

**NORTHEAST ARKANSAS  
REGIONAL SOLID WASTE  
MANAGEMENT  
DISTRICT**

**RULES AND REGULATIONS**

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

### **Subchapter 1: General**

#### **§ 1.01 Authority**

Ark. Code Ann. §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 findings or rulings of the board and to administer the duties of the board.

#### **§1.02 Definitions**

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

“Administrative Procedure Act” means the Arkansas Administrative Procedure Act codified at § 25-15-201 et seq., as amended from time to time.

“ADEQ” or “Department” means the Arkansas Department of Environmental Quality.

“Board” means the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District.

"Bylaws" mean laws of local application passed under the authority of a higher law specifying what things may be regulated by the bylaw.

“Certificate of Need” means a certificate issued by the Board to any person proposing to obtain a permit for a solid waste facility.

“Certificate of Need Review” means review of the application for a Certificate of Need.

“Class S Composting Facility” means a facility defined as requiring a Class S Composting Permit under ADEQ Regulation 22.

“Commission” means the Arkansas Pollution Control & Ecology Commission.

“Directors” mean the members of the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District.

“District” means the Northeast Arkansas Regional Solid Waste Management District which includes Clay County, Greene County, Lawrence County, Randolph County and the municipalities within those counties.

“Director” means the Director of the Northeast Arkansas Regional Solid Waste Management District.

“Interested persons” means the applicant and any persons who submit public comments during the review period either in writing or verbally at the public hearing.

“Landfill” means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq. As used herein, the term does not include permitted 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.

“Person” means any individual, partnership, corporation, association, public organization, or private organization of any character.

“Rule” means any District regulation of 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.

“Rulemaking Action” shall include any action by the District to adopt, amend or repeal a District Rule.

“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, semi-solid, 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-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

“Solid Waste Disposal Facility” means any Class I or Class IV landfills as defined by the Arkansas Department of Environmental Quality.

“Solid Waste Facility” means a Landfill or Transfer Station, as defined in this section, and/or any facility which holds or should hold a facility permit issued by ADEQ’s Solid Waste Division.

“Solid Waster Hauler” means a Solid Waste Hauler is any person or business engaged in the collection and/or transportation for disposal or storage of solid wastes. 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. There are two classifications of haulers: Type I Haulers are those that haul all categories of nonhazardous solid waste as identified in ADEQ Regulation 22.203; and Type II Haulers are those that haul only Class IV wastes as identified in ADEQ Regulation 22.203.

“Solid Waste Material Recovery Facility” means a facility defined as requiring a Solid Waste Material Recovery Facility permit by ADEQ Regulation 22.

“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; and/or a facility defined as requiring a Transfer Station permit by ADEQ Regulation 2.

## **Subchapter 2: Rulemaking**

### **§ 2.01 Rulemaking Authority**

The Board may adopt rules to the full extent provided by Ark. Code Ann. § 8-6-704.

### **§ 2.02 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. Whenever possible, the provisions of this Subchapter shall be interpreted to be consistent with requirements of State and Federal law.

### **§ 2.03 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.

## **Subchapter 3 Governing Body and Board Meetings**

### **§ 3.01 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. Membership of the Board is governed by Ark Code Ann. § 8-6-703. The Board shall consist of the following members:

Clay County Judge  
Greene County Judge  
Lawrence County Judge  
Randolph County Judge  
Mayor of Corning, Arkansas  
Mayor of Hoxie, Arkansas  
Mayor of Paragould, Arkansas  
Mayor of Piggott, Arkansas  
Mayor of Pocahontas, Arkansas  
Mayor of Rector, Arkansas  
Mayor of Walnut Ridge, Arkansas

Pursuant to Ark Code Ann. § 8-6-703, the elected Mayor of any city within the District with a population of more than 2,000 people shall also serve as a Board member.

**§ 3.02           Officers**

The general officers of the Board shall consist of a chairman, vice-chairman, secretary and treasurer. Election of officers shall occur at the regular meeting in January of each year, and terms of office shall commence on that date and continue until the next January 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.

**§ 3.03           Appointed Committees**

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

**§ 3.04           Meetings**

Regular meetings of the Board will be held monthly. 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. Special meetings of the Board may be called at any time by the Chairman, by resolution of the Board, or by not less than six (6) members of the Board.

Written notice of the Board Meetings shall be given personally, by mail, facsimile or by electronic 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.

**§ 3.05           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.

**§ 3.06           Parliamentary Procedure**

Robert's Rules of Order shall govern all meetings of the Board and any committee of Board members.

