

PLAINTIFF'S EXHIBIT

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Arkansas Solid Waste Management Code

March 23, 1984



Solid and Hazardous Waste Division

Arkansas Department of Pollution Control and Ecology

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ARKANSAS SOLID WASTE MANAGEMENT CODE

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SOLID AND HAZARDOUS WASTE DIVISION

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY
8001 NATIONAL DRIVE
LITTLE ROCK, ARKANSAS 72209

CAPCO JEN 0004005

ARKANSAS SOLID WASTE MANAGEMENT CODE

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STATE OF ARKANSAS
DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

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ARKANSAS SOLID WASTE MANAGEMENT CODE

CHAPTER ONE: PRELIMINARY PROVISIONS

Section I. TITLE. The following rules and regulations of the Department of Pollution Control and Ecology of the State of Arkansas, adopted pursuant to the Arkansas Solid Waste Management Act (Act 237 of 1971 as amended; Ark. Stats. § 82-2701 et. seq.), hereinafter referred to as the "Act," shall be known as the "Arkansas Solid Waste Management Code," hereinafter called the "Code."

Section II. DEFINITIONS.

When used in this Code:

- A. "Commission" means the Commission on Pollution Control and Ecology of the State of Arkansas.
- B. "Demolition material" means inert non-putrescible material resulting from the demolition or razing of buildings, roads and other man-made structures which has value as fill material. Demolition material typically consists of concrete, bricks, bituminous concrete, wood, gypsum board, masonry and plaster, alone or in combinations.
- C. "Demolition waste" means solid waste resulting from the demolition or razing of buildings and other man-man structures which are not suitable for use as fill material.

- D. "Department" means the Department of Pollution Control and Ecology of the State of Arkansas. When reference is made in this Code to actions taken by or with reference to the Department, the reference is to the staff of the Department acting at the direction of the Director.
- E. "Director" means the Director of the Department of Pollution Control and Ecology.
- F. "Disposal" means discharging, depositing, injecting, releasing, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water.
- G. "Disposal site" or Disposal facility" means any place at which solid waste is dumped, abandoned, or accepted or disposed of for final disposition by incineration, landfilling, composting or any other method. Wastewater treatment plants permitted under the National Pollutant Discharge Elimination System (NPDES) and hazardous waste management facilities permitted under the Arkansas Hazardous Waste Management Act and Code shall not be deemed to be disposal sites or facilities for the purposes of this Code.
- H. "Fill material" means inert non-putrescible materials, including wood and wood by-products from land clearing, and manufacturing and demolition material which has a primary beneficial use for reclamation or leveling of surface areas.
- I. "Groundwater" means any water occurring beneath the earth's surface.

- J. "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may, in the judgement of the Department: (1) causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, or transported, or disposed of or otherwise improperly managed. Such wastes include, but are not limited to, those which are radioactive, toxic, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means. (For purposes of this Code, only waste defined as hazardous under 40 CFR 261 shall be considered hazardous, except that polychlorinated biphenyls, as defined in 40 CFR 761, which are transported to treatment or disposal facilities, shall be regulated as hazardous waste under the provisions of Section 16 of the Arkansas Hazardous Waste Management Code and shall be processed in hazardous waste management facilities which comply with the provisions of the Arkansas Hazardous Waste Management Code or the provisions of 40 CFR 761, whichever are the most stringent.)
- K. "Hazardous waste - small quantities of exempt hazardous waste" means waste generated by persons who generate small quantities of hazardous waste as defined in 40 CFR 261.5 as incorporated by reference in the Arkansas Hazardous Waste Management Code, or such lesser volumes as are identified by state regulations which are in effect at the time of generation or storage of such waste.

- L. "Herbicide and pesticide container" means a spent container that has contained (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests, (b) any substance or mixture of substances intended for use as a plant regulator, defoliant, desiccant, and (c) any substance or mixture of substances intended to be used as a spray adjuvant and not controlled by RCRA subtitle "C", PL 94-580, CFR 40 261.33 paragraph "E".
- M. "Highly toxic pesticide container" means a spent container that has contained any pesticide determined to be a highly toxic pesticide that under the authority of Section 25 (a)(2) of FIFRA or by RCRA subtitle "C" PL 94-580, CFR 40 Part 261.33 paragraph "E".
- N. "Infectious waste" means laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients and laboratory animals) and disposal fomites (any substance which may harbor or transmit pathogenic organisms) attendant thereto. It also means surgical operating room pathologic specimens and disposal fomites attendant thereto and similar disposal materials from out-patient areas and emergency rooms, including equipment, instruments, utensils and fomites of a disposal nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated, as required by public health agencies.
- O. "Landfarming" means the application of waste onto land and incorporation into the surface soil for the purpose of attenuation. Synonyms include land application, land cultivation, land irrigation, land spreading, soil-farming, and soil incorporation.

- P. "Landfill" means a method of disposing of solid waste on land without creating nuisances or hazards to public health or safety or to the environment by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of approved material. Four categories of landfills are recognized by this Code, namely:
1. "Class I" landfill serves a population service area of greater than 5,000 and is for the disposal of putrescible non-putrescible, domestic and special materials wastes. Special materials waste not included in the permit will require separate written approval by the Department.
 2. "Class II" landfill serves a population service area of 5,000 or less and is for the disposal of putrescible, non-putrescible, domestic and special materials wastes. Special materials waste not included in the permit will require separate written approval by the Department.
 3. "Class III" landfill facility is for the disposal of inert non-putrescible and approved process wastes. Disposal of special materials in a Class III landfill will require separate written approval by the Department.
 4. "Class IV" landfill facility is for the disposal of inert non-putrescible wastes, except upon written approval from the Department for special materials disposal.
- Q. "Leachate" means the fluid stream which issues from a pile or cell of solid materials and which contains water, dissolved solids and decomposition products of the solids.

- R. "Municipality" means a city of the first class or city of the second class or an incorporated town.
- S. "Open dump" means a site for the disposal of solid waste which is not a sanitary or secure landfill and a land site at which solid waste is disposed of in a manner which does not protect against scavengers.
- T. "Person" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, city, town or municipal authority or trust, venture or other legal entity, however organized.
- U. "Practices" means the act or method of managing of solid waste.
- V. "Process waste" means solid wastes resulting from a manufacturing operation.
- W. "Putrescible wastes" shall mean solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for birds and potential disease vectors.
- X. "Residue - one time disposal" means the disposal of small volumes of released material residue, not to exceed 1,000 yd. ³ with disposal taking place over a project life of less than 3 months.
- Y. "Residue - released material" means non-putrescible products which have been placed or accidentally released into the environment and remain as residue after salvaging operations have recovered marketable released material.
- Z. "Safety" means practices designed to reduce or prevent injury or damage to the public or to the environment.

- AA. "Salvage" means the controlled removal of reusable material, but shall exclude food products and all other putrescible wastes.
- BB. "Scavenging" means the manual sorting of refuse, either in the trucks, at the face of the fill, or in unconfined truck discharge areas by individuals not associated with the landfill operation.
- CC. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, publicly used, privately owned and operated treatment plants, septic tanks, and industrial sludge.
- DD. "Sludge - solidified" (synonymous with sludge) shall have the same meaning as "sludge" except that it shall be of sufficient consistency to support solid waste compaction and cover requirements. This consistency normally requires greater than 30% solids.
- EE. "Solid waste" means all putrescible and non-putrescible waste in solid or semi-solid form, including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, and hazardous waste, including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes, to include spent containers, processed waste and all other solid and semi-solid waste materials resulting from industrial, commercial, agricultural, and community and residential activities.
- FF. "Solid waste management system" means the entire process of storage, collection, transportation, processing, treatment, and disposal of solid waste.

GG. "Special materials" means solidified sludges, spent herbicide and pesticide containers, process wastes, chemical wastes, asbestos wastes, cannery pomace wastes, packing house offal and tankage, condemned food or drink products, waste cooking fats and oils and grease trap skimmings, hatchery wastes, septic tank pumpings, incinerator ash or residue, vehicle tires, dead animals, and small quantities of exempt hazardous waste.

HH. "State" means the State of Arkansas.

II. "Vector" means animals or insects capable of transmitting disease.

JJ. "Watertable" means the surface of unconfined water at which pressure is atmospheric and is defined by the levels at which water stands in wells that penetrate the water.

CHAPTER TWO: LOCAL SOLID WASTE MANAGEMENT SYSTEMS

Section III. SOLID WASTE MANAGEMENT SYSTEM

- A. City, town, and county governments shall at all times provide for an adequate solid waste management system for all areas within their respective jurisdictions.
- B. City, town, and county governments shall submit a written and detailed proposed solid waste management system plan for all areas within their respective jurisdictions to the Arkansas Department of Pollution Control and Ecology within 180 days of receipt of a request therefor from the Director. The plan shall be implemented by the local government upon approval of the Department in accordance with an approved implementation schedule. Additional or revised information shall be submitted to the Department by the local government to remedy any deficiencies identified by the Department within forty-five (45) days of receipt of written notice thereof from the Department.
- C. The solid waste management system plan of each local government shall be adequate to carry out the legislative mandate of

the Arkansas Solid Waste Management Act, as amended (Act 237 of 1971, as amended.)

- D. The solid waste management system of each local government shall be constructed and operated in such a manner as to provide protection of the public health and the environment and to promote the orderly development of economic resources.
- E. The adequacy of a solid waste management system plan and the solid waste management system of the city, town, and/or county shall be subject to the approval of the Department.
- F. The operation of a solid waste management system, or any component thereof, may be conducted directly by city, town, and/or county government, or by a properly delegated authority thereof, or may be contracted to private enterprise.
- G. The contracting of the day-to-day operation of the solid waste management system by city, town, and/or county government to private enterprise shall in no way relieve the aforesaid local governments of their responsibilities for the performance of such contract in a manner which ensures compliance with this Code and with the Arkansas Solid Waste Management Act (Act 237 of 1971, as amended).
- H. City, town, and/or county governments may establish policies and enact local laws (ordinances), concerning all phases of the operation of a solid waste management system, including solid waste management systems contracted to and operated by private enterprise except that such policies and ordinances shall not

be inconsistent with the provisions of Act 237 of 1971, as amended and the rules and regulations adopted by the Commission.

- I. City, town, and/or county governments may join together in inter-local agreements as provided in Act 699 of 1979, the "Arkansas Joint County and Municipal Solid Waste Disposal Act," to establish policies for and enact local laws (ordinances) concerning all phases of the operation of a solid waste management system, including solid waste management systems contracted to and operated by private enterprise, except that such policies and laws (ordinances) shall not be inconsistent with the provisions of Act 237 of 1971, as amended, and the rules and regulations adopted by the Commission.
- J. The solid waste management system plan of each local government shall include the following:
 1. A narrative explanation concerning the collection and disposal of all solid waste generated within the territorial boundaries of the local government, although some of such waste may not be handled by the system of the city, town, or county. Facilities which will not be managed by the local government's system but which will handle solid waste should be identified. Such facilities may include state and federal facilities or private disposal facilities. The plan should identify the wastes these facilities handle and the role of local government in assuring their proper and lawful operation.

