

CHAPTER D: LICENSING AND REGULATION OF SOLID WASTE HAULERS

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Subchapter 12 General

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§ 12.01 Authority and Purpose

Pursuant to Ark. Code Ann. § 8-6-721, and Commission Rule 22, the Board is charged with the responsibility of licensing Solid Waste Haulers within the District. The Regional Solid Waste Management Boards may impose more stringent standards than the minimum standards established by the Commission. The purpose of this licensing program is to protect the public health, safety and welfare by regulating and monitoring the collection, transportation and disposal of Solid Waste within the District.

§12.02 Solid Waste Hauler

As used in this Chapter, "Solid Waste Hauler" means any person engaged in the collection of Solid Waste within the District, and any Person engaged in the transportation of Solid Waste for disposal or storage within the District. "Solid Waste Hauler" does not include an individual transporting his own household waste to a permitted facility.

§12.03 Scope and Applicability

Pursuant to Ark. Code Ann. § 8-6-712, no person, other than as may be designated by the district, shall engage in the collection or utilization of solid waste within the district which would be competitive with the purposes or activities of the district.

The collection of solid waste within the boundaries of the district by any person not properly licensed by the District shall be prohibited.

A person who engages in hauling solid waste within Benton County must obtain a license from the District if:

- (1) the person is engaged in the collection of solid waste within the district; or
- (2) is engaged in the transportation of solid waste for disposal or storage in the district.

Unless otherwise indicated, the provisions of this Chapter apply equally to Type I and Type II Haulers as defined in Commission Rule 22.203(d), and to other hauler designations that may be added by the Commission, from time to time.

§12.04 Exemptions

Persons exempt from licensing shall comply with all other applicable standards required under this section or by District rules adopted pursuant to this section. For purpose of this section, a license shall not be required for:

- (1) An individual hauling only their own household waste to a permitted facility;
- (2) The transport of solid waste from an industrial facility to its own Class 3N landfill; or for
- (3) A Solid Waste Management District engaged in the hauling of solid waste within its own district.

Subchapter 13 Licensing Procedures and Operating Requirements

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§13.01 License Eligibility

A license shall be issued only to a person, partnership, corporation, association, the State of Arkansas, a political subdivision of the state, an improvement district, a sanitation authority, or another regional solid waste management district.

The District may engage in the hauling of solid waste within the District without licensure but shall comply with all applicable standards required under this section.

In order to be eligible for issuance of a Solid Waste Hauler's License by the Board, a Solid Waste Hauler must:

- (1) Hold the appropriate driver's license as defined by Arkansas law;
- (2) Annually register its operation with the Board providing:
 - (i) name, address and telephone number of registrant;
 - (ii) description of vehicle(s) to be registered including make, model and year of vehicle, vehicle ID number, license plate number, and name of vehicle owner; and
 - (iii) description of the nature of wastes and size of loads; and the location of disposal of waste;
- (3) Establish and maintain financial responsibility acceptable to the Board;
- (4) Disclose all violations of Federal, State, Local, or District laws, rules, or rules regarding the collection, transportation or disposal of Solid Waste, within the preceding twelve (12) months; and
- (5) Provide proof of correction of any violations of Federal, State, Local or District Laws regarding the collection, transportation or disposal of Solid Waste.

§13.02 Hauler Classifications

The Arkansas Pollution Control and Ecology Commission has established classifications of haulers, which are to be used by districts in licensing haulers. The classifications are based on the nature and size of the loads transported.

The following classification of haulers shall apply:

- (1) A Type I hauler hauls all categories of nonhazardous solid waste as identified in rule 22 with the exception of waste tires;
- (2) A Type II hauler hauls only process waste and special materials as identified in rule 22, with the exception of waste tires

§13.03 Financial Responsibility

Any hauler applying for a license must establish financial responsibility to the Board. Proof of liability insurance, issued in the name of the hauling company, will be required. Proof of liability insurance which provides the name of the Solid Waste Hauler, business location address, vehicles covered by the policy and the limits of coverage will be considered adequate financial responsibility. Proof of insurance must be sent by fax or mail directly from the insurer to the District.

§13.04 License Term

A Solid Waste Hauler's License shall be issued for a maximum of period of one (1) year, and shall be effective through December 31 of the current year, regardless of the date of issuance.

Applications for a license shall be mailed out by the District to each hauler and post marked no later than November 1st. If said applications are not mailed out by November 1st then the deadline to submit such shall be extended accordingly. Application packets shall be returned to the District no later than December 15th of each year except as stated above.

§13.05 Issuance of License

(a) All persons engaged in the business of collection or transportation of solid wastes within the District must register such business with the District by December 15 each year for the next calendar year's license. Applicants for a Solid Waste Hauler's license must provide the following information:

- (1) Business' legal name, mailing address, facility address, telephone number and email address of primary contact;
- (2) Name of principal owners and officers;
- (3) Number of residential and commercial accounts served as of December 1;
- (4) Names and driver's license numbers of employees providing hauling services;
- (5) Identify the areas served on county road maps;
- (6) In addition, each vehicle used in the collection and/or transportation of solid wastes must be registered and the following information supplied: A description of each vehicle to be registered, including Make, model and year of vehicle, VIN, Current motor vehicle license number, name of vehicle owner, vehicle capacity.

