ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
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Name of Department Department of Energy & Environment

Agency or Division Name Environmental Quality-Land Resources (Solid Waste)

Other Subdivision or Department, If Applicable Southwest Central Regional Solid Waste Management District

Previous Agency Name, If Applicable

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Name of Rule Certificate of Needs

Newspaper Name The Sentinel-Record

Date of Publishing 4/20/25; 4/27/25; 5/4/25; 5/11/25; 5/18/25

Final Date for Public Comment May 21, 2025

Location and Time of Public Meeting 1000 Central Ave. Hot Springs, AR 71901 @ 10:00am

SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT

ISSUANCE FOR A CERTIFICATE OF NEED

POLICY REQUIREMENTS, NOTICE OF INTENT AND

APPLICATION

HOT SPRINGS, ARKANSAS

2025

TABLE OF CONTENTS

Introduction **3**

Instructions To Respondents **4**

Notice of Intent for Certificate of Need **5**

Certificate of Need Application **6**

INTRODUCTION

Before the Southwest Central Regional Solid Waste Management District Board of Directors may issue a certificate of need, it must determine that the applicant has demonstrated compliance with the following criteria:

- That the proposed solid waste facility is consistent with the regional planning strategy adopted by the Southwest Central Regional Solid Waste Management District Board of Directors in the:
    - Regional needs assessment; or
    - Regional solid waste management plan
- That the proposed solid waste facility does not conflict with existing comprehensive land use plans of any local governmental entity.
- That the proposed solid waste facility does not disturb:
    - An archeological site as recognized by the Arkansas Archeological Survey; or
    - A rare and endangered species habitat as recognized by the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service.
- That the proposed solid waste facility will not adversely affect the public use of any local, state, or federal facility including but not limited to parks and wildlife management areas;
- That the proposed solid waste facility will not adversely impact any ecological conservation efforts including but not limited to those known and unknown to the applicant;
- That the proposed solid waste facility does not conflict with the requirements of state or federal laws and rules applicable to the location of the proposed facility;
- That the proposed solid waste facility does not restrict the flow of the hundred-year flood plain, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health or the environment
- If the application is for a transfer station that proposes to transfer waste outside of the Southwest Central Regional Solid Waste Management District, the applicant must document that the district to which waste will be transferred has been notified and that the board of the transferee district has approved the receipt of such waste.
    - This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas;
- The applicant's detailed history and record with respect to violations of environmental laws and rules of the United States, or any state or political subdivision of a state, must demonstrate substantial compliance with such laws and rules;
- The location of the applicant's proposed solid waste facility shall be consistent with the Southwest Central Regional Solid Waste Management District's needs and its highway and road system;

If the application is for a landfill, the applicant must demonstrate a need based upon the Southwest Central Regional Solid Waste Management District's excess projected capacity that is currently permitted for operation, but in no event shall the Southwest Central Regional Solid Waste Management District's excess permitted projected capacity exceed thirty (30) years.

INSTRUCTIONS TO RESPONDENTS

1. All application components may be sent via mail or email to the address below:

Courtney Decker Southwest Central Regional Solid Waste Management District c/o West Central Arkansas Planning and Development District, Inc. 1000 Central Avenue Hot Springs, Arkansas 71901 CDecker@wcapdd.org

2. **Seven (7) copies** of each application must be submitted together with **one unbound original** (for reproduction by the District Staff). Any application not submitted in compliance with the instructions contained in this section and / or not containing the information requested above I may be declared "non-responsive" and may not be considered.

3. All applications will become part of the official file on this matter without obligation to the District. In addition, respondents are hereby advised that applications, once the district has made its selection, are subject to the Arkansas Freedom of Information Act and, therefore, available for viewing or copying by anyone upon request.

4. Respondents should also be available for oral presentation if such presentations are deemed necessary to determine the most qualified firm. Any such oral presentation will be scheduled at a mutually convenient time.

NOTICE OF INTENT FOR CERTIFICATE OF NEED

Applicant's Name		Phone Number
Applicant's Street Address		Apt/Suite #
City	State	Zip Code

1. Are you seeking a new or modified solid waste facility permit?

   ___ Yes ____ No

2. Please select the classification of the permit sought, pursuant to Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.

   _____ Class 1
   _____ ~~Class 2 (reserved)~~
   _____ Class 3N
   _____ Class 3C
   _____ Class 3T
   _____ Transfer Station
   _____ Class 4
   _____ Composting-CY
   _____ Composting-CO
   _____ Composting-CS
   _____ Solid Waste Recovery Facilities

Applicant's Signature _____ Date _____

CERTIFICATE OF NEED APPLICATION

Applicant's Name		Phone Number
Applicant's Street Address		Apt/Suite #
City	State	Zip Code

1. Summarize/Describe the overall purpose and/or goal of the project.

2. Provide the name of the person(s) having legal ownership of the land where the proposed facility will be located and documentation of applicant's right to develop such property as a solid waste facility from the legal owner (Attach additional documentation as needed).

3. Provide an estimated size of the proposed facility and capacity.

4. Provide a description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction.

5. Provide the exact location (i.e. physical address, lat/long) of the proposed facility as shown on the applicable United States Geological Survey topographic map or maps provided as additional documentation.

CERTIFICATE OF NEED ISSUANCE POLICY

Article I. CERTIFICATE OF NEED REQUIREMENT.

