

RULES AND REGULATIONS OF THE WEST RIVER VALLEY
REGIONAL SOLID WASTE MANAGEMENT DISTRICT

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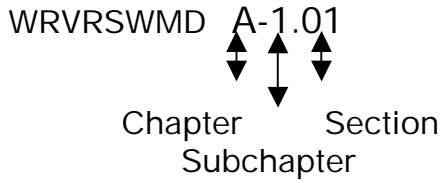
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CHAPTER A: ADMINISTRATIVE PRACTICES AND PROCEDURES

Subchapter 1 General.
Subchapter 2 Rulemaking.

Subchapter 1 General.

§1.01 Authority
§1.02 Definitions

§1.01 Authority

Ark. Code Ann. § 8-6-704(a)(6) authorizes regional solid waste management boards to adopt such rules or regulations pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 *et seq.*, as are reasonably necessary to assure public notice and participation in any findings or rulings of the board and to administer the duties of the board.

§1.02 Definitions

Unless otherwise specified, the following definitions shall apply to Rules of the West River Valley Regional Solid Waste Management District:

(a) "Administrative Procedure Act" means the Arkansas Administrative Procedure Act codified at Ark. Code Ann. §§ 25-15-201 to -214, as amended from time to time.

(b) "ADEQ" or "Department" means the Arkansas Department of Environmental Quality (formerly, Arkansas Department of Pollution Control & Ecology or ADPC&E).

(c) "Board" means the Board of Directors of the West River Valley Regional Solid Waste Management District.

(d) "Commission" means the Arkansas Pollution Control & Ecology Commission.

(e) "Directors" means the members of the Board of Directors of the West River Valley Regional Solid Waste Management District.

(f) "District" means the West River Valley Regional Solid Waste Management

District, which includes the counties of: Crawford, Franklin, Johnson, Pope, Conway, Logan, Yell, Perry and Scott.

(g) "Director" means the duly appointed chief administrative officer of the West River Valley Regional Solid Waste Management District, regardless of the actual position title.

(h) "Person" means any individual, partnership, corporation, association, or public or private organization of any character.

(i) "Rule" means any District regulation or statement of general applicability and future effect that implements, interprets, or prescribes law or mandatory policy, or describes the organization, procedure, or practice of the District.

(j) "Rulemaking Action" shall include any action by the District to adopt, amend or repeal any District Rule.

(k) "Solid Waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-products material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

CHAPTER A: ADMINISTRATIVE PRACTICES AND PROCEDURES

Subchapter 2 Rulemaking.

- §2.01 Rulemaking Action
 - §2.02 Public Notice of Rulemaking
 - §2.03 Public Comment
 - §2.04 Public Hearing
 - §2.05 Emergency Proceedings
 - §2.06 Petition for Rulemaking
 - §2.07 Filing
 - §2.08 Effective Date
 - §2.09 Certification of Rules
 - §2.10 Official Records
 - §2.11 Substantial Compliance
 - §2.12 Preemption by State or Federal Law
 - §2.13 Severability
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§2.01 Rulemaking Action

At any Board meeting, the Board may adopt, amend, or repeal any Rule, consistent with the requirements of this Subchapter.

§2.02 Public Notice of Rulemaking

(a) The District shall give at least thirty (30) days prior notice of a proposed Rulemaking Action.

(b) The notice shall include a statement of the terms or substance of the intended action, or a description of the subjects and issues involved, and the time, the place where, and the manner in which interested persons may present their views thereon.

(c) The notice shall be mailed to any person specified by law and to all persons who shall have requested advance notice in writing of District Rulemaking Actions.

(d) Unless otherwise required by law, the notice shall be published in the *Arkansas Democrat-Gazette*, or in such other newspaper(s) of general daily circulation selected by the Board, in its discretion.

§2.03 Public Comment

The District shall afford all interested persons reasonable opportunity to submit written data, views, or arguments, orally or in writing.

§2.04 Public Hearing

(a) The District may hold a public hearing to take oral comments from the public concerning any proposed action.

(b) The District must hold a hearing to accept oral comments from the public concerning any proposed Rulemaking Action if requested by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having not less than twenty-five (25) members. The District shall fully consider all written and oral submissions pertaining to the Rulemaking Action before finalizing the language of the proposed Rule.

