

CERTIFICATE OF NEED: LANDFILL

FOR THE WEST RIVER VALLEY SOLID WASTE DISTRICT

APPLICANT CHECKLIST

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| _____ | 1. Applicant Information: Company Name, Mailing Address, Phone, Email, Website. | § 7.02 |
| _____ | 2. Documentation of legal ownership or applicant's right to develop property. | § 7.02 |
| _____ | 3. USGS topographic map of the location. | § 7.02 |
| _____ | 4. Size of the proposed facility and capacity. | § 7.02 |
| _____ | 5. Description of geo-political jurisdictions to be served, including population estimates by jurisdiction. | § 7.02 |
| _____ | 6. Verification of consistency with regional planning strategy. | § 6.04 |
| _____ | 7. Documentations of conflict with existing comprehensive land use plans of local government entity. | § 6.04 |
| _____ | 8. Findings related to the disturbing of archaeological site(s). | § 6.04 |
| _____ | 9. Findings related to the disturbing of endangered species habitat(s). | § 6.04 |
| _____ | 10. Reporting that adversely affect public use of local, state or federal facility, if any. | § 6.04 |
| _____ | 11. Reporting of conflict with state or federal laws applicable to location, if any. | § 6.04 |
| _____ | 12. Restrict flow of 100 year flood plain, reduce temporary water storage capacity of the flood plain or result in washout of solid waste so as to pose a hazard to human health or environment. | § 6.04 |
| _____ | 13. History and record of violations of environmental laws. | § 6.04 |
| _____ | 14. Verifications of consistency with District's needs and its highway and road system. | § 6.04 |
| _____ | 15. Notice and agreement from host district to accept solid waste from a proposed transfer station applicant. | § 6.04 |
| _____ | 16. Demonstrated need based upon the District's excess projected capacity for landfill space which is currently permitted but not to exceed thirty (30) years. | § 7.02 |

*As written in the Rules & Regulations of the West River Valley Solid Waste District:
(The full document may be obtained upon request.)*

CHAPTER B: CERTIFICATES OF NEED

Subchapter 6 Authority and Criteria.

Subchapter 7 Procedures.

Subchapter 6 Authority and Criteria.

§ 6.01 Authority

§ 6.02 Definitions

§ 6.03 Applicability

§ 6.04 Criteria for Review

§ 6.05 Continuing Effect

§ 6.01 Authority.

Ark. Code Ann. § 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 findings or rulings 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.

§ 6.02 Definitions.

- (a) "Certificate of Need" means a certificate issued by the Board to any person proposing to obtain a permit for a solid waste facility.
- (b) "Certificate of Need Review" means review of the application for a Certificate of Need.
- (c) "Interested persons" means the applicant and any persons who submit public comments during the review period either in writing or verbally at the public hearing.
- (d) "Landfill" means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq. 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 wastes generated by the industry or wastes of a similar kind or character.
- (e) "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, semi-solid, 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 materials 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-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).
- (f) "Solid Waste Facility" means a Landfill or Transfer Station as defined in this section.
- (g) "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 greater capacity transport vehicles.



§ 6.03 Applicability.

The regulations in Chapter B shall apply to every solid waste facility 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 modification 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.

§ 6.04 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 Archeological Survey, or a rare and endangered species habitat as recognized by either the Arkansas State Game and Fish Commission or the United States 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) Whether the proposed facility conflicts with the requirements of state or federal laws and regulations on the location of disposal facilities;
- (f) If the proposed facility is located within the 100-year floodplain, whether it restricts the flow of the 100-year flood, reduces the temporary water storage capacity of the floodplain, or could result in washout of solid waste so as to pose a hazard to human health or the environment;
- (g) Whether the proposed facility is appropriately located given the District's needs and taking into consideration its road system;
- (h) 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 thirty (30) years, including the proposed facility;
- (i) For transfer stations, whether another transfer station is located within a twelve-mile radius of the proposed facility and whether sufficient transfer station capacity exists within the proposed service area;
- (j) 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;
- (k) The service area to be served by the proposed facility; and,
- (l) Whether the applicant followed the procedures for obtaining a Certificate of Need in Subchapter 7.

§ 6.05 Continuing Effect

- (a) Upon receipt of a Certificate of Need, the applicant has sixty (60) days in which to file a pre-application for a solid waste landfill permit with ADEQ. If a pre-application is not filed within 60 days, the Certificate of Need shall expire.
- (b) Upon receipt of a Certificate of Need, the applicant has six (6) months in which to file a permit application for a solid waste landfill permit with ADEQ. If a permit application is not filed within 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 7 Procedures for Obtaining a Certificate of Need.

§ 7.01 Notice of Intent

§ 7.02 Application

§ 7.03 Completeness Determination

§ 7.04 Review Period

§ 7.05 Public Hearing

§ 7.06 Determination

§ 7.07 Appeal of Decision

§ 7.01 Notice of Intent.

At least fifteen (15) days prior to submitting an application for a Certificate of Need, the applicant must notify the District, in writing, of its intent to submit such an application. The Notice of Intent shall include the following information:

- (a) The name of the applicant;
- (b) The applicant's address and telephone number;
- (c) Whether the applicant is seeking a new or modified solid waste facility permit and the classification of the permit sought;
- (d) The site of the proposed facility;
- (e) A description of the geo-political area to be served by the proposed facility, including population estimates by jurisdiction;
- (f) For landfills, confirmation from the ADEQ that the applicant has requested a statement concerning the current and proposed solid waste landfill disposal capacity respective to the area and landfill class being proposed.

§ 7.02 Application.

Persons 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 the applicable 7.5^o USGS topographic map(s);
- (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 that the proposed solid waste facility or modification complies with all of the criteria for evaluation listed in Section 6.04.
- (g) For landfills, 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 a twelve-mile radius; and,
- (i) Any other information deemed necessary to make a determination of need.

§ 7.03 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.



§ 7.04 Review Period.

Once the District has determined that an application for a Certificate of Need is complete, it will so notify the applicant and publish notice of the review period in papers as described in Section 2.02. The review period will begin on the date the completeness determination is made to the applicant 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.

§ 7.05 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.

§ 7.06 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. The Director shall present a recommendation to the Board. Those 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 10 minutes for each side to address the Director's recommendation.
- (b) Unless the Board has affirmatively issued or denied a Certificate of Need within one-hundred and twenty (120) days of 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) the applicant;
 - (2) ADEQ; and
 - (3) Any interested persons who request such findings in writing from the District.

§ 7.07 Appeal of Decision.

Any interested person 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.

Certificates of Need should be mailed or delivered to:

**West River Valley Solid Waste District
24087 Hwy. 164
Clarksville, AR 72830**

