

RULES, REGULATIONS
and
ADMINISTRATIVE PRACTICES AND PROCEDURES

OF THE
NORTHWEST ARKANSAS REGIONAL SOLID WASTE
MANAGEMENT DISTRICT

March 21, 2001

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CHAPTER A: ADMINISTRATIVE PRACTICES AND PROCEDURES

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Subchapter 1. Authority and Definitions

§1.01	Authority
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§ 1.01 Authority

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

The records of District activities, including any rule and procedures adopted by the Board of Directors, shall be maintained at the offices of the Northwest Arkansas Economic Development District, P.O. Box 190, 818 Highway 62-65-412 North, Harrison, AR. These records shall be available to any citizen during regular business hours and as defined by the Arkansas Freedom of Information Act.

§ 1.02 Definitions

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

1. “Administrative Procedure Act” means the Arkansas Administrative Procedure Act codified at Arkansas Code Annotated §25-15-201 to 214, as amended from time to time.
2. “ADEQ” or “Department” means the Arkansas Department of Environmental Quality.
3. “Board” means the Board of Directors of the Northwest Arkansas Regional Solid Waste Management District.
4. “Certificate of Need” means a certificate issued by the Board to any person proposing to obtain a permit for a solid waste facility.
5. “Certificate of Need Review” means review of the application for a Certificate of Need by the District.

6. “Class I waste” means household, commercial, and industrial; and small quantities of conditionally exempt hazardous waste.
7. “Class 3 waste” means non-hazardous commercial and industrial wastes that are permitted by the Department to be disposed of in a Class 3 landfill.
8. “Class 4 waste” means bulky, inert, non-putrescible wastes that do not degrade, or degrade very slowly. Class 4 waste include construction and demolition wastes, appliances, furniture, stumps, limbs and other bulky wastes that are not normally collected with other household or commercial waste.
9. “Commission” means the Arkansas Department of Pollution Control and Ecology Commission
- 10.. “District” means the Northwest Arkansas Regional Solid Waste Management District, which include the counties of Baxter, Boone, Marion, Newton, and Searcy and the municipalities and unincorporated areas within those counties.
11. “Director” means the Director of the Northwest Arkansas Regional Solid Waste Management District.
12. “Hauler” means a person engaged in the collection and/or transportation of solid waste, *both* Class I and Class IV, whether full or part-time, for storage and/or disposal. Hauler does not include a person transporting his/her own household waste to a permitted facility or a homeowner transporting his/her own Class IV waste to a permitted facility.
13. “Interested Persons” means any person who notifies the District of their interest in being notified of District activities and is on the District’s mailing list.
14. “Landfill” means a permitted landfill under the Arkansas solid Waste Management Act, Arkansas code Annotated §8-6-201 *et seq.* As used herein, the term does not include, however, permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or waste of a similar kind or character.
15. “Person” means any individual, partnership, corporation, association, or public or private organization of any character.
16. “Process waste” means solid waste resulting from an industrial/manufacturing and/or processing operation.
17. “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.

18. “Solid Waste” means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. §1342, or source, special nuclear, or by-products material as defined by the Atomic Energy Act of 1954, as amended (68 Stat.923).
19. “Solid Waste Facility” means a Landfill as defined in this Subchapter or Transfer Station as defined in this Subchapter.
20. “Transfer Station” means any facility used to manage the removal, compaction and transfer of solid waste from collection vehicles and containers, and from other private and commercial vehicles to a greater capacity transport vehicles. Transfer stations are not considered disposal facilities.

SUBCHAPTER 2. RULEMAKING

- § 2.01 Proposed Action*
- § 2.02 Notice of Proposed Action*
- § 2.03 Public Comment*
- § 2.04 Public Hearing*
- § 2.05 Final Action*
- § 2.06 Emergency Proceedings*
- § 2.07 Petition for Rulemaking*
- § 2.08 Filing*
- § 2.09 Effective Date*
- § 2.10 Certification of Regulations*
- § 2.11 Official Records*
- § 2.12 Substantial Compliance*
- § 2.13 Preemption by State or Federal Law*
- § 2.14 Severability*

§ 2.01 Proposed Action

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

§ 2.02 Notice of Proposed Action

- (A) Notice of the proposed new rule or regulations, modification or repeal of an existing rule or regulation, shall be given to the public via publication in the Arkansas Democrat Gazette and in newspapers of general daily and weekly circulation within the District as determined by the Board of Directors or their designee.
- (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 proposal from the District. The notice shall inform the public of the time, place and manner in which they may present their comments.
- (C) Notice shall also be mailed, via first class mail, to all persons who request advance notice, in writing, of any rulemaking by the District.