(c) Upon adoption of a Rule, the Board, if requested to do so by an interested person within thirty (30) days of adoption, shall issue a concise statement of the principal reasons for or against its adoption, and demonstrating that public comments were duly considered.

§2.05 Emergency Proceedings

Should the Board find that imminent peril to the public health, safety or welfare requires adoption of a Rule upon fewer than thirty (30) days notice, and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency Rule. Any emergency Rule so adopted may be effective for no longer than one hundred twenty (120) days, unless the Rule is ratified pursuant to the standard Rulemaking procedure set forth in this Subchapter.

§2.06 Petition for Rulemaking

Any person residing or doing business within the District may petition the Board for a Rulemaking Action. Within thirty (30) days after submission of a petition, the Board shall either deny the petition, stating in writing its reasons for the denial, or shall initiate rulemaking proceedings. If no action is taken by the Board within thirty (30) days, the petition shall be deemed to be denied, and the Board shall not be required to take any further action, except to state its reasons for denial, in writing.

§2.07 Filing

The Board shall file with the Secretary of State, the Arkansas State Library, and the

Bureau of Legislative Research, a certified copy of each Rule adopted by it, and a statement of financial impact for the Rule.

§2.08 Effective Date

Each Rule adopted by the Board shall be effective ten (10) days after filing unless a later date is specified by law or in the Rule itself. However, an emergency Rule may become effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the Board finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The Board's finding and a brief statement of the reasons therefore shall be filed with the regulation. The Board shall take appropriate measures to make emergency Rules known to the persons who may be affected by them.

§2.09 Certification of Rules

A copy of any Rule adopted by the Board may be certified by signatures of the Chairman of the Board and Secretary, or by such other method as determined by the Board from time to time.

§2.10 Official Records

The District shall maintain a certified copy of every Rule adopted by the Board, and a copy of all other documents required to be filed by this Subchapter. These copies shall be kept at the principal office of the District. A copy of each notice of rulemaking shall also be kept on file at the District.

§2.11 Substantial Compliance

Every Rulemaking Action by the Board after the effective date of this Subchapter shall be effective if the Rulemaking Action substantially complies with this Subchapter.

§2.12 Preemption by State or Federal Law

If any law of the State of Arkansas or the United States shall require a different method for Rulemaking Action in a particular situation, the provisions of this Subchapter shall be preempted to the extent necessary to comply with State or Federal law. Wherever possible, the provisions of this Subchapter shall be interpreted to be consistent with requirements of State and Federal law.

§2.13 Severability

If any provision of any District Rule or the application thereof to any Person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of District Rules which can be given effect without the invalid provision or application, and to this end the provisions of all District Rules shall be considered severable.

CHAPTER B: DISTRICT ORGANIZATION AND STRUCTURE

Subchapter 1 General.

Subchapter 2 Governing Body – Regional Board of Directors.

Subchapter 3 Regional Board Meetings.

Subchapter 1 General.

§1.01 Name

§1.02 Authority

§1.03 Purpose

§1.04 Jurisdictional Boundaries

§1.01 Name

The name of the District is: WEST RIVER VALLEY REGIONAL SOLID WASTE MANAGEMENT DISTRICT.

§1.02 Authority

The District was created on December 5, 1997 pursuant to the provisions of Arkansas Code Ann. § 8-6-707 and Commission Regulation 22, and approved by the Commission in Minute Order No. 97-57. The District shall continue to exist until dissolved by unanimous decision of the Board or pursuant to a procedure otherwise authorized by law.

§1.03 Purpose

The purpose of the District is the protection of the public health and the environment through the development and implementation of a solid waste management system adequate to meet the needs of residents within the District.

§1.04 Jurisdictional Boundaries

The District includes the counties of Crawford, Franklin, Johnson, Pope, Conway, Logan, Yell, Perry and Scott.

CHAPTER B: DISTRICT ORGANIZATION AND STRUCTURE

Subchapter 2 Governing Body – Regional Board of Directors.

