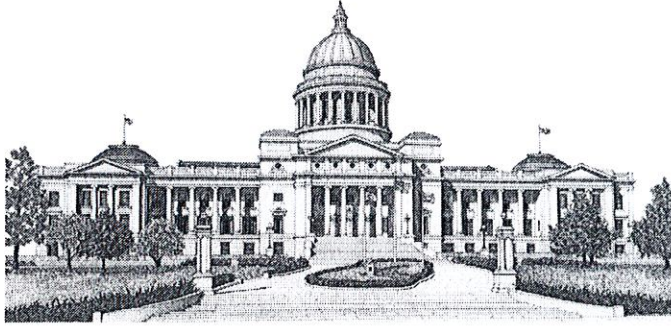


# ARKANSAS REGISTER

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**Mark Martin**

500 Woodlane, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070

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Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency White River Regional Solid Waste Management District

Department N/A

Contact Jan Smith, Exec. Dir. E-mail jsmith@wrpdd.org Phone 870-793-5233

Statutory Authority for Promulgating Rules Ark. Act 209 of 2011; ACA 8-6-714

**Rule Title:** White River RSWMD Policies and Procedures

Intended Effective Date  
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~~State Agency~~ .....

Date
<u>4/16/2018</u>
<u>5/15/2018</u>
<u>6/12/2018</u>
<u>6/21/2018</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

<u>Sarah Sexton for/Jan Smith</u>	<u>sarah@wrpdd.org</u>	<u>6/27/2018</u>
Contact Person	E-mail Address	Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Janet Smith  
Signature

(870) 793-233 Phone Number      jsmith@wrpdd.org E-mail Address

Executive Director, White River Regional Solid Waste Mgmt. Dist.  
Title

June 21, 2018  
Date

# **White River Regional Solid Waste Management District**



## **Policies and Procedures**

**Approved by the White River Regional Solid Waste Management District Board  
December 16, 2004  
Amended July 2, 2013  
Amended March 20, 2018**

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# **CHAPTER A: ADMINISTRATIVE PRACTICES AND PROCEDURES**

## **Subchapter 1: General**

### **§1.01 Authority**

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

The records of District activities, including any rule and procedures adopted by the Board of Directors, shall be maintained at the offices of the White River Regional Solid Waste Management District, P. O. Box 2396, 1652 White Drive, Batesville, AR 72501. These records shall be available to any citizen during regular business hours and as defined by the Arkansas Freedom of Information Act.

### **§1.02 Definitions**

For the purpose of these regulations, the following definitions shall apply:

1. “Administrative Procedure Act” means the Arkansas Administrative Procedure Act codified at Arkansas Code Annotated §25-15-201 to 214, as amended from time to time.
2. “ADEQ” or “Department” means the Arkansas Department of Environmental Quality.
3. “Board” means the Board of Directors of the White River Regional Solid Waste Management District.
4. “Certificate of Need” means a certificate issued by the Board to any person proposing to obtain a permit for a solid waste facility.
5. “Certificate of Need Review” means review of the application for a Certificate of Need by the District.
6. “Class I waste” means household, commercial, and industrial; and small quantities of conditionally exempt hazardous waste.
7. “Class 3 waste” means non-hazardous commercial and industrial wastes that are permitted by the Department to be disposed of in a Class 3 landfill.

8. “Class 4 waste” means bulky, inert, non-putrescible wastes that do not degrade, or degrade very slowly. Class 4 wastes include construction and demolition wastes, appliances, furniture, stumps, limbs and other bulky wastes that are not normally collected with other household or commercial waste.
9. “Commission” means the Arkansas Department of Pollution Control and Ecology Commission
10. “District” means the White River Regional Solid Waste Management District, which includes the counties of Cleburne, Fulton, Independence, Izard, Jackson, Sharp, Stone, Van Buren, White of Woodruff and the municipalities and unincorporated areas within those counties.
11. “Director” means the Director of the White River Regional Solid Waste Management District.
12. “Hauler” means a person engaged in the collection and/or transportation of solid waste, both Class I and Class IV, whether full or part-time, for storage and/or disposal. Hauler does not include a person transporting his/her own household waste to a permitted facility or a homeowner transporting his/her own Class IV waste to a permitted facility.
13. “Interested Persons” means any person who notifies the District of their interest in being notified of District activities and is on the District’s mailing list.
14. “Interlocal Agreement” means an agreement between the White River Regional Solid Waste Management Board and another solid waste district board, acting under the provisions of Act 752 of 1991, that is designed to coordinate and define the division of fees assessed and collected as related to the movement and disposal of solid waste between the two districts.
15. “Landfill” means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas code Annotated §8-6-201 *et seq.* As used herein, the term does not include, however, 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 or waste of a similar kind or character.
16. “Person” means any individual, partnership, corporation, L.L.C.S., association, or other similar entity(ies) or public or private organization of any character.
17. “Process waste” means solid waste resulting from an industrial/manufacturing and/or processing operation.