(b) The District shall issue a license to any eligible Solid Waste Hauler who has demonstrated full compliance with this Chapter by submitting the following to the District:

- (1) documentation that the applicant meets all of the Licensing Standards set forth in Subchapter 13 of this Chapter;
- (2) a completed application on a form prescribed by the Board;
- (3) a Certificate of Insurance demonstrating Financial Responsibility (as defined in § 13.02 of this Chapter) issued in the hauling company's name and provided directly to the District by the insurer;
- (4) the required Annual Fee and any required late fee;
- (5) a signed authorization allowing the District staff to obtain any and all records, from any solid waste facility which may receive waste from the hauler, related to volume and type of waste disposed by the hauler at the facility during any period of time in which the hauler was operating as a waste hauler in Benton County and assuring that hauler will provide whatever assistance may be needed to facilitate the release of these records.

(c) Licenses are non-transferable and Annual Fees are non-refundable. If a licensed hauler replaces a registered vehicle with another vehicle during the year, the District shall be notified and the vehicle information shall be provided for both vehicles. The hauler shall remove the registration sticker from the disposed vehicle. A new registration sticker shall be required for the new vehicle. If the hauler provides the old sticker to the District, a new one will be issued at one half the original cost for the new vehicle.

(d) A solid waste hauler's license issued by the District does not supersede any local government's issuance of an exclusive franchise for hauling within its boundaries.

§13.06 Authority of Executive Director

The Board delegates to the Executive Director the authority to issue a license to any Solid Waste Hauler who has demonstrated compliance with all requirements and procedures in this Chapter, and whose file is administratively complete, without further action by the Board.

§13.07 Annual Fees

Pursuant to Commission Rule 22.202, the District may set a reasonable licensing fee for each type of hauler and may establish licensing requirements based on size of the haulers' transport vehicle(s)

Fees shall be assessed as follows:

- (a) A minimum fee of \$100.00 is required and will license up to two (2) vehicles.
- (b) An additional fee of \$50.00 per vehicle per year will be assessed for the third and all subsequent vehicles up to a maximum fee of \$1,000.00 annually.
- (c) Fees for new licenses or additional units will be pro-rated based on the number of full months remaining in the calendar year.

Haulers licensing after the deadline imposed herein shall be assessed a penalty measured from fourteen (14) days after the due date as follows:

- (a) One (1) to sixty (60) days late – twenty-five percent (25%) of the license fee.
- (b) Sixty-one (61) to ninety (90) days late – fifty percent (50%) of the license fee.
- (c) Ninety-one (91) days and later – one hundred percent (100%) of the license fee.

Any licensed Solid Waste Hauler who adds an additional vehicle during the calendar year shall have thirty (30) days to register the additional vehicle and pay the additional fee required, if any.

§13.08 Operating Requirements

All collection systems and collection equipment used by Solid Waste Haulers shall meet the conditions outlined below. Failure to comply with these conditions may result in the denial, suspension or revocation of a Solid Waste Hauler's License.

- (a) Solid Waste shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards, and nuisances, and shall be kept in a sanitary condition.
- (b) Collection and transportation equipment shall be designed and constructed so as to be leak proof. The Solid Waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances. This means that vehicles must have either: enclosed waste storage areas; or for vehicles with open waste storage areas, such as caged pickups, they must be tarped when traveling in excess of 35 miles per hour. The District shall have the right to inspect and approve or disapprove all vehicles used for Solid Waste collection or transportation within the District.
- (c) Collection and transportation vehicles shall be kept in a sanitary condition.
- (d) Every unit of collection equipment, container or vehicle utilized by any Solid Waste Hauler such as dumpsters, roll off containers, collection bins and collection vehicles must display both the business name and phone number in letters no less than 4 inches high on at least two sides of the unit.
- (e) All Solid Waste collected shall be transported only to a Solid Waste Facility that holds all permits and licenses required by appropriate Federal, State, Local, and District laws, rules, and rules. Recyclable materials may be delivered to either a Solid Waste Facility or a Recyclable Materials Collection Center. Open burning of solid waste by any person, except as exempted in Commission Rule 18 603, is prohibited.
- (f) Prior to changing the receiving facility for any solid waste from the facility indicated in the licensing application, the Solid Waste Hauler must provide written notification to the District of their intent to change facilities and include the name and location of the proposed new facility. Once District staff has received and acknowledged notification, the Hauler may begin delivering waste to the new facility.
- (g) All Solid Waste Haulers shall abide by all Federal, State, Local, and District laws, rules, and rules regarding the collection, transportation and disposal of Solid Waste.
- (h) All Solid Waste Haulers within the District shall at all times maintain proof of a current District Solid Waste Hauler's license within each vehicle hauling solid waste within the District. A current license decal issued by the District, when placed on the driver's side of the windshield, shall be considered adequate

proof. Haulers who license more than twenty (20) vehicles, will receive a Fleet License certificate and may meet this requirement by placing a copy of the Fleet License in each vehicle

(i) All residential waste haulers shall be required to utilize a Pay-As-You-Throw or variable-rate pricing structure which delivers a direct economic incentive to the resident recycle more and to generate less waste. Residents shall be charged for the collection of waste based on the amount they throw away with incrementally increased cost for excess waste. Municipalities shall be required to include a Pay-As-You-Throw or variable-rate pricing structure in all solid waste contracts which become eligible for renewal or negotiation.

