is necessary to establish the amount of the bond.

(4) The Arkansas Pollution Control and Ecology Commission shall promulgate regulations concerning bonds and substituted security which will attempt to ensure that small operators are not precluded from development of mineral resources as a result of high bond amounts, but which will provide reasonable security.

(b)(1) The ~~department~~ division may accept cash, securities, or other

collateral, including, but not limited to, letters of credit and mortgages on real property provided by the operator in an amount equal to that of the required bond as provided in subsection (a) of this section.

(2) The bond or substituted security may be increased or reduced from time to time as provided in this subchapter.

(3) The bond or substituted security shall be in effect and subject to forfeiture in accordance with this subchapter from and after the time that the operator has affected land in the process of open-cut mining or after the time a permit is granted by the ~~department~~ division until the affected area has been reclaimed, approved, and released.

(c)(1) Any bond or substituted security shall not be cancelled by the surety unless it has given no less than ninety (90) days' notice of the cancellation to the ~~department~~ division.

(2) In no event shall a bond be cancelled on an area that at the time of cancellation has become affected land under the provisions of this subchapter.

(d)(1) If the license to do business of any surety upon a bond or substituted security filed with the ~~department~~ division pursuant to this subchapter shall be suspended or revoked, the operator, within thirty (30) days after receiving notice of the revocation, shall substitute for the surety a licensed corporate surety.

(2) Upon the failure of the operator to make substitution of the surety, the ~~department~~ division shall suspend the permit of the operator until the substitution is made.

(e)(1) The ~~department~~ division shall give written notice to the operator of any violation of this subchapter or noncompliance with any of the rules, regulations, or orders promulgated under this subchapter.

(2) If corrective measures determined by the ~~department~~ division, including, but not limited to, increase of the bond or substituted security, are not commenced or agreed to by the operator within a reasonable period of time to be determined by the ~~department~~ division, the ~~department~~ division may terminate the permit of the operator and forfeit the bond or substituted security.

(3) If a permit has not been issued but a bond has been posted during the application process and this process will not be completed and there is affected land at the site, the ~~department~~ division may forfeit the

bond or substituted security as provided in § 15-57-317.

(f) The ~~department~~ division may reclaim any affected land for which a bond has been forfeited.

(g)(1) Whenever an operator shall have completed all requirements under the provisions of this subchapter as to any affected land, it shall so notify the ~~department~~ division.

(2) If the ~~department~~ division determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the affected land was reclaimed, the ~~department~~ division shall release the operator from further obligations regarding the affected land and the penalty of the bond or substituted security shall be reduced accordingly.

(h)(1) Upon partial completion of reclamation, the operator may submit a written request to the ~~department~~ division for the purpose of proportionately reducing the amount of the bond or substituted security upon affected lands.

(2) If the ~~department~~ division determines that proper reclamation has been accomplished under the provisions of this subchapter on an area less than the total area of the affected area, the ~~department~~ division shall proportionately reduce the amount of the bond or substituted security.

(i) No operator shall be eligible to receive a new or renewed permit who has had a permit revoked, bond forfeited, or who has outstanding substantial unmitigated violations of this subchapter, including failure to reclaim, unless the ~~department~~ division finds upon review a demonstrable change of circumstances justifying an exception to these prohibitions.

(j) Liability under the bond or substituted security shall be for the duration of the open-cut mining operation and for that period required to establish successful reclamation of the affected area.

(k) Nothing contained herein shall be deemed to preclude the right of the ~~department~~ division to recover the actual cost of reclamation over and above the amount of bond.

SECTION 597. Arkansas Code § 15-57-317 is amended to read as follows:
15-57-317. Bond forfeiture proceedings.

(a) The ~~Arkansas Department~~ Division of Environmental Quality may institute proceedings to have the bond or substituted security of the

operator forfeited for any of the following reasons, including, but not limited to:

- (1) Failure to abate any violation of this subchapter or any rule or regulation promulgated thereunder;
- (2) Failure to comply with the terms and conditions of the open-cut mining permit or the bond;
- (3) Failure to comply with any order of the ~~department~~ division;
- (4) Failure to reclaim any affected land in accordance with this subchapter; or
- (5) Insolvency, bankruptcy, or receivership of the operator.

(b) The ~~department~~ division shall notify the operator in writing of the bond forfeiture, and the operator shall be given an opportunity for a hearing as provided in this subchapter.

SECTION 598. Arkansas Code § 15-57-318 is amended to read as follows:
15-57-318. Registration of existing open-cut mines.

The ~~Arkansas Department~~ Division of Environmental Quality shall require registration of all existing unpermitted open-cut mines in which mining operations are not being conducted.

SECTION 599. Arkansas Code § 15-57-319 is amended to read as follows:
15-57-319. Land Reclamation Fund – Permit fee.

(a) A Land Reclamation Fund is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State. The fund shall consist of civil penalty and bond forfeiture amounts, gifts, grants, donations, and other funds as may be made available by the General Assembly, including all interest earned upon moneys deposited into the fund. The ~~Arkansas Department~~ Division of Environmental Quality shall use the funds to accomplish reclamation of affected lands.

(b) All fees and any moneys collected as reimbursement for expenses, costs, and damages to the state under the provisions of this subchapter shall be deposited in the general revenue fund of the ~~department~~ division and shall be used to defray the administrative and enforcement costs of this subchapter.

(c) The Arkansas Pollution Control and Ecology Commission may by regulation prescribe an annual permit fee on affected lands.

SECTION 600. Arkansas Code § 15-57-320(e)(2) and (3), concerning exemptions from the Arkansas Open-Cut Land Reclamation Act, are amended to read as follows:

(2) In the event that authorization pursuant to section 404 of the Federal Clean Water Act is determined by the United States Army Corps of Engineers not to be required for a specific flood control or bank stabilization project, the ~~Arkansas Department~~ Division of Environmental Quality will review the proposed project plan using the Section 401 water quality certification criteria.

(3) The ~~department~~ division shall provide the necessary authorization for the project once it has been determined that the activity will not adversely affect water quality.

SECTION 601. Arkansas Code § 15-57-320(f)(1), concerning exemptions from the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(f)(1) All stream gravel mining operations on streams designated as extraordinary resource waters after January 1, 1995, may continue to operate under a permit issued by the ~~department~~ division for a period of two (2) years from the date of the designation.

SECTION 602. Arkansas Code § 15-57-402(5)-(7), concerning the definition of "default", "department", and "director" under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, are amended to read as follows:

(5) "Default" means an operation that has uncorrected violations of the requirements of this subchapter which allows the ~~Arkansas Department~~ Division of Environmental Quality to forfeit the bond to have the site reclaimed as per the reclamation plan;

(6) "Department" means the ~~Arkansas Department~~ Division of Environmental Quality or such ~~department~~ division or other entity which may lawfully succeed to the powers and duties of the ~~department~~ division;

(7) "Director" means the executive head and active administrator of the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 603. Arkansas Code § 15-57-402(9), concerning the definition of "fee" under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

(9) "Fee" means the notification or annual operating payment made by the operator to the ~~department~~ division. The amount cannot be changed except by legislative action. This fee will be payable on or before July 1 for all operating quarries in the current calendar year;

SECTION 604. Arkansas Code § 15-57-402(14), concerning the definition of "notification of intent" under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

(14) "Notification of intent" is the operator's proper notification to the ~~department~~ division of the operator's intent to open a quarry, to temporarily close a quarry, to reactivate a quarry, and to shut down an exhausted quarry;

SECTION 605. Arkansas Code § 15-57-402(19), concerning the definition of "reclamation plan" under the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, is amended to read as follows:

(19) "Reclamation plan" is a plan presented to the ~~department~~ division by an operator detailing the reclamation and revegetation of lands affected by quarrying both contemporaneously and after the quarry is exhausted, and required by this subchapter;

SECTION 606. Arkansas Code § 15-57-403 is amended to read as follows:

15-57-403. Notification – Filing – Public notice and response.

(a) It shall be unlawful for any operator to engage in a quarrying operation without first submitting to the ~~Arkansas Department~~ Division of Environmental Quality a "notification of intent to quarry" or a "notification of reactivated quarry" in accordance with this subchapter. The submittal, with returned receipt, shall enable the operator to begin or continue quarrying as long as the required reclamation bond is in force and proof of public notification is included. An operator shall be deemed to be quarrying from the time he or she begins start-up until reclamation is completed at the exhausted quarry.

(b) Only new quarries or any land purchased or leased for a quarry

after January 1, 1997, will be subject to this subchapter.

(c) There will be no requirements for a "notification of intent" to be filed with the ~~department~~ division for temporarily closed or exhausted quarries in existence prior to January 1, 1998. These quarries will be exempt from the requirements of this subchapter unless reactivated.

(d) A new notification of intent to quarry shall be required if a change in the majority ownership of an operator occurs.

(e) Representatives of the ~~department~~ division may make regular site visits to quarry operations, as necessary, to determine compliance with the requirements of the operator's notification. On these visits the operator will make his or her quarry operation accessible to the ~~department~~ division.

(f) Upon receipt of notifications of intent, the ~~department~~ division will have ninety (90) days to respond to the operator by certified mail to errors or omissions, or both, in the notifications.

(g) On completion of a notification, the ~~department~~ division will issue the operator a notice which will be posted on quarry premises at all times when the quarry is in operation and which will state:

"Name of company has completed the requirements, as set out by the 'Arkansas Quarry Operation, Reclamation and Safe Closure Act' of 1997, and has the unconditional authorization to quarry at this site, so long as the quarry is in compliance with all laws and regulations for up to five (5) years."

(h) The ~~department~~ division, upon finding the operator to be out of compliance with the requirements of his or her "notification" may issue warnings, citations, and notices of default to the operator.

(i) All filings and other communication will be by certified mail.

(j)(1)(A) An operator will give notice to the public in a local newspaper of general circulation that he or she intends to open or reactivate a quarry.

(B)(i) The notification will be part of an operator's intent and will be published in the newspaper at the same time the intent is filed with the ~~department~~ division.

(ii) Proof of publication shall be provided to the ~~department~~ division in the operator's notice of intent.

(C) The notification will indicate the approximate location of the quarry using section, township, and range plus a road address or identifiable local landmarks when possible, the date of start up and the

date the operator plans to temporarily close, if applicable, as well as the operator's name, address, phone number, and contact person.

(D) The notification shall state that interested parties may contact the ~~department~~ division for further information and that they have ten (10) days after publication of the notice to notify the ~~department~~ division of any request for a public meeting.

(2)(A) If the ~~department~~ division receives at least five (5) requests for a public meeting from owners of property within one-half ($\frac{1}{2}$) mile of the quarry, it may require that the operator hold a public meeting.

