

# ARKANSAS REGISTER

## Transmittal Sheet

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For Office  
Use Only:

Effective Date 3/13/2014 Code Number 227.00.13-001F

Name of Agency Pulaski County Regional Solid Waste Management District d/b/a Regional Recycling & Waste Reduction District

Department \_\_\_\_\_

Contact Desi Ledbetter E-mail Desi.Ledbetter@regionalrecycling.org Phone 501-340-8787

Statutory Authority for Promulgating Rules Ark. Code Ann. § 8-6-704 and 714; 25-15-204

Rule Title: Rules and Regulations of the Pulaski County Regional Solid Waste Management District d/b/a Regional Recycling & Waste Reduction District

Intended Effective Date (Check One)	Date
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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person J. Mark Davis E-mail Address jmdavis@wj.com Date 02/11/2014

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

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Desi Ledbetter  
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02/11/2014 Date

STATE OF ARKANSAS  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

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**Rules and Regulations**  
**of the**  
**Pulaski County Regional**  
**Solid Waste Management District**  
**d/b/a**  
**Regional Recycling &**  
**Waste Reduction District**

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## REGULATION 1

### DESCRIPTION OF THE DISTRICT, ITS GENERAL COURSE AND METHOD OF OPERATION

**Authority: Ark. Code Ann. § 25-15-203(a)(1)**

During its 1991 session, the Arkansas General Assembly enacted twelve laws pertaining to solid waste. Act 752 established the solid waste districts and mandates regional solutions for solid waste management, and Act 749 set a state recycling goal of 40% of the 1991 waste stream by the year 2000.

The Regional Recycling & Waste Reduction District began as the Pulaski County Regional Solid Waste Management District in 1992 - one of eighteen Arkansas regional solid waste management districts authorized under Act 752 of 1991. The District includes all of Pulaski County. The District's Board of Directors is chaired by the Pulaski County Judge and consists of the mayors of Jacksonville, Little Rock, Maumelle, North Little Rock, and Sherwood. The mayors of the smaller communities of Alexander, Cammack Village, and Wrightsville are ex-officio members of the Board.

While the Board of Directors establishes policy and governs the District, a Technical Committee made up of the Public Works Directors or Sanitation Managers of the member local governments meets regularly to analyze solid waste issues and make recommendations to the Board.

In Arkansas, solid waste management districts assist local governments in planning and overseeing municipal solid waste management programs and services. Municipal solid waste (MSW) refers to all residential and commercial solid wastes including garbage, trash, electronics, waste tires, batteries, motor oil and household chemical wastes. Districts also administer recycling grants and waste tire management programs funded by the State of Arkansas through the Department of Environmental Quality.

The District operates with revenues from the Solid Waste Management and Recycling Fund established in Ark. Code Ann. § 8-6-605, from grant programs, and from a tipping fee of 30 cents per ton of solid waste deposited in the landfills in Pulaski County, and a fee of \$2.00 per ton applied to solid waste generated within the District and delivered outside the District, and vice versa, as authorized by Ark. Code Ann. § 8-6-714. Also, the District receives income from hauler permits, waste tire processing fees, and interest on investments.

The Regional Recycling and Waste Reduction District works with Pulaski County jurisdictions in the areas of garbage and yard waste collection, composting,

e-waste, recycling, tires, and household chemicals. The cities and the County provide their own services, but use a regional approach to achieve system efficiencies through contract negotiation and administration.

In early 2008, the name of the Pulaski County Solid Waste Management District was changed to the Regional Recycling and Waste Reduction District to highlight its highest priorities - recycling and waste reduction.

For more information about the solid waste operations or laws, contact the District at (501) 340-8787. Submissions and requests, including Freedom of Information Act requests, may be addressed to the District at 300 Spring Street, Suite 200, Little Rock, Arkansas 72201.

## REGULATION 2

### PULASKI COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT ORGANIZATION, PURPOSE, AND GOVERNANCE

Authority: Ark. Code Ann. § 8-6-703, 8-6-704.

#### SECTION 1. Organization

1.1 Authorization. Formation of the Pulaski County Regional Solid Waste Management District was authorized by Pollution Control & Ecology Commission Minute Order 92-25, dated April 24, 1992, pursuant to Act 752 of 1991.

