

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department Boston Mountain Regional Solid Waste Management District

Agency or Division Name Boston Mountain Regional Solid Waste Management District

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

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**RULES AND REGULATIONS OF THE
Boston Mountain Solid Waste District
(as amended 11/14/2013)**

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CHAPTER A: PRACTICES AND PROCEDURES

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Subchapter 1 General.

§ 1.01 Authority

§ 1.02 Definitions

§ 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:

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

(b) "ADEQ" or "Department" means the Arkansas Department of Environmental Quality.

(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 Boston Mountain Solid Waste District.

(e) "Class S Composting Facility" means a facility defined as requiring a Class S Composting Permit under ADEQ Regulation 22.

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

(g) "Directors" means the members of the Board of Directors of the Boston Mountain Solid Waste District.

(h) "District" means the Boston Mountain Solid Waste District, which includes the counties of: Madison and Washington, and the municipalities within these counties.

(i) "Director" means the Director of the Boston Mountain Solid Waste District.

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

(k) "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.

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

(m) "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).

(n) "Solid Waste Disposal Facility" means any Class I or Class IV sanitary landfill as defined by the Arkansas Department of Environmental Quality.

(o) "Solid Waste Facility" means any facility which holds or should hold a facility permit issued by the Solid Waste Division of ADEQ.

(p) "Solid Waste Material Recovery Facility" means a facility defined as requiring a Solid Waste Material Recovery Facility permit by ADEQ Regulation 22.

(q) "Transfer Station" means a facility defined as requiring a Transfer Station permit by ADEQ Regulation 22.

Subchapter 2 Rulemaking.

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§ 2.01 Proposed Action

At any Board meeting, the Board may adopt proposed: new rules or regulations; modifications to existing rules or regulations; or, repeal of any existing rules or regulations.

§ 2.02 Notice of Proposed Action

(a) Notice of the proposed new rule or regulation, modification or repeal of an existing rule or regulation, shall be given to the public via publication in a newspaper(s) of general circulation.

(b) Notice will normally be published on Wednesdays. The notice shall state the substance of the proposed new rule, modification or rescission of an existing rule and provide information on obtaining a copy of the proposal from the District. The notice shall inform the public of the time, place and manner in which they may present their comments.

(c) Notice shall also be mailed, via first class mail, to all persons who request advance notice, in writing, of any rulemaking by the District.

(d) Notice shall also be mailed, via first class mail, to ADEQ.

§ 2.03 Public Comment

The notice in § 2.02 shall solicit written comments from the public for a period of not less than thirty (30) days. The notice shall also provide the address where all comments should be sent.

§ 2.04 Public Hearing

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

(b) Should a public hearing be held, notice of the hearing shall be made in the manner provided in § 2.02 no less than 10 days in advance of the hearing.

(c) Where regulations are required by law to be made on the record after opportunity for a hearing, the provisions of that law shall apply in place of these requirements.

§ 2.05 Final Action

(a) At any Board meeting following the close of the public comment period or any public hearing, the Board may act on the proposal by: adopting it as originally written; adopting a modified version; or, denying the proposal.

(b) The Board reserves the right to re-issue any proposal for public comment following significant modifications.

§ 2.06 Emergency Proceedings

Should the District find that imminent peril to the public health, safety or welfare requires adoption of a regulation upon fewer than 30 days notice, and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency regulation. Any emergency regulation so adopted may be effective for no longer than 120 days.

§ 2.07 Filing

The District shall file with the Secretary of State, the Arkansas State Library and the Bureau of Legislative Research, a certified copy of each regulation adopted by it, and a statement of financial impact for the regulation, when required.

§ 2.08 Effective Date

Each regulation adopted by the District shall be effective 10 days after filing unless a later date is specified by law or in the regulation itself. However, an emergency regulation may

become effective immediately upon filing, or at a stated time less than 10 days thereafter, if the District finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The District's finding and a brief statement of the reasons therefore shall be filed with the regulation. The District shall take appropriate measures to make emergency regulations known to the persons who may be affected by them.

§ 2.09 Certification of Regulations

A copy of any regulation adopted by the Board may be certified by signature of the Chairman and Secretary/Treasurer of the Board, and by affixing the official seal of the District thereon.

§ 2.10 Official Records

The District shall maintain a certified copy of every regulation or rule adopted by the District. This copy shall be kept at the principal office of the District. A copy of each notice of rulemaking shall also be kept on file at the District.

§ 2.11 Substantial Compliance

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

§ 2.12 Preemption by State or Federal Law

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

§ 2.13 Severability

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

Subchapter 3 Administrative Orders and Hearings.

§3.01 Authority

§3.02 Administrative Order

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§3.01 Authority

The Director shall keep a log of all complaints received and violations determined by the District. The Director is granted the discretion and authority to assess monetary penalties for violations of District Rules as well as to revoke, suspend or deny a license or permit to any person for cause. No formal action regarding a complaint or violation, outlined below, may be taken until efforts have been made to resolve the violation or complaint informally and until the expiration of a twenty four (24) hour period granted by the Director to correct or remediate the complaint or violation.

§3.02 Administrative Order

(a) When the Director determines that a person is subject to penalties, revocation or suspension of a license, or other action, pursuant to the District's Rules, the Director shall issue a written Administrative Order setting forth the basis for such proposed penalty, revocation or suspension, or action.