18. “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.
19. “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 material in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S. §1342, or source, special nuclear, or by-products material as defined by the Atomic Energy Act of 1954, as amended (68 Stat.923).
20. “Solid Waste Facility” means a Landfill as defined in this section or Transfer Station as defined in this section.
21. “Transfer Station” means any facility used to manage the removal, compaction and transfer of solid waste from collection vehicles and containers, and from other private and commercial vehicles to greater capacity transport vehicles. Transfer stations are not considered disposal facilities.

## **Subchapter 2: Procedure**

### **§2.01 Procedure for Adoption of Rules and Regulations**

The following procedure shall be utilized by the White River Regional Solid Waste Management Board (WRRSWMB) in promulgating any rule or regulation.

1. Prior to the adoption, amendment, or repeal of any rule or regulation, the WRRSWMB shall:
  - a) Give at least twenty (20) days notice of its intended action.
    - 1) The notice shall include a general statement of the issues to be discussed, the time, and the place for interested persons to present their views thereon; and
    - 2) The notice shall be published in the Arkansas Democrat Gazette.
  - b) Afford all interested persons reasonable opportunity to submit written data, views, or arguments prior to the consideration of the issue by the WRRSWMB. Further, if the WRRSWMB in its discretion shall so direct, oral testimony or argument may be received.
2. Notwithstanding the foregoing, if the WRRSWMB finds that an emergency exists and the

public health, safety or welfare requires adoption of a rule or regulation upon fewer than twenty (20) 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. The rule may be effective for no longer than one hundred eighty (180) days.

3. Each rule or regulation adopted by the WRRSWMB shall be effective on the date or time set forth in the rule or regulation or, if no such date is set forth in the rule or regulation, then it shall become effective ten (10) days after adoption.
4. 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 or 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: CERTIFICATES OF NEED**

### **Subchapter 3: General**

#### **§3.01 Authority**

Arkansas Code Annotated § 8-6-704(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 finding or ruling of the board and to administer the duties of the board. Further, Ark. Code Ann. § 8-6-706(d) (7) authorizes Districts to adopt procedures for the issuance of Certificates of Need.

#### **§3.02 Applicability**

The regulations in this chapter (Chapter B) shall apply to all landfills and transfer stations proposed to be located either wholly or partially within the jurisdiction of the District or the expansion of any existing landfill within the jurisdiction of the District. A certificate of need is not required for landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of a similar kind or character.

### **Subchapter 4: Criteria and Procedure**

#### **§4.01 Criteria For Review**

1. When reviewing an application for a Certificate of Need, the District will consider the following criteria:
  - a) Is the proposed facility consistent with the regional planning strategy adopted by the Board in the regional needs assessment or the regional solid waste management plan?
  - b) Will the proposed facility conflict with existing comprehensive land use plans of any local governmental entities?
  - c) Will the proposed facility disturb an archeological site as recognized by the Arkansas Historical Preservation Program or a rare and endangered species habitat as recognized by either the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service?
  - d) Will the proposed facility adversely affect the public use of any local, state or federal facility, including, but not limited to, parks and wildlife management areas?