Section 1.01 ANY APPLICANT FOR A NEW SOLID WASTE FACILITY PERMIT OR THE MODIFICATION OF AN EXISTING SOLID WASTE FACILITY PERMIT TO BE LOCATED, IN WHOLE OR IN PART, WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT MUST OBTAIN A CERTIFICATE OF NEED FROM THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS PRIOR TO SUBMITTING THE APPLICATION TO THE DIVISION OF ENVIRONMENTAL QUALITY.

Article II. PROCEDURE FOR OBTAINING A CERTIFICATE OF NEED.

Section 2.01 NOTICE OF INTENT.

(a) *AT LEAST FIFTEEN (15) DAYS PRIOR TO SUBMITTING AN APPLICATION FOR A CERTIFICATE OF NEED, THE APPLICANT MUST NOTIFY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT, IN WRITING, OF ITS INTENT TO SUBMIT SUCH AN APPLICATION.*

(b) *THE NOTICE OF INTENT SHALL INCLUDE THE FOLLOWING INFORMATION:*

(i) The name of the applicant;

(ii) The applicant's address and telephone number; and

(iii) Whether the applicant is seeking a new or modified solid waste facility permit, and the classification of the permit sought pursuant to Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.

Section 2.02 APPLICATION PROCEDURE.

(a) *PERSONS REQUESTING A CERTIFICATE OF NEED FROM THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS MUST SUBMIT AN APPLICATION TO THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT.*

(b) ALL APPLICATIONS FOR CERTIFICATES OF NEED SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION:

(i) The applicant's name, address, and telephone number;

(ii) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of applicant's right to develop such property as a solid waste facility from the legal owner;

(iii) The location of the proposed facility as shown on the applicable United States Geological Survey topographic map or maps;

(iv) The size of the proposed facility and capacity;

(v) A description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction;

(vi) Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation in subsection (g) of this section; and

(vii) Any other information deemed necessary to make a determination of need or requested by the Southwest Central Regional Solid Waste Management District staff.

Article III. COMPLETENESS DETERMINATION.

Section 3.01 WITHIN FOURTEEN (14) DAYS OF RECEIPT OF THE INITIAL APPLICATION, THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT STAFF WILL MAKE A COMPLETENESS DETERMINATION OF THE APPLICATION.

Section 3.02 ANY ADDITIONAL INFORMATION REQUIRED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT TO MAKE A DECISION ON THE NEED OF THE PROPOSED FACILITY WILL BE REQUESTED WITHIN THIS TIME.

Section 3.03 IF ADDITIONAL INFORMATION IS REQUESTED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT STAFF, IT WILL AGAIN MAKE A COMPLETENESS DETERMINATION WITHIN FOURTEEN (14) DAYS OF THE RECEIPT OF THE ADDITIONAL INFORMATION.

Article IV. PUBLIC NOTICE.

Section 4.01 WHEN THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT STAFF HAS DETERMINED THAT AN APPLICATION FOR A CERTIFICATE OF NEED IS COMPLETE, IT SHALL GIVE AT LEAST THIRTY (30) DAYS' PUBLIC NOTICE PRIOR TO THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS' FORMAL CONSIDERATION OF THE CERTIFICATE OF NEED, DURING WHICH PERIOD THE PUBLIC MAY REVIEW AND COMMENT ON THE APPLICATION.

Section 4.02

(a) THE NOTICE SHALL INCLUDE A BRIEF SUMMARY OF THE PROPOSED SOLID WASTE FACILITY FOR WHICH A CERTIFICATE OF NEED HAS BEEN REQUESTED.

(b) THE NOTICE ALSO SHALL STATE THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING ON THE CERTIFICATE OF NEED.

(c) THE NOTICE SHALL BE MAILED TO:

(i) Any person specified by law; and

(ii) All persons who shall have requested advance notice in writing of the Southwest Central Regional Solid Waste Management District Board of Directors' actions on certificates of need.

(d) UNLESS OTHERWISE REQUIRED BY LAW, THE NOTICE SHALL BE PUBLISHED IN A NEWSPAPER, OR NEWSPAPERS OF GENERAL DAILY CIRCULATION SELECTED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT IN ITS DISCRETION.

Section 4.03 (E) **PUBLIC COMMENT.** THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT SHALL AFFORD ALL INTERESTED PERSONS REASONABLE OPPORTUNITY TO SUBMIT WRITTEN DATA, VIEWS, OR ARGUMENTS, IN WRITING, DURING THE THIRTY-DAY PUBLIC NOTICE PERIOD.

Section 4.04 (F) **PUBLIC HEARING.** PRIOR TO THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS' FORMAL CONSIDERATION OF AN APPLICATION FOR CERTIFICATE OF NEED, THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT SHALL HOLD A HEARING TO ACCEPT ORAL AND WRITTEN COMMENTS FROM THE PUBLIC CONCERNING THE APPLICATION.

Article V. DETERMINATION

Section 5.01 BEFORE THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS MAY ISSUE A CERTIFICATE OF NEED, IT MUST DETERMINE THAT THE APPLICANT HAS DEMONSTRATED COMPLIANCE WITH THE FOLLOWING CRITERIA:

(a) THAT THE PROPOSED SOLID WASTE FACILITY IS CONSISTENT WITH THE REGIONAL PLANNING STRATEGY ADOPTED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS IN THE:

(i) Regional needs assessment; or

(ii) Regional solid waste management plan

(b) THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT CONFLICT WITH EXISTING COMPREHENSIVE LAND USE PLANS OF ANY LOCAL GOVERNMENTAL ENTITY.