(b) The Administrative Order must be signed by the Director or his authorized designee, and delivered in person or by Certified Mail, return receipt requested, to the address of record at the District of the person against whom the Administrative Order is issued;

(c) The Director has the discretion to attach a Consent Agreement to an Administrative Order and to enter into Consent Agreements to settle any Administrative Order.

§3.03 Right to Hearing

(a) Upon receipt of an Administrative Order, the person against whom the Administrative Order is issued may object and request a hearing before the District Board.

- (1) The request for hearing, which must be in writing, should set forth the reasons why the person disagrees with the Administrative Order.
- (2) The request for hearing may be delivered to the District in person or by Certified Mail, return receipt requested, and must be received by the District office no later than close of business thirty (30) days after the date of the Administrative Order. If the thirtieth day falls on a Saturday, Sunday or District Holiday, the request is due by close of business the following business day.
- (3) Persons who timely file a request for hearing shall be entitled to be heard at the first regularly scheduled Board meeting following receipt of their request for hearing unless the request for hearing is received within fourteen (14) days prior to a scheduled Board meeting. In such an event, the appeal will be heard at the following regularly scheduled Board meeting.

(b) The hearing shall be conducted as follows:

- (1) Both sides, which may appear in person or by counsel, shall have the opportunity to present documents and oral testimony in support of its position to be considered by the Board.
- (2) The District shall present their case first, followed by the person requesting the hearing. Cross-examination shall be allowed as well as questioning by the Board.
- (3) Conduct of the hearing shall be informal. The Chair shall be entitled to use his or her discretion to allow, disallow or strike any evidence or testimony that is deemed to be irrelevant, unreliable or duplicative.
- (4) A court reporter, paid for by the District, will be present to develop a transcript of the hearing. This transcript, along with all evidence presented to and accepted by the Chair shall make up the Administrative Record in the matter.
- (5) Upon receipt and consideration of evidence and testimony at the hearing, the Board members present shall vote on the action proposed by the Administrative Order. A majority vote of the Board

members present shall be final. The Chair is allowed a vote.

- (6) At the close of the hearing, the Board shall enter a written order, at which time the decision of the Board shall be effective. Each party shall be responsible for drafting a proposed written order to be submitted to the Board. Alternatively, the Board may draft an order at the close of the hearing.
- (7) In all other respects, the hearing shall be conducted in accordance with the Administrative Procedures Act.

(c) In the event no request for hearing is received by the District within the time prescribed by this Rule, the Administrative Order shall become final on the day following the date on which a request for hearing is due.

§3.04 First Offense

District Board may waive any penalty for a first offense based on the person's prior record.

§3.05 Final Agency Action

The written order adopted by the Board shall be the final agency action for the purpose of appeal to Circuit Court.

§3.06 Appeals to Circuit Court

The appellant may appeal the final agency action of the Board to the Circuit Courts of Madison or Washington Counties in Arkansas.

Subchapter 4 Reserved.
Subchapter 5 Reserved.

CHAPTER B: CERTIFICATES OF NEED

Subchapter 6 Authority and Criteria.
Subchapter 7 Procedures.

Subchapter 6 Authority and Criteria.

§ 6.01 Authority

§ 6.02 Definitions

§ 6.03 Applicability

§ 6.04 Criteria for Review

§ 6.05 Continuing Effect

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

§ 6.02 Definitions

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

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

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

(d) "Landfill" means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 *et seq.* 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 wastes generated by the industry or wastes of a similar kind or character.

(e) "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).

(f) "Solid Waste Facility" means a Landfill or Transfer Station as defined in this section.

(g) "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.

§ 6.03 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 a similar kind or character.

§ 6.04 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 use 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, 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. In no event, shall the District's excess projected capacity for any class of landfill exceed thirty (30) years, including the proposed facility;

(i) for transfer stations, whether another 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,

(l) whether the applicant followed the procedures for obtaining a Certificate of Need in Subchapter 7.

§ 6.05 Continuing Effect

(a) Upon receipt of a Certificate of Need, the applicant has sixty (60) days in which to file a pre-application for a solid waste landfill permit with ADEQ. If a pre-application is not filed within 60 days, the Certificate of Need shall expire.

(b) Upon receipt of a Certificate of Need, the applicant has six (6) months in which to file a permit application for a solid waste landfill permit with ADEQ. If a permit application is not filed within 6 months, the Certificate of Need shall expire.

(c) Certificates of Need are issued to specific persons. 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 7 Procedures for Obtaining a Certificate of Need.

§ 7.01 Notice of Intent

§ 7.02 Application

§ 7.03 Completeness Determination

§ 7.04 Review Period

§ 7.05 Public Hearing

§ 7.06 Determination

§ 7.07 Appeal of Decision

§ 7.01 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 served by 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.

§ 7.02 Application

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

- (a) The applicant's name, address and telephone number;
- (b) The name of the person having legal ownership of the land where the proposed facility

will be located and documentation of 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 6.04.

(g) for landfills, the current permitted capacity for the appropriate landfill class 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.

§ 7.03 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.

§ 7.04 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 papers as described in Section 2.02. The review period will begin on the date the completeness determination is made to the applicant or 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.

§ 7.05 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.