§ 2.03 Public Comment

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

§ 2.04 Public Hearing

- (A) The District may hold a public hearing to take oral comments from the public concerning any proposed action.
- (B) Should a public hearing be held, notice of the hearing shall be made in the manner provided in §2.02 no less than ten (10) days in advance of the hearing.
- (C) The District must hold a hearing to accept oral comments from the public concerning any proposed rulemaking action if requested by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having not less than twenty-five (25) members. The District shall fully consider all written and oral submissions pertaining to the rulemaking actions before finalizing the language of the proposed rule.
- (D) Where Districts are required by law to develop regulations and to make those regulations on the record after opportunity for a public hearing, the provision of that law shall apply in place of these requirements.

§ 2.05 Final Action

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

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

§ 2.06 Emergency Proceedings

Should the District find that imminent peril to the public health, safety or welfare requires adoption of a regulation upon fewer than 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 regulation. Any emergency regulation so adopted may be effective for no longer than one hundred and 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 the 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 in writing for the denial.

§ 2.08 Filing

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

§ 2.09 Effective Date

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

§ 2.10 Certification of Rules

A copy of any rule adopted by the Board may be certified by signature of the Chairman and the Secretary of the Board, or by such method as determined by the Board from time to time.

§ 2.11 Official Records

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

§ 2.12 Substantial Compliance

Every rulemaking action by the District, after the effective date of this Subchapter, shall be effective if the rulemaking actions substantially comply 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 of 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 provision of any District rule or the application thereof to any Person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of District rules, which can be given effect without the invalid provision or application, and to this end the provisions of all District rules shall be considered severable.

CHAPTER B: CERTIFICATES OF NEED

Subchapter 3	Authority and Criteria
Subchapter 4	Procedures



Subchapter 3 Authority and Criteria

- § 6.01 Authority
- § 6.02 Definitions
- § 6.03 Applicability
- § 6.04 Criteria for Review
- § 6.05 Continuing Effect

§3.01 Authority

Arkansas Code Annotated § 8-6-704(6) authorizes regional solid waste management boards to adopt such rules or regulations pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 *et seq.*, as are reasonably necessary to assure public notice and participation in any finding or ruling of the board and to administer the duties of the board. Further, Ark. Code Ann. § 8-6-706(d)(7) authorizes Districts to adopt procedures for the issuance of Certificates of Need.

§3.03 Applicability

The regulations in this chapter (Chapter B) shall apply to all landfills and transfer stations proposed to be located either wholly or partially within the jurisdiction of the District or the expansion of any existing landfill within the jurisdiction of the District. These regulations shall apply to facilities that do not have a pre-application pending with ADEQ for a new permit or modifications of an existing permit as of the effective date of these regulations. A certificate of need is not required for landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of a similar kind or character.

§3.04 Criteria For Review

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

- (A) whether the proposed facility is consistent with the regional planning strategy adopted by the Board in the regional needs assessment or the regional solid waste management plan;
- (B) whether the proposed facility conflicts with existing comprehensive land use plans of any local governmental entities;
- (C) whether the proposed facility disturbs an archeological site as recognized by the Arkansas Archaeological Survey, or a rare and endangered species habitat as recognized by either

the Arkansas State Game and Fish Commission or the United State Fish and Wildlife Service;

- (D) whether the proposed facility will adversely affect the public use of any local, state or federal facility, including, but not limited to, parks and wildlife management areas;
- (E) if located within a one hundred (100) year flood plain, the facility must not restrict the flow of a 100 year flood, reduce the temporary storage capacity of the flood plain, or result in washout of solid waste so as to pose a hazard to human health or the environment;
- (F) for landfills, whether the proposed facility provides landfill disposal capacity needed within the District. In no event shall the District's excess projected capacity for any class of landfill exceed twenty-five (25) years, including the proposed facility.
- (G) the service area to be served by the proposed facility; and
- (H) the detailed history of the applicant's record and that of the stockholders and officers with respect to violations of environmental laws and regulations of the United States or any state or political subdivision of any state; and
- (I) whether the applicant followed the procedures for obtaining a Certificate of Need in Subchapter 4.