- §2.01 Board of Directors
 - §2.02 Officers
 - §2.03 Executive Committee
 - §2.04 Appointed Committees
-

§2.01 Board of Directors

The District shall be governed by a Regional Solid Waste Management Board of Directors (“Board”). The Board shall plan for and oversee the operations, finances and policies of the District and shall have all powers and duties as provided and authorized by state law.

§2.02 Officers

The general officers of the Board shall consist of chairman, vice-chairman, secretary and treasurer. Election of officers shall occur at the Annual Meeting and terms of office shall commence on that date and continue until the next Annual Meeting. In the discretion of the Board, any two or more offices may be held by the same person, except that the Chairman may not hold any other office concurrently.

§2.03 Executive Committee

(a) The Board may delegate to an executive committee any of its duties and powers, unless otherwise prohibited by law. The Executive Committee shall be composed of one Board member from each county within the District. The Chairman, Vice-Chairman, Secretary, and Treasurer shall be members of the Executive Committee and shall represent their respective counties on the Executive Committee. The Board Members from each of the remaining counties shall elect their county's representative to the Executive Committee. Executive Committee members shall be elected at the annual meeting, and their terms shall commence on that date and continue until the next Annual Meeting.

(b) Consistent with the policies and procedures set forth by the Board, the Executive Committee shall be responsible for budget, operations and management of the District and shall provide directions to the administrative staff. The Executive

Committee is authorized to act on all District activities and affairs, except for electing officers and amending the By-Laws.

(c) Six (6) members of the Executive Committee present in person or represented by proxy shall constitute a quorum. **All proxies shall be in writing and filed with the Chairman prior to or at the time of the meeting.** A majority vote of those members present in person or represented by proxy shall be required for any action of the Executive Committee.

(d) Regular meetings of the Executive Committee shall be held as needed. The meeting date, time, and place shall be determined by the Chairman and will be at a place and time reasonably accessible to all Executive Committee members. Written notice of the Executive Committee meetings shall be given personally or by mail to each member of record not less than two (2) days nor more than sixty (60) days before the meeting.

§2.04 Appointed Committees

The Chairman shall have the authority to appoint committees as the need arises.

CHAPTER B: DISTRICT ORGANIZATION AND STRUCTURE

Subchapter 3 Regional Board Meetings.

§3.01 Meetings

§3.02 Quorum

§3.03 Amendment of Bylaws

§3.04 Parliamentary Procedure

§3.01 Meetings

(a) Regular meetings of the Board will be held as needed. The meeting date, place, and time shall be determined by the Chairman and shall be held at a place and time reasonably accessible to all Board Members.

(b) Special meetings of the Board may be called at any time by the Chairman, by resolution of the Board, or by not less than five (5) members of the Board.

(c) The Annual Meeting of the Board shall be held during the month of December at a place and time reasonably accessible to all Board Members, as determined by the Chairman.

(d) Written notice of the Board Meetings shall be given personally or by mail to each member of record not less than two (2) days nor more than sixty (60) days prior to the meeting. In case of Special Meetings, this notice shall also include a statement of the purpose or purposes for which the Special Meeting is called and no other business may be transacted or considered at any such Special Meeting.

§3.02 Quorum

A majority of the membership of the Board, present in person or represented by proxy shall constitute a quorum. **All proxies shall be in writing and filed with the Chairman prior to or at the time of the meeting.** A majority vote of those members present in person or represented by proxy shall be required for any action of the Board.

§3.03 Amendment of Bylaws

The Board's Bylaws may be adopted, amended or repealed at any meeting of the Board by a majority vote of at least two-thirds (2/3) of all Board Members. Written notice of proposed changes to the Bylaws must be sent to Board Members not less than ten (10) days nor more than sixty (60) days prior to the meeting at which the action is to be voted upon.

§3.04 Parliamentary Procedure

Robert's Rules of Order shall govern all meetings of the Board and Executive Committee.

CHAPTER C: LICENSING AND REGULATION OF SOLID WASTE HAULERS

Subchapter 1	General.
Subchapter 2	Licensing Standards.
Subchapter 3	Licensing Procedures and Operating Requirements.
Subchapter 4	Enforcement and Penalties.

Subchapter 1 General.