§ 7.06 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. 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 with a total of 10 minutes for each side to address the Director's recommendation.

(b) 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.

(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) the applicant;
- (2) ADEQ; and
- (3) Any interested persons who request such findings in writing from the District.

§ 7.07 Appeal of Decision

Any interested person 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: WASTE TIRE PROGRAM

Subchapter 8 Reserved

CHAPTER D: WASTE HAULER PROGRAM

Subchapter 9 Waste Hauler Licenses

§ 9.01 Definitions

§ 9.02 Hauler's License Required

§ 9.03 Standards

§ 9.04 Licensing Procedures

§ 9.05 Fees

§ 9.06 Penalties

§ 9.07 Revocation and Suspension

§ 9.01 Definitions

(a) "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). Recovered materials as defined by ADEQ Regulation 22.201 are not considered solid waste.

(b) "Solid Waste Hauler" - A Solid Waste Hauler is any person 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. 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 wastes and special materials as identified in ADEQ Regulation 22.202.

§ 9.02 Hauler's License Required

(A) Effective February 1, 1993, 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.

(b) 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.

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

(1) By any person whose primary source of income is derived from the collection and transportation of solid or process wastes;

(2) 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,

(3) 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) The District may engage in the hauling of solid waste within the District without a license, but shall comply with all applicable standards required in Section 2(b).

(e) All Solid Waste Hauler's Licenses shall be issued for a period not to exceed one (1) year. Licenses shall run from July 1 through June 30 of each year. Applications for a license shall be mailed out by the District to each hauler and post marked no later than May 1st. If said applications are not mailed out by May 1st then the deadline to submit such shall be extended accordingly. Application packets shall be returned to the District no later than June 15th of each year except as stated above.

(f) 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.

§ 9.03 Standards

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.

(a) All persons driving collection and/or transportation vehicles shall hold the

appropriate driver's licenses as required by state law.

(b) 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.

(c) 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 request customers to utilize animal resistant containers and bags of suitable strength to reduce tearing and spilling of litter.

(d) 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.

(e) 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. In addition, beginning July 1, 2003, 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) Beginning January 1, 2004, all waste haulers that do not have a District-approved plan for implementing Pay-As-You-Throw pricing will be ineligible to haul wastes within the District.

(h) Hauling services shall be provided at a minimum of one time per 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 (2) weeks notice of any change in collection schedule. Inclement weather may excuse haulers from this provision.

(i) Haulers are responsible for cleaning up any spills and/or loose trash caused by the hauler.

(j) At the time of licensing, a hauler will be required to indicate in which zones it wishes to provide service. A hauler which indicates that it will provide service in a zone must provide service to any customer within that zone that requests it, unless that hauler

can show good cause to the District why it will not provide service to a customer. The Director has the discretion and authority to make a finding of good cause, which may be such things as a history of the customer failing to pay bills or some other dispute between the customer and hauler. However, the location of the customer will not be considered good cause.

§ 9.04 Licensing Procedures

(a) Any person subject to § 9.03 shall register annually with the District on a form prescribed by the District:

(b) All persons engaged in the business of collection or transportation of solid wastes within the District must register such business with the District by June 15 of each year and provide the following information:

- (1) Name, address and telephone number of the business;
- (2) Name of principal owners and officers;
- (3) Number of residential and commercial accounts served as of June 1;
- (4) Names and driver's license numbers of employees providing hauling services; and
- (5) Identify the areas served on county road maps.

(c) In addition, each vehicle used in the collection and/or transportation of solid wastes must be registered and the following information supplied:

A description of each vehicle to be registered, including

- (1) Make, model and year of vehicle
- (2) VIN
- (3) Current motor vehicle license
- (4) name of vehicle owner
- (5) vehicle capacity

(d) 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.

(e) Licenses are non-transferable and non-returnable. If a licensed hauler replaces a registered vehicle with another vehicle during the year, the District shall be notified and the information in § 9.04(c) 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.

(f) Any person who begins business or any licensed person who adds additional collection vehicles during a calendar year shall have thirty (30) days to register with the District and obtain a license without a penalty.

§ 9.05 Fees

Fees shall be assessed as follows:

(a) A minimum fee of \$100.00 is required and will license up to two (2) vehicles.

(b) An additional fee of \$50.00 per vehicle per year, will be assessed for the third and all subsequent vehicles up to a maximum fee of \$1,000.00 annually.

(c) Fees for new licenses or additional units will be pro-rated based on the number of full months remaining in the calendar year.

(d) Any hauler's licensing application received by the District after the deadline imposed herein shall be assessed a penalty measured from fourteen (14) days after the due date as follows:

(1) One (1) to sixty (60) days late – twenty-five percent (25%) of the license fee.

(2) Sixty-one (61) to ninety (90) days late – fifty percent (50%) of the license fee.

(3) Ninety-one (91) days and later – one hundred percent (100%) of the license fee.

§ 9.06 Penalties

(a) 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. Additionally, failure to register may subject the hauler to administrative penalties of not more than five hundred dollars (\$500.00) and two (2) points for the first offense, and not more than one thousand dollars (\$1,000.00) and four (4) points for subsequent offenses. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

(b) 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 than two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for a second offense and one thousand dollars (\$1,000.00) for subsequent offenses, 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) Failure to collect trash in a sanitary manner, failure to provide services without good cause, failure to provide service when requested without good cause, failure to submit adequate trust fund fees under Section 9.08, or failing to properly dispose of wastes collected may subject the hauler to administrative penalties of not more than two hundred and fifty dollars (\$250.00) and one (1) point for the first offense, and not more than five hundred dollars (\$500.00) and two (2) points for subsequent offenses.