The District will not consider the following when reviewing an application for a Certificate of Need:

- (J) the technical merits of the application related to the proposed or existing landfill or transfer station.
Technical merits of an application will be determined by the ADEQ.

§3.05 Continuing Effect

- (A) Upon receipt of a Certificate of Need by the District,, the applicant has sixty (60) days in which to file a pre-application for a solid waste landfill or transfer station permit with ADEQ. If a pre-application is not filed within the sixty (60) days, the Certificate of Need shall expire.
- (B) Upon receipt of a Certificate of Need by the District, the applicant has six (6) months in which to file a permit application for a solid waste landfill permit with ADEQ. If a permit application is not filed within six (6) months, the Certificate of Need shall expire.
- (C) Certificates of Need are issued to specific persons. Under no conditions or circumstances shall a Certificate of Need be transferred, assigned, or otherwise provided to any individual or organization other than as originally specified on the Certificate of Need.

SUBCHAPTER 4 Procedures For Obtaining A Certificate Of Need

- § 4.01 Notice of Intent
 - § 4.02 Application
 - § 4.03 Completeness Determination
 - § 4.04 Review Period
 - § 4.05 Public Hearing
 - § 4.06 Determination
 - § 4.07 Withdrawal of a Certificate of Need
 - § 4.08 Appeal of Decision
-

§4.01 Notice of Intent

At least thirty (30) 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) Name of the applicant;
- (B) Applicant's address and telephone number;
- (C) Whether the applicant is seeking a new, or transfer or reclassification of an existing landfill or transfer station permit;
- (D) The site of the proposed or existing solid waste landfill or transfer station;
- (E) Description of the geo-political jurisdictions to be served by the landfill and/or transfer station including population estimates by jurisdiction;
- (F) Confirmation from the Arkansas Department of Environmental Quality that the applicant has requested a statement concerning the current and projected solid waste landfill disposal capacity respective to the district and landfill class being proposed; and
- (G) Any other information deemed necessary by the Board or Director.

§4.02 Application

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

- (A) the applicant's name, address, and telephone number;
- (B) the name of the person having legal ownership of the land where the proposed facility will be located and documentation of a right to develop such property as a solid waste facility from the legal owner;
- (C) the location of the proposed facility as shown on a topographic map and a state or county road map;
- (D) the size of the proposed facility and capacity proposed;
- (E) a description of the geo-political jurisdictions to be served, including population estimates by jurisdiction;
- (F) documentation is information applicable to each of the criteria for evaluation listed in Section §6.04;
- (G) for landfill, the current permitted capacity for the appropriate landfill class within the district and the estimated increase in permitted capacity for the proposed facility or modification;
- (H) for transfer stations, a map showing the location of the proposed facility and all existing transfer stations within the District; and
- (I) and other information deemed by the Board or Director as necessary to make a determination of need.

§4.03 Completeness Determination

Within fourteen (14) days of receipt of the initial application, the District will make a completeness determination of the application. Any additional information the District determines is necessary to make a decision on the need of the proposed facility will be requested within this time. If additional information is requested by the District, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

§4.04 Review Period

Once the District has determined that an application for a certificate of Need is complete, the applicant will be notified and public notice of the review period will be placed in papers in the affected area for transfer stations and District-wide for landfills, as described in Section 2.02. The review period will begin on the date the applicant is notified of the completeness determination or the date of publication of notice of the review period, whichever is later. The review period will run for thirty (30) days. During the review period, public comment will be taken.

§4.05 Public Hearing

During the review period, the District will conduct a public hearing within the county where the proposed facility or modification is to be located. The notice for the public hearing will comply with §2.04.