- e) Will the proposed facility conflict with the requirements of state or federal laws and regulations on the location of disposal facilities?
- f) If located within a one hundred (100) year flood plain, the facility must not restrict the flow of a 100 year flood, reduce the temporary storage capacity of the flood plain, or result in washout of solid waste so as to pose a hazard to human health or the environment.
- g) For landfills, does the proposed facility provide landfill disposal capacity needed within the District? In no event shall the applicant's excess permitted projected capacity exceed thirty (30) years unless the city or county government within whose jurisdiction the proposed landfill is located authorizes approval of the excess capacity through the adoption of a resolution.

Along with the Certificate of Need for a landfill, the District shall provide to the Director an allocation of waste capacity for each permitted landfill within the District's jurisdiction in order to determine the design capacity of the proposed facility.

- h) For transfer stations, if a transfer station proposed to transfer waste outside the district in which it is located, the petition shall also contain documentation that the regional board of the district into which the waste will be transferred has been notified and has approved receipt of the waste. This provision does not apply to waste transfers outside the state.
2. The Board shall issue or deny the Certificate of Need based on an evaluation of:
    - a) the location of the applicant's proposed facility based on the district's needs and the highway and road system in the proposed site area;
    - b) the service area to be served by the proposed facility;
    - c) the detailed history of the applicant's record and that of the stockholders and officers with respect to violations of environmental laws and regulations of the United States or any state or political subdivision of any state; and
    - d) all other information provided by the applicant and whether the applicant followed procedure for obtaining a Certificate of Need in this section.
  3. The District will not consider the following when reviewing an application for a Certificate of Need:
    - a) the technical merits of the application related to the proposed or existing landfill or transfer station. Technical merits of an application will be determined by the ADEQ.
  4. Certificates of Need are issued to specific persons and for specific locations. Under no conditions or circumstances shall a Certificate of Need be transferred, assigned, or

otherwise provided to any individual or organization other than as originally specified on the Certificate of Need.

#### **§4.02 Procedures for Obtaining a Certificate of Need**

##### **1. Application**

A person requesting a Certificate of Need from the District must submit an application to the District, which will also serve as the applicant's notice of intent, as per Reg. 22, Section 300, Application Procedures. 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 the right to develop such property as a solid waste facility from the legal owner;
- c) the type and location of the proposed facility as shown on a topographic map and a state or county road map, including a legal description of the property;
- d) the size and capacity of the proposed facility;
- e) a description of the geo-political jurisdictions to be served, including population estimates by jurisdiction;
- f) documentation of information applicable to each of the criteria for evaluation listed in §4.02, Procedures for Obtaining a Certificate of Need.
- g) for landfills, a statement from ADEQ concerning current and projected disposal capacity respective to the area and the solid waste district.
- h) other information deemed by the Board of Directors as necessary to make a determination of need.

##### **2. Completeness Determination**

Within fourteen (14) days of receipt of the initial application, the District will make a completeness determination of the application. Any additional information the District determines is necessary 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.

##### **3. Review Period**

Once the District has determined that an application for a Certificate of Need is complete, the applicant will be notified and public notice of the review period will be placed in

papers of general daily or weekly circulation. The review period will begin on the date of publication of the notice of the review period. The review period will run for thirty (30) days. During the review period, public comment will be taken.

4. Public Hearing

During the review period, the District will conduct a public hearing within the county where the proposed facility or modification is to be located. The notice for the public hearing shall be made no less than ten (10) days in advance of the hearing.

5. Determination

- a) At the first scheduled Board meeting following the close of the review period, the Board will take up for consideration the application for a Certificate of Need.
- b) Unless the Board has affirmatively issued or denied a Certificate of Need within one-hundred and eighty (180) days from the beginning of the review period, the Certificate of Need will be deemed to have been denied.
- c) The Board shall issue written findings when making a determination. The findings shall state the basis for issuing or denying the Certificate of Need. The findings will be sent to the following:
  - 1) Applicant;
  - 2) ADEQ; and
  - 3) any interested persons who request such findings in writing from the District.

6. Appeal of Decision

Any interested person as defined in §1.02 to a Certificate of Need determination shall have the right to appeal the issuance or denial of a Certificate of Need to the Director of ADEQ in accordance with ADEQ regulations governing such appeals. Only interested persons shall have a right of appeal.