## **CHAPTER B: CERTIFICATES OF NEED**

### **Subchapter 4: Authority and Criteria**

#### **§ 4.01 Authority**

Ark. Code Ann. § 8-6-706(d)(7) authorizes the Districts to adopt procedures for the issuance of Certificates of Need.

#### **§ 4.02 Applicability**

The regulations in Chapter B shall apply to every solid waste facility 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. These regulations shall apply to facilities that do not have a pre-application pending with ADEQ for a new permit or modification of an existing permit as of the effective date of these regulations. 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 similar kind or character.

#### **§ 4.03 Criteria for Review**

When reviewing an application for a Certificate of Need, the District will consider the following criteria:

- a. Whether the proposed facility is consistent with the Regional Planning Strategy adopted by the board in the Regional Needs Assessment or the Regional Solid Waste Management Plan;
- b. Whether the proposed facility conflicts with existing comprehensive land plans of any local governmental entities;
- c. Whether the proposed facility disturbs an archeological site as recognized by the Arkansas Archaeological Survey, 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. Whether the proposed facility will adversely affect the public use of any local, state or federal facility, including, but not limited to, parks and wildlife management areas;
- e. Whether the proposed facility conflicts with the requirements of state or federal laws and regulations on the location of disposal facilities;
- f. If the proposed facility is located within the 100-year floodplain, whether it restricts the flow of the 100-year flood plain, reduces the temporary water storage capacity of the floodplain, or could result in washout of solid waste so as to pose a hazard to human health or the environment;

- g. Whether the proposed facility is appropriately located given the District's needs and taking into consideration its road system;
- h. For landfills, whether the proposed facility provides landfill disposal capacity needed within the District;
- i. For transfer stations, whether a public transfer station is located within a twelve mile radius of the proposed facility and whether sufficient transfer station capacity exists within the proposed service area;
- j. 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;
- k. The service area to be served by the proposed facility; and, whether the applicant followed the procedures for obtaining a Certificate of Need in Subchapter 5.

#### **§ 4.04 Continuing Effect**

Upon receipt of a final Certificate of Need from the District, the applicant has 120 days in which to file a pre-application for a solid waste landfill permit with ADEQ. If a preapplication is not filed within 120 days, the Certificate of Need shall expire.

Upon receipt of a Certificate of Need, the applicant has one (1) year in which to file a permit application for a solid waste landfill permit with ADEQ. If a permit application is not filed within one (1) year, the Certificate of Need shall expire.

Certificates of Need are issued to specific persons or organizations. 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.

### **Subchapter 5: Procedures**

#### **§ 5.01 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;
- c. Whether the applicant is seeking a new or modified solid waste facility permit and the classification of the permit sought;



- d. The site of the proposed facility;
- e. A description of the geo-political area to be the proposed facility, including population estimates by jurisdiction;
- f. For landfills, confirmation from the ADEQ that the applicant has requested a statement concerning the current and proposed solid waste landfill disposal capacity respective to the area and landfill class being proposed.

**§ 5.02 Application**

Persons requesting a Certificate of Need from the District must submit an application to the District. All applications for a Certificate 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 a 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 7.5° USGS topographic map(s);
- d. The size of the proposed facility and capacity proposed;
- 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 listed in Section 4.03.
- g. For landfills, the current permitted capacity for the appropriate landfill within the district and the estimated increase in permitted capacity for the proposed facility or modification;
- h. For transfer stations, a map showing the location of the proposed facility and all existing transfer stations with a twelve-mile radius around each; and,
- i. Any other information deemed necessary to make a determination of need.

**§ 5.03 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.

**§ 5.04            Review Period**

Once the District has determined that an application for a Certificate of Need is complete, it will so notify the applicant and publish notice of the review period in a newspaper having general circulation in the District. The review period will begin on the date the completeness determination is made to the applicant to the date of publication of notice of the review period, whichever is later. The review period will run for thirty (30) days. During the review period, public comment will be taken.

**§ 5.05            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.

**§ 5.06            Determination**

At the first scheduled Board meeting following the close of the review period, the Board will consider the application for a Certificate of Need. The Director shall present a recommendation 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 an opportunity to address the Director's recommendation.

Unless the Board has affirmatively issued or denied a Certificate of Need within one hundred and twenty (120) days of the beginning of the review period, the Certificate of Need will be deemed to have been denied.

The Board shall issue written findings when making a determination. The findings will be sent to the following: The applicant; ADEQ; and any interested persons who request such findings in writing from the District.