§1.01	Authority and Purpose
§1.02	Solid Waste Hauler
§1.03	Scope and Applicability

§1.01 Authority and Purpose

Pursuant to Ark. Code Ann. § 8-6-721, and Commission Regulation 22, the Board is charged with the responsibility of licensing Solid Waste Haulers within the District. The purpose of this licensing program is to protect the public health, safety and welfare by regulating and monitoring the collection, transportation and disposal of Solid Waste within the District.

§1.02 Solid Waste Hauler

As used in this Chapter, "Solid Waste Hauler" means any Person engaged in the collection of Solid Waste within the District, and any Person engaged in the transportation of Solid Waste for disposal, recycling or storage within the District. Solid Waste Hauler does not include an individual transporting his own household waste to a permitted facility.

§1.03 Scope and Applicability

(a) No Person shall engage in the business of collection or transportation of Solid Waste in the District without first obtaining a license from the Board.

(b) Notwithstanding the foregoing, the following shall be exempt from the licensing requirement, but otherwise shall comply with all other applicable standards required by District Rules or other laws: (1) an individual hauling his own household waste to a permitted facility; (2) a Person transporting Solid Waste from an industrial facility to its own Class 3N landfill, as defined in Commission Regulation 22; and (3) the District, when engaged in the hauling of Solid Waste within the District.

(c) Unless otherwise indicated, the provisions of this Chapter apply equally to Type I and Type II Haulers as defined in Commission Regulation 22.203(d), and to other hauler designations that may be added by the Commission, from time to time.

CHAPTER C: LICENSING AND REGULATION OF SOLID WASTE HAULERS

Subchapter 2 Licensing Standards.

§2.01 License Eligibility

§2.02 Financial Responsibility

§2.01 License Eligibility

In order to be eligible for issuance of a Solid Waste Hauler's License by the Board, a Solid Waste Hauler must:

- (1) Hold the appropriate driver's license as defined by Arkansas law;
- (2) Annually register its operation with the Board providing: (i) name, address and telephone number of registrant; (ii) description of vehicle(s) to be registered including make, model and year of vehicle, vehicle ID number, license plate number, and name of vehicle owner; and (iii) description of the nature of wastes and size of loads;
- (3) Establish and maintain financial responsibility acceptable to the Board;
- (4) Disclose all violations of Federal, State, Local, or District laws, rules, or regulations regarding the collection, transportation or disposal of Solid Waste, within the preceding twelve (12) months; and
- (5) Provide proof of correction of any violations of Federal, State, Local or District Laws regarding the collection, transportation or disposal of Solid Waste.

§2.02 Financial Responsibility

Any Solid Waste Hauler may establish financial responsibility to the Board by providing proof of liability insurance with the minimum coverage required by State law.

CHAPTER C: LICENSING AND REGULATION OF SOLID WASTE HAULERS

Subchapter 3 Licensing Procedures and Operating Requirements.

- §3.01 License Term
 - §3.02 Issuance of License
 - §3.03 Authority of Director
 - §3.04 Annual Fees
 - §3.05 Operating Requirements
-

§3.01 License Term

A Solid Waste Hauler's License shall be issued for a period one (1) year, and shall be effective from January 1 through December 31 of the current year, regardless of the date of issuance.

§3.02 Issuance of License

(a) The District shall issue a license to any Solid Waste Hauler who has demonstrated full compliance with this Chapter by submitting the following to the District: (1) documentation that the applicant meets all of the Licensing Standards set forth in Subchapter 2 of this Chapter; (2) a completed application on a form prescribed by the Board (Appendix C-1); (3) a Certificate of Insurance demonstrating Financial Responsibility as defined in § 2.02 of this Chapter; and (4) the required Annual Fee.

(b) Licenses are non-transferable and Annual Fees are non-refundable.

§3.03 Authority of Director

The Board delegates to the Director the authority to issue a license to any Solid Waste Hauler who has demonstrated compliance with all requirements and procedures in this Chapter, and whose file is administratively complete, without further action by the Board.