(d) Failure to display the registration sticker, failure to notify the District of additional trucks, failure to display the haulers name and telephone number on the sides of vehicles, or other administrative violations may subject the hauler to administrative penalties of not more than one hundred dollars (\$100.00) and one (1) point for the first offense, and not more than two hundred and fifty dollars (\$250.00) and two (2) points for subsequent offenses.

(e) To be considered a subsequent offense, the repeat offense must occur within thirty-six (36) months of the earlier offense.

(f) When the Director determines that a person is subject to administrative penalties, pursuant to the District's Rules, the Director shall issue an Administrative Order in accordance with Subchapter 3 of the District's Rules.

§ 9.07 Revocation and Suspension

(a) The District may revoke or suspend a hauler's license under the following conditions.

(1) The District may suspend a hauler's license for six (6) months if they are assessed penalties totaling five (5) points within a twelve (12) month

period.

(2) The District may suspend a hauler's license for twelve (12) months if they are assessed penalties totaling ten (10) points within a twelve (12) month period.

(3) The District may permanently revoke a hauler's license if they are assessed penalties totaling fifteen (15) points within a twelve (12) month period.

(4) The District may permanently revoke a hauler's license if they are suspended for more than twelve (12) months in any thirty-six (36) month period.

(b) When the Director determines that a person is subject to revocation or suspension of a license, pursuant to the District's Rules, the Director shall issue an Administrative Order in accordance with Subchapter 3 of the District's Rules.

§ 9.08 Waste Hauler Trust Fund

(a) There shall be established on the books of the District a fund to be known as the Waste Hauler Trust Fund. Monies deposited in this fund shall be kept in a separate depository account and shall cover the entire Tri-State area. Any hauler who chooses to post a cash bond may do so in lieu of the deposits set out below.

(b) Licensed Waste Haulers shall deposit the sum of \$.125 per residential customer, less any customer serviced under municipal or POA contract, on a quarterly basis into the fund.

(c) Deposits shall be made no later than January 31, April 30, July 31 and October 31 based on the number of applicable customers on the first day of these months.

(d) Deposits shall be made until the Fund reaches \$10,000.00. After which, deposits shall cease until the Fund balance drops below \$5,000.00, at which time, deposits will resume until the fund once again reaches \$10,000.00.

(e) Money deposited into the Waste Hauler Trust Fund shall be used exclusively to provide reimbursement of unused prepaid fees to customers of a hauler which has abandoned an area of service. Customers in the abandoned area are entitled to reimbursement of any unused amounts pre-paid by the customer to said hauler, not to exceed the limits of the fund.

(f) In order to qualify for reimbursement from the Fund, the customer must demonstrate proof of payment.

(g) Any hauler who fails to provide service to a customer who then qualifies for reimbursement under these provisions, shall be permanently barred from further waste hauling within the District.

CHAPTER E: SOLID WASTE FACILITIES

Subchapter 10	General.
Subchapter 11	Location Restrictions.
Subchapter 12	Operation and Maintenance.
Subchapter 13	Design Standards.
Subchapter 14	Financial Requirements.
Subchapter 15	Compliance and Enforcement.
Subchapter 16	Reserved.
Subchapter 17	Reserved.
Subchapter 18	Reserved.
Subchapter 19	Reserved.

Subchapter 10	General.
§ 10.01 Authority	
§ 10.02 Purpose	
§ 10.03 Applicability	
§ 10.04 Definitions	
§ 10.05 Effective Date	

§ 10.01 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. Further, Act 1280 of 1993, Section 5 states that: "Regional Solid Waste Management Boards may adopt more restrictive standards for the location, design, construction, and maintenance of solid waste disposal sites and facilities than the state or federal government."

§ 10.02 Purpose

Northwest Arkansas is facing a critical shortage of solid waste disposal capacity due to the difficulties in siting landfill facilities at the local level. In order to protect the fragile environment of Northwest Arkansas, yet provide for adequate solid waste disposal capacity, the Boston Mountain Solid Waste District has adopted these regulations.

§ 10.03 Applicability

Unless otherwise specified, these regulations found in Chapter E, Solid Waste Facilities, shall apply to every solid waste facility; located either wholly or partially within the counties of Washington and Madison, Arkansas; which is operated after the effective date of these regulations.

§ 10.04 Definitions

For the purposes of Chapter E, the following definitions shall apply:

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

(b) "ADEQ" or "Department" means the Arkansas Department of Environmental Quality.

(c) "Board" means the Board of Directors of the Boston Mountain Solid Waste District.

(d) "Directors" means the members of the Board of Directors of the Boston Mountain Solid Waste District.

(e) "District" means the Boston Mountain Solid Waste District, which includes the counties of: Washington and, Madison, and the municipalities within these counties.

(f) "Director" means the Director of the Boston Mountain Solid Waste District.

(g) "Solid Waste" means solid waste as defined by the Arkansas Department of Environmental Quality Regulation 22.