(B) This public meeting shall be held within two (2) weeks after the expiration of the ten-day public notice period.

(C) This public meeting shall be held in a location near the proposed quarry to allow the public to discuss their interests with the operator prior to start-up.

(3)(A) The operator will keep responses from the public on file for two (2) years.

(B) The ~~department~~ division will forward responses it receives to the operator.

(4) The operator will keep a record of all action taken resulting from public responses for two (2) years, notifying the ~~department~~ division of each action.

SECTION 607. Arkansas Code § 15-57-404(a)(1)-(5), concerning notification of intent to quarry, are amended to read as follows:

(a)(1) Except for operators of quarries excluded by § 15-57-403(b), any operator desiring to engage in quarrying shall complete a notification of intent to quarry which when submitted to the ~~Arkansas Department~~ Division of Environmental Quality by certified mail will entitle said operator to conduct quarry operations.

(2)(A) For all active quarries, as of January 1, 1998, a "notification of intent" must be on file or in process at the ~~department~~ division.

(B) For all new quarries to be opened after January 1, 1998, a notification of intent must be on file or in process at the ~~department~~ division before the operator may begin quarry operations.

(3) The notification shall be accompanied by the payment of a

fee of two hundred fifty dollars (\$250).

(4) The submittal shall be an agreement between the operator and the ~~department~~ division.

(5) The operator shall pay an annual fee to the ~~department~~ division in the amount of twenty-five dollars (\$25.00) per acre of affected land, not to exceed one thousand dollars (\$1,000) per quarry.

SECTION 608. Arkansas Code § 15-57-404(c) and (d), concerning notification of intent to quarry, are amended to read as follows:

(c) All operators will have sixty (60) days to correct any errors or omissions to a notification of intent if notified by the ~~department~~ division that a notification of intent is incomplete.

(d) A fine of not more than one hundred dollars (\$100) per day, per citation, may be levied against an operator whose notification of intent is not completed and on file in the ~~department~~ division within sixty (60) days after receipt of notice by the ~~department~~ division of errors and omissions in the first filing. The maximum fine is five thousand dollars (\$5,000).

SECTION 609. The introductory language of Arkansas Code § 15-57-405(a), concerning the notification of a temporarily closed quarry, is amended to read as follows:

(a) Quarry sites in which operations are only occasionally conducted and in which the operator anticipates future quarry activity can be shut down on a temporary basis. If so, the operator will file a notification of temporarily closed quarry with the ~~Arkansas Department~~ Division of Environmental Quality, within thirty (30) days after an operation is closed. Full reclamation will not be required until no further additional quarrying is anticipated or the quarry is exhausted. All operational safeguards, as described in this subchapter, will remain in place as required until the quarry is exhausted. The notification of temporarily closed quarry will contain the following:

SECTION 610. Arkansas Code § 15-57-405(b) and (c), concerning the notification of a temporarily closed quarry, are amended to read as follows:

(b) When an operator closes a quarry and fails to file a notification of temporarily closed quarry with the ~~department~~ division within sixty (60)

days, the ~~department~~ division may levy a fine of not more than one hundred dollars (\$100) per day by citation until said notification is received. The maximum fine is five thousand dollars (\$5,000).

(c) If a notification of temporarily closed quarry is not received within ninety (90) days of the issuance of the citation, the ~~department~~ division may declare that the quarry is in default and require the operator to reclaim the site as per the bonding and reclamation requirements or the ~~department~~ division may forfeit the bond and issue a contract to have the site reclaimed as per the reclamation requirements.

SECTION 611. Arkansas Code § 15-57-406 is amended to read as follows:
15-57-406. Notification of reactivated quarry.

Prior to resuming operation in a temporarily closed quarry, an operator will notify the ~~Arkansas Department~~ Division of Environmental Quality by certified mail with a notification of reactivated quarry. This notification will consist of the resubmittal of the notification of intent along with any modifications required, necessary by changed conditions at the quarry site.

SECTION 612. Arkansas Code § 15-57-407(a), concerning the refiling of a notification, is amended to read as follows:

(a) Every five (5) years all notifications of intent to quarry and of temporarily closed quarry must be refiled with the ~~Arkansas Department~~ Division of Environmental Quality by certified mail on or before the operator's anniversary date, with any modifications made necessary by changed conditions in the quarry site, such as changes in the affected acreage, majority ownership of the operator, changes in public roads and manmade structures adjacent to the quarry site, or new technology.

SECTION 613. The introductory language of Arkansas Code § 15-57-408(a), concerning the notification of an exhausted quarry, is amended to read as follows:

(a) When a quarry becomes exhausted, the operator will notify the ~~Arkansas Department~~ Division of Environmental Quality by registered mail that the quarry is an exhausted quarry. This notification will contain the following:

SECTION 614. Arkansas Code § 15-57-408(b)-(d), concerning the notification of an exhausted quarry, are amended to read as follows:

(b) If the operator fails to notify the ~~department~~ division of this change of status, the ~~department~~ division will notify the operator by citation. The operator will then have sixty (60) days to file said notification and commence with plans to reclaim quarry site as per the requirements of this subchapter.

(c) If the operator fails to file notification within the required sixty (60) days, the ~~department~~ division may levy a fine of one hundred dollars (\$100) per day by citation to the operator until notification is received by the ~~department~~ division. The maximum fine is five thousand dollars (\$5,000).

(d) If the operator fails to notify the ~~department~~ division within sixty (60) days and the fine is in effect, then the ~~department~~ division may declare the operator in default and order the operator to begin reclamation as required or the ~~department~~ division may forfeit bond and issue a contract to have the site reclaimed as per the reclamation plan.

SECTION 615. Arkansas Code § 15-57-409(a), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

(a) When the quarry is exhausted, the planned reclamation of all affected lands at the quarry site will be completed by the operator, his or her subcontractor, or by the ~~Arkansas Department~~ Division of Environmental Quality once the bond has been forfeited.

SECTION 616. Arkansas Code § 15-57-409(b)(2), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

(2) All equipment, tools, manmade structures, and debris will be removed from affected lands or disposed of on property in a safe manner by mutual agreement between the operator and the landowner. The agreement will be on file at the operator's offices and sent to the ~~department~~ division with notification of exhausted quarry.

SECTION 617. Arkansas Code § 15-57-409(b)(9) and (10), concerning the reclamation of land at an exhausted quarry site, are amended to read as

follows:

(9) Quarry site reclamation must be completed through the first seeding within one (1) year for quarry sites of less than fifty (50) acres, within two (2) years for quarry sites of more than fifty (50) acres and less than one hundred (100) acres, and within three (3) years for quarry sites of more than one hundred (100) acres and less than two hundred (200) acres. This time requirement for sites larger than two hundred (200) acres may be modified, at the discretion of the ~~department~~ division, upon agreement with the operator.

(10) If an operator fails to begin reclamation during the first six (6) months after a quarry is exhausted, the ~~department~~ division will notify the operator by citation of the above violation. If an operator then fails to begin reclamation within sixty (60) days after receiving the notification, the ~~department~~ division may then issue a second citation. The second citation will be accompanied by a fine of not more than fifty dollars (\$50.00) per day until reclamation begins. If an operator's reclamation effort does not begin within sixty (60) days of the second citation and the fine is in force for that period, then the ~~department~~ division will notify the operator that the operation is in default. The ~~department~~ division will then use the proceeds of the operator's forfeited bond to have the quarry site reclaimed as per the reclamation plan.

SECTION 618. Arkansas Code § 15-57-410(5), concerning quarry site safety, is amended to read as follows:

(5) After January 1, 1998, no active quarry wall will be closer than fifty feet (50') from any private property line unless written permission is given by the adjacent property owner. Permission will be on file at the operator's office and a copy will be sent to the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 619. Arkansas Code § 15-57-410(10) and (11), concerning quarry site safety, are amended to read as follows:

(10) If the ~~Arkansas Department of Environmental Quality~~ division finds the operator to be out of compliance with any of the requirements of subdivisions (1), (2), and (3) of this section, a citation will be given to the operator to comply within ninety (90) days. If the

operator fails to comply within the ninety-day time requirement or shows no effort to comply, the ~~department~~ division may levy by citation a fine of not more than one hundred dollars (\$100) per day until the operator complies with said requirements. The maximum fine is five thousand dollars (\$5,000); and

(11) Any operator quarrying in violation of subdivisions (4) and (5) of this section will be subject to an immediate assessment of a fine of not more than one hundred dollars (\$100) per day or a shut down order by the ~~Arkansas Department of Environmental Quality~~ division, or both. The order will stay in effect at the discretion of the ~~Arkansas Department of Environmental Quality~~ division until the operator is no longer in violation.

SECTION 620. Arkansas Code § 15-57-411 is amended to read as follows:

15-57-411. Complaints of violations of this subchapter.

(a) The operator is required to document and respond to complaints by neighbors and citizens as they relate to the requirements of this subchapter. A record of the complaints and responses will be kept on file at the quarry office or company office for a minimum of two (2) years and sent to the ~~Arkansas Department~~ Division of Environmental Quality.

(b) Any complaints received by the ~~department~~ division as they relate to this subchapter will be forwarded to the operator. The operator's response will be kept on file for future departmental review at the quarry office or the company office for a minimum of two (2) years.

(c) The ~~department~~ division shall investigate complaints by neighbors and citizens to determine if violations of this subchapter have occurred.

SECTION 621. Arkansas Code § 15-57-412(b)(1), concerning quarry bonds, is amended to read as follows:

(b)(1) As of January 1, 1998, the reclamation bond required for acceptance of an operator's notice of intent to open a quarry, or to reactivate a quarry, will be one thousand one hundred dollars (\$1,100) per acre of affected land. The face value of the bond will be evaluated every five (5) years by the operator and a representative of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 622. Arkansas Code § 15-57-412(e), concerning quarry bonds, is amended to read as follows:

(e)(1) The operator may submit any of the following three (3) types of bonds or substitute security:

(A) A surety bond;

(B) A collateral bond with supporting collateral consisting of irrevocable letters of credit or certificates of deposit in favor of the ~~department~~ division; and

(C) A self bond with an unencumbered right to certain property to be held by the ~~department~~ division.

(2) Recommended bond forms shall be provided by the ~~department~~ division. A variation of the language in all but the self bond form may be acceptable, provided the requirements of the subchapter and this Code are incorporated and the ~~department~~ division approves the language.

