

Chapter A: Practices and Procedures

Subchapter 1 General

Subchapter 2 Rulemaking

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Subchapter 1 General

§ 1.01 Authority

§ 1.02 Definitions

§1.01 Authority

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

§1.02 Definitions

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

- (a) “APA” means the Arkansas Administrative Procedure Act, § 25-15-201, et seq., 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 Southeast Arkansas Regional Solid Waste Management District.
- (d) “Board Members” means the members of the Board of Directors of the Southeast Arkansas Regional Solid Waste Management District.
- (e) “Commission” means the Arkansas Pollution Control and Ecology Commission.

- (f) “Director” means the duly appointed chief administrative officer of the Southeast Arkansas Regional Solid Waste Management District, regardless of the actual position title.
- (g) “District” means the Southeast Arkansas Regional Solid Waste Management District, which includes the counties of: Arkansas, Ashley, Bradley, Chicot, Cleveland, Desha, Drew, Grant, Jefferson and Lincoln.
- (h) “Person” means any individual, partnership, corporation, association, or public or private organization of any character.
- (i) “Rule” means any District regulation or statement of general applicability and future effect that implements, interprets, or prescribes law or mandatory policy, or describes the organization, procedure, or practice of the District.
- (j) “Rulemaking Action” shall include any action by the District to adopt, amend or repeal any District Rule.

Chapter A: Practices and Procedures

Subchapter 2 Rulemaking

§2.01 Proposed Action

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§2.01 Proposed Action

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

§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 at least thirty (30) days prior to any proposed Rulemaking Action.
- (b) 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 proposed Rule 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 Action by the District.
- (d) Unless otherwise required by law, the notice shall be published in the Arkansas Democrat-Gazette, or in such other newspaper(s) of general daily circulation selected by the Board, in its discretion and shall run for three consecutive days.
- (e) Together with any other required documentation, the notice and the proposed Rule shall also be provided to, or filed with, the Arkansas Secretary of State, the Bureau of Legislative Research, and such other agencies, as required by the APA.

§2.03 Public Comment

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

§2.04 Public Hearing

- (a) The District may hold a public hearing to take oral comments from the public concerning any proposed action.
- (b) The District must hold a hearing to accept oral comments from the public concerning any proposed Rulemaking Action if requested by twenty-five persons, by a

governmental subdivision or agency, or by an association having not less than twenty-five members.

- (c) Should a public hearing be held, notice of the hearing shall be made in the manner provided in §2.02
- (d) Where regulations are required by law to be made on the record after opportunity for a hearing, the provisions of that law shall, as applicable, 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 District shall fully consider all written and oral submission pertaining to the Rulemaking Action before finalizing the language of the proposed Rule.
- (c) The Board reserves the right to re-issue any proposal for public comment following significant modifications.
- (d) Upon adoption of a Rule, the Board, if requested to do so by an interested person within thirty days of adoption, shall issue a concise statement of the principal reasons for or against its adoption, and demonstrating that public comments were duly considered.

§2.06 Emergency Proceedings

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

§2.07 Petition for Rulemaking

Any person residing or doing business within the District may petition the Board for a Rulemaking Action. Within thirty (30) days after submission of a petition, the Board shall either deny the petition, stating in writing its reasons for denial, or shall initiate rulemaking proceedings. If no action is taken by the Board within thirty (30) days, the petition shall be deemed to be denied, and the Board shall not be required to take any further action, except to state its reasons for denial, in writing within ten (10) days after such denial is deemed to have occurred.

§2.08 Filing of Adopted Rule

The Board shall file with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, and any other agency or legislative body, as required by law, the adopted Rule, a statement of financial impact for the Rule and any other information or documents required by law.

§2.09 Effective Date

Each Rule adopted by the Board shall be effective thirty (30) days after filing unless a later date is specified by law or in the Rule itself. However, an emergency Rule may become effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the Board finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The Board's finding and a brief statement of the reasons therefore shall be filed with the regulation. The Board shall take appropriate measures to make emergency Rules known to the persons who may be affected by them.

§2.10 Certification of Rules or Regulations

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

§2.11 Official Records

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

§2.12 Substantial Compliance

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

§2.13 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.

§2.14 Severability

If any provisions 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 Adjudications

§3.01 Assessment of Penalty

§3.02 Form

§3.03 Request for Appeal

§3.04 Appeal to Board

§3.05 Final Agency Action

§3.06 Appeals to Circuit Court

§3.01 Assessment of Penalty

The Director, who shall keep a log of all complaints or violations as determined by the District, 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 after the expiration of a twenty four (24) hour period granted by the Director to correct or remediate the complaint or violation.

§3.02 Form

- (a) Penalties shall be assessed by a written Administrative Order, signed by the Director or his or her authorized designee, and delivered to the person against whom the penalty is assessed, with the right to appeal and have a hearing as set out below.
- (b) Administrative Orders shall be delivered in person or by Certified Mail, Return Receipt Requested, to the address of record at the District.
- (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 Request for Appeal

- (a) Within thirty (30) days of the receipt of any Administrative Order, the person against whom the Order was issued can request an appeal before the District Board, who may waive any penalty for a first offense based on the person's prior record.
- (b) The request for appeal must be in writing and 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.

- (c) Requests for appeal may be delivered to the District in person or by Certified Mail, return receipt requested.