# **CHAPTER C: CERTIFICATE OF COMPLIANCE**

## **Subchapter 5: General**

### **§5.01 Description**

The Certificate of Compliance program requires all persons seeking a compost or waste tire processing permit or waste tire collection center permit from the Arkansas Department of Environmental Quality to apply to the District for a Certificate of Compliance. The Certificate of Compliance is designed to ensure that solid waste facilities within the District are consistent with the District's Solid Waste Management Plan and to allow the Board of Directors the opportunity to comment on the proposed permit in a pro-active position rather than in a reactive stance. A Certificate of Compliance is not required for persons seeking a Certificate of Need.

### **§5.02 Authority**

Arkansas Code Annotated §8.6.712(b) authorizes Districts to issue rules or regulations which are consistent with and in accordance with all applicable environmental protection performance standards adopted by state law or incorporated by reference from federal law.

### **§5.03 Notification by Applicant**

The District should be notified in writing as to the intent of the person (s) who are applying for a solid waste permit from the ADEQ.

1. For existing permitted operations the request should specify:
  - a) the present nature of the operation;
  - b) the types of permit(s) currently held by the operation;
  - c) changes or additions to the permit (s) being sought by the person (s);
  - d) the geographic area affected by the permit(s) changes; and
  - e) other information as may be requested by the Director.
  
2. For new operations without existing permits, the request should specify:
  - a) the nature of the new operation and what materials will be processed;
  - b) the type of permit(s) for which the applicant will be applying;
  - c) the geographical area that will be affected by the permit(s);
  - d) the principal investors and/or owners and operator of the proposed facility; and
  - e) other information as may be requested by the Director.

## **Subchapter 6: Procedure**

### **§6.01 District Staff Responsibilities**

Upon written notification the District staff will:

1. Research the application for the proposed new facility and/or changes to existing facilities for compliance with the District's Solid Waste Management Plan and/or Waste Tire Management Plan;
2. Determine the completeness of the application, request additional information if merited, and prepare written material for presentation to the Board; and
3. Present the material to the Board at the next regularly scheduled meeting or, if circumstances require and with authorization from the Board Chairman, poll the board for an informal vote. Said vote to be made formal at the next regularly scheduled meeting.

### **§6.02 District Board Decisions**

The decision to issue a Certificate of Compliance will rest with the Board of Directors. The following conditions apply:

1. Only the Board shall have the authority to issue a Certificate of Compliance;
2. All decisions by the Board are final;
3. An applicant whose request for a Certificate of Compliance is denied may, within thirty (30) days, make an appeal to the Board for reconsideration providing new information is available or a question of procedure arises, and
4. Upon approval, the Board's Chairman shall issue a letter indicating the approval of the applicant's request and that said permit is in compliance with the District's Solid Waste Management Plan and/or Waste Tire Management Plan.

# **CHAPTER D: WASTE HAULER LICENSING PROGRAM**

## **Subchapter 7: General**

### **§7.01 Purpose and Authority**

The White River Regional Solid Waste Management Board is required by Act 752 of 1991 to enact and enforce a licensing program for all haulers who collect or transport solid waste in the District. The purpose of these requirements is to ensure the continued health and safety of citizens residing in the District by providing for a uniformly safe method of collecting and transporting solid waste, and assisting the District in developing a data base essential for planning, evaluation, and management of solid waste within the District's geographic boundaries.

Arkansas Code Annotated §8-6-721, Licensing Haulers Of Solid Waste, requires regional solid waste management districts to establish and maintain a program for licensing haulers of solid waste within their respective jurisdictions and sets minimum standards for said licenses. ADEQ Regulation #22, Section 22.203 sets certain minimum requirements for licensing of solid waste haulers. The following are the requirements for any person who hauls solid waste, either Class 1 or Class 4, inside the geographical boundaries of the District.

### **§7.02 Scope of the Program**

1. A person, as defined in §1.02, who engages in the business of hauling solid waste must obtain a license from the White River Regional Solid Waste Management Board if:
  - a) the person collects Class 1 or Class 4 solid waste within the District; or
  - b) the person transports Class 1 or Class 4 solid waste for storage or disposal within the District.
2. A license may be issued to a person, partnership, corporation, association, the State of Arkansas, a political subdivision of the state, an improvement district, a sanitation authority, or another regional solid waste management district. The District may in the future engage in the hauling of solid waste within its own boundaries without licensure but will comply with all applicable standards required in this section.