§3.04 Annual Fees

As a precondition to receiving a license as described in this Chapter, a Solid Waste Hauler must remit to the District the Annual Fee as follows:

- (1) \$30 for each vehicle registered, up to a maximum of \$300;
- (2) any Solid Waste Hauler who fails to submit to the District all application requirements, including without limitation the Annual Fee, by February 1 must pay twice

the amount of the Annual Fee to obtain a Solid Waste Hauler's License, unless the Solid Waste Hauler has not conducted any business within the District prior to the time of application;

(3) fees for new licensees or additional vehicles, which have not previously operated within the District, shall be prorated based on the number of full months remaining in the calendar year at the time of application; and

(4) any licensed Solid Waste Hauler who adds an additional vehicle during the calendar year shall have thirty (30) days to register the additional vehicle and pay the additional fee required, if any.

§3.05 Operating Requirements

All collection and transportation systems used by Solid Waste Haulers shall meet the conditions outlined below. Failure to comply with these conditions may result in the denial, suspension or revocation of a Solid Waste Hauler's License.

(a) Solid Waste shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards, and nuisances, and shall be kept in a sanitary condition.

(b) Collection and transportation equipment shall be designed and constructed so as to be leak-proof. The Solid Waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances. The District shall have the right to inspect and approve or disapprove all vehicles used for Solid Waste collection or transportation within the District.

(c) Collection and transportation vehicles shall be kept in a sanitary condition.

(d) All Solid Waste collected shall be transported only to a facility that holds all permits and licenses required by appropriate Federal, State, Local, and District laws, rules, and regulations.

(e) All Solid Waste Haulers shall abide by all Federal, State, Local, and District laws, rules, and regulations regarding the collection, transportation and disposal of Solid Waste.

(f) All Solid Waste Haulers within the District shall at all times maintain proof of a current District Solid Waste Hauler's license within each vehicle hauling Solid Waste within the District. A current license decal issued by the District, when placed on the driver's side of the front bumper, shall be considered adequate proof.

CHAPTER C: LICENSING AND REGULATION OF SOLID WASTE HAULERS

Subchapter 4 Enforcement and Penalties.

- §4.01 Suspension or Revocation of License
 - §4.02 Right to Hearing
 - §4.03 Operation Without A License – Misdemeanor
 - §4.04 Civil Penalties
 - §4.05 Right to Hearing on Civil Penalties
-

§4.01 Suspension or Revocation of License

Any Solid Waste Hauler License may be suspended or revoked by the District if the Hauler is in violation of Federal, State, Local, or District laws, rules, or regulations related to the collection, transportation, or disposal of Solid Waste, or any other law related to health, safety, or the environment.

§4.02 Right to Hearing on Suspension or Revocation

(a) When the Board determines that a Solid Waste Hauler License is subject to suspension or revocation, the Board shall so notify the licensee in writing, setting forth the basis for such proposed suspension or revocation.

(b) Upon receipt of notice of suspension or revocation, a licensee may object and request a hearing before the Board by delivering such request in writing to the District within ten (10) days, setting forth the reasons why the licensee disagrees with the proposed suspension or revocation.

(c) If the District receives a request for a hearing on a proposed suspension or revocation as provided in this Subchapter, the Board shall set a hearing date within thirty (30) days of receipt of the request. The hearing shall be before a Quorum of the Board, as defined in District Rules, and the licensee shall be allowed a reasonable opportunity to present documents and oral testimony in support of its position. The Director shall present to the Board the reasons for the proposed suspension or revocation. Upon receipt and consideration of evidence and testimony at the hearing, the Board members present shall vote on the proposed suspension or revocation, and a majority vote of those Board members present shall be final. A court reporter shall be present to record the proceedings. Hearings shall otherwise be conducted in accordance with the Administrative Procedure Act.

(d) The decision of the Board at the close of any hearing shall be effective immediately upon issuance of a written decision by the Board. In the event no request for a hearing is received by the District within the time prescribed by this Rule, the

proposed suspension or revocation shall become final on the day following the date on which a hearing request is due.

§4.03 Operation Without a License - Misdemeanor

Any Solid Waste Hauler operating within the District without a current license from the District shall be deemed guilty of a misdemeanor pursuant to Ark. Code Ann. § 8-6-722. Upon conviction, the Person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than One Thousand Dollars (\$1,000), or both imprisonment and fine.

§4.04 Civil Penalties

Any Person violating any provision of this Chapter shall be liable to the District for a civil penalty not to exceed Five Hundred Dollars (\$500). Each day during which a violation occurs shall constitute a separate violation.