(j) Service shall be provided to residential locations within an incorporated municipality at a minimum once per week. Service shall be provided to residential locations outside an incorporated municipality at a minimum once per month. Haulers may alter their normal service schedule during state or national holiday weeks or as a result of inclement weather conditions so long as they provide service to all customers within seven days of the missed collection. Customers should be provided a minimum of two weeks' notice of any known change in collection schedule. If a hauler fails to provide service for more than two weeks of any month for any reason other than inclement weather conditions, they shall be required to reduce the customers' next service invoice by an amount equal to that portion of the month for which a customer did not receive service.

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

(l) The District shall establish geographical service areas or zones based on areas of similar population and road miles. Haulers may provide service in any service zone they wish. When licensing, haulers will be required to indicate in which zones they wish to provide service. A hauler who indicates that they provide service in a zone must provide service to any customer within that zone that requests it, unless that hauler can show good cause why they will not provide service to that customer. Good cause may be a history of failing to pay solid waste collection bills to any hauler or other dispute between the customer and hauler. The location of the customer will not be considered good cause.

(m) Pursuant to A.C.A. § 8-6-606(b), each solid waste hauler who at any time collects waste generated and transported within the state but disposed of outside the state shall be assessed a fee by ADEQ as follows:

(1).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 twenty-five cents (25¢) for each uncompacted cubic yard of solid waste and forty-five cents (45¢) for each compacted cubic yard of solid waste transported.

(2) 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.

These fees are payable directly to ADEQ as outlined in Commission Rule 22.

Subchapter 14 Enforcement and Penalties

§14.01 Suspension or Revocation of License

§14.02 Right to Hearing on Suspension or Revocation

§14.03 Operation without a License - Misdemeanor

§14.04 Civil and Administrative Penalties

§14.05 Right to Hearing on Civil Penalties

§ 14.06 Revocation and Suspension

§14.01 Suspension or Revocation of License

Any Solid Waste Hauler License may be suspended or revoked by the District if the Hauler is in violation of Federal, State, Local, or District laws, rules, or rules related to the collection, transportation, or disposal of Solid Waste, or any other law related to health, safety, or the environment.

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

- (a) The District may suspend a hauler's license for six months if they are assessed penalties totaling five points within a twelve month period.
- (b) The District may suspend a hauler's license for twelve months if they are assessed penalties totaling ten points within a twelve month period.
- (c) The District may permanently revoke a hauler's license if they are assessed penalties totaling fifteen points within a twelve month period.
- (d) The District may permanently revoke a hauler's license if they are suspended for more than twelve months in any thirty-six month period.

§14.02 Right to Hearing on Suspension or Revocation

- (a) When the Executive Director determines that a Solid Waste Hauler License is subject to suspension or revocation, the Executive Director shall so notify the licensee in writing, setting forth the basis for such proposed suspension or revocation.
- (b) Upon receipt of notice of suspension or revocation, a licensee may object and request a hearing before the Board by delivering such request in writing to the District within ten (10) days, setting forth the reasons why the licensee disagrees with the proposed suspension or revocation.
- (c) If the District receives a request for a hearing on a proposed suspension or revocation as provided in this Subchapter, the Board shall set a hearing date within thirty (30) days of receipt of the request. The licensee shall be allowed a reasonable opportunity to present documents and oral testimony in support of its position. The Executive Director shall present to the Board the reasons for the proposed suspension or revocation. Upon receipt and consideration of evidence and testimony at the hearing, the Board members present shall vote on the proposed suspension or revocation, and a majority vote of those Board members present shall be final. A court reporter shall be present to record the proceedings. Hearings shall otherwise be conducted in accordance with the Administrative Procedure Act.
- (d) The decision of the Board at the close of any hearing shall be effective immediately upon issuance of a written decision by the Board. In the event no request for a hearing is received by the District within the time prescribed by this Rule, the proposed suspension or revocation shall become final on the day following the date on which a hearing request is due.

§14.03 Operation without a License - Misdemeanor

Any person who engages in the business of collecting solid waste within the District without a valid license from the District shall be deemed guilty of a misdemeanor pursuant to Ark. Code Ann. § 8-6-722. Upon conviction, the Person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than One Thousand Dollars (\$1,000), or both imprisonment and fine.

§14.04 Civil and Administrative Penalties

Pursuant to ACA 8-6-722, any person who violates this Chapter shall be deemed guilty of a misdemeanor. Upon conviction, the person shall be subject to imprisonment for not more than thirty

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(30) days or a fine of not more than one thousand dollars (\$1,000), or both imprisonment and fine.