For the purpose of this program, these standards will apply to solid waste haulers that collect or haul Class I or Class IV waste. A license shall not be required for an individual hauling their own household waste to a permitted facility.

3. Licenses will be issued by the District when all aspects of the application have been completed, compliance with ADEQ standards for hauling solid waste have been achieved, and all fees have been paid.

4. Local governments and solid waste districts shall be exempt from this license requirement.

## **Subchapter 8: Requirements and Fees**

### **§8.01 Licensing Standard and Requirements**

Any person who transports solid waste, either Class 1 or Class 4, shall:

1. possess the appropriate driver's license as defined by Arkansas Law; and
2. annually register all collection vehicles within the District, providing the following information:
  - a) name, address, social security number (or tax ID# if incorporated) and telephone number of registrant,
  - b) make, model, year and VIN of vehicle(s),
  - c) license plate number,
  - d) copy of operator's license of all participating drivers,
  - e) description of the class and origin of the waste, size of the loads hauled and their destination, and
  - f) financial assurance in the form of proof of vehicle liability insurance.

### **§8.02 Requirements for Maintaining Permits**

All collection and transportation vehicles must meet the conditions outlined below. Failure to comply with these conditions may result in revocation of hauler license.

1. Solid waste shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards and nuisances.
2. Collections 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, and shall be in compliance with state law.
3. Collection and transportation vehicles shall be kept in a sanitary condition.
4. Regular collection days shall be established as appropriate. Collection shall be performed as necessary.
5. Collection and transportation of chemicals, poisons, explosives, radiological waste, and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.

6. All solid waste collected within the district shall be transported to an approved facility licensed with ADEQ or with the state to which it is being transported.
7. All vehicles covered by these regulations must prominently display a current license registration sticker provided by the District.
8. Said waste hauler licenses shall be non-transferable and non-returnable.
9. Haulers will be required, upon reasonable notification by the District, to provide the District with records and data on the nature of waste collected or transported; or provide any other information as requested to help the Board track the composition, volume and flow of solid waste.
10. Haulers will abide by all Federal, State, and Local laws and ADEQ and District regulations regarding the collection, hauling and disposal of solid waste.

### **§8.03 Financial Responsibility**

Any hauler applying for a license must establish and maintain financial responsibility to the Board by annually providing proof of commercial or vehicle liability insurance with minimum coverage as required by state law.

### **§8.04 Fees**

1. The White River Regional Solid Waste Management Board shall assess the following annual fees for licensing the collection and transportation of solid waste in the District. Said fees shall be non-transferable and non-refundable.
  - a) Vehicles of 1 ton or less shall be subject to a \$25.00 annual fee per vehicle.
  - b) Vehicles of over one ton shall be subject to a \$50.00 annual fee per vehicle.
2. Upon payment of the fee, each vehicle registered will be provided with a license to collect and transport solid waste in the District.
3. Licenses must be renewed annually with the license year beginning January 1. If a new hauler is issued a license after January, the fees will be prorated based on the number of full months remaining in the calendar year.
4. Haulers will have 30 days to obtain a license without penalty. Failure to obtain a license by February 1<sup>st</sup> will result in doubling the fee.



# **CHAPTER E: WASTE TRANSFERS**

## **Subchapter 9: General**

### **§9.01 Purpose and Authority**

Movement of waste either in or out of the boundaries of the District shall comply with Arkansas Code 8-6-712, Regulation of Solid Waste Disposal.

## **CHAPTER F: HOST FEE**

### **Subchapter 10: General**

#### **§10.01 Purpose and Authority**

Legal authority is based upon Arkansas Code Annotated 8-6-714, Rents, fees and charges. ACA§ 8-6-714 provides that a regional solid waste management board has the authority to “...fix, charge, and collect rents, fees, and charges...” related to the generation, movement and/or disposal of solid waste within its district and to the management of solid waste needs of the District in accordance with applicable law.