1.2 Jurisdiction Boundaries. The Pulaski County Regional Solid Waste Management District, hereinafter referred to as the "District" shall encompass the county of Pulaski.

1.3 Period of Duration. The District shall continue to exist until dissolved or abolished by unanimous agreement of the member jurisdictions, or pursuant to a procedure established by law.

#### SECTION 2. Purpose

2.1 Purpose. The purpose of the District is the protection of the public health and the state's environmental quality through the development and maintenance of a solid waste management district for Pulaski County and the municipalities of Alexander, Cammack Village, Jacksonville, Little Rock, Maumelle, North Little Rock, Sherwood, and Wrightsville. Further, the District shall serve to address the local exigencies, needs and other requirements as are more clearly defined in Act 752 of 1991.

#### SECTION 3. Regional Solid Waste Management District Board

3.1. Governance. The District shall be governed by a regional solid waste management district board, hereinafter called "Board".

3.2. Members. The Board shall be composed of six persons who serve as local elected officials: the Pulaski County Judge and the Mayors of Jacksonville, Little Rock, Maumelle, North Little Rock, and Sherwood, who shall be succeeded on the Board by their respective successors in office.

3.3. Regular Meeting. Regular meetings of the Board shall be held quarterly, pursuant to written notice thereof, on the date as set by the Chairman of the Board.

3.4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairman of the Board, or by any two Directors. The person, or persons, authorized to call special meetings of the Board may fix the place for holding any special meeting of the Board called by them so long as said meetings are conducted in Pulaski County, Arkansas.

3.5. (a) Notice. Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed (including electronic mail) to each Director at his, or her, business address. If postal mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed.

(b) Waiver. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.6. Quorum. A majority of the number of directors fixed by this Article shall constitute a quorum for the transaction of business at any meeting of the Board, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

3.7. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

3.8. Proxies. A Director may appoint a proxy to vote or otherwise act for him/her by signing an appointment form. A properly signed and dated proxy shall be acceptable for voting of absent members for a specific meeting date. The appointment becomes effective when received by the secretary or other officer or agent authorized to tabulate votes and may be limited or restricted by the grantor. A voting member may accept only one proxy, and; therefore, may cast only his/her vote and one proxy vote on any given motion of the Board.

#### **SECTION 4. Officers**

4.1. Officers. The officers of the District shall be a Chairman, Vice Chairman, and Secretary. The Chairman shall be the County Judge of Pulaski County; the Vice-Chairman shall be the Mayor of North Little Rock; and the



Secretary shall be the Mayor of Little Rock. Such other officers and assistants as may be deemed necessary may be elected or appointed by the Board of Directors.

4.2. Chairman. The Chairman shall: (a) chair the regular and special meetings of the District Board of Directors; (b) represent the District before public and private agencies and organizations as authorized by the Board and as necessary to perform the duties and functions of the District

4.3. The Vice Chairman. The Vice Chairman shall: (a) in the absence of the Chairman, chair the regular and special meetings of the District Board of Directors; (b) in the absence of the chairman, and as authorized by the Board, represent the District before public and private agencies and organizations as necessary to perform the duties and functions of the District.

4.4. Secretary. The Secretary shall in general, perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the Chairman or the Board.

4.5. Custodian of the Records. The Executive Director of the District staff shall be the custodian of the records, minutes, notices, instruments, contracts, resolutions, and other documents of the Regional Solid Waste Management District, which shall be maintained at the District Office.

4.6. Salaries. No officer who is a member of the Board shall receive any salary of or from the District provided, however, that officers and Directors may be reimbursed for properly documented expenses they incur on behalf of the District.