(3) In the event self bonding is used, the following conditions apply:

(A) The applicant must use the self bond form provided by the ~~department~~ division;

(B) The collateral to be offered must be appraised by a licensed appraiser approved by the operator and the ~~department~~ division;

(C) The operator must have unencumbered ownership of the collateral and provide proof of such ownership to the ~~department~~ division;

(D) The value of the collateral as bond will be eighty percent (80%) of the fair market value of the collateral as established by the appraiser;

(E) Any collateral that decreases in value due to usage (rolling stock) will be not be acceptable;

(F) In the event the collateral consists of real property, an environmental audit of the area must be provided to the ~~department~~ division; and

(G) Where applicable, a lien will be filed against the collateral until the affected area is reclaimed and released by the Arkansas Pollution Control and Ecology Commission.

SECTION 623. Arkansas Code § 15-57-413 is amended to read as follows:
15-57-413. Hearing.

An operator may request and obtain an adjudicatory hearing and review by the Arkansas Pollution Control and Ecology Commission of any decision by

the Director of the ~~Arkansas Department~~ Division of Environmental Quality to enforce the provisions of this subchapter, including any action to impose a civil penalty, stop quarrying activities, or forfeit a bond. The decision of the commission shall be final and may be appealed by the operator to the circuit court of the county in which the quarry is located in accordance with the Arkansas Code.

SECTION 624. Arkansas Code § 15-57-414(a), concerning fees, fines, and forfeiture amounts collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The ~~Arkansas Department~~ Division of Environmental Quality shall collect fees, fines, and bond forfeiture amounts pursuant to this subchapter.

SECTION 625. Arkansas Code § 15-57-414(c), concerning fees, fines, and forfeiture amounts collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

(c) The ~~department~~ division shall use these funds pursuant to this subchapter for contract awards for the reclamation of affected lands as required by this subchapter.

SECTION 626. Arkansas Code § 15-58-102(3), concerning legislative findings under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

(3) Because surface coal mining in this state takes place in areas where the terrain, climate, biological, chemical, and other physical conditions are peculiar to this state and because the ~~Arkansas Department~~ Division of Environmental Quality is familiar with these conditions, the ~~department~~ division has the primary responsibility to develop, issue, and enforce regulations for surface mining and reclamation operations in this state pursuant to this chapter and in compliance with applicable federal laws and regulations;

SECTION 627. Arkansas Code § 15-58-104(4)-(6), concerning the definitions of "department", "director", and "fund" under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

(4) "Department" means the ~~Arkansas Department~~ Division of Environmental Quality or any department, bureau, commission, or agency that shall lawfully succeed to the powers and duties of that ~~department~~ division;

(5) "Director" means the executive head and active administrator of the ~~Arkansas Department~~ Division of Environmental Quality;

(6) "Fund" means the Abandoned Mine Reclamation Fund administered by the United States Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87. Moneys from the fund may be received by the ~~department~~ division through a grant from the Secretary of the Interior pursuant to the state abandoned mine reclamation program;

SECTION 628. Arkansas Code § 15-58-104(13) and (14), concerning the definitions of "state program" and "state abandoned mine reclamation program" under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

(13) "State program" means a program established by the ~~department~~ division and approved by the Secretary of the Interior pursuant to section 503 of the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, to regulate surface coal mining and reclamation operations on lands within the state;

(14) "State abandoned mine reclamation program" means a plan established by the ~~department~~ division and approved by the United States Secretary of the Interior pursuant to Title IV of the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, to reclaim mined areas of the state which were left without adequate reclamation prior to August 3, 1977;

SECTION 629. Arkansas Code § 15-58-201 is amended to read as follows:

15-58-201. ~~Department~~ Division - Jurisdiction, powers, and duties.

(a) The ~~Arkansas Department~~ Division of Environmental Quality is designated as the official agency whose duty it is to establish policies and guidelines, to administer the guidelines contained in this chapter, and to institute other reasonable regulations and guidelines as they become necessary pursuant to this chapter. The rules and regulations may provide differing terms and provisions for particular conditions, particular mining techniques, types of coal, particular areas of the state, surface mines, and

the surface impacts of underground mines or any other differences which appear relevant and necessary so long as the action taken is consistent with attainment of the general intent and purposes of this chapter.

(b) Exclusive jurisdiction over those aspects of surface coal mining and reclamation operations in this state regulated by the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, shall be vested in the ~~department~~ division.

SECTION 630. The introductory language of Arkansas Code § 15-58-203(a), concerning the powers and duties of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The authority shall be vested in the Director of the ~~Arkansas Department~~ Division of Environmental Quality and such other persons as designated by the director to administer and enforce the provisions of this chapter. The director shall seek the accomplishment of the purposes of this chapter by all practicable and economically feasible methods, and in doing so, shall have the following duties and powers:

SECTION 631. Arkansas Code § 15-58-203(a)(13), concerning the powers and duties of the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(13) To contract upon such terms as the director may agree upon for legal, financial, engineering, and other professional services necessary to expedite the conduct of the affairs of the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of this chapter;

SECTION 632. Arkansas Code § 15-58-205(a), concerning inspections by the Director of the Arkansas Department of Environmental Quality under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality shall require such monitoring and reporting, shall cause to be made such inspections of any surface coal mining and reclamation operations, shall require the maintenance of such signs and markers, and shall take such other actions as are necessary to administer, enforce, and evaluate the administration of this chapter and to meet the state program requirements.

For these purposes, the director or his or her authorized representatives, upon presentation of appropriate identifying credentials, shall have a right of entry to, upon, or through any surface coal mining and reclamation operations and, at reasonable times and without delay, may have access to and copy any records and inspect any monitoring equipment or method of operation required under this chapter or the regulations issued pursuant to this chapter.

SECTION 633. Arkansas Code § 15-58-205(c)(2), concerning inspections by the Director of the Arkansas Department of Environmental Quality under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

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

SECTION 634. The introductory language of Arkansas Code § 15-58-207(a), concerning procedures and notice of public hearings by the Director of the Arkansas Department of Environmental Quality or the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission shall give public notice of each of the following pending, proposed, or requested actions:

SECTION 635. Arkansas Code § 15-58-208(a), concerning an examiner to preside at hearings designated by the Arkansas Pollution Control and Ecology Commission or the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) For the purpose of receiving and responding to written comments and objections and for presiding at a public hearing, the Arkansas Pollution Control and Ecology Commission or the Director of the ~~Arkansas Department~~ Division of Environmental Quality may designate one (1) or more examiners.

SECTION 636. Arkansas Code § 15-58-211(c), concerning adjudicatory hearings and procedures of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(c) Nothing in this chapter shall prohibit disposition of the matter through an informal conference before the Director of the ~~Arkansas Department~~ Division of Environmental Quality if all parties agree, or disposition by stipulation, settlement, consent order, or default.

SECTION 637. Arkansas Code § 15-58-301(a), concerning cessation orders and violations deemed not to cause imminent danger or harm, is amended to read as follows:

(a) If the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her authorized representative determines on the basis of an inspection or other available information that a permittee is in violation of a requirement of this chapter or of the regulations issued pursuant to this chapter or a permit condition required by this chapter or the regulations issued pursuant to this chapter but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to cause significant imminent environmental harm to land, air, or water resources, the director or his or her authorized representative shall issue a notice of violation to the permittee or his or her agent fixing a reasonable time, but not more than ninety (90) days, for the abatement of the violation in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter.

SECTION 638. Arkansas Code § 15-58-302(a), concerning cessation orders deemed to cause danger or harm, is amended to read as follows:

(a) If the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her authorized representative determines, on the basis of an inspection or other available information, that a condition or practice exists or that a permittee is in violation of a requirement of this chapter or of the regulations issued pursuant to this chapter or of a permit condition required by this chapter or the regulations issued pursuant to this chapter, and that this condition, practice, or violation also creates

an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, the director or his or her authorized representative or agent shall immediately issue a cessation order in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter requiring the immediate termination of all surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

SECTION 639. Arkansas Code § 15-58-303(a), concerning an order to show cause and a pattern of violations found by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) On the basis of an inspection, if the Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her authorized agent has reason to believe that a pattern of violations of any requirements of this chapter or the regulations issued pursuant to this chapter or any permit conditions required by this chapter or by the regulations issued pursuant to this chapter exists or has existed and if the director or his or her authorized agent also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this chapter or permit conditions or that the violations are willfully caused by the permittee, the director or his or her authorized agent shall issue to the permittee forthwith an order to show cause as to why the permit should not be suspended or revoked in accordance with the procedures set out in regulations issued by the Arkansas Pollution Control and Ecology Commission pursuant to this chapter.

SECTION 640. Arkansas Code § 15-58-305 is amended to read as follows:

15-58-305. Interfering with the director or his or her agents –
Criminal penalties.

Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the Director of the ~~Arkansas Department~~ Division of Environmental Quality or any of his or her authorized representatives in the performance of duties pursuant to this chapter shall be guilty of a misdemeanor and may be punished upon conviction by a criminal

penalty of not more than five thousand dollars (\$5,000) or by imprisonment for not more than one (1) year, or by both.

SECTION 641. Arkansas Code § 15-58-308(a), concerning civil actions and injunctions undertaken by the Arkansas Pollution and Ecology Commission or the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The Arkansas Pollution Control and Ecology Commission or the Director of the ~~Arkansas Department~~ Division of Environmental Quality may request the Attorney General or an attorney designated by the director to institute without bond or other undertaking a civil action for relief against a permittee or any person engaging in surface coal mining operations without a permit, including an injunction, restraining order, or any other appropriate order in the county in which any part of the surface coal mining and reclamation operation involved is located, or in the county in which the permittee has his or her principal office. No liability whatsoever shall accrue to the commission, the director, or their authorized representatives on taking any actions pursuant to this section.

SECTION 642. Arkansas Code § 15-58-309(a)(2), concerning the private right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

(2) Against the Director of the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission where there is alleged a failure of the director or the commission to perform any act or duty under this chapter which is not discretionary with the director or with the commission.

SECTION 643. Arkansas Code § 15-58-309(c)(2), concerning the private right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read as follows:

(2) In any action under this section, the director, the commission, or the ~~Arkansas Department~~ Division of Environmental Quality, if not a party, may intervene as a matter of right.

SECTION 644. Arkansas Code § 15-58-309(d)-(f), concerning the private

right of action against the State of Arkansas under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are amended to read as follows:

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines the award is appropriate. If a temporary restraining order or preliminary injunction is sought, the court may require the filing of a bond or equivalent security, provided that no bond shall be required if the temporary restraining order or preliminary injunction is sought by the director, the commission, or the ~~department~~ division.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any of the provisions of this chapter and the regulations thereunder or to seek any other relief, including relief against the director, the commission, or the ~~department~~ division.