§4.05 Right to Hearing on Civil Penalties

(a) When the Board determines that a Person is subject to civil penalties pursuant to this Section, the Board shall so notify the Person in writing, setting forth the alleged violation and the amount of proposed civil penalty.

(b) Upon receipt of a notice of violation and penalty from the Board, a Person may object and request a hearing before the Board by delivering such request in writing to the District within twenty (20) days, setting forth the reasons why the Person disagrees with the notice of violation and proposed civil penalty.

(c) If the District receives a request for a hearing on a notice of violation and proposed penalty as provided in this Section, the Board shall set a hearing date within thirty (30) days of receipt of the request. The hearing shall be before a Quorum of the Board, as defined in District Rules, and the Person shall be allowed a reasonable opportunity to present documents and oral testimony in support of its position. The Director shall present to the Board the basis for the notice of violation and the proposed civil penalty. Upon receipt and consideration of evidence and testimony at the hearing, the Board Members present shall vote on the proposed violation and civil penalty, and a majority vote of those Board Members present shall be final. A court reporter shall be present to record the proceedings. Hearings shall otherwise be conducted in accordance with the Administrative Procedure Act.

(d) The decision of the Board at the close of any hearing shall be effective immediately upon issuance of a written decision by the Board, and payment of the civil penalty shall be due within thirty (30) days of the decision date. In the event no request for a hearing is received by the District within the time prescribed by this Section, the proposed violation and civil penalty shall become final on the day following the date on which a hearing request is due, and payment shall be due within thirty (30) days.

CHAPTER D: CERTIFICATES OF NEED FOR SOLID WASTE MANAGEMENT FACILITIES

Subchapter 1 General.

Subchapter 2 Procedure for Obtaining a Certificate of Need.

Subchapter 1 General.

§1.01 Authority and Purpose

§1.02 Solid Waste Hauler

§1.03 Certificate of Need Requirement

§1.01 Authority and Purpose

Ark. Code Ann. § 8-6-706 (Supp. 1999) requires all applicants for a Solid Waste landfill or transfer station permit to obtain a Certificate of Need from the Regional Solid Waste Management Board with jurisdiction over the proposed site prior to submitting the application to the Arkansas Department of Environmental Quality. The purpose of this Chapter is to establish standards and procedures for the issuance of Certificates of Need in the West River Valley Regional Solid Waste Management District.

§1.02 Definitions

As used in this Chapter, the following definitions shall apply:

(a) "Certificate of Need" means a certificate issued by the Board to any Person proposing to obtain a permit for a solid waste management facility.

(b) "Certificate of Need Review" means review of the application for a Certificate of Need.

(c) "Interested Persons" means the applicant and any persons who submit public comments during the Public Comment period either in writing or verbally at the public hearing.

(d) "Landfill" means a permitted landfill under the Arkansas Solid Waste Management Act Arkansas Code §8-6-201 *et seq.* and does not include permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry.

(e) "Solid Waste" means all putrescible and nonputrescible wastes in solid, semisolid or liquid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, wastepaper, waste paperboard, and all other solid and semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities, but does not include materials in the recycling process as the same are defined in Ark. Code Ann. § 8-6-702.

(f) "Solid Waste Facility" means a landfill or transfer station required to obtain a Certificate of Need from the Board pursuant to Ark. Code Ann. § 8-6-706.

§1.03 Certificate of Need Requirement

Any applicant for a new Solid Waste Facility permit or the modification of an existing Solid Waste Facility permit to be located, in whole or in part, within the geographic boundaries of the District must obtain a Certificate of Need from the Board prior to submitting the application to the Arkansas Department of Environmental Quality.

CHAPTER D: CERTIFICATES OF NEED FOR SOLID WASTE MANAGEMENT

Subchapter 2 Procedure for Obtaining a Certificate of Need.