§4.06 Determination

- (A) At the first scheduled Board meeting following the close of the review period, the Board will take up for consideration the application for a Certificate of Need.
- (B) Unless the Board has affirmatively issued or denied a Certificate of Need within one-hundred and twenty (120) days from the beginning of the review period, the Certificate of Need will be deemed to have been denied.
- (C) the Board shall issue written findings when making a determination. The findings shall state the basis for issuing or denying the Certificate of Need. The findings will be sent to the following:
 - (1) Applicant;
 - (2) ADEQ; and
 - (3) any interested persons who request such findings in writing from the District.

§4.07 Appeal of Decision

Any interested person as defined in §1.02 to a Certificate of Need determination shall have the right to appeal the issuance or denial of a Certificate of Need to the Director of ADEQ in accordance with ADEQ regulations governing such appeals. Only interested persons shall have a right of appeal.

CHAPTER C. CERTIFICATE OF COMPLIANCE

Subchapter 5. Authority

Subchapter 6. Notification by Applicant

Subchapter 7. District responsibilities

Subchapter 8. District Board decisions

The Certificate of Compliance program requires all persons seeking a composting or waste tire processing permit from the Arkansas Department of Environmental Quality to apply to the District for a Certificate of Compliance. The Certificate of Compliance is designed to ensure that solid waste facilities within the District are consistent with the District's Solid Waste Management Plan and to allow the Board of Directors the opportunity to comment on the proposed permit in a proactive position rather than in a reactive stance. A Certificate of Compliance is not required for persons seeking a Certificate of Need.

Subchapter 5. Authority

§5.01. Arkansas Code Annotated §8.6.712(b) authorizes Districts to issue rules or regulations which are consistent with and in accordance with all applicable environmental protection performance standards adopted by state law or incorporated by reference from federal law.

Subchapter 6. Notification by Applicant

The District should be notified in writing as to the intent of the person (s) who are applying for a solid waste permit from the ADEQ.

§6.01 For existing permitted operations the request should specify:

- (A) The present nature of the operation;
- (B) The types of permit(s) currently held by the operation;
- (C) Changes or additions to the permit (s) being sought by the person (s);
- (D) The geographic area affected by the permit(s) changes; and
- (E) Other information as may be requested by the Director.

§6.02 For new operations without existing permits the request should specify

- (A) The nature of the new operation and what materials will be processed;
- (B) the type of permit(s) for which the applicant will be applying;
- (C) The geographical area that will be affected by the permit(s);
- (D) The principal investors and/or owners and operator of the proposed facility; and
- (E) Other information as may be requested by the Director.

Subchapter 7. District staff responsibilities

§7.01 Upon written notification the District staff will:

- (A) Research the application for the proposed new facility and/or changes to existing facilities for compliance with the District's Solid Waste Management Plan and/or Waste Tire Management Plan;
- (B) Determine the completeness of the application, request additional information if merited, and prepare written material for presentation to the Board; and
- (C) Present the material to the Board at the next regularly scheduled meeting or, if circumstances require and with authorization from the Board Chairman, poll the board for an informal vote. Said vote to be made formal at the next regularly scheduled meeting.

Subchapter 8. District Board's Decisions

§8.01 The decision to issue a Certificate of Compliance will rest with the Board of Directors. The following conditions apply;

(A) Only the Board shall have the authority to issue a Certificate of Compliance;

(B) All decisions by the Board are final;

(C) An applicant whose request for a Certificate of Compliance is denied, may, within thirty (30) days, make an appeal to the Board for reconsideration providing new information is available or a question of procedure arises, and

(D) Upon approval, the Board's Chairman shall issue a letter indicating the approval of the applicant's request and that said permit is in compliance with the District's Solid Waste Management Plan and/or Waste Tire Management Plan.

CHAPTER D. WASTE HAULER LICENSING PROGRAM

- Subchapter 9. Purpose and Authority
- Subchapter 10. Definitions
- Subchapter 11. Scope of the Program
- Subchapter 12. Permitting Standards and Requirements
- Subchapter 13. Provisional Permits
- Subchapter 14. Requirements for Maintaining Permits
- Subchapter 15. Financial Responsibility
- Subchapter 16. Fees
- Subchapter 17. Penalties and Jurisdiction
- Subchapter 18. Severability

Subchapter 9. Purpose and Authority

The purpose of these requirements is to ensure the continued health and safety of citizens residing in the District by providing for a uniformly safe method of collecting and transporting

solid waste, and assisting the District in developing a data base essential for planning, evaluation, and management of solid waste within the District's geographic boundaries.