(c) THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT DISTURB:

(i) An archeological site as recognized by the Arkansas Archeological Survey; or

(ii) A rare and endangered species habitat as recognized by the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service.

(d) THAT THE PROPOSED SOLID WASTE FACILITY WILL NOT ADVERSELY IMPACT LOCAL ECOLOGICAL CONSERVATION EFFORTS INCLUDING BUT NOT LIMITED TO THOSE KNOWN AND UNKNOWN TO THE APPLICANT;

(e) THAT THE PROPOSED SOLID WASTE FACILITY WILL NOT ADVERSELY AFFECT THE PUBLIC USE OF ANY LOCAL, STATE, OR FEDERAL FACILITY INCLUDING BUT NOT LIMITED TO PARKS AND WILDLIFE MANAGEMENT AREAS;

(f) THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT CONFLICT WITH THE REQUIREMENTS OF STATE OR FEDERAL LAWS AND RULES APPLICABLE TO THE LOCATION OF THE PROPOSED FACILITY;

(g) THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT RESTRICT THE FLOW OF THE HUNDRED-YEAR FLOOD PLAIN, REDUCE THE TEMPORARY WATER STORAGE CAPACITY OF THE FLOOD PLAIN,

OR RESULT IN A WASHOUT OF SOLID WASTE SO AS TO POSE A HAZARD TO HUMAN HEALTH OR THE ENVIRONMENT

(h) IF THE APPLICATION IS FOR A TRANSFER STATION THAT PROPOSES TO TRANSFER WASTE OUTSIDE OF THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT, THE APPLICANT MUST DOCUMENT THAT THE DISTRICT TO WHICH WASTE WILL BE TRANSFERRED HAS BEEN NOTIFIED AND THAT THE BOARD OF THE TRANSFEREE DISTRICT HAS APPROVED THE RECEIPT OF SUCH WASTE.

(i) This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas;

(i) THE APPLICANT'S DETAILED HISTORY AND RECORD WITH RESPECT TO VIOLATIONS OF ENVIRONMENTAL LAWS AND RULES OF THE UNITED STATES, OR ANY STATE OR POLITICAL SUBDIVISION OF A STATE, MUST DEMONSTRATE SUBSTANTIAL COMPLIANCE WITH SUCH LAWS AND RULES;

(j) THE LOCATION OF THE APPLICANT'S PROPOSED SOLID WASTE FACILITY SHALL BE CONSISTENT WITH THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S NEEDS AND ITS HIGHWAY AND ROAD SYSTEM;

(k) IF THE APPLICATION IS FOR A LANDFILL, THE APPLICANT MUST DEMONSTRATE A NEED BASED UPON THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S EXCESS PROJECTED CAPACITY THAT IS CURRENTLY PERMITTED FOR OPERATION, BUT IN NO EVENT SHALL THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S EXCESS PERMITTED PROJECTED CAPACITY EXCEED THIRTY (30) YEARS.

Section 5.02

(a) AT THE NEXT SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS MEETING, FOLLOWING THE CLOSE OF THE THIRTY-DAY PUBLIC NOTICE PERIOD DESCRIBED IN SUBSECTION (D) OF THIS SECTION, THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS WILL TAKE UP FOR CONSIDERATION THE APPLICATION FOR A CERTIFICATE OF NEED.

(b) THE EXECUTIVE DIRECTOR AND/OR ADMINISTRATIVE STAFF OF THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT WILL MAKE A DETERMINATION ON WHETHER THE APPLICANT HAS MET ALL REQUIREMENTS, OF THE DISTRICT'S CERTIFICATE OF NEED REVIEW POLICY AND ADVISE THE BOARD ACCORDINGLY;

(c) PERSONS 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 TEN (10) MINUTES FOR EACH SIDE TO ADDRESS THE STAFF'S RECOMMENDATION, WHICH TIME MAY BE EXTENDED EQUALLY BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS WHEN FURTHER PRESENTATION WOULD AID THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS' DECISION.

Section 5.03

(a) THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT SHALL ISSUE A WRITTEN DECISION SETTING FORTH ITS DETERMINATION.

(b) THE DECISION SHALL STATE THE BASIS FOR ISSUING OR DENYING THE CERTIFICATE OF NEED.

(c) A COPY OF THE DECISION WILL BE SENT TO THE FOLLOWING:

(i) The applicant;

(ii) The Division of Environmental Quality of the Department of Energy and Environment; and

(iii) Any interested person who makes a written request for a copy of the decision.

Section 5.04 **APPEAL OF DECISION.** ANY INTERESTED PERSON SHALL HAVE THE RIGHT TO APPEAL THE ISSUANCE OR DENIAL OF A CERTIFICATE OF NEED TO THE SECRETARY OF THE DEPARTMENT OF ENERGY AND ENVIRONMENT IN ACCORDANCE WITH ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION RULES GOVERNING SUCH APPEALS.

Article VI. CONTINUING EFFECT.

