

CERTIFICATE OF NEED ISSUANCE POLICY

Article I. CERTIFICATE OF NEED REQUIREMENT.

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

Article II. PROCEDURE FOR OBTAINING A CERTIFICATE OF NEED.

Section 2.01 NOTICE OF INTENT.

- (a) AT LEAST FIFTEEN (15) DAYS PRIOR TO SUBMITTING AN APPLICATION FOR A CERTIFICATE OF NEED, THE APPLICANT MUST NOTIFY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT, IN WRITING, OF ITS INTENT TO SUBMIT SUCH AN APPLICATION.*
- (b) THE NOTICE OF INTENT SHALL INCLUDE THE FOLLOWING INFORMATION:*
 - (i) The name of the applicant;**
 - (ii) The applicant's address and telephone number; and**
 - (iii) Whether the applicant is seeking a new or modified solid waste facility permit, and the classification of the permit sought pursuant to Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.**

Section 2.02 APPLICATION PROCEDURE.

- (a) PERSONS REQUESTING A CERTIFICATE OF NEED FROM THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS MUST SUBMIT AN APPLICATION TO THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT.*
- (b) ALL APPLICATIONS FOR CERTIFICATES OF NEED SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION:*
 - (i) The applicant's name, address, and telephone number;**
 - (ii) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of applicant's right to develop such property as a solid waste facility from the legal owner;**
 - (iii) The location of the proposed facility as shown on the applicable United States Geological Survey topographic map or maps;**
 - (iv) The size of the proposed facility and capacity;**
 - (v) A description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction;**

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- (vi) **Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation in subsection (g) of this section; and**
- (vii) **Any other information deemed necessary to make a determination of need or requested by the Southwest Central Regional Solid Waste Management District staff.**

Article III. COMPLETENESS DETERMINATION.

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

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

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

Article IV. PUBLIC NOTICE.

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

Section 4.02

- (a) *THE NOTICE SHALL INCLUDE A BRIEF SUMMARY OF THE PROPOSED SOLID WASTE FACILITY FOR WHICH A CERTIFICATE OF NEED HAS BEEN REQUESTED.*
- (b) *THE NOTICE ALSO SHALL STATE THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING ON THE CERTIFICATE OF NEED.*
- (c) *THE NOTICE SHALL BE MAILED TO:*
 - (i) **Any person specified by law; and**
 - (ii) **All persons who shall have requested advance notice in writing of the Southwest Central Regional Solid Waste Management District Board of Directors' actions on certificates of need.**
- (d) *UNLESS OTHERWISE REQUIRED BY LAW, THE NOTICE SHALL BE PUBLISHED IN A NEWSPAPER, OR NEWSPAPERS OF GENERAL DAILY CIRCULATION SELECTED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT IN ITS DISCRETION.*

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

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

Article V. DETERMINATION

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

- (a) *THAT THE PROPOSED SOLID WASTE FACILITY IS CONSISTENT WITH THE REGIONAL PLANNING STRATEGY ADOPTED BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS IN THE:*
 - (i) **Regional needs assessment; or**
 - (ii) **Regional solid waste management plan**
- (b) *THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT CONFLICT WITH EXISTING COMPREHENSIVE LAND USE PLANS OF ANY LOCAL GOVERNMENTAL ENTITY.*
- (c) *THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT DISTURB:*
 - (i) **An archeological site as recognized by the Arkansas Archeological Survey; or**
 - (ii) **A rare and endangered species habitat as recognized by the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service.**
- (d) *THAT THE PROPOSED SOLID WASTE FACILITY WILL NOT ADVERSELY IMPACT LOCAL ECOLOGICAL CONSERVATION EFFORTS INCLUDING BUT NOT LIMITED TO THOSE KNOWN AND UNKNOWN TO THE APPLICANT;*
- (e) *THAT THE PROPOSED SOLID WASTE FACILITY WILL NOT ADVERSELY AFFECT THE PUBLIC USE OF ANY LOCAL, STATE, OR FEDERAL FACILITY INCLUDING BUT NOT LIMITED TO PARKS AND WILDLIFE MANAGEMENT AREAS;*
- (f) *THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT CONFLICT WITH THE REQUIREMENTS OF STATE OR FEDERAL LAWS AND RULES APPLICABLE TO THE LOCATION OF THE PROPOSED FACILITY;*
- (g) *THAT THE PROPOSED SOLID WASTE FACILITY DOES NOT RESTRICT THE FLOW OF THE HUNDRED-YEAR FLOOD PLAIN, REDUCE THE TEMPORARY WATER STORAGE CAPACITY OF THE FLOOD PLAIN,*