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

Failure to collect trash in a sanitary manner, failure to provide services paid for without good cause, failure to provide service when requested without good cause or failing to properly dispose of wastes collected may subject the hauler to administrative penalties of not more than two hundred and fifty dollars (\$250.00) and one point for the first offense and not more than five hundred dollars (\$500.00) and two (2) points for subsequent offenses. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

Failure to display the registration sticker, failure to notify the District of additional trucks, failure to display the haulers name and telephone number on the sides of vehicles, or other administrative violations may subject the hauler to administrative penalties of not more than one hundred dollars (\$100.00) and one point for the first offense and not more than two hundred and fifty dollars (\$250.00) and two (2) points for subsequent offenses. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

To be considered a subsequent offense, the repeat offense must occur within thirty-six months of the earlier offense

§14.05 Right to Hearing on Civil Penalties

- 1) When the Board determines that a Person is subject to civil penalties pursuant to this Section, the Board shall so notify the Person in writing, setting forth the alleged violation and the amount of proposed civil penalty.
- 2) Upon receipt of a notice of violation and penalty from the Board, a Person may object and request a hearing before the Board by delivering such request in writing to the District within twenty (20) days, setting forth the reasons why the Person disagrees with the notice of violation and proposed civil penalty.
- 3) If the District receives a request for a hearing on a notice of violation and proposed penalty as provided in this Section, the Board shall set a hearing date within thirty (30) days of receipt of the request. The Person shall be allowed a reasonable opportunity to present documents and oral testimony in support of its position. The Executive Director shall present to the Board the basis for the notice of violation and the proposed civil penalty. Upon receipt and consideration of evidence and testimony at the hearing, the Board Members present shall vote on the proposed violation and civil penalty, and a majority vote of those Board Members present shall be final. A court reporter shall be present to record the proceedings. Hearings shall otherwise be conducted in accordance with the Administrative Procedure Act.
- 4) The decision of the Board at the close of any hearing shall be effective immediately upon issuance of a written decision by the Board, and payment of the civil penalty shall be due within thirty (30) days of the decision date. In the event no request for a hearing is received by the District within the time prescribed by this Section, the proposed violation and civil penalty shall become final on the day following the date on which a hearing request is due, and payment shall be due within thirty (30) days.

Subchapter 15 Waste Hauler Trust Fund

There shall be established on the books of the District a fund to be known as the Waste Hauler Trust Fund. Monies deposited in this fund shall be kept in a separate depository account.

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- (a) All fees collected by the District as Waste Haulers Licensing fees shall be deposited into the Waste Hauler Trust Fund.
- (b) Deposits shall be made until the Waste Hauler Trust Fund reaches \$10,000.00. After that, all Waste Haulers Licensing fees shall be deposited into the District's general funds. If the Waste Hauler Trust Fund balance drops below \$10,000.00, deposits will resume until the fund reaches \$10,000.00 again.
- (c) Money deposited into the Waste Hauler Trust Fund shall be used exclusively to provide service by another hauler, for a period of thirty (30) days, to any area in which a hauler has abandoned such area of service in which customers have pre-paid said hauler; the balance, if any, to be refunded to the customer. Accumulated interest may be used to promote awareness of rural trash hauling services. In the event it is determined that said fund is no longer needed, in whole or in part then said fund shall, with interest, (unless expended as authorized herein) be returned to the District's general funds.
- (d) In order to qualify for service using Fund proceeds, the customer must demonstrate proof of payment. Service will only be provided for the length of time paid for but not received.
- (e) Any hauler who fails to provide service to a customer who then qualifies for reimbursement under these provisions shall be permanently barred from further waste hauling within the District.

CHAPTER F: SOLID WASTE FEES

Subchapter 26 Solid Waste Fees.

Subchapter 27 Procedure.

Subchapter 28 Compliance and Enforcement.

Subchapter 26 Solid Waste Fees.

§26.01 Authority

§26.02 Applicable Waste

§26.03 Exemptions

§26.04 Fee Amounts

§26.01 Authority

WASTE ASSESSMENT FEE

Pursuant to A.C.A. 8-6-714(a):

- (1)(A) A regional solid waste management board may fix, charge, and collect rents, fees, and charges of no more than two dollars (\$2.00) per ton of solid waste related to the movement or disposal of solid waste within the regional solid waste management district, including without limitation fees and charges:
- (i) Related to the district's direct involvement with the district's disposal or treatment; or
 - (ii) That support the district's management of the solid waste needs of the district.
- (B) The board may fix, charge, and collect fees or charges under subdivision (a)(1)(A)(ii) of this section only if the board:
- (i) Employs or otherwise makes available from another agency an enforcement officer to:
 - a) Enforce all local ordinances, statutes, rules and rules for which the district has been previously given enforcement authority regarding solid waste including the Environmental Compliance Resource Act, § 8-6-2001 et seq.; and
 - b) Seek to prevent and to identify and eliminate illegal dump sites;
 - (ii) Has a program for household hazardous waste collection and disposal; and
 - (iii) Has a program for recycling that includes rural areas of the district and the recycling of bulky waste.
- (2) The board may fix, charge, and collect fees or charges for solid waste generated:
- (A) Within or without the district delivered to a landfill or transfer station within the district, regardless of whether the disposal facilities are owned or operated by the district; or
 - (B) Within the district but delivered to a location outside the district.
- (3) The board may fix, charge, and collect penalties from entities that fail to timely remit rents, fees, and charges under this section.
- (4) Solid waste generated within one (1) district and delivered to another district for disposal may be assessed a fee as follows:
- (A) Either the district in which the solid waste was generated or a district in which the same solid waste is transported, stored, managed, or disposed may assess the fee;
 - (B) The fee may be assessed against the generator, transporter, or disposal facility; and
 - (C) Each ton or cubic yard of waste may be assessed only one (1) fee.