Arkansas Code Annotated §8-6-721. Licensing Haulers Of Solid Waste, requires regional solid waste management districts to establish and maintain a program for licensing haulers of solid waste within their respective jurisdictions and sets minimum standards for said licenses. ADEQ Regulation #22, Section 22.203 sets certain minimum requirements for licensing of solid waste haulers. The following are the requirements for any person who hauls solid waste inside the geographical boundaries of the District.

Subchapter 11. Scope of the Program

§11.01 The following persons must obtain a permit:

- (A) Any person who resides or does business within the jurisdiction of the District; and
- (B) Is engaged in the collection of solid waste within the district; or
- (C) Is engaged in the transportation of solid waste, either for disposal or storage in the District; and
- (D) Derives any of their income from the collection and/or disposal of solid waste collected, stored, or disposed of within the District.

A permit will only be issued to:

- (E) A person, as defined in §1.02 the State of Arkansas, a political subdivision of the state, an improvement district, a sanitation authority, or another regional solid waste management district.
- (F) Permits will be issued by the District when all aspects of the application have been completed, compliance with ADEQ standards for hauling solid waste have been achieved, and all fees have been paid.
- (G) The District may engage in the hauling of solid waste within its own district without licensure, but must comply with all applicable standards required under this section.

Subchapter 12. Permitting Standards and Requirements

§12.01 Requirements to obtain permits: Any person who transports solid waste must:

- (1) Hold the appropriate driver's license as defined by Arkansas Law.
- (2) Annually register all collection vehicles and/or trailers with the District providing the following information:
 - (a) Make, model, and year of vehicle or trailer;
 - (b) Vehicle or trailer ID number;
 - (c) License plate number;
 - (d) Vehicle or trailer owners name; and
 - (e) Description of the nature of the waste, size of the loads hauled and its destination.
- (3) Provide notice of any violations of Federal, State, Local, or District laws and/or regulations regarding the collection or disposal of solid or hazardous waste and proof of correction of those violations.

Subchapter 13. Temporary Permits

§13.01 Temporary Permits may be issued to applicants:

- (a) Whose vehicles are not in compliance with state laws, and/or ADEQ and District standards, or
- (b) Who have outstanding citations, unresolved complaints, and/or pending action by a federal, state, or local agency or government regarding the collection, transportation, or storage of solid or hazardous waste.

§13.02 Temporary permits will be issued for period of three or six months as determined by the Director.

§13.03 Fees will be assessed for temporary permits on a monthly pro-rated basis

§13.04 Status of temporary permits may be upgraded to regular, annual license when:

- (a) Applicant's vehicles and procedures are in compliance with federal, state, district or local laws or regulations; or
- (b) Applicant has corrected the violations to the satisfaction of the agency issuing the citation or complaint; or
- (c) Applicant has paid the remaining fees.

Subchapter 14. Requirements For Maintaining Permits.

All collection and transportation vehicles must meet the conditions outlined herein.

- §14.01 Solid waste shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards and nuisances.
- §14.02 Collections and transportation equipment shall be designed and constructed so as to be leak-proof. The waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances.
- §14.03 Collection and transportation vehicles shall be kept in a sanitary condition.
- §14.04 Regular collection days shall be established as appropriate. Collection shall be performed as necessary.
- §14.05 Appliances, furniture, and other solid waste which cannot be collected during regularly scheduled pickups shall be collected as frequently as necessary and in accordance with the approved solid waste management system plan for the local government.
- §14.06 Collection and transportation of chemicals, poisons, explosives, radiological waste, and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.
- §14.07 All solid waste collected within the district shall be transported to an approved facility licensed with the ADEQ or with the state to which it is being transported.
- §14.08 All vehicles covered by these regulations must prominently display a current registration sticker provided by the District.
- §14.09 Said waste hauler permits shall be non-transferable and non-returnable
- §14.10 Haulers will be required to provide the District with records and data on the nature of waste collected or transported; or provide any other information as requested to help the Board track the composition, volume and flow of solid waste.
- §14.11 Haulers will abide by all Federal, State, and Local laws and ADEQ and District regulations regarding the collection, hauling and disposal of solid waste.