2. The solid waste management system plan shall include a financial management segment which will verify that provisions have been made which will ensure the long-range fiscal integrity of the solid waste management system. The financial management segment shall set out in detail the source of funds for maintenance and operation, depreciation account, and debt service when applicable, for the purpose of carrying out the day-to-day and continuing operation of such a system.
3. The solid waste management system plan shall show the method and frequency of collection by the government of jurisdiction in the area from which the solid waste will be collected for transporting to a disposal facility.
4. The solid waste management system plan shall reflect consideration given to identification and separation of marketable materials from the system's solid waste stream, and consideration given to disposal methods other than the one selected to be a part of the solid waste management system.
5. The solid waste management system plan shall show the location, size and method of intended closure, to include a time frame for closure, of all open dumps located within the area of the government of jurisdiction.

6. The plan shall include a discussion of the role of local law enforcement authorities in carrying out its successful implementation. The plan shall include copies of letters to the County Sheriff, and/or Chief of Police, as appropriate, and the County Prosecutor asking them to review the plan and requesting a letter of response acknowledging their commitments to fulfill the duties outlined in the plan. All letters of response shall be included in the plan upon submittal to the Department.
7. The plan shall include a detailed schedule for implementation of each component of the system.

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CHAPTER THREE: PERMIT APPLICATION PROCEDURE

Section IV. SITE SELECTION AND LOCAL GOVERNMENT LOCATION APPROVAL

- A. The responsibility for solid waste disposal site selection and site location approval shall be as follows:
 1. Person(s) requesting a permit for a solid waste disposal facility shall be responsible for the selection of the proposed disposal site.
 2. Applicants for Class III or Class IV landfills shall notify the local government(s) of jurisdiction over a proposed site, the name and address of applicant, phone number, legal description of the site and of the nature and amount of the waste of proposed acceptance at least twenty (20) days prior to submitting the "pre-application).

3. Specific geographic site approval for Class I and Class II landfills must be obtained from the government(s) of jurisdiction. Written documentation of this approval shall accompany the permit pre-application, except as provided in 5.(d) of this section.
4. Local government approval of geographic location shall not limit the Department's authority to impose setback requirements.
5. Applicants for Class I or Class II landfills shall notify all local governments of jurisdiction over a proposed disposal facility site by certified mail that the applicant intends to seek a permit therefor. The notice shall state:
 - (a) The name, address, and telephone number of the applicant.
 - (b) The legal description of the site.
 - (c) The applicant intends on submitting an application to the Department for a solid waste disposal facility at the site and that the approval of the local government for this site is requested.
 - (d) That failure of the local government to respond in writing to the applicant within sixty (60) days of receipt of the notice shall be deemed to constitute approval of the siting selection.
 - (e) That denial of siting by the local government shall be for stated cause and should be based

upon appropriate documentation. The causes of denial may include any of the grounds stated in Section IV. A.6. of the Arkansas Solid Waste Management Code.

6. Denial of siting by government(s) of jurisdiction shall be for stated cause. Such statement of cause shall be in writing and include appropriate documentation and shall be provided to the Department with copies to the applicant. Such cause may include: (1) proposed operation conflicts with existing comprehensive land use plan; (2) proposed location is an archeological site, as recognized by the Arkansas Archeological Survey; (3) is located in a Rare and Endangered Species habitat, as recognized by the Arkansas Game and Fish Commission and/or U.S. Fish and Wildlife Service; or (4) other specifically named factors which inherently threaten the public health and environment regardless of proper operation and design.

(a) Permit applicants denied siting by government(s) of jurisdiction shall have the right of review by the Director, if the applicant serves written notice on the Director of intent to seek review within thirty (30) days of date of denial by the government(s) of jurisdiction. Review dates will be set by the Director.

(b) The review shall be limited to the written stated cause of denial by the local governments and the submission of the applicant's pre-application unless the Director otherwise determines.

(c) Notice of the Director's decision on the review of siting approval be sent to the government in question and the applicant within ten (10) days of the review date.

7. City, town, and/or county governments making pre-application for permit for the day-to-day operation of a solid waste disposal system shall be required to accompany such pre-application with documentation of approval of the governing body of the government of jurisdiction of the proposed site. Cities of the first class which have planning of land use jurisdiction within a five (5) mile radius of the incorporated limits shall also be required to give written documentation of their approval of the location of such disposal facility within their jurisdictional planning area.

Section V. PRE-APPLICATIONS FOR PERMITS

- A. The Department should be contacted prior to the expenditure by the applicant of any significant amount of funds for investigation and design of any proposed solid waste disposal system in order that the Department may make a preliminary evaluation of the proposed disposal site.
- B. Pre-applications for permits for the construction or operation of solid waste disposal sites or facilities shall be submitted to the Department on forms made available by the Department. All pre-applications shall contain at least the following information when applicable:

1. The name and address of the applicant and the owner of the site or facility;
 2. The location of the proposed site, a description of its soil conditions, access roads, and streams which are in close proximity to the site or facility (a topographic map on which the location of the site is indicated shall be attached);
 3. Zoning regulations restricting use of the site or facility;
 4. Site geographic location approval by local governments of jurisdiction if required by Section IV of this Code; or if not required (for Class III and IV) documentation that the notices required by Section IV. A.2. have been given.
 5. Assurance that the permit applicant of a disposal facility for which a pre-application is made has the legal authority to use the lands for a disposal facility;
 6. Such additional information as shall be deemed necessary by the Department for a determination as to the issuance of a permit;
 7. Declaration of the classification of landfill; and
 8. Nature of waste to be received.
- C. Pre-application fees shall be submitted as required by Department regulations.

Section VI. APPLICATIONS FOR PERMITS

A. Applications for permits for the constuction or operation of new or existing solid waste disposal sites or facilities shall be submitted to the Department on forms to be made available by the Department. All applications shall contain at least the following information when applicable:

1. The name and address of the applicant and the owner of the site or facility;
2. The location of the proposed site, a description of its soil characteristics, access roads and streams which are in close proximity of the site or facility (a topographic map on which the location of the site is indicated shall be attached);
3. A file-marked copy of the legal instrument upon which is based the right to use the realty for a sanitary landfill. If such right is based upon anything other than a deed conveying fee simple absolute title, the instrument must recite the right to use the realty for a sanitary landfill.
4. A detailed description of the proposed construction or operation including:
 - (a) Plans and specifications for the project;
 - (b) Types, quantities, and sources of materials to be disposed of at the site or facility, including a pre-disposal sampling protocol of industrial wastes to be accepted.

- (c) A chemical description of any industrial or hazardous wastes to be disposed of at the site or facility, and a list of all proposed industrial customers of the applicant;
 - (d) Predominant land use of the area in which the site or facility is located;
 - (e) Total waste capacity, projected utilization rate, and total life expectancy of the facility;
 - (f) The proposed use of the site or facility upon termination of the disposal operation.
 - (g) Procedures for prevention of unauthorized use of the site or facility; and
 - (h) A permit application may include any or all of the Special Materials, in Appendix A.
5. Such additional information as shall be deemed necessary by the Department for a determination as to the issuance of the permit.
- B. In addition to the information set forth above, an applicant shall, if the type of disposal site or facility is one for which a specific regulation has been promulgated, submit such additional information as is required by the specific regulation.
- C. Permit application fees shall be submitted as required by Department regulations.

Section VII. PUBLIC HEARINGS AND INFORMATION

Each permit application shall be available for public inspection, provided, however, that the Department shall not disclose, except to authorized persons, any information which the Director determines is entitled by law to protection as trade secrets without the consent of the applicant. Trade secrets shall not include the name and address of the applicant, nor any information necessary, as determined by the Director, for the public to evaluate the hazards associated with the proposed operation, nor any other information required by law to be available to the public. A public hearing on any application shall be held if five (5) requests for a hearing are received within ten (10) days after a "Notice of Permit Application" has been published by the Department. If a public hearing is called for, the Department will cause to be published a "Notice of Public Hearing" which will include all pertinent facts about sources of information on the permit application, time, date, and location of the public hearing; and shall also provide at least ten (10) days preparatory time before the public hearing is held. Costs for the above publishing of legal notices shall be the responsibility of the applicant.

Section VIII. PERMIT APPLICATION REVIEW

- A. Technical evaluations and recommended approval or rejection of a proposed solid waste disposal site shall be the responsibility of the Department staff and shall include, but not be limited to, the evaluation of submitted geologic and hydrologic properties and soil characteristics of the site.
- B. Technical review and recommended approval or rejection of engineering design and plans for the construction, preparation, and operation of a proposed solid waste disposal facility shall be the responsibility of the Department staff.

- C. The Department may deny a permit to operate a solid waste management facility to any permit applicant who controls or has controlled any disposal site within the State at which there are unabated violations of this Code or the Act at the time the permit application is submitted. The Department shall deny a permit to operate a solid waste management facility to any permit applicant who controls or has controlled any disposal site within this State with a demonstrated pattern of willful violations of the Act or this Code of such nature and duration as to pose a threat to the public health or environment. For the purpose of this subsection, any person will be deemed to control or have controlled a disposal site if such person is or was the owner of 10% or more of the assets of the entity owning or operating such site.

Section IX. TRANSFER OF PERMIT

Permits for the operation of a solid waste management disposal system shall be transferable under the following conditions:

- A. Prior to consideration by the Department of a request for transfer of permit, the permit transferee shall provide the Department with adequate documentation that the permit transferee shall have ownership or control of the site, for which transfer of permit has been requested, contingent upon approval by the Department.
- B. The Director of the Department shall be notified sixty (60) days prior to the intended change of permittee.
- C. A compliance inspection shall be conducted by a representative of the Department prior to final transfer of permit.
- D. The Director may, upon receipt of a favorable compliance inspection report, grant a transfer of permit.

- E. Prior to transfer, the permittee shall transfer the disposal facility engineering design and operational plans to the permit transferee.
- F. Prior to transfer of permit, the new permit applicant shall schedule and attend a conference session with the Department.

Section X. MODIFICATION OF PERMIT

- A. Submittal of an application for modification of permit must be submitted to the Department on forms made available by the Department and shall show the following information:
 - 1. Name and address of the applicant;
 - 2. Site ownership or lease agreement;
 - 3. Amounts, nature, source and chemical analysis of exempted wastes of proposed acceptance;
 - 4. Revised plans proposed, if any;
 - 5. Any other requirements deemed necessary by the Department to assure an environmentally safe operation of the facility.
- B. The Director shall determine whether such modification is significant enough to require public notice and opportunity for comment. No such modification shall be implemented unless and until written approval therefor is received by the applicant.
- C. Permittees of landfills designed by a registered professional engineer and operated in accordance with this Code, may apply for a modification of permit in order to accept exempted hazardous waste from small quantity generators as defined in Act 406 of 1979.