The District Board makes available one or more enforcement officers, who provide the required services indicated above, through a partnership with Benton County Administration. The District board provides a program for household hazardous waste collection and disposal and a program for recycling that includes rural areas of the district and the recycling of bulky waste. Therefore, the District Board

has the authority to fix, charge, and collect rents, fees, and charges. The Board shall assess a fee, called the Waste Assessment Fee, on each ton of waste generated or collected within Benton County pursuant to this authority.

SERVICE FEE

Pursuant to A.C.A. 8-6-714(d), the board may levy a service fee on each residence or business for which the board makes solid waste collection or disposal services available.

The District Board makes solid waste collection and disposal services available to every residence and business within the boundaries of Benton County in the form of various recycling and solid waste programs. Therefore, the Board has the authority to levy a fee on every residence and business within the boundaries of Benton County. The Board shall levy a fee, called the Service Fee, on each residence and business within Benton County pursuant to this authority.

§26.02 Applicable Waste

The Waste Assessment Fee and the Service Fee shall be paid to the District on all solid waste generated:

- (a) Within or without the district delivered transfer station or other disposal facility within the District, regardless of whether the disposal facilities are owned or operated by the district; or
- (b) Within the district but delivered to a location outside the District.

The fees shall be applicable to all solid waste materials, as defined in Subsection §1.04 of this Rule, unless exempt under Subsection §26.03.

§26.03 Exemptions

The solid waste fees shall not apply to:

- 1) Solid waste generated by private industry if the private industry bears the expense of operating and maintaining the disposal facility for the solid waste (Class III waste); or
- 2) Non-municipal solid waste generated by private industry and shipped to another state for recycling, treatment, or disposal;
- 3) Solid waste recycled, used, or generated by steel mills or related facilities classified within Subsector 331 of the 2007 North American Industrial Classification System, as it existed on January 1, 2011;
- 4) Recyclable materials that are transported, processed, or marketed for recycling;
- 5) Organic materials that are delivered to a permitted composting facility;
- 6) Materials that are removed from solid waste and processed for recycling;
- 7) Waste tires processed through a District's waste tire program; or
- 8) Household hazardous waste collected through a district's household hazardous waste program.

§26.04 Solid Waste Fee Amounts

(a) The amount of the Waste Assessment Fee assessed shall be one cent (\$0.01) per ton of solid waste generated, collected or disposed.

The amount of the Service Fee levied shall be:

- (a) One dollar and forty-nine cents (\$1.49) per ton of solid waste generated on each residence located within Benton County.
- (b) One dollar and forty-nine cents (\$1.49) per ton of solid waste generated or collected through the operation on each business located within Benton County.

Subchapter 27 Procedures

§27.01 Fee Collection

§27.02 Payment of Fees

§27.03 Quarterly Report Forms

§27.04 Record Keeping and Reporting

§27.05 Payment of Fees

§27.01 Fee Collection

(1) The Waste Assessment Fee shall be assessed and collected as follows:

- (a) DISPOSAL FACILITIES LOCATED WITHIN ARKANSAS BUT OUTSIDE OF BENTON COUNTY: Fees for solid waste that is generated or collected within the Benton County District and transported outside of the District to a disposal facility located within the State of Arkansas **may** be collected by the receiving disposal facility from the person or entity delivering the waste. If the receiving disposal facility does not agree, in writing, to collect the fees on behalf of the Benton County District, the waste hauler shall submit the fees directly to the District. If the receiving disposal facility agrees, in writing, to collect the fees on behalf of the Benton County District, the facility shall:
 - i) ensure that each customer to the facility is asked the County in which the waste was generated and accurately record the county of origin in the load records.
 - ii) accurately track the tonnage and/or volume of waste received from Benton County.
 - iii) If any load is received by the receiving disposal facility which contains waste which has been collected from both Benton County District and another Solid Waste District, the total tonnage and/or volume of those loads shall be accurately tracked and one-half of the tonnage and/or volume of these loads shall be recorded as having been received from the Benton County District.
- (b) DISPOSAL FACILITIES LOCATED OUTSIDE OF ARKANSAS: Fees for solid waste that is generated and/or collected within the District and transported directly outside of the District, without first being delivered to a solid waste facility located within the District, for disposal in another state shall be submitted to the Benton County District directly by the hauler that collected the waste. The hauler shall accurately track the tonnage and/or volume of waste collected within Benton County and shall submit those fees to the Benton County District.
- (c) TRANSFER STATIONS WITHIN THE BENTON COUNTY DISTRICT: Fees for solid waste that is generated or collected within the District and delivered to a Transfer Station located within the District shall be collected by the Transfer Station from the person or entity delivering the waste.
 - i) The Transfer Station shall accurately track the tonnage and/or volume of waste received..
 - ii) If the Transfer Station transports the waste outside of the District to a disposal facility located within the State of Arkansas, the Transfer Station may elect to submit the fees collected on the waste by the Transfer Station to the receiving disposal facility if the receiving disposal facility agrees, in writing, to collect the fees on behalf of the Benton County District as outlined in (1)(a) above. If the receiving disposal facility does not agree, in writing, to collect the fees on behalf of the Benton County District, the Transfer Station shall submit the fees directly to the District.
 - iii) If the Transfer Station transports the waste outside of the District to a disposal facility located outside the State of Arkansas, the Transfer Station shall submit the fees directly to the District.