**§ 5.07            Appeal of Decision**

Any interested person in 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. An "interested person" is considered only a person that has submitted comments within the review period specified in § 5.04.

**CHAPTER C: WASTE TIRE PROGRAM**

**Subchapter 6: Waste Tire Program**

**§ 6.01 Notice of Intent**

Northeast Arkansas Regional Solid Waste Management District is part of the Inter-District Waste Tire Program and follows ADEQ Regulation 14 for disposal, transfer and recycling of waste tires.

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

### **Subchapter 7: Waste Hauler's License**

#### **§ 7.01 Hauler's License Required**

Effective immediately, no person shall engage in the business of collection and/or transportation of solid wastes in the District without first securing a Solid Waste Hauler's License from the Board. This does not apply to private individuals who transport their personal household solid waste to a permitted facility. The District may engage in hauling solid waste within the District without a license but shall comply with all applicable standards under these rules.

A Solid Waste Hauler's License shall only 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.

A Solid Waste Hauler's License is required under the following circumstances:

- a. By any person whose primary source of income is derived from the collection and transportation of solid or process wastes;
- b. By any person who collects, for a fee, more than ten (10) cubic yards of solid or process wastes each week on a scheduled basis; or,
- c. By any person who provides solid waste collection or transportation services, for a fee, to six (6) or more households or businesses on a regular basis.
- d. By any business hauling solid waste to or from the District.

All Solid Waste Haulers' Licenses shall be issued for a period not to exceed one (1) year. Licenses shall run from January 1 through December 31 of each year. Applications for a license will be mailed out by the District to each hauler no later than November 1 of the year before the license is issued by the District. If applications are not mailed out by November 1, then the deadline to submit such shall be extended accordingly. Application packets shall be returned to the District no later than December 15 of each year except as stated above.

Any person with a Solid Waste Haulers' License must pay the license before December 1 of the year for which the license is issued. If the fee is not paid, the Solid Waste Haulers' License will not be issued for the subsequent year.

A solid waste hauler's license issued by the District does not supersede any local government's issuance of an exclusive franchise for hauling within its boundaries.

## § 7.02           Standards

- a. All collection and transportation systems shall meet the conditions outlined below. Failure to comply with these conditions may result in a revocation of the hauler license.
- b. All persons driving collection and/or transportation vehicles shall hold the appropriate driver's license as required by state law.
- c. Solid wastes 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.
- d. Collection and transportation equipment shall be designed and constructed so as to be leak proof. The waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances, in accordance with ADEQ Regulation 22. This means that vehicles must have either: enclosed waste storage areas; or for vehicles with open waste storage areas, such as caged pickups, they must be tarped when traveling in excess of 35 miles per hour. Haulers should require customers to utilize animal resistant containers and bags of suitable strength to reduce tearing and spilling of litter.
- e. Collection and transportation of chemicals, medical wastes, poisons, explosives, radiological wastes and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.
- d. All solid wastes collected shall be transported to a permitted facility in accordance with ADEQ Regulation 22.
- f. All vehicles hauling solid waste within the District shall display the registration sticker issued by the District near the driver's side door and in plain sight. All licensed vehicles must display both the business name and phone number in letters no less than 2 inches high on both sides of the vehicle.
- g. Service shall be provided at a minimum once a week. Haulers may skip hauling on major holidays, provided they provide service to those customers affected during that week. Customers should be provided a minimum of two weeks notice of any change in collection schedule. Inclement weather may excuse haulers from this provision.
- h. Haulers are responsible for cleaning up any spills and/or loose trash caused by the hauler. Haulers may provide service in any zone they wish. When licensing, haulers will be required to indicate in which zones they wish to provide service. A hauler who indicates that they provide service in a zone must provide service to any customer within that zone that requests it, unless that hauler can show good cause why they will not. Good cause may be a history of failing to pay bills or other dispute between the customer and hauler. The location of the customer will not be considered good cause.

**§ 7.03            Licensing Procedures**

Any person/business subject to § 7.03 shall register annually with the District on a form prescribed by the District under procedures described above. All persons engaged in the business of collection or transportation of solid wastes within the District, when applying for a license, shall be required to submit the following information:

Business/Commercial Haulers:

- Name of Company
- Business Address
- Mailing Address
- Contact Person
- Phone Number
- E-mail Address
- Fax Number
- Make Model and Year of each vehicle being licensed
- License Plate Number
- Insurance Provider
- Area Serviced (Zone)

Any person applying for a license must establish financial responsibility to the District. Proof of liability insurance will be required and may be considered adequate financial responsibility.