## **SECTION 5. Powers and Duties**

5.1. Statutory Powers and Duties. The Board shall have those duties and powers as set forth in Act 752 of 1991 (Codified at Ark. Code Ann. §8-6-704) and set out herein below:

(a) The Board shall have the following powers and duties:

(i) To collect, study, and initially evaluate the solid waste management needs of all localities within the District, as provided in Ark. Code Ann. §8-6-716 and to publish their findings as a regional needs assessment;

(ii) To evaluate the solid waste needs of the District, and thereby update the regional needs assessment as appropriate;

(iii) To formulate recommendations to all local governments within the district on solid waste management issues, and to formulate plans for providing adequate solid waste management;

(iv) To issue or deny certificates of needs to any applicant for a solid waste disposal facility permit within the District with the exception of permits for landfill when a private industry bears the expense of operating and maintaining the landfill solely for disposal of waste generated by the industry of a similar kind of character;

(v) To petition the Arkansas Pollution Control and Ecology Commission or Director of the Arkansas Department of Environmental Quality to issue, continue in effect, revoke, modify, or deny any permit for any element of solid waste management system located within the District based on compliance or noncompliance with solid waste management plan to the District;

(vi) To adopt such rules or regulations pursuant to the Administrative Procedure Act, Ark. Code Ann. §24-15-201 et seq., as are reasonably necessary to assure public notice and participation in any findings or rulings by the Board and to administer the duties of the Board;

(vii) To establish programs to encourage recycling;

(viii) To maintain an office at such places as it may determine;

(ix) To sue and be sued in its own name and to plead and be impleaded;

(x) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the district, including but not limited to entering into contracts and agreements with private entities for provisions of services; and,

(xi) To establish and collect rents, fees, and charges as authorized by law.

(xii) To carry out all other powers and duties conferred by Act 752 of 1991, and other applicable laws.

(b) Other Powers and Duties. The Board may:

(i) Authorize the District to apply for such permits, licenses, certificates, grants, or approvals as may be necessary or proper to construct,

maintain, and operate any portion of a solid waste management system, and to obtain, hold and use such licenses, permits, certificates, grants, or approvals;

(ii) Employ such engineers, architects, attorneys, real estate counselors, appraisers, financial advisors, and other consultants and employees as may be required in the judgment of the Board and fix and pay their compensation from funds available to the District therefore;

(iii) Purchase all kinds of insurance including, but not limited to insurance against tort liability, business interruption, and risk of damage to property; and

(iv) Issue licenses to persons engaged in the business of hauling solid waste.

## **SECTION 6. Contracts, Loans, Checks and Deposits**

6.1. **Contracts.** The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the District, and such authority may be general or confined to specific instance.

6.2. **Loans.** No loans shall be contracted on behalf of the District and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

6.3. **Checks, drafts, etc.** All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the District, shall be signed by such officer or officers, agent or agents, of the District and in such manner as shall from time to time be determined by resolution of the Board.

6.4. **Deposits.** All funds of the District not otherwise employed shall be deposited from time to time to the credit of the District in such banks, trust companies, or other depositories as the Board may select.

6.5. **Appropriation Criteria.** The Board shall determine the annual funding appropriations required to be levied or assessed in accordance with Act 752 of 1991 and other applicable laws by considering all available revenue sources and formulas, included, but not limited to the availability of federal grant, and other funds, revenues generated from dedicated sources, service allocation formulas, and other factors, data and information as the Board deems necessary.

6.6. Annual Audit. The Board shall cause to be conducted, by qualified accounting firms, annual audits of the District's financial management systems and all financial transactions.

**SECTION 7. Fiscal Year**

7.1. Fiscal Year. The fiscal year of the District shall begin on the 1<sup>st</sup> day of July of each year and end on the last day of the following June.

## **REGULATION 3**

### **REGIONAL SOLID WASTE MANAGEMENT AND RECYCLING FUND AND FEES**

Authority: Ark. Code Ann. §§ 8-6-710, and 8-6-714

#### **SECTION 1. Description and Purpose**

1.1 Arkansas Act 752 of 1991 established a system of regional solid waste management and planning in Arkansas, forming regional solid waste management districts and describing their powers, duties and responsibility.

1.2 Among other things, the regional solid waste management districts are responsible for planning, studying and evaluating the solid waste management needs of their areas and publishing regional needs assessments and regional solid waste management plans which then guide decisions for solid waste management systems development and operation.

1.3 In order to carry out these duties and powers, the District must be able to defray the cost of overhead, maintenance and operation of its office to compensate professional staff, to cover the cost of contracts into which it enters and to meet other necessary expenses.