(f) Any person who is injured in his or her person or property through the violation by any operation of any rule, regulation, order, or permit issued pursuant to this chapter may bring an action for damages, including reasonable attorney and expert witness fees only in the judicial district in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect the rights established by or limits imposed under the Workers' Compensation Law, § 11-9-101 et seq.

SECTION 645. The introductory language of Arkansas Code § 15-58-401(b), concerning lands and water eligible for reclamation or drainage abatement expenditures, is amended to read as follows:

(b) Notwithstanding subsection (a) of this section, lands and water similarly affected by coal mining or other mining processes and abandoned or left in an inadequate reclamation status after August 3, 1977, are also eligible for reclamation or drainage abatement expenditures under this chapter if the Director of the ~~Arkansas Department~~ Division of Environmental Quality makes either of the following findings:

SECTION 646. The introductory language of Arkansas Code § 15-58-404(a), concerning abatement of adverse effects, and liens regarding the state abandoned mine reclamation program, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her authorized representative, under the state abandoned mine reclamation program, shall make a finding of fact that:

SECTION 647. Arkansas Code § 15-58-405(a), concerning the right of entry for an approved state abandoned mine reclamation program, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality or his or her authorized representative pursuant to an approved state abandoned mine reclamation program shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of the adverse effects.

SECTION 648. The introductory language of Arkansas Code § 15-58-406(a), concerning condemnation of a mine by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, personally or through his or her authorized legal representative, pursuant to an approved state abandoned mine reclamation program, may acquire for the state any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the director determines that acquisition of such land is necessary to successful reclamation and that:

SECTION 649. Arkansas Code § 15-58-502(b), concerning the necessity of a permit and application, is amended to read as follows:

(b) No person shall engage in or carry out on lands within the state any surface coal mining operations unless that person has first obtained a permit issued by the Director of the ~~Arkansas Department~~ Division of Environmental Quality pursuant to this chapter and in accordance with the regulations issued pursuant to this chapter.

SECTION 650. Arkansas Code § 15-58-503(a)(3)(A), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface

Mining Control and Reclamation Act of 1977, is amended to read as follows:

(3)(A) The regulations shall specifically provide that all applications shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity, and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding surface areas so that an assessment can be made by the Director of the ~~Arkansas Department~~ Division of Environmental Quality of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. However, this determination shall not be required until hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit shall not be approved until the information is available and is incorporated into the application.

SECTION 651. The introductory language of Arkansas Code § 15-58-503(a)(3)(B), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

(B) The costs of the following activities, which shall be performed by a qualified public or private laboratory or other public or private qualified entity designated by the ~~Arkansas Department~~ Division of Environmental Quality shall be borne, upon written request of the small operator, by the ~~department~~ division in accordance with regulations issued by the commission:

SECTION 652. Arkansas Code § 15-58-503(a)(3)(B)(vii), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

(vii) The ~~department~~ division shall provide or assume the cost of training small operators concerning the preparation of permit applications and compliance with the regulatory program and shall ensure that small operators are aware of the assistance available under this subdivision (a)(2).

SECTION 653. Arkansas Code § 15-58-503(a)(3)(C), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

(C) A coal operator that has received assistance pursuant to this subdivision (a)(2) shall reimburse the ~~department~~ division for the cost of the services rendered if the director finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand (300,000) tons during the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

SECTION 654. Arkansas Code § 15-58-503(c), concerning the power of the Arkansas Pollution Control and Ecology Commission under the Surface Mining Control and Reclamation Act of 1977, is amended to read as follows:

(c) The commission shall issue regulations to protect confidential information which is submitted to the ~~department~~ division as part of a permit application or pursuant to the coal exploration requirements.

SECTION 655. Arkansas Code § 15-58-504(b), concerning coal exploration operations, 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~~ Division of Environmental Quality 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 ~~department~~ division.

SECTION 656. Arkansas Code § 15-58-508(a), concerning fees of the Surface Coal Mining Operation Fund, is amended to read as follows:

(a) Each application for a surface coal mining permit or renewal of that permit shall be accompanied by an initial application fee as determined by the Director of the ~~Arkansas Department~~ Division of Environmental Quality in accordance with a fee schedule which the Arkansas Pollution Control and Ecology Commission shall develop and issue by regulations.

SECTION 657. Arkansas Code § 15-58-508(d), concerning fees of the Surface Coal Mining Operation Fund, is amended to read as follows:

(d) The ~~Arkansas Department~~ Division of Environmental Quality 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 658. Arkansas Code § 15-58-509(a) and (b), concerning the filing of performance bonds with the Arkansas Department of Environmental Quality, 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~~ Division of Environmental Quality. This bond shall be on a form furnished by the ~~department~~ division in accordance with the regulations issued by the Arkansas Pollution Control and Ecology Commission. It shall be for performance or acceptable alternative payable, as appropriate, to the ~~department of~~ division 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 Trust Fund which shall be maintained by the ~~department~~ division. The fund may only be used to accomplish reclamation of land covered by forfeitures of performance bonds.

SECTION 659. Arkansas Code § 15-58-509(e), concerning the filing of performance bonds with the Arkansas Department of Environmental Quality, is amended to read as follows:

(e) The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the ~~department~~ division in the event of forfeiture. In no case shall the bond for the entire area under one (1) permit be less than ten thousand dollars (\$10,000).

SECTION 660. Arkansas Code § 15-71-104(a)(1), concerning counsel for the Oil and Gas Commission, is amended to read as follows:

15-71-104. Counsel for the commission.

(a)(1) The Oil and Gas Commission, with the approval of the Secretary of the Department of Energy and Environment, may employ an attorney to provide specialized professional services in matters requiring legal representation.

SECTION 661. Arkansas Code § 15-71-105(a) and (b), concerning the Director of Production and Conservation, is amended to read as follows:

(a)(1) The Oil and Gas Commission may appoint one (1) Director of Production and Conservation in consultation with the Secretary of the Department of Energy and Environment.

(2) The appointment under subdivision (a)(1) of this section is with the approval of the Governor .

(3) The director serves at the pleasure of the Governor at the salary set by law.

(4) The director shall report to the Secretary of the Department of Energy and Environment.

(b) The commission and the secretary may authorize the director to employ other assistants, petroleum and natural gas engineers, bookkeepers, auditors, gaugers, and stenographers and other employees as necessary to properly administer and enforce the provisions of this act.

SECTION 662. Arkansas Code § 15-71-110(d)(16), concerning the powers and duties of the Oil and Gas Commission, is amended to read as follows:

(16) To acquire primary enforcement responsibility either singularly or jointly with the ~~Arkansas Department~~ Division of Environmental Quality for the control of underground injection under the applicable provisions of the Safe Drinking Water Act, Pub. L. No. 93-523, as it existed on January 1, 2005;

SECTION 663. Arkansas Code § 15-71-113(a), concerning the authority to acquire and maintain unmarked cars, is amended to read as follows:

(a) In order to enable the Oil and Gas Commission to carry out its duties in the most effective and efficient manner, the commission is authorized, upon the approval of the Secretary of the Department of Energy and Environment, to acquire and maintain for use by field personnel full-

sized sedan automobiles equipped with V-8 engines in the 350 cubic inch displacement range, limited slip differentials, and vinyl seat covers.

SECTION 664. Arkansas Code § 15-72-219(b)(1), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

(1) ~~Arkansas Department~~ Division of Environmental Quality; or

SECTION 665. The introductory language of Arkansas Code § 15-72-219(c), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

(c) Any rules or regulations adopted by the ~~department~~ division or the commission pertaining to spills of crude oil or produced water shall:

SECTION 666. Arkansas Code § 15-72-219(f), concerning the compensation of surface owners and surface tenants for damages and restoration of land, is amended to read as follows:

(f) Nothing contained in this section is intended to limit or restrict the rights of any surface owner or surface tenant to maintain a cause of action for any damage to real property that is not addressed by the rules and regulations adopted by the ~~department~~ division or the commission pertaining to spills of crude oil or produced water.

SECTION 667. Arkansas Code § 15-72-802(1), concerning the definition of "assignment" under the Emergency Petroleum Set-Aside Act, is amended to read as follows:

(1) "Assignment" means an action taken by the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality, designating that a prime supplier of petroleum products supply them to an authorized consumer, wholesale purchaser-consumer, or wholesale purchaser-reseller to facilitate relief of emergency or hardship needs, pursuant to § 15-72-804;

SECTION 668. Arkansas Code § 15-72-802(9), concerning the definition of "set-aside" under the Emergency Petroleum Set-Aside Act, is amended to read as follows:

(9) "Set-aside" means, with respect to a particular prime supplier, the amount of a petroleum product which is made available from the total supply of a prime supplier, pursuant to the provisions of § 15-72-804, for utilization by the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality to resolve emergencies and hardships due to shortages or other dislocations in petroleum products distribution systems; and

SECTION 669. Arkansas Code § 15-72-804(a)(2), concerning the establishment of the state emergency petroleum set-aside general provisions, is amended to read as follows:

(2) The rules shall direct prime suppliers and brokers to set aside a percentage of petroleum products that are delivered to suppliers in the state for the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality to distribute to meet emergency and hardship needs.

SECTION 670. Arkansas Code § 15-75-206 is amended to read as follows:
15-75-206. Personnel – Counsel.

(a) The Liquefied Petroleum Gas Board shall appoint a Director of the Liquefied Petroleum Gas Board to serve with the approval ~~and at the pleasure of the Governor~~ of the Secretary of the Department of Energy and Environment.

(b) The director shall have the authority, upon approval of the secretary, to:

- (1) Employ assistants, inspectors, and other personnel; and
- (2) Retain counsel as may be necessary to aid it properly in the administration of this subchapter, with the approval of the board.

(c)(1)(A) The director shall have the power and duty to receive applications and to review and approve applications for all classes of permits after applications and supporting papers have been on file for at least thirty (30) days.

(B) The director may issue class one permits once all conditions or prerequisites have been met as set out in § 15-75-307 and the application has been approved by the board.

(C) The director may issue all class two through class ten permits after all conditions and prerequisites have been met as set out in §§ 15-75-308 – 15-75-317.

(2) The director may refuse to approve applications for permits for safety reasons.

(d) The director's decisions on the approval of the applications for class one permits shall be reviewed by the board at its next regularly scheduled meeting.

SECTION 671. Arkansas Code § 15-75-301(2), concerning the definition of "director" under the Liquefied Petroleum Gas Board laws, is amended to read as follows:

(2) "Director" means the Director of the Liquefied Petroleum Gas Board appointed by the board, ~~and~~ serving with the approval and at the pleasure of the Governor, and shall report to the Secretary of the Department of Energy and Environment; and

SECTION 672. Arkansas Code § 15-76-324 is amended to read as follows:
15-76-324. ~~Arkansas Department~~ Division of Environmental Quality.