(h) "Solid Waste Disposal Facility" means any landfill as defined by the Arkansas Department of Environmental Quality.

(i) "Solid Waste Facility" means any facility which holds or should hold a facility permit issued by the Solid Waste Division of ADEQ.

§ 10.05 Effective Date

These rules are effective 20 days after their filing with the Arkansas Secretary of State.

Subchapter 11 Location Restrictions.

§ 11.01 Reserved

§ 11.02 Watershed Buffers

§ 11.03 Measurement of Distances

§ 11.01 Reserved

§ 11.02 Watershed Buffers

(a) No Solid Waste Disposal Facility shall be located within two (2) miles of the following surface water bodies: Beaver Lake; Lake Francis; Lake Sequoyah; Table Rock Lake; Prairie Grove Lake; Lincoln Lake; Osage Creek (Benton Co.); Illinois River; White River including the East, Middle or West Forks; Kings River; Osage Creek (Carroll Co.); and, War Eagle Creek.

(b) The water bodies listed in § 11.02(a) shall be defined as those streams as marked and shown on the latest USGS 7.5 minute topographic maps and the lake boundaries existing during normal pool elevation.

§ 11.03 Measurement of Distances

All distances as put forth in Section 11.02 shall be measured by drawing a buffer of the appropriate distance radially around the permitted boundary of the facility, on the latest USGS 7.5 minute topographic map. Should any portion of the extended perimeter contact any water body listed in Section 11.02, the facility will be in violation of these regulations.

Subchapter 12 Operation and Maintenance.

§ 12.01 District Inspector.

§ 12.02 Leachate Collection Reporting.

§ 12.03 Groundwater Monitoring.

§ 12.04 Other Reporting.

§ 12.05 Landfill Personnel

§ 12.01 District Inspector.

(a) The District is empowered to hire an inspector, who shall have access to any open or closed solid waste facility within the District during normal operating hours.

(b) The District inspector shall be provided access to all parts of a facility and all

records kept at the facility or at off-site offices. The findings of the inspector will be used for District purposes. In addition, a copy of the findings will be provided to ADEQ and to the facility.

§ 12.02 Leachate Collection Reporting.

Every Solid Waste Disposal Facility required to report the performance of its leachate collection system to the ADEQ, shall also provide a copy of reports monthly to the District. Such reports shall contain at a minimum the amount of leachate collected, any test results from testing the leachate and the final disposition of all leachate generated.

§ 12.03 Groundwater Monitoring.

(a) Every Solid Waste Disposal Facility required to sample and test groundwater monitoring wells shall test every such well at least quarterly and incorporate the results of such tests into the statistical analysis required by the ADEQ and/or the U.S. EPA.

(b) Every Solid Waste Disposal Facility shall sample and test all wells identified in the well inventory required by ADEQ Solid Waste Management Code Section XII, B, 2, before beginning construction of the Facility. Samples shall be tested for all constituents required under 40 C.F.R. Part 258, Appendix I. Copies of all test results shall be provided to the well owner and the District. The District shall maintain copies of the test results at its offices.

(c) The requirements of this Section shall not apply to landfills in operation as of the effective date of these regulations.

§ 12.04 Other Reporting.

Copies of any engineering reports or operating reports required to be submitted to the ADEQ or the U.S. EPA shall also be contemporaneously submitted to the District.

§ 12.05 Landfill Personnel

Every Solid Waste Disposal Facility operated within the District must employ the following landfill personnel:

(a) A Registered Professional Engineer must be responsible for the construction and operation of the landfill.

(b) Landfill managers/operators must hold a Class I landfill operators license issued by the ADEQ.

Subchapter 13 Design Standards.

§ 13.01 Pre-Construction Design.

§ 13.02 Landfill Design.

§ 13.03 Stormwater Basin Design.

§ 13.04 Compliance

§ 13.01 Pre-Construction Design.

All landfills, located either partially or wholly within the District shall adhere to the following site characterization and design criteria:

(a) Due to the unique land formations in Northwest Arkansas, the following information and studies are required to characterize any site proposed for a solid waste landfill and must be submitted to the District:

(1) Fracture Trace Analysis from aerial photographs of the proposed site.

(2) Detailed surface geologic mapping of the site and the area within one mile of the boundary of the site. The following information must be obtained:

A). The stratigraphy of the study area.

B). Structure of the study area.

i) Location of faults including orientation, displacement length and hydraulic characteristics.

ii) Fracture spacing and fracture orientation for each stratigraphic unit identified.

iii) Location of karst features including, but not limited to, sinkholes, springs, losing and disappearing stream segments, caves (must be mapped within the study area) and dolens.

(3) Subsurface exploration must evaluate the following:

A). Overburden.

i) Thickness and areal extent of each distinct textural horizon as defined by borings and test pits.

ii) Quality of soils (physical properties) must be determined for each stratigraphic or pedologic horizon including Atterburg limits (ASTM D 4318), Sieve analysis and grain size distribution curves (ASTM D 1140 and D 422), Standard penetration tests (ASTM D 1452), Remolded hydraulic conductivity test (ASTM D 5084), In-situ hydraulic conductivity test, Proctor density curves (ASTM D 1557)

and Moisture contents (ASTM D 2216).

iii) Quantity of soils must be determined by borings and test pits. Borings shall be at a minimum spacing of one per 5 acres. Trackhoe pits shall be at a minimum spacing of one per acre.