Arkansas Act 752 of 1991 established the regional solid waste management districts and described their powers, duties and responsibilities. These responsibilities include planning, studying and evaluating the solid waste management needs of their areas, publishing regional needs assessments and solid waste management plans. The purpose of these powers, duties and responsibilities is to support the District solid waste board in its decisions for the development and operation of solid waste systems in the District.

In order to carry out the above powers, duties, and responsibilities, the District must be able to compensate professional staff, cover the costs of contracts into which it enters and defray the cost of its operations including offices, overhead, maintenance, travel and other expenses necessary to perform duties assigned by the District Board of Directors.

Pursuant to the above legislation, the District Board of Directors has determined that the imposition of the fees set forth herein is necessary to support the District’s management and direct involvement with the District’s disposal and/or treatment of solid waste, including waste generated within and disposed of within the District, generated within and disposed of outside of the District, and waste generated outside of the District but disposed of within the District.

### **Subchapter 11: Fee Structure**

#### **§11.01 Fee Structure**

A fee of One and 00/100 Dollars (\$1.00) is hereby imposed and charged on each ton or portion thereof of Solid Waste that is:

- (1) generated within the District and delivered to a Landfill located within the District or a Transfer Station located within the District.
- (2) generated outside the District and disposed of within the District; or
- (3) generated inside the District and disposed of outside the District.

In the event that another regional solid waste management board or district fixes, charges or collects any fees on such Solid Waste pursuant to the provisions of Arkansas Code Annotated

§8-6-714, then the fee to be imposed and charged shall be calculated by taking the sum of One and 00/100 Dollars (\$1.00) per ton or portion thereof of Solid Waste described in (1), (2) or (3) above and adding the per ton fee that has been assessed to each such ton of Solid Waste by another regional solid waste management board or district. The resulting sum shall be the applicable fee to be paid for such Solid Waste but such fee shall not exceed a total fee of Two and 00/100 Dollars (\$2.00) per ton.

However, if the landfill or transfer station pays a fee on such Solid Waste pursuant to the provisions of Arkansas Code Annotated §8-6-714 to another regional solid waste management board or district, then the landfill or transfer station shall be entitled to a credit so that total fee paid does not exceed a total fee of Two and 00/100 Dollars (\$2.00) per ton.

If another landfill or transfer station collects a fee on such Solid Waste and this District fails to receive the sum of One and 00/100 Dollars (\$1.00), then this District shall have the right to pursue such other regional solid waste management board or district for any amount necessary to allow this District to receive the sum of One and 00/100 Dollars (\$1.00) per ton or portion thereof of Solid Waste.

Such fee shall be collected by the applicable landfill or transfer station, in accordance with this regulation and will be submitted on a monthly basis to the District by the 10th of the following month.

This regulation will be effective thirty (30) days after filing with the State of Arkansas in accordance with the Arkansas Administrative Procedure Act, APA§ 25-15-201 or other laws or policies pertaining to the rulemaking authority of a state agency.

## **Subchapter 12: Interlocal Agreements**

### **§12.01 Authority and Structure**

“Interlocal Agreement” means an agreement between the White River Regional Solid Waste Management Board and another solid waste district board, acting under the provisions of Act 752 of 1991, that is designed to coordinate and define the division of fees assessed and collected as related to the movement and disposal of solid waste between the two districts.

The District shall have the right to enter into an interlocal agreement with one (1) or more other regional solid waste management board or district to allocate the fee imposed and charged under these regulations in accordance with applicable law. In the absence of an interlocal agreement with another regional solid waste management board or district, then the regional solid waste management board or district shall divide the fee imposed by these regulations equally in accordance with applicable law.

## **Subchapter 13: Exceptions**

**§13.01** This Rule shall not apply to waste or materials as described in Arkansas Code Annotated Section 8-6-714(b).

## **CHAPTER G: ILLEGAL DUMPS PROGRAM**

### **Subchapter 14: Purpose and Authority**

#### **§14.01 Purpose and Authority**

The primary purpose of the District's illegal dumps program is to remediate illegal dumps using the resources of the perpetrator(s) responsible for the illegal dumping. The secondary purpose, though not a lesser purpose, is to eliminate a health problem by the remediation of illegal dumps. Improper and illegal waste disposal places the public health at risk. Carelessly disposed solid waste allows for the contamination of surface and ground water due to uncontrolled leachate entering the surface and/or ground water systems. Additionally, this waste is a breeding ground for vectors that are known to carry disease. Both of these conditions create an unhealthy environment with the potential for serious health risk.