Section 6.01 UPON RECEIPT OF A CERTIFICATE OF NEED, THE APPLICANT HAS SIXTY (60) DAYS IN WHICH TO FILE A PREAPPLICATION FOR A SOLID WASTE FACILITY PERMIT WITH THE DIVISION OF ENVIRONMENTAL QUALITY OR THE CERTIFICATE OF NEED SHALL BECOME VOID.

Section 6.02 UPON RECEIPT OF A CERTIFICATE OF NEED, THE APPLICANT HAS SIX (6) MONTHS IN WHICH TO FILE A PERMIT APPLICATION FOR A SOLID WASTE FACILITY PERMIT WITH THE DIVISION OR THE CERTIFICATE OF NEED SHALL BECOME VOID.

Section 6.03 CERTIFICATES OF NEED ARE ISSUED TO A SPECIFIC PERSON AND ARE NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.

Courtney Decker

Administrator

Southwest Central Regional Solid Waste Management District

CERTIFICATE OF NEED DETERMINATION REQUIREMENTS

Before the Southwest Central Regional Solid Waste Management District Board of Directors may issue a certificate of need, it must determine that the applicant has demonstrated compliance with the following criteria:

- That the proposed solid waste facility is consistent with the regional planning strategy adopted by the Southwest Central Regional Solid Waste Management District Board of Directors in the:
    - Regional needs assessment; or
    - Regional solid waste management plan
- That the proposed solid waste facility does not conflict with existing comprehensive land use plans of any local governmental entity.
- That the proposed solid waste facility does not disturb:
    - An archeological site as recognized by the Arkansas Archeological Survey; or
    - A rare and endangered species habitat as recognized by the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service.
- That the proposed solid waste facility will not adversely affect the public use of any local, state, or federal facility including but not limited to parks and wildlife management areas;
- That the proposed solid waste facility will not adversely impact any ecological conservation efforts including but not limited to those known and unknown to the applicant;
- That the proposed solid waste facility does not conflict with the requirements of state or federal laws and rules applicable to the location of the proposed facility;
- That the proposed solid waste facility does not restrict the flow of the hundred-year flood plain, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health or the environment
- If the application is for a transfer station that proposes to transfer waste outside of the Southwest Central Regional Solid Waste Management District, the applicant must document that the district to which waste will be transferred has been notified and that the board of the transferee district has approved the receipt of such waste.
    - This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas;
- The applicant's detailed history and record with respect to violations of environmental laws and rules of the United States, or any state or political subdivision of a state, must demonstrate substantial compliance with such laws and rules;
- The location of the applicant's proposed solid waste facility shall be consistent with the Southwest Central Regional Solid Waste Management District’s needs and its highway and road system;
- If the application is for a landfill, the applicant must demonstrate a need based upon the Southwest Central Regional Solid Waste Management District’s excess projected capacity that is currently permitted for operation, but in no event shall the Southwest Central Regional Solid Waste Management District’s excess permitted projected capacity exceed thirty (30) years.

INTERNAL MEMORANDUM

May 21, 2025

Subject: Public Comment Period for Certificate of Need Administrative Policy Ruling

This memorandum is to confirm that no public comments were received during the designated public comment period for the proposed Certificate of Need (CON) Administrative Policy ruling.

The comment period was open from April 20, 2025 to May 20, 2025. Throughout this period, the agency monitored all official communication channels designated for receiving public input, and no submissions were recorded.

Please retain this memorandum for the official administrative record.

Courtney Decker

Courtney Decker

Administrator/Environmental Officer

Southwest Central Regional Solid Waste Management District

The Sentinel-Record

Account #: HSCS395970
Company: WEST CENTRAL ARK PLANNING
P.O. BOX 6409
HOT SPRINGS NTL PK, AR 71902
Ad number #: 500174
PO #:
Matter of: Voting May 21

AFFIDAVIT • STATE OF ARKANSAS

I, John Williams, do solemnly swear that I am the Classified Manager of the **The Sentinel Record**, a daily newspaper printed and published in GARLAND 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 :

Voting May 21

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 **The Sentinel Record** for publication the sum of $173.75. (Includes $0.00 Affidavit Charge).

hotsr.com 04/20/25, 04/27/25, 05/04/25, 05/11/25, 05/18/25; Sentinel Record 04/20/25, 04/27/25, 05/04/25, 05/11/25, 05/18/25

John Williams

Classified Manager

State of ARKANSAS, County of GARLAND, Subscribed and sworn to before me on this 20th day of May, 2025

Linda Arneson

NOTARY PUBLIC

LINDA ARNESON
Notary Public - Arkansas
Garland County
Commission # 12706397
My Commission Expires Jan 5, 2029

NOTICE

The Board of Directors of the Southwest Central Regional Solid Waste Management District (SWCRSWMD) will be voting to adopt a proposed policy for the Board to evaluate and review requests for the issuance of a Certificate of Need for any solid waste facility that seeks to locate within the boundaries of the Southwest Central Regional Solid Waste Management District (SWCRSWMD). Email cdecker@wcapdd.org to obtain a copy of the proposed rule.

The Board of Directors Meeting, to be held at 10:00 am on May 21, 2025, at the West Central Arkansas Planning and Development District office, located at 1000 Central Avenue, Hot Springs, AR 71901, will provide the public an opportunity to comment on the adoption of the proposed policy to Board members.