Licenses are non-transferable and non-reusable. If a licensed hauler replaces a registered vehicle with another vehicle during the year, the District shall be notified and the information above shall be provided for both vehicles. A new registration sticker shall be provided for the new vehicle. The hauler shall remove the registration sticker from the disposed vehicle.

Any person who begins business or any licensed person who adds additional collection vehicles during a calendar year shall register with the District and obtain a license for their vehicles before conducting business or using their vehicles.

**§ 7.04            Fees**

Any Solid Waste Hauler shall be required to pay a fee of Thirty Dollars (\$30.00) per vehicle. Failure to pay the fee as prescribed in this section shall prevent the person seeking a Solid Waste Haulers' License from obtaining a license the subsequent year, as well as subjecting the person to penalties described in § 7.05 below.

**§ 7.05            Penalties**

a. Registration

Failure to register under these regulations constitutes a misdemeanor under 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 (\$1,000.00), or both imprisonment and fine. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

b. Compliance

Failure to comply with any other part of this subchapter constitutes a misdemeanor under 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 one thousand dollars (\$1,000.00), or both imprisonment and fine. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

c. Collection and Registration Sticker

Failure to collect trash in a sanitary manner, failure to provide services paid for without good cause, failure to provide service when requested without good cause, failure to display the registration sticker, failure to notify the District of additional trucks, failure to display the hauler's name and telephone number on the sides of vehicles shall prevent the person with a Solid Waste Haulers' License from obtaining a license the subsequent year.

**§ 7.06            Revocation and Suspension**

The District may revoke or suspend a Hauler's License for failure to comply with these rules.

## **CHAPTER E: SOLID WASTE FACILITIES**

### **Subchapter 8: General**

All landfills located within the District must conform to the requirements set forth in Arkansas Regulation No. 22; Solid Waste Management Rules of the Arkansas Pollution Control and Ecology Commission.



**CHAPTER F: SOLID WASTE ASSESSMENT**

**Subchapter 9: Assessment**

**§ 9.01 Applicable Waste**

Effective immediately, 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 or disposal facility within the District. This fee will be applicable to all solid waste that is collected and delivered to processing, transfer or disposal facility. This fee will not be applied to any recyclable materials which are processed and 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; or to waste tires processed through the District's waste tire program.

**§ 9.02 Fee Amount**

The amount of fee assessed, for all non-Special Waste, shall be \$11.75 per yard for all loose solid waste and \$12.50 per yard for all compacted solid waste. For purposes of this section, "Special Waste" shall mean all polluted or contaminated soil, sludge, soil or waste contaminated with diesel or petroleum products, and any other polluted or contaminated materials. The amount of fee assessed for Special Waste shall be \$34.00 per yard.

**Subchapter 10: Procedures**

**§ 10.01 Landfills**

Any landfill located within the District shall pay an amount equal to the per yard fee in § 9.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 10.06.

**§ 10.02 Solid Waste Material Recovery Facility**

Any Solid Waste Material Recovery Facility located within the District shall pay to the District an amount equal to the per ton fee amount in Section §10.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section § 10.06. Any waste handled by a solid waste material recovery facility that is delivered to a landfill within the District shall be exempt from the fees imposed by this Section.

**§ 10.03 Class S Composting Facilities**

Any Class S composting facility located within the District shall pay to the District an amount equal to the per ton fee amount in § 9.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in § 10.06.

**§ 10.04            Transfer Stations**

Any transfer station located within the District shall pay to the District an amount equal to the per yard fee amount in § 9.02 times the number of yards of solid waste handled.

**§ 10.05            Sludge/Other Material**

Any hauler who collects and/or transports 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, generated within the District shall be required to submit the applicable fee for Special Waste in § 9.02 times the number of yards waste transported, to the District.

**§ 10.06            Schedule**

Fees shall be collected no less often than each month from any hauler, transfer station, or any other person bringing solid waste to any disposal facility within the District

**Subchapter 11:        Compliance and Enforcement**

**§ 11.01            Violations, Penalties and Enforcement**

It shall be a violation of these rules for any owner or operator of a solid waste facility or solid waste hauler to fail to comply fully with any provision of Chapter F. Failure to comply with any other part of Chapter F constitutes a misdemeanor, and upon conviction the person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more one thousand dollars (\$1,000.00), or both imprisonment and fine. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense. The Director is further authorized to seek approval of the Board to institute legal and/or equitable action in the appropriate courts to enforce any violations of Chapter F.