Subchapter 15. Financial Responsibility

Any hauler applying for a permit must establish and maintain financial responsibility to the Board by:

- §15.01 Annually providing proof of contractor/vehicle liability insurance with a minimum of \$65,000.00 as required by state law; and
- §15.02 Naming the District as an additional insured on the proof of insurance.

Subchapter 16 Fees

§16.01 Annual Fees

- (A) An annual fee of \$100.00 is required to be paid to the District and will permit up to two waste hauling trucks or trailers.
- (B) An additional fee of \$50.00 per truck or trailer per year will be assessed for the third and subsequent vehicles up to a maximum of \$1,000.00 annually.
- (C) Permits must be renewed annually with the permit year beginning September 1.

§16.02 Annual Fees for multipally registered vehicles

- (A) Vehicles registered by another solid waste management district or solid waste authority shall be required to be registered by this District and shall abide by all District rules and regulations while operating within the boundaries of the District.
- (B) Upon proof of assessment and payment to another solid waste management district or solid waste authority, haulers will be required to pay a fee equal to fifty percent (50%) of the permit fees assessed by the District in §16.01

Subchapter 17. Penalties and Jurisdiction

§17.01 In accordance with Ark. Code Annotated §8-6-722, a failure to comply with the provisions of these regulations or any regulation of the District may subject the person or hauler to criminal prosecution. Such violations are considered a Class B misdemeanor with a maximum penalty of a one thousand dollar (\$1,000.00) fine, six months in jail or both.

§17.02 Court Jurisdiction. The various municipal courts within the District shall have jurisdiction over these matters and law enforcement officials within the respective jurisdictions shall have the authority to institute appropriate action in accordance with the Rules of Criminal Procedure.

§17.03 Violations. It shall be considered a violation of these and other District regulations if the hauler:

- (A) Does not register their vehicles with the District;
- (B) Does not pay the District collection/tipping fee as provided for in Chapter E of this regulation;

- (C) Violates any portion of these regulations or any other regulation duly passed by the District;
- (D) Violates any Federal, State, or Local law regarding the collection, transporting, and disposal of solid waste;
- (E) Aids a violator:
 - (1) It shall be a violation of these regulations for any person to knowingly enter into a business relationship with a non-registered waste hauler for the purpose of collection, transportation, and/or disposal of solid waste, affected by these regulations and under the jurisdiction of the District.

Subchapter 18. Severability

If any portion of this regulation is found by a court of law to be unconstitutional, it shall not negate the remainder of this regulation.

CHAPTER E. DISTRICT ASSESSMENTS AND FEES

Subchapter 19 Authority and Purpose

Subchapter 20 Assessments

Subchapter 21 Fees

Subchapter 19 Purpose and Authority

The purpose of this section is to secure and maintain the financial needs for management of the District while not overburdening the public and other affected parties. The method selected by the Board includes a system of assessing fees based upon collection of solid waste inside the boundaries of the District and the disposal of waste in the District's landfill that originated out-of-district.

ACT 752 of 1991 and Arkansas Code Annotated § 8-6-717 authorized ADEQ to establish criteria for the evaluation and continuation of regional solid waste management districts. ADEQ Regulation Number 22.201 (d)(2) authorizes ADEQ to evaluate and approve a district's long range financial plan. Districts may employ a variety of mechanisms to achieve fiscal solvency.

Subchapter 20. Assessments

§20.01 A fee shall be assessed on each ton, compacted and/or uncompact cubic yard of solid waste that is collected inside the boundaries of the District.

§20.02 A fee shall be assessed on each ton, or compacted or uncompact cubic yard of waste delivered to the RLH Landfill or any transfer station located inside the boundaries of the District but collected from sources outside the District.

§20.03 The District will notify each appropriate hauler, transfer station, and/or landfill at the end of each quarter

§20.04 Fees will be due in the District office on the fifteenth (15th) day following the end of a calender quarter.

§20.04 Fees may be collected and remitted to the District in several ways:

(A) By the landfill. The RLH Landfill may collect the fees from all haulers utilizing the landfill as a disposal facility and remit the sum to the District

(B) Transfer stations and haulers not utilizing the RLH Landfill shall remit the fees directly to the District.