Title 8. Environmental Law
Chapter XVI. Southwest Central Regional Solid Waste Management District
Subchapter A. Generally
Part 332. General Rules
Subpart 1. Generally [Reserved]

Subpart 2. Licensing — Fees

8 CAR § 332-201. Waste hauler license.

(a) Under Acts 1991, No. 752, the Southwest Central Regional Solid Waste Management Board is required by law to enact and enforce a licensing program for all haulers who collect or transport solid waste in the Southwest Central Regional Solid Waste Management District.

(b)(1) By January 1 of each year, all current haulers subject to this program will be required to pay a minimum license fee which is initially set annually as follows:

Non-Compacting Vehicles	Compacting Vehicles	Fee
1 ton or less		$25.00 each with a maximum of $250.00
Greater than 1 ton	1 ton or greater	$50.00 each with a maximum of $500.00

(2)(A) Failure of any private solid waste hauler to obtain a license by January 1 of each year will result in doubling of the fee.

(B) Failure to obtain a license by February 1 of each year will result in the hauler being prohibited from using any permitted landfill facility used by the Southwest Central Regional Solid Waste Management District.

(3)(A) New haulers must obtain a license before collection of solid waste begins.

(B) If a new hauler is issued a license after January 1, the fees will be prorated based on the number of full months remaining in the calendar year.

(c) A person must obtain a license from West Central Arkansas Planning and Development District, Inc., P. O. Box 6409, Hot Springs, AR 71902, phone number (501) 525-7577, or come by the office at 1000 Central if he or she is engaged in the:

(1) Collection of solid waste within the Southwest Central Regional Solid Waste Management District; or

(2) Transportation of solid waste within or from the Southwest Central Regional Solid Waste Management District.

(d)(1)(A) All collection and transportation systems shall meet the conditions outlined below.

(B) Failure to comply with these conditions may result in a revocation of the hauler's license.

(2)(A) Solid waste shall be collected and transported so as to prevent:

(i) Public health hazards;

(ii) Environmental hazards;

(iii) Safety hazards; and

(iv) Nuisances.

(B) Collection and transportation equipment shall be designed and constructed so as to be leak-proof.

(C) The waste shall be suitably enclosed or covered so as to prevent:

(i) Roadside littering;

(ii) Attraction of vectors; or

(iii) Creation of other nuisances.

(3) Collection and transportation vehicles shall be kept in sanitary condition.

(4)(A) Regular collection days shall be established as appropriate.

(B) Collection shall be performed as necessary.

(5) Appliances, furniture, and other solid waste which cannot be collected during regularly scheduled pickups shall be collected as frequently as necessary in accordance with the approved solid waste management system plan for the local government.

(6) Collection and transportation of chemicals, poisons, explosives, radiological wastes, and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.

(7) All solid waste collected shall be transported to:

(A) The designated landfill; or

(B) An approved transfer station.

(8) Every hauler must display the one-year decal given at the time of licensing in the lower right corner of the windshield of the hauling vehicle.

(9) For all solid waste generated and transported within the state but to be disposed of outside the state, there is imposed on each such solid waste transporter a solid waste transportation fee of:

(A) Twenty-five cents (25¢) for each uncompacted cubic yard of solid waste; and

(B) Forty-five cents (45¢) for each compacted cubic yard of solid waste transported.

(e) If a solid waste transporter chooses to operate on a weight basis, the solid waste transporter fee shall be one dollar and fifty cents ($1.50) for each ton of solid waste transported in the state.

(f) The above fees are:

(1) Over and above any fees imposed by the Southwest Central Regional Solid Waste Management District; and

(2) Due and payable to the Division of Environmental Quality.

(g) It is the responsibility of the landfill or transfer station operator to check the following prior to allowing the solid waste hauler to dispose at the landfill or transfer station:

(1) The solid waste vehicle must have a decal for the present year in the right-hand corner of the vehicle's windshield;

(2) The solid waste vehicle must be covered; and

(3) The solid waste vehicle must be leak-proof.

(h)(1) The operator of the landfill or transfer station is required to enforce the above-mentioned laws, as established by the General Assembly.

(2) Any vehicle arriving at the landfill that does not meet the above-mentioned obligations is to be turned away and refused disposal of his or her solid waste.

8 CAR § 332-202. District waste management fee.

(a) **Definition of fee.**

(1) The Arkansas district waste management fee is a fee imposed by a designated regional solid waste management district within the State of Arkansas for the purpose of funding waste management programs, services, and infrastructure within the district's jurisdiction.

(2) The fee is applicable to the disposal or processing of solid waste within the regional solid waste management district.

(b) **Fee structure.**

(1) The fee shall be assessed on a per-ton basis and is payable by individuals, businesses, or other entities who dispose of waste within the jurisdiction of the Southwest Central Regional Solid Waste Management District.

(2) The exact amount of the fee shall be determined by the Southwest Central Regional Solid Waste Management District and may vary depending on the Southwest Central Regional Solid Waste Management District's operational needs and budgetary requirements, provided that such fee does not exceed the maximum allowable fee as prescribed by law.

(c) **Use of funds.** Revenues collected from the Arkansas district waste management fee shall be used exclusively for funding waste management services, including but not limited to:

(1) Waste collection;

(2) Transportation;

(3) Recycling programs;

(4) Landfill operations; and

(5) Other activities that support the Southwest Central Regional Solid Waste Management District's efforts to:

(A) Ensure the efficient management of solid waste;

(B) Protect public health; and

(C) Comply with state and federal environmental rules and regulations.