B). Bedrock topography.

i) Core drilling on at least one hole per 5 acres with analysis of fracture density, fracture orientation and sudden gains or losses of drilling fluid.

ii) Geophysical logs of borings including resistivity, conductivity, caliper, natural gamma, acoustic logs, video logs and temperature.

iii) Surface geophysical studies are required to evaluate areal changes in soil type, geologic structure, lithology, bedrock topography and prospect for large caverns. Geophysical surveys must be correlated with borings. The proposed geophysical study of the site must include two or more of the following methods: Ground Penetrating Radar; surface conductivity; resistivity; shallow seismic refraction; and, shallow seismic reflection.

C). Hydrogeology.

i) Potentiometric surface of the aquifer.

ii) Preferred contaminant transport pathways determined by dye traces.

iii) Aquifer properties using the following methods: Nested wells to determine vertical hydraulic gradients within the upper aquifer; pump tests using appropriate methodology for the aquifer and using multiple observation wells; and a single well aquifer test.

iv) A recommended groundwater monitoring system consisting of wells and springs must be developed.

v) Determine water chemistry variability within the uppermost aquifer for the list of Detection Monitoring parameters. At least one year of data must be collected at quarterly intervals to demonstrate seasonal ambient water quality variability.

D). All individual studies must be integrated into a comprehensive geologic and hydrogeologic model of the site which is summarized in a written report. The facility ground water monitoring points must be located based upon the hydrogeologic model developed for the site. All maps and cross sections must be of a uniform scale (the same size as used in the design blueprints - typically 1" = 50' to 1" = 400') and must include the following: Geologic map of the site; boring locations; geophysical lines or data collection points; Potentiometric maps Dye study results; Isopach maps of overburden; Bedrock topography

maps (contour interval of 2 feet); Geologic cross sections; and, Percent coarse component soils map.

(b) The requirements of this Section shall not apply to Solid Waste Disposal Facilities which have submitted a final permit application to ADEQ prior to January 1, 1994.

§ 13.02 Landfill Design.

(a) Every Solid Waste Disposal Facility operated within the District shall be designed and constructed with a double composite liner system which consists of, at a minimum, the following: upper and lower composite liners separated by a leachate detection and collection system. Each composite liner shall consist of a flexible membrane liner underlain by a compacted clay liner.

(b) Every Solid Waste Disposal Facility constructed after the effective date of these regulations must employ a third party engineering firm to insure proper construction of each component of the containment structure and operation of the landfill. The permittee will pay all costs of this control.

(c) The requirements of this Section shall not apply to landfill cells constructed prior to January 1, 1994.

§ 13.03 Stormwater Basin Design.

(a) Any Solid Waste Disposal Facility, located either partially or wholly within the District, which is required to maintain a stormwater retention basin by either ADEQ or federal standards, particularly 40 C.F.R. § 258.26, shall build any such stormwater retention basin or basins to retain all stormwater generated by a 24-hour, 100-year rainfall event.

§ 13.04 Compliance.

Any Solid Waste Disposal Facility may demonstrate compliance with §§ 13.01 by submitting a certified statement, on a form provided by the District, signed by a professional geologist authorized to practice in the State of Arkansas. Any Solid Waste Disposal Facility may demonstrate compliance with §§ 13.02 and 13.03 by submitting a certified statement, on a form provided by the District, signed by a registered professional engineer authorized to practice in the State of Arkansas.

Subchapter 14 Financial Requirements.
§ 14.01 Host County compensation.

§ 14.01 Host County compensation.

Any Solid Waste Disposal Facility, located partially or wholly within the District, shall provide the host county with compensation in the amount of \$1.00 per ton of waste disposed of at the facility. A facility which crosses county boundaries shall prorate the \$1.00 per ton fee in proportion to the percentage of the active facility located within each county. The host counties may use the fees provided for any purpose they see fit, it being the intent of this rule, to provide funds to the counties to assist in increased road maintenance, neighbor compensation, litter control, etc. Payments shall be made quarterly for the previous quarter.

Subchapter 15 Compliance and Enforcement.
§ 15.01 Violations.
§ 15.02 Penalties.
§ 15.03 Enforcement.
§ 15.04 Inspection and Information Gathering.
§ 15.05 Severability.

§ 15.01 Violations.

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

§ 15.02 Penalties.

A penalty of up to \$10,000.00 per violation per day of violation may be assessed against any person violating the provisions of Chapter E.

§ 15.03 Enforcement.

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

§ 15.04 Inspection and Information Gathering.

Any Solid Waste Facility shall, upon the request of any District designated person, furnish information relating to any activity at the facility 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 to enter at any time all areas of the Facility and to inspect and obtain samples from any area of the Facility.

§ 15.05 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.

Subchapter 16	Reserved.
Subchapter 17	Reserved.
Subchapter 18	Reserved.
Subchapter 19	Reserved.

CHAPTER F:	SOLID WASTE ASSESSMENT.
Subchapter 20	Assessment.
Subchapter 21	Procedure.
Subchapter 22	Compliance and Enforcement.

Subchapter 20 Assessment.