(B) By the transfer station. The transfer station may remit the fees to the District.

Subchapter 21. Fees

The fees on waste collected and/or disposed in the District shall be assessed at the following rate:

§21.01 Fees shall be assessed at the rate of:

- (A) \$1.75 per ton of waste.
- (B) \$.30 per cubic yard of uncompacted waste.
- (C) \$.50 per cubic yard of compacted waste.

CHAPTER F. WASTE TRANSFERS

- Subchapter 22. Purpose and Authority
- Subchapter 23. Procedure
- Subchapter 24. Criteria

Subchapter 22. Purpose and Authority

The purpose of this Subchapter is to allow the Board, as the duly elected representative of the citizens of the District, to have input and decision-making authority regarding the transfer of

solid waste either into or out of the boundaries of the District. It is recognized that elected public officials exercising authority over such transfers protect the interest of the citizens of the District and the permitted disposal facilities within the boundaries of the district. Such activities can serve to maintain and secure disposal capacity for both the short and long-term.

It is further recognized that utilization of local disposal facilities is a priority of the Board and a major component in maintaining a fair and equitable price structure for the citizens of the District.

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

Subchapter 23. Procedure

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

- A. The person or persons must submit in writing to the Board via the Director a formal request:
 1. To seek a disposal site outside the District for solid waste which has been collected, stored, and/or disposed of within the District prior to the request; or
 2. To seek a storage and/or disposal site within the District for solid waste which has been collected outside the District.
- B. The Director will furnish to the person or persons the proper form(s) to obtain the information necessary to make a decision, which the person or persons must complete and provide to the Board. The information requested will include but not be limited to the criteria listed under the appropriate section of §23.02.
- C. The Board shall consider the request at their next regularly scheduled meeting, and said request shall be listed as an agenda item, provided the completed application is presented to the District at least three weeks prior to the scheduled meeting.
- D. Prior to the meeting and with sufficient notice to allow a proper response, the District shall notify the affected parties of the waste transfer request. The notice to citizens may include a legal notice in the appropriate newspapers.
- E. The Board will review all written information provided by the person or persons and by affected parties and shall use this information in determining compliance with the criteria listed herein.

- F. All decisions of the Board are final. However, an appeal may be made within thirty (30) days of the Boards decision if additional information becomes available or an error in procedure has occurred. The Board may consider the appeal at its' next meeting.

§23.02 Criteria

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

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

the District with the following information. Although numerous criteria and circumstances will be considered, the Board may allow the transfer:

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

CHAPTER G: ILLEGAL DUMPS PROGRAM

Subchapter 24. Purpose and Authority

Subchapter 25. Illegal Dump Complaints, Assessments and Evaluations

Subchapter 26. Procedures for Investigations and Prosecutions to Affect Remediation.

Subchapter 24. Purpose and Authority

The primary purpose of the District's illegal dumps program is to remediate illegal dumps using the resources of the perpetrator(s) responsible for the illegal dumping. The secondary purpose, though not a lesser purpose, is to ameliorate a health problem by the remediation of illegal dumps. Improper and illegal waste disposal places the public health at risk. Carelessly disposed

solid waste allows for the contamination of surface and ground water due to uncontrolled leachate entering the surface and/or ground water systems. Additionally, this waste is a breeding ground for vectors that are known to carry disease. Both of these conditions, create an unhealthy environment with the potential for serious health risk.

The Board of Directors is given authority to address illegal dumping in the following ways:

Arkansas Department of Environmental Quality's Regulation #22, Section 22.201 (5) and (6) which describes how District's will plan for the identification and remediation of illegal dumps working cooperatively with local sheriff's and police departments; and

Arkansas Code Annotated §8-6-508 Enforcement Generally, which empowers solid waste management districts to employ illegal dumps control officers and establishes their powers and duties; and

Arkansas Code Annotated §8-6-901 Licensing of Operators of Solid Waste Management Facilities which provides for the certification of the illegal dumps control officers.

Subchapter 25. Complaints and identification of illegal dumps, assessments, and evaluations

The name of person(s) making complaints to the District regarding illegal dumping shall be confidential and shall not be divulged under any circumstance during the course of the investigation or upon disposition of the case.

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

This document will be approved by the Board of Directors at or before September 30, 2001.