Section XI. PERMIT APPROVAL/DENIAL/APPEAL

Permit applications and applications to transfer or modify a permit shall be approved or denied by the Department. If an application is denied a statement of the reasons therefor shall be provided to the applicant. Any applicant may appeal a decision denying a permit or the impositions of special conditions on a permit pursuant to the provisions of Ark. Stat. 82-1906.

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CHAPTER FOUR: PERMITTING AND OPERATIONAL STANDARDS

Section XII. LANDFILLS

A. Planning and Design Common to Class I, II, III and IV.

1. Testing.

The geological characteristics of the site shall be determined by on-site testing or from earlier reliable data to indicate soil conditions, groundwater elevation and movement and sub-surface characteristics.

2. Equipment.

Adequate numbers of available types and sizes of properly maintained equipment shall be shown in the application and used in operating the landfill in accordance with the description of the proposed operation. Emergency equipment shall be available by suitable arrangements from other sources during equipment breakdown, peak load or adverse weather conditions.

3. Geologic Structure.

The subsoil and lithological structure shall be such that there is reasonable assurance that leachate from the landfill will not contaminate the groundwaters or surface waters of the State, or that suitable design or operational techniques will be utilized to prevent such contamination. Leachate collection, treatment, ~~testing~~ and monitoring systems shall be used where necessary to protect ground and surface waters.

4. Sedimentation and Surface Water Control.

The surface contour of the area shall be such that surface run-off will not flow into or through the operational or completed fill area. Grading, diking, terracing, diversion ditches or tilling will be provided as necessary to control sedimentation on and off-site.

5. Water Table.

Landfill operations will maintain a safe vertical distance between deposited refuse and the maximum seasonal water table elevation and shall include such measures necessary to prevent contamination of the groundwater.

6. Location.

All solid waste disposal site locations shall conform to applicable state laws and county or municipal zoning laws and ordinances in effect at the time of application.

7. Flooding.

Sites subject to flooding shall be avoided, if possible. Sites located in areas which may be subject to flooding shall be protected by impervious dikes.

8. Access.

Access roads to a public disposal site shall be of all-weather construction and negotiable at all times by trucks and other vehicles.

9. Site Improvement

The following physical improvements shall be made before a landfill site is placed in operation:

- (a) The site shall be adequately fenced, with an entrance gate that can be locked and posted. Opening and closing hours and days of operation shall be clearly shown where applicable.
- (b) All weather operational road(s) shall be provided for vehicular movement within the site. Separate operational areas may be maintained within the site to allow for wet or dry weather operation and access.
- (c) Arrangements shall be made for fire protection services when a public fire protection service is available. When such a service is not available, practical alternate arrangements shall be made.

10. Operation.

All operations of the landfill shall be in accordance with the approved plans and provisions of this Code including but not limited to the following:

- (a) A landfill operation shall be under the direction of a responsible individual at all times.
- (b) Access to the site shall be permitted only during the hours when operating personnel are on the site.
- (c) Dumping of solid waste on the site shall be confined to the smallest practical area.
- (d) Unloading shall be supervised. Portable fences shall be used when necessary to prevent blowing litter from the unloading area. The fill and surrounding area shall be policed as necessary to collect all scattered materials.

(e) Insect and rodent control measures shall be employed as necessary and as may be directed by the Department.

(f) Salvage operations shall not be permitted in conjunction with a landfill except under the following conditions:

1. All salvage operations shall be conducted in a sanitary manner;
2. Salvage operations shall be confined to an area remote from the operating face of the fill;
3. Salvage operations shall not interfere with or otherwise delay the cover or fill operation;
4. All salvaged materials shall be removed from the landfill site daily, or properly stored so that they will not create a nuisance, rat harborage or unsightly appearance.

(g) The following activities shall be prohibited in conjunction with or upon the site of the landfill:

1. All scavenging operations;
2. All feeding of farm or domestic animals;
3. Deposition of refuse in standing water;
4. Burning, except upon written approval by the Department.

(h) Closure: the entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize run-off onto and into the fill, and to prevent erosion or washing of the fill, to drain off rainwater falling on the fill and to prevent the collection of standing water. Seeding to promote stabilization of the final soil cover shall be done as soon as weather permits. Adequate vegetative cover must be established to prevent erosion.

(i) An inspection of the entire site shall be made by the Department to determine compliance with approved plans and specifications before the earth-moving equipment is removed from the site. It shall be the obligation of the permittee to make a timely written inspection request. Any necessary corrective

work shall be performed before the landfill project is accepted as completed. Arrangements shall be made for the repair and reseedling of all cracked, eroded and uneven areas in the final cover during the first two years following completion of the fill.

- (j) The Department may require any additional information or action deemed necessary to assure an environmentally safe operation of the facility.

(SEE SECTION XII B. PLANNING AND DESIGN-CLASS I AND II
(ADDITIONAL REQUIREMENTS))

(SEE SECTION XII C. PLANNING AND DESIGN-CLASS III AND IV
(ADDITIONAL REQUIREMENTS))

B. Planning and Design - Class I and II (Additional Requirements).

1. Plans

Class I and Class II landfill disposal facility applications shall be accompanied by detailed plans and specifications prepared by a registered professional engineer. Detailed plans, specifications and required reports shall be submitted in triplicate to the Department for review, approval and file. Alterations or deviations from these plans shall also be submitted to review, approval and file.

2. Maps

The design of Class I and II landfills shall include one or more topographic maps which shall have scale and contour intervals that clearly show the character of the land (contour intervals of five feet or less and a scale of one inch to two hundred feet or less). These maps and accompanying data shall indicate the following: legal boundaries of the proposed site; land use and location of the residences

and other structures within one-half mile of the site boundary; location of public and private water supplies, wells, springs, streams, or other waters within one-mile of the site boundary; the purposed fill area, original and final surface contours; any borrow area; access and on-site roads; special drainage devices if necessary; fencing; location of all utilities and pipelines; and all other pertinent information to indicate clearly the soil characteristics, water table, orderly development, operation and completion of the landfill.

3. Cross-Section

Grades for proper drainage of each lift required and a drawing of an actual cross-section of a lift shall be part of the landfill design criteria and shall be included in the accompanying plans.

4. Quality of Cover

Cover material shall be of such character as to provide an adequate seal and shall be free of putrescible materials and large objects. Soil classifications shall be shown using the Unified Soils Classification System.

5. Avoidance of Nuisance

Landfill operations shall be designed and operated so as to avoid creating a public nuisance or a public health hazard or causing water or air pollution. Any discharge of treated leachate or contaminated run-off shall require a wastewater discharge permit from the Department.

6. Site Improvement

The following physical improvements shall be made before a landfill site is placed in operation:

- (a) A Class I landfill shall provide a furnished shelter, convenient for use by operating personnel. The shelter shall be screened and provided with heating facilities and adequate lighting. Provisions shall also be made for safe drinking water and sanitary hand-washing and toilet facilities.
- (b) Telephone or radio communications shall be provided at the landfill site.
- (c) A pre-operational inspection shall be conducted by a registered professional engineer to determine compliance with this Code and the approved engineered design and narrative prior to placing of waste. A written report of this inspection shall be submitted to the Department.
- (d) Any other requirements deemed necessary by the Department to assure an environmentally safe operation of the facility.

7. Operation

All operations of the sanitary landfill shall be in accordance with the approved plan and the provisions of this Code, including but not limited to the following:

(a) Spreading and Compaction

As rapidly as solid waste is admitted to the site, it shall be spread and compacted in shallow layers. Large bulky items, when not excluded from the site, shall be disposed of in a manner approved by the Department. The Department may exempt Class II landfills when deemed appropriate.

(b) Special Area for Non-putrescibles

Large quantities of non-combustible and non-putrescible waste such as cinders, broken paving or materials resulting from construction or demolition operations may be disposed of at a special area for that purpose and shall be indicated on the plans. Such materials shall be leveled and spread at sufficient intervals

to prevent unsightly appearance or rodent harborage and shall be covered as required for a completed sanitary landfill.

(c) Burning Material - Restriction

Burning material, or any solid waste with a combustion temperature likely to cause fire, shall not be deposited in the fill. Said material may be deposited in a separate location a sufficient distance from the fill area, and shall be immediately covered with a sufficient amount of earth or water to extinguish same.

(d) Quality of Cover

Cover material shall be of such quality as to prevent fly and rodent attraction and breeding, blowing litter, release of odors, fire hazards and unsightly appearance, and which will permit only minimum percolation of surface water when properly compacted.

(e) Daily Cover

Unless otherwise authorized by the Department, a compacted layer of at least six (6) inches of material shall be used to cover all exposed solid waste at the end of each working day.

Source of cover material shall be accessible for daily cover regardless of weather conditions.

(f) Interim Cover

A compacted layer of cover of at least one (1) foot shall be applied upon surfaces that will not receive an additional application of refuse or the final cover within sixty (60) days.

(g) Final Cover

A compacted layer of at least two (2) feet of material capable of supporting vegetation in addition to the daily cover shall be placed over the entire surface of all completed portions of the fill as soon as practical and not to exceed sixty (60) days following the final placement of refuse. Final cover shall be graded and seeded as provided on the approved plan and to prevent ponding.

(h) Maintenance of Cover

All cover depth must be continually maintained and final cover depths and vegetative cover shall be maintained for a period of two (2) years. The surface of the final cover shall be maintained at the plan elevation at all times by the placement

of additional cover material where necessary.

(i) Maintenance of Equipment

Provisions shall be made for the routine operational maintenance of equipment at the landfill site and for the prompt repair or replacement of landfill equipment.

(j) Liquids and Semi-liquids and Hazardous Substances Restriction

Sewage solids or liquids, domestic septic tank pumpings and other liquids, semi-liquids or hazardous substances (including but not limited to oil sludges; dye concentrations; pathological, infectious and biological wastes; process wastes, radioactive material; waste chemicals; highly flammable or volatile substances; spent pesticide or herbicide containers; pesticides or herbicides; raw animal manure and explosives) shall not be placed in a landfill until written approval has been obtained from the Department or as provided in the Appendix "A" Special Materials section herein. Special provisions may vary from site to site depending upon local conditions and will be specified in the approval letter.

(k) Special Materials

No person shall dispose of special materials except as provided in the Department's Special Materials Requirements set forth in Appendix A and/or conditions permit.

1. The Special Materials requirement set forth in the Appendix A shall be followed for disposal of such special materials in a permitted Class I or Class II landfill facility in the manner prescribed therein except that the Department may, by special conditions placed on the permit, prohibit any or all special materials from being disposed of in such landfill.
2. Special materials shall not be disposed of in a Class II or Class IV landfill except by prior written permission of the Department.
3. The Department shall evaluate and classify existing permitted landfills for the purpose of determining the eligibility of each such landfill for disposal of special materials; except that a hearing for modification of permit shall be required in order for such facility to dispose of small quantities of exempt hazardous wastes; permittees of such landfills shall be notified, within 90 days

of the adoption of the Code, of classification for eligibility to receive certain special wastes.