The Board of Directors is given authority to address illegal dumping through the following:

1. Arkansas Department of Environmental Quality's Regulation #22;
2. Arkansas Code Annotated §8-6-508 Enforcement Generally, which empowers solid waste management districts to employ illegal dump control officers and establishes their powers and duties; and
3. Arkansas Code Annotated §8-6-901 Licensing of Operators of Solid Waste Management Facilities which provides for the certification of the illegal dumps control officers.

# **CHAPTER H. SOLID WASTE MANAGEMENT AND RECYCLING GRANTS PROGRAM**

## **Subchapter 15: General**

### **§15.01 Purpose and Authority**

The purpose of this program is to provide financial assistance for solid waste programs that serve to reduce the state's dependence on landfills and to protect public health. Such programs include waste reduction activities, reuse of waste items as raw materials in a production process, recycling (including but not limited to paper, plastic, metals, electronics and glass), using waste materials to produce an end product without recycling, using waste materials as fuel, and other related activities as approved by the White River Solid Waste Management District Board of Directors.

Arkansas Code § 8-6-615 adopted by Arkansas Act 1333 of 2013, authorizes distribution of the Solid Waste Management and Recycling Fund to the regional solid waste management districts for this purpose.

Arkansas Code Annotated § 8-6-704(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 finding or ruling of the board and to administer the duties of the board.

### **§15.02 Applicability**

The regulations in this chapter (Chapter H.) govern the process by which the White River Regional Solid Waste Management District's distribution from the Arkansas Solid Waste Management and Recycling Fund is administered and distributed within the District's ten counties.

## **Subchapter 16: Eligibility**

The following entities are eligible to apply for grant assistance: county governments and incorporated cities and towns in the ten-county solid waste district service area and the Solid Waste Management District Board of Directors.

### **§16.01 Eligible Projects**

Projects eligible for grant assistance include:

1. Solid waste management planning that integrates waste reduction and landfill diversion.
2. Public information and education programs that encourage waste reduction and recycling and stimulate demand for products produced from recycled materials.
3. Waste and waste transfer facilities and equipment that integrate waste diversion and recycling into their operations.
4. Activities that support material recovery facilities (recycling centers) including, but not limited to, facility costs, equipment costs, and logistical systems.
5. Recycling and waste diversion activities associated with illegal dump abatement programs.
6. Other waste stream reduction activities that divert the flow of materials away from landfills to be put to beneficial use.
7. Costs related to the daily administrative functions of District operation as directed by the District Board of Directors.

### **§16.02 Ineligible Expenses**

The Solid Waste Management and Recycling Grant Program is a reimbursement grant program, and eligible expenses must be incurred only after a grant has been awarded. Any and all expenses incurred prior to grant award are ineligible and cannot be reimbursed. The White River Regional Solid Waste Management District reserves the right to deny reimbursement of any grant expense(s) considered inappropriate to an approved grant project.

## **Subchapter 15 17: Grant Application Procedures**

### **§17.01 Pre-application**

At the beginning of each annual grant round, a letter and pre-application form will be mailed to all county judges and to all mayors of incorporated cities and towns, notifying them of the grant round and application period. A listing of eligible grant projects, a local match amount, and a submission deadline will be included in the notification. A written appeal may be submitted to the District Board Directors regarding project eligibility.

### **§17.02 Board Review and Prioritization**

After state disbursement of grant funds has been received by the District, the District Board of Directors will meet to review pre-applications received during the application period, set aside any unacceptable pre-applications, and prioritize eligible pre-applications for funding. Prioritization will be given to projects that the Board determines will have the greatest benefit. If prioritized pre-applications exceed the amount of the District's funding disbursement, the Board may withhold funding of a project until a future grant round or may adjust funding levels of any or all pre-applications to fit the amount of grant money available in the grant round. All Board action is based on majority vote.