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

(b) Nothing contained in this subchapter confers upon the Arkansas Pollution Control and Ecology Commission any authority or jurisdiction conferred by law upon the ~~department~~ division or shall be deemed to amend the Arkansas Water and Air Pollution Control Act, as amended, § 8-4-101 et seq.

SECTION 673. Arkansas Code § 17-29-313(a)(2)(B)(ii)(b), concerning the requirement of a permit to construct or operate a crematorium, is amended to read as follows:

(b) A copy of the permit issued by the ~~Arkansas Department~~ Division of Environmental Quality under § 8-4-203 to construct the crematorium; and

SECTION 674. Arkansas Code § 17-44-108(b)(2), concerning a license

requirement for all scrap metal recyclers, is amended to read as follows:

(2) Show proof of a required national pollution discharge elimination system stormwater permit issued by the ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 675. Arkansas Code § 18-15-1703(e)(2), concerning an application and taking of real property, is amended to read as follows:

(2) Laws or rules within the jurisdiction of the State Health Officer or regulatory activities of the Arkansas Pollution Control and Ecology Commission, the ~~Arkansas Department~~ Division of Environmental Quality, the Arkansas Livestock and Poultry Commission, the Arkansas Public Service Commission, or the State Plant Board under delegated or authorized programs or approved plans under federal law;

SECTION 676. Arkansas Code § 19-5-302(4), concerning the Arkansas Department of Environmental Quality Fund Account of the State General Government Fund, is amended to read as follows:

(4) ~~Arkansas Department~~ Division of Environmental Quality Fund Account.

(A) The ~~Arkansas Department~~ Division of Environmental Quality Fund Account shall be used for the maintenance, operation, and improvement required by the ~~Arkansas Department~~ Division of Environmental Quality in carrying out the powers, functions, and duties as set out in Title 8, Chapters 1-10, or other duties imposed by law upon the Arkansas Pollution Control and Ecology Commission which were transferred to the ~~Arkansas Department~~ Division of Environmental Quality under the provisions of § 25-14-101.

(B) The ~~Arkansas Department~~ Division of Environmental Quality Fund Account shall consist of:

- (i) Those general revenues as may be provided by law;
- (ii) Such funds received from the Arkansas State Game and Fish Commission and from the Oil and Gas Commission as may be provided by law;
- (iii) Nonrevenue income derived from services provided by the ~~Arkansas Department~~ Division of Environmental Quality; and
- (iv) Any other funds provided by law;

SECTION 677. Arkansas Code § 19-5-930(b), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows:

(b) The Hazardous Substance Remedial Action Trust Fund shall consist of all moneys appropriated by the General Assembly to the Hazardous Substance Remedial Action Trust Fund, gifts, donations, interest earnings, fees on the generation of hazardous waste, punitive damages, penalties, and any other moneys legally designated, with the exception of those moneys deposited into the Environmental Education Fund as set out in § 8-7-509(d), all moneys received as penalties under §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-313, 8-6-201 – 8-6-212, 8-6-213 [repealed], 8-6-214, 8-7-201 – 8-7-226, 8-7-504, and 20-27-1001 – 20-27-1007, and all punitive damages collected under § 8-7-517, there to be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality as provided in § 8-7-509.

SECTION 678. Arkansas Code § 19-5-959(b), concerning the Petroleum Storage Tank Trust Fund, is amended to read as follows:

(b) The Petroleum Storage Tank Trust Fund shall consist of the petroleum environmental assurance fees as provided in § 8-7-906, all other fees assessed under the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq., gifts, grants, donations, such other funds made available by the General Assembly, the excess of a reserve of two (2) months requirements of debt service from fees in the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund under § 15-5-1206 and any moneys recovered by the ~~Arkansas Department~~ Division of Environmental Quality which are attributable to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807 not owed the Regulated Substance Storage Tank Program Fund, there to be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, who shall make disbursements from the Petroleum Storage Tank Trust Fund as authorized by the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq.

SECTION 679. Arkansas Code § 19-5-961(b), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

(b) The fund shall consist of those special revenues specified in §§ 19-6-301(154) and 19-6-301(240), reimbursement of funds pursuant to § 8-6-

610, federal funds which may become available, interest earnings, gifts, donations, and any other funds made available by the General Assembly, there to be administered by the ~~Arkansas Department~~ Division of Environmental Quality as set out in the Solid Waste Management and Recycling Fund Act, § 8-6-601 et seq.

SECTION 680. Arkansas Code § 19-5-979(b), concerning the Landfill Post-Closure Trust Fund, is amended to read as follows:

(b) The fund shall consist of those special revenues as specified in § 19-6-301(167), federal funds, interest earned, and any gifts or donations, there to be used solely for the administration of and for landfill post-closure corrective action as administered by the ~~Arkansas Department~~ Division of Environmental Quality as set out in § 8-6-1001 et seq., and shall not be appropriated for any other purpose.

SECTION 681. Arkansas Code § 19-5-983(b)(2), concerning the Land Reclamation Fund, is amended to read as follows:

(2) The fund shall be used for the reclamation of affected lands as administered by the ~~Arkansas Department~~ Division of Environmental Quality as set out in the Arkansas Open-Cut Land Reclamation Act, § 15-57-301 et seq., and for contract awards for affected lands as required by the Arkansas Quarry Operation, Reclamation, and Safe Closure Act, § 15-57-401 et seq.

SECTION 682. Arkansas Code § 19-5-1027(b), concerning the Environmental Education Fund, is amended to read as follows:

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

SECTION 683. Arkansas Code § 19-5-1028(b), concerning the Abandoned Mine Reclamation Fund, is amended to read as follows:

(b) The fund shall consist of moneys received through a grant from the United States Secretary of the Interior pursuant to the State Abandoned Mine

Reclamation Program, there to be used by the ~~Arkansas Department~~ Division of Environmental Quality for that program.

SECTION 684. Arkansas Code § 19-5-1029(b), concerning the Surface Coal Mining Operation Fund, is amended to read as follows:

(b) The fund shall consist of application and permit fees for surface coal mining, there to be used by the ~~Arkansas Department~~ Division of Environmental Quality only for the administration and enforcement of the Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15-58-101 et seq., and as the state's matching percentage share for any grants available to the state for the administration and enforcement of the state program as defined in § 15-58-104.

SECTION 685. Arkansas Code § 19-5-1102(b), concerning the Performance Partnership Trust Fund, is amended to read as follows:

(b) The Performance Partnership Trust Fund shall be used by the ~~Arkansas Department~~ Division of Environmental Quality to defray the costs of developing and implementing a management organization utilizing the principles of the National Environmental Performance Partnership System, advocated by the United States Environmental Protection Agency, which integrates environmental indicators, management information, and performance-based budgeting and accounting to measure agency performance.

SECTION 686. Arkansas Code § 19-5-1105(b)(2), concerning the Small Business Revolving Loan Fund, is amended to read as follows:

(2) The Small Business Revolving Loan Fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality and used exclusively for those purposes set out in the Small Business Revolving Loan Fund for Pollution Control and Prevention Technologies Act, § 8-5-801 et seq.

SECTION 687. Arkansas Code § 19-5-1111 is amended to read as follows:
19-5-1111. ~~ADEQ~~ Environmental Settlement Trust Fund.

There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, the "~~ADEQ~~ Environmental Settlement Trust Fund" to consist of funds received by the State of Arkansas pursuant to settlement agreements for environmental or natural resources

damages, interest earnings, and any other moneys designated to be deposited into the fund, there to be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 688. Arkansas Code § 19-5-1137 is amended to read as follows:

19-5-1137. ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

The ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund shall consist of those special revenues as specified in § 19-6-301(104), there to be used to defray the costs of operating the ~~Arkansas Department~~ Division of Environmental Quality as set out in §§ 8-1-101 – 8-1-107.

SECTION 689. Arkansas Code § 19-5-1140(c), concerning the Water Performance Bond Fund, is amended to read as follows:

(c) The fund shall be used by the ~~Arkansas Department~~ Division of Environmental Quality to hire a third-party contractor to:

(1) Take remedial action, including without limitation corrective action, the closure of a nonmunicipal domestic sewage treatment works, and any other action the Director of the ~~Arkansas Department~~ Division of Environmental Quality determines to be necessary; or

(2) Maintain and operate a nonmunicipal domestic sewage treatment works.

SECTION 690. Arkansas Code § 19-5-1142(c), concerning the Nonmunicipal Domestic Sewage Treatment Works Trust Fund, is amended to read as follows:

(c)(1) The fund shall be used by the ~~Arkansas Department~~ Division of Environmental Quality to ensure adequate operation, maintenance, and completed closure of a nonmunicipal domestic sewage treatment works if the Director of the ~~Arkansas Department~~ Division of Environmental Quality determines that an owner or operator has not adequately operated, maintained, or completed closure of the nonmunicipal domestic sewage treatment works.

(2) If the director determines that an owner or operator has not adequately operated, maintained, or completed closure of the nonmunicipal domestic sewage treatment works, the ~~department~~ division may use moneys in the fund to hire a third-party contractor to:

(A) Take remedial action, including without limitation

corrective action;

(B) Initiate or complete the closure of a nonmunicipal domestic sewage treatment works;

(C) Maintain and operate a nonmunicipal domestic sewage treatment works; or

(D) Take any other action the director determines to be necessary to carry out the purposes of this section and § 8-4-203(b).

(3) The fund may be used by the ~~Arkansas Department of Environmental Quality~~ division to do the following:

(A) Provide reimbursement to a nonmunicipal domestic sewage treatment works under § 8-4-203(b);

(B) Provide technical support to nonmunicipal domestic sewage treatment works to promote adequate operation, maintenance, or completed closure of a facility; and

(C) Pay reasonable costs and expenses of the ~~department~~ division for administering the Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

SECTION 691. Arkansas Code § 19-5-1148(b)(3)(C), concerning the Used Tire Recycling Fund, is amended to read as follows:

(C) Seven percent (7%) deducted from the proceeds of fees imposed under § 8-9-404 and deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund under § 8-9-404(b)(1)(B), § 8-9-404(c)(3)(A)(ii), and § 8-9-404(d)(7)(B).

SECTION 692. Arkansas Code § 19-5-1148(c), concerning the Used Tire Recycling Fund, is amended to read as follows:

(c)(1) At least ninety percent (90%) of the moneys available in the Used Tire Recycling Fund each fiscal year shall be used by the ~~Arkansas Department~~ Division of Environmental Quality to provide reimbursements to used tire programs, to administer the Used Tire Recycling and Accountability Program, and to perform other duties under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq.