(SEE SECTION XII A. PLANNING AND DESIGN-COMMON TO CLASS I, II, III, AND IV LANDFILLS (ADDITIONAL REQUIREMENTS))

C. Planning and Design - Class III and IV (Additional Requirements).

1. Agreement for Putrescible and Paper Wastes

Permit applicant must operate or obtain written agreement with a permit holder of a Class I or Class II type landfill for the disposal of putrescible wastes and paper wastes in order to be permitted for a Class III or Class IV type landfill.

2. Plans

Applications for Class III landfills shall be accompanied by design plans prepared by a registered professional engineer as set forth in the engineering requirements for Class I and II landfills in section XII A. of this Code.

Applications for Class IV landfills shall be accompanied by a descriptive narrative of operations to include the method of disposal, e.g., area fill or trench fill, location of the initial disposal within the site, manner of progression to other areas of the site, depth, width and length of trenches when narrative calls for trench type disposal and as set forth in sub-paragraph 3. below. Detailed plans, specifications, narratives and required reports shall be submitted in triplicate to the Department for review, approval, and file. Alterations or deviations from these plans shall also be submitted for review, approval and file.

3. Design or Narrative

The design or narrative for the landfill shall include site land boundaries and land boundary corners, legal description and plats showing the shape and area of the land (with contour intervals of 10' or less and a scale of 1" to 500'); streets; roads, land use; location of residences and other structures, public and private water supplies, wells, springs, streams or other waters within ¼ mile of the site; the proposed fill area; orderly development, operation and completion of the landfill; original and final surface contours; any borrow area; fencing; location of all utilities and pipelines and other pertinent information as may be required by the Department.

4. Quality of Cover Material

Cover material shall be of such character as to provide an adequate seal and shall be free of disposed wastes and large objects. Soil classifications shall be shown using the Unified Soils Classification System.

5. Avoidance of Nuisance

Landfill operations shall operate so as to avoid creating a public nuisance or a public health hazard or causing water or air pollution. Any discharge of contaminated run-off requires a wastewater discharge permit from the Department. Water-filled areas not directly connected to natural lakes, rivers or streams may be filled with specific inert material not detrimental to designated water uses and which will not create a nuisance or hazard to health. Specific approval of the inert material to be used in this manner is required in writing from the Department.

Inert material shall not include residue from solid waste incinerators, unless evidence satisfactory to the Department is submitted by the applicant substantiating that such residues will not create a nuisance or hazard to health or the environment.

6. Operation

All operations of the landfill shall be in accordance with the approved plans and provisions of this Code including but not limited to:

(a) Manner of Disposal

All solid waste material shall be disposed of in a manner approved by the Department.

(b) Quality of Cover

Cover material shall be adequate for prevention of rodent attraction and breeding, and fire hazards.

(c) Burning Material - Restriction

Burning material, or any solid waste with a combustion temperature likely to cause fire, shall not be deposited in the fill.

(d) Frequency and Depth of Cover

Unless otherwise authorized by the Department, a compacted layer of at least six (6) inches of material shall be used to cover all exposed solid waste monthly.

(e) Final Cover

A compacted layer of at least two (2) feet of material capable of supporting vegetation in addition to the monthly cover shall be placed over the entire surface of all completed portions of the fill as soon as practical and not to exceed sixty (60) days following the final placement of refuse. Final cover shall be graded and seeded, as provided on the approved plan, and to prevent ponding.

(f) Maintenance of Cover

All cover depths must be continually maintained and final cover depths and vegetative cover shall be maintained for a period of two years.

(g) Liquids, Semi-liquids and Hazardous Substances - Restriction

Sewage solids or liquids, domestic septic tank pumpings and other liquids, semi-liquids or hazardous substances (including but not limited to oil sludges, dye concentrates; pathological, infectious and biological wastes; radioactive material; waste chemicals; highly flammable or volatile substances; spent pesticides or herbicide containers; pesticides or herbicides; raw animal manure; explosives and all putrescible wastes) shall not be discharged to a landfill of Class III or Class IV, except that approved process waste may be placed in a Class III landfill is specifically permitted therefor.

(SEE SECTION XII A. PLANNING AND DESIGN-COMMON TO CLASS I, II, III AND IV LANDFILLS (ADDITIONAL REQUIREMENTS))

Section XIII. FINANCIAL ASSURANCE REQUIREMENTS - LANDFILLS

Prior to a permit being issued for a landfill, each applicant shall post, with the Department, financial assurance of closure in accordance with one of the provisions and methods set forth in Appendix "B" of this Code which Appendix is expressly incorporated herein.

Section XIV. INCINERATION

- A. Applications for permits to site and operate an incineration system for the disposal of solid waste with or without provisions for resource recovery shall be submitted for permit review to the Department under the provisions of Act 472 of 1949, as amended, Section 82-1901 et. seq., Arkansas Statutes. Permits shall be processed on forms provided by the Department.

- B. All residue and ash removed from the incinerator plant shall be promptly disposed of or utilized at an approved site, and in a manner that will prevent nuisances, pollution and public health hazards.
- C. The Department will require periodic sampling based on the incinerator capacity, nature of the waste, and intended use of the ash residue.
- D. A permanent sign shall be posted at the site entrance identifying the operation and showing the permit number of the plant and indicating the hours and days when the plant is open for public use. Access to the plant shall be limited to those times when authorized personnel are on duty.
- E. All incoming solid waste to be incinerated at the plant shall be confined to the unloading area. Adequate holding capacity shall be provided.
- F. Facilities shall be designed to provide for dust control in the unloading and charging areas.
- G. Fire-fighting equipment, meeting the standards of Underwriters Laboratory, Inc., or other approved nationally recognized safety standards, shall be available in the storage and charging areas and elsewhere as needed.
- H. Arrangements shall be made with the local fire protection agency to provide fire-fighting forces in an emergency.

- I. Equipment shall be provided in the storage and charging areas and elsewhere as needed to allow cleaning after each day of operation or as may be required in order to maintain the plant in a sanitary condition.
- J. The charging openings as well as all equipment throughout the plant shall be provided with safety equipment.

Section XV. COMPOSTING

- A. In addition to the information required by Section VI hereof, an application for a permit for disposal of solid waste by composting shall include the following:
 1. Plans and specifications prepared by a registered professional engineer clearly indicating the layout and construction which will be undertaken;
 2. A map or aerial photograph indicating land use and zoning within $\frac{1}{4}$ mile of the facility which shall be of adequate scale to show all structures, lakes, ponds, drainage sequences, public and private water supply sources, rock outcroppings, roads, and other applicable details and shall indicate the general topography, with contours and drainage patterns and wells and soil boring locations;
 3. Details relating to geological formation of the property whereon the proposed installation is to be located with such details to be determined by soil borings or other appropriate means to a depth of at least ten feet; The seasonal high water table and groundwater monitoring when required by the Department;

4. An engineering report outlining the proposed method of operations, the quantity and source of material to be processed, the proposed use and distribution of the processed material and related details;
 5. Owner of the site and/or plant;
 6. Persons responsible for actual operation and maintenance of the plant;
 7. A depiction of prevailing wind patterns; and
 8. Additional data or information as may be required by the Department.
- B. The operation shall be conducted in a manner which precludes pollution, public health hazards and nuisances.
- C. Materials resulting from composting or similar processes and offered for sale shall contain no pathogenic organisms, shall not reheat upon standing, shall be innocuous, and shall contain no sharp particles which would cause injury to persons handling the compost.
- D. By-products removed during processing shall be handled in a pollution and nuisance free manner and shall be disposed of as provided in these regulations.

Section XVI. LANDFARMING

Applications for permits to site and operate a landfarm disposal system for the disposal of special category wastes shall be submitted for permit review to the Department under the provisions of Act 472 of 1949, as amended, Section 82-1901 et. seq., Arkansas Statutes, and Act 237 of 1971, as amended

and applicable. Permits shall be processed on forms provided by the Department.

- A. All landfarming operations shall be operated in accordance with 40 CFR 257 and any operational guidelines established by the Department.
- B. Wastes accepted for landfarming shall be restricted to those wastes as set out in the special materials waste section (Appendix "A" of this Code) and handled in the manner as set out herein unless otherwise approved by the Department.
- C. All generators of waste used in landfarming shall require a permit by the Department to include a site specific management plan in accordance with Soil Conservation Service guidelines.

Section XVII. FILL MATERIAL/RESIDUES

- A. The placement of "fill materials" and demolition materials," as defined in Section II, in legitimate fill operations shall not be deemed to constitute the disposal of solid wastes and shall not require a permit hereunder; and
- B. The placement of "released material residue; in a "one time disposal" operations as those terms are defined in Section II shall not be deemed to constitute the disposal of solid wastes and shall not require a permit hereunder provided that:
 - 1. The Department is notified of the proposed operation prior to its inception and;
 - 2. The Department approves the use of material and area of operation.

- C. The placement of materials exclusively consisting of soil and rock for fill or reclamation shall not be deemed to constitute the disposal of solid wastes and shall not require a permit hereunder.

Section XVIII. CLOSURE OF OPEN DUMPS AND OTHER UNPERMITTED DISPOSAL FACILITIES

Existing open dumps and other unpermitted disposal facilities shall be required to meet the same closure criteria as set out in this Code for permitted facilities.

Section XIX. TRANSFER/STORAGE FACILITIES

The storage of all solid waste shall be practiced so as to prevent the attraction, harborage or breeding of insects and/or rodents and to eliminate conditions harmful to public health, the environment or which create safety hazards, odors, unsightliness and nuisances. Submission of plans and operational procedures for approval by the Department may be required.

Section XX. COLLECTION AND TRANSPORTATION OF SOLID WASTE

A. Municipalities and Counties

Each local government shall provide an adequate system of collection and transportation of solid wastes generated within their respective jurisdiction.

B. All collection systems shall meet the following conditions:

1. Solid waste shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards and nuisances.

2. Collection and transportation equipment shall be designed and constructed so as to be leak-proof. The waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances.
3. Collection and transportation vehicles shall be kept in a sanitary condition.
4. Regular collection days shall be established. Collection shall be performed as necessary.
5. Appliances, furniture and other solid waste which cannot be collected during regularly scheduled pickups shall be collected as frequently as necessary and in accordance with the approved solid waste management system plan for the local government.
6. Collection and transportation of chemicals, poisons, explosives, radiological wastes and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.
7. All solid waste collected shall be transported to a permitted facility.

