

**SEBASTIAN COUNTY REGIONAL
SOLID WASTE MANAGEMENT DISTRICT**

**Final Rules
§186.09.01 –
§186.11.05**

Solid Waste Assessment Regulation

Proposed March 17, 2011

**Comment Period
March 21, 2011 – April 20, 2011**

**Public Hearing
April 21, 2011**

Adopted April 27, 2011

CHAPTER D:
SOLID WASTE ASSESSMENT REGULATION
Cite as §186.xx.xx

Subchapter 9	Assessment.
Subchapter 10	Procedures.
Subchapter 11	Compliance and Enforcement.

Subchapter 9 Assessment.

- §9.01 Authority**
- §9.02 Definitions**
- §9.03 Applicable Waste**
- §9.04 Fee Amount**

§ 9.01 Authority

This Chapter D, Solid Waste Assessment Regulation, is adopted and imposed pursuant to A.C.A. §8-6-714, as amended by Act 209 of 2011.

§ 9.02 Definitions

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

- (a) "Administrative Procedure Act" means the Arkansas Administrative Procedure Act codified at Ark. Code Ann. §§ 25-15-201 *et seq.*, as amended from time to time.
- (b) "ADEQ" or "Department" means the Arkansas Department of Environmental Quality.
- (c) "Administrative Order" means the written finding of the District which proposes to assess a penalty, suspend, revoke or deny a license or permit, or to take other action against a person which grants that person a right to request a hearing pursuant to these Rules, other than the denial of a Certificate of Need.
- (d) "Board" means the Board of Directors of the Sebastian County Regional Solid Waste Management District.
- (e) "Commission" means the Arkansas Pollution Control & Ecology Commission.

- (f) "Directors" means the members of the Board of Directors of the Sebastian County Regional Solid Waste Management District.
- (g) "District" means the Sebastian County Regional Solid Waste Management District, which includes Sebastian County and all municipalities and unincorporated areas within the County.
- (h) "Director" means the Director of the Sebastian County Regional Solid Waste Management District.
- (i) "Person" means any individual, partnership, corporation, association, or public or private organization of any character.
- (j) "Rule" means any District regulation or statement of general applicability and future effect that implements, interprets, or prescribes law or mandatory policy.
- (k) "Rulemaking Action" shall include any action by the District to adopt, amend or repeal any District Rule.
- (l) "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).
- (m) "Solid Waste Disposal Facility" means any Landfill as defined by the Arkansas Department of Environmental Quality.
- (n) "Solid Waste Facility" means any facility which holds or should hold a facility permit issued by the Solid Waste Division of ADEQ.
- (o) "Solid Waste Hauler" - A Solid Waste Hauler is any person engaged in the collection and/or transportation for disposal or storage of solid wastes. Any person transporting waste more than five times a year is a Solid Waste Hauler, unless exempted below. Solid Waste Hauler does not include a person transporting their personal household wastes to a permitted facility. Solid Waste Hauler does not include a person hauling only waste tires. Solid Waste Hauler does not include a person transporting solid waste

from an industrial facility to its own Class 3 landfill. There are two types of Solid Waste Haulers:

- 1) Type I Haulers are those that haul all categories of nonhazardous solid wastes as identified in ADEQ Regulation 22.202;
 - 2) Type II Haulers are those that haul only process waste and special materials as identified in ADEQ Regulation 22.202.
- (p) "Solid Waste Material Recovery Facility" means a facility defined as requiring a Solid Waste Recovery Facility permit by ADEQ Regulation 22.
- (q) "Transfer Station" means a facility defined as requiring a Transfer Station permit by ADEQ Regulation 22.
- (r) "Type S Composting Facility" means a facility defined as requiring a Type S Composting Permit under ADEQ Regulation 22.

§9.03 Applicable Waste

- (a) Starting May 16, 2011, there shall be assessed a fee, to be paid to the District, on all solid waste generated within the District; or generated outside the District and brought to a processing, transfer, recycle or disposal facility within the District.
- (b) This fee will be applicable to all solid waste that is collected and delivered to a processing, transfer or disposal facility within the District.
- (c) This fee will not be applied to 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; to any non-municipal solid waste generated by private industry and shipped to another state for recycling, treatment or disposal; to any solid waste recycled, used or generated by any steel mills or related facilities classified within subsector 331 of the 2007 North American Industrial Classification System, as it existed on January 1, 2011; to any recyclable materials which are processed or marketed for recycling; to any organic materials which are delivered to a Class Y or O composting facility; to any materials which are removed from solid waste and processed for recycling; to waste tires processed through an approved waste tire program; or to household hazardous wastes collected through a HHW program that is handled as Subtitle C waste.

§9.04 Fee Amount

- (a) The amount of the fee assessed shall be \$1.70 per ton of solid waste handled.
- (b) If weight tickets are not available, the fee shall be calculated on a volume basis as follows.
 - (1) \$0.25 per uncompacted cubic yard
 - (2) \$0.45 per compacted cubic yard
- (c) If solid wastes, subject to a fee under this Chapter, are shipped, delivered or transported to another Solid Waste District within this State that also imposes a fee pursuant to A.C.A. § 8-6-714(a)(1)(A); then the fees imposed shall be divided between the districts pursuant to any interlocal agreement in place between the Districts. If no interlocal agreement is in place, the larger of the fees shall be imposed and said fees shall be split evenly between the districts.

Subchapter 10 Procedures

§10.01	Landfills
§10.02	Solid Waste Transporters
§10.03	Schedule
§10.04	Intent

§10.01 Landfills

Any landfill located within the District shall pay to the District an amount equal to the fee amount in Section 9.04. Such fee shall be paid according to the schedule listed in Section 10.03.

§10.02 Solid Waste Transporters

Any person or hauler who collects solid waste generated in the District but transports it out of the District shall be required to submit the applicable fee in Section 9.04 according to the schedule in §10.03.

§10.03 Schedule

Fees shall be paid to the District monthly. For all wastes handled during the prior month, payment will be due by the 10th of the following month.

Fees must be submitted along with a Solid Waste Report form, provided by the District. A copy of ADEQ's Solid Waste Quarterly Report Form may be acceptable in lieu of the District form upon written approval by the Director.

§10.04 Intent

It is the intention under these regulations for all waste that is generated or disposed of within this District to be assessed a fee by this District one time only.

Subchapter 11 Compliance and Enforcement

§ 11.01 Violations.

§ 11.02 Penalties.

§ 11.03 Enforcement.

§ 11.04 Inspection and Information Gathering.

§ 11.05 Severability.

§ 11.01 Violations.

It shall be a violation for any owner or operator of a solid waste facility or solid waste hauler to fail to comply fully with any provision of a regulation of this Chapter.

§ 11.02 Penalties.

A penalty of up to \$5,000.00 per violation per day of violation may be assessed against any person violating the provisions of this Chapter.

§ 11.03 Enforcement.

The Director is authorized to seek the approval of the Board to institute legal and/or equitable action in the appropriate courts or to institute administrative enforcement to enforce any violation of a regulation of this Chapter.

§ 11.04 Inspection and Information Gathering.

Any Solid Waste Facility or Solid Waste Hauler shall, upon the request of any District designated person, furnish information relating to any activity at the facility or business and permit such person at all times to have access to, and to copy all records relating to such activity. Any District designated person shall be allowed access to all requested records during normal business hours.

§ 11.05 Severability.

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