#### **SECTION 2. Definitions**

2.1 "Board" means the Pulaski County Regional Solid Waste Management District Board of Directors.

2.2 "District" means the Pulaski County Regional Solid Waste Management District.

2.3 "District Solid Waste Management and Recycling Fund" means the combined proceeds of the solid waste fees levied by the District.

2.4 "Materials in the recycling, or composting, process" means ferrous and nonferrous metals diverted or removed from the solid waste stream so that they may be reused, as long as such materials are processed or handled using reasonably available processing equipment and control technology taking cost into account, and a substantial amount of the materials are consistently utilized to manufacture a product which otherwise would have been produced using virgin material.

2.5 "Permitted landfill facilities" means a permitted landfill under the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 et seq.

2.6 "Solid Waste" means all putrescible and nonputrescible waste in solid, semisolid, or liquid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, waste paper, waste paperboard, and all other solid and semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities, but does not include materials in the recycling, or composting, process.

### **SECTION 3. Authorization**

3.1. Arkansas Code Ann. §8-6-710. Solid Waste Management Responsibility.

The Board is responsible for the solid waste management of the District, which by necessity includes the collection, disposal, treatment and general management of the District's whole system of operations.

3.2. Arkansas Code Ann. §8-6-711. Solid Waste Management System.

The Board is authorized to contract concerning facilities of any nature necessary or desirable for the control, collection and disposal, treatment of other handling of solid waste.

3.3. Arkansas Code Ann. §8-6-714. Rents, Fees, and Charges-Collection by Utilities.

The Board may fix, charge and collect rents, fees and charges for the disposal, treatment or other handling of solid waste by the District. Notwithstanding that the District does not itself own and operate the landfills nor the fleet of collection vehicles, the management of the total system of waste disposal and treatment is included in the authority of the Board to raise revenues.

### **SECTION 4. Purpose and Applicability**

4.1. There is established a District Solid Waste Management and Recycling Fund for the Purpose of financing District operations and activities, to be supported by the following fees.

(a) There is fixed and levied a solid waste volume-based fee of 30 cents per ton of solid waste disposed of at all permitted landfill facilities within the District's boundaries.

(b) There is fixed and levied a fee of \$2.00 per ton on solid waste generated within the District and delivered to a transfer station or landfill outside the District for disposal, and on solid waste generated outside the District and delivered within the District for disposal.

## **SECTION 5. Scope**

5.1. The District Solid Waste Management and Recycling Fund shall be used exclusively for financing the District's operations and activities as described in the District's annual operating budget.

## **SECTION 6. Administrative Procedures**

6.1. Landfill owners/operators shall remit checks to the District each quarter, with the amounts based on actual volumes of solid waste disposed of or delivered, as reported to the Arkansas Department of Environmental Quality on its quarterly reporting form. A copy of the completed form shall accompany quarterly payments to the District.

## **SECTION 7. Enforcement and Penalties**

7.1. Arkansas Code Ann. §8-6-722 provides that any person who violates this regulation of the District shall be deemed guilty of a misdemeanor. Upon conviction, the persons shall be subject to imprisonment of not more than thirty (30) days or a fine of not more than one thousand dollars (\$1,000), or both imprisonment and fine.

## REGULATION 4

### HAULER LICENSING

#### **SECTION 1. Authority and Purpose.**

1.1 The Pulaski County Regional Solid Waste Management District is required by Act 752 of 1991 to enact and enforce a licensing program for all haulers who collect or transport solid waste in the District. See Ark. Code Ann. § 8-6-721. The purpose of the licensing program is to protect the public health, safety and welfare through the monitoring of collection and transportation of solid waste by haulers in the district. This regulation applies to all haulers of solid waste of all types within the District.

#### **SECTION 2. License Required.**

2.1 A person who engages in the business of hauling solid waste must obtain a license from the Pulaski County Regional Solid Waste Management District if:

- (a) The person is engaged in the collection of solid waste within the district; or
- (b) Is engaged in the transportation of solid waste for disposal or storage in the district.