* * * * *

CHAPTER 5: ENFORCEMENT

Section XXI. INSPECTION AND ENFORCEMENT

- A. Any duly authorized officer, employee or representative of the Department may enter and inspect any property, premise or place at any reasonable time for the purpose of determining compliance with this Code.
- B. Interference with the Director or any authorized employees or agents of the Department in the performance of duties under the Arkansas Solid Waste Management Act, as amended, constitutes a misdemeanor and may, upon conviction, be punished by a criminal penalty of not more than one thousand dollars (\$1,000.00), or by imprisonment of not more than thirty (30) days, or by both. (Act 666 of 1983)

Section XXII. VIOLATIONS

- A. No person shall construct, install, alter, modify or operate any solid waste processing or disposal facility or disposal site without a permit from the Department.
- B. No person shall dispose of solid waste at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the Department, except that:
 - 1. No provision hereof shall be construed so as to prevent an individual from disposing of solid waste resulting from his own household activities on his own land, provided such disposal does not create a public or private nuisance or

hazard to health or the environment and does not violate a city ordinance or other law and does not involve the open dumping of garbage.

2. Any on-site solid waste processing facility (composting) which processes solid waste from an individual household shall not be deemed to constitute a disposal site and shall not be required to obtain a permit, provided the facility is located on the premises where the refuse originates. However, such facilities shall operate in a manner that will not create a public nuisance or adversely affect the public health or the environment.

C. Failure of a local government to comply with paragraph 1, Section ~~iii~~ of this Code requiring an adequate solid waste management system and plan shall constitute a violation subject to the civil penalties authorized by Act 237 of 1971, as amended.

D. No person shall violate any provision of the Act or of this Code.

Section XXIII. CIVIL PENALTIES

Any person who violates any provision of Act 237 of 1971, as amended, or this Code, shall be subject to assessment of civil penalties, after opportunity for hearing by the Department, of not more than \$5,000. Each day or part of a day during which such violation is repeated may constitute a separate offense.

* * * * *

CHAPTER 6: OTHER PROVISIONS

Section XXIV. EXEMPTIONS

The Department may grant exemptions, unless required by statutes, to any one or number of the requirements of the Code. In considering the granting of exemptions, the Department shall take into account such factors as population of the area being served, average daily loading, location of disposal site, nature of wastes, seasonal character of the disposal operation and other significant factors. Operational exemptions may be reviewed periodically with particular regard to any potential nuisance or hazard to public health and safety or to the environment.

Section XXV. LIMITATIONS - (Local Ordinances or Regulations)

Nothing in this Code shall be construed to limit the provisions of any county or municipal ordinance or regulation which is not inconsistent with this Code or the Act.

Section XXVI. SEVERABILITY

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

Section XXVII. EFFECTIVE DATE

This Code, including the index, exhibits, forms, and appendices thereto, and comprising pages one through ninety-four shall be in force and effect as of the date of its promulgation.

PROMULGATED THIS 23RD DAY OF MARCH, 1984
BY ORDER OF THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY

BY:

Clyde Broyles
Chairman

ATTEST:

Phyllis Garnett
Phyllis Garnett, Ph.D.
Director

APPROVED:

Bill Clinton
Bill Clinton, Governor
State of Arkansas

APPENDIX "A"

SPECIAL MATERIALS REQUIREMENTS

I. SPECIAL MATERIALS - "FRIABLE ASBESTOS MATERIAL"

Asbestos material wastes shall be handled in accordance with Federal National Emission Standards for Hazardous Air Pollutants (NESHAPS) regulations in the removal, containerizing, storage and transporting of materials.

- A. Asbestos material wastes must be placed in approved 6 mil plastic bags or double bagged in 4 mil plastic bags or other more secure containers, securely tied or sealed in a manner to prevent escape of "friable" or "particulate asbestos materials" to the outside air except that materials which include metal or other sharp objects must be placed in sealed metal drums.
- B. Asbestos material wastes may not be stored except as necessary to accumulate same for transporting to an approved disposal site.
- C. Asbestos material wastes storage, prior to transportation to an approved disposal site, must be in a closed and controlled area to prevent rupture of container.
- D. Asbestos material wastes must be transported in an enclosed conveyance unit to ensure that no asbestos material wastes will escape into the outside air either directly or indirectly.
- E. Asbestos material wastes must be disposed of in an approved disposal site in the following manner:

1. The disposal site (landfill) operator must be notified of the approximate time of arrival and volume of asbestos material wastes to be landfilled.
2. The disposal site (landfill) operator must be prepared to accept asbestos material wastes upon arrival.
3. Asbestos material wastes must be placed at the toe of the slope of the working face of the disposal site (landfill) or in a separate trench.
4. Approved cover soil must be placed over asbestos material wastes upon receipt at the toe of the slope or trench in a manner that will not rupture the container.
5. Cover soil must be compacted, upon a sufficient amount of soil being placed over the asbestos material wastes, to prevent exposure of containers and materials therein to the outside air during and after compaction.
6. Cover soil must not be less than a 6" layer after compaction and must receive an additional 6" compacted cover within 48 hours unless covered by additional solid waste placement and disposal.
7. Class III and Class IV landfills cannot accept asbestos material wastes except upon written approval by the Department.

II. SPECIAL MATERIALS - CONDEMNED ALCOHOLIC BEVERAGES

Condemned alcoholic beverages may be disposed of in the following manner:

- A. Condemned alcoholic beverages may be disposed of by crushing or emptying containers in such a manner as to cause such beverages to flow into an approved sewage system for treatment prior to discharge as wastewater treatment effluent.
- B. Discharge of such material into a wastewater treatment system shall not represent more than 2% of the daily volume through such wastewater treatment system, and shall require prior approval of the Department and the permittee of such wastewater treatment system.
- C. Condemned alcoholic beverages may be accepted in a Class I or Class II landfill, for purposes of containment and preparation for disposal, for which a permit has been issued, or upon approval by the Department.
- D. A containment area must be constructed for holding such beverages without cover for the purpose of evaporation and biodegradation.
- E. Containment area shall not exceed 3½ feet in depth and shall have 2 feet of freeboard.
- F. Condemned alcoholic beverages containers shall be crushed or emptied in the area immediately up-grade in a manner which will cause such beverage to flow into the containment area.

- G. Condemned alcoholic beverages shall be held in the containment area for a minimum of 30 days prior to removal or disposal.
- H. Condemned alcoholic beverages or biodegraded liquids may be landfarmed upon approval of the Department.

III. SPECIAL MATERIALS— CONDEMNED FOOD

Condemned food products may be disposed of in the following manner:

- A. Condemned food products to include canned foods, unmarketable produce, stale bakery products and unmarketable processed food, except liquids, shall be considered as putrescible waste and may be disposed of in a Class I or Class II landfill, which is permitted by the Department to accept such wastes.
- B. Condemned foods, except bulk liquids, which are condemned as a result of fire, flood, tornado or other natural or human caused disaster, may be disposed of in a Class I or Class II landfill, which is permitted by the Department to accept such wastes.
- C. Condemned bulk liquids which are condemned as a result of fire, flood, tornado or other natural or human caused disaster, shall be limited to liquids in contained amounts of greater than 2 gallons in individual containers and may be disposed of in a Class I or Class II landfill, which is permitted to receive such wastes only after mixing with soil to a consistency which will support compaction and cover material.
- D. Condemned food disposed of in a Class I or Class II landfill shall be crushed and spread over as large an area as is feasible prior to compaction and covering with soil, and shall not exceed two (2) feet in depth prior to receiving six (6) inches of compacted cover soil.

IV. SPECIAL MATERIALS - INCINERATOR ASH AND RESIDUE

Incinerator ash and residue may be disposed of in the following manner:

- A. Incinerator ash and residue may be disposed of in a permitted landfill except that such disposal in a Class III or Class IV landfill shall require written permission of the Department.
- B. Incinerator ash and residue may be used as a fill material, but only upon specific written approval by the Department, and under such conditions and manner as may be prescribed in such written approval.

V. SPECIAL MATERIALS - SOLIDIFIED SLUDGE

Solidified sludge may be disposed of in a permitted landfill under the following conditions:

- A. Solidified sludge may be disposed of by landfilling when meeting the consistency necessary to support compaction and cover material. (This consistency normally requires greater than 30% solids.)
- B. Solidified sludge containing hazardous materials shall not be disposed of in a landfill.
- C. Solidified sludge must be disposed of at the toe of the working face (slope) and may not be isolated from the working area for concentration in one area of a landfill. Such material may be contained or stored in an isolated area for recovery at a later date for approved landfarming as provided for by the Department's water permit.
- D. Solidified sludge shall not be disposed of in a Class III or Class IV permitted landfill unless authority is granted by written approval by the Department.

VI. SPECIAL MATERIALS - DEAD ANIMALS

Dead animals shall be disposed of in the following manner:

- A. When disposed of in a landfill, dead animals must be covered immediately upon receiving with a minimum of 2 feet of cover and shall be in an area which will receive additional waste and cover within 48 hours.
- B. Dead animals disposed of in an area which will not receive additional waste and cover within 48 hours, shall be covered with 3 feet of compacted cover soil.
- C. Dead animals shall not be disposed of in an area of a landfill which will not accommodate a minimum of 5 feet depth from the finished landfill surface elevation when final cover has been put in place.
- D. When more than one dead animal is received with a 24-hour period, the carcasses shall be distributed for disposal in such a manner as to minimize the occurrences of future sink holes and depressions in final landfill cover.
- E. Dead animals may be disposed of by the owner on the owner's land, provided such disposal is of sufficient depth to prevent scavengers from disturbing the carcasses, and provided that disposal does not constitute a public or private nuisance or hazard to health or to the environment, except that such disposal does not apply to permitted concentrated animal feeding operations.
- F. All owner/operators of minor and major animal feeding operations shall be responsible for the disposal of dead animals from such operation in the manner provided in the Department-approved management plan covering their operation.

- G. All concentrated animal feeding operations shall dispose of dead animals in accordance with Soil Conservation Service guidelines and/or recommendations.

VII. SPECIAL MATERIALS - SMALL QUANTITIES OF EXEMPT HAZARDOUS WASTE

Class I permitted solid waste disposal landfills may accept small quantities of hazardous wastes, which are generated by small quantity generators as defined in Section 3 of the Arkansas Hazardous Waste Management Code for disposal under the following conditions and in the following manner:

- A. The permittee of existing permitted solid waste disposal landfills shall be eligible to accept small quantities of hazardous waste for disposal, after the following procedures have been completed;
1. Submittal of a permit modification application on forms provided by the Department.
 2. Public Hearing.
 3. Receipt of modification of permit from the Department for the acceptance of such wastes.
- B. The permittee of a solid waste disposal landfill, for which a permit is issued on or after the date of adoption of the Code, shall not be eligible to accept small quantities of hazardous waste unless the application for permit to operate such landfill has clearly shown the intent to accept small quantities of hazardous waste for disposal therein.