- §2.01 Notice of Intent
 - §2.02 Application Procedure
 - §2.03 Completeness Determination
 - §2.04 Public Notice
 - §2.05 Public Comment
 - §2.06 Public Hearing
 - §2.07 Determination
 - §2.08 Appeal of Decision
 - §2.09 Continuing Effect
-

§2.01 Notice of Intent

At least fifteen (15) days prior to submitting an application for a Certificate of Need, the applicant must notify the District, in writing, of its intent to submit such an application. The Notice of Intent shall include the following information:

- (a) The name of the applicant;
- (b) The applicant's address and telephone number; and
- (c) Whether the applicant is seeking a new or modified Solid Waste Facility permit and the classification of the permit sought.

§2.02 Application Procedure

Persons requesting a Certificate of Need from the Board must submit an application to the District. All applications for Certificates of Need shall include, at a minimum, the following information:

- (a) The applicant's name, address and telephone number;
- (b) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of applicant's right to develop such property as a Solid Waste Facility from the legal owner;

(c) The location of the proposed facility as shown on the applicable USGS topographic map(s);

(d) The size of the proposed facility and capacity;

(e) A description of the geo-political jurisdictions to be served, including population estimates by jurisdiction;

(f) Documentation that the proposed Solid Waste Facility or modification complies with all of the criteria for evaluation in Section 2.07 of this Subchapter; and

(g) Any other information deemed necessary to make a determination of need, or requested by the Board.

§2.03 Completeness Determination

Within fourteen (14) days of receipt of the initial application, the District staff will make a completeness determination of the application. Any additional information required by the District to make a decision on the need of the proposed facility will be requested within this time. If additional information is requested by the District, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

§2.04 Public Notice

(a) When the District has determined that an application for a Certificate of Need is complete, it shall give at least thirty (30) days public notice prior to the Board's formal consideration of the Certificate of Need, during which period the public may review and comment on the application.

(b) The notice shall include a brief summary of the proposed Solid Waste Facility for which a Certificate of Need has been requested. The notice also shall state the date, time, and place of the public hearing on the Certificate of Need.

(c) The notice shall be mailed to any person specified by law and to all persons who shall have requested advance notice in writing of the Board's actions on Certificates of Need.

(d) Unless otherwise required by law, the notice shall be published in the *Arkansas Democrat-Gazette*, or in such other newspaper(s) of general daily circulation selected by the Board in its discretion,

§2.05 Public Comment

The District shall afford all interested persons reasonable opportunity to submit written data, views, or arguments, orally or in writing, during the thirty (30) day public notice period.

§2.06 Public Hearing

Prior to the Board's formal consideration of an application for Certificate of Need, the Board shall hold a hearing to accept oral and written comments from the public concerning the application. The public hearing shall be held in a county where at least a portion of the proposed Solid Waste Facility, or modified facility, is to be located.

§2.07 Determination

(a) Before the Board may issue a Certificate of Need, it must determine that the applicant has demonstrated compliance with the following criteria:

- (1) That the proposed Solid Waste Facility is consistent with the regional planning strategy adopted by the Board in the regional needs assessment or regional solid waste management plan;
- (2) That the proposed Solid Waste Facility does not conflict with existing comprehensive land use plans of any local government entity;
- (3) That the proposed Solid Waste Facility does not disturb an archaeological site as recognized by the Arkansas Archaeological Survey, or a rare and endangered species habitat as recognized by the Arkansas Game and Fish Commission or the United States Fish and Wildlife Service;
- (4) That the proposed Solid Waste Facility will not adversely affect the public use of any local, state or federal facility including but not limited to parks and wildlife management areas;
- (5) That the proposed Solid Waste Facility does not conflict with the requirements of state or federal laws and regulations applicable to the location of the proposed facility; and
- (6) That the proposed Solid Waste Facility does not restrict the flow of the 100-year flood plain, reduce the temporary water storage capacity of the flood plain or result in a washout of solid waste so as to pose a hazard to human health or the environment.

- (7) If the application is for a transfer station that proposes to transfer waste outside of the District, the applicant must document that the District to which waste will be transferred has been notified and that the Board of the transferee District has approved the receipt of such waste. This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas.
- (8) The applicant's detailed history and record with respect to violations of environmental laws and regulation of the United States, or any state or political subdivision of a state, must demonstrate substantial compliance with such laws and regulations.
- (9) The location of the applicant's proposed Solid Waste Facility shall be consistent with the District's needs and its highway and road system.
- (10) If the application is for a landfill, the applicant must demonstrate a need based upon the District's excess projected capacity which is currently permitted for operation, but in no event shall the District's excess permitted projected capacity exceed thirty (30) years.