(2) The Service Fee shall be collected as follows:

- (a) For waste collected from a residence or business by a for-hire waste hauler, the waste hauler shall be responsible for collecting the fee from the residence or business. The fee shall be collected on each bill issued by the hauler to the residence or business.
 - i. If actual waste weights are not recorded at the times of collection, haulers may estimate waste generation amounts for each individual residence or business using the known collection container volume and statistical data from the United States Environmental Protection Agency or using historical data collected through the hauler's operations.
 - ii. The District shall have the right to review and approve or change the methodology used to estimate generation amounts for each residence or business.

- iii. Any fees charged to a residence or business as a result of using estimation of fees which are discovered to be in excess of the actual fees paid to the District by the waste hauler (after comparison of actual fees collected versus fees submitted based on actual weights disposed) shall be submitted to the District as soon as the amount of excess is discovered.
- (b) For waste generated by a residence or business which is hauled to a disposal facility by anyone other than a for-hire waste hauler on behalf of the residence or business, the person or entity delivering the waste to the disposal facility shall be responsible:
- i. for paying the fee at the time of delivery to a Transfer Station or other disposal facility located within Benton County;
 - ii. for paying the fee at the time of delivery to a disposal facility located outside of Benton County but within the State of Arkansas and which has agreed in writing to collect the fee on behalf of Benton County District;
 - iii. for paying the fee, according to the requirements of 27.02 Payment of Fees, directly to the Benton County District if hauled to a disposal facility located outside of Arkansas or hauled to a disposal facility inside Arkansas which has not agreed to collect the fee on behalf of the District.
- (3) If a property owner fails to pay the service fee, pursuant to the requirements above, to either the hauler, the disposal facility or the District, the outstanding fees shall become a lien on the property.

§27.02 Payment of Fees

- (1) All Waste Assessment Fees and Service Fees collected on behalf of and/or owed to the Benton County District shall be paid to the District quarterly.
- (2) Fees shall be based upon solid waste amounts collected or transported during the previous calendar quarter and shall be calculated based upon actual and complete collection records pursuant to the provisions of this rule. Fees for a newly permitted facility or fees for a new hauler shall begin at the onset of operation.
- (3) Payment Dates:
- (a) For all wastes handled during the months of January –March, payment will be due by April 15th.
 - (b) For all wastes handled during the months of April – June, payment will be due by July 15th.
 - (c) For all wastes handled during the months of July – September, payment will be due by October 15th.
 - (d) For all wastes handled during the months of October – December, payment will be due by January 15th.
- (4) Waste Assessment Fees collected on all waste that is generated or collected within the Benton County District and transported outside of the District to a disposal facility located within the State of Arkansas shall be submitted to the Benton County District as follows.
- (a) If the receiving District has legally established by Board Rule the collection of a Waste Assessment Fee and:
- i. an Interlocal Agreement between the Benton County District and the Receiving District has been established, the receiving disposal facility shall divide the fees collected on waste received from Benton County between the Benton County District and the Receiving District as outlined in the Interlocal Agreement between the two Districts and shall submit the Benton County District's portion of the fees to the Benton County District and submit the Receiving District's portion of the fees to the Receiving District.
 - ii. no Interlocal Agreement exists between the Benton County District and the Receiving District, the receiving disposal facility shall divide the fees collected on waste received from Benton County evenly between the Benton County District and the Receiving District and shall submit the Benton County District's portion of the fees to the Benton County District and submit the Receiving District's portion of the fees to the Receiving District.

- (b) If the receiving District has not legally established by Board Rule the collection of a Waste Assessment Fee, the receiving disposal facility shall pay all of the Waste Assessment fees to the Benton County District on waste received by the facility that was generated or collected within the Benton County District.