(d) **Authority to adjust.**

(1) The Southwest Central Regional Solid Waste Management District shall have the authority to revise or adjust the Arkansas district waste management fee in accordance with applicable legal and regulatory procedures.

(2) Any changes to the fee structure must comply with the relevant provisions set forth by:

(A) The Division of Environmental Quality; or

(B) Other governing authorities.

(e) **Fee limitation.** The Arkansas district waste management fee shall not exceed two dollars ($2.00) per ton of waste processed or disposed of within the Southwest Central Regional Solid Waste Management District, unless otherwise approved by the appropriate regulatory authorities in accordance with state law.

Subpart 3. Rules Governing the Distribution and Administration of the Recycling Grants Program

8 CAR § 332-301. Recycling and waste reduction.

(a) The Southwest Central Regional Solid Waste Management District finds that the recycling of glass, plastic, cans, paper, and other materials will reduce the State of Arkansas's reliance upon landfills.

(b) Additionally, other solid waste reduction activities will help reduce the state's dependence on landfills using waste items as raw materials in a production process,

using waste items to produce an end product without recycling, using waste items as fuel, and other activities.

(c) "Solid waste reduction activities" means other activities that divert materials from landfills for reuse and disposal, including all of the above without limitation.

8 CAR § 332-302. Eligible grant projects.

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

(1) Solid waste management planning that integrates recycling;

(2) Public information and education programs;

(3) Waste transfer facilities and equipment that integrates recycling into the operation;

(4) Other waste stream reduction activities that divert the flow of materials away from landfills to be used for:

(A) Beneficial use;

(B) Proper disposal; or

(C) Construction and demolition;

(5) Activities that support a recycling system including without limitation:

(A) Operation;

(B) Construction;

(C) Logistical systems; and

(D) Equipment; and

(6) Administrative expenses for operation of the Southwest Central Regional Solid Waste Management District recycling activities, not to exceed twenty-five percent (25%) of the allocated recycling grant funding.

8 CAR § 332-303. Reporting.

(a)(1) Each recycling grant recipient shall, until all grant funds are expended on a project, provide the Southwest Central Regional Solid Waste Management District with an annual report of project activity.

(2) These reports shall be kept on file at the district office.

(b)(1) Each grantee shall provide a recycling activity survey for a period of five (5) years after a grant award to the district to be submitted to the Division of Environmental Quality due on August 1 of each year.

(2) The annual recycling activity survey shall include:

(A) The tonnage and type of materials collected; and

(B) Revenues produced from the sale of materials collected and total diversion savings calculated using total tons recycled multiplied by the respective landfill disposal tipping fee.

8 CAR § 332-304. Arkansas Administrative Procedure Act.

(a) The Southwest Central Regional Solid Waste Management District shall ensure public participation and notice prior to any grant award.

(b) The district will follow and adopt policies that are based on the rules in keeping with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(c)(1) A notice shall be published listing recycling grants and soliciting comments in a newspaper of general circulation prior to the grant award.

(2) The notice shall be published one (1) time, but the comment period shall not be less than thirty (30) days from the date of publication.

Subpart 4. Certificate of Need Issuance Policy

8 CAR § 332-401. Certificate of ~~Need Requirement~~ need requirement.

Any applicant for a new solid waste facility permit or the modification of an existing solid waste facility permit to be located in whole or in part, within the geographic boundaries of the Southwest Central Regional Solid Waste Management District must obtain a ~~Certificate~~ certificate of ~~Need~~ need from the Southwest Central Regional Solid Waste Management District Board of Directors~~,~~ prior to submitting the application to the ~~Arkansas~~ Division of Environmental Quality.

Commented [GW1]: Revised to be consistent with CAR style regarding catchlines. CSG 4.2(c)(3)

Commented [GW2]: CAR Style is to reserve capitalization for only those words that are true proper nouns. *See* CAR Style Guide 6.2 and 6.8.

Commented [GW3]: No apostrophe needed here.

Commented [GW4]: Entity title corrected.

8 CAR § 332-402. Procedure for obtaining a ~~Certificate of Need~~ certificate of need.

(a) ~~—~~ **Notice of ~~Intent~~intent.**

(1) ~~—~~ At least fifteen (15) days prior to applying for a ~~Certificate~~ certificate of ~~Need~~ need, the ~~Applicant~~ applicant must notify the Southwest Central Regional Solid Waste Management District, in writing, of its intent to submit such an application.

(2) ~~–~~The ~~Notice~~ notice of ~~Intent~~ intent shall include the following information:

(A) The name of the applicant;~~ and~~

(B) The applicant's address and telephone number; ~~and~~

(C) Whether the applicant is seeking a new or modified solid waste facility permit; and

(D) The classification of the permit sought, pursuant to ~~Arkansas Pollution Control and Ecology Commission,~~ Solid Waste Management Rules, 8 CAR pt. 60.

(b) ~~–~~**Application.**

~~(1) —~~Applicants requesting a ~~Certificate~~ certificate of ~~Need~~ need from the Southwest Central Regional Solid Waste Management District Board of Directors~~'~~ must submit an application to the ~~Southwest Central Regional Management District~~ district which includes, at minimum, the following information:

~~(A)~~ (1) The applicant's name, address, and phone number; ~~and~~

~~(B)~~ (2) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of the applicant's right to develop such property as a solid waste facility from said legal owner;~~ and~~

~~(C)~~ (3) The location of the proposed facility as shown on the applicable United States Geological Survey topographic map or maps; ~~and~~

~~(D)~~ (4) The size of the proposed facility; ~~and~~

~~(E)~~ (5) The capacity of the proposed facility; ~~and~~

~~(F)~~ (6) A ~~Description~~ description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction;~~ and~~

~~(G)~~ (7) Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation in 8 CAR § 332-~~XXX~~407; and

Commented [GW5]: Formatting. A space is used instead of a tab between subsection designation and the first word.