(2) The Director of the ~~Arkansas Department~~ Division of Environmental Quality may use not more than ten percent (10%) of the moneys available in the Used Tire Recycling Fund each fiscal year:

- (A) For waste tire site abatement aid;
- (B) For the development, implementation, and maintenance of the electronic uniform used tire manifest system; and
- (C) To provide market and economic stimulus incentives.

SECTION 693. The introductory language of Arkansas Code § 19-5-1217(b), concerning the Computer and Electronic Recycling Fund, is amended to read as follows:

(b) The fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality and may be used to:

SECTION 694. Arkansas Code § 19-5-1249(c), concerning the Alternative Motor Fuel Development Fund, is amended to read as follows:

(c) The fund shall be used by the ~~Arkansas Department~~ Division of Environmental Quality to provide rebates and incentives under the Arkansas Alternative Motor Fuel Development Act, § 15-10-901 et seq.

SECTION 695. Arkansas Code § 19-6-301(104), concerning special revenues enumerated, is amended to read as follows:

(104) All ~~Arkansas Department~~ Division of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

SECTION 696. Arkansas Code § 19-6-434 is amended to read as follows:
19-6-434. Hazardous Waste Permit Fund.

The Hazardous Waste Permit Fund shall consist of those special revenues as specified in § 19-6-301(59) and (237) there to be used by the ~~Arkansas Department~~ Division of Environmental Quality to ensure the proper administration and enforcement of §§ 8-7-201 – 8-7-226 and the Phase I Environmental Site Assessment Consultant Act, § 8-7-1301 et seq.

SECTION 697. Arkansas Code § 19-6-452 is amended to read as follows:
19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of the special revenues specified in § 19-6-301(130) and any other revenues authorized by law, there to be used to administer and enforce a program for licensing contractors

engaged in the removal of friable asbestos materials from facilities by the ~~Arkansas Department~~ Division of Environmental Quality under §§ 20-27-1001 – 20-27-1007.

SECTION 698. Arkansas Code § 19-6-471 is amended to read as follows:
19-6-471. Marketing Recyclables Program Fund.

The Marketing Recyclables Program Fund shall consist of those special revenues as specified in § 19-6-301(162), there to be used by the Compliance Advisory Panel for the Marketing Recyclables Program for the administration and performance of its duties, as administered by the ~~Arkansas Department~~ Division of Environmental Quality under § 8-9-201 et seq.

SECTION 699. Arkansas Code § 19-11-1207(a), concerning the administration of the Guaranteed Energy Cost Savings Act, is amended to read as follows:

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall administer this subchapter.

SECTION 700. Arkansas Code § 20-80-306 is amended to read as follows:
20-80-302. Purpose.

(a) The purpose of this subchapter is to encourage nonprofit community action organizations which have been formed to provide basic and essential human services to low income and elderly citizens of Arkansas in the areas of health, transportation, housing, home repair and weatherization, aging programs and aging alternatives to institutionalization, developmental child care and enrichment, youth opportunity programs, ~~low-income home energy assistance programs~~, and other related activities which the General Assembly recognizes as beneficial to a large number of Arkansas citizens.

(b) It is further the purpose of this subchapter to encourage and promote the operations and activities of community action agencies whether the activities are conducted by one (1) agency or by two (2) or more cooperating agencies.

SECTION 701. Arkansas Code § 20-2-103(a)(2)(B)(iii), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

(iii) The ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 702. Arkansas Code § 20-27-1001 is amended to read as follows:
20-27-1001. Purpose.

The purpose of this subchapter is to protect the public health and safety and the environment and to qualify the ~~Arkansas Department~~ Division of Environmental Quality to adopt, administer, and enforce a program for licensing training providers involved with the training of regulated asbestos professionals, for licensing asbestos abatement consultants and asbestos abatement contractors, and for certifying air monitors, contractor-supervisors, inspectors, management planners, project designers, and workers involved with demolitions, renovations, and asbestos-response actions in which regulated asbestos-containing materials are disturbed in accordance with this subchapter, the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and regulations issued pursuant thereto.

SECTION 703. Arkansas Code § 20-27-1003(6), concerning the definition of "certificate" under the laws regarding removal of asbestos material, is amended to read as follows:

(6) "Certificate" means a document issued by the ~~Arkansas Department~~ Division of Environmental Quality to any person certifying that that person has satisfactorily completed asbestos training, examination, and other requirements established by the ~~department~~ division to perform the duties of the following:

- (A) Air monitor;
- (B) Contractor/supervisor;
- (C) Inspector;
- (D) Management planner;
- (E) Project designer; and
- (F) Worker;

SECTION 704. Arkansas Code § 20-27-1003(9) and (10), concerning the definition of "department" and "director" under the laws regarding removal of asbestos material, are repealed.

~~(9) "Department" means the Arkansas Department of Environmental~~

Quality;

~~(10) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

SECTION 705. Arkansas Code § 20-27-1003(15), concerning the definition of "license" under the laws regarding removal of asbestos material, is amended to read as follows:

(15) "License" means a document issued by the ~~department~~ Division of Environmental Quality to an asbestos abatement contractor, asbestos abatement consultant, or training provider who meets the criteria for licensing as established by the ~~department~~ division;

SECTION 706. Arkansas Code § 20-27-1003(24), concerning the definition of "training provider" under the laws regarding removal of asbestos material, is amended to read as follows:

(24) "Training provider" means any person or other legal entity, however organized, that conducts some or all of the training programs for asbestos professional disciplines which are regulated by the ~~department~~ division; and

SECTION 707. The introductory language of Arkansas Code § 20-27-1004, concerning the powers and duties of the Arkansas Department of Environmental Quality, is amended to read as follows:

The ~~Arkansas Department~~ Division of Environmental Quality shall be charged with the responsibility of administering and enforcing this subchapter and is given and charged with the following powers and duties:

SECTION 708. Arkansas Code § 20-27-1005 is amended to read as follows:
20-27-1005. Procedures.

The procedures of the ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on licenses, right of appeal, presumptions, finality of actions, and related matters shall be as provided in the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229.

SECTION 709. Arkansas Code § 20-27-1006 is amended to read as follows:
20-27-1006. License required – Exceptions.

(a) Any asbestos abatement consultant or asbestos abatement contractor shall obtain a license under this section from the ~~Arkansas Department~~ Division of Environmental Quality prior to actively engaging in any asbestos demolition, renovation, or asbestos response action, and any training provider shall obtain a license under this section from the ~~department~~ division ~~prior to~~ before actively engaging in any asbestos training as provided by this subchapter.

(b)(1) The application for license shall be made in the manner and form required by the ~~department~~ division. An application for license or renewal of a license shall be accompanied by proof of liability insurance coverage in the form and amount required by the ~~department~~ division and proof of training and examination as required by the ~~department~~ division.

(2) Training providers shall not be required to furnish proof of liability insurance coverage under subdivision (b)(1) of this section.

(c)(1) The ~~department~~ division shall license all applicants for licenses under this subchapter who satisfy the requirements of this subchapter.

(2) Licenses shall be valid for a period of one (1) year.

(3) Licenses shall be renewable upon application and upon satisfying the renewal requirements of the ~~department~~ division.

(d) State and federal governments and subdivisions thereof shall be exempt, except for training providers, from the license requirements of this section.

SECTION 710. Arkansas Code § 20-27-1007(1), concerning prohibited actions regarding asbestos, is amended to read as follows:

(1) To conduct:

(A) Asbestos response actions, demolitions, or renovations without having first obtained a license from the ~~Arkansas Department~~ Division of Environmental Quality when acting as an asbestos abatement consultant or as an asbestos abatement contractor;

(B) Training without having first obtained a license from the ~~department~~ division when acting as an asbestos training provider; or

(C) Asbestos response actions, demolitions, or renovations without having first obtained certification from the ~~department~~ division when acting as a clearance air monitor, contractor/supervisor, inspector, management planner, project designer, or worker;

SECTION 711. Arkansas Code § 20-27-1008(a), concerning the limitation on grant funds of the Asbestos Abatement Grant Program, is amended to read as follows:

(a) There is created within the ~~Arkansas Department~~ Division of Environmental Quality the Asbestos Abatement Grant Program, which shall be used to provide financial assistance to an eligible city or county to be used exclusively for the purpose of one (1) or more stabilization and abatement activities as provided in this subchapter.

SECTION 712. Arkansas Code § 20-27-1009(a)(1), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

(a)(1) A city or county with a population of less than fifty thousand (50,000) according to the most recent federal decennial census may apply to the ~~Arkansas Department~~ Division of Environmental Quality for grant funds to be used under this subchapter.

SECTION 713. The introductory language of Arkansas Code § 20-27-1009(b), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

(b) To be eligible to receive grant funds under this subchapter, a city or county shall certify the following information to the ~~department~~ division in the form required by the ~~department~~ division for grant applications under this subchapter:

SECTION 714. Arkansas Code § 20-27-1009(c), concerning grant eligibility and distribution of grant funds from the Asbestos Abatement Grant Program, is amended to read as follows:

(c) When the ~~department~~ division approves a grant application received under this section, the ~~department~~ division shall distribute grant funds based on the available moneys dedicated to the Asbestos Abatement Grant

Program in the Asbestos Control Fund according to procedures established by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 715. Arkansas Code § 20-27-1010(2), concerning costs eligible for Asbestos Abatement Grant Program funds, is amended to read as follows:

(2) If the ~~Arkansas Department~~ Division of Environmental Quality determines that an asbestos emergency exists that constitutes an immediate threat to human health or the environment, the costs associated with the stabilization and remediation of the emergency asbestos conditions.

SECTION 716. The introductory language of Arkansas Code § 20-27-1011(a), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, is amended to read as follows:

(a) Within thirty (30) days of receiving grant funds under this subchapter, a city or county shall provide a report to the ~~Arkansas Department~~ Division of Environmental Quality that includes the following:

SECTION 717. Arkansas Code § 20-27-1011(b)(1) and (2), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, are amended to read as follows:

(1) Notify the ~~department~~ division of the date the city or county expects the stabilization and abatement activity to be complete; and

(2) Continue to report its progress to the ~~department~~ division every fourteen (14) days until the approved stabilization and abatement activity is complete and the requirements of this section are met.

SECTION 718. Arkansas Code § 20-27-1011(c), concerning the grant requirements and the return of unused funds regarding the Asbestos Abatement Grant Program, is amended to read as follows:

(c)(1) A city or county that receives grant funds under this subchapter shall immediately return to the ~~department~~ division any unused portion of the grant funds when the stabilization and abatement activity is complete.