§20.01 Authority

§20.02 Applicable Waste

§20.03 Fee Amount

§20.01 Authority

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

20.01 Applicable Waste

- (a) Starting May 1, 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 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; or generated outside the District and brought into a processing, transfer, recycle or disposal facility within the District. This also includes all solid waste waste generated in the District and taken outside the District and delivered to a processing, transfer or disposal facility.
- (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 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; to waste tires processed through the District's waste tire program; or to household hazardous wastes collected through the District's HHW program that is handled as Subtitle C waste.

§20.02 Fee Amount

(a) The amount of the fee assessed shall be \$~~1.50~~2.00 per ton.

(1) \$0.50 per ton of this fee shall be deposited into a fund designated for landfill diversion strategies and programs.

(a)1. This fund is to only be used with approval by the Board of Directors.

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(b) If weight tickets are not available, the fee shall be calculated on a volume basis as follows.

(1) \$~~0.30~~25 per uncompacted cubic yard

(2) \$~~0.70~~45 per compacted cubic yard

(2)1. \$0.05 per uncompacted and \$0.25 per compacted cubic yard shall also be deposited into the same fund as referenced by §20.02(a)(1).

Commented [RR2]: Calculations based on EPA volume-to-weight conversion factors.
https://www.epa.gov/sites/default/files/2016-04/documents/volume_to_weight_conversion_factors_memorandum_04192016_508fml.pdf

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(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 inter local agreement in place between the Districts. If no inter local agreement is in place, the larger of the fees shall be imposed and said fees shall be split evenly between the Districts.

Subchapter 21 Procedures

§21.01 Landfills

§21.02 Solid Waste Material Recovery Facility

§21.03 Class S Composting Facility

§21.04 Transfer Stations

§21.05 Out-of-District Haulers

§21.06 Schedule

§21.01 Landfills

Any landfill located within the District shall pay to the District an amount equal to the per ton fee amount in Section 20.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 21.06.

§21.02 Solid Waste Material Recovery Facility

(a) 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 20.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 21.06.

(b) 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.

§21.03 Class S Composting Facilities

(a) Any class S composting facility located within the District shall pay to the District an amount equal to the per ton fee amount in Section 20.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 21.06.

(b) Any waste handled by a class S composting facility that is delivered to a landfill within the District shall be exempt from the fees imposed by this Section.

§21.04 Transfer Stations

(a) Any transfer station located within the District shall pay to the District an amount equal to the per ton fee amount in Section 20.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 21.06.

(b) Any waste handled by a transfer station that is delivered to a landfill, solid waste material recovery facility or class S composting facility within the District shall be exempt from the fees imposed by this Section.

§21.05 Out-of-District Haulers

Any hauler who collects solid waste generated within the District but transports it out of district for processing or disposal shall be required to submit the applicable fee in Section 20.02 times the number of tons of waste transported, to the District according to the schedule in §21.06.

§21.06 Schedule

Fees shall be paid to the District quarterly. For all wastes handled during the months of January – March, payment will be due by April 30th. For all wastes handled during the months of April – June, payment will be due by July 30th. For all wastes handled during the months of July – September, payment will be due by October 30th. For all wastes handled during the months of October – December, payment will be due by January 30th.

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

§21.07 Recycling Credits

- (a) Any facility required to pay fees under this Chapter, may be entitled to credits for fees paid on waste handled at their facility that was later recycled or composted.
- (b) Solid Waste Material Recovery Facility. A Solid Waste Material Recovery Facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.
- (c) Class S Composting Facility. A Class S Composting Facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.

§21.08 Intent

It is the intention under these regulations for all waste that is generated or disposed of within this District to be assessed this fee one time only. Wastes which are ultimately recycled or composted should be exempt or credited.

Subchapter 22 Compliance And Enforcement

§ 22.01 Violations.

§ 22.02 Penalties.

§ 22.03 Enforcement.

§ 22.04 Inspection and Information Gathering.

§ 22.05 Severability.

§ 22.01 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 Chapter F.

§ 22.02 Penalties.

A penalty of up to \$1,000.00 per violation per day of violation may be assessed against any person violating the provisions of Chapter F.

§ 22.03 Enforcement.

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

§ 22.04 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.

§ 22.05 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.

CHAPTER G: SOLID WASTE MANAGEMENT AND RECYCLING GRANTS

PROGRAM.

Subchapter 23 General.

Subchapter 24 Eligibility.

Subchapter 25 Procedures.

Subchapter 23

§23.01 Authority

§23.02 Definitions

§23.01 Authority

To set standard rules governing the distribution and administration of the Recycling Grants Program in support of Act 1333 of 2013 with the intent to use recycling grant funds for the purpose of recycling activities.

§23.02 Definitions

For purposes of this instrument, solid waste reduction activities is defined as recycling,

using waste items as raw materials in a production process, using waste items to produce an end product with or without recycling, using waste items as fuel, and any other activity that diverts materials from landfills for reuse, including items of administration, research, equipment and training to implement such solid waste reduction activities.

Subchapter 24 Eligibility.

For the purposes of this instrument, eligible grant recipients shall be Municipalities and Counties, Solid Waste Authorities, and Regional Solid Waste Management Boards. Also, partnerships between these public entities and private recycling interests may be eligible if and when the public entity involved in the partnership assumes the responsibility for meeting all grant requirements.