Commented [GW6]: Mini catchlines are presented in bold and followed by a period with the first word capitalized.

Commented [GW7]: CSG 2.4(a)(3)(A): Either "and" or "or" appears at the end of the next-to-last subdivision.

Commented [GW8]: Revised citation. When citing to a part, CAR style uses the name of the part, if applicable, followed by a citation to the part as a whole. CSG 3.1(b).

Commented [GW9]: Revised numbering to be consistent with CAR style and use of a mini catchline.

Commented [GW10]: Because this reference is not possessive in nature, we have revised to omit the apostrophe.

Commented [GW11]: Second reference in same section corrected; shortened per CSG 8.1(a)(2).

Commented [GW12]: Corrected for subject-verb agreement.

Commented [GW13]: Numbering revised to be consistent with CAR style. CSG 2.

Commented [GW14]: Added section number.

_____~~(H)~~ (8) Any other information deemed necessary to decide of need or requested by ~~the Southwest Central Regional Solid Waste Management District~~ district staff.

____8 CAR § 332-403. Completeness ~~Determination~~ determination.

____(a) ~~-~~Within fourteen (14) days of receipt of the initial application, the Southwest Central Regional Solid Waste Management District staff will make a completeness determination of the application.

____(b) ~~-~~Any additional information required by the ~~Southwest Central Regional Solid Waste Management District~~ district to decide on the need of the proposed facility will be requested during this time.

____(c) ~~-~~If additional information is requested by ~~the Southwest Central Regional Solid Waste Management District~~ district staff, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

____8 CAR § 332-404. Public ~~Notice~~ notice.

____(a) ~~-~~When the Southwest Central Regional Solid Waste Management District staff has determined that an application for a ~~Certificate~~ certificate of ~~Need~~ need is complete, it shall give at least thirty (30) days' public notice ~~to~~ of the Southwest Central Regional Solid Waste Management District Board of Director~~'s~~' formal consideration of the ~~Certificate~~ certificate of ~~Need~~ need, during which the public may review and comment on the application.

____(b) ~~-~~The public notice shall include all of the following:

_____(1) ~~-~~A brief summary of the proposed solid waste facility for which a ~~Certificate~~ certificate of ~~Need~~ need has been requested; and

_____(2) ~~-~~The date, time~~,~~ and place of the public hearing on the ~~Certificate~~ certificate of ~~Need~~ need.

____(c) The notice shall be mailed to:

_____(1) ~~-~~Any person specified by law; and

Commented [GW15]: Subsequent reference shortened.

Commented [GW16]: Corrected possessive.

(2) ~~All person(s)~~ A person or persons who shall have requested advanced notice in writing of the ~~Southwest Central Regional Solid Waste Management District Board of Directors'~~ board's actions on ~~Certificates~~ certificates of ~~Need~~ need.

(d) Unless otherwise required by law, the notice shall be published in a newspaper~~,~~ or newspapers of general daily circulation selected by the ~~Southwest Central Regional Solid Waste Management District~~ district in its discretion.

8 CAR § 332-405. Public ~~Comment~~ comment.

The Southwest Central Regional Solid Waste Management District shall afford all interested person or persons a reasonable opportunity to submit written data, views or arguments, in writing, during the thirty-day ~~Public Notice~~ public notice period.

8 CAR § 332-406. Public ~~Hearing~~ hearing.

Prior to the Southwest Central Regional Solid Waste Management District Board of ~~Director's~~Directors' formal consideration of an application for a ~~Certificate~~ certificate of ~~Need~~ need, the Southwest Central Regional Solid Waste Management District shall hold a hearing to accept oral or written comments from the public concerning the application.

Commented [GW17]: Revised for consistency with CAR style

Commented [GW18]: Errant page break removed.

8 CAR § 332-407. Determination.

(a) Before the Southwest Central Regional Solid Waste Management District Board of Directors~~'~~ may issue a ~~Certificate~~ certificate of ~~Need~~ need, it must be determined that the applicant has demonstrated compliance with the following criteria:

(1) That the proposed solid waste facility is consistent with the regional planning strategy adopted by the Southwest Central Regional Solid Waste Management District Board of Directors in the:

(A) Regional ~~Needs Assessment~~needs assessment; or

(B) Regional ~~Solid Waste Management Plan~~ solid waste management plan~~.~~;

(2) That the proposed solid waste facility does not conflict with existing comprehensive land use plans of any local government entity;

(3) That the proposed solid waste facility does not disturb:

(A) ~~any~~ Any archeological site as recognized by the Arkansas Archeological Survey; and

(B) A rare and endangered species habitat as recognized by the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service~~.~~;

(4) That the proposed solid waste facility will not adversely impact local ecological conservation efforts including, but not limited to, those known and unknown to the applicant;

(5) ~~that~~ That the proposed solid waste facility will not adversely affect the public use of any local, state, or federal facilities including, but not limited to, parks and wildlife management areas;

(6) ~~that~~ That the proposed solid waste facility does not conflict with the requirements of ~~State~~ state or ~~Federal~~ federal laws and rules applicable to the location of the proposed facility;

(7) ~~that~~ That the proposed solid waste facility does not restrict the flow of the hundred-year floodplain, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment;

Commented [GW19]: Inserted missing section symbol

Commented [GW20]: Capitalized first word in list CSG 6.6

Commented [GW21]: The terms "state" and "federal" were revised to be consistent with CAR style regarding capitalization. CSG 6.2.