#### **SECTION 3. Information for License.**

3.1 An Applicant for a license shall provide the following information to the Board. Applicants may use the form below for this purpose:

- (a) Proof of Insurance, Vehicle Year, Make, Model, VIN #, License #, Size in Cubic Yards (L\*W\*H divided by 27);
- (b) The service area of the business (Pulaski County, Arkansas or the US), landfills used, and whether any solid waste is or will be transported out of state.
- (c) Type of solid waste hauled (all types, or only process waste and special materials as defined in Pollution Control and Ecology Commission Regulation 22).



## **SECTION 4. Fees**

4.1. The Pulaski County Regional Solid Waste Management District Board hereby assesses the following annual license fees for the collection and transportation of solid waste. These fees apply to heretofore defined haulers.

- (a) Up To Two Vehicles. By January of each year all current haulers subject to this program shall be assessed a license fee of \$50 for each vehicle up to 5 cubic yards capacity for up to two such vehicles registered and \$100 for each vehicle of 5 cubic yards capacity and over for up to two such vehicles registered.
- (b) More Than Two Vehicles. A Licensee with more than two vehicles shall pay an additional fee of \$25 per vehicle for each vehicle of less than 5 cubic yards capacity up to a maximum fee of \$1,000 and an additional fee of \$50 for each vehicle of 5 cubic yards capacity and over up to a maximum fee of \$1,000. In no event, shall a licensee be assessed fees exceeding \$1,000, except when assessed a penalty for late payment of fees as described below.
- (c) Temporary Licenses. A temporary license may be obtained by persons who haul waste less than 6 times per year at the rate of ½ of the permanent haulers fees. \$25 for the vehicle up to 5 cubic yards and \$50 for the vehicle 5 cubic yards and over.
- (d) Proration of Fees. If a new hauler is issued a license after February, the fees will be pro-rated quarterly based on the number of calendar quarters remaining in the calendar, including the quarter of the date on which the license is issued.
- (e) Failure to Obtain License. Failure to obtain a license by March 1st of each year will result in the hauler being prohibited from using a permitted landfill facility within the Pulaski County Regional Solid Waste Management District until and unless the hauler obtains the license.

**PULASKI COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT  
SOLID WASTE HAULER LICENSING FORM**

**REGISTRANT:**

**OWNER (If different):**

**Name: Address:**

**Telephone Number:**

Hauler Lic. No.	Vehicle Make	Vehicle Model	Vehicle Year	Vehicle ID Number	Vehicle Lic No.	Vehicle Size in Yds.	Type of Solid Waste Hauled

PULASKI COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT  
300 SPRING BUILDING, SUITE 200  
LITTLE ROCK, AR 72201  
(501) 340-8787

## REGULATION 5

### CERTIFICATES OF NEED FOR SOLID WASTE MANAGEMENT FACILITIES

#### A. GENERAL

##### SECTION 1. Authority and Purpose

1.1 Ark. Code Ann. § 8-6-706 (Supp. 1999) requires all applicants for a solid waste landfill or transfer station permit to obtain a Certificate of Need from the Regional Solid Waste Management Board with jurisdiction over the proposed site prior to submitting the application to the Arkansas Department of Environmental Quality. The purpose of this Regulation is to establish standards and procedures for the issuance of Certificates of Need in the Pulaski County Regional Solid Waste Management District.

1.2 Definitions. As used in this Regulation, the following definitions shall apply:

- (a) "Certificate of Need" means a certificate issued by the Board to any Person proposing to obtain a permit for a solid waste management 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 Public Comment 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. and does not include permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry.
- (e) "Solid Waste" means all putrescible and nonputrescible wastes in solid, semisolid or liquid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, wastepaper, waste paperboard, and all other solid and semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities, but does not include

materials in the recycling process as the same are defined in Ark. Code Ann. § 8-6-702.

- (f) "Solid Waste Facility" means a landfill or transfer station required to obtain a Certificate of Need from the Board pursuant to Ark. Code Ann. § 8-6-706.

1.3 **Certificate of 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 District must obtain a Certificate of Need from the Board prior to submitting the application to the Arkansas Department of Environmental Quality.

## **SECTION 2. Procedure for Obtaining a Certificate of Need**

2.1 **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; and
- (c) Whether the applicant is seeking a new or modified Solid Waste Facility permit and the classification of the permit sought pursuant to Pollution Control and Ecology Commission Regulation 22.