**§ 11.02            Inspections 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 access to and copies of records relating to such activity. Any District designated person shall be allowed access to all requested records during normal business hours.

## **CHAPTER G: WASTE TRANSFER**

### **Subchapter 12. Purpose and Authority**

#### **§ 12.01 Purpose and Authority**

The purpose of this Subchapter is to allow the Board, as the duly elected representative of the citizens of the District, to have input and decision-making authority regarding the transfer of solid waste either into or out of the boundaries of the District. It is recognized that elected public officials exercising authority over such transfers protect the interest of the citizens of the District and the permitted disposal facilities within the boundaries of the District. Such activities can serve to maintain and secure disposal capacity for both the short and long term. It is further recognized that utilization of local disposal facilities is a priority of the Board and a major component in maintaining a fair and equitable price structure for the citizens of the District.

The authority for such activities is authorized by Arkansas Code Annotated § 8-6-712 (a)(1), (a)(3) and (a)(4). This Chapter does not affect the movement of recyclable material destined for processing or marketing or the transfer of waste outside the District to another state.

### **Subchapter 13. Procedure**

**§ 13.01** The following procedures shall be observed when considering a solid waste transfer across District boundaries for the purpose of disposal and/or storage:

- A. The person or persons must submit in writing to the Board via the Director a formal request:
  1. To seek a disposal site outside the District for solid waste which has been collected, stored, and/or disposed of within the District prior to the request; or
  2. To seek a storage and/or disposal site within the District for solid waste which has been collected outside the District.
- B. The Director will furnish to the person or persons the proper form(s) to obtain the information necessary to make a decision, which the person or persons must complete and provide to the Board. The information requested will include but not be limited to the criteria listed under the appropriate section of § 13.02.
- C. The Board shall consider the request at their next regularly scheduled meeting, and said request shall be listed as an agenda item, provided the completed application is presented to the District at least three weeks prior to the scheduled meeting.
- D. Prior to the meeting and with sufficient notice to allow a proper response, the District shall notify the affected parties of the waste transfer request. The notice to

citizens may include a legal notice in a newspaper having general circulation in the District.

- E. The Board will review all written information provided by the person or persons and by affected parties and shall use this information in determining compliance with the criteria listed herein.
- F. All decisions of the Board are final. However, an appeal may be made within thirty (30) days of the Boards decision if additional information becomes available or an error in procedure has occurred. The Board may consider the appeal at its next meeting.

### **§ 13.02 Criteria**

The Board will consider but will not be limited to the following criteria when deciding upon a request for a solid waste transfer. Information relative to the criteria shall be provided to the Director by the person or persons making the request and any response to the request by other interested parties.

- A. Transfer of solid waste collected within the District to a disposal site outside the District. The Board may allow the transfer:
  - 1. If said transfer does not adversely affect the operation of disposal systems presently operating within the District; or
  - 2. If said transfer does not adversely affect or have the potential to adversely affect citizens within the District or the customers of the waste hauler; or
  - 3. If the owner/operators of the currently utilized facility are using unequal pricing and discriminatory access procedures and structures that adversely affect the person or persons business; or
  - 4. If the person or persons requesting the transfer can demonstrate that business will be significantly improved through disposal of solid waste out of the District; or
  - 5. If the current disposal facility is closed or otherwise rendered inoperable by and emergency due to act of God, failure or inability to comply with state and federal standards, financial failure, or other factors out of the control of the person or persons requesting the transfer; or
  - 6. If the out-of-district transfer is consistent with the intent of the District's Solid Waste Management Plan and does not adversely affect the Plan or any commitment of waste by the District.
- B. To transfer solid waste into the District the person or persons requesting the transfer must provide the District with the following information. Although numerous criteria and

circumstances will be considered, the Board may allow the transfer:

1. If the added solid waste disposal does not contribute to environmental degradation by adversely affecting water or air quality; or
2. If the solid waste contains no toxic or hazardous waste as defined by Arkansas Department of Environmental Quality Regulation #22; or
3. If the person or person requesting the transfer have no outstanding violations with the Environmental Protection Agency, or the Arkansas Department of Environmental Quality, or with any environmental agency within the state or region in which the person or persons requesting the transfer are currently doing business; or
4. If the person or person requesting the transfer meets all appropriate regulations of the Arkansas Department of Environmental Quality, all laws of the State of Arkansas, and all state regulations and laws from the State in which the person or persons requesting the transfer is currently doing business; or
5. If the person or persons requesting the transfer has secured all appropriate federal and state permits and presents evidence of such to the Board; or
6. If the landfill or other disposal facility or transfer station within the District is closer than other disposal or transfer facilities; or
7. If the disposal of said solid waste within the District improves the economic viability of the person or person requesting the transfer without causing harm to waste haulers and disposal companies within the District; or
8. If the company is not a “Bad-Actor” as defined by the Arkansas Department of Environmental Quality as evidenced by the District’s inquiry into the history of compliance from other areas where the company had done business; or
9. If additional disposal within the District does not burden, stress, or jeopardize the disposal capacity within the District; or
10. If the disposal facilities are willing to accept the waste material; or
11. If the disposal of additional solid waste within the District is not inconsistent with the intent of the Districts’ Solid Waste Management Plan.

## **CHAPTER H: ILLEGAL DUMPS PROGRAM**

### **Subchapter 14. Purpose and Authority; Complaints, Assessments and Evaluations**

#### **§ 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.

#### **§ 14.02 Complaints**

The Board and the Director will endeavor to keep name of any person making complaints to the District regarding illegal dumping confidential, and the Board and Director will not divulge the identity of any complainant during the course of the investigation or upon disposition of the case, unless required to do so by statute, court rule or court order.

#### **§ 14.03 Assessment and Evaluation**

The Board may develop and implement a document that may include but not be limited to the procedures for receiving complaints, the mechanism(s) used to assess and evaluate illegal dumps, the methods utilized to investigate complaints, when it is appropriate to issue citations and the provisions utilized in special enforcement actions.

**ECONOMIC IMPACT STATEMENT  
OF PROPOSED RULES OR REGULATIONS**

EO 05-04: Regulatory Flexibility

**Department** ADEQ **Division** Northeast Arkansas Regional Solid Waste Management District  
**Contact person** Jason Wolfenbarger **Date** 05/11/2018  
**Contact phone** 870-239-5572 **Contact email** jwolfenbarger@hughes.net  
**Title or subject** Northeast Arkansas Regional Solid Waste Management District Rules and Regulations

**Benefits of the Proposed Rule or Regulation**

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The purpose of the proposed rules and regulations by NEARSWMD is to set forth the schedule of fees for the hauling and disposal of solid waste, to describe the makeup of the Board, and to limit waste transfers outside the District, within the state of Arkansas. There were no complaints that led to regulatory action.

2. What are the top three benefits of the proposed rule or regulation?

The rules establish reasonable fees for the hauling and disposal of solid waste, provide a reasonable plan of licensing for waste haulers, and allow for the financial viability of the District.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

NEARSWMD needs written rules and regulations establishing fees and rules for its customers and the residents of the four counties in the District. There is no real alternative to implementing these rules.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting these alternatives.

Because the proposed rules and regulations establish basic standards and fees for the transfer and disposal of solid waste within the District, there are no market alternatives. The only landfill in the District is operated by the District itself, and not by a private entity. The fees charged under the proposed rules and regulations are lower than those charged by other regional solid waste management districts.

**Impact of Proposed Rule or Regulation**

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

None.

6. What types of small businesses will be required to comply with the new rule or regulation? Please estimate the number of small businesses affected.

Private waste haulers will be required to comply with the regulations and pay fees for vehicles and disposal of solid waste. There are currently six (6) private waste haulers operating within the four counties that make up the District.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

None.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

Under the proposed rules and regulations, professional waste haulers must pay a fee to NEARSWMD of \$30 per vehicle per year. Fees are assessed for waste generated in the District or generated outside the District and transported to the District. These fees include \$11.75 per yard for all loose solid waste, \$12.50 per yard for all compacted solid waste, and \$34 per yard for all "Special Waste," including polluted or contaminated soil, sludge, or other polluted or contaminated materials.

9. State whether the regulation contains different requirements for different-sized entities, and explain why this is, or is not, necessary.

No. The proposed rules apply to all professional solid waste haulers but do not impose different standards or fees for waste haulers of different sizes.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The rules and regulations proposed by NEARSWMD should be easily implemented by small businesses.

11. How does this rule or regulation compare to similar rules or regulations in other states or the federal government?

The rules and regulations proposed by NEARSWMD are similar to rules and regulations of other regional solid waste management districts throughout Arkansas.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

The Board of NEARSWMD has discussed the proposed rules and regulations in multiple public meetings, and reports of these discussions have appeared in local media. To date, NEARSWMD has not received any input from small businesses or small business advocates.