____(8)(A) ~~if~~ If the application is for a transfer station that proposes to transfer waste outside of the Southwest Central Regional Solid Waste Management District, the applicant must document that the ~~District~~ district to which waste will be transferred has been notified and that the ~~Board~~ board of the transferee-~~District~~district has approved the receipt of such waste.

_____~~(8)~~(B) ~~this~~ This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas~~.~~;

____(9) The applicant's detailed history and record, with respect to violations of ~~Environmental Laws~~ environmental laws and ~~Rules~~ rules of the United States, or any ~~State~~ state or ~~Political Subdivision~~political subdivision of a ~~State~~ state, must demonstrate substantial compliance with such laws and rules;

____(10) ~~the~~ The location of the applicant's proposed solid waste facility shall be consistent with the Southwest Central Regional Solid Waste Management District's ~~Needs~~ needs and its ~~Highway~~ highway and road system; and

____(11) If the application is for a landfill, the applicant must demonstrate a need based upon the Southwest Central Regional Solid Waste Management District's excess projected capacity that is currently permitted for operation, but in no event shall the Southwest Central Regional Solid Waste Management District's excess permitted projected capacity exceed thirty (30) years.

____(b) At the ~~Next~~ next Southwest Central Regional Solid Waste Management District Board of Directors' meeting, following the close of the thirty-day ~~Public Notice~~ public notice period~~,~~ as described in 8 CAR § 332-404~~. Public Notice~~, the Southwest Central Regional Solid Waste Management District Board of Directors will take up for consideration the application for a ~~Certificate~~ certificate of ~~Need~~ need.

____(c) The executive director and/or administrative staff of the Southwest Central Regional Solid Waste Management District will decide on whether the applicant has met all requirements of the ~~District's~~district's ~~Certificate~~ certificate of ~~Need~~ need ~~Issuance~~ issuance policy and advise the ~~Board~~ Southwest Regional Solid Waste Management District Board of Directors accordingly.

Commented [GW22]: Lower cased to be consistent with CAR style regarding capitalization. CSG 6.1(a).

Commented [GW23]: Revised to be consistent with CAR style regarding citation of a CAR section. CSG 3.1(a)

Commented [GW24]: Consider in a future promulgation revising to avoid the use of "and/or". CSG 13.6

Commented [GW25]: Revised for consistency with CAR style regarding references to entities. CSG 8.1(b)(1).

____(d) ~~Person(s)~~ A person or persons supporting the issuance of the certificate of need and those opposing the issuance will be provided with a total of ten (10) minutes for each side to address the staff's recommendation, which time may be extended equally by the Southwest Central Regional Solid Waste Management District Board of Directors when further presentation would aid the Southwest Central Regional Solid Waste Management District Board of Director~~'~~s' decision.

____8 CAR § 332-408. Board decision.

____(a) The Southwest Central Regional Solid Waste Management District shall issue a written decision setting forth its determination.

____(b) ~~the~~ The decision shall state the basis for issuing or denying the ~~Certificate~~ certificate of ~~Need~~ need.

____(c) ~~a~~ A copy of the written decision will be sent to the following:

_____(1) ~~the~~ The applicant~~,~~;

_____(2) ~~the Arkansas Department of Environmental Quality (ADEQ),~~ The Division of Environmental Quality; and

_____(3) ~~any~~ Any interested person or persons who makes a written request for a copy of the decision.

____8 CAR § 332-409. Appeal of decision.

____Any interested person or persons shall have the right to appeal the issuance or denial of a certificate of need to the Secretary of the Department of Energy and Environment in accordance with Arkansas Pollution Control and Ecology Commission rules governing such appeals.

____8 CAR § 332-410. Continuing effect.

____(a)(1) ~~upon~~ Upon receipt of a certificate of need, the applicant has sixty (60) days in which to file a pre~~-~~application for a solid waste facility permit with the ~~Department~~ Division of Environmental Quality or the certificate of need shall become void.

Commented [GW26]: Hyphen is omitted with the prefix "pre." CSG 9.7(a)

~~(a)~~(2) ~~upon~~ Upon receipt of a certificate of need, the applicant has six (6) months in which to file a permit application for a solid waste permit facility with the ~~Department of Environmental Quality~~ division or the certificate of need shall become void.

(b) Certificates of need are issued to a specific person or persons and are not transferrable under any circumstances.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Arkansas Dept. of Environmental Quality
BOARD/COMMISSION Southwest Central Regional Solid Waste Management District
PERSON COMPLETING THIS STATEMENT Courtney Decker
TELEPHONE NO. (501) 302-5027 **EMAIL** CDecker@wcapdd.org

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Certificate of Need Issuance

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total_____	Total_____

(b) What is the additional cost of the state rule?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total_____	Total_____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$_____	$_____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$_____	$_____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.