(2) The ~~department~~ division shall deposit any unused grant funds returned to the ~~department~~ division by a city or county under subdivision

(c)(1) of this section into the Asbestos Control Fund to be used exclusively for the Asbestos Abatement Grant Program.

SECTION 719. Arkansas Code § 20-27-1103(1), concerning an exception for blasting conducted at a surface coal mine or if regulated by the Oil and Gas Commission, is amended to read as follows:

(1) Blasting conducted at a surface coal mine regulated by the ~~Arkansas Department~~ Division of Environmental Quality pursuant to the Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15-58-101 et seq.; and

SECTION 720. The introductory language of Arkansas Code § 22-3-2003(b)(1), concerning the Sustainable Energy-Efficient Buildings Program, is amended to read as follows:

(1) For public agencies, the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall develop and:

SECTION 721. The introductory language of Arkansas Code § 22-3-2006(a), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall:

SECTION 722. The introductory language of Arkansas Code § 22-3-2006(b), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

(b) To implement its plan, the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall to the extent funds are available:

SECTION 723. The introductory language of Arkansas Code § 22-3-2006(c), concerning a program to manage the energy usage of public agencies, is amended to read as follows:

(c) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality may adopt architectural and engineering standards to implement this section.

SECTION 724. Arkansas Code § 22-3-2007(4), concerning the application of energy conservation plans to historic and unique buildings, is amended to read as follows:

(4) A building that the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality has exempted from this subchapter because of its unique architectural characteristics or usage.

SECTION 725. Arkansas Code § 22-3-2008 is amended to read as follows:
22-3-2008. Advisory committee for the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality.

(a)(1) The Director of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall create and recommend members for a sustainable, energy-efficient building advisory committee composed of:

(A) Representatives from the design and construction industry who are involved in public works contracting;

(B) Persons from public agencies who are responsible for overseeing public works projects or for developing energy efficiency programs and policies; and

(C) Other persons that the Director of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality considers to have useful information.

(2)(A) The Director of the ~~Arkansas Department~~ Division of Environmental Quality shall approve the creation and membership recommendations under this section.

(B) The committee members shall serve at the pleasure of the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

(b) The committee shall provide advice on the implementation of this subchapter, including without limitation recommendations regarding:

(1) An education and training process for persons who are involved in the implementation of this subchapter;

(2) An ongoing evaluation or feedback process to help the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality to implement this section; and

(3) Water-deficiency requirements and energy-efficiency

requirements.

SECTION 726. The introductory language of Arkansas Code § 22-3-2009(b), concerning regulations for energy conservation measures in public buildings by the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(b) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality shall:

SECTION 727. The introductory language of Arkansas Code § 22-3-2010(a), concerning a performance review and report by the Arkansas Energy Office of the Arkansas Department of Environmental Quality, is amended to read as follows:

(a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality, to the extent funds are available, shall conduct a performance review of the Sustainable Energy-Efficient Buildings Program that includes at least the following:

SECTION 728. Arkansas Code § 22-3-2011(c)(1), concerning the applicability of energy conservation in public buildings, is amended to read as follows:

(1) Preclude an institution of higher education from adopting the policies and technical guidelines for a major facility or a major renovation that are established by the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality under § 22-3-2003(b)(1); or

SECTION 729. Arkansas Code § 22-5-804(a)(1)(E), concerning leases and permits issued by the Natural Resources Committee and the Arkansas State Game and Fish Commission, is amended to read as follows:

(E) The ~~Executive~~ Director of the Arkansas Natural Resources Commission;

SECTION 730. Arkansas Code § 22-5-804(a)(1)(H) and (I), concerning leases and permits issued by the Natural Resources Committee and the Arkansas State Game and Fish Commission, are amended to read as follows:

(H) The ~~Director~~ Secretary of the Department of Parks,

Heritage, and Tourism;

(I) The Director of the ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 731. Arkansas Code § 22-5-807(a), concerning the notice and recommendations from interested agencies regarding leases and permits, is amended to read as follows:

(a) When an application for a lease or permit is filed with the Commissioner of State Lands for the taking or production of any sand, gravel, oil, natural gas, casinghead gas, coal, or other minerals or the severance of any timber or logs from state-owned lands, the Commissioner of State Lands shall so notify the Arkansas Geological Survey, the Arkansas Natural Resources Commission, the Oil and Gas Commission, the Arkansas State Game and Fish Commission, the Department of Parks, Heritage, and Tourism, the ~~Arkansas Department~~ Division of Environmental Quality, the Arkansas Forestry Commission, and any other appropriate state agency that has or may have a particular interest in the area proposed to be covered by the lease or permit.

SECTION 732. Arkansas Code § 23-2-201, concerning the membership of the Arkansas Public Service Commission, is amended to add an additional subsection to read as follows: is amended to read as follows:

(f) The chair shall report to the Secretary of the Department of Energy and Environment.

SECTION 733. Arkansas Code § 23-2-105 is amended to read as follows:

23-2-105. Employees generally.

The Department of Energy and Environment may employ on behalf of the Arkansas Public Service Commission ~~shall have power to employ during its pleasure such~~ officers, examiners, experts, engineers, statisticians, accountants, attorneys, inspectors, clerks, and employees as it may deem necessary to carry out its proper function or to perform the duties and exercise the powers conferred by law upon the commission, as may be provided by appropriations of the General Assembly.

SECTION 734. Arkansas Code § 23-2-106 is amended to read as follows:

23-2-106. Assistant general counsel.

There is established ~~in the Arkansas Public Service Commission~~ the positions of two (2) assistant general counsel who shall be well-trained attorneys to be employed by the Department of Energy and Environment on behalf of the Arkansas Public Service Commission.

SECTION 735. Arkansas Code § 23-2-107 is amended to read as follows:

23-2-107. Commissioners and employees – Activities restricted.

(a) No person while serving as a member ~~or employee~~ of the Arkansas Public Service Commission, or an employee of the Department of Energy and Environment working for the Arkansas Public Service Commission, shall practice or represent clients before any other agency of this state which is engaged in the regulation of any business, profession, or trade.

(b) Nor shall any person while serving as a member ~~or employee~~ of the commission or an employee department represent any person, firm, corporation, or enterprise subject to the regulatory jurisdiction of the commission in any proceeding before any court or administrative body.

SECTION 736. Arkansas Code § 23-2-108 is amended to read as follows:

23-2-108. Costs of operation and maintenance.

(a) All costs of operation and maintenance of the Arkansas Public Service Commission shall be paid by vouchered warrants drawn against the General Revenue Fund Account of the State Apportionment Fund in the State Treasury from appropriations made for these purposes by the General Assembly.

(b)(1) The ~~commission~~ Department of Energy and Environment shall designate one (1) of its officers or employees who is familiar with cost accounting methods to keep an accurate record of that part of the cost of operation and maintenance of the commission having to do with matters relating to the regulation of public utilities, such costs hereafter referred to as “utilities costs”.

(2) In a similar manner, that officer or employee shall keep an accurate record of that part of the cost of operation and maintenance of the commission having to do with all matters other than those relating to the regulation of public utilities.

SECTION 737. Arkansas Code § 23-2-109 is amended to read as follows:

23-2-109. Expenses of commission.

All expenses incurred by the Arkansas Public Service Commission pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the commissioners, ~~their officers, and employees~~ incurred while on business of the commission, shall be paid from the funds provided for the use of the commission after being approved by the commission.

SECTION 738. Arkansas Code § 23-2-110 is amended to read as follows:

23-2-110. Payment of expenses and salaries.

(a) The expenses of the Arkansas Public Service Commission shall be paid from the State Treasury on the warrant of the Auditor of State, and subject to the approval of the Secretary of the Department of Energy and Environment.

(b) The clerk of the commission shall make out an itemized account of all the expenses incurred by the commission, fees paid for officials for issuing and serving notices and process, witness fees, and any other expenses actually paid and which are authorized by this act.

(c) The account shall be examined by the commission and the secretary and approved by it if correct, and the account so approved shall be filed with the Auditor of State.

(d) The Auditor of State shall issue his or her warrant on the Treasurer of State for the amount of the account and deliver the warrant to the clerk of the commission, and the Treasurer of State is authorized to pay the warrant.

SECTION 739. Arkansas Code § 23-2-111 is amended to read as follows:

23-2-111. Salaries and expenses – Time of payment.

(a) The salaries and expenses of the employees of the Department of Energy and Environment working on behalf of the Arkansas Public Service Commission shall be paid monthly upon certificate and vouchers, as required by law.

(b) If it becomes necessary to pay for transportation, costs, or other expenses of a similar nature during any current month, the payments may be drawn in advance upon certificate of the commissioners. However, the payments are to be embraced thereafter in the monthly statement to be made as required

by law, showing the expenses to have been paid.

SECTION 740. Arkansas Code § 23-2-112 is amended to read as follows:

23-2-112. Rural and Community Liaison – General job responsibilities.

(a) The Rural and Community Liaison will serve as a two-way communication link between the Arkansas Public Service Commission and utility customers in Arkansas, particularly those in rural areas.

(b)(1) The liaison is responsible for:

(A) Providing information to communities and rural utility customers concerning utility matters within the jurisdiction of the commission; and

(B) Identifying questions and concerns that rural utility customers may have concerning utility issues and relaying those concerns to the members of the commission and to the commission staff.

(2) In the performance of these duties, the liaison will work with stakeholders in rural areas and communities, including legislators, civic and community leaders, customers and customer groups, and rural utility personnel.

(c) The liaison shall be employed by the Secretary of the Department of Energy and Environment.

SECTION 741. Arkansas Code § 23-2-304(a)(11)(A)(i), concerning the powers and duties of the Arkansas Public Service Commission, is amended to read as follows:

(11)(A)(i) Propose, develop, solicit, approve, require, implement, and monitor financial assistance programs for utility customers who are sixty-five (65) years of age or older or who meet the income eligibility qualifications of the Low Income Home Energy Assistance Program administered by the ~~Department of Human Services~~ Arkansas Energy Office of the Department of Energy and Environment.

SECTION 742. Arkansas Code § 23-3-405(a)(1)(B), concerning the authority of the Arkansas Public Service Commission for rate changes and exemptions, is amended to read as follows:

(B) The commission is authorized to order, require, promote, or engage in energy conservation programs and measures for the benefit of

utility customers who are sixty-five (65) years of age or older or who meet the income eligibility qualifications for the Low Income Home Energy Assistance Program administered by the ~~Department of Human Services~~ Arkansas Energy Office of the Department of Energy and Environment.