§27.03 Quarterly Report Forms

- (1) Every waste hauler which collects or transports waste in Benton County shall be required to submit a quarterly report accurately documenting:
- (a) The total net weight of solid waste collected
 - (b) The total net weight delivered to each receiving disposal facility
 - (c) The total Solid Waste fees collected
- The hauler shall be responsible for submitting the fees on waste for which the applicable fees were not paid to a Transfer Station inside Benton County or to any disposal facility outside Benton County which agreed, in writing, to collect the fees on behalf of the District.
- (2) Every disposal facility which receives waste generated or collected in Benton County shall be required to submit a quarterly report accurately documenting the total net weight of solid waste received from Benton County and to submit all applicable fees.
- (a) Every transfer station shall be required to submit a quarterly report accurately documenting the total net weight of solid waste collected and the receiving disposal facility where the waste was delivered.
 - i. Transfer stations shall be responsible for submitting the fees directly to the District on waste for which the applicable fees **were not paid** to a disposal facility outside Benton County which agreed, in writing, to collect the fees on behalf of the District.
 - ii. Transfer Stations shall provide, upon request by District staff, documentation of each load of waste transported from the transfer station including the net weight and the receiving disposal facility of each load.
 - iii. Transfer stations shall provide, upon request by District staff, documentation of the total net weight of solid waste and the total fees collected from each customer.
 - (b) Every landfill located inside Arkansas which receives any waste generated or collected in Benton County and which has agreed to collect the fees on behalf of the District shall be required to submit a quarterly report accurately documenting the total net weight of solid waste received from Benton County
 - i. Landfills which have agreed to collect the fees on behalf of the District shall be responsible for submitting the fees directly to the District.
 - ii. Landfills shall provide, upon request by District staff, documentation of each load of waste received from Benton County including the net weight and the total fees collected from each customer.
 - (c) Every disposal facility located outside of Benton County which has not agreed to collect the fees on behalf of the District shall provide, upon request by District staff, documentation of each load of waste received from Benton County including the net weight and the total fees collected from each customer.
- (3) Fees shall be reported on forms provided by the District. The District shall make available blank quarterly reporting forms for use in reporting fees owed to the District.
- (4) Each solid waste facility and each hauler shall submit to the District on or before January 15, April 15, July 15, and October 15 of each year, a quarterly report which accurately states the total net weight of solid waste received at or transported to a solid waste facility during the previous quarter.
- (5) Quarterly reports shall relate the total net weight of solid waste generated within the District and transported out of the District to a disposal facility. Waste net weight reported on the quarterly report shall be reported in tons with the respective fee amounts calculated as set forth herein.

- (6) Estimation of Unreported Fees: When the information on the quarterly report is incomplete, or when the quarterly report is not submitted by the due date, or when the District has determined that a solid waste facility or a hauler has misreported the amount of waste received or transported, the District may estimate the fee amounts due based on one or more of the following sources of information:
 - (a) Projected waste amounts, as defined in a solid waste facility permit or a hauler license;
 - (b) Waste amounts as determined by applying current service area population and per capita solid waste multipliers;
 - (c) Waste amounts as determined by a District audit; or
 - (d) Waste amounts as reflected in previously submitted quarterly reports or in a survey.
 - (e) Waste amounts reflected by any other reasonable means, as determined by the District, to measure or weigh the solid waste.
- (7) Not Allowed in Fees Calculation - For purposes of the assessment of fees, net weight calculations shall be determined on waste upon receipt at a solid waste facility either within the District or outside the District. This prohibits reducing fees owed to the District based upon the following:
 - (a) Calculating the net weight for fees after marketable or beneficially reusable materials have been removed from the waste stream;
 - (b) Calculating the net weight for fees after the waste has been tipped and baled at a solid waste facility;
 - (c) Calculating the net weight for fees after any non-exempt material, as defined in Subsection §26.03, have been removed from the waste stream.

§27.04 Record Keeping and Reporting

- (1) Adequate Record Keeping
 - (a) The owner, operator or any other responsible party of any permitted solid waste facility and each solid waste hauler or any other responsible party shall establish and maintain adequate records in order to facilitate the reporting process and to assure accurate waste net weight and fee determinations.
 - (b) At a minimum, each facility or hauler shall have in place a waste ticket system, whereby a ticket is provided to the customer and the facility or hauler retains a complete record of the ticket.
 - (c) These records shall be maintained on a daily basis, as the solid waste is received, and shall include, at a minimum, the customer name, the type or kind of RCRA subtitle D solid wastes including municipal waste received or transported, and the net weight of the waste.
- (2) Each solid waste facility permittee or owner, operator or any other responsible party shall provide and maintain an adequate means of recording the amount of waste that is received by the facility, as required by Federal, State or Local law, rule or. Such records shall be used by the facility to calculate disposal fees submitted quarterly to the District and shall be available to the District for inspection.
- (3) Each hauler shall provide and maintain an adequate means of recording the amount of waste that is collected from its customers and transported to a Solid Waste Facility out of District. At a minimum, the hauler retains a copy of each ticket or receipt received from the facility. The ticket received from the facility shall be used by the hauler to calculate disposal fees to be submitted quarterly to the District. Such records shall be available to the District for inspection.
- (4) Records Availability - Any records, reports, or information obtained under this rule and any permits, permit applications, and related documentation shall be available to the District for inspection and copying during normal business hours, unless otherwise deemed necessary by the District, and any records obtained by the District shall be available to the public for inspection and copying during normal business hours.

- (5) Records Location - The facility owner, operator or any other responsible party shall maintain records at the facility and a hauler or any other responsible party shall maintain records at the quarterly reporting address, unless an alternative location is required and has been requested in writing and approved by the District.
- (6) Record Confidentiality - Upon a satisfactory showing to the Executive Director that the records, reports, permits, documentation, or information, or any part thereof, if made public, would divulge methods, processes, or customer lists entitled to protection as trade secrets, then the Executive Director shall consider, treat, and protect such records, reports, or information as confidential.
- (7) Restriction of Confidentiality - As necessary to carry out the provisions of this rule, information afforded confidential treatment may be transmitted under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of the District or the State of Arkansas, if the solid waste facility permittee, owner, operator or any other responsible party, or the hauler, or any other responsible party, to which the information pertains is informed at least two (2) weeks prior to the transmittal, and if the information has been acquired by the District under the provisions of this rule.