- C. The percentage which small quantities of hazardous waste to be disposed of in a solid waste landfill may represent of the total waste disposed of therein shall be based upon a site specific evaluation by the Department. Such percentage may vary depending upon the types of small quantities of hazardous waste for disposal.
- D. The area of an existing solid waste disposal landfill for the purpose of determination of total waste disposal quantities and the percentage which small quantities may represent thereof, shall be based upon the unused portion of such landfill.
- E. Small quantities of hazardous waste shall not be placed in a solid waste landfill except when integrated with non-hazardous solid waste.
- F. Small quantities of exempt hazardous waste placed in a solid waste landfill shall not exceed, on a daily basis, the percentage that small quantities of hazardous waste may represent of the total waste received at such landfill.
- G. Small quantities of exempt hazardous waste shall be in a solid form prior to transporting and prior to disposal and must be accompanied with an analysis of such waste.
- H. Solid waste disposal landfills shall not accept for disposal small quantities of exempt hazardous waste that are deemed by the Department or federal regulations to be acutely hazardous or highly toxic wastes, which have been exempted solely on the basis of volume.
- I. Permittees of existing permitted solid waste disposal landfills shall not accept for disposal small quantities of exempt hazardous waste unless the permittee of such facility has applied for, and has been granted by the

Commission, after public hearing, a modification of permit.

VIII. SPECIAL MATERIALS - FROZEN FOOD PROCESSING WASTES,
CANNERY POMACE WASTES, HATCHERY WASTES, PACKING HOUSE
AND KILLING PLANT OFFAL AND TANKAGE WASTES

- A. Wastes in the above category may be utilized by rendering or landfarming or may be disposed of by landfilling. Landfarming or landfilling will require approval by the Department.
- B. All such wastes shall be transported in such a manner to avoid spillage.
- C. All such wastes to be used by landfarming shall require a permit by the generator.
- D. Waste application on the landfarm site shall conform to U.S. Soil Conservation Service guidelines and/or recommendations.
- E. Insect and rodent control measures shall be provided as necessary and as may be directed by the Department.
- F. Special waste categories such as frozen food processing wastes, cannery pomace wastes, hatchery wastes, packing and killing plant offal and tankage may be disposed of at a Class I or Class II landfill under the following conditions:
 - 1. Permission of the permittee of the receiving Class I or Class II landfill is obtained and approval given prior to disposal.
 - 2. All such wastes shall be drained or bulked to the lowest possible moisture content, and to a consistency which will support compaction and cover material (normally no less than 30% total solids content), before being transported to the landfill for disposal.

IX. DISCARDED MOTOR VEHICLE AND FARM IMPLEMENT TIRES

- A. Discarded tires shall be sliced or shredded prior to disposal to particle sizes necessary to assure that the particles will not emerge through waste cells and cover soils when placed with putrescible waste.
- B. Discarded tires, when not sliced or shredded, shall be disposed of by landfilling in an area separate from the putrescible waste area.

X. SPECIAL MATERIALS - WASTE COOKING FATS, OILS, AND FOOD SERVICE
GREASE TRAP SKIMMINGS

- A. Waste cooking oil and food service grease trap skimmings, which cannot be recycled, may be disposed of by landfarming in accordance with U.S. Soil Conservation Service guidelines and/or recommendations.
- B. When landfarming is not available within reasonable proximity of such wastes, these wastes may be placed in a Class I or Class II landfill, which is permitted by the Department to accept such wastes.
- C. A containment area must be constructed for holding such wastes without cover for the purpose of evaporation and deliquifying.
- D. After deliquifying, the waste shall be mixed with soil to a consistency which will support compaction and cover material prior to disposal.

- E. Similar materials which are not salvageable, and have been condemned as unmarketable as a result of damage during transporting of such materials, may be disposed of in the aforesaid manner.
- F. When wet weather conditions exist, such waste shall be placed in temporary storage at the site of generation, landfarm site, or at a landfill approved to accept such waste materials.
- G. Any other method of disposal shall require prior approval by the Department.

XI. DISPOSAL OF SPENT PESTICIDE AND HERBICIDE CONTAINERS

- A. No person shall dispose of any pesticide or herbicide containers, or any residue therefrom in a manner inconsistent with its labeling or intended use, or in violation of any federal or state pollution control standard.
- B. Combustible containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds, may be disposed of in an incinerator approved for the incineration of such chemicals or buried in a specifically designated landfill. Quantities of not over five (5) such containers which have not contained organic mercury, lead, cadmium, or arsenic compounds, may be buried in open fields by the user with due regard for protection of surface and subsurface water.

- C. Containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds, must first be triple-rinsed with at least 15% of the volume of the container, using rinsate as makeup whenever possible. Salvageable containers may then be returned to the manufacturer ~~or~~ formulator, or a drum reconditioner for reuse. Non-salvageable, triple-rinsed metal containers must be punctured to facilitate drainage prior to transport. All such containers shall be crushed and disposed of by burial in a landfill. Unrinsed containers must be disposed of in a landfill specifically designated by the Department.
- D. Highly toxic pesticide containers (both combustible and non-combustible), which formerly contained organic mercury, lead, cadmium, arsenic or inorganic pesticides, and which have been triple-rinsed and punctured to facilitate drainage, may be disposed of in a Class I or Class II landfill. Containers which are not rinsed must be encapsulated and buried in a landfill specifically designated by the Department.
- E. Container residue and rinsates should be added to application mixes in the field whenever possible. If not, they must be disposed of in accordance with manufacturers' label instructions.

XII. SPECIAL MATERIALS - DISPOSAL OF SMALL AMOUNTS OF CHEMICALS

Small amounts of laboratory chemicals from schools, colleges, universities, and hospitals, etc., may be disposed of in a Class I or II landfill when approved by the Department.

- A. The generator should separate the chemicals into groups and label the boxes accordingly.
- B. The generator shall call the landfill operator to make arrangements prior to delivery for disposal.
- C. The operator shall not place chemicals in wet soils, nor accept chemicals when rain is anticipated.
- D. Chemicals shall not be stored at the landfill site. They shall be buried immediately after delivery.
- E. Precaution shall be taken to prevent breakage of the containers during handling and burial.
- F. Each container of compatible chemicals shall be placed in a separate cell.
- G. The chemicals in each cell shall be surrounded by at least three (3) feet of soil in all directions.
- H. To prevent breakage, the cover soil should be applied gently and no compaction should be undertaken until at least three (3) feet of soil is over the chemicals.
- I. Unless a designated area has been set aside to receive chemicals, the cells for the chemical waste shall be constructed in the soil in front of the advancing working face.

- J. No more than fifty (50) pounds of chemicals should be placed in each cell.
- K. RCRA listed hazardous wastes in excess of the small quantity limitations of 40 CFR 261.5 shall not be taken to a landfill. Specific authority is required to accept small quantities of exempt hazardous waste.

XIII. DOMESTIC SEPTIC TANK PUMPINGS

- A. Whenever available, disposal of septic tank pumpings shall be disposed of by depositing such wastes in a municipal wastewater treatment plant upon obtaining the approval of the permittee of the receiving plant.
- B. In the absence of a municipal wastewater treatment plant that will accept such wastes, domestic septic tank pumpings may be disposed of at a permitted Class I or Class II landfill site, provided that the landfill permittee has notified the Department of the intent to accept such waste in the permit application or permit modification.
- C. Landfills accepting such wastes shall landfill the waste by mixing with on-site soils to a consistency that will support compaction and cover soil before being placed in the fill area.

APPENDIX "B"

FINANCIAL ASSURANCE REQUIREMENTS

I. Financial Assurance Requirements

- A. General Requirement/Applicability - Permittees of landfills permitted after the effective date of these regulations must file and maintain financial assurance of closure with the Director as set forth herein below, unless such permittee is an agency of the State of Arkansas or a department, agency or instrumentality of the United States government.

B. Amount of Financial Assurance Required

1. The amount of financial assurance required of the permittee shall be established by the Director based upon the estimated closure costs. This required amount may be adjusted to take into account any changes in the acreage covered by the permit. The permittee shall be notified of the required amount as set forth in paragraph C. of this appendix. In no case, however, shall the amount of financial assurance be more than 1,500 dollars per acre or fraction thereof, affected by the landfill operation. For landfills being developed or to be developed on an incremental basis, the Director shall establish the amount of financial assurance required on each increment.
2. The permittee may appeal the Director's decision in subparagraph 1 of this paragraph as set forth in Arkansas Stat. 82-1906.

C. Filing of Financial Assurance

1. New Landfills - Within 10 days after the final decision to issue a permit for a new landfill, the Director shall notify the permittee in writing of the amount of financial assurance required (as established per paragraph B. of this appendix). The permittee must, before the permit can be effective, file with the Director financial assurance meeting the requirements of this paragraph in at least that amount, except as provided in subparagraph 2. of this paragraph. The Director shall evaluate the financial assurance filed for compliance with the requirements of this paragraph and notify the permittee of all findings in writing within 30 days of the filing date.

2. Incremental Filing - For landfills which seek to utilize an incremental operational plan as set forth in the permit application, the permittee may initially file financial assurance covering only closure of the initial increment. The permittee must, at least 30 days prior to beginning operation of a subsequent increment not covered by financial assurance, file adequate assurance for that increment with the Director.

D. Mechanisms of Financial Assurance - The permittee must choose from the financial assurance mechanisms specified in this paragraph.

1. Surety Bond - The permittee may satisfy the requirements of paragraph C. of this appendix by obtaining and filing a surety bond which conforms to the requirements of this part.

(a) The surety company issuing the bond must be licensed to do business as a surety in Arkansas.

(b) The wording of the surety bond must be identical to the wording specified in paragraph J. of this appendix.

(c) The bond must guarantee that the permittee will:

(1) Perform final closure in accordance with the application and other requirements of the permit for the landfill whenever required to do so; or

(2) Provide alternate financial assurance as specified in this paragraph, and obtain the Director's written approval of the assurance provided, within 90 days of receipt by both the permittee and the Director of a notice of cancellation of the bond from the surety.

(d) Under the terms of the bond, the surety will become liable on the bond obligation when the permittee fails to perform as guaranteed by the bond. Following a determination by the Director that the operator has

to so perform, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will forfeit the amount of the penal sum, as provided in paragraph H. of this appendix.

- (e) The penal sum of the bond must be in an amount at least equal to the amount of financial assurance required per paragraph B. of this appendix.
- (f) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permittee and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the permittee and the Director, as evidenced by the return receipts.
- (g) The surety will not be liable for deficiencies in the performance of closure by the permittee after the Director releases the permittee from the financial assurance requirements as provided in paragraph G. of this appendix.

2. Collateral Bond Supported by a Letter of Credit - The permittee may satisfy the requirements of paragraph C. of this appendix by filing a personal performance guarantee accompanied by collateral in the form of an irrevocable standby letter of credit. The permittee must guarantee to perform final closure in accordance with the requirements of the permit for the landfill whenever required to do so. The irrevocable standby letter of credit supporting this guarantee must conform to the following requirements:

(a) The institution issuing the letter of credit must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

(b) The wording of the letter of credit must be identical to the wording specified in Paragraph J of this appendix.