### **§17.03 Final Applications**

After prioritization by the District Board of Directors, applicants will be provided a final application form and will be asked to submit applications and supporting documentation by a specified deadline. Final applications will be reviewed by District staff for completeness. Grant awards will be executed by the District Board Chairman and each grant applicant. Applications not submitted by the preset deadline will not be considered for funding.

### **§17.04 Public Notice and Comment Period**

When final applications are completed and received by District staff, a listing of proposed applicants and projects will be published in a newspaper(s) of general circulation for the area(s) impacted by the proposed grant projects. Notice will be in the form of legal notices that will appear a minimum of thirty days prior to grants being funded. The notice will provide applicant names, project names and amounts, and instructions for submission of comments, both orally and in writing. Any negative comments will be taken to the Board of Directors for consideration prior to final funding approval.

## **Subchapter 18: Disbursement of Grant Award Funds**

### **§18.01 Reimbursement Procedure**

Grant purchases can begin immediately upon notification that an applicant's grant has been awarded. Only items included in the budget of the approved grant application will be reimbursed. For expenses to be reimbursed, the applicant must submit the following:

1. A detailed bill of sale or invoice of the item(s) purchased.
2. A cancelled check copy (bank statement copy or 2-side proof showing cancellation)
3. All capital equipment purchases of \$300 or more must include VIN, Serial #, detail photos and physical location of the equipment.

Reimbursement documents are to be submitted to the White River District offices for review and disbursement of grant funds to the applicant. Staff will check documentation and submit the appropriate amount to accounting for reimbursement. Expenses exceeding grant awards cannot be reimbursed.

### **§18.02 Reimbursement Deadline**

Grant recipients will be allowed three years from the date a grant was funded to complete the grant project and request reimbursement for project expenses. See §18.01 for disposition of unspent grant funds.

## **Subchapter 19: Grant Acceptance Requirements**

### **§19.01 Minimum Conditions of Grant Acceptance**

Final application documents include Minimum Conditions of Grant Acceptance, wherein each applicant agrees to the following upon acceptance of the funded grant:

1. Maintain accurate grant records with an itemized listing of grant expenses including purchase date, item(s) purchased, vendor, and purchase price, along with purchase documents (detailed invoice or bill of sale, cancelled check copies, and photos, VIN #s and/or serial numbers of equipment purchases of \$300 or more.). Purchase document files should be maintained for a minimum of five years.
2. Complete and submit an annual report to the District including the itemized listing of grant expenses in 1. above and summarizing the progress made on the project and its impact on the facility or program. Physical locations of capital equipment should also be listed in this report.
3. Maintain information for the State Recycling Activity Survey, which is to be submitted through the Solid Waste District, for a period of five years after the grant award. The quantities of materials recycled/diverted (tons, cubic yards, gallons, etc.) and any revenue received from the sale of wastes diverted or recycled should be recorded throughout the state fiscal year (July 1 – June 30). These numbers are necessary for completion of the Survey, which is required annually by Arkansas Reg.11.409(B)
4. All purchases of property, equipment and materials will be in accordance with the appropriate state purchasing law for the applicant entity (county, first class city, second class city and incorporated towns)

## **Subchapter 20: Disposition of Unexpended Grant Funds**

### **§20.01 Unexpended Grant Funds**

Grant Funds awarded to local government that 1) are released in the event a project has been cancelled, 2) remain after the completion of the grant project; or 3) exist at the end of the three year grant expenditure deadline may be released to the District to be redistributed as all or part of another grant project. A request by a grant recipient to relinquish and release unspent funds to the District must be documented by a request on official letterhead signed by the elected official and submitted to the District Board of Directors.

### **§20.02 Redistribution of Unexpended Grant Funds**

The District Board of Directors will review unspent grant funds and will, when deemed appropriate, make funds available for other proposed grant project(s), separate from or included with the annual State Solid Waste and Recycling Fund disbursement to the District. Proposed projects using unexpended grant funds will follow the same grant application procedure listed in Subchapter 15.



# **CHAPTER I: SEVERABILITY**

## **Subchapter 21: Severability Policy**

### **§21.01 Severability Policy**

If any portion of these rules or regulations is found by a court of law to be unconstitutional, it shall not negate the remainder of these rules or regulations.