Projects eligible for grant assistance include, without limitation, costs for:

- (a) Solid waste management planning that integrates recycling;
- (b) Public information and education programs that encourage waste reduction and stimulate demand for products produced from recycled materials;
- (c) Waste transfer facilities and equipment that integrate recycling in their operation;
- (d) Recycling, recycling activities and waste reduction activities associated with illegal dump abatement programs;
- (e) Other waste stream reduction activities that divert the flow of materials away from landfills to be put to beneficial use, which may include equipment;
- (f) Activities that support a recycling system (MRF) that include without limitation operation, construction, logistical systems, training and equipment;
- (g) Administrative cost for operation of the district recycling activities, not to exceed 25% of the Solid Waste Management District total allocation; and
- (h) Any other activity or program for the purpose of solid waste reduction, reuse or recycle as approved by the Boston Mountain Solid Waste Management District Board, or as outlined in the State of Arkansas Solid Waste Management Plan.

The Boston Mountain Solid Waste District shall be responsible for the prioritization and selection of grant recipients from within their district boundaries.

Subchapter 25 Procedures.

- (a) Supporting documentation for all purchases should be kept on file by each grant recipient for a period of three (3) years from date of disbursement to Grantee.
- (b) Each grantee shall provide Recycling Activity Surveys for a period of five years after a grant award to the Boston Mountain Solid Waste Management District

Board on or before August 1st of each year. The annual recycling activity survey shall include, at a minimum, the following information: tonnage and type of materials collected and revenues produced from the sale of materials collected, and total diversion savings calculated using total tons recycled multiplied by the local landfill tipping fee as of June 30th.

- (c) Boston Mountain Solid Waste Management District Board shall ensure public participation and notice prior to any grant award by publishing a notice describing each grant request and soliciting comments in a newspaper of general circulation prior to the grant award. The notice shall be published one time but the comment period shall not be less than thirty (30) days from the date of publication.

CERTIFICATION OF RULES

The preceding pages, containing the complete set of regulations of the Tri-County Solid Waste District, known as Boston Mountain Solid Waste District are a certified copy of the regulations as enacted by action of the Board taken May 01, 2004 in Springdale, Arkansas and as amended February 16, 2010, May 23, 2011, and amended again on November, 14, 2013 in Fayetteville, Arkansas.

Robyn Reed, Director

\\Server1\public\ADMIN\Regs\District Regulations- updated 2013
Files/Enforcement/Regulations/District Regulations 2011
Files/Enforcement/Regulations/District Regulation 2004



A WEHCO MEDIA COMPANY

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Company: BOSTON MOUNTAIN SOLID WASTE

Ad number #: 326879

PO #:

Matter of: PN Rules & Regulations BMSWD

AFFIDAVIT • STATE OF ARKANSAS

I, Carla Gardner, do solemnly swear that I am the Finance Director of the **NWA Democrat Gazette**, a daily newspaper printed and published in WASHINGTON county, State of ARKANSAS; that I was so related to this publication at and during the publication of the annexed legal advertisement in the matter of :

PN Rules & Regulations BMSWD

Pending in the court, in said County, and at the dates of the several publications of said advertisement stated below, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in said County, that said newspaper had been regularly printed and published in said county, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated below.

And that there is due or has been paid the **NWA Democrat Gazette** for publication the sum of \$159.60.
(Includes \$0.00 Affidavit Charge).

NWA Democrat Gazette 09/17/23, 09/24/23, 10/01/23; NWA nwaonline.com 09/17/23, 09/24/23, 10/01/23

Finance Director

State of ARKANSAS, County of WASHINGTON , Subscribed
and sworn to before me on this 3rd day of October, 2023

NOTARY PUBLIC



PUBLIC NOTICE

The Boston Mountain Regional Solid Waste Management District (BMSWD) is proposing a rule change to the existing Rules & Regulations of BMSWD. The changes include an increase in the waste assessment fee and the creation of a landfill diversion fund. A marked-up version of the proposed rules & regulations is available online at <https://www.bostonmountain.org/district-info> or may be viewed at the District Office at 11398 Bond Road, Prairie Grove, Arkansas 72753 during hours of operation. Written comments will be accepted for thirty (30) days from the date of first publication of this notice. Comments can be submitted to: Boston Mountain Solid Waste District, PO Box 228, Prairie Grove, AR 72753 or recycle@bmswd.com
Sept. 17, 24 & Oct. 1, 2023
326879



Boston Mountain Regional Solid Waste Management District

Summary of Proposed Rules & Regulations

The purpose of this update is to create a permanent funding source for landfill diversion and waste diversion strategies and programs. This update is to Chapter F, addressing the solid waste assessment fee. The District Board of Directors has approved changing the waste assessment fee from \$1.50 per ton to \$2.00 per ton. The per cubic yard fee will increase from \$0.25 to \$0.30 per uncompacted cubic yard and from \$0.45 to \$0.70 for compacted waste. The full amount of the increase (\$0.50 per ton and the respective cubic yard increase amount) is to be placed in a fund designated for landfill diversion strategies and programs. Use of this fund will require approval by the Board of Directors.

The reason for the rule change is that the landfill in Northwest Arkansas is having serious capacity issues and the need for future expansion permits are not guaranteed. The Board of Directors recognizes the need to create options and opportunities for the diversion of material to alternative facilities and programs.