§3.04 Appeal to Board

- (a) Persons who timely file a request for appeal shall be entitled to be heard at the first regularly scheduled Board meeting following their request for appeal, 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) Both sides may appear in person or by counsel. The District shall present their case first, followed by the appellant. Both sides may offer testimony and present evidence to be considered by the Board. Cross-examination shall be allowed as well as questioning by the Board.
- (c) The hearing shall be conducted by the presiding Chair of the Board.
- (d) Conduct of the hearing shall be informal. The Chair shall be entitled to use their discretion to allow, disallow or strike any evidence or testimony that they feel is irrelevant, unreliable or duplicative.
- (e) A court reporter shall be hired 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 that matter.
- (f) At the close of the hearing, the Board shall enter a written order. Each party shall be responsible for drafting a written order to be submitted to the Board. Alternatively, the Board may draft an order at the close of the hearing.

§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 Circuit Court in the appropriate county.

Subchapter 5 Governing Body – Regional Board of Directors

Subchapter 6 Regional Board Meetings

Subchapter 4 General

§4.01 Name

§4.02 Authority

§4.03 Purpose

§4.04 Jurisdictional Boundaries

§ 4.01 Name

The name of the District is: Southeast Arkansas Regional Solid Waste Management District.

§ 4.02 Authority

The District was created in July 1989 pursuant to the provisions of Arkansas Code Ann. § 8-6-707 and Commission Regulation 22. The District shall continue to exist until dissolved by unanimous decision of the Board or pursuant to a procedure otherwise authorized by law.

§ 4.03 Purpose

The purpose of the District is the protection of the public health and the environment through regional planning and the development and implementation of a Solid Waste Management System.

§ 4.04 Jurisdictional Boundaries

The District includes the counties of Arkansas, Ashley, Bradley, Chicot, Cleveland, Desha, Drew, Grant, Jefferson and Lincoln.

Chapter B District Bylaws

Subchapter 5 Governing Body – Regional Board of Directors

§ 5.01 Board of Directors

§ 5.02 Officers

§ 5.03 Executive Committee

§ 5.04 Appointed Committees

§ 5.05 Membership

§ 5.01 Board of Directors

The District shall be governed by the Board. The Board shall plan for and oversee the operations, finances and polices of the District and shall have all powers and duties as provided and authorized by state law and these Rules.

§ 5.02 Officers

The general officers of the Board shall consist of Chairman, Vice-Chairman, Secretary and Treasurer. Officers shall serve one year terms beginning July 1. Officers shall retain their duties until they resign or a replacement has been elected by the board. In the discretion of the Board, any two or more offices may be held by the same person, except the Chairman may not hold any other office concurrently.

(a) Chairman: The Chairman shall preside at all meetings of the Board and shall advise with the other officers of the Board on matters of policy. He shall have other powers and perform other such duties as may be incidental to his office, as are given to him by these Bylaws, or may be assigned to him by the Board.

(b) Vice-Chairman: In the absence of the Chairman, the Vice-Chairman shall act as Chairman. In addition, the Vice-Chairman shall serve as Parliamentarian for the Board.

(c) Secretary: The Secretary shall keep or cause to be kept minutes of the proceedings of the Board in appropriate books provided for that purpose, see that all notices are duly given as required by the Board and perform such other duties as may be assigned or delegated by the Chairman or Board.

(d) Treasurer: The Treasurer shall have general charge and custody and be responsible for all funds of the Board, deposit or cause to be deposited all monies received, in the name of the Board, in such banks, or other depositaries as may be designated by the Board. The Treasurer shall keep, or cause to be kept, correct and complete books and records of account and perform all such other duties as may be assigned to him by the Board.

§ 5.03 Executive Committee

(a) The Executive Committee shall consist of the officers of the Board.

(b) The Chairman of the Board shall be the Chairman of the Executive Committee.

(c) Three (3) members of the Executive Committee present in person or represented by proxy shall constitute a quorum. All proxies shall be in writing and filed with the Chairman prior to or at the time of the meeting. A majority vote of those members present in person or represented by proxy shall be required for any action of the Executive Committee. The Executive Committee may act on behalf of the Board between the regularly scheduled meetings of the Board. Such action by the Executive Committee shall be reported to the Board and shall have the effect of the Board until rescinded by the Board.

§ 5.04 Appointed Committees

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

§5.05 Membership

The membership of the board will consist of the county judge of each county within the District, the mayors of each first class city within the District, the mayors of each city within the District which is a county seat, and the mayors of each city within the District with a population of 2,000 or more.

Chapter B District Bylaws

Subchapter 6 Regional Board Meetings

§ 6.01 Meetings

§ 6.02 Quorum

§ 6.03 Amendment of Bylaws

§ 6.04 Parliamentary Procedure

§ 6.01 Meetings

- (a) Regular meetings of the Board will be held as determined by the board. The meeting date, place, and time shall be determined by the Director and shall be held at a place and time reasonably accessible to all Board Members. Meeting dates may be delayed or changed by the Director, the Board or the Executive Committee.

- (b) Special meetings of the Board may be called at any time by the Chairman, Director, by resolution of the Board, or by a majority of the Executive Committee.

(c) Appointed Committee meetings shall take place on call of the Chairman of the Committee.

(d) Written notice of regular and special Board Meetings shall be given personally or by mail to each member of record not less than two (2) days, nor more than sixty (60) days, prior to the meeting.

§ 6.02 Voting and Quorum

Each Board Member shall have one vote. A majority of the Board Members, present in person or represented by proxy shall constitute a quorum. All proxies shall be in writing and filed with the Secretary prior to or at the time of the meeting. Proxies shall only be valid for the specific meeting or agenda item designated therein. A majority vote of those Board Members present in person or represented by proxy shall be required for any action of the Board.

§ 6.03 Amendment of Bylaws

These Bylaws may be adopted, amended or repealed at any meeting of the Board by a majority vote of at least two-thirds (2/3) of Board Members present or represented by proxy. Written notice of proposed changes to the Bylaws must be sent to Board Members not less than seven (7) days or more than sixty (60) days prior to the meeting at which the action is to be voted upon.

§ 6.04 Parliamentary Procedure

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