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

- (h) IF THE APPLICATION IS FOR A TRANSFER STATION THAT PROPOSES TO TRANSFER WASTE OUTSIDE OF THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT, THE APPLICANT MUST DOCUMENT THAT THE DISTRICT TO WHICH WASTE WILL BE TRANSFERRED HAS BEEN NOTIFIED AND THAT THE BOARD OF THE TRANSFEREE DISTRICT HAS APPROVED THE RECEIPT OF SUCH WASTE.*
- (i) This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas;**
- (i) THE APPLICANT'S DETAILED HISTORY AND RECORD WITH RESPECT TO VIOLATIONS OF ENVIRONMENTAL LAWS AND RULES OF THE UNITED STATES, OR ANY STATE OR POLITICAL SUBDIVISION OF A STATE, MUST DEMONSTRATE SUBSTANTIAL COMPLIANCE WITH SUCH LAWS AND RULES;*
- (j) THE LOCATION OF THE APPLICANT'S PROPOSED SOLID WASTE FACILITY SHALL BE CONSISTENT WITH THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S NEEDS AND ITS HIGHWAY AND ROAD SYSTEM;*
- (k) IF THE APPLICATION IS FOR A LANDFILL, THE APPLICANT MUST DEMONSTRATE A NEED BASED UPON THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S EXCESS PROJECTED CAPACITY THAT IS CURRENTLY PERMITTED FOR OPERATION, BUT IN NO EVENT SHALL THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT'S EXCESS PERMITTED PROJECTED CAPACITY EXCEED THIRTY (30) YEARS.*

Section 5.02

- (a) AT THE NEXT SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS MEETING, FOLLOWING THE CLOSE OF THE THIRTY-DAY PUBLIC NOTICE PERIOD DESCRIBED IN SUBSECTION (D) OF THIS SECTION, THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS WILL TAKE UP FOR CONSIDERATION THE APPLICATION FOR A CERTIFICATE OF NEED.*
- (b) THE EXECUTIVE DIRECTOR AND/OR ADMINISTRATIVE STAFF OF THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT WILL MAKE A DETERMINATION ON WHETHER THE APPLICANT HAS MET ALL REQUIREMENTS, OF THE DISTRICT'S CERTIFICATE OF NEED REVIEW POLICY AND ADVISE THE BOARD ACCORDINGLY;*
- (c) PERSONS SUPPORTING THE ISSUANCE OF THE CERTIFICATE OF NEED AND THOSE OPPOSING THE ISSUANCE OF THE CERTIFICATE OF NEED WILL BE PROVIDED WITH A TOTAL OF TEN (10) MINUTES FOR EACH SIDE TO ADDRESS THE STAFF'S RECOMMENDATION, WHICH TIME MAY BE EXTENDED EQUALLY BY THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS WHEN FURTHER PRESENTATION WOULD AID THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD OF DIRECTORS' DECISION.*

Section 5.03

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- (a) THE SOUTHWEST CENTRAL REGIONAL SOLID WASTE MANAGEMENT DISTRICT SHALL ISSUE A WRITTEN DECISION SETTING FORTH ITS DETERMINATION.*
- (b) THE DECISION SHALL STATE THE BASIS FOR ISSUING OR DENYING THE CERTIFICATE OF NEED.*
- (c) A COPY OF THE DECISION WILL BE SENT TO THE FOLLOWING:*
 - (i) The applicant;**
 - (ii) The Division of Environmental Quality of the Department of Energy and Environment;**
and
 - (iii) Any interested person who makes a written request for a copy of the decision.**

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

Article VI. CONTINUING EFFECT.

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

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

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

Courtney Decker

Administrator

Southwest Central Regional Solid Waste Management District

CERTIFICATE OF NEED DETERMINATION REQUIREMENTS

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

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