SECTION 743. Arkansas Code § 23-18-506, is amended to read as follows:

23-18-506. ~~Arkansas Department~~ Division of Environmental Quality's and Arkansas Pollution Control and Ecology Commission's jurisdiction unaffected by subchapter.

(a) This subchapter does not affect the:

(1) Jurisdiction of the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission with respect to water and air pollution control or other matters within the jurisdiction of the ~~department~~ division or the Arkansas Pollution Control and Ecology Commission; and

(2) Requirement that a person apply for and obtain a permit from the ~~department~~ division as provided by the Arkansas Water and Air Pollution Control Act, §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, and 8-4-301 – 8-4-313.

(b) This subchapter does not confer upon the Arkansas Public Service Commission any authority or jurisdiction conferred by law upon the ~~department~~ division or the Arkansas Pollution Control and Ecology Commission.

(c) Notwithstanding the exemption provisions of § 23-18-504, each major utility facility constructed in Arkansas is subject to the environmental rules and regulations of the state and federal regulatory bodies having jurisdiction over the air, water, and other environmental impacts associated with the major utility facility.

SECTION 744. Arkansas Code § 23-18-513(a)(7)(A), concerning service and notice of an application for a certificate of environmental compatibility and public need, is amended to read as follows:

(A) ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 745. Arkansas Code § 23-18-526 is amended to read as follows:

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

Notwithstanding any other provision of law, no municipality, local government unit, or state department or agency, except the ~~Arkansas~~

~~Department~~ Division of Environmental Quality as set out in § 23-18-506, may require any approval, consent, permit, certificate, or other condition for the construction, operation, or maintenance of a major utility facility authorized by a certificate issued pursuant to the provisions of this subchapter. Nothing in this subchapter shall prevent the application of state laws for the protection of employees engaged in the construction, operation, or maintenance of the major utility facility.

SECTION 746. Arkansas Code § 23-112-614(c)(1), concerning auto auction fees for salvage-titled or parts-only titled vehicles, is amended to read as follows:

(1) Fifty percent (50%) for the ~~Arkansas Department~~ Division of Environmental Quality to be used for inspection and oversight of auto auctions to enforce all laws and rules administered by the ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 747. Arkansas Code § 25-1-119(c)(2)(B), concerning services and studies regarding mortality disparities, is amended to read as follows:

(B) ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 748. Arkansas Code § 25-1-119(d)(3), concerning services and studies regarding mortality disparities, is amended to read as follows:

(3) The ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 749. Arkansas Code § 25-1-120(c)(2)(C), concerning comprehensive cross-sector collaboration, is amended to read as follows:

(C) The ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 750. Arkansas Code § 25-11-103 is amended to read as follows:

25-11-103. Funds transfer to the Weatherization Assistance Program. ~~The Department of Human Services~~ Division of Environmental Quality shall transfer annually to the ~~Arkansas Department of Environmental Quality~~ Arkansas Energy Office a minimum of fifteen percent (15%) and up to a maximum of twenty-five percent (25%), as allowed by federal law or regulation, of the annual allocation for the Low Income Home Energy Assistance Program to be

used by the Weatherization Assistance Program of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 751. Arkansas Code § 25-14-101 is repealed.

~~25-14-101.—Creation—Director—Organization—Personnel.~~

~~(a)—There is created the Arkansas Department of Environmental Quality.~~

~~(b)—The executive head of the Arkansas Department of Environmental Quality shall be the Director of the Arkansas Department of Environmental Quality. The director shall:~~

~~(1)—Be appointed by the Governor, with the consent of the Senate;~~

~~(2)—Be appointed after the Governor consults with the Arkansas Pollution Control and Ecology Commission; and~~

~~(3)—Serve at the pleasure of the Governor.~~

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

~~(2)—There shall be created a new Division of Environmental Preservation which shall be responsible for reviewing and making specific ecologically oriented recommendations on all plans, programs, and projects of all other state departments, divisions, agencies, and commissions and upon all federal plans, programs, and projects affecting this state. To this end, all other departments, divisions, agencies, and commissions within this state are directed to cooperate with the Arkansas Department of Environmental Quality in fulfilling the Arkansas Department of Environmental Quality's responsibility defined in this chapter.~~

~~(3)—Nothing in this subsection shall be construed to prevent the director, with the advice and consent of the Governor and the commission, from organizing the Arkansas Department of Environmental Quality into the divisions and units which may be necessary to effectively and efficiently administer the statutory responsibilities of the Arkansas Department of Environmental Quality.~~

~~(d)—The director, with the advice and consent of the Governor, shall appoint the heads of the respective divisions. All of the personnel of the Arkansas Department of Environmental Quality shall be employed by and serve at~~

~~the pleasure of the director. Nothing in this section shall be so construed as to reduce any right which an employee in the Arkansas Department of Environmental Quality shall have under any civil service or merit system.~~

~~(c) Each division of the Arkansas Department of Environmental Quality shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the Arkansas Department of Environmental Quality as he or she shall deem desirable and necessary for the effective and efficient operation of the Arkansas Department of Environmental Quality.~~

SECTION 752. The introductory language of Arkansas Code § 25-34-109(b), concerning the Computer and Electronic Recycling Fund, is amended to read as follows:

(b) The fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality and may be used to:

SECTION 753. Arkansas Code § 25-34-110(a), concerning the computer and electronic equipment recycling grants, is amended to read as follows:

(a) Electronic equipment recycling grants must be awarded on the basis of written grant-request proposals submitted to and approved by the ~~Arkansas Department~~ Division of Environmental Quality.

SECTION 754. Arkansas Code § 26-51-506(c)(2)(B)(vi) and (vii), concerning the tax credit for waste reduction, reuse, or recycling equipment and eligibility, are amended to read as follows:

(vi) ~~Beginning July 1, 2016, by~~ By July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(2)(B) shall provide notice to the Department of Finance and Administration of the amount of tax credits, including tax credits pending certification by the ~~Arkansas Department~~ Division of Environmental Quality, subject to the limitations in subdivision (c)(2)(B)(iii) of this section, to be sold or transferred for value.

(vii) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(2)(B)(vi) of this section on or before June 30 of the year following the year in which the

notice was provided for all tax credits certified by the ~~Arkansas Department~~ Division of Environmental Quality by June 30 of the year following the year in which the notice was provided by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

SECTION 755. Arkansas Code § 26-51-506(c)(3)(D)(v) and (vi), concerning the tax credit for waste reduction, reuse, or recycling equipment and eligibility, are amended to read as follows:

(v) Beginning July 1, 2020, by July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(3)(D) shall provide notice to the Department of Finance and Administration of the amount of tax credits, including tax credits expected to receive certification during the fiscal year by the ~~Arkansas Department~~ Division of Environmental Quality, subject to the limitations in subdivision (c)(3)(D)(iii) of this section, to be sold or transferred for value.

(vi) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(3)(D)(v) of this section on or before June 30 of the calendar year following the calendar year in which the notice was provided for all tax credits certified by the ~~Arkansas Department~~ Division of Environmental Quality by June 30 of the calendar year following the calendar year in which the notice was provided by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

SECTION 756. The introductory language of Arkansas Code § 26-51-506(d), concerning the tax credit for waste reduction, reuse, or recycling equipment and eligibility, is amended to read as follows:

(d) To claim the benefits of this section, a taxpayer must obtain a certification from the Director of the ~~Arkansas Department~~ Division of Environmental Quality certifying to the Revenue Division of the Department of Finance and Administration that:

SECTION 757. Arkansas Code § 26-51-506(f)(5), concerning the tax credit for waste reduction, reuse, or recycling equipment and eligibility, is

repealed.

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

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

~~(C) Taxpayers who file written notice and a project plan with the Arkansas Department of Environmental Quality prior to July 1, 1993, shall be deemed to have filed an application for certification for purposes of this subdivision (f)(5), provided that all the information necessary to complete the application for certification is provided to the Arkansas Department of Environmental Quality on or before December 31, 1993.~~

SECTION 758. Arkansas Code § 26-51-506(k)(1)(A), concerning the tax credit for waste reduction, reuse, or recycling equipment and eligibility, is amended to read as follows:

(k)(1)(A) The ~~Arkansas Department~~ Division of Environmental Quality and the ~~division~~ Revenue Division of the Department of Finance and Administration shall promulgate rules or regulations as are necessary to administer this section.

SECTION 759. Arkansas Code § 26-51-511(a)(1)(B), concerning coal mining, producing, and extracting, is amended to read as follows:

(B) A holder of a valid mining permit issued by the ~~Arkansas Department~~ Division of Environmental Quality to allow surface or highwall mining;

SECTION 760. The introductory language of Arkansas Code § 26-51-1215(d)(2), concerning tax credits for waste reduction, reuse, or recycling equipment, is amended to read as follows:

(2) Obtain a certification from the Director of the ~~Arkansas Department~~ Division of Environmental Quality certifying to the Revenue Division of the Department of Finance and Administration that:

SECTION 761. Arkansas Code § 26-51-1503(3)(A)(v), concerning the

definition of "committee" under the Arkansas Private Wetland and Riparian Zone Creation, Restoration, and Conservation Tax Credits Act, is amended to read as follows:

(v) The ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 762. Arkansas Code § 26-52-401(36), concerning various products and services exempted from certain taxes, is amended to read as follows:

(36) Gross receipts or gross proceeds derived from the sale of:

(A) Fuel packaging materials to a person engaged in the business of processing hazardous and nonhazardous waste materials into fuel products at a facility permitted by the ~~Arkansas Department~~ Division of Environmental Quality for hazardous waste treatment; and

(B) Machinery and equipment, including analytical equipment and chemicals used directly in processing and packaging of hazardous and nonhazardous waste materials into fuel products at a facility permitted by the ~~Arkansas Department~~ Division of Environmental Quality for hazardous waste treatment;

SECTION 763. Arkansas Code § 27-101-405(a)(2), concerning the establishment of the Marine Sanitation Advisory Committee, is amended to read as follows:

(2) Two (2) members from the state at large to be appointed by the Governor after consulting with the Director of the Department of Health and the Director of the ~~Arkansas Department~~ Division of Environmental Quality; and

SECTION 764. Arkansas Code § 27-101-410 is amended to read as follows:
27-101-410. Cooperation with federal agencies.

The Department of Health, the ~~Arkansas Department~~ Division of Environmental Quality, and the Arkansas State Game and Fish Commission shall pursue cooperative agreements with all appropriate federal agencies to ensure the proper disposal of marine sewage in Arkansas.

SECTION 765. EMERGENCY CLAUSE. It is found and determined by the

General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the provisions of this act should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.