(c) The letter of credit must be accompanied by a letter from the permittee referring to the letter of credit by number, issuing institution, and date, and providing the following information: the registration number, name, and address of the landfill, and the amount of funds assured for closure of the landfill by the letter of credit. (NOTE: This letter from the permittee may also contain a personal performance guarantee.)

(d) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide

that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permittee and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permittee and the Director have received the notice, as evidenced by the return receipts.

- (e) The letter of credit must be issued in an amount at least equal to the amount of financial assurance required per paragraph B. of this appendix.
- (f) The Director may draw on the letter of credit upon forfeiture as provided in paragraph H. of this appendix. The Director will also draw on the letter of credit if the permittee does not establish alternate financial assurance as specified in this paragraph and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the permittee and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit

if the permittee has failed to provide alternate financial assurance, as specified in this paragraph, and obtain written approval of such assurance from the Director.

3. Collateral Bond Supported by Securities - The permittee may satisfy the requirements of paragraph C. of this appendix by filing the permittee personal performance guarantee accompanied by collateral in the form of securities. The permittee must guarantee to perform final closure in accordance with the requirements of the permit for the landfill whenever required to do so. The securities supporting this guarantee must be fully registered as to principal and interest in such manner as to identify the State and the Department as holder of such collateral and to also identify that person filing such collateral. These securities must have a current market value at least equal to the amount of financial assurance required per paragraph B. of this appendix, and must be included among the following types:

- (a) Negotiable certificates of deposit assigned irrevocably to the Department.
- (1) Such certificates of deposit must be automatically renewable and must be assigned to the Department in writing and recorded as such in the records of the financial institution issuing such certificate.
- (2) Such certificates of deposit must also include a statement signed by an officer of the issuing financial institution

which waives all rights of lien which the institution has or might have against the certificate.

(b) Negotiable United States Treasury securities assigned irrevocably to the Department.

(c) Negotiable general obligation municipal or corporate bonds which have at least an "A" rating by Moody's and/or Standard and Poor's rating services and which are assigned irrevocably to the Department.

4. Collateral Bond Supported by Cash - The permittee may satisfy the requirements of paragraph C. of this appendix by filing a personal performance guarantee accompanied by cash in an amount at least equal to the amount of financial assurance required per paragraph B. of this appendix. The permittee must guarantee to perform final closure in accordance with the requirements of the permit for the landfill whenever required to do so.

5. Municipality or County Contract of Obligation - A municipality or county may execute a contract of obligation with the Department. Such contract of obligation shall be a binding agreement on the municipality or county, allowing the Department to collect the required amount from any funds being disbursed or to be disbursed from the State to the municipality or county. The contract shall be filed with the State Commissioner of Revenues.

6. Use of Multiple Financial Mechanisms - In meeting the requirements of paragraph C. of this appendix, the permittee may utilize more than one financial assurance mechanism per landfill. These mechanisms are limited to personal bonds supported by letters of credit, securities, or cash, and, for municipalities and counties only, contracts of obligation. The mechanisms must be as specified in paragraph D. of this appendix, except that it is the combination of mechanisms rather than the single mechanism, which must provide financial assurance for the necessary amount.

7. Use of a Financial Mechanism for Multiple Facilities - The permittee may use a financial assurance mechanism specified in paragraph D. of this appendix to meet the requirements of paragraph C. of this appendix for more than one landfill permitted in Arkansas. If so, the mechanism submitted to the Director must include a list showing, for each landfill, the registration number, name, address, and amount of funds for closure and postclosure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been filed and maintained for each landfill. In a financial assurance forfeiture action taken under paragraph H. of this appendix for closure of any of the landfills covered by the mechanism, the Director may order forfeiture of only the amount of funds designated for that landfill, unless the permittee agrees to the use of additional funds available under the mechanism.

E. Substituting Alternate Financial Assurance - In meeting the requirements of paragraph C. of this appendix, the permittee may substitute alternate financial assurance meeting the requirements of this paragraph for the financial assurance already filed with the Director for the landfill. However, the existing financial assurance shall not be released by the Director until the substitute financial assurance has been received and approved.

F. Incapacity of Permittee or Financial Institutions

1. The permittee must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U. S. Code, naming the permittee as debtor, within 10 days after commencement of the proceeding.

2. The permittee who fulfills the requirements of paragraph B. by obtaining a surety bond or letter of credit will be deemed to be without the required financial assurance in the event of bankruptcy of the issuing institution, or a suspension or revocation of the authority of the institution issuing the surety bond or letter of credit to issue such instruments. The permittee must establish other financial assurance within 60 days after such an event.

G. Maintenance/Release of Financial Assurance - The financial assurance must be maintained until the Director releases

it as specified in this paragraph, or until the Director orders forfeiture of the financial assurance as provided in paragraph H. of this appendix.

1. If the permit is amended and the amendments result in a reduction in the amount of financial assurance required under that currently filed with the Director, the Director shall, upon the permittee's request, cause to be released to the permittee (or issuing institution, if appropriate) the excess financial assurance.
2. If the permittee files an adequate substitution for the original financial assurance submission the Director shall, upon permittee's request, cause to be released to the permittee (or issuing institution, if appropriate) the original financial assurance.
3. When the permittee has completed, to the satisfaction of the Director, all closure requirements in accordance with the approved permit, the Director will, at the request of the permittee, notify the permittee in writing that the permittee is no longer required by this paragraph to maintain financial assurance for such closure. At such time the Director shall also cause to be released to the permittee (or issuing institution, if appropriate) the financial assurance filed to provide for such closure.

4. Financial assurance will normally be released in the form(s) it was submitted. However, where such release involves an amount equal to only a portion of the funds assured by a financial assurance mechanism (see subparagraphs D.6. and D.7.) the Director shall, ~~as~~ appropriate considering the type of mechanism involved, either cause to be released to the permittee cash or collateral equal to that amount or allow the permittee to substitute for mechanism(s) on file a new mechanism(s) reduced by that amount.

H. Forfeiture of Financial Assurance - The Director may order that any financial assurance filed by the permittee pursuant to this paragraph for closure of a landfill or landfill increment be forfeited to the State if the Director determines that the permittee has failed to perform closure on that landfill or landfill increment when required to do so. Any such forfeiture action shall follow the procedures provided in this subparagraph.

1. Upon determination that the permittee has failed to perform final closure in accordance with permit requirements when required to do so, the Director shall cause a notice of non-compliance to be served upon the permittee. Such notice shall be hand delivered or forwarded by certified mail. The notice of non-compliance shall specify in what respects the permittee has failed to perform as required, and shall establish a schedule of compliance leading to compliance with the permit requirements as soon as possible.

2. If the Director determines that the permittee has failed to perform as specified in the notice of non-compliance, or as specified in any subsequent compliance agreement which may have been reached by the permittee and the Director, the Director shall cause ~~a~~ notice of show cause hearing to be served upon the permittee. Such notice shall be signed by the Director and either hand delivered or forwarded by certified mail to the permittee. The notice of show cause hearing shall establish the date, time, and location of a hearing scheduled to provide the permittee with the opportunity to show cause why the Director should not pursue forfeiture of the financial assurance filed to guarantee such performance. Such hearing shall be under oath, recorded, and the permittee may be represented by counsel and all witnesses shall be subject to cross-examination.
3. If no mutual compliance agreement is reached prior to the show cause hearing, or upon the Director's determination that the permittee has failed to perform as specified in such agreement that was reached, the Director may issue an administrative order of forfeiture of the financial assurance filed to guarantee such performance. Upon issuance, a copy of the order shall be hand delivered or forwarded by certified mail to the operator. Any such order issued by the Director shall become effective 30 days after receipt by the permittee unless it is appealed as provided in Ark. Stat. 82-1906.

4. Upon the effective date of the order of forfeiture, the Director shall take legal action to collect the forfeiture.
 5. All fortified funds shall be deposited in the Solid Waste Performance Bond Fund by the Department in assuring proper closure of the landfill.
- I. Effect on Transfer of Permits - No permit may be transferred until the proposed new permittee has filed, in accordance with the requirements of this paragraph, the required financial assurance. When such is done, the Director shall cause to be released to the former permittee (or the issuing institution, if appropriate) the financial assurance that the permittee had filed.
 - J. Wording of the Instruments
 1. A surety bond guaranteeing performance of closure as specified in Paragraph D. of this appendix must be worded as follows, except that the instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: (Legal name and business address of operator)

Type of organization: (Insert "individual", "joint
venture", "partnership", or "corporation")

State of incorporation: _____

Surety(ies): (Name(s) and business address(es))

Registration number, name, address, and closure and post-
closure amount(s) for each landfill guaranteed by this
bond (indicate closure and post-closure amounts separately):

Total penal sum of bond: \$ _____

Surety's bond number: _____

KNOW ALL PERSONS BY THESE PRESENTS, That we the Principal
Surety(ies) hereto are firmly bound to the Arkansas Depart-
ment of Pollution Control and Ecology (hereinafter called
Department), in the above penal sum for the payment of
which we bind ourselves, our heirs, executors, administra-

tors, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Arkansas Solid Waste Management Act as amended (ASWMA), to have a permit in order to operate each solid waste landfill identified above, and

WHEREAS said Principal is required to provide financial assurance for closure as a condition of the permit;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each landfill for which this bond guarantees closure, in accordance with the requirements of the permit as permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

OR, if the Principal shall provide alternate financial assurance, and obtain the written approval of such assurance from the Director of the Department, within 90 days after the date notice of cancellation is received by both the Principal and the Director from the Surety (ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Director that the Principal has been found in violation of the closure requirements of the Department for a landfill for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the permit requirements or forfeit the closure amount guaranteed for the landfill to the Department as directed by the Director.

Upon notification by the Director that the Principal has failed to provide alternate financial assurance, and obtain written approval of such assurance from the Director during the 90 days following receipt by both the Principal and the Director of a notice of cancellation of the bond, the Surety(ies) shall forfeit funds in the amount guaranteed for the landfill(s) to the Department as directed by the Director.

The Surety(ies) hereby waive(s) notification of amendments to permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond; but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Director.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Section 12 of the Arkansas Solid Waste Disposal Code as such regulation was constituted on the date this bond was executed.

PRINCIPAL

(Signature(s))

(Name(s))

(Title(s))

(Corporate Seal)

CORPORATE SURETY(IES)

(Name and Address)

State of Incorporation: _____

Liability Limit: \$ _____

(Signature(s))

(Name(s) and Title(s))

Corporate Seal:

(For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.)

Bond Premium: \$ _____

2. A letter of credit, as specified in subparagraph D.2 of this appendix must be worded as follows, except that the instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Director

Arkansas Department of Pollution Control and Ecology

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit

No. _____ in your favor, at the request and for the account

of (permittee's name and address) up to the aggregate amount of (in words) U. S. dollars \$ _____, available upon presentation of

- 1) your sight draft, bearing reference to this letter of credit No. _____, and
- 2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Arkansas Solid Waste Management Act (Act 237 of 1971 as amended.

This letter of credit is effective as of (date) and shall expire on (date at least one year later), but such expiration date shall be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and (permittee's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and (operator's name), as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall forfeit the amount of the draft

to the Arkansas Department of Pollution Control and Ecology in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Section 12 of the Arkansas Solid Waste Disposal Code as such regulations were constituted on the date shown immediately below.

(Signature(s) and title(s) of official(s) of issuing institution)

(Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce", or "the Uniform Commercial Code").

3. Collateral bond, as specified in subparagraphs D.2., 3., and 4., must be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:
4. Contract of obligation, as specified in subparagraph D.5., must be worded as follows:

COLLATERAL BOND

Collateral Bond given by _____
_____ (hereinafter referred to as "Permittee")
to the Arkansas Department of Pollution Control and Ecology (the "Department").

WHEREAS, the Permittee has been granted a permit by the Department to operate a solid waste landfill within the State of Arkansas in accordance with Permit No. _____ (the "Permit") and the application therefor, both of which are incorporated herein by this reference (a copy being on file with the Department), and within the area of land indicated on the approved map submitted by the Permittee with his application (the "Permit Area"); and

WHEREAS, the granting of the Permit is conditioned on the Permittee's giving bond to insure the closure of the Permit Area; and

WHEREAS, the Permittee has agreed to grant a security interest in certain collateral consisting solely of cash, negotiable bonds of the United States, the State of Arkansas, or political subdivisions of the State of Arkansas, negotiable certificates of deposit or irrevocable letters of credit of any bank organized or authorized to transact business in the United States (the "Collateral") to secure the performance by the Permittee of all duties and obligations pertaining to closure in accordance with all the requirements of the Arkansas Solid Waste Management Act, as amended, (Act 237 of 1971, as amended (the "Act"), the regulations promulgated thereunder known as the Arkansas Solid Waste Management Code (the "Code"), and the provisions of the Permit; and

WHEREAS, the Department has agreed to accept this bond as sufficient surety of performance by the permittee, subject, however, to the Department's right to adjust the amount of the bond as the acreage in the permit area is revised;

NOW, therefore, it is agreed as follows:

1. The Permittee is bound unto the Department in the sum of _____
(the "Bond Amount").

2. To secure performance and payment in accordance with this Bond, the Permittee hereby creates a security interest in favor of the Department in certain Collateral described in Schedule "A" attached hereto and made a part hereof, which Collateral has been deposited with the Department contemporaneously with the execution of this Bond, and all other property of like kind or types previously, presently; or in the future deposited with the Department, and the proceeds of such collateral.

3. The aggregate value of the Collateral shall at no time be less than the Bond Amount. The "value" of the Collateral shall be fair market value and not face value. In the event the Director notifies the Permittee that the value of the Collateral has become less than the Bond Amount, or until new bond coverage is approved.

4. This Bond will cover all landfill operations within the entire Permit Area during the life of the landfill, whether this Bond is an entire or an incremental bond, and the Department shall be entitled to possession of the Collateral and shall continue to have the rights granted herein in the Collateral until all closure work on the entire Permit Area has been completed, and the Permit has terminated by release of the Permittee from further liability by the Department in accordance with the Act, and the Code.

5. The Director shall refuse to accept instruments as Collateral which violate the following criteria, and, if they are inadvertently accepted, shall demand replacement thereof by acceptable collateral. Pending such replacement, the Permittee shall cease landfill operations within the Permit Area:

(a) certificates of deposit must have been assigned to the Department in writing, and upon the books of the bank issuing such certificates.

(b) individual certificates of deposit may not be in excess of \$40,000, or maximum insurable amount as determined by FDIC or FSLIC.

(c) the bank issuing certificates must have executed a waiver of setoff or liens which it has or might have against those certificates.

(d) certificates must be automatically renewable.

(e) letters of credit must be irrevocable prior to a release by the Director, and must be payable to the Department in part or in full upon demand and receipt from the Director of a notice of forfeiture.

(f) A letter of credit may not be in excess of 10 percent of the bank's capital surplus account as shown on the balance sheet certified by a Certified Public Accountant and attached hereto as Exhibit "A"; nor may any bank submit letters of credit for any person, on all permits held by that person, in excess of three times the bank's maximum single obligation as provided by the law or laws governing the bank.

(g) A letter of credit shall provide that the bank will give prompt notice to the Permittee and the Director of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of requirements which could result in suspension or revocation of the bank's charter or license

to do business, or in the event the bank becomes unable to fulfill its obligations under the letter of credit or any reason. In the event of the incapacity of a bank by reason of bankruptcy, insolvency or suspension or revocation of its charter or license, the Permittee shall be deemed to be without adequate bond and shall discontinue landfill operations until new bond coverage is approved.

6. This Bond and the Collateral shall be forfeited, if the Director finds that:

(a) The Permittee has violated any of the terms and conditions of this Bond; or

(b) The Permittee has failed to close the landfill upon achieving fill capacity or upon permit termination in accordance with and within the time required by the Act, the Code, and the Permit; or

(c) After the Permittee has been notified of its failure to meet the conditions of this Bond, and a compliance schedule has been agreed to by the Permittee and the Department, and the Permittee has failed to comply with the compliance schedule.

7. Upon forfeiture, the Director may sell the Collateral deposited hereunder, either all at one time or at separate sales in such lots and at such times as the Director, in his sole discretion, may determine, either a public or private sale, at such prices and on such terms as the Director may deem proper. Whether or not all or any part of the Collateral is sold, the Director shall either:

(a) Determine the amount of this Bond to be forfeited on the basis of the estimated cost to the Department or its contractor to complete closure in accordance with the Permit; or

(b) Forfeit the entire amount of this Bond for which liability is outstanding and deposit the Collateral or the proceeds thereof in an interest-bearing escrow account for use in the payment of all costs and administrative expenses associated with the conduct of closure activities by the Department.

(c) In the event the value of the Collateral is in excess of the Bond Amount, the Director may keep such excess and apply it toward the payment of all such costs and expenses of closure work, if he first finds that the excess will be needed to meet the payment of such costs and expenses; otherwise, the excess will be refunded to the Permittee.

8. With the consent of the Director, given in accordance with the Act, and the Code, all or part of the Permit Area may be released from coverage by this Bond, the Bond Amount may be reduced, or Collateral may be substituted.

9. All notices required herein shall be in writing and delivered personally or mailed by first-class mail, postage prepaid to the following addressee:

Permittee: _____

Department: Arkansas Department of Pollution Control & Ecology

8001 National Drive

Little Rock, Arkansas 72209

unless otherwise specifically stated herein or in the Act, the Code, or the Permit.

10. This agreement has been executed in multiple copies, each of which shall be deemed an original.

11. This agreement is an Arkansas agreement, and is to be construed in accordance with and governed by Arkansas law.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this _____ day of _____, 19__.

Attest:

Title

Permittee:

By: _____
Title

Arkansas Department of Pollution
Control and Ecology

By: _____
Director

CONTRACT OF OBLIGATION

THIS AGREEMENT is made and entered into by and between _____
City/County
Arkansas and the Arkansas Department of Pollution Control and Ecology,
hereinafter referred to as the ADPC&E.

Whereas, _____, Arkansas has submitted a permit application
City/County
for the construction, operation and maintenance of a solid waste disposal
facility to ADPC&E pursuant to the requirements of the Arkansas Solid
Waste Management Act (Act 237 of 1971, as amended) (Ark. Stats. Ann.
§82-2701 et. seq. ¹ hereinafter "Act") and the regulations promulgated
thereunder.

Whereas, pursuant to Act 916 of 1983, a municipality or county may
execute a "contract of obligation" in lieu of a performance bond in
applying for a permit to operate a solid waste disposal site or facility.
Then in consideration of the issuance of Permit No. _____ by ADPC&E
to _____ for the operation of solid waste disposal site or
City/County
facility, and in consideration of the mutual covenants contained herein,
ADPC&E and _____ hereby agree as follows:
City/County

1. _____ is hereby bound unto ADPC&E in the sum of \$ _____
City/County
and hereby authorizes the Director of the ADPC&E, or designee,
to collect said sum from any funds being disbursed or to be
disbursed from the State of Arkansas to _____ upon
City/County
failure of _____ to close the disposal operation
City/County

in accordance with the requirements of the Act and the regulations promulgated thereunder.

2. Should ADPC&E find that _____ has failed to properly
City/County
close out the disposal operation, ADPC&E shall notify _____
City/County
of such finding and shall afford the opportunity for administrative and judicial review of such finding prior to seeking collection of any funds as authorized under this contract.
3. _____ hereby authorizes the Commissioner of Revenues
City/County
and the State Treasurer to withhold from any funds being disbursed or to be disbursed from the State of Arkansas to _____
City/County
the sum of \$ _____ upon receiving notice from the Director of ADPC&E of _____'s failure to properly close the disposal
City/County
operation.
4. This contract shall terminate upon written approval from ADPC&E that the disposal facility has been closed in compliance with the requirements of the Act and the regulations promulgated thereunder. If _____ desires to terminate this contract prior to
City/County
proper closure of the disposal facility, it must:
 - (a) send a notice of termination in writing addressed and delivered to the ADPC&E; and

(b) post with the ADPC&E a corporate surety bond for performance, or acceptable alternative, (i.e. certificate of deposit, letter of credit) payable to the ADPC&E, as provided for by Act 916 of 1983, or by any rules and regulations adopted pursuant to the Act; and

(c) receive a written acknowledgement from the ADPC&E of receipt by ADPC&E of an acceptable alternative assurance of performance.

5. _____ has by resolution attached hereto as Attachment A
City/County
and which is hereby incorporated herein and expressly made a part of this agreement, authorized the signatory hereof to execute this contract of obligation and bind _____ to the terms hereof.
City/County

6. The effective date of this contract is the date this contract is executed by the Director of ADPC&E.

IN WITNESS WHEREOF the parties hereto have set their hands and seals.

City/County

BY: _____
(Name and Title of Signatory Agency)

DATE: _____

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

BY: _____
Director

DATE: _____

RESOLUTION

WHEREAS, _____, Arkansas deems it necessary and
City/County
proper to enter into a "contract of obligation" with the Department of
Pollution Control and Ecology as authorized by Act 916 of 1983.

NOW, THEREFORE, BE IT RESOLVED by the above-named city or county
that _____, as the Signatory Agent
(Name and Title of Signatory Agent)
of _____, is hereby authorized to enter into the
City/County
contract of obligation affixed hereto and to sign the contract of obligation
on behalf of the above-named city or county.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 19____.

Signature and Title of Governing
Body Official

Attest: _____
(Signature of City Clerk, County Clerk, etc.)