2.2 **Application Procedure.** Persons requesting a Certificate of Need from the Board 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 applicant's 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 USGS topographic map(s);
- (d) The size of the proposed facility and capacity;

- (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 in Section 2.07 below ; and
- (g) Any other information deemed necessary to make a determination of need, or requested by the District staff.

2.3 Completeness Determination. Within fourteen (14) days of receipt of the initial application, the District staff will make a completeness determination of the application. Any additional information required by the District 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 staff, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

#### 2.4 Public Notice

- (a) When the 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 Board's formal consideration of the Certificate of Need, during which period the public may review and comment on the application.
- (b) The notice shall include a brief summary of the proposed Solid Waste Facility for which a Certificate of Need has been requested. 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 any person specified by law and to all persons who shall have requested advance notice in writing of the Board's actions on Certificates of Need.
- (d) Unless otherwise required by law, the notice shall be published in a newspaper(s) of general daily circulation selected by the District in its discretion.

2.5 Public Comment. The District shall afford all interested persons reasonable opportunity to submit written data, views, or arguments, in writing, during the thirty (30) day public notice period.

2.6 Public Hearing. Prior to the Board's formal consideration of an application for Certificate of Need, the District shall hold a hearing to accept oral and written comments from the public concerning the application.

2.7 Determination.

- (a) Before the Board may issue a Certificate of Need, it must determine that the applicant has demonstrated compliance with the following criteria:
  - (i) That the proposed Solid Waste Facility is consistent with the regional planning strategy adopted by the Board in the regional needs assessment or regional solid waste management plan;
  - (ii) That the proposed Solid Waste Facility does not conflict with existing comprehensive land use plans of any local government entity;
  - (iii) That the proposed Solid Waste Facility does not disturb an archaeological site as recognized by the Arkansas Archaeological Survey, or a rare and endangered species habitat as recognized by the Arkansas Game and Fish Commission or the United States Fish and Wildlife Service;
  - (iv) That the proposed Solid Waste Facility will not adversely impact Conservation Priority Sites (highest, high, and medium) identified in the District's most recently adopted edition of the Ecological Assessment of Pulaski County, Arkansas (Phase II Update, prepared by the Nature Conservancy, Arkansas Field Office), May 2002.
  - (v) 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;
  - (vi) That the proposed Solid Waste Facility does not conflict with the requirements of state or federal laws and regulations applicable to the location of the proposed facility;

- (vii) That the proposed Solid Waste Facility does not restrict the flow of the 100-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;
  - (viii) If the application is for a transfer station that proposes to transfer waste outside of the 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;
  - (ix) The applicant's detailed history and record with respect to violations of environmental laws and regulation of the United States, or any state or political subdivision of a state, must demonstrate substantial compliance with such laws and regulations;
  - (x) The location of the applicant's proposed Solid Waste Facility shall be consistent with the District's needs and its highway and road system; and
  - (xi) If the application is for a landfill, the applicant must demonstrate a need based upon the District's excess projected capacity that is currently permitted for operation, but in no event shall the District's excess permitted projected capacity exceed thirty (30) years.
- (b) At the next Board Meeting, following the close of the thirty (30) day public Notice period described in Section 2.04, the Board will take up for consideration the application for a Certificate of Need. The Executive Director of the District staff shall present a recommended action to the Board. 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 Board when further presentation would aid the Board's decision.
- (c) The District shall issue a written decision setting forth its determination. The decision shall state the basis for issuing or

denying the Certificate of Need. A copy of the decision will be sent to the following:

- (i) the applicant;
- (ii) Arkansas Department of Environmental Quality; and
- (iii) Any Interested Person who makes a written request for a copy of the decision.

2.8 Appeal of Decision. Any interested Person shall have the right to appeal the issuance or denial of a Certificate of Need to the Director of the Arkansas Department of Environmental quality in accordance with Commission regulations governing such appeals.

2.9 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 Facility permit with the Arkansas Department of Environmental Quality, or the Certificate of Need shall become void.
- (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 Facility permit with the Arkansas Department of Environmental Quality, or the Certificate of Need shall become void.
- (c) Certificates of Need are issued to a specific Person and are not transferable under any circumstances.