§27.07 Report or Fee Adjustments

Upon written approval by the District, any adjustments to any previous quarterly report or fee payment, found upon review or as the result of an audit by the District, and any unpaid late payment charges may be reflected on the next quarterly report and fee payment.

§27.08 Termination of Fees

- (a) In the event a solid waste facility or a hauler permanently ceases receiving or transporting waste, the facility or hauler shall **immediately** submit a final quarterly report, along with final fee payment, for the quarter during which the facility closed or the facility or hauler stopped operation and shall indicate on the report the final date upon which the landfill or hauler ceased receiving waste.
- (b) After operations have ceased, a solid waste facility or a hauler may seek a refund of any fee overpayment.

§27.09 Petitioning Board for Review of Fees

- (1) **Petition Filing** - Any solid waste facility permittee or hauler, who disagrees with the fee amount due, may file a petition for review with the Board within twenty (20) days following the payment or payment due date. The petition must contain:
 - (a) A statement of the fee amount the solid waste facility permittee or hauler admits is due and payable;
 - (b) A statement of the fee amount the solid waste facility permittee or hauler contests; and
 - (c) Documentation of the amount of solid waste received during the contested payment period including, but not limited to, daily gate or transporting receipts showing the geographic source of waste, the type or kind of waste, and the net weight of the waste.
- (2) **Petition Review** - The Board shall review the petition and make a final determination of the amount of the contested fee. Such notice shall contain:
 - (a) The name, business address, and permit or hauler billing identification number of the solid waste facility permittee or hauler; and
 - (b) The Board’s decision and date of decision.
- (3) **Late Fee Due and Payable** - If the a solid waste facility permittee or a hauler files a petition for review, the full amount of the contested fee and the adjustment the permittee or hauler admits is due and payable shall be paid by the date the petition for review is due. Any late payment charges shall also be due and payable by the date the petition for review is due.

- (4) **Procedures Stayed** - Upon the filing of a petition for review, the timely payment procedures and late payment charges contained in this rule are automatically stayed for the amount of the fee which is contested. Payment of the full amount of the fee, as determined by the Board following a petition for review, shall be due within thirty (30) days of issuance of the Board's decision and late payment charges shall then begin to accrue on that amount.
- (5) **Petition Determination** - Notwithstanding the preceding, the filing of a petition for review, which is deemed by the Board to be frivolous and completely without merit, shall not operate as a stay of the timely payment procedures and late payment charges. If the Board determines that the petition for review is frivolous and completely without merit, the notice of the Board's decision shall so state.
- (6) **Subsequent Quarterly Fees** - Filing a petition for review of a fee does not affect the application of the timely payment procedures or late payment charges for any subsequent quarterly fee or adjustment.

§27.09 Appeals

Fees imposed under this rule shall constitute a specific condition imposed on a solid waste facility permittee or on a hauler. Provided a solid waste facility permittee or a hauler disagrees with the final decision of the Board following a petition to review fees, the permittee or hauler may appeal the final action of the Board to the Circuit Court in Benton County in Arkansas.

Subchapter 28 Compliance and Enforcement

§ 28.01 Violations.

§ 28.02 Penalties.

§ 28.03 Enforcement.

§ 28.04 Audit

§ 28.05 Right of Entry and Access

§ 28.06 Severability.

§ 28.01 Violations.

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

§ 28.02 Penalties.

A person or entity in violation of this Chapter, including but not limited to failing or refusing to submit reports or pay the fees required under the provisions of this rule in a timely manner, shall be subject to late payment procedures and charges as established in this rule.

The District shall have zero tolerance for failure to submit reports or to pay fees by the due dates established in this Rule. Each violation shall be assessed a penalty measured from the first day after the due date. An initial late penalty of \$100.00 shall be assessed on the first day late for each report and/or payment due. An additional late penalty equal to \$5.00 or 5% of the total fees due, whichever is higher, shall be assessed on each additional day for which reports or fees are late until all required reports and full payment of late fees and applicable Solid Waste Fees are received by the District.

Any violation of this Chapter shall also constitute grounds for legal action by the District, which may result in one or more of the following: assessment of civil penalties, the revocation of a solid waste facility or hauler permit, a lien against the property or any actions allowed under Subchapter 3: Adjudications and any other actions legally available to the District.

§ 28.03 Enforcement.

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

§ 28.04 Audit

At the discretion of the District, an audit of a solid waste facility permittee's or a hauler's records or the operation of the solid waste facility or hauler, or both, may be performed to assure compliance with this rule. An audit by the District may include, but shall not be limited to, an unannounced on-site visit to monitor the operation and operating procedures or to review the collection, transport or disposal records of a solid waste facility or a hauler, or a requirement that additional records be submitted for review, or both.

§ 28.05 Right of Entry and Access

The District or any authorized employee or agent shall have right of entry during normal business hours, unless otherwise deemed necessary by the District, to any public or private property for the purpose of obtaining information or conducting investigations, examining or copying any books, papers, records, or memoranda pertaining to the operation of the facility or hauler necessary or appropriate for the purpose of this rule.

§ 28.06 Severability.

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are declared to be severable.