(b) At the next Board Meeting, following the close of the thirty (30) day public Notice period described in this Subchapter, the Board will take up for consideration the application for a Certificate of Need. The Director shall present a recommended action to the Board. Those supporting the issuance of the Certificate of Need and those opposing the issuance of the Certificate of Need will be provided with a total of ten (10) minutes for each side to address the Director's recommendation.

(c) The Board shall issue a written decision setting forth its determination. The decision shall state the basis for issuing or denying the Certificate of Need. A copy of the decision will be sent to the following:

- (1) the applicant;
- (2) Arkansas Department of Environmental Quality; and
- (3) Any Interested Person who makes a written request for a copy of the decision.

§2.08 Appeal of Decision

Any interested Person shall have the right to appeal the issuance or denial of a Certificate of Need to the Director of the Arkansas Department of Environmental quality in accordance with Commission regulations governing such appeals.

§2.09 Continuing Effect

(a) Upon receipt of a Certificate of Need, the applicant has sixty (60) days in which to file a pre-application for a Solid Waste Facility permit with the Arkansas Department of Environmental Quality, or the Certificate of Need shall become void.

(b) Upon receipt of a Certificate of Need, the applicant has six (6) months in which to file a permit application for a Solid Waste Facility permit with the Arkansas Department of Environmental Quality, or the Certificate of Need shall become void.

(c) Certificates of Need are issued to a specific Person and are not transferable under any circumstances.

CHAPTER E: SOLID WASTE MANAGEMENT FEES

Subchapter 1 General.

Subchapter 2 Fees.

Subchapter 1 General.

§1.01 Authority

§1.01 Authority

Ark. Code Ann. § 8-6-714(a) authorizes Regional Solid Waste Management Boards to fix, charge, and collect rents, fees, and charges for solid waste management purposes within the Regional District. Regional Boards are authorized further by Ark. Code Ann. § 8-6-704 to carry out broad powers and duties conferred by §§ 8-6-701 *et seq.*

CHAPTER E: SOLID WASTE MANAGEMENT FEES

Subchapter 2 Fees.

§2.01 Effective Date

§2.02 Landfill Disposal Fees

§2.03 Solid Waste Transport Fees

§2.04 Reporting and Payment

§2.01 Effective Date

The fees imposed by this Chapter are mandatory and became effective July 1, 1999.

§2.02 Landfill Disposal Fees

(a) By Volume – There is hereby imposed on each landfill permittee within the District a solid waste management fee assessment of fifteen cents (\$.15) per uncompacted cubic yard and of thirty cents (\$.30) per compacted cubic yard of solid waste received at the landfill.

(b) By Weight – If a landfill permittee chooses to operate on a weight basis, the solid waste management fee assessment shall be one dollar (\$1.00) for each ton of solid waste received at the landfill.

(c) Exception – The solid waste management fee assessment does not apply to those permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of solid wastes generated by the industry.

§2.03 Solid Waste Transport Fees

(a) By Volume – On all solid waste generated and transported within the District but disposed of outside the District, there is hereby imposed on each solid waste transporter a solid waste transport fee of fifteen cents (\$.15) per uncompacted cubic yard and of thirty cents (\$.30) per compacted cubic yard of solid waste transported.

(b) By Weight – If a solid waste transporter chooses to operate on a weight basis, the solid waste transport fee shall be one dollar (\$1.00) per ton.

§2.04 Reporting and Payment

(a) Each landfill permittee and solid waste transporter shall submit to the District on or before January 15, April 15, July 15, and October 15, of each year a quarterly report which accurately states the total weight or volume of solid waste received at the landfill or transported out of the District during the calendar quarter just completed. A Report Form for this purpose is attached as Appendix E-1.

(b) On or before January 15, April 15, July 15 and October 15, of each year each landfill permittee and solid waste transporter shall pay to the District the full amount of such fees due for the quarter just completed, as prescribed by this Chapter. Any payment that is received more than thirty (30) days after the due date shall be assessed and subject to a